

Program: Undergraduate Academic Studies
Course title: ROMAN PRIVATE LAW
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Course status: mandatory
Number of ECTS: 10
Requirements: Enrolled first semester
<p>Aims of the course: Roman law is one of the traditional, introductory disciplines at the schools of law in Europe, which has the objective for the students to learn everything that is necessary for the common basis of continental European legal systems. Since its practical application ended, the Roman law got the character of legal-historical discipline with the syllabus contents rather balanced at many faculties of the European universities. The core of the subject consists of the matter presented in Justinian's Institutions and includes the roman private law in its widest sense (including also the basic information about the law of persons and the family, in addition to the law of property, law of succession and law of obligations), as well as the civil court procedure. In addition to that, as an introduction necessary to understand the conditions in the period when the institutions of the roman law originated and developed, present teaching discipline includes also basic information about the development of roman government, political organization, social and economic structures, as well as more comprehensive presentations about the basic ways of development of law and the legal sources. Because of that, the course is divided into two parts that can represent (and they do at some universities) separate teaching disciplines: <i>History</i> and <i>Institutions of Roman Law</i>. The accent of the course is teaching Roman law as preparing discipline for creative understanding of modern law. Therefore, special attention is dedicated to the law of property and the law of obligations, which are the basis of modern continental European legal systems and legal theory, while other matters are adapted to this objective.</p>
<p>Course result:</p> <ul style="list-style-type: none"> - learning about the process of evolution and changes in institutions and norms of Roman law because of the influence of various historical circumstances, - understanding continuity of continental European legal tradition and legal theory, - drawing general conclusions about the role and scope of law on important roman historical example, - teaching students legal terminology that is also relevant today, - learning about the influence of Roman law to present laws in Europe, built on concepts and rules of Roman law, by direct taking over or through theory that in its basis developed from teaching Roman law at universities, - learning about the techniques of work of Roman lawyers, which are the model of permanent value when the issue is about the practical functioning of law and its adaptation to social needs.
<p>Course content:</p> <p>I INTRODUCTION Importance of studying Roman law Sources</p> <p>II HISTORY OF ROMAN LAW Roman society and state 1.1 Kingdom 1.2 Republic (territorial expansion, social structure, political organization) 1.3 Principality (characteristics and the character of the governmental structure, social and civilization characteristics) 1.4 Dominion (restoration, decay and fall of the West Roman Empire)</p> <p>Development of law and legal sources</p>

- 2.1 Old civil law (characteristics of the oldest law, law and other social norms, sources – customs, codes, the Twelve Tables, interpretation)
- 2.2 Classical law
 - 2.2.1 Concept (pre-classical and classical law, *ius honorarium* and *ius gentium*)
 - 2.2.2 Jurisprudence
 - 2.2.3 Sources of law (codes, recommendations of Senate, governor's constitutions, edicts of magistrates, legal opinions, unwritten law)
- 2.3 Postclassical law (general characteristics and sources – *ius* and *leges*, legal codes, Justinian's codification)
- 2.4 Roman law in the Middle Ages and in modern times (continuity and reception, Roman law in general civilization development in Europe)

III INSTITUTIONS OF ROMAN LAW

General part (classifications of law, legal facts and legal affairs, application of law)

Law of persons and family law

- 2.1 Concept of status, legal and business capacity
- 2.2 Legal capacity
 - 2.2.1 Physical and legal persons
 - 2.2.2 *Status libertatis* (freedom and law, concept of slavery, legal and factual position of slaves, manumissions)
 - 2.2.3 *Status civitatis* (*cives*, *Latini*, *peregrini*)
 - 2.2.4 *Status familiae* (family, types of kinship, *patria potestas*, marriage)
 - 2.2.5 *Capitis deminutio*
- 2.3 Business capability – tutelage and guardianship

Civil court procedure

- 3.1 Regular court procedure
 - 3.1.1 General characteristics (self-help, bipartition of the procedure, *actio*)
 - 3.1.2 Legislation procedure
 - 3.1.3 Formulary procedure (origin, *formula*, executive procedure, *actio* and other procedural means)
- 3.2 Extraordinary and postclassical court procedure

Real Rights

- 4.1 Concept, characteristics and types of real rights
- 4.2 Origin and development of property law
- 4.3 Matters (concept and classifications)
- 4.4 Government (concept and elements, origin and legal consequences, types, protection, government laws)
- 4.5 Ownership and Possession
 - 4.5.1 Possession
 - 4.5.2 Basic concepts, historical development and types of ownership
 - 4.5.3 Acquisition of ownership (The transfer of ownership, the natural modes of acquiring ownership)
 - 4.5.4 Protection of ownership
- 4.6 Servitudes
 - 4.6.1 Land servitudes
 - 4.6.2 Ususfructus and other personal rights of enjoyment
 - 4.6.3 Legal regime of usufructs
- 4.7 Pledge law
 - 4.7.1 Types of pledge (*fiducia*, *pignus*, mortgage)
 - 4.7.2 Legal regime of pledge law

Law of succession

- 5.1 Basic concepts (*hereditas*, *bonorum possessio*)
- 5.2 Wills (concept, origin and forms)
- 5.3 Intestate succession (civilian, praetorian and Justinian's law)
- 5.4 Succession against the Will
- 5.5 Acquisition of inheritance and the position of the heir
- 5.6 Protection of heirs

5.7 Singular successions *mortis causa* (legacies, *fideicommissa* and *donatio mortis causa*)

Law of obligations

6.1 General part

- 6.1.1 Legal nature of obligations (concept, characteristics, *actio* and *obligatio*, natural obligations)
- 6.1.2 Object of obligation (damages and compensation, *mora*)
- 6.1.3 Subjects of obligation (party and subject, change and plurality of subjects, effects of obligations towards third party, suretyship)
- 6.1.4 Termination of obligations
- 6.2 Sources of obligations
 - 6.2.1 Contracts (formation of contract, defects in the will, modalities, classifications)
 - 6.2.1.1 Verbal contracts (*nexum, stipulatio*)
 - 6.2.1.2 Literal contracts (*expensilatio*; role of documents in Roman law)
 - 6.2.1.3 Real contracts (*mutuum, commodatum, depositum*)
 - 6.2.1.4 Consensual contracts (*emptio venditio, locatio conductio, societas, mandatam*)
 - 6.2.1.5 Innominate contracts
 - 6.2.2 Pacts (*pacta adiecta, pacta praetoria, pacta legitima*)
 - 6.2.3 Quasi-contracts (*conditiones sine causa, negotiorum gestio, communio incidens*)
 - 6.2.4 Torts
 - 6.2.4.1 Concept and characteristics of torts
 - 6.2.4.2 Civilian delicts (*iniuria, furtum damnum iniuria datum, rapina*)
 - 6.2.4.3 Praetorian delicts (*metus, dolus, fraus creditorum*)
 - 6.2.5 Quasi-delicts

Literature:

Obligatory: Borkowski`s Textbook on Roman Law (Paul du Plessis, Oxford University Press (first ed. 1994, forth ed. 2010) (any edition)

Additional: H. F. Jolowicz, B. Nicholas, Historical introduction to the study of Roman Law, Cambirdge university press, 1972; A. Watson, *The Law of Property in the Later Roman Republic*, Oxford University Press, 1965; R. Zimmerman, *The Law of Obligations*, Oxford University Press 1996; B. W. Frier, Th. McGinn, A Casebook on Roman Family Law, Oxford University Press, 2004; A. Malenica, The history of Roman law, Faculty of Law Novi Sad, 2008.

Number of lectures – active classes	Theoretical classes: 5	Practical classes : 2
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Instruction method:

Lectures, exercises, professional group, seminar papers, consultations, PowerPoint presentations

Grading system (maximum number of points 100)

Pre-exam obligations	points	Final Exam	points
Activities during lectures	10		
Activities during practical classes	35	35	
Tests	10		
Seminar classes	10		