

<b>Program: Doctoral Academic Studies –</b>
<b>Course title: THE SOCIOLOGICAL METHOD IN LAW ENFORCEMENT</b>
<b>Teachers:</b> Professor dr. Saša Bovan
<b>Course status:</b> Optional for the scientific area of Theory of the State and Law, Sociology of Law and Philosophy of Law.
<b>Number of ECTS:</b> 10
<b>Requirements:</b>
<p><b>Aims of the course:</b> The basic aim of the course, in relation to the canons of law interpretation, is to show that the judge is a specialist in the factual situation and a kind of sociologist in practice. Also the goal of the course is to show how the sociological method is not one of the methods of enforcement (interpretation) of the law, nor is it a secondary method of law enforcement. The sociological method is expressed in the nature of a subjective and objective interpretation of the law that actually represent a form of sociological analysis, which means that the sociological method is the most important method of law enforcement. Regarding the nature of legal reasoning, the aim of the program is to show that legal reasoning mostly corresponds to the scientific reasoning, and not only with logical and philosophical reasoning. Legal reasoning represents at the same time <i>techne</i> and <i>phronesis</i> and <i>episteme</i>. In relation to the concept of interpretation and interpretation of the law, the aim of the course is to indicate that we must define the interpretation based on the idea of contextualization and constructivism (interpretation is not just detection but also the formation of meaning).</p>
<p><b>Course result:</b> This program has arisen from the need for deepened consideration of the basic issues of legal hermeneutics (legal methodology), primarily those relating to the canons of law interpretation and the nature of legal reasoning. The deepened approach to the problem implies their observation from a sociological perspective, which enables the acquisition of new knowledge and additional argumentation in the consideration of the importance of the processed topic. This course corresponds to the <i>Basics of Sociology of Law</i>, a mandatory subject from basic academic studies, and with the <i>Sociology of Law</i>, a mandatory subject on MA studies (socio-legal sub-module), a special sociology that deepens the research of the relationship between society and law. This means that this program, with the aforementioned programs, represents a complete entity, without which the consideration of the basic problems of legal hermeneutics and the basic problems of legal theory, from a sociological perspective would be incomplete.</p> <p>In addition to the basic issues it deals with (canons of law interpretation, nature of legal reasoning), this program implies consideration of issues that have an introductory character, such as the concept of interpretation, the concept of law interpretation, the concept of legal hermeneutics, etc. Special attention will be given to the authors who made a great contribution to prove that legal reasoning mostly corresponds to scientific reasoning, not just to teleological and logical analysis (H. Kantorovič, F. Ženi, Ž. Spasojević, A. Ros, R. Paund, etc.). In relation to the same course in Master studies, this program is based on the analysis of cases from case law, which is a kind of practical exercise. This professional and creative workshop has an aim to demonstrate how the canons of law interpretation are applied in practice, and to point out the virtues, defects and difficulties in enforcing these canons. Then, particular attention will be devoted to the relationship between subjective - teleological (historical) and objectively - teleological methods of law interpretation.</p>
<p><b>Course content:</b></p> <ol style="list-style-type: none"> <li>1. Interpretation 1.1. The concept of interpretation 1.2. The concept of law interpretation 1.3. The concept of legal hermeneutics 1.4. Legal hermeneutics and philosophical hermeneutics 1.5. Legal hermeneutics and logic</li> <li>2. Canons of law interpretation 2.1. Technical methods of law interpretation 2.1.1. Language interpretation 2.1.2. Systematic interpretation 2.1.3. Logical interpretation 2.2. Essential methods of interpreting the law 2.2.1. Subjective interpretation 2.2.2. Objective interpretation 2.3. Subjective and objective interpretation - forms of sociological analysis 2.4. The order of application of methods of law interpretation</li> <li>3. The nature of legal reasoning 3.1. Logical model of legal reasoning 3.2. A teleological model of legal reasoning 3.3. A decisionistic model of legal reasoning 3.4. Causal model of legal reasoning</li> <li>4. Legal reasoning as a form of scientific reasoning 4.1. H. Kantorovič 4.2. F. Ženi 4.3. R. Paund 4.4. Ž. Spasojević</li> </ol>
<p><b>Literature:</b></p> <p><b>Mandatory:</b> Saša Bovan, „Tumačenje prava kao vrednovanje na osnovu konteksta“, Anali Pravnog fakulteta u Beogradu 1/2012, Saša Bovan, „Sociološka teorija prava Živana Spasojevića“, u štampi, Saša Bovan, „Subjektivno i objektivno tumačenje u kontekstu integralne teorije pravnog rasuđivanja“, u štampi, Dragan M. Mitrović, Uvod u pravo, Beograd 2001, 263-298, Franc Bidlinski, Pravna metodologija, Podgorica 2011.</p> <p><b>Supplementary:</b> Herman Kantorovič, Borba za pravnu nauku, Beograd 2006, Rosko Paund, Uvod u filozofiju prava, Podgorica 1996, Gerhard Hassold, „Wille des Gesetzgebers oder objektiver Sinn des Gesetzes - subjektive</p>

oder objektive Theorie der Gesetzesauslegung“, ZZP 2/1981, Winfried Hassemer, „Juristische Methodenlehre und richterliche Pragmatik“, Rechtstheorie 1/2008, Bernd Ruthers, „Methodenfragen als Verfassungsfragen“, Rechtstheorie 3/2009, Andrei Marmor, Interpretation and Legal Theory, Portland 2005, 9-44, 119-140.

<b>Number of lectures – active classes</b>	<b>Theoretical classes: 75</b>	<b>Practical classes :</b>	
<b>Instruction method:</b> classes, consultations			
<b>Grading system (maximum number of points 100)</b>			
<b>Pre-exam obligations</b>	points	<b>Final Exam</b>	points
Activities during lectures	30	Oral exam	70
Activities during practical classes			
Tests			
Seminar classes			