

Program: Doctoral Academic Studies
Course title: ROMAN LAW
Teachers: Žika Bujuklić, LL. D, full-time professor, Milena Polojac, LL. D, full-time professor, Vladimir Vuletić, LL. D, assistant - professor
Course status: Elective - mandatory
Number of ECTS: 10
Requirements:
<p>Aims of the course:</p> <p>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.</p> <p>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 further information about the status law and the family, in addition to the law of property, law of inheritance 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 the basic information about the development of the roman government, political organization, social and economic structures, as well as more comprehensive presentations about the basic ways of development of law and about 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 the Roman Law</i>.</p> <p>The accent of the course is on the role of teaching Roman law as preparing discipline for creative understanding of modern law. Therefore, special attention is dedicated to the property law, which is 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"> - Increase learning about the process of origination, 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, - Intensify teaching students legal terminology that is also relevant today, - Heighten 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>INTRODUCTION</p> <ol style="list-style-type: none"> 1. Importance of studying Roman law 2. Sources <p>II HISTORY OF ROMAN LAW</p> <ol style="list-style-type: none"> 1. Roman society and state <ol style="list-style-type: none"> 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) 2. Development of law and legal sources <ol style="list-style-type: none"> 2.1 Old civil law (characteristics of the oldest law, law and other social norms, sources – customs, codes, the Code of XII Plates, interpretations) 2.2 Classical law <ol style="list-style-type: none"> 2.2.1 Concept (pre-classical and classical law, <i>ius honorarium</i> and <i>ius gentium</i>)

- 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

1. General part (roman ideas about the law and legal relation, classifications of law, legal facts and legal affairs, application of law)
2. Status law and family law
 - 2.1 Concept of status law, legal and business capability
 - 2.2 Legal capability
 - 2.2.1 Physical and legal persons. Property. *Status*
 - 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 – tutorship and guardianship
3. 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
4. Law of Property
 - 4.1 Concept, characteristics and types of property law
 - 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 Property
 - 4.5.1 Basic concepts, historical development and types of property
 - 4.5.2 Acquiring property (manner of acquiring according to the public law, original and derivative manners of acquiring, adverse possession)
 - 4.5.3 Property legal suits
 - 4.6 Usufructs
 - 4.6.1 Real (land) usufructs
 - 4.6.2 Personal usufructs
 - 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
5. Inheritance law
 - 5.1 Basic concepts (*hereditas*, *bonorum possessio*)
 - 5.2 Last will (concept, origin and forms)
 - 5.3 Intestate inheritance (civilian, praetorian and Justinian's law)
 - 5.4 Necessary inheritance law
 - 5.5 Acquiring the right of inheritance and position of heir

<p>5.6 Protection of heir</p> <p>5.7 Singular successions <i>mortis causa</i> (legates, fideicommisses and gift in case of death)</p> <p>6. Law of obligations</p> <p>6.1 General part</p> <p>6.1.1 Legal nature of obligations (concept, characteristics, <i>actio</i> and <i>obligatio</i>, natural obligations)</p> <p>6.1.2 Object of obligation (action, compensation of damage, contacting fine, tardiness)</p> <p>6.1.3 Subjects of obligation (party and subject, plurality of subject, effects of obligations towards third party, personal securities, change of subject)</p> <p>6.1.4 Termination of obligations</p> <p>6.2 Sources of obligations</p> <p>6.2.1 Contracts (concepts, will faults, modalities, classifications)</p> <p>6.2.1.1 Verbal contracts (<i>nexum, stipulatio</i>)</p> <p>6.2.1.2 Literal contracts (<i>expensilatio</i>; role of documents in Roman law)</p> <p>6.2.1.3 Real contracts (<i>mutuum, commodatum, depositum</i>)</p> <p>6.2.1.4 Consensual contracts (<i>emptio venditio, locatio conductio, societas, mandatam</i>)</p> <p>6.2.1.5 Unnamed contracts</p> <p>6.2.2 Pacts (<i>pacta adiecta, pacta praetoria, pacta legitima</i>)</p> <p>6.2.3 Quasi-contracts (<i>conditiones sine causa, negotiorum gestio, communio incidens</i>)</p> <p>6.2.4 Torts</p> <p>6.2.4.1 Concept and characteristics of torts</p> <p>6.2.4.2 Civilian delicts (<i>iniuria, furtum damnum iniuria datum, rapina</i>)</p> <p>6.2.4.3 Praetorian delicts (<i>metus, dolus, fraus creditorum</i>)</p> <p>6.2.5 Quasi-delicts</p>			
<p>Literature:</p> <p>D. Stojcevic, Roman Private Law</p> <p>M. Horvat, Roman Law, Part I, Part II</p> <p>O. Stanojevic, Roman Law</p> <p>A. Malenica, Roman Law</p> <p>M. Milosevic, Roman Law</p> <p>Ž. Bujuklić, Roman Private Law</p> <p>M. Polojac, Practicum for Roman Law: Texts and Cases of Roman Lawyers from the Law of Obligations (any edition)</p> <p>R. Zimmermann, The Law of Obligation – Roman Foundations of the Civilian Tradition, Oxford University Press 1996.</p>			
Number of lectures – active classes		Theoretical classes: 50	Practical classes :
Instruction method: Lectures and consultations			
Grading system (maximum number of points 100)			
Pre-exam obligations	points	Final Exam	points
Activities during lectures	10		
Activities during practical classes			
Tests	10		30
Seminar classes			