

State Exam in Law
Bachelor study program Management and Law, academic year 2022/2023

Learning outcomes: The student has interdisciplinary knowledge of legal theory and theoretical contexts of selected legal areas of the legal order of the Slovak Republic (including from the point of view of legal comparatism) with special emphasis on civil law, commercial law, criminal law, constitutional law in connection with international law and law of European Union.

The exam is not conducted using uncommented legal regulations.

1. Legal norm

- Concept and types of legal norms, social norms, structure of legal norms, scope of legal norms
- Legal norm in private law (dispositive and mandatory norms)
- Specifics of criminal law norms and their structure

2. Time in law (theoretical aspects)

- Retroactivity and intertemporality
- Prescription, preclusion, deadlines and periods in private law
- The effect of the passage of time on delictual liability in administrative and criminal law – substantive and procedural aspects

3. Creation of law (theoretical aspects)

- Legislative process, including by-laws and internal regulations. Creation and importance of EU law and international law
- Creation and importance of EU law and international law
- Judicial creation of law and unification of jurisprudence, the court as positive and negative legislator

4. Material and gnoseological sources of law

- Definition of material and epistemological sources of law and their influence on formal sources of law
- Basic principles of the Constitution of the Slovak Republic, the material core of the constitution
- Social changes as sources of codification and recodification of private law and public law

5. Formal sources of law

- Definition of formal sources of law and the system of formal sources of law in the legal order of the Slovak Republic
- Sources of EU law and international law
- The nature of the decisions of the bodies of commercial companies, internal standards

6. Dualism of private and public law

- Principles of law in private and public law
- Status of subjects in public and private law
- Liability and sanctions in public and private law

7. Structure of legal areas

- Areas of private law and their characteristics, private law in comparative point of view
- Areas of public law and their characteristics, public law in comparative point of view
- Mixed areas of law and their characteristics

8. Freedom in law

- Catalog of fundamental rights and freedoms (generations and sources), absolute and relative rights
- Restrictions on individual freedom by public authorities in constitutional and criminal law
- Contractual freedom in individual areas of private law

9. Sanctions in law (theoretical concept)

- Concept and purpose of sanctions in law and in society, constitutional sanctions
- Types of sanctions in private law
- Punishment and sanctions in criminal law from comparative point of view

10. Scope, authority (competence) and jurisdiction of law enforcement authorities

- Definition of the terms scope, authority and jurisdiction and their types.
- Scope, authority and jurisdiction of public authorities, competence conflict. Jurisdiction in civil proceedings.
- Competence of EU institutions

11. Substantive law and procedural law

- Substantive law and procedural law in public law and the relationship between them
- Substantive law and procedural law in private law and the relationship between them
- The right to a fair trial

12. Validity and effectiveness in law

- Validity and effectiveness of normative legal acts
- Validity, finality and enforceability of individual legal acts (civil process, criminal process)
- Proceedings on the compliance of legal acts before the Constitutional Court of the Slovak Republic and the impact of the results of these proceedings on the validity and effectiveness of normative legal acts

13. Concept and types of legal facts

- Definition and types of legal facts
- Validity and effectiveness of legal acts in private law
- Concept of deed and unity of deed in criminal (permanent, continuing and collective delict), repetition of delict

14. Presumptions and fictions in law

- Definition of legal fiction and presumption in private and public law
- Presumption of correctness and legality of acts of public authority
- Rebuttable and irrebuttable presumptions in private law

15. Legal action

- Definition and conceptual features of a legal action
- Creation, change and invalidity of a legal action according to the Slovak Civil Code and in comparative perspective
- Proposal and motion to initiate proceedings and ex officio proceedings

16. Legal relationship and its prerequisites

- Prerequisites for the formation of a legal relationship and its elements
- Private law relations
- Public relations with a focus mainly on criminal law and administrative law relations

17. Implementation and application of law

- Implementation of law. Stages of law application and individual legal acts
- Judicial reasoning
- Implementation of law in commercial relations by the bodies of commercial companies and cooperatives

18. Entities in law and Entities of proceedings

- Legal personality – natural persons and legal entities, capacity for legal actions and acting on behalf of entities, entities and bodies of public authority
- Concept of entities of proceedings, participants in proceedings and parties in proceedings
- Entities of civil dispute proceedings and civil non-dispute proceedings, parties to the dispute, participants in non-dispute proceedings, parties in criminal proceedings

19. Remedial proceedings

- Ordinary and extraordinary remedies (concept and purpose)
- Remedies according to the Code of Civil Procedure
- Remedies according to the a Criminal Procedure Code

20. World legal systems and differences between them

- Continental legal system and Anglo-American legal system
- Religious and traditional legal systems
- Attempts to unify private law and public law in the EU.

21. Interpretation of law

- Defining the interpretation of law, types of interpretation of legal norms
- Interpretation of mandatory and dispositive provisions in private law codes and public law codes, interpretation of EU law
- Legal definitions and vague legal terms

22. Argumentation and analogy in law

- Concept of argumentation in law and types of argumentation methods in law. The concept of analogy in law and its types. Prohibition of denegatio iustitiae.
- Analogy in public law.
- Analogy in private law. Innominate contracts

23. Law and morality

- Definition of the relationship between law and morality. The concept of the right to good administration.
- Right of resistance, civil disobedience and conscientious objection
- Good manners in private law and principles of fair dealing (fair business) in law

24. Justice in law

- The concept of justice. The importance of principles in the interpretation and application of law
- Principles of substantive criminal law and principles of criminal procedure. The right to a fair trial, the right to defense in criminal proceedings
- Eliminating the unreasonable harshness of the law. Moderator powers of courts in private law

25. Liability in law and related terms

- Definition of liability and types of legal liability, differences between public liability and private liability
- Prerequisites for the inception of liability relationships and features of the factual nature of the public law offense
- Objective and subjective responsibility in private law

26. Public liability and private liability

- Definition of liability and types of legal liability in individual legal areas
- The difference between the term administrative delict and criminal offense. Types of crimes and administrative offenses
- Liability for damage and liability for unjust enrichment

27. Private obligations in international and comparative perspective

- definition of the term obligation, reasons for the emergence of obligations in private law, an overview of the regulation of contract law in selected legal systems,
- contractual obligations in international trade; Rome I Regulation
- Vienna Convention on Contracts for the International Sale of Goods, INCOTERMS clauses

28. Protection of subjective rights

- Bodies for the protection of subjective rights in general (in the Constitution of the Slovak Republic and in comparative perspective)
- The action and the proceedings before the court of first instance in civil proceedings, Court decision and its characteristics
- Out-of-court settlement of disputes

29. Democracy

- The concept of democracy and its types. Direct and indirect democracy.
- Types and principles of self-government
- Legislative power in comparative perspective; Role of political parties, political extremism

30. Enforceability of law

- Enforceability of law, law enforcement authorities, self-help
- Enforceability in private law relationships
- Enforcement of law in criminal proceedings

31. Law as a tool to protect the weak

- Prohibition of discrimination and positive discrimination, EU anti-discrimination law
- Weaker side in civil and labor law
- Collective labour law and social dialogue

Selection of recommended literature:

OSINA, Petr. Legal Theory. Praha: Leges, 2017. 128 s., ISBN 9788075022233

FLEINER, Thomas, BASTA FLEINER L. R. Constitutional democracy in a multicultural and globalised world. Berlin: Springer, 2009, 670 s., ISBN 978-3-540-76411-3

KROŠLÁK, Daniel. Introduction to the Slovak constitutional system. Praha: Leges, 2013. 192 s. ISBN 978-80-87576-97-7 6.

KROŠLÁK, Daniel. Theory of State and Law. Trnava: Trnavská univerzita v Trnave, Právnická fakulta, 2013. 104 s. ISBN 978-80-8082-705-2

Chase, O.G., Herschkoff, H., Silberman, L., Taniguchi, Y. and Varano V. Civil Litigation in Comparative Context. 2nd edition. St Paul: Thomson West, 2017

JANSEN, N., ZIMMERMANN, R. (eds.): Commentaries on European Contract Laws. Oxford: University Press, 2018.

JALČ, A. a kol.: Fundamentals of Procedural Criminal Law. Praha : Aleš Čenek, 2011

VARGA, Csaba. Theory of Law. Budapest: Szent István Társulat, 2012. 371 s. ISBN 978-963-277-392-6

SHAW, N. Malcolm. International law. New York: Cambridge University Press, 2017. 1033 s., ISBN 978-1-316-63853-8