

Information about the Exam from „European and Global Legal History“

The exam from „European and Global Legal History“ is a written exam, which takes 120 minutes. The candidates will receive two sources and have to answer questions related to these sources. In addition, they have to complete a third task.

The table below gives an overview in the left column of what is covered in the lecture and is therefore the subject of the examination. The exam literature is named on the right.

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| <p>1. Introduction: Methods, Sources, Aims of Legal History (How do we find out about the past? Sources: written records, visual sources, objects, oral history. Why are we doing legal history? Legal history between historical and legal interest)</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 0001–0006.</p> |
| <p>2. Ancient Non-Western Legal Cultures (Mesopotamia; Jewish Law; Islamic Law; China)</p> | <p>Hanina Ben-Menahem, Art. “Jewish Law”, International Encyclopedia of the Social & Behavioral Sciences, Elsevier, 2001; Baber Johansen, Bernard G. Weiss, Harald Motzki, Oxford International Encyclopedia of Legal History: Art. “Islamic Law”, OUP 2009.</p> |
| <p>3. The corpus iuris civilis and the development of the learned law in the Middle Ages (genesis of CIC, influence in western Europe, development of byzantine law; legal education in M.A., universities, civil law and canon law in M.A., glossators and postglossators, HRR)</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 1101-1104, 1109, 1112-1113, 2105, 2112, 2120-2121, 3101–3119.</p> |
| <p>4. The Ius Commune and the Emergence of Centralized Legislation in Early Modern Times (The emergence of learned legal practitioners and their influence on court practice in early modern times, reformations based on Roman law, mos gallicus, usus modernus pandectarum, ius Romano-Germanicum, development of the English common law and the development in Scandinavia)</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 3120–3128.</p> |

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| <p>5. Natural law, Enlightenment and Codification (Origins in antiquity; Spanish scholastics of the 16th century; early modern natural law (Grotius et al.); natural law influencing structure and content of positive law; unalienable rights; supporting, criticizing, and reforming positive law.)</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 2123–2132, 3129–3144; Michael Stolleis, Public Law in Germany. A historical Introduction from the 16th to the 21st century. Oxford OUP 2017, 13-31; 31-44; David Ibbetson, Natural Law in Early Modern Legal Thought, in: The Oxford Handbook of European Legal History, ed. by Heikki Pihlajamäki, Markus D. Dubber, Mark Godfrey, OUP 2018, 566-582.</p> |
| <p>6. The Westphalian Order of International Law and Early Constitutionalism (American and French Revolution, developments in the 19th century: The European law of nations of the 17th and 18th-century. First constitutions and constitutionalism until 1815; Westphalian Order, Vienna Congress)</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 1119–1134, Miloš Vec, From the Congress of Vienna to the Paris Peace Treaties of 1919, in: Bardo Fassbender, Anne Peters (Hg.), The Oxford Handbook of the History of International Law, Oxford 2012, 654-678.</p> |
| <p>7. Constitutions, Fundamental Rights and the Rule of Law</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 2133–2148. For the units 7-10: Sören Koch/ Jörn Örehage Sunde (eds.), Comparing legal cultures, 2nd ed., Bergen: Fakkbokforlaget 2020, p. 23-40, 333-386, 471-510, 511-540.</p> |
| <p>8. Norm Production: Codification, Legislated Law and Judge-made Law</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 3129-3141.</p> |
| <p>9. Legal Method and the Role of Legal Scholarship</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 3142-3144, 3145-3150, 3155-3161.</p> |
| <p>10. Court Structure and the Degree of Professionalization</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 3144, 3173.</p> |
| <p>11. Imperialism, Colonialism and the Globalization of International Law before 1914 (Legitimations for colonialism, British and French model of imposing law to their colonies, Berlin congress, “civilizing missions” globalization of international law)</p> | <p>Roland J. Wenzlhuemer, Art. Colonial Systems of Law (British Empire), in: Encyclopedia of Western Colonialism since 1450, 2007, p. 709-711; William Guéraiche, Art. Colonial Systems of Law (French Empire), in: in: Encyclopedia of Western Colonialism since 1450, 2007, p. 713-714.</p> |

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| <p>12. International Law in the 20th Century: From The Hague Conference to the International Criminal Court (The outbreak of world war one; the Paris peace treaties; the foundation of the league of Nations; the interwar period between nationalism; internationalism and authoritarianism. Decolonization. World War II: War crimes. International criminal law: The Nuremberg and the Tokyo trial; decolonization after World War II; the Cold War; ICC.)</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 1161, 1201–1203; Peter Krüger, From the Paris Peace Treaties to the End of the Second World War, in: Bardo Fassbender, Anne Peters (Hg.), The Oxford Handbook of the History of International Law, Oxford 2012, 679-698.</p> |
| <p>13. Europe 1918-1945 1. Rise of the First Austrian Republic, the B-VG 2. Democracy: idea, forms, suffrage 3. Marxism and Socialism; the Soviet Union 4. Fascism in Europe and in Germany; the Austrian authoritarian state</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 1201-1210, 1301-1319, 2149-2179, 2185-2190, 3162-3169.</p> |
| <p>14. Europe from 1945 onwards Division and Integration of Europa: OEEC and social market economy vs. planned economy; from Paneuropean Union to the ECSC; NATO, Warsaw Pact and Austrian State Treaty</p> | <p>Thomas Olechowski, Introduction to Austrian and European Legal History, Vienna: Facultas 2021, par. 1211-1242, 1320-1330, 2191-2192, 2201-2218.</p> |
| <p>15. Globalization of Law (Institutions and actors since 1945, differentiation between supra- and transnational law, examples such as lex mercatoria, lex sportiva, arbitration on the global level, implementation of the rule of law and other legal transplants in the context international development cooperation)</p> | <p>Ralf Michaels, Globalization and Law: Law Beyond the State, in: Reza Banakar/Max Travers (eds.), Law and Social Theory, 2nd ed., Oxford: Hart 2013, p. 287-303.</p> |