

Information about the module examination in European and Global Legal History

<p>1. Introduction: Methods, Sources, Aims of Legal History (How do we find out about the past; sources: written records, visual sources, artifacts, oral history; why are we doing legal history; legal history between historical and legal interest; fundamental concepts and their intercultural dimension; a rough overview of global and European legal history)</p>	<p>Th. Olechowski, Introduction to Austrian and European Legal History, 2021, par. 0001–0006.</p>
<p>2. Ancient Legal Cultures in the Mediterranean Area (Mesopotamia; Islamic law)</p>	<p>Johansen, Weiss, Motzki, Art. “Islamic Law”, in: Oxford International Encyclopedia of Legal History, 2009.</p>
<p>3. The corpus iuris civilis and the development of the learned law in the Middle Ages (Emergence of the idea of “Europe” as an entity 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, Holy Roman Empire, landlordship in the Middle Ages)</p>	<p>Hallebeek, Structure of Medieval Roman Law, in: Pihlajamäki, Dubber, Godfrey (eds.), The Oxford Handbook of European Legal History, 2018; Th. Olechowski, Introduction to Austrian and European Legal History, 2021, par. 1101–1113, 2101–2122, 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)</p>	<p>Th. Olechowski, Introduction to Austrian and European Legal History, 2021, par. 3120–3128; J. Schröder, in: Pihlajamäki, Dubber, Godfrey (eds.), The Oxford Handbook of European Legal History, 2018; P. Stein, Systematisation of Private Law in the Sixteenth and Seventeenth Centuries, in: J. Schröder (ed.), Entwicklung der Methodenlehre in Rechtswissenschaft und Philosophie vom 16. bis zum 18. Jahrhundert, 1998, 117-126; Mazzacane, Humanism, in: Oxford Encyclopedia</p>
<p>5. The development of Jewish Law until the Emancipation of the Jews</p>	<p>Ben-Menahem, Art. “Jewish Law”, in: International Encyclopedia of the Social & Behavioral Sciences, 2001.</p>

<p>6. Development of the English Common Law</p>	<p>Herzog, <i>A Short History of European Law</i>, 2018, Ch. 6.</p>
<p>7. The Westphalian Order of International Law and the Emergence of the modern state (Construction of a unitary state in enlightened absolutism, emergence of the idea of sovereignty, the Westphalian Order, the European law of nations of the 17th and 18th centuries; Congress of Vienna)</p>	<p>Th. Olechowski, <i>Introduction to Austrian and European Legal History</i>, 2021, par. 1119–1130; Vec, <i>From the Congress of Vienna to the Paris Peace Treaties of 1919</i>, in: Fassbender, Peters (eds.), <i>The Oxford Handbook of the History of International Law</i>, 2012, 654-678.</p>
<p>8. Natural Law, Enlightenment and Revolutions 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, social contract, American and French Revolutions</p>	<p>Stolleis, <i>Public Law in Germany. A historical Introduction from the 16th to the 21st century</i>, 2017, 13-31; 31-44; Ibbetson, <i>Natural Law in Early Modern Legal Thought</i>, in: Pihlajamäki, Dubber, Godfrey (eds.), <i>The Oxford Handbook of European Legal History</i>, 2018, 566-582; Th. Olechowski, <i>Introduction to Austrian and European Legal History</i>, 2021, par. 2123–2132.</p>
<p>9. Constitutions, Fundamental Rights and the Rule of Law</p>	<p>For units 9-11: Koch, Skodvin, Sunde (eds.), <i>Comparing legal cultures</i>, 2nd ed. 2017, Introduction, Ch. 10 (England and Wales), Ch. 13 (France), Ch. 14 (Austria)</p> <p>For unit 9: Th. Olechowski, <i>Introduction to Austrian and European Legal History</i>, 2021, par. 2133–2148.</p>
<p>10. Norm Production Codification (focus on CC, ABGB, private law as a substitute for constitutions in the early 19th century), judge-made law (England), academic production of law (Historical School; BGB and partial amendments of the ABGB in the early 20th century as outcomes)</p>	<p>For units 9-11: Koch, Skodvin, Sunde (eds.), <i>Comparing legal cultures</i>, 2nd ed. 2017, Introduction, Ch. 10 (England and Wales), Ch. 13 (France), Ch. 14 (Austria)</p> <p>For unit 10: Halpérin, <i>The Age of Codification and Legal Modernization in Private Law</i>, in: Pihlajamäki, Dubber, Godfrey (eds.), <i>The Oxford Handbook of European Legal History</i>, 2018, 907-927; Th. Olechowski, <i>Introduction to Austrian and European Legal History</i>, 2021, par. 3129–3154; Haferkamp, <i>Legal formalism and its critiques</i>, in: Pihlajamäki, Dubber, Godfrey (eds.), <i>The Oxford Handbook of European Legal History</i>, 2018.</p>

<p>11. Legal Education and Legal Professions</p>	<p>For units 9-11: Koch, Skodvin, Sunde (eds.), <i>Comparing legal cultures</i>, 2nd ed. 2017, Introduction, Ch. 10 (England and Wales), Ch. 13 (France), Ch. 14 (Austria)</p> <p>For unit 11: Van Caenegem, <i>Judges, Legislators and Professors. Chapters in European Legal History</i>, 1987, Ch. 2.</p>
<p>12. Imperialism, Colonialism and the Globalization of International Law before 1914 (Legitimations for colonialism, British and French model of imposing law on their colonies, focus on Africa in the late 19th century with selected examples of colonial law, i.e. land law, mixed marriages and citizenship, colonial courts and legal pluralism, genocides, Berlin Congress, “civilizing missions”, globalization of international law, cultural translation of Western-style codifications to non-Western countries)</p>	<p>Wenzlhuemer, Art. Colonial Systems of Law (British Empire), in: <i>Encyclopedia of Western Colonialism since 1450</i>, 2007, 709-711; Guéraiche, Art. Colonial Systems of Law (French Empire), in: <i>Encyclopedia of Western Colonialism since 1450</i>, 2007, 713-714.</p>
<p>13. Excursus: Chinese Legal History (until the early 20th century)</p>	<p>Xu, <i>Heaven has Eyes: Law and Justice in Chinese History</i>, 2020, 7-39; Chen, <i>Traditionalising Chinese Law</i>, in: Zhao/Ng (eds.), <i>Chinese Legal Reform and the Global Legal Order</i>, 2017, 181-210.</p>
<p>14. International Law in the 20th Century: From The Hague Conference to the International Criminal Court The outbreak of World War I; the Paris peace treaties; the foundation of the League of Nations; the interwar period between nationalism; internationalism and authoritarianism.</p>	<p>Th. Olechowski, <i>Introduction to Austrian and European Legal History</i>, 2021, par. 1161, 1201–1203; Krüger, <i>From the Paris Peace Treaties to the End of the Second World War</i>, in: Fassbender, Peters (eds.), <i>The Oxford Handbook of the History of International Law</i>, 2012, 679-698.</p>
<p>15. Europe 1918-1945</p> <ol style="list-style-type: none"> 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>Stolleis, <i>European Twentieth-Century Dictatorship and the Law</i>, in: Pihlajamäki, Dubber, Godfrey (eds.), <i>The Oxford Handbook of European Legal History</i>, 2018; Luig, Stolleis, <i>National Socialist Law</i>, in: <i>Oxford International Encyclopedia of Legal History</i>, 2009, 201-205; Th. Olechowski, <i>Introduction to Austrian and European</i></p>

	Legal History, 2021, par. 1204–1218, 1301–1330, 2149–2192, 2201–2203, 3162–3169.
16. World War II: War crimes. International criminal law: The Nuremberg and the Tokyo trials; the Cold War; ICC.	Kreß, Art. International Criminal Law, in: Max Planck Encyclopedia of Public International Law [MPEPIL], 2009.
17. Europe from 1945 onwards Division and integration of Europe: OEEC and social market economy vs. planned economy; from Paneuropean Union to the ECSC; NATO, Warsaw Pact and Austrian State Treaty	Th. Olechowski, Introduction to Austrian and European Legal History, 2021, par. 1219–1242, 2204–2218
18. Globalization of Law after 1945 Decolonialisation, 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 of international development cooperation and World Bank and IMF policy)	Michaels, Globalization and Law: Law Beyond the State, 2013, 287-303; Duncan Kennedy, Three Globalizations of Law and Legal Thought: 1850-2000, in: Trubek, Santos (eds.), The New Law and Economic Development, 2006, 19-73.