



MATERIALS FROM WORKSHOP
on
EUROPEAN CREDIT TRANSFER SYSTEM (ECTS)

Prepared by
ABA RULE OF LAW INITIATIVE Legal Education Specialist
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Washington and Lee University School of Law

February 2007



Law Professors and Assistants
Faculty of Law
University of Prishtina
Prishtina, Kosovo

March 1, 2007

Re: Materials for European Credit Transfer System; Sample Course Syllabus and Exam

Dear Professors:

On behalf of the American Bar Association Rule of Law Initiative (ABA) in Kosovo (formerly ABA/CEELI), I am pleased to present to you the enclosed materials developed by Professor Thomas H. Speedy Rice of Washington and Lee University Law School in the United States. Some of you may remember Prof. Rice, and some of you attended his workshop last December where he presented practical ideas on developing your courses to comply with the European Credit Transfer System.

The enclosed materials, and our continued work with the law faculty to develop a curriculum focusing on clinical legal education, are part of our ongoing efforts to improve legal education in Kosovo, including the project to launch a live legal clinic with fully renovated facilities equipped with a student courtroom.

We believe that topical interactive workshops, such as Prof. Speedy's, will complement the Law Faculty's comprehensive offerings in legal theory, substantive courses, and the legal clinical course. By equipping faculty with a high level of practical skills, you will be better prepared for helping the university make the transition to comply with the Bologna Process of the European Higher Education Area.

We are pleased to cooperate with you, and look forward to our future work together. If we can answer any questions or respond to any comments, please do not hesitate to contact us.

Sincerely,

David Sip, Director,
ABA Rule of Law Initiative – Kosovo

Enclosures

Contents

- *European Credit Transfer System Worksheet, Materials, and Power Point Presentation*
- *Sample Course Syllabus & Materials — Legal Methodology I*
- *Sample Civil Procedure Examination*

Course Description and Syllabus Outline for ECTS purposes

1. Content and Purpose of the Course

Including Learning Outcomes

1. Workload

ECTS Calculations

2. Method of Instruction and Learning

Instruction: Lecture, seminar, research seminar, exercise course, practical, laboratory work, guided personal study, tutorial, independent studies, internship, placement or 'stage', fieldwork, project work, etc

Learning: attending lectures, performing specific assignments, practicing technical or laboratory skills, writing papers, reading books and papers, learning how to give constructive criticism of the work of others, chairing meetings, etc.

4. Literature and Materials

Per Professor's assignments and anticipated reading.

5. Mode of Assessment

Oral examination, written examination, oral presentation, test, paper, portfolio, thesis, report about an internship, report on fieldwork, continuous assessment, class participations, etc

6. Course Syllabus

Worksheet for Course ECTS Credits

Normal school year equals 60 ECTS generally equally divided into two semesters of 30 ECTS per semester.

Assumes UP adopts an 1800 education hours to earn 60 ECTS (if 1620 hours...)

Each ECTS represents 30 education hours (Each ECTS represents 27 edu. hours)

Each classroom hour is calculated as one academic hour. (Each 45/50 minute class counts as one hour).

Reading assignments/expectations for reading and comprehension is 5 pages per hour. Pages per hour can be adjusted up or down based on content such as familiarity, complexity or foreign language.

Course Name:

Calculations by each Professor for each course taught.

Class contact hours: _____

Ushtim contact hours: _____

of pages divided by 5 pages per hour: _____

Other work/reading or assignments: _____

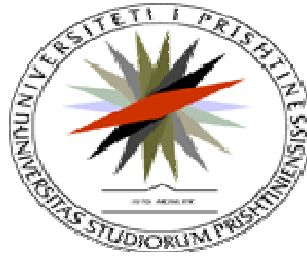
Other student work per ECTS guidelines _____

Exam preparation (study and taking): _____
(Suggest minimum 30 Hours)

Total hours: _____

Total hours divided by 30: _____

ECTS Credits for this class: _____ ECTS
(Less than .5 round down, .5 or greater round up.)



**SYLLABUS AND MATERIALS
FOR THE UNIVERSITY OF PRISHTINA
LAW FACULTY**

LEGAL METHODOLOGY I

Gjyljeta Mushkolaj, Lecturer

Materials developed by:

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1. INTRODUCTION

1.1 Contents and purpose of the course

1.2 Workload

1.3. Method

1.4. Literature and Materials

1.5. Mode of assessment

2. SYLLABUS

3. COURSE MATERIALS

INTRODUCTION

1.1. Contents and purpose of the course

The Legal Methodology course focuses on the basic tools students need as a foundation for modern legal studies and the legal reforms taking place in Kosovo. The course will be divided into two semesters, with critical thinking and analysis along with legal writing and oral argument training in the first (Fall) semester, coupled with practical representation, advocacy skills, and professional ethics in the second (Spring) semester.

Legal Methodology encompasses new concepts of student involvement in education in order to introduce the law student to the changing expectations of lawyers in a modern legal system. New laws and legal methods recently introduced, or in ongoing development, in Kosovo require critical thinking and flexible analysis in order to effectively represent clients in the future. Traditional doctrinal teaching and learning remains a fundamental educational principle but must be complimented with new courses, teaching methods and learning outcomes.

The Legal Methodology course will begin with introductions to critical thinking in theory and practice, followed by training and development of critical thinking through case analysis and argument and concluding with the demonstration of learned skills through motion preparation and oral argument. The materials to meet these goals will consist of preliminary exercises in problem solving, study and review of legal cases from the European Court of Human Rights, and culminating in study, analysis and presenting arguments interpreting facts and law under the new Criminal law codes in Kosovo. As a general format, Thursday classes will be designed for teaching and development of student assignments and the following Tuesday class will be student involved workshops and presentations. Ideally, Thursday's classes will be one academic hour and Tuesday's classes will be two academic hours focused on student participation.

During the course students will not only read and study the assigned materials, but are also given the opportunity to practise oral and writing skills through the required assignment and by attending the seminars.

At the end of the course the student:

- will be able to read a court decision, understand what law and principles were used and have a critical analysis of cases for application to new issues.
- will be able to read statutes and legal text with critical analysis for client representation.
- write a basic legal motion persuasively setting forth legal positions and advocacy on behalf of a client and orally present the significant portions before a moot court.

1.2. Workload

As a pilot course, students will not receive academic credit but will receive course certification from the Law Faculty and ABA/Rule of Law Initiative

For comparative purposes this course represents 6 ECTS credits (app. 165 hrs).

- Classes, seminars and weekly assignments / 80 hours
- Additional literature / 45 hours
- Written Motion and Oral Argument / 40 hours

[NOTE on ECTS]: In order to achieve comparability of study load of legal education programs and individual law courses between different universities and different European States, it is necessary to express the amount of work done by students in terms of a common denominator. In line with the agreements made in Bologna in 1999, most Western European universities have now accepted that this unit of account is the ECTS (European Credit Transfer System). One ECTS represents 28 hours of study. This unit is derived from the idea that 1 year of studies at institutions of higher learning comprises 42 weeks of 40 hours (10 weeks are for holidays etc) . Thus the total number of hours available for the purpose of undertaking academic studies on a full-time basis is 1680 hours. The study load per year is 60 ECTS and therefore 1 ECTS is 28 hours (1680 divided by 60). The LLB degree requires a total study load of 180 ECTS (three years) and for the LLM degree students must complete an additional number of at least 60 ECTS (one year minimum).

Courses often have a study load of 6 ECTS. This allows a faculty to require students to devote a total of 6×28 hours = 166 hours to the study of the subject in question. If, for example, attendance at classes and tutorials for that subject occupies students for 4 hours every week during a semester of 12 weeks, the study load for contact hours is 48 hours. There then remains ample time (166 hours minus 48 hours) for students to engage in self-study and to prepare themselves for exams, to study literature not explained during lectures in class, to prepare written work or an oral presentation to be given in class, to do work in relation to moot court competitions, to edit a law journal or write contributions for some such publication, to do an internship in law firms, courts, public administration, etc. So in principle, of the 166 hours, after deducting the 48 contact hours, 118 will be available for study in connection with the course at hand. If teachers do not demand written or oral assignments etc. from students, they are free to require students to use these 118 hours for studying handbooks and other literature. Naturally, a faculty should then determine how many pages a student can reasonably be expected to read and digest per hour. If the ratio is 5 pages per hour, a 6 ECTS course of 12 weeks with 48 contact hours leaves room for a total amount of required reading of $118 \times 5 = 590$ pages. Since reference materials (e.g. texts of treaties and laws) are consulted by students as an aid to understanding the texts to be studied, such documentary sources are not normally considered as material to which the above pages/hours ratios are applicable. However, in courses such as Legal Methodology where the study of the text of laws is an integral part of the assigned material the reading is calculated into the hours of credit.

1.3. Method

The course will consist of three parts: 11 weeks of lectures and seminars (workshops), the preparation and participation of oral and written assignments, the writing of a legal motion, and a one week dedicated to the final oral argument of the motion before the moot court. All participants are expected to attend all scheduled lectures and seminars. In order to attend the seminars, students are expected to have prepared the assignment from the previous lecture, Students enrolled in the course are expected to arrive punctually as this course is a preparation course for practicing before the courts of Kosovo. Each lecture will take one hour and each seminar (workshop) will be 2 hours. Students are expected to participate actively in both the lectures and seminars.

1.4. Literature and Materials

See Course Materials:

- Selected Texts in Supplement
- Selected Problems in Supplement
- Selected cases from the European Court of Human Rights
- Kosovo Criminal Law Code
- Kosovo Criminal Procedure Law Code.

1.5. Mode of assessment

The assessment will consist of three parts: class and seminar participation (40 % of the final mark), written motion (legal brief) (30% of the final mark) and oral presentation (30% of the final mark).

The assignment

The assignments will be distributed in Thursday classes for student preparation for the following Tuesday seminar (workshop). Each assignment will require some reading and preparing for seminar participation.

The written motion preparation will be during the December 26 to January 5 class periods and will involve class and individual meetings. Class times remain the same and individual times will be scheduled with the instructor. The motion must consist of a **maximum** of 6 pages (use font 12 and doubled spaced lines).

The assignment must be submitted at the start of the lecture class on January 5, 2007. Any assignment turned in after the start of the class time on Thursday will be considered late and will lose grade points in proportion to the degree of lateness.

2. COURSE SYLLABUS

- October 26, 2006 (1 hour) Class 1. Introduction to class concepts and expectations, distribute syllabus and materials. Do “Exercise in Decision Making” in class. Distribute for next class: “The Nature of the Judicial Process” reading and written assignment and the “Planet Nike” exercise.
- October 30, 2006 (2 hours) Class 2. Discussion on “The Nature of the Judicial Process” Turn in written assignment. Student workshop on “Planet Nike.” Distribute reading materials on statutory analysis and interpretation.
- November 2, 2006 (1) Class 3. Introduction to Concepts of Statutory Analysis and Interpretation. Distribute McBoyle case materials for next class.
- November 6, 2006 (2) Class 4. Student workshop using McBoyle demonstrating statutory analysis and interpretation. Distribute EU Convention of Human Rights and Anthony T. hypothetical.
- November 9, 2006 (1) Class 5. EU Court of Human Rights interpretations of the Convention of Human Rights and Anthony T. hypothetical. Distribute ECHR case Ireland v. U.K. and writing assignment based on Anthony T. hypothetical.
- November 13, 2006 (2) Class 6. Student workshop using statutory analysis and interpretation applied to the Convention of Human Rights. Discuss Ireland v. U.K. case and Anthony T. hypothetical. Hand in written assignment. Distribute Tyrer v. U.K.
- November 16, 2006 (1) Class 7. Introduction to advocacy and critical legal thinking involving the Ireland and Tyrer cases from the ECHR focusing on case analysis and distinctions, start to note precedent use. Distribute Tomasi v. France and Assenov v. Bulgaria. Notify students to come to next class prepare to discuss all four ECHR cases. Assign students.
- November 20, 2006 (2) Class 8. Student workshop on advocacy and critical legal thinking using all four of the ECHR cases, with focus on cases distinctions, collective precedents and use of the four cases to discuss 2 hypotheticals handed out in class. Professor to use in discussions and teaming student up to present opposing sides. Distribute copies of Provisional Criminal Code of Kosovo Article 165 to be read in light of the 4 ECHR cases.

- November 23, 2006 (1) Class 9. Lecture by Guest Professor on basis and language of Provisional Criminal Code of Kosovo Article 165. Assignment: Advocacy and critical legal thinking skills for student to act as advocates for adoption or rejection of Article 165 in the possible Criminal Code of Kosovo, to be adopted after termination of UNMIK authority, using the EU Convention of Human Rights and the ECHR cases. Distribute article A Night in the Topics as reading to help prepare for assignment.
- November 27, 2006 (2) Class 10. Student workshop in advocacy and critical legal thinking skills for student to act as advocates for adoption or rejection of Article 165 in the possible Criminal Code of Kosovo, to be adopted after termination of UNMIK authority, using the EU Convention of Human Rights and the ECHR cases and demonstrating concepts of persuasion and rhetoric. Distribute Brutus and Antony speeches to read for next class.
- November 30, 2006 (1) Class 11. Discuss persuasion from prior class and Brutus and Antony speeches and introduce concepts of persuasive legal writing. Distribute sample Kosovo motion (can we get a copy of some) and reading materials on motion structure, assign students to write simple motion using Article 165 and ECHR cases based on either of the two hypothetical's used in Class 8.
- December 4, 2006 (2) Class 12. Student workshop on persuasive legal writing. Students present their written motions and do class analysis on developing legal writing. Distribute assigned reading on legal writing and logic in persuasion, titled "Working with the Paradigm."
- December 7, 2006 (1) Class 13. Advanced concepts of motion (legal brief) writing and persuasive oral legal reasoning using Provisional Criminal Code of Kosovo and comparative cases from the ECHR. Function and differences of legal argument presented in writing that is also orally presented. Distribute reading assignment "The Roles of the Brief and of Oral Argument" and assign students to brief and argue a sample motion at next class.
- December 11, 2006 (2) Class 14. Student workshop on advanced concepts in motion writing, persuasive legal reasoning and oral advocacy on motion. Distribute reading assignment, "Developing Persuasive Arguments."

December 14, 2006 (1)	Class 15. Distribution of student pairings and assignments for final written motions and oral argument. Lecture on persuasive legal arguments in the context of motion (legal brief) practice and oral argument. Distribute last reading assignment, "How Judges Read Appellate Briefs."
December 18-28, 2006	Class 16. Individual or small group meetings as needed for student preparation of legal briefs on assigned motion for oral argument.
January 4, 2007 (2)	Class 17. Written motions due with copies to opposing student counsel by e-mail. Review of rules and expectations for oral arguments.
January 8-12	Final Classes. Oral motion argument presentations before judges.

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WASHINGTON AND LEE UNIVERSITY

School of Law

Examination in Civil Procedure I

Professor Speedy Rice

Fall Semester 2006

Instructions

DO NOT START THE EXAM UNTIL INSTRUCTED TO DO SO.

- 1. This is a two and one-half hour (150 minute) exam.**
- 2. You may write or type this exam. If you write you must write only on the paper provided. Please be sure to put your exam number, date, course and page number at the top of each page.**
- 3. If you are typing your exam it is helpful to me if you print using 14pt type and double spaced. Please be sure to put your exam number, date, course and page number at the top of each page. At the end of the exam you will be given time to print the exam. You may only use your laptop as a word processor and may not use it for anything else during the exam. It is recommended you turn off your internet to avoid distracting IM and e-mail.**
- 4. The only form of identification you are to use is your student exam #.**
- 5. No materials or talking are allowed during the exam.**
- 6. You must stop writing or typing when your time is up, even if you started the exam late.**
- 7. If your laptop fails, you may switch to writing by hand but additional time will not be allowed. Please enable the autosave function in your laptop to minimize any loss.**
- 8. The multiple choice questions, the scan-tron sheet and notes you make regarding the multiple choice questions must be returned with the exam.**
- 9. The scan-tron sheet requires #2 lead pencil, which will be available in the exam room.**

Essay Questions

Ali Toscani moved from Virginia to Italy eight months ago to work as a photographer for Italicalendar, Inc. Italicalendar produces calendars featuring photos of Italian scenery for the U.S. Government (bureaucrats hang the calendars in their otherwise-drab offices to brighten them up). The company is incorporated in Delaware and operates out of Virginia.

Ali still has family in Virginia. When she moved, she relocated her trailer-home to her parents' backyard. She stays in the trailer when she goes back to Virginia, which she does whenever she can, usually on extra-long weekends or holiday breaks. During a recent break from work, Ali rode her motorcycle up the East Coast into Massachusetts. While parking her cycle in Boston, she hit the curb, lost her balance, and fell off. She bumped her head on the street, and her helmet cracked apart like an eggshell. Despite the minor nature of the accident, Ali was injured.

Furious, Ali sues the manufacturer of the helmet, HeadCase, Inc., and the retailer where she'd purchased it, BullsEye, Inc. Ali bought the helmet from a BullsEye store in Virginia. BullsEye operates a chain of discount marts that sell everything from clothing to food to lawn furniture. It is incorporated in Delaware, with headquarters in Virginia. It sells HeadCase motorcycle helmets and has stores in every state in the U.S., including one store in Massachusetts. Its Massachusetts store, however, no longer sells HeadCase helmets, since new Massachusetts laws require helmets sold in that state to have higher impact resistance than is provided by HeadCase's relatively flimsy helmets.

HeadCase manufactures inexpensive (the company doesn't like the word "cheap") motorcycle helmets. It is incorporated in Delaware with headquarters in Oregon. HeadCase sells most of its helmets overseas. It sells 15% of its helmets, though, to BullsEye, delivering the helmets to BullsEye's main warehouse in Virginia. HeadCase has no idea that its helmets no longer meet Massachusetts state standards; everyone in the company assumes that BullsEye's Massachusetts store still sells its helmets. And BullsEye has not yet reduced the number of helmets it orders from HeadCase, although it plans to do so. Wanting to take advantage of Massachusetts's favorable corporate tax laws, moreover, HeadCase is relocating its headquarters from Oregon to Massachusetts as soon as possible. A few employees have already relocated to temporary offices in Massachusetts while its new headquarters is being built near Boston.

Ali files a tort suit in Massachusetts state court in which she raises state law claims against BullsEye and HeadCase. She seeks \$250,000 in damages. Representatives of both companies are served with process at their respective headquarters, in Virginia and Oregon. Massachusetts's long-arm statute authorizes its courts to exercise jurisdiction

“on any basis not contrary to the provisions of the U.S. Constitution or the laws of the U.S.”

Part One (15 minutes)

1. Both defendants file Motions to Dismiss for lack of personal jurisdiction. What arguments should they make? What arguments should Ali’s attorney make in opposing the defendants’ Motions to Dismiss? How should the court rule?

Part Two (60 minutes)

2. Now assume that the Massachusetts state court will exercise personal jurisdiction over the defendants. The directors of BullsEye inform their attorneys that they want to litigate the case in federal court, preferably in Virginia. What procedural action(s), if any, can BullsEye’s attorneys take in order to accomplish this goal? What arguments should they make, and what arguments should Ali’s attorneys make in opposition to having the litigation moved? Will BullsEye be successful in their attempt to have the litigation moved?

Part Three(15 minutes)

Assume the BullsEye attorneys are successful in getting the case to the Virginia federal court. As soon as they are in Virginia, BullsEye makes her a settlement offer, which she accepts. She dismisses BullsEye from the lawsuit. She continues her state tort claim in Virginia federal court against HeadCase. Assume that Ali is deemed an Italian resident.

Ali v. HeadCase proceeds to trial. The only witness to the accident (other than Ali) was an elderly woman, Ms. Wight. Wight testified in a pretrial deposition that the fall was not hard and that the helmet split open like an overripe watermelon. She was shocked that the helmet would fail on such a light impact. Wight had told the parties that she would be available to testify at the trial. Without informing the parties or the court, however, she left the country. Her son informed the parties that Wight told him by e-mail that she had met a handsome Englishman and did not plan to return to the U.S. in the foreseeable future. The court is unable to compel Wight’s appearance,

3. Ali’s attorney filed a motion to admit the transcript of Wight’s deposition at trial, in lieu of her live testimony. HeadCases’s attorney opposes the motion. The federal practice is to allow courts to accept a witness’s previously-recorded deposition testimony in situations where a witness is unexpectedly unavailable at the time of trial. Virginia state court decisions prohibit the admission of previously-recorded testimony, on the theory that it violates a party’s right to cross-examine and confront adverse witnesses. Which rule will the federal district court follow, and why?

The following 30 questions are multiple choice. Of your answer choices, please select the best one possible answer per each question.

QUESTIONS NOS. 1-5 ARE BASED ON THE FOLLOWING FACTS

Bill is a resident of California who worked in Nevada as an employee of the Nevada State Gaming Commission. Bill was hired on the California side of Lake Tahoe by a Commission recruiter to work as an inspector in the casinos. Bill was fired from his job when his boss learned from a third source that Bill was developing Multiple Sclerosis which would eventually affect his work performance. Bill sued the Gaming Commission and Commissioner Joe Smith, alleging a violation of the Americans with Disabilities Act, asking for \$60,000 in damages, for back pay, and for reinstatement to his old job. Bill's suit was filed in federal district court for the Eastern District of California in Sacramento where Bill resided. Bill included a claim based on state tort law as a separate ground for relief. He only named Commissioner Smith as a defendant on the state law damages and back-pay claims because under the Eleventh Amendment to the U.S. Constitution he couldn't sue the State Gaming Commission for money damages. However his state law claim included a request for reinstatement which he calculated had a value of \$5,000 and this request was directed against both the commission and the commissioner.

1. If both defendants move to dismiss the complaint for improper venue, they will:
 - A. lose because Bill can sue in his place of residence.
 - B. win because Bill cannot sue at his place of residence.
 - C. lose because Bill's choice is a convenient forum.
 - D. win because they live in Nevada.

2. If Defendants win their motion challenging venue, the court will:
 - A. dismiss Bill's action for lack of venue.
 - B. transfer Bill's action to the Nevada Federal District Court.
 - C. stay Bill's action until he refiles it in Nevada.
 - D. transfer Bill's action to a more convenient form.

3. Defendant Joe Smith moves to dismiss Bill's claim for lack of subject matter jurisdiction in the federal court. Smith will:
 - A. win because supplemental jurisdiction doesn't apply to Americans with Disabilities Act cases.
 - B. lose because there is jurisdiction based on both diversity and a federal question.
 - C. win because Bill could have filed both claims in state court.
 - D. lose because the federal court will have to apply both federal and state law to the case.

4. The Gaming Commission also challenged subject matter jurisdiction in the federal court. The Commission will:
 - A. lose because jurisdiction is based on both diversity and federal question.
 - B. win because supplemental jurisdiction doesn't apply in Americans with Disabilities Act cases.
 - C. win because the state law claim for reinstatement does not satisfy the amount in controversy requirement.
 - D. lose because Bill could have filed his action in state court.

5. Both defendants filed a motion to dismiss challenging the territorial jurisdiction of the federal district court in Sacramento over them. Defendants will:
 - A. lose because hiring a California resident in California to work in Nevada is a purposeful activity in California which subjects them to jurisdiction for related causes of action.
 - B. lose because the defendants committed a tortious act in California by firing Bill.
 - C. win because defendants are Nevada residents who don't do business in California.
 - D. win because any tort against Bill was committed in Nevada.