

Capacity Building of the Faculty of Law, University of Montenegro - curricula refreshment, boosting of international cooperation and improving human, technical and library resources (CABUFAL)

WP 4.2 Evaluation of the accredited curriculum and syllabi

REPORT

The new curriculum accredited by the FoL UoM and the individual syllabi of the courses illustrates a great improvement in the Europeanisation of the subject matters taught to the students. New teaching units focusing on EU legislation, ECJ case law and comparative practices have been included in all courses. It is also evident from all the individual course syllabi that professors have conducted comparative analyses of their courses with similar courses at the leading universities in EU Member States and hence already proposed the addition of the necessary EU elements to the courses. The comments below express suggestions for minor changes and inclusion of topics, which might already feature in some of the lectures, but their specific expression in the syllabi is lacking.

The ECTS points are determined on the amount of study hours. As there are different reasons how the amount of study hours is determined for each course, it is difficult to assess this from an outsider's perspective. Therefore, the ECTS points may be determined on different elements such as the amount of topics covered, the lecturers' availability, complementarity with the overall ECTS numbers for the whole program, and others.

The syllabus shows improvement in all the four major assessment segments:

- I Changes in the existing structure of teaching units
- II Introduction of the new teaching units
- III Establishing additional bibliographic titles for required and further reading
- IV Amendment of objectives, outcomes, and course content comparability.

The existing structure of the courses is suitable as presented in the proposed changes by the professors of the FoL UoM. New teaching units focusing on the Europeanization have been added, as have been additional bibliographic titles for textbooks with European content, both for the required and further reading. These additions reflect themselves in the broader objectives of the course, the outcomes and the overall content of the whole curriculum.

Below are comments resulting from the comprehensive evaluation of the individual course taking into the required changes in the abovementioned four major assessment segments.

1. Civil Procedural Law

Commented [WU1]: We would kindly ask to put more attention to publications which have been published after the revision due to the Lisbon treaty.

Commented [WU2]: We also support this part.

Comments:

The course focuses on specific civil procedure before the Montenegro courts, which is, as in every other State, regulated by the national legislation, therefore, there is little room for Europeanization. A suggestion would be to include a unit on the recent EU legislative developments in this field. The proposed list of literature additions is sufficiently extensive. The suggestion would be to refer to the latest editions of the volumes (see the edits in the syllabi document). As the suggested literature has a focus on some national jurisdictions and their approach to EU civil procedure these should be optional literature. As the compulsory literature it is suggested to use a more universal EU civil procedure law textbook, such as Eva Storskrubb, *Civil Procedure and EU Law: A Policy Area Uncovered*, Oxford Studies in European Law, Oxford University Press (2008).

Commented [WU3]: It would be interesting to include the new actions in the parts of Collective redress

2. Commercial Law

Comments:

The course focuses on specific commercial law contracts which are regulated by the national legislation, therefore there is little room for Europeanization. A suggestion would be to include some comparative examples of such contracts in other EU Member States, if this is not already done through the lectures. The suggestion for compulsory literature is Gabriël Moens and John Trone, *Commercial Law of the European Union*, Springer (2010).

Commented [WU4]: Are there overlaps with the course of law of obligations

3. Company Law

Comments:

This course focuses on business entities as regulated by national legislation, therefore there is little room for Europeanization of the course. A suggestion would be to put some attention to entities that have partners/stakeholders from other EU Member States and how does that affect the organization and the functioning (questions of responsibility) of such organizations. Some further attention could also be given to mergers and acquisitions with companies in other EU Member States. Additionally, the course could address the specialties of EU Company Law. Finally, since corporate social responsibility is becoming a crucial international and European facet of the operation of companies, this should be at least presented to the students. As for suggestions on the literature, the compulsory literature could be Nicola de Luca, *European Company Law: Text, Cases and Materials*, Cambridge University Press (2017). As optional literature the following literature could be included: Stefan Grundmann, *European Company Law*, 2nd edition, Intersentia 2011 and Adriaan F. M. Dorresteijn et al., *European Corporate Law*, 3rd edition, Wolters Kluwer (2017).

Commented [WU5]: We would suggest also to include a part on European forms of companies, like the EEIG, the SCE and the SE. In case of including M&A topics, we have the fear that this could be too much content for one lecture.

4. Constitutional Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course. The only addition could be in the field of human rights where not only a comparison with the Constitutional Court and the activity of the ECtHR in Strasbourg is presented to the students, but also the comparison between the practice of the Constitutional Court and Court of Justice of the European Union. The proposed list of literature additions is sufficiently extensive, however we would suggest the inclusion of more updated titles. The following proposed textbooks proposed by the professors could be considered as the compulsory literature:

- Jasna Omejec, Konvencija za zaštitu ljudskih prava i temeljnih sloboda u praksi Evropskog suda za ljudska prava, strasbourgški acquis (Convention for the Protection of Human Rights and Fundamental Freedoms in practice of the European Court of human rights, The Strasbourg acquis), Zagreb, 2013.
- Dragoljub Popović, Evropsko pravo ljudskih prava (European Law of Human Rights), Belgrade, 2012.

The rest of the proposed literature could be optional reading.

In light of the developments related to the adoption of the Treaty of Lisbon, we do not see this the following two titles as the necessary literature:

- Joseph Weiler, Ustav Evrope (The Constitution of Europe), Belgrade, 2002.
- Ustav Evrope (The Constitution of Europe), edited by Milutin Janjević, Belgrade, 2005.

In addition to the literature proposed by the professors of FoL UoMAs, the list of the compulsory literature could include Robert Schütze, European Constitutional Law, 2nd edition, Cambridge University Press (2015), as it is the basic textbook on the topic.

5. Copyright Law and Industrial Property Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course. The proposed list of literature additions is sufficiently extensive.

6. Criminal Law I – General Part

Comments:

The suggested amendments by the professors already introduce the European element to the syllabus of this course, as this course is the general part of the criminal law course. The description of the introduced new topics could be more detailed. A good understanding of the common European strategy in criminal law and the criminal law harmonization efforts would be required from the students at this stage. Additionally, the external dimension of EU action in criminal matters could be addressed. There are a few European criminal law textbooks available that could be added to the literature list:

Commented [WU6]: Meskić/Samardžić, Pravo Evropske Unije I and II

Commented [WU7]: Is there a independent course on European Law? Including all the proposed topics to the constitutional law course is very ambitious. We would suggest to focus on the interplay of the constitutional court and the ECJ as well as the ECHR.

Commented [WU8]: Is there a session about TRIPS included?

- Valsamis Mitsilegas, *EU Criminal Law after Lisbon: Rights, Trust and the Transformation of Justice in Europe*, Hart Studies in European Criminal Law, Hart Publishing (2018).
- Maria Fletcher et al., *EU Criminal Law and Justice*, Elgar European Law Series, Edward Elgar Publishing (2010).

7. Criminal Law – Specific Crimes

Comments:

The suggested amendments by the professors introduce the study of organized crime as an important European element to the syllabus of this course. Specific forms of organized crime, such as terrorism, money-laundering, corruption etc. could be addressed as part of this course, since these are the focus areas of the European criminal law. The proposed list of literature additions is sufficiently extensive.

8. Criminal Procedural Law

Comments:

The syllabus already includes proposals by the professors to introduce the European criminal procedure law elements, however the description of the introduced new topics could be more detailed. A focus on the following would be necessary within the proposed Europeanization:

- mutual recognition in criminal matters and EU Arrest Warrant;
- action by EU bodies facilitating police and judicial co-operation – such as Europol, Eurojust and OLAF; and
- access to personal databases in EU MS for cooperation in law enforcement matters.

A suggestion for the literature: Roberto E. Kostoris, *Handbook of European Criminal Procedure*, Springer (2018).

9. Criminalistics

Comments:

The European element of this course could be the inclusion of the issue of protection of personal data and access to EU personal data databases by the law enforcement bodies from the perspective of criminal forensics. The proposed list of literature additions is sufficiently extensive. An addition could be the following article by Gabriela Belova and Gergana Georgieva, *A New Data Protection Development in The EU Judicial and Criminal Area*, International conference KNOWLEDGE-BASED ORGANIZATION 23(2), DOI: 10.1515/kbo-2017-0103 (2017).

10. Family Law

Comments:

The suggested amendments by the professors already introduce the European element to the syllabus of this course. The proposed list of literature additions is sufficiently extensive.

Commented [WU9]: We would recommend also to discuss the rights of LGBT in regards to marriage, adoption of children

11. Financial Law

Comments:

As the course focuses on taxation and budget management, the suggested amendments by the professors already introduce the European element. However, as the title of the course suggests maybe some units on EU Financial Regulation, on the common market for financial services and the harmonization process, and on the EU financial services authorities could be included. The proposed list of literature additions is sufficiently extensive. Some additions to the literature list could be John Armour et al., *Principles of Financial Regulation*, First edition, Oxford University Press (2016) and Mattheias Haentjens, Pierre de Gioia-Carabellese, *European Banking and Financial Law*, Routledge (2015).

Commented [WU10]: We would recommend to put the focus on financial services and all the new initiatives and regulations (Basel) in that field, discussing the role and duties of banks

12. General Theory of Law

Comments:

As there is an issue with the syllabus document, it is unclear what are all the updates and changes proposed by the professors both to the topic of the course and to the literature. An addition to those proposed by the professors, could be the illustration of the relationship between the discussed units in the course and the European Union as a supranational entity with lawmaking power. What is the position and role of the EU from the perspective of the general theory of law and its relationship to natural and positive law?

13. History of State and Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course and include the recommended literature. One addition could be Ivan T. Berend, *The History of European Integration, A New Perspective*, Routledge (2016).

14. Inheritance Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course. As to the literature the suggestion would be to include the following commentary by Alfonso-Luis Calvo Caravaca et al., *The EU Succession Regulation, A Commentary*, Cambridge University Press (2016) and the upcoming book by Richard Dew and Richard Frimston, *A Practical Guide to the EU Succession Regulation*, Law Brief Publishing (2019).

15. International Business Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course and include the recommended literature. One addition could be Nicola de Luca, *European Company Law: Text, Cases and Materials*, Cambridge University Press (2017).

16. International Private Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course. Additionally, the following issues could be specifically addressed: Brussels II Regulation, European Enforcement Order, European Small Claims Procedure and the Payment Order. The proposed list of literature additions is sufficiently extensive.

17. Introduction to Civil Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course and include the recommended literature. One addition could be Norbert Reich, *General Principles of EU Civil Law*, Intersentia (2013).

18. Law of Obligations

Comments:

The course focuses on specific obligations which are regulated by the national legislation, therefore there is little room for Europeanization. The modified learning outcomes sufficiently identify the European element, however the units that give the students this knowledge could be included in the syllabus itself. The proposed list of literature additions is sufficiently extensive.

Commented [WU11]: From our perspective, we would recommend to have two courses: 1. International Business Law (CISG, Investment law, WTO Law, etc) and 2. European Economic Law (European Single Market and its freedoms, European Competition Law, European Trade Law)

Commented [WU12]: Regarding all civil law courses, we would recommend to include the consumer protection regulations, if they are already implemented in national law, it would be maybe good to discuss how it looked like before.

19. Maritime Law

Comments:

The suggested amendments by the professors introduce some European element to the syllabus of this course, however the European element of the existing course structure could be more pronounced with an additional focus on the role of the EU in regulating the maritime transport, monitoring the implementation of the EU maritime framework and on the work of the European Maritime Safety Agency. Some suggested literature could be Henning Jessen, Michael Jürgen Werner, EU Maritime Transport Law, Hart Publishing (2016); Johanna Hjalmarsson, Yvonne Baatz, Maritime Law, 3rd edition, Informa Law/Routledge (2014); Vincent Power, EU Shipping Law, 3rd edition, Informa Law (2018).

20. Notarial Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course and include the recommended literature.

21. Property Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course. Some suggested literature could be Sjeff van Erp et al., The Future of European Property Law, Sellier European Law Publishers (2012) and Eveline Ramaekers, European Union Property Law, Intersentia (2013).

22. Roman Law

No amendments necessary.

23. General Sociology and Sociology of Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course and include the recommended literature.

24. The Basis of Economic Policy

Comments:

The course as such should already contain the European element, as it is necessary to address the European integration as part of the European economic policy. Thus discussions about the EU market, EU fiscal policy, the EU Monetary Union, the role of the EU Central Bank and the EU trade policy should be part of the existing units of the course. Some suggested literature could be Mike Artis, Frederick Nixson, *The Economics of the European Union: Policy and Analysis*, 4th edition, Oxford University Press (2009) and Richard E. Wyplosz, Charles Baldwin, *Economics of European Integration*, 4th edition, McGraw Hill Higher Education (2012).

25. Labour Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course. Some suggested literature that focus more on EU labour law could be Brian Bercusson, *European Labour Law*, 2nd edition, Cambridge University Press (2012); Roger Blanpain, *European Labour Law*, 13th edition, Kluwer Law International (2012) and Gregor Thüsing, *European Labour Law*, C.H. Beck/Hart/Nomos Publishing (2013).

26. International Law on Human Rights

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course and include the recommended literature.

27. Administrative Law

Comments:

The suggested amendments by the professors already significantly introduce the European element to the syllabus of this course and include the recommended literature.