

Great jurists and their impact on history and development of Private Law

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duties in Winter Semester:

Tuesdays 14:00 - 15:00 (room 101 CI, Św. Marcin Street 90)

Fridays 14:00 - 15:00 (room 4.5 CIN, al. Niepodległości 53)

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MATERIALS: *rzym.amu.edu.pl* → „materials” (in Polish: „materiały”)

How to pass this lecture?

Three equivalent ways:

1. Paper + discussion

[recommended]

[Paper: max. 6 pages, font 12, line spacing 1.5]

subject ?

deadline – 15th March 2019

OR

2. **Oral exam**

[list of issues → student prepares 4 of them → I choose 2]
when? during my duties (January-March 2019)

OR

3. **Writing exam**

[2 issues form the list]

Winter semester final exams (February)

Great jurists and their impact on history and development of Private Law

- about **private law**
(not criminal law, not public law)

...in the **continental Europe** (*civil law* system);
especially in Central and Western Europe
- about **history of the private law**,
however basing on the great personalities

(historical approach, because only from the certain perspective
we can estimate, which jurist really was „great“)
- **about development (evolution?) of private law**
from the ancient times to contemporaries
/law as part of humanities/

Idea of this lecture

- presentation of development of private law within history

Great personalities

- a) selection of jurists (subjective)
- b) not in the „encyclopedic” way
- c) without pathos or excessive admiration
- d) on the background of the époque (the way of thinking of that time, challenges of that time)
- e) on the background of the „system” of private law of that time
- f) presentation of the impact of the given jurist

Great jurists and their impact on history and development of Private Law

the core of this lecture

presentation of the „system“ of private law throughout history

presentation of the impact (output, way of thinking) of the chosen „great“ jurists

aim of this lecture

presentation of private law as it was in the past, as it is now and maybe also... as it could look like in the future

Great jurists and their impact on history and development of Private Law

ius est ars boni et aequi

- law is the art of goodness and equity [justice]

(law is the art of knowing what is good and just)

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ius est ars boni et aequi

the law is the art of goodness and equity [justice]

- definition of law?
- strong axiological charge
- but objective or subjective?
- „art” - ?
 - (so which role should we play?)
 - (art or craftsmanship?)

*Placuit in omnibus rebus praecipuam esse iustitiae
aequitatisque quam stricti iuris rationem*

***in all things (in all cases), the principles of
justice and equity should take advantage
over the strict rules of law***

conflict between the regulations
(the positive law) and law (as something wider,
deeper, more complicated than just words)

*Placuit in omnibus rebus praecipuam esse iustitiae
aequitatisque quam stricti iuris rationem*

***In all things (in all cases), the principles of
justice and equity should take advantage
over the strict rules of law***

Characteristics of the great jurist:

- acquaintance with legal regulations [knowledge]
- skill in application of the law [practice]
- honor

...

PLUS! something special

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Schedule

- Roman jurists (from the classic time: I BC-III AD)
 - „Codification” of the Roman law (VI AD)
 - Glossator and Commentators (late Medieval)
 - Legal humanism
-
- „Scientification” of private law
 - Era of the great codifications (FRA, GER, SUI)
 - Poland (inter war period 1918-1939; contemporaries)
 - Some modern ideas (AUT)

System of the Private Law in continental Europe

Schedule:

case (hard cases)

→ compilation of cases and their solutions

(attempts of systematization)

→ building of definitions and rules (in the scope of compilation)

→ generalization / research on legal constructs

[→ „scientification” of law]

→ pragmatism

(modern codification in national states)

