



Fundamentals of Anglo-American and Polish Legal Systems

Educational subject description sheet

Basic information

<p>Field of study Law</p> <p>Speciality -</p> <p>Department Faculty of Law and Administration</p> <p>Study level long cycle</p> <p>Study form full-time degree programme</p> <p>Education profile General academic</p> <p>Mandatory elective</p>	<p>Education cycle 2023/24</p> <p>Subject code UJ.WPAPRAS.33FC0.5cac67ca9e44b.23</p> <p>Lecture languages English</p> <p>Subject related to scientific research Yes</p> <p>Disciplines Legal science</p> <p>ISCED classification 0421 Law</p> <p>USOS code</p>	
Subject coordinator	Jan Halberda	
Lecturer	Jan Halberda	

<p>Periods Semester 3, Semester 4, Semester 5, Semester 6, Semester 7, Semester 8, Semester 9, Semester 10</p>	<p>Examination exam</p> <p>Activities and hours conversatory classes: 20</p>	<p>Number of ECTS points 3.0</p>
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Goals

C1	The primary goal of this lecture is for the student to master knowledge of legal doctrines characteristic of the legal systems found in Anglo-American jurisdictions and in Poland.
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Subject's learning outcomes

Code	Outcomes in terms of	Effects	Examination methods
Knowledge - Student knows and understands:			
W1	<p>The lecture allows students to learn about specific legal doctrines anchored in legal systems belonging to common law and civil law. Of particular importance is the building of students' competence in the area of UK law, in view of the significant migration of Polish citizens to this country and the resulting gradual increase in the number of cases with a foreign (British) element before Polish courts. The agenda of the lecture takes into account the contemporary challenges facing lawyers in the third decade of the 21st century: the United Kingdom leaving the structures of the European Union and the impact of the so-called Brexit on the application of law in Poland; the impact of extraordinary events such as the outbreak of an armed conflict or a global pandemic on previously concluded agreements. A student who has attended the lecture and passed the exam knows the basic similarities and differences between the system of the United Kingdom based on the supremacy of parliament and the systems of the United States and Poland adopting the separation of powers and the principles of judicial review of the constitutionality of laws. The student knows the analogies and differences between the solutions known to the Polish law and their equivalents in the Anglo-American law (prerequisites for the conclusion of a contract; impossibility of performance, clausula rebus sic stantibus and the doctrine of impossibility and frustration; safety valves of legal system). He has knowledge of the differences in the functioning of the common law and equity law systems, as well as the structure of private law in the legal orders under discussion.</p>	<p>PRA_K3_W01, PRA_K3_W02, PRA_K3_W03, PRA_K3_W05, PRA_K3_W06, PRA_K3_W07</p>	written exam
Skills - Student can:			
U1	<p>Participation in the lecture strengthens students' linguistic competence in the area of legal English, which is a necessary part of the education of a modern European lawyer. A student who has attended the lecture and passed the exam is able to describe and compare - using English language - the basic concepts of private and public law of the United Kingdom, the USA and Poland. He/she is able to search for information taking into account the specifics of the system of sources and the structure of individual legal orders.</p>	<p>PRA_K3_U03, PRA_K3_U04, PRA_K3_U08</p>	written exam
Social competences - Student is ready to:			

K1	The lecture will help students to function in the international business (internationalization), through the development of linguistic competence and through knowledge of foreign legal systems. A student who has attended the lecture and passed the exam will find it easier to provide legal assistance to foreign entities. Using the English language he/she will be able to point out to a party operating in a foreign language - legal remedies available to him in Polish law.	PRA_K3_K01	written exam
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Calculation of ECTS points

Activity form	Activity hours*	
conversatory classes	20	
participation in an exam	1	
foreign language terminology acquisition	10	
preparation for the exam	14	
self-study regarding classes	20	
analysis of literature given by the teacher	15	
legal texts analysis	5	
judicature analysis	5	
Student workload	Hours 90	ECTS 3.0
Workload involving teacher	Hours 20	ECTS 0.8

* hour means 45 minutes

Study content

No.	Course content	Subject's learning outcomes
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1.	<p>The lecture will be conducted for 20 hours (10 meetings of 2 hours each). The first five meetings will be devoted to issues of public law: sources of law, Brexit issues, special problems of constitutional law in the area of legislative, executive and judicial power. The next five meetings will focus on selected issues of private law with special emphasis on contract law. The specific issues of the functioning in Anglo-American laws of the division between common law and equity law, as well as the issue of "safety valves" in legal systems will also be discussed at the classes.</p> <p>Topics of individual meetings:</p> <ol style="list-style-type: none"> 1. sources of law in the United Kingdom, the United States and Poland (precedent law vs. statute law) 2. the issue of the United Kingdom leaving the structures of the European Union and the impact of the so-called Brexit on the application of law in Poland 3. separation of powers vs. supremacy of parliament (including the application of checks-and-balances on the example of the American case of Wickard v. Filburn (1942)) 4. the relationship between the legislative and executive branches of government (including issues of the presidential veto, with the special case of the American pocket veto; issues of the British monarch's loss of prerogatives in the area of royal assent) 5. judicial review of the constitutionality of laws (using the example of the American case of Madison v. Marbury (1803) and the British institution of declaration of incompatibility) 6. equity law and common law in Anglo-American laws (still visible in the 21st century remnants of the old division formally abolished in the course of the judicial reforms carried out in the 19th century) 7. contract law part 1 (prerequisites for the conclusion of a contract in Polish law and common law jurisdictions, the phenomenon of the doctrine of consideration on the example of the jurisprudence from the XIX century to the XXI century). 8. contract law part 2 (mechanisms for adapting contracts to changed circumstances - the civilian doctrine of rebus sic stantibus and the Anglo-American mechanism of frustration of contract - on the example of case studies of the impact of war, Brexit or pandemic on existing contracts) 9. tort law (structure of tort law and prerequisites for liability) 10. "Safety valves" (known to Polish law prohibition of abuse of rights and the principle of good faith in the objective sense, and known to Anglo-American law piecemeal solutions in the form of, for example, varieties of estoppel: promissory estoppel, proprietary estoppel, estoppel by convention, etc.). 	W1, U1, K1
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Course advanced

Teaching methods:

case study, discussion, conversation lecture

Activities	Examination methods	Credit conditions
conversatory classes	written exam	The exam includes 3 problem questions, including 1 or 2 questions dealing with a comparison of selected constitutional law institutions in Poland, UK and USA, and 1 or 2 questions dealing with a comparison of selected private law doctrines in Poland and common law. Written exam in English.

Entry requirements

Classes for students who speak English.

Literature

Obligatory

1. John Bell, Sources of Law, in Andrew Burrows (ed.), *English Private Law*, 3rd edn (Oxford, 2013; online edn, Oxford Academic), pp. 3-35.
2. *Marbury v. Madison* (1803) 5 U.S. 137 (decision/wyrok)
3. *Wickard v. Filburn* (1942) 317 U.S. 111 (decision/wyrok)

Optional

1. Mindy Chen-Wishart, In Defence Of Consideration, in: *Oxford University Commonwealth Law Journal* 2013, pp. 209-238,
2. Jan Halberda, Winds of Change in Common Law Jurisdictions: The Concept of Good Faith and Fair Dealing in the Performance of Contracts, in: *English Law, the Legal Profession, and Colonialism. Histories, Parallels, and Influences*, Routledge 2024 (forthcoming)
3. Geoffrey Samuel, Can the Common Law be Mapped?, in: *The University of Toronto Law Journal* 2005, pp. 271-297.
4. *Williams v Roffey Bros & Nicholls (Contractors) Ltd* (1991) 1 QB 1 (decision/wyrok)
5. *Yam Seng Pte Ltd. v. International Trade Corp Ltd.* (2013) 1 CLC 662 (decision/wyrok)
6. *Canary Wharf (BP4) T1 Ltd v European Medicines Agency* [2019] EWHC 335 (Ch) (decision/wyrok)

Effects

Code	Content
PRA_K3_W01	Absolwent zna i rozumie kluczowe funkcje, instytucje, tendencje rozwojowe, wartosci i normy podstawowych gałęzi prawa
PRA_K3_W02	Absolwent zna i rozumie cele, przebieg i ewolucję procesów związanych z tworzeniem i stosowaniem prawa, wykorzystując zaawansowaną wiedzę z zakresu teorii i filozofii prawa
PRA_K3_W03	Absolwent zna i rozumie charakterystykę oraz przebieg sądowych i pozasądowych sposobów rozwiązywania sporów
PRA_K3_W05	Absolwent zna i rozumie współczesne wyzwania i szczegółowe zagadnienia charakterystyczne dla wybranych gałęzi prawa
PRA_K3_W06	Absolwent zna i rozumie rolę prawa w regulacji określonych obszarów życia społecznego z perspektywy funkcji systemu prawnego, występowania konfliktów społecznych i zjawisk naruszania prawa
PRA_K3_W07	Absolwent zna i rozumie złożone zależności pomiędzy systemem prawa a fundamentalnymi dylematami cywilizacji, z wykorzystaniem pogłębionej wiedzy z zakresu nauk prawnych i zaawansowanej wiedzy ogólnej z zakresu niektórych nauk społecznych
PRA_K3_U03	Absolwent potrafi dokonać właściwej kwalifikacji prawnej stanu faktycznego i ocenić możliwe konsekwencje prawne na podstawie odpowiednich norm
PRA_K3_U04	Absolwent potrafi przekazywać wiedzę i argumenty z wykorzystaniem specjalistycznej terminologii prawniczej w języku obcym na poziomie co najmniej B2+
PRA_K3_U08	Absolwent potrafi porównać system prawa polskiego z regulacjami historycznymi i innymi systemami prawnymi.
PRA_K3_K01	Absolwent jest gotów do krytycznie odnieść się do posiadanej wiedzy i jej źródeł, zauważając jednocześnie znaczenie wiedzy i opinii ekspertów dla rozwiązywania problemów w działalności zawodowej prawnika