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Federal State Autonomous Educational Institution for Higher Education
PEOPLES' FRIENDSHIP UNIVERSITY OF RUSSIA
NAMED AFTER PATRICE LUMUMBA
LAW INSTITUTE

educational division (faculty/institute/academy) as higher education programme developer

COURSE SYLLABUS

THEORY OF LEGAL ARGUMENTATION

course title

Recommended by the Didactic Council for the Education Field of:

40.03.01 JURISPRUDENCE

field of studies / speciality code and title

The course instruction is implemented within the professional education programme of higher education:

BACHELOR OF LAWS (LLB)

higher education programme profile/specialisation title

2024

1. COURSE GOAL(s)

The aim of the «Theory of Legal Argumentation» course is to equip students with knowledge of the correct understanding and application of methods of legal argumentation.

This involves an in-depth study of the foundations of logic and the theory of argumentation, and in particular the study by students of the methods and techniques of argumentation in legal practice, in law-making and law enforcement activities. The students are expected to master skills in analyzing legal texts and explore methods for drafting reasoned legal positions.

2. REQUIREMENTS FOR LEARNING OUTCOMES

Mastering the course is aimed at the Bachelor's students formation of the following competences (part of competences):

Table 2.1. List of target competencies (parts of competencies)

| Competence code | Competence descriptor | Competence formation indicators (within this course) |
|------------------------|---|--|
| PC-2 | PC-2. Can apply legal norms in specific legal areas and use them in the way prescribed by law | PC-2.1. Demonstrates specific knowledge of the implementation of law, knows the procedure for carrying out the duties of jurisdictional bodies responsible for the implementation of law; PC-2.2. Has mastered the skills of analyzing the facts of the case, qualifying the facts of law and legal relations that arise due to them, identifies legally significant circumstances; PC-2.3. Carries out the correct choice of the legal norm to be applied and the method of its interpretation; PC-2.4. Has mastered the methods of searching for cases of implementation of law and monitoring it in order to complete professional tasks; PC-2.5. Develops options for legal actions in strict accordance with the legislation and makes decisions in the form prescribed by law. |

3. COURSE IN HIGHER EDUCATION PROGRAMME STRUCTURE

The course refers to the elective component of (B1) block of the higher educational programme curriculum.

Within the higher education programme students also master other (modules) and / or internships that contribute to the achievement of the expected learning outcomes as results of the course study.

Table 3.1. The list of the higher education programme components/disciplines that contribute to the achievement of the expected learning outcomes as the course study results

| Competence code | Competence descriptor | Previous courses/modules, internships* | Subsequent courses/modules, internships* |
|-----------------|---|--|--|
| PC-2 | PC-2. Can apply legal norms in specific legal areas and use them in the way prescribed by law | Administrative Law Civil Law Basic Provisions of Civil Law Implementation and Protection of Civil Rights. Right of Ownership and Other in Rem Rights Law of Obligations. Tort Law Contract Law Intellectual Property Law. Inheritance Law Family Law Civil and Commercial Procedure Financial Law and Tax Law International Public Law Labor Law International Private Law Commercial Law and Corporations | Fundamentals of Medicine Law Workshop "Procedural Documents in Civil Cases" Workshop "Procedural Documents in Administrative Cases" Workshop "Procedural Documents in Criminal Cases" Workshop "Skills of Effective Presentation in Court" Workshop "Procedural Documents in International Disputes" Workshop "Procedural Documents in Constitutional Procedure" Workshop "Negotiations and Contracts" Workshop "Drafting Legal Letters, Memos & Legal Opinions" Interdisciplinary Course Paper Work Experience (Judicial) Internship Work Experience (Pre-graduation) Internship |

* To be filled in according to the competence matrix of the higher education programme.

4. COURSE WORKLOAD AND ACADEMIC ACTIVITIES

The total workload of the course is 3 credits (108 academic hours).

Table 4.1. Types of academic activities during the periods of higher education programme mastering (**full-time training**) *

| Type of academic activities | Total academic hours | Semesters/training modules | | | |
|---|----------------------|----------------------------|-----|-----|-----|
| | | 5/1 | 5/2 | 5/3 | 5/4 |
| <i>Classroom learning, academic hours</i> | 27 | 27 | | | |
| including: | | | | | |
| Lectures (LC) | 9 | 9 | | | |
| Lab work (LW) | | | | | |
| Seminars (workshops/tutorials) (S) | 18 | 18 | | | |
| <i>Self-studies</i> | 27 | 27 | | | |

| Type of academic activities | | Total academic hours | Semesters/training modules | | | |
|---|-----------------|----------------------|----------------------------|-----|-----|-----|
| | | | 5/1 | 5/2 | 5/3 | 5/4 |
| <i>Evaluation and assessment (exam/passing/failing grade)</i> | | 18 | 18 | | | |
| Course workload | academic hours_ | 72 | 72 | | | |
| | credits | 2 | 2 | | | |

5. COURSE CONTENTS

Table 5.1. Course contents and academic activities types

| Course module title | Course module contents (topics) | Academic activities types |
|---|---|---------------------------|
| Chapter 1. Introduction to legal argumentation. A survey of approaches and topics | <p>Introduction to the theory of argumentation. The concept of legal argumentation as a type of argumentation. Argumentation as an activity, the role of argumentation in the professional activities of a lawyer.</p> <p>Approaches in research of legal argumentation. The logical, rhetorical and dialogical approach.</p> <p>Topics in research of legal argumentation.</p> <p>The philosophical, theoretical, reconstruction, empirical and practical component.</p> <p>An introduction to the fundamentals of the logical approach to legal reasoning. Logical validity and acceptability of legal argumentation. Logic and legal justification. Principles and methods of a logical approach to legal argumentation. Logical analysis of legal argumentation.</p> <p>An introduction to the fundamentals of the rhetorical approach to legal reasoning: a general description. The role of values in legal argumentation.</p> <p>Dialogical approach to legal argumentation. Contestability of the nature of legal reasoning. The open texture of language. Munchausen's trilemma. The main categories of the dialogic model of argumentation.</p> | LC / S |
| Chapter 2. Basic concepts of legal argumentation. | <p>Toulmin's argumentation model and the analysis and evaluation of legal argumentation. Applications of Toulmin's model in the theoretical and practical literature on legal argumentation.</p> <p>Perelman's new rhetoric and general argumentation theory. Perelman's legal argumentation theory. Applications of Perelman's New Rhetoric in the literature of legal argumentation.</p> <p>Habermas' theory of communicative rationality. Communicative rationality and the ideal speech situation. Discussions and the ideal speech</p> | LC / S |

| Course module title | Course module contents (topics) | Academic activities types |
|--|--|---------------------------|
| | <p>situation. Levels of communicative rationality. The structure of argumentation. The ideal speech situation and legal discussions. Applications of Habermas' theory in law.</p> <p>Maccormick's theory of the justification of legal decisions. Deductive justification. Second-order justification. Consequentialist arguments, arguments of coherence and arguments of consistency.</p> <p>Alexy's procedural theory of legal argumentation. The theory of general practical discourse by Alexy. The rules of general practical discourse. The principles of practical rationality. The justification of rules of discourse. The theory of legal argumentation. The rules of the internal and external justification. Legal and general practical discourse.</p> | |
| <p>Chapter 3. Argument types and fallacies in legal argumentation. Legal argumentation and law interpretation.</p> | <p>Argumentum a contrario, argumentum a simili, argumentum a fortiori, argumentum a completudine, argumentum a coherentia, argumentum ad absurdum, psychological argument, historical argument, teleological argument, systematic argument.</p> <p>Informal fallacies in law and elsewhere: appeal to authority, argument from popular opinion, appeal to force, appeal to pity, appeal to ignorance, ad hominem, false cause, slippery slope, either/or fallacy, equivocation, hasty generalization, false analogy, straw man, red herring, begging the question.</p> | <p>LC / S</p> |
| <p>Chapter 4. Introduction to legal writing.</p> | <p>The art of legal writing. The language as a professional tool.</p> <p>Legal technique: concept and features. Argumentation in legal texts. The main criteria for legal writing: validity and legality. Stages of writing legal texts. Stages of analysis of a legal case.</p> <p>Office memoranda. Gathering of facts. Legal interviewing and consulting: stages of consulting. Legal interrogation: bases of rational dialogue. Legal qualification. Determining the sources of law applicable to the case. Methodology of work with normative-legal acts. Methods of working with judicial practice. Drafting legal positions.</p> | <p>LC / S</p> |
| <p>Chapter 5. Legal argumentation in legal practice.</p> | <p>Argumentation techniques in legal practice. Argumentation in law enforcement. Argumentation in judicial decisions making. Naturalistic argument and appeal to common sense in constitutional argumentation.</p> | <p>LC / S</p> |

| Course module title | Course module contents (topics) | Academic activities types |
|---------------------|--|---------------------------|
| | Appeals to expert opinion in high courts. “Less is more”: against argumentative saturation in legal decision-making. Rights, proportionalism and inclusive adjudication. The argument from human dignity – legal paternalism and restriction on fundamental rights. | |

* - to be filled in only for **full**-time training: *LC* - lectures; *LW* - lab work; *S* - seminars.

6. CLASSROOM EQUIPMENT AND TECHNOLOGY SUPPORT REQUIREMENTS

Table 6.1. Classroom equipment and technology support requirements

| Type of academic activities | Classroom equipment | Specialised educational / laboratory equipment, software, and materials for course study (if necessary) |
|-----------------------------|--|---|
| Lecture | A lecture hall for lecture-type classes, equipped with a set of specialised furniture; board (screen) and technical means of multimedia presentations. | Multimedia projector, laptop, projection screen, stable wireless Internet connection. Software: Office 365 (MS Office, MS Teams), Chrome |
| Lab work | A classroom for laboratory work, individual consultations, current and mid-term assessment; equipped with a set of specialised furniture and machinery. | Multimedia projector, laptop, projection screen, stable wireless Internet connection. Software: Office 365 (MS Office, MS Teams), Chrome |
| Seminars | A classroom for conducting seminars, group and individual consultations, current and mid-term assessment; equipped with a set of specialised furniture and technical means for multimedia presentations. | Multimedia projector, laptop, projection screen, stable wireless Internet connection. Software: Office 365 (MS Office, MS Teams), Chrome |
| Computer Lab | A classroom for conducting classes, group and individual consultations, current and mid-term assessment, equipped with personal computers (in the amount of 30 pcs), a board (screen) and technical means of multimedia presentations. | Multimedia projector, laptop, projection screen, stable wireless Internet connection. Software: Office 365 (MS Office, MS Teams), Chrome |
| Self-studies | A classroom for independent work of students (can be used for seminars and consultations), equipped with a set of specialised furniture and computers with access to the electronic information and educational environment. | Multimedia projector, laptop, projection screen, stable wireless Internet connection. Software: Office 365 (MS Office, MS Teams), Chrome |
| Courtroom | A classroom for court hearing simulation | Multimedia projector, |

| Type of academic activities | Classroom equipment | Specialised educational / laboratory equipment, software, and materials for course study (if necessary) |
|-----------------------------|---|---|
| | equipped with a set of specialized furniture; a set of devices including portable multimedia projector, laptop, projection screen, stable wireless Internet connection. | laptop, projection screen, stable wireless Internet connection. Software: Office 365 (MS Office, MS Teams), Chrome |

* It is necessary to specify a classroom for self-study of students

7. RESOURCES RECOMMENDED FOR COURSE STUDY

Main reading (sources):

1. Eveline T. Feteris (2017). *Fundamentals of Legal Argumentation: A Survey of Theories on the Justification of Judicial Decisions*: Springer Netherlands. ISBN: 978-94-024-1127-0, 978-94-024-1129-4
2. Giorgio Bongiovanni, Gerald Postema, Antonino Rotolo, Giovanni Sartor, Chiara Valentini, Douglas Walton (2018). *Handbook of Legal Reasoning and Argumentation*: Springer Netherlands. ISBN: 978-90-481-9451-3, 978-90-481-9452-0
3. Argumentation and explanation in the law. URL: <https://www.frontiersin.org/articles/10.3389/frai.2023.1130559/full>
4. Eveline T. Feteris. (1999) *Fundamentals of Legal Argumentation*. Argumentation Library (ARGA, volume 1).

Additional (optional) reading (sources):

1. Frederick Schauer (2009). *Thinking Like a Lawyer: A New Introduction to Legal Reasoning*: HARVARD UNIVERSITY PRESS. ISBN: 0674032705
2. Miguel Nogueira de Brito, Rachel Herdy, Giovanni Damele, Pedro Moniz Lopes and Jorge Silva Sampaio (Ed.). *The Role of Legal Argumentation and Human Dignity in Constitutional Courts*. Proceedings of the Special Workshops Held at the 28th World Congress of the International Association for Philosophy of Law and Social Philosophy in Lisbon, 2017. Franz Steiner Verlag: ISBN 978-3-515-12248-1.
3. Hair, D. C. LEGALESE: A legal argumentation tool / D. C. Hair, 1992. – 1 p.
4. Alexy Robert A Theory of Legal Argumentation: The Theory of Rational Discourse as Theory of Legal Justification. Harvard University Press. 1988.

Internet-(based) sources:

1. Electronic libraries with access for RUDN students
 - RUDN Electronic Library System (RUDN ELS) <http://lib.rudn.ru/MegaPro/Web>
 - EL "University Library Online" <http://www.biblioclub.ru>
 - EL "Yurayt" <http://www.biblio-online.ru>
 - EL "Student Consultant" www.studentlibrary.ru
 - EL "Lan" <http://e.lanbook.com/>
 - EL "Trinity Bridge"
2. Databases and search engines:
 - electronic foundation of legal and normative-technical documentation <http://docs.cntd.ru/>
 - Yandex search engine <https://www.yandex.ru/>

- Google search engine <https://www.google.ru/>
- Scopus abstract database <http://www.elsevierscience.ru/products/scopus>

A complete list of ELS, databases and search engines is provided on the website of the Educational and Scientific Information Library Center (Scientific Library) of RUDN University <https://lib.rudn.ru>

Training toolkit for self- studies to master the course *:

* The training toolkit for self- studies to master the course is placed on the course page in the university telecommunication training and information system under the set procedure.

8. ASSESSMENT TOOLKIT AND GRADING SYSTEM* FOR EVALUATION OF STUDENTS' COMPETENCES LEVEL UPON COURSE COMPLETION

The assessment toolkit and the grading system* to evaluate the competences formation level (competences in part) upon the course study completion are specified in the Appendix to the course syllabus.

* The assessment toolkit and the grading system are formed on the basis of the requirements of the relevant local normative act of RUDN University (regulations / order).

DEVELOPERS:

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