

List of questions for the final exam

Compulsory exam items:

- I. Human Rights Protection in the EU and in the Council of Europe** (Az Európai Unió és az Európa Tanács emberi jogi védelmi mechanizmusai)
1. What are the typical enforcement mechanisms of the Council of Europe human rights treaties?
 2. Describe the different categories of rights under the ECHR! What are negative and positive obligations?
 3. What are the rules applicable to derogations under Article 15 ECHR?
 4. Describe the proportionality test, the concept of margin of appreciation and the relationship between the two!
 5. Describe the different aspects of the right to life!
 6. Summarise the guarantees of Article 5 ECHR on the basis of the relevant case law!
 7. Discuss the admissibility criteria under the ECHR with a special emphasis on the requirement of exhausting local remedies!
 8. What are the effects of the judgement of the ECtHR and how are they enforced?
 9. Discuss the guarantees of the European Social Charter!
 10. Describe the enforcement mechanisms of the European Social Charter!
 11. Describe how has the Court of Justice of the European Union accommodated fundamental rights protection into the EU (Community) legal order?
 12. Discuss the interrelationship between fundamental rights and fundamental freedoms as protected by the CJEU!
 13. Discuss CJEU cases where EU legislation was challenged on the basis of alleged fundamental rights violation!
 14. Discuss CJEU cases where Member States actions were challenged on the basis of alleged fundamental rights violation!
 15. Describe the genesis, status and content of the EU Charter of Fundamental Rights, elaborate on the distinction of rights and principles contained in the Charter!
 16. Describe the horizontal clauses of the EU Charter of Fundamental Rights, especially Article 51 related to the scope of application of the Charter in view of the CJEU's case law!
 17. Describe the horizontal clauses of the EU Charter of Fundamental Rights, especially Article 53 related to the level of protection in view of the CJEU's case law!
 18. Discuss the legal issues related to parallel protection regimes afforded by the EU and the ECHR and the major procedural questions related to the EU's accession to the ECHR!
 19. Discuss the 2/13 Opinion of the CJEU on the EU's Draft Act Accession to the ECHR!
 20. Describe the judicial and non-judicial mechanisms provided by EU law for the protection of fundamental rights!

Compulsory elective exam items:

II. One subject chosen by student from differentiated thesis subjects (Egy, a hallgató által választott tárgy a differenciált szakmai ismeretkör tárgyaiból)

1) Citizens' Rights in the European Union and the European Convention of Human Rights (Politikai részvételi jogok az Európai Unióban és az Emberi Jogok Európai Egyezményében)

1. Right to vote and stand as a candidate in the practice of the ECtHR: Scope of Article 3 of Protocol 1, meaning of 'legislation', limitation test of the right to free election
2. Right to vote and stand as a candidate in the practice of the ECtHR: Suffrage, eligibility
3. Right to vote and stand as a candidate in the practice of the ECtHR: Electoral systems and electoral procedure
4. Steps of the establishment of the European citizenship. Freedom of movement and of residence. Diplomatic and consular protection
5. Right to vote and stand as a candidate in the European Union and the European citizens' initiative
6. Right to petition and the European Ombudsman. Right to good administration and right to access to documents

2) The Right to Property and Related Economic Rights; Labour Right as Human Rights (Tulajdon és a gazdasági élet szabadságát biztosító egyéb jogok, és Emberi jogok a munka világában)

I. The Right to Property and Related Economic Rights

1. What qualifies as possession under Art 1 Protocol 1?
2. Describe the three rules relating to interferences with property rights under Art 1 Protocol 1!
3. Discuss the case law relating to the requirements of legitimate aim and lawfulness under Art 1 Protocol 1!
4. What is interference with the peaceful enjoyment of possessions?
5. What is deprivation of possessions and what are the requirements relating to it?
6. Describe the case law relating to the control of use of property!

II. Labour Right as Human Rights

1. The human rights nature of labour rights.
2. The prohibition of forced labour, especially in the light of the ECtHR judgements.
3. The Right to work in human rights instruments.
4. The interconnectedness of freedom of association, the right to bargain collectively and the right to strike.
5. Differences of the ECJ and ECtHR approaches regarding the right to strike.
6. Equality in employment, with special regards to equal payment.

3) **Constitutional Interpretation** (Alkotmányértelmezés)

1. Narrow originalism (intentionalism); The superiority of the Constitution in *Marbury v. Madison* (US SC)
2. Broad originalism (original meaning and beyond); The duty of the judicial branch in *Marbury v. Madison* (US SC)
3. Textualism; Internal and external evidences in *Edwards v Canada* (AG), (JC, Privy Council)
4. Purposivism (teleological); The “Living Tree Doctrine” in *Edwards v Canada* (AG), (JC, Privy Council)
5. Structuralism; Vertical and horizontal applications of rights in *Lüth Decision* (FCC of Germany)
6. Pragmatism; Objective value system of rights in *Lüth Decision* (FCC of Germany)
7. Consensualism; Reasoning of the court in the Death Penalty Decision (23/1990, HCC)
8. Dworkin and his critics; The “Invisible Constitution” doctrine in Sólyom's concurring, Death Penalty Decision (23/1990, HCC)
9. Comparativism; Empirical facts and moral reasoning in *Tyrer v The United Kingdom* (ECtHR)
10. Moral readings; The “Living Instrument” doctrine in *Tyrer v The United Kingdom* (ECtHR)
11. From Savigny to Gadamer; The role of the “settled case law” in *Schrems v Data Protection Commissioner* (CJEU)
12. Precedents and settled case-law; Interpretation of the EU law in *Schrems v Data Protection Commissioner* (CJEU)

4) **The prohibition of torture and other cruel, inhuman or degrading treatment or punishment; European Criminal Law** (A kínzás és az embertelen bánásmód tilalma; Emberi jogok és az európai büntetőjog)

1. The definition of torture (United Nations Convention against Torture), essential elements of torture (*Ireland v. the United Kingdom*)
2. The meaning of inhuman or degrading treatment or punishment (*Raninen v. Finland*, *Herczegfalvy v. Austria*)
3. The principle of non-refoulement (*Soering v. the United Kingdom*, *Chahal v. the United Kingdom*)
4. Drittwirkung effect (*A. v. the United Kingdom*, *Z. and Others v. the United Kingdom*)
5. The Inter-American Convention to Prevent and Punish Torture (the definition of torture and the application procedure)
6. The institutional system of torture prevention

5) **Freedom of Religion and the Status of Churches in Europe** (Vallásszabadság és az egyházak helyzete Európában)

[nem indult]

6) **Communicative Freedoms in the European Union and in the European Convention of Human Rights; Privacy Protection in the EU and Council of Europe** (Kommunikációs Jogok az Európai Unióban és az Emberi Jogok Európai Egyezményében; a magánszféra védelme az Európai Unióban és az Európa Tanácsban)

1. Theories of speech. Political speech
2. Hate speech
3. Freedom of the media, journalism, and of online expression. Freedom of information
4. Freedom of assembly. Symbolic speech
5. Privacy: Notions, rationales, scope of protection, texts
6. Integrity, Identity, Information
7. Reproductive rights. Family life.
8. Data protection

7) **International and European Refugee Law** (Nemzetközi és európai menedékjog)

1. What are the key categories used in the migration/asylum discourse? Which are the durable solutions and the fundamental principles of refugee law? Give specific attention to the principle of non-refoulement!
2. Well-founded fear, acts of persecution, actors of persecution, grounds of persecution. Mainstream interpretation of the 1951 Geneva Convention
3. Termination of refugee status. Grounds, facts, intentions.
4. Non-deserving cases and protection by others. Exclusion from refugee status under the 1951 Geneva Convention and the situation of the Palestinians
5. The issue of detention. How does the EU *acquis* regulate detention and its alternatives?
6. The interview of the asylum seeker: setup, credibility, Country of origin information.
7. Subsidiary protection: legal form and judicial practice interpreting the Qualification directive.
8. The Procedures Directive: guarantees in the directive and different forms of procedures. (Normal, accelerated, inadmissible applications.) Appeal rights.
9. The Dublin regime. The identification of the responsible state and issues of fairness and burden shifting.
10. The large scale influx of asylum seekers and other migrants to Europe in 2015 and thereafter. Efforts of the EU to address the challenges.

8) **Equal Treatment and Prohibition of Discrimination** (Az egyenlő bánásmód és a diszkrimináció tilalma)

1. Theoretical aspects of equality: questions of recognition and redistribution
Nancy Fraser (1995) From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age. New Left Review 1(212): 68-93., July 1995
2. Social psychological background of prejudice and discrimination
Jost, John T. (2002) The psychology of system justification and the palliative function of ideology. European Review of Social Psychology. 13: 111-153.

3. The development and key concepts of European non-discrimination law
Handbook on European non-discrimination law (2010) European Union Agency for Fundamental Rights
4. Social and legal aspects and consequences of gender roles in contemporary societies
Sally Kenney (2002) Breaking the Silence: Gender Mainstreaming and the Composition of the European Court of Justice. Feminist Legal Studies, 10 (3): 257–270
Susanne Burri and Sacha Prechal (Updated by Susanne Burri) (2014) EU Gender Equality Law. Update 2013. European Union
5. The European legal context of racial discrimination and its social background: nationalism, migration and ethnic diversity
Costanza Margiotta (2010) Race as a category of legal analysis: scrutinizing Italian case law. Darkmatter Journal "Special Issue" "Challenging Italian Racism", Vol: 6, October
6. The legal and social aspects of discrimination based on disability
Lisa Waddington and Anna Lawson (2009) Disability and non-discrimination law in the European Union. An analysis of disability discrimination law within and beyond the employment field. European Union
Kanter, Arlene S. (2011) The Law: What's Disability Studies Got to Do with It or An Introduction to Disability Legal Studies. Columbia Human Rights Law Review, Vol. 42. No. 2.
7. Religious diversity in Europe and its human rights context
Reading, Peter (ed.) (2011) Equality Law in Practice. A question of faith: Religion and belief in Europe. An Equinet Report. Equinet Secretariat

9) Right to Justice; the Sociology of Jurisdiction (Eljárásjogi garanciák az igazságszolgáltatásban; az igazságszolgáltatás jogszociológiája)

1. The legal and sociological content of rights to justice
2. The relationship between access to justice and social development
3. Rights to justice and poverty
4. Discriminations in the legal process
5. Barriers and solutions to effective access to justice
6. Changing European scene of legal mobilization
7. Access to justice before international institutions
8. Problems of rights claiming

10) Transitional Justice (A politikai átmeneteket kísérő igazságtételi kísérletek (átmeneti igazságszolgáltatás))

1. What are the differences between the aims of criminal procedures and truth commissions?
2. What are the main measures of witness protection at international criminal tribunals?
3. Please give an overview of the development of international criminal tribunals and courts!

4. Please give a short overview of the apartheid regime in South Africa and about the transitional process of the country!
5. Please describe the peace vs. justice problematics and express your own point of view!
6. How can you describe the Portuguese and the Spanish transition?
7. What are the main features of the "Selective Punishment Model"?
8. What do you think about the responsibility of the lawyers, who took an active part in a show-trial?
9. Explain the legal problems regarding the volley trials.
10. The fate of the files. What kind of legal considerations could be mentioned regarding the fate of the agents and files of the communist secret polices?