

Postgraduate Diploma in Law Programme

INTRODUCTION TO MACAU LAW PROGRAMME

LAWS6001 PORTUGUESE LANGUAGE

Functional contents: those demanded by several situations of communication in different thematic areas such as Identification, Public Services, Social Relationships, the Weather, areas where the student will have, for example, to identify himself (or ask for identification), introduce himself (or introduce someone), invite, excuse, inform (or get informed), approve, disapprove, ask permission or give permission, express attitude, feelings... The grammatical contents will depend on the studied linguistic achievements. The use of the most frequent verbal sentences such as to be, to stay and to have. The occurrence of verbal sentences with prepositions (to live in, to like to, to go to...). The expression of opinions in situations that the use of sentences with the indicative is necessary. The expression in the future time. The pronouns and the numerals necessary to the communication. Direct and indirect speech Understanding/systematization of some different data in Portuguese/Chinese. All the items shall be accomplished together with activities, namely those that will give the student the opportunity to distinguish the phonetical traces of Portuguese language.

Pre-requisite: None

LAWS6002 LEGAL LANGUAGE

Legal language: Basic legal concepts. Legal logic. Judicial syllogism. Critique of legal language. Analysis of court decision. Fundamental legal documents legal procedure. Legal translations. Legislations. Legislative process and formalities.

Pre-requisite: None

LAWS6003 HISTORY OF MACAU

This course intends to familiarize students with the political, economic, and social history of Macao so that they can better understand what is happening today. We will examine the political and economic transformations of Macao over the past 450 years, the clash or cooperation of civilizations, religious life of people both Chinese and Portuguese, literature and art of and about Macao, and social issues and problems in Macao. By the end of the class, students should have a very good idea of Macao's past, present, and future

Pre-requisite: None

LAWS6004 LEGAL HISTORY OF MACAU

The course mainly addresses the historical evolution of political system of Macao. Part I: The political System of the Period of Internal Autonomy of Portuguese Residents (1557-1843). Part II: The political system of the period of overseas's province including Timor and Solor (1844-1895). Part III: The political system of Macao as a single oversea's province (1896-1975): The Period of Granting Autonomy of Colony (1896-1930), the 1995' Statute of Macao Province and 1963 and 1972' Political and Administrative Statute of Macao Province Part IV: The political system before and after the transition of power (1976-2005).

Pre-requisite: None

LAWS6005 GENERAL THEORY OF CIVIL LAW

Introduction. The general theory of the juridical relations: its meaning and limitations.

1. The civil juridical relation (the statics and the dynamics of the juridical relation): Notion of juridical relation: functional notion ("concept of interest") and structural notion ("concept of precept"). Study of the juridical relation as a structural precept, the statics: core of the juridical relation: a) the rights in a broad meaning. Types: The rights in a proper meaning and the rights to establish, a change or terminate a legal relationship. Close concept: Legal faculties (primary and secondary) and legally protected expectations. Classes and types of rights. b) the legal duty and the submission. The external elements: parties, object, fact and warranty. Species, classes and types of juridical relations. Combinations of juridical relations (the patrimony theory). The

Dynamics: main happenings in the life of a juridical relation: establishment and acquisition (primary and secondary), change and determination. Accidental happenings.

2. Persons. I - natural persons personality, subjectivity and legal capacity. Beginning of legal personality. Termination of legal personality. The protection of the personality. Legal capacity: Limitation on capacity (general and accidental) and the close concepts (illegitimacy). II - legal persons: Notion, elements, kinds, capacity, liability and termination.

3. The things.

4. The fact. Fact, act, and "negócio jurídico". Elements of the "negócio jurídico". Types of "negócio jurídico". The declaration of will. The interception of will. The interpretation. The perfection. The divergences and the vices of the will. The object. The representation of will, The accessory clauses. Integration, reduction and conversion of the "negócio jurídico". Invalidities.

Pre-requisite: None

LAWS6006 CONSTITUTIONAL LAW

Part I General Characterization of Constitutional Law. Chapter I - The Constitution in the pre-modern political and juridical scene. Chapter II - The Constitution in the modern political and juridical scene. Chapter III - The Constitution as fundamental juridical statute of the State - Political Community. Chapter IV - The Constituent Power. Chapter V - The Constitution as source of law. Chapter VI - Liberalism and democracy.

Part II - The Basic Law of Macao SAR. Chapter I - One country and two systems. Chapter II. Relationship between the Central authorities and Macao SAR. Chapter III. Fundamental rights and duties of the residents. Chapter IV. Political structure. Chapter V. Economy system Chapter VI. External affairs. Chapter VII. The interpretation and amendment of the Basic Law. Chapter VIII. The protection of the constitution and the control acts of power.

Pre-requisite: None

LAWS6007 CRIMINAL LAW

Part I - General considerations. Chap. I. Nature of Criminal Law. 1. Scope, function and limits of Criminal Law. 2. The aim of the penalties. Penalties and security measures 3. Evolution of Criminal Law. Chap. II - The criminal law and its application 4. Sources of Criminal Law 5. The application of Criminal Law 6. Validity of Criminal Law.

Part II - General Theory of Criminal Infraction. Introduction: the constitutive elements of crime 7. Classification of the crimes 8. The general theory of crime 9. Type of offenses. Chap. I - The Types of criminal offenses 10. The elements of the "type" 11. The objective attribution of the result to the behave 12. The criminal omissive behaviors. Chap. II - Type of justifications. 13. General principles 14. The singular justifying types. Chap. III - The type of guilty 15. The problem of guilt in Criminal Law 16. The malice type. The problem of the mistake 17. The negligence type 18. Obstacles to guilty. Non imputability, non exigibility. The non responsible lack of knowledge of the offense. Chap. IV - Special configurations of the crime 19. Attempt and frustration. "Iter criminis". The resistance 20. Comparticipation. Perpetration and accomplicity. Chap. V - Cumulation of offenses. Legal accumulation. Real accumulation. Cumulative crime.

Pre-requisite: None

LAWS6008 PUBLIC INTERNATIONAL LAW

1. Conception and nature of Public International Law.

2. Sources of Public International Law: Treaties and customs.

3. The State: Elements of the State, the Recognition of State, Succession of states, Rights and Duties of the State.

4. International Organizations: definition and types. The UN.

5. The individuals in Public International Law: nationality and juridical statute of the foreigners.

6. Diplomatic and Consular relations Law.

7. The pacific resolution of the international conflicts: political resolution and juridical resolution of the international conflicts.

8. Problems of Public International Law about Macao. 8.1. The Sino-Portuguese Joint Declaration, 8.2. The capacity of Macao's Special Administrative Region in matters related with external affairs, according to the Basic Law of Macao SAR.

Pre-requisite: None

LAWS6009 ADMINISTRATIVE LAW I

Chap. I - Public administration 1. Public Administration. Concept and different meanings. 2. Historical evolution. 3. Administrative systems: comparison between the continental-European system and the British system.

Chap. II - The administration and the Law 1. The principle of legality of Administration. Primacy of law and reservation for the Parliament (Legislative Power) the regulation of the principal matters (historical and modern meanings). 2. "Binding" (to the content of acts fixed by law) and "Discretionary" (cases that the legislator gives Administration the power to fix the content of its own acts). 3. The sources of Administrative Law: in special, the administrative Regulations.

Chap. III - The Administrative Activity 1. The dispositive facts. Typology (in special, torts). 2. Administrative act. Concept and meaning. Typology. 3. Instrumental acts. 4. The administrative procedure. 5. Effectiveness and legal strength of the administrative act: the possibility of execution by Administration of its own acts. 6. The structure of administrative act: the subject, the object and the statute. 7. The defects of the administrative act. Types of invalidity.

Chap. IV - The administrative justice. 1. Definition and scope of the administrative justice. 2. The problem of the administrative justice models. 3. The system of administrative justice in Macao. 4. Material and functional limits of the administrative justice. 5. The organs of the administrative justice. 6. The means to access to the administrative courts. 7. The processual requirements. 8. The tramitation of the administrative judicial processes. 9. The general principles of the administrative judicial process. 10. The judicial decisions and its effects.

Pre-requisite: None

LAWS6010 PUBLIC ADMINISTRATION

I. Organizations of public administration: concept of public administration, complex of public administration, introduction to organizations of public administration, the public administration organization of Macao SAR, the legal system of public functionaries of Macao.

II. The legal relations of the legal system of public functionaries general introduction, subjects of legal relations, fact of legal relation, objects of legal relations, alternation of legal relation and termination of legal relations.

Pre-requisite: None

LAWS6011/LAWS6012 LEGAL LANGUAGE I / LEGAL LANGUAGE II

Legal language: Basic legal concepts. Legal logic. Judicial syllogism. Critique of legal language.

Analysis of court decision. Fundamental legal documents legal procedure. Legal translations.

Legislations. Legislative process and formalities.

Pre-requisite: None

LAWS6013 PUBLIC ECONOMIC LAW

The meaning of Public Economy - Financial Activity of State: Expenses, Revenues and Budget.

Economic Activity of State: Characterization of Public Economic activity and the Enterprise activity of State - Public Revenues - Public Expenses - Public Budget - Financial Policy problems.

Pre-requisite: None

LAWS6014 CRIMINAL PROCEDURE LAW

Part I. Legal consequences of the crime. 1. The legal consequences of the crime and the criminal penalty. 2. The reaction to crime of the criminal law in force in Macao in the context of the criminal policy models. 3. Preliminary penalties, a) Primary penalties and secondary penalties. b) The substitution penalties in the system in force in Macao. 4. The imprisonment penalty and the fine. 5. The general theories on the determination of the penalty. 6. Steps on the determination of the penalty. a) Mitigation circumstances and aggravity circumstances. b) The criterium of the article 84 of the criminal code. c) Judicial determination of the penalty.

Part II - Criminal Procedure. 1. Meaning and the aim of the criminal procedure law. 2. Place of the criminal procedure law in the legal system. 3. The application of the criminal procedure law.

4. General principles of the criminal procedure. 5. Injunctions. 6. Evidence in the criminal

procedure. 7. The forms of the criminal procedure. 8. The inquiry. 9. The instruction. 10. The trial. 11. The appeals in the criminal procedure.

Pre-requisite: None

LAWS6015 OBLIGATION LAW

I. Introduction. The Obligation. The Rendering. Complex Obligational Relationship. The role of Obligation. Obligations and rights in rem. Systematic principles of Contracts Law. the principle of private autonomy; the principle of good faith, the principle of non unjust enrichment.

II. Sources of obligations. Contracts. Unilateral acts. "Negotiorum Gestio". Unjust enrichment. Civil liability. Contractual responsibility. Extracontractual responsibility: torts, risk activities liability and responsibility for lawful acts.

III. Kind of obligations. About the lien: natural and civil obligations. About the parties: conjunctive obligations and joint and several obligations. About the object.

IV. Transmission of Obligations. Credit and Debits transmission. Credits assignment. Subrogation. Single transmission of debts. Assignment of contractual position.

V. General Security of Obligations. Means for the maintenance of Patrimonial Security. Nullity declaration. Creditor subrogation over the debtor. "Pauliana" Opposition. Attachment.

VI. Special Security of Obligations. Personal and Real securities. Bonds. Guaranty.

VII. Fulfilment and Unfulfilment of Obligations. 7.1. Fulfilment. 7.2. Unfulfilment. Impossibility of fulfilment and default not concerning to the debtor. Unfulfilment and default attributable to the debtor. 7.3. Defective fulfilment. 7.4. Contractual set of creditor rights. 7.5. Coercive means for realization of rendering. 7.6. Property assignment. 7.7. Creditor default.

VIII. Causes of extinguishment of Obligations besides fulfilment.

IX. Contracts. Typical and No typical contracts. Mixed contracts and contracts in coalition Enumeration and concise characterisation of typical contracts ruled by Civil Code. Game and Bet.

Pre-requisite: None

LAWS6016 PROPERTY LAW

Introduction. I - The real property rights in general: Definition - structural and functional perspective. Constitutive principles of "ius in rem" -1. Internal principles. External principles. Characteristics of real property rights. The great manners to order the ways of dominance. Types of "ius in rem". II - Possession (provisional order of dominance) Definition of possession. The greatest problems of possession. Possession systems. The system of Macao. Possession with cause and formal possession. Possession and mere detention. Rights that can be possessed. Things that can be possessed. Capacity for possess. Characteristics of possession. Acquisition of possession. Effects of possession a) The protection of the possession (the means for defend the possession). b) The adverse possession (usucapio). III - In special, real property rights (ius in rem) (definitive order of dominance). Real property rights of use - Property. Joint ownership. "horizontal" ownership - The usufruct - The use - Superficial right - Real servitudes.

Pre-requisite: None

LAWS6017 CIVIL PROCEDURE LAW I

I. Introduction, Procedure and Processual Law. Jurisdiction and jurisdictional function. General frame of the action in civil jurisdiction. Civil Procedure Law.

II. The action. The right to a legal action. Legal classification of the actions: according to their goal, according to their form. Interlocutory injunctions.

III. Civil Procedure Law. Concept. Features. Importance. Interpretation and integration. Application in time. Application in space.

IV. Sources of the Portuguese Civil Procedure Law and close Disciplines. Historical evolution.

V. Theory of the Procedural Relation. The instance as a procedural relation. The structure of procedural relation. 1. The subjects. 1.1 The parties. Procedural requisites concerning the parties. Judiciary personality. Judiciary capacity. Legitimization. Compulsive representation by an attorney at law. Special mention to Macao. The procedural interest. 1.2. The court. The judicial organization. Jurisdiction. 2. The object. The claim and the cause of action.

VI. The procedural act. Concept. Form. Time. Place. Parties. Goal. Pathology.

VII. Dynamics of the procedural Relation. The bringing of a suit. Development of the instance. Modifications. Suspension and interruption. Conclusion. Incidents.

VII I. Formalities of the Ordinary Declaratory Process. Phases. 1. Articulated pleading. Declaration. "In limine" Order. Service of process. The Answer: Defensive-answer. Counterclaim-answer. The Replication. The Rejoinder. Supervening articulated pleadings. 2. Healing and Abridgement. Preparatory hearing. Curative decision. Specification and Questionnaire. 3. The instruction. The evidences in general. Material probative law. Formal probative law. The burden of proof. Fundamental principles. Means of proof. 4. Trial. Final hearing. 5. Final decision. "Res judicata".

IX. Formalities of the Summary Declaratory Process

X. Judicial Organization of Macao. Comparative perspective.

Pre-requisite: None

LAWS6018 ADMINISTRATIVE LAW II

Administrative Judiciary. I - The Principle of Separation of Powers. II - Delimitation of the concept of administrative judiciary or the administrative contentious proceeding. III - Administrative juridical relations that produce external effects as the object of the administrative contentious proceeding. IV - The established administrative judiciary system. V - The organization of administrative judiciary system - The models (in Macao and in Portugal). VI - The means for judicial protection of citizens before Public Administration. VII - Conditions for suing. VII I - Judicial process-regarding principles. IX - The contentious remedy for voidance of administrative acts (proceeding, decision and effects of decision). X - The suspension of the effects of the acts. XI - The judicial procedure for recognition of rights or legitimate interests.

Pre-requisite: None

LAWS6019 FAMILY AND SUCCESSION LAW

I. Introduction. Legal conception of Family and Succession and the succession phenomenon. Family and Succession Law. Sources and constitutional principles. Characteristics of Family and Succession Law and characteristics of family and succession rights.

II. Family relations. 2.1 . Blood relations. Filiation. Filiation set. Maternity and Paternity set. 2.2. Affinity. 2.3. Adoption. 2.4. The marriage. Matrimonial systems. 2.5. Union in fact.

III. The matrimonial relationship. 3.1 . Constitution: the marriage as an act. 3.1.1. Civil marriage. 3.1.2. Catholic marriage. 3.2. Effects of marriage: the marriage as a "status". 3.2. 1 . Personal effects. 3.2.2. Patrimonial effects. Marriage property systems. The administration of marriage property. Illegitimate acts. Liability for debts of the spouses. 3.2.3 Termination of the relationship. Distribution of community property. 3.3. Alterations in matrimonial status. Judicial separation of property and judicial separation of spouses and property. 3.4. Marriage termination. Causes of dissolution of Civil and Catholic marriage. The death. The divorce.

IV. The succession. The death as a presupposition of the succession. Introduction to the different kind of succession. Heir and Legatee. Opening of Succession. Descent Calling. Descent Designation. Content of descent calling. Object of descent calling. Presuppositions of descent calling. Forms of descent calling. Indirect calling: right of representation, straight substitution, right of accretion. Vacant succession. Descent Acquisition. Inheritance acceptance. Inheritance rejection. Inheritance petition. Inheritance disposal. Inheritance charges. Inheritance distribution. V. Kinds of Succession. 5.1 . Legal succession. 5.2. Legitimate succession. 5.3. Testate succession. 5.4. Contractual succession.

Pre-requisite: None

LAWS6020 COMMERCIAL LAW

Introduction to commercial law, Merchants: commercial capacity, obligations, liability of married couple assets for commercial debts. The firm, Competition law; Unfair competition law. Commercial paper. Kinds of Negotiable Instruments. The legal regimen of the Bill of Exchange. The draw. The accept. The endorsement. The aval. Liability of the subscribers.

Pre-requisite: None

LAWS6021 PRIVATE INTERNATIONAL LAW

I - 1. On the dogmatic object of Private International Law structure (types of) private international relations. 2. The debate on method: comparison between the American methodological perspective on PIL and the classical European approach. 3. General interests or regulation values. 4. General theory of the conflict rule and determination of its functional limits 4.0. Structure and function of the conflict rule in PIL, 4.1. Classification 4.2. Renvoi (remission/transmission). 4.3. The principle of "vested rights", 5. The eviction of foreign law: the undetermined general clause of public policy ("ordre public"). 6. The "fraus legis" in Private International Law, Recognition of foreign sentences.

II - 1. The specific relevance of personal law in Private international Law. 2. The historical evolution of Private International Law and the progressive autonomy of the problems on the determination of personal law. 3. General interests of PIL and its projection on the conflict of laws concerning personal matters: the protection of the principle of unity in this area. 4. The relevance of the developing comparative analysis on the matter. 5. Marriage in PIL: the distinct importance of the contractual dimension and of the institutional one. 6. Divorce and separation by law in PIL. 7. Legitimacy, legitimization and adoption and determination of the structure of family relations by those means constituted. 8. Succession law in PIL.

Pre-requisite: None

LAWS6022 NOTARY AND REGISTRAL LAW

I. Concept: 1. The structure and function of registry and notary agencies of Macao SAR. 2. The similar organs and functional difference. 3. The common perspectives of public administration with private interest: Prevention of conflict as an indispensable contribution in administration of justice.

II. The statute law of registry and notary : 1 . Organic law. 2. Law codes. 3. Separate legislation.

III. Law of civil registry. 1 . Concept and scope. 2. Theory and practice. 3. Principle of information.

IV. Law of Registry of House. 1. Concept and scale 2. Theory and practice. 3. Principle of information 4. Commercial registry and registry of automobiles, ships and airplanes.

V. Notary Law. 1. Concept and scope. 2. Theory and practice. 3. Principle of information.

Pre-requisite: None

LAWS6023 CIVIL PROCEDURE LAW II

Executory action. I. General Theory of the executory action. Concept and goals. The legal classification. II. Procedural requisites of the executory action. 1. Specific requisites. Formal and substantial requisites. The executory document. Legal nature. Historical evolution. Classification Consequences of the lack of executory document or of its non-execution. Certainty and exigibility of the debt: The liquidated debt. 2. General requisites of the executory action. International and internal jurisdiction. Formal legitimization. Compulsive representation by and attorney at the Law. III. Forms of the executive process. Legal form of the different species and forms of execution. IV. The phases of the executive process. 1. Ordinary executive process for the payment of a right amount. Phases: Articulates. Initially pleading. "in limine" decision. Service of process. Opposition. Attachment: definition, object, cases of withdrawing from execution and forced sale. Opposition to the attachment. Finding. Concurrence of creditor claims. Reclamation and verification of claims. Proceeding. Payment. Forms of payment. Termination of the execution. Voidance and renovation of the executory action. 2. Summary executive process for the payment of a right amount. 3. Common executive process for delivery of determinated thing. Ordinary and summary processes. 4. Common executive process for rendering a certain fact positive or negative. Ordinary and summary processes.

Pre-requisite: None

LAWS6024 THE JUDICIAL AND LEGAL PROFESSION

Part I. 1 . Administration of justice: Generality. 2. Organs exercising jurisdictional function. 3. Classification of courts. 4. Hierarchy of courts. 5. Principle regulating administration of justice 6. The relevant statute laws. 6.1 . The Basic Law of Macao SAR. 6.2. The Basic Law of Judicial Organization. 6.3. Civil Procedural Code .

Part II. - Litigation Practice. 1. The judicial protection in Macao SAR. 2. Legal profession. 3. Judicial mandate. 4. The organs and entities with specific function of this area. 5. The relevant

statute laws. 5.1 . The Basic Law of Macao SAR. 5.2. The Basic Law of Judicial Organization. 5.3. The statute of lawyers and the relevant moral and disciplinary regulations.

Pre-requisite: None

LAWS6025 LEGAL LANGUAGE III

Legal language: Basic legal concepts. Legal logic. Judicial syllogism. Critique of legal language. Analysis of court decision. Fundamental legal documents legal procedure. Legal translations. Legislations. Legislative process and formalities.

Pre-requisite: None