



## **Civil Procedure Law of the Kyrgyz Republic**

Law 303.2

**6 credits**

**Fall 2018**

**Instructor:** Sultan Khalilov  
**Class Schedule:** Wed. 08:00, Fri. 08:00  
**Office Hours:** By appointment  
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### **I. GENERAL DESCRIPTION AND OBJECTIVES OF THE COURSE**

The objective of the course is to provide students with systemic knowledge and understanding of civil procedure law of the Kyrgyz Republic, its concepts in English language and its application as well as with skills related to preparing to and conducting of proceedings on civil/business cases. This course is about learning how to participate in court proceedings representing clients' interests. The course provides legal and practical aspects of civil procedure covering such issues as commencement of action, participation in court hearings, expression of arguments, enforcement of foreign and domestic judicial decisions and arbitral awards in national courts, etc. The course is aimed at developing students' professional skills in order to work efficiently as lawyers resolving conflicts and conflict situations subject to litigation as well as studying and analyzing legal disputes.

### **II. PROGRAM AND COURSE LEARNING OUTCOMES**

#### **PROGRAM LEARNING OUTCOMES**

Graduates of the Law Program should have the following competencies:

1. carry out professional activities in good faith on the basis of developed legal consciousness, legal thinking, and legal culture and with observation of ethical principles of the legal profession;
2. apply professional judgment, perform quality legal analysis, conduct legal research, and solve legal problems;
3. be able to speak and write in an argumentative, logical, and clear way in the legal context, have skills necessary to draft legal documents, be fluent in the English language at the level of professional communication;
4. draft normative legal acts and carry out their legal expertise in the field of professional activity;
5. interpret and apply substantive and procedural norms, provide qualified legal opinions and consultations in concrete types of legal activity;
6. demonstrate leadership qualities, active citizenship, take and develop initiatives aimed at promotion of civil society and welfare state;

7. understand the essence and significance of information in the development of modern society and law, master the basic methods of working with information and information technologies in the professional sphere.

### **COURSE LEARNING OUTCOMES**

<b>Upon successful completion of the course students will be able to:</b>	<b>Law Program Learning Outcomes</b>
<b>Comprehend sources of civil procedure law and court system of the Kyrgyz Republic</b>	2, 4, 5, 7
<b>Provide legal services and advice on different issues of civil procedure law</b>	1, 2, 3, 5, 6
<b>Participate as a representative in court proceedings</b>	1, 2, 3, 5, 6
<b>Draft litigation documents (suits, statements, claims, objections, etc.), appeal against decisions of courts, actions/inactions of judicial enforcement agents, etc.</b>	2, 3, 5
<b>Perform comparative analysis of civil procedure in the Kyrgyz Republic and in foreign countries</b>	2, 3, 4, 5, 7
<b>Understand and differentiate judicial and non-judicial forms of protection of rights and interests of legal entities and individuals</b>	2, 3, 5, 7
<b>Understand procedure of enforcement of foreign and domestic judicial decisions and arbitral awards in national courts and provide legal services in such cases</b>	2, 3, 5, 7

### **III. TEACHING METHODS**

The class will meet twice a week. This course does not use traditional method of lecture and seminar division. There is going to be hybrid of lecture/seminar every class or it can be called as interactive lecture method. This method implies students to read new materials beforehand and be ready to discuss the given materials in class.

The lectures include explanation of theoretical issues of the course. The teaching methods include a way of engaging groups of students into discussion of course topics through asking them questions and guiding them right to the core issues. This method equip students with analytical and critical thinking as he/she is not given the answer to a question. He/she should find an answer him-/herself by answering instructor's question.

Seminars may be held in the form of discussions, brainstorming, round tables and reports prepared by students as well as in the form of moot courts (business simulation).

Seminars are aimed at:

- consolidation and enhancing of knowledge implying students to read new materials and be ready to discuss them in class;
- equipping the students a self-learning skill with legal and literature sources in order to be able to make own conclusions based on summary and analysis of the materials and practical exercises;
- obtaining practical skills in civil procedure law;
- teaching students to understand the significance of a law and apply legal provisions to specific situations.
- developing lawyer's practical skills dealing with client's issues/problems.

#### IV. COURSE REQUIREMENTS AND POLICY

- (1) The class will meet *twice* a week. Class sessions are a mixture of lectures and interactive student-focused activities. Students are expected to come to classes prepared and be ready to discuss the assigned materials.
- (2) Students must be ON TIME for classes. If a student comes to class late and the instructor has already marked him/her as absent, the student is considered to be absent for the whole class.
- (3) CLASS ATTENDANCE is required. If a student misses a class with an excuse, a document explaining the absence must be presented to the instructor no later than the next class following the class during which the student was absent. If the requirements mentioned above are not observed, the student's absence is considered to be unexcused. If the student misses more than three (3) classes without an excuse or 50% of the whole course (irrespective of the reason for absence), the student will be assigned an "F" grade for the course.
- (4) Each student is required to be enrolled in the e-course system ([www.e-course.auca.kg](http://www.e-course.auca.kg)). The purpose of the e-course system is to allow students to get access to course materials, upload their course assignments, and benefit from a variety of interactive learning opportunities.
- (5) WRITTEN ASSIGNMENTS must be submitted by the set deadline and by the means specified by the instructor. Late submissions are NOT allowed. ***This rule applies to any student who was aware or should have been aware of an assignment and the deadline no matter whether he was sick or had any other excuse on the date of the deadline.***
- (6) The student has to follow the AUCA Academic Honesty Code and the Law Division's Policy on Plagiarism. All types of **cheating** (plagiarism, etc.) are strictly prohibited. If a student fails to observe this requirement, the instructor may assign an "F" grade for the work or an "F" grade for the whole course depending on the type of assignment and other circumstances.
- (7) CELL PHONES and any other electronic devices should be turned off or kept on a silent mode and are allowed to be used only for academic purposes unless restricted by the instructor.

**Please, note that this syllabus is subject to change. Any changes to the syllabus will be announced in class, and the updated version of the syllabus will be available in the e-course. It is students' duty to stay informed of any adjustments made.**

#### V. GRADING

Grading will be based upon the following components:

- 5% - Attendance
- 20% - Participation
- 35% - Mid-Term Examination
- 40% - Final Examination (total: 100%)

##### Attendance

Attendance is required. Students are expected to be on time for classes. If the instructor marked a student absent in case that the student is late for the class, he/she is considered to be absent for the entire class. If a student misses three (3) class meetings, he/she will automatically get 0 for class participation.

##### Participation

Class participation is extremely important in this course. Class participation means constant participation in the form of answering questions, commenting on course materials, participation in discussions of the course topics, preparing reports (in the form of oral or Power Point presentation) on

different topics/ issues, doing written homework (if any), which shows his/ her preparation for the class.

Students are expected to take an active participation in class discussions. Points for the active participation are only given in case a student demonstrates readiness for the class and topic comprehension and contributes constructively to class discussions.

The instructor may give topics to students for preparing reports. A student also may choose a topic him-/herself as agreed with the instructor. Time limit for a report presentation is 15 minutes. For the purpose of evaluation, the instructor considers plan of a report, legal research, identification of legal problems, co-relation with court practice, examples from court cases.

## Exams

### Mid-term examination

The mid-term exam will be in form of hypothetical situations and/or multiple choice questions (including hypotheticals and/or open questions).

Answering hypothetical questions must be in the IRAC format (the answer should be structured and include following components: Issue, Rule, Analysis and Conclusion), while open questions should not be copied and pasted from reading materials, but should be explained with student's own words. The exam will have an open book format. Open book format means that a student will have an access to his/her own course materials (laws and regulations, lectures, notes, etc.). Students are expected to be well prepared.

The exam will cover the first eight weeks of the course.

### Final examination

The final exam will be in form of a moot court on one or more cases. The final exam includes preparation of materials/documents for a moot court hearing and participation in the hearing.

More detailed information on the exams will be provided in class.

There will be review sessions conducted before the mid-term and the final exam.

Exam retakes are allowed only in exceptional cases.

### **Grading Scale of the Law Program**

A	94-100%	C	68-73%
A-	90-93%	C-	64-67%
B+	86-89%	D+	60-63%
B	80-85%	D	54-59%
B-	77-79%	D-	50-53%
C+	74-76%	F	below 50%

## **VI. COURSE MATERIALS**

### **1. Required reading materials**

## **Laws and regulations**

- Constitution of the Kyrgyz Republic (the "**KR**") dated June 27, 2010;
- Law of the KR "On the Supreme Court and Local Courts of the Kyrgyz Republic" No. 153 dated July 18, 2003;
- Constitutional Law of the KR "On the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic" No. 37 dated June 13, 2011;
- Regulation on Judicial Department under the Supreme Court of the KR (approved by the order of the Supreme Court No. 25 dated January 26, 2012);
- Constitutional Law of the KR "On the Status of Judges of the Kyrgyz Republic" No. 141 dated July 09, 2008;
- Civil Procedure Code of the KR dated January 25, 2017;
- Law of the KR "On Public Prosecution Office of the Kyrgyz Republic" No. 224 dated July 17, 2009;
- Law of the KR "On Stamp Duty" No. 153 dated August 15, 2007;
- Resolution of the Government of the KR "On Approval of Stamp Duty Rates" No. 521 dated July 18, 1994;
- Law of the KR "On the Status of Judicial Enforcement Agents and Enforcement Proceeding" No. 15 dated January 28, 2017;
- Law of the KR "On Arbitration Courts in the Kyrgyz Republic" No. 135 dated July 30, 2002;
- Law of the KR "On Notaries" No. 70 dated May 30, 1998;
- Administrative Procedure Code of the KR dated January 25, 2017;
- Law of the KR "On the Basics of Administrative Activity and Administrative Procedures" No. 210 dated July 31, 2015;
- Other laws and regulations.

## **International documents**

- Convention on the Legal Assistance and Legal Relations on Civil, Family and Criminal Cases (concluded in Kishinev in 2002);
- Convention on the Legal Assistance and Legal Relations on Civil, Family and Criminal Cases (concluded in Minsk in 1993);
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards (concluded in New York in 1958);
- Other documents.

## **2. Recommended reading materials**

- Civil Procedure Code of the Russian Federation dated November 14, 2002,  
URL: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_39570/](http://www.consultant.ru/document/cons_doc_LAW_39570/);
- Arbitration/Commercial Procedure Code of the Russian Federation dated July 24, 2002,  
URL: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_37800/](http://www.consultant.ru/document/cons_doc_LAW_37800/);
- Federal Rules of Civil Procedure of the United States of America,  
URL: <https://www.law.cornell.edu/rules/frcp>;  
<https://judiciary.house.gov/wp-content/uploads/2013/07/Civil2016.pdf>;
- The Civil Procedure Rules 1998 of England and Wales,  
URL: <https://www.legislation.gov.uk/ukSI/1998/3132/contents/made>;
- Other sources of law.

## VII. COURSE OUTLINE

Week	Class topics
Week 1	Introduction to the course. Overview of the judicial system of the Kyrgyz Republic
	General provisions of civil procedure. Composition of court. Disqualification of a judge. Court jurisdiction and subject matter jurisdiction
Week 2	Participants of civil procedure. Persons promoting justice. Representation in court
	Evidence. Court costs. Court fines. Procedural periods. Court notices
Week 3	Suit (statement of claim). Filing of suit. Evidence/ supporting materials/ arguments
	Securing of suit. Preparation of a case to a court hearing. Overview of the proceeding before a trial court
Week 4	Proceeding before a trial court: procedure of a court hearing
	Procedure of a court hearing. Court decision
Week 5	Special issues during the proceeding before a trial court: stay of proceedings; termination of proceedings; dismissal without prejudice; court ruling; minutes; default judgment
	Writ proceedings. Proceedings on economic issues. Special proceedings
Week 6	Appeal proceeding
	Cassational proceeding. Reconsideration upon newly discovered evidence or new evidence
Week 7	Proceedings with participation of foreign entities/individuals. Civil procedural capacity of foreign entities/individuals. Hearing of cases with participation of foreign entities/individuals
	Proceedings for enforcement of judicial acts and acts of other bodies. Challenging acts and actions (inactions) of a judicial enforcement agent. Enforcement of aksakal courts' decisions
Week 8	Review session
	MID-TERM EXAMINATION
Week 9	Fall Break

Week 10	Arbitration as alternative dispute resolution procedure
	Enforcement of arbitration decisions adopted in the Kyrgyz Republic and foreign (international) arbitration decisions. Enforcement of foreign judgments
Week 11	Challenges of enforcement of arbitration decisions and foreign judgments in the Kyrgyz Republic. Experience of enforcement in foreign countries
	Non-judicial forms of protection of rights and legal interests: notarial activity; mediation
Week 12	General provisions of administrative procedure. Overview of the Law of the KR "On the Basics of Administrative Activity and Administrative Procedures"
	General provisions of administrative procedure. Overview of the Administrative Procedure Code
Week 13	Overview of civil procedure in foreign countries. Review of issues related to the course
	Review of issues related to the course (continued). Review of cases in the Kyrgyz Republic and in foreign countries
Week 14	Review session: preparation for the moot court proceedings (final examination)
	Review session: preparation for the moot court proceedings (final examination) (continued)
Week 15	FINAL EXAMINATION