



Continental system

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Structure

- 1. Vocabulary
- 2. About continental law system
- 3. Some facts from history
- 4. Judiciary
- 5. Division of power
- 6. Summary
- 7. Questions

1. Remember basic vocabulary


- source of law = pramen práva
- law (countable) = zákon
- law (uncountable) = právo
- Corpus Juris Civilis= Justiniánův kodex
- written law (lex scripta) = psané právo
- Judiciary = soudnictví
- binding decision = závazné rozhodnutí

2. About continental law system

- Other names: Civil law, Continental European law, Romano-Germanic (inaccurate name)
- It is a system based upon written law (lex scripta)
- The main source of law in this system is legislation/statute (where the most important is constitution)

Importance of sources

1. Constitution
2. International treaties (mezinár. smlouvy)
3. Enacted laws and codes (přijaté zákony)
4. Statutory decrees (zákonné vyhlášky)
5. Regulations (předpisy)

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- Laws are written into a collection, they are codified, and not (as in common law) determined by judges.
 - Examples: All European Union states except UK and Ireland, USA (Louisiana), Brazil, Japan, Mexico, Québec, Switzerland, Turkey

3. History

- It is legal system inspired by Roman law (Roman Empire age)
- Legal systems and ideas are taken from the Corpus Juris Civilis issued in 6th century by the Emperor Justinian
 - it was an extensive reform of the law in the Byzantine Empire

4. Judiciary

- High degree of judicial independence (separated from the executive and the legislative branches)
- There are no precedents so decision applies only to judgment in the particular case

5. Division of power

- Montesquieu's tripartite system (3 branches):
 1. Legislature- chamber of deputies + senat
 2. Executive- government
 3. Judiciary- system of courts

- each branch has different and independent powers and areas of responsibility so that no one branch has more power than the other branches

6. Summary

1. The system is inspired and influenced by the Roman law and Corpus iuris civilis.
2. There are no precedents, decisions of courts are no binding
3. Montesquieu's tripartite system (legislature, executive, judiciary)

7. Questions

- 1. Name some states (at least three) with continental law system.
- 2. Which important document influenced continental system?
- 3. Division of power (name 3 branches)

Resources

- *Powell, Richard: Law today, p. 16-18*
- *Knapp, V: Teorie práva, 1.vydání. Praha, C. H. Beck 1995*
- <http://en.wikipedia.org>
- <http://www.juriglobe.ca/>