

Syllabus

Theory of State and Law



Higher education degree - bachelor
Field of knowledge - 29 International relations
Specialty - 293 International Law
Educational and Professional Program - International Law

Study year: 1, Semester: 1, 2.

Amount of ECTS credits: 7. Language of study: English

Head of the course:

Department of Theory and History of State and Law,
professor Mykola Kravchuk

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Description of the Discipline

The purpose of the discipline. The discipline is directed on building basic theoretical knowledge about the origin, development and operation of state and law, the deep nature of these institutions, forms, principles, characteristics and mechanisms of their mutual influence. In particular, it involves mastering concepts and legal categories and legal assessment of the skills of legal phenomena and processes of social life, mastering the methodology of the research and analysis of state legal reality; develop skills to interpret correctly implement and enforce regulations to use legal procedures to protect rights and freedoms; justify the legality and appropriateness of adopted legal decisions highlight the main stages and stage law-making process; identify areas of influence in the regulation, the main ways of building modern (sovereign, social, democratic legal) state, distinguish between legal relations in society.

As a result of studying the academic discipline, the student should

know:

- to understand the historical context of the formation of international legal norms and institutions, the values underlying them, to predict the main directions of the development of international and national law.;
- to know and understand normative provisions, doctrines and principles of functioning of international and national legal systems, to carry out on this basis the analysis and qualification of legal phenomena, to apply international legal norms and principles in the national legal system.

be able:

- to apply adequate research methods and to generate models of the processes of lawmaking and law enforcement in certain state legal systems in their historical development;
- understand and show the relationship, the development and contradictions of the phenomena of reality;
- be able to create a program of study and to implement its functional structure and dynamics of historical and legal processes and forecasting their development;
- be able to apply the evaluation criteria compliance with state legal systems the nature of socio-economic, political, socio- and ethno-cultural and religious state of society at a certain historical stage of development of civilization;
- to use professionally profiled knowledge for modeling legal systems;
- to use theoretical knowledge and practical skills for their application in the field of law;
- to carry out professional research and educational activity in the sphere of historical and legal knowledge.

Course structure

| Hours (lect. / sem.) | Topic | Learning outcomes | Control measures |
|-------------------------------------|--|--|-----------------------------|
| 4/2 | 1. General description of jurisprudence as a legal science. The concept, subject and structure of jurisprudence | To learn the concept and subject of science. State and law as an object of special scientific knowledge. General characteristics and composition of jurisprudence as a legal science. | Tests, questions |
| 2/2 | 2. The general concept, subject, methodology and functions of the theory of state and law and its practical significance | To learn «Theory of state and law» is a science about patterns of occurrence, development and operation of state and law. Methodology of state and law. | Tests, questions, cases |
| 2/2 | 3. Methodology of legal science | To learn concept and meaning of modern legal science. Classification of methods of learning legal science. General theoretical comparative material as a starting point for legal science research. | Tests, questions, cases |
| 2/- | 4. Origin, essence and main features of the state | To consider scientific views on understanding the state. State as a political, structural and territorial organization of the dominant section of the population. General concept and social purpose of the state. The main features of the state. | Tests, questions, cases |
| 2/2 | 5. Overview of theories of the state. The theory of the modern state. State and Civil Society | The analysis of theories of the emergence of the state, the reasons for their diversity. Scientific ideas about the origin of the state in the works of prominent scholars. | Tests, questions, cases |
| 2/- | 6. Types and function of the state - the main characteristics of the social nature of the state | Typology of States. The main reasons for changing the types of states. Dependence of the state type on the class of power, on the economy, on the mode of production, and on the type of socio-economic formation. The advantages and disadvantages of the state typological typology. | Module testing |
| 4/2 | 7. Forms of state | Concept of the form of the state and its structural elements. Republic and monarchy as a form of state government: their essence and modern varieties. | Tests, questions, cases |
| 2/2 | 8. Mechanism and apparatus of the state | Concept of the mechanism of the state, its structure and role in the implementation of state functions. State organizations, state institutions, enterprises in the mechanism | Tests, questions, cases |

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| | | of the state. The main features of the state mechanism. | |
| 2/2 | 9. The political system of society and the state | Development of ideas about the political system of society in the world classical thought about state and law. The essence of the political system of society and its main features. Elements of the political system of society. | Tests, questions, cases |
| 4/2 | 10. State, law and the person | Society, person, state. Law as a measure of freedom and responsibility. The concept of law as a social phenomenon. The objective law and subjective law. | Tests, questions, cases |
| 4/2 | 11. Nature and characteristic features of legal state. | Society, person, state. Law as a measure of freedom and responsibility. The concept of law as a social phenomenon. The objective law and subjective law. | Module testing |
| 4/2 | 12. Concept, origin of law, modern legal thinking | General notion and signs of law. Law as the main social regulator of social relations, as a system of norms, a set of rules of conduct of a general nature, the basis of organization and functioning of state power, associations of citizens, each person. Law as a measure of freedom. | Tests, questions, cases |
| 4/2 | 13. Social values, principles and functions of law | Objective necessity of law and its interconnection with the state, politics, economy. Relationship between economy and law. Value of politics and law. Law as the main means and form of policy implementation of the state. | Tests, questions, cases |
| 4/4 | 14. Social norms. The system of law regulation | Concepts, types and basic features of social norms. Social norms as general rules of behavior of people in society, which are conditioned by objective laws and are provided with various means of social influence. | Tests, questions, cases |
| 4/4 | 15. Forms (sources) law. The formation of law | Law-making process: concepts, principles and types. Social purpose of law-making. Stages of legal formation. Preparation of normative legal act. Adoption of normative legal act. Stages of the law-making process. | Tests, questions, cases |
| 4/4 | 16. The legal system, system of legislation. Systematics of regulations | The concept of the system of law and the legal system. Structural elements of the system of law: legal norm, institute of law, branch of law. Subject and method of legal regulation. | Tests, questions, cases |
| 2/2 | 17. Realization of the law | The essence, concept, the main features of the realization of law. Basic forms of direct | Module testing |

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| | | realization of law. Use of the law. Compliance with norms of law. | |
| 4/2 | 18. Interpretation of the law | The notion and necessity of interpreting the law. The essence of interpretation-clarification, interpretation-explanation. Tools for the interpretation of the law, concepts and basic features. | Tests, questions, cases |
| 4/2 | 19. The law and order | The notion of legality. Essence, main features and significance of legality. The general and obligatory observance and enforcement of the law. Lawfulness as a method of civilized government. Principles and requirements of legality. | Tests, questions, cases |
| 4/2 | 20. Legal behavior. Legal liability | Concepts and basic features of lawful conduct. Types of lawful conduct. Objective and subjective aspects of lawful conduct. Motivation of lawful behavior. | Tests, questions, cases |
| 4/2 | 21. Legal consciousness and legal culture | Concept and basic features of legal consciousness. Structure of legal consciousness, its elements: legal ideology, legal psychology, legal behavior. Influence of legal awareness on law-making and law enforcement activities. | Tests, questions, cases |
| 4/2 | 22. Legal relationships | Concepts and basic features of legal relations. Relationships as volitional social relations are created on the basis of the rules of law. Individual nature of legal relationship. | Tests, questions, cases |
| 4/2 | 23. The legal regulation of social relations and its mechanism | Concepts and basic features of lawful conduct. Types of lawful conduct. Objective and subjective aspects of lawful conduct. Motivation of lawful behavior. | Module testing |

Recommended sources

1. Alexy, Robert (2018). Law and correctness. In Michael Freeman (ed.), *Current Legal Problems 2018: Legal Theory at the End of the Millennium*. Oxford: Oxford University Press, 205–22.
2. Alexy, Robert (2009). A defense of Radbruch’s formula. In David Dyzenhaus (ed.), *Recrafting the Rule of Law*. Oxford: Hart Publishing, 2020. 16–39.
3. Austin, John (1995). *Province of Jurisprudence Determined*, ed. Wilfrid Rumble. Cambridge, UK and New York: Cambridge University Press.
4. Bix, Brian (2012). Natural law theory: The modern tradition. In Jules Coleman and Scott Shapiro (eds.), *Oxford Handbook of Jurisprudence and Philosophy of Law*. Oxford: Oxford University Press, 61–103.
5. Coleman, Jules (2012). Negative and positive positivism. *Journal of Legal Studies* 11: 139–64.
6. Coleman, Jules and Leiter, Brian (1996). Legal positivism. In Dennis Patterson (ed.), *A Companion to Philosophy of Law and Legal Theory*. Oxford: Blackwell, 241–60.
7. Edmundson, William (2019). Introduction. In William Edmundson (ed.), *The Duty to Obey the Law: Selected Philosophical Readings*. Lanham, MD: Rowman and Littlefield, 1–15.
8. Edmundson, William (2019). Introduction: Some recent work on political obligation. *APA Newsletter on Law and Philosophy* 99: 62–67. Edmundson, William. Forthcoming. Political obligation. *Legal Theory*.

9. Finnis, John (2021). *Natural Law and Natural Rights*. Oxford: Oxford University Press.
10. Green, Leslie (2021). *The Authority of the State*. Oxford: Oxford University Press.
11. MacCormick, Neil (2022). *Natural law and the separation of law and morals*. In Robert P. George (ed.), *Natural Law Theory: Contemporary Essays*. Oxford: Oxford University Press, 105–33.
12. Raz, Joseph (2019). *The claims of law*. In Joseph Raz, *The Authority of Law*. Oxford: Oxford University Press, 28–33.
13. Raz, Joseph (2019). *The obligation to obey the law*. In Joseph Raz, *The Authority of Law*. Oxford: Oxford University Press, 233–49.
14. Raz, Joseph (2020). *The social thesis*. In Joseph Raz, *The Authority of Law*. Oxford: Oxford University Press, 37–52.
15. Smith, M. B. E. (2022). *Is there a prima facie obligation to obey the law?* *Yale Law Journal* 82: 950–76.

Information sources

1. West Ukrainian National University. Electronic repository. <http://dspace.wunu.edu.ua/>
2. NYU Library named after Yaroslav the Wise. <https://library.nyu.edu.ua/>
3. Kharkiv National University of Internal Affairs. <https://dspace.univd.edu.ua/>
4. Pravo Publishing House. <https://pravo-izdat.com.ua/>
5. Odesa Law Academy National University. *Oxford Public International Law*. <https://opil.ouplaw.com/>
6. JSTOR. <https://www.jstor.org/>
7. University of Michigan Law School Scholarship Repository. <https://repository.law.umich.edu/>

Evaluation policy

- Policy on deadlines and rescheduling: Rescheduling of modules takes place with the permission of the dean's office if there are good reasons (for example, sick leave).
- Academic Integrity Policy: Copying during tests and exams is prohibited (including using mobile devices).
- Attendance Policy: Attendance is a mandatory component of assessment. For objective reasons (for example, illness, international internship, and other reasons), training can take place online with the permission of the university administration.

Evaluation

The final grade for the course is determined according to:

Semester 1

| Credit module 1 | Credit module 2 | Credit module 3 |
|---|---|--|
| 30 | 40 | 30 |
| 1. Oral questioning during the class (6 topics of 5 points each = 30 points) 2. Written work = 70 points | 1. Oral questioning during the class (5 topics of 8 points each = 40 points) 2. Written work = 60 points | 1. Active participation in trainings = 20 points 2. Writing a CPIT based on the formed individual tasks = 50 points. 3. Defence of the CPIT = 30 points. |

Semester 2

| Credit module 1 | Credit module 2 | Credit module 3 | Writing Exam | Total |
|---|---|---|---|-------|
| 20 | 20 | 20 | 40 | 100% |
| Oral survey during classes (6 topic) – 5 points per topic – max. 30 points. | Oral survey during classes (6 topic) – 5 points per topic – max. 30 points. | Preparation of CPIT – max. 40 points. Protection of CPIT | Theoretical questions (2 questions) – max. 60 points. | |

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| Modular control work – max. 70 points | Modular control work – max. 70 points | – max. 40 points. Participation in trainings – max. 20 points | Case (1 case) – max. 40 points | |
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Student evaluation scale:

| ECTS | Marks | Content |
|-------------|--------------|---|
| A | 90-100 | excellent |
| B | 85-89 | good |
| C | 75-84 | good |
| D | 65-74 | satisfactorily |
| E | 60-64 | enough |
| FX | 35-59 | unsatisfactory with the possibility of reassembly |
| F | 1-34 | unsatisfactory with a mandatory repeat course |