

Content

Course Code	Course Name	Semester	Theory	Practice	Lab	Credit	ECTS
PH441	Philosophy of Right	7	3	0	0	3	4

Prerequisites	
Admission Requirements	

Language of Instruction	Turkish
Course Type	Elective
Course Level	Bachelor Degree
Objective	To evaluate some central themes and issues in philosophy of law
Content	The course of philosophy of law will be devoted to issues of so-called normative. The course is specifically aimed at exceeding the separation of natural law and positive law. The question of normativity, which already present in the classical vocabulary of Roman law, is experiencing a revival with Hegelian philosophy at 19. century. Then it is advanced by Max Weber, Carl Schmitt et Hans Kelsen at 20. century. Therefore, it will be uncovered the involvement between legal field and normativity. The course will be focus on introduction and study on the theories of law and also reveal the actuality of subject.
References	Grotius, Le droit de la guerre et de la paix, trad. P. Pradier-Fodéré, PUF, 2005 Hobbes, Léviathan, Folio Essais, Gallimard, 2000 Hegel, Principes de la philosophie du droit, trad. Kervégan, PUF, 2005 Kelsen Hans., Théorie Générale des Normes, trad. O. Beaud et F. Malkani, Presses Universitaires de France, Paris, 1996 Kelsen Hans, Théorie pure du droit, Dalloz, 1962 Kelsen Hans, Qui doit être le gardien de la Constitution ?, Michel Houdiard Éditeur, 2006 Savigny, Système du droit romain actuel, Berlin, 1840, livre I, chapitre II [EPI]. Schmitt C., Les trois types de pensée juridique, PUF. Schmitt C., Théorie de la Constitution, PUF [chap. 14, « Les droits fondamentaux »]. Schmitt C., « Freiheitsrechte und institutionelle Garantien » (1931) et « Grundrechte und Grundpflichten » (1932), in Verfassungsrechtliche Aufsätze, Duncker & Humblot. Smend, R. Weber M., Sociologie du droit, PUF (chap. 2). Weber M., Rudolf Stammler et le matérialisme historique, Cerf, 2001

Theory Topics

Week	Weekly Contents
1	— Presentation of the course — Introduction to philosophy of law
2	— Definitions of law — Sources of law
3	— The approach of natural law in the modern era
4	—The conception of historical school against the abstraction of natural law — Savigny
5	—The conception of “positive” law —The conception of scientific “law” —The controversies among legal approaches of law
6	— Hegel — The criticize of three approaches legal on Hegel's thoughts
7	Exam
8	— Weber, issue of legitimacy — Weber and Hegel
9	— Schmitt, the law designates the concrete order of society — Schmitt, decision
10	— Kelsen, the basic norm — Kelsen, the unit and coherence of normative orders

Week	Weekly Contents
11	Writing
12	—Schmittian critique of thoughts of legality —Hegel, Schmitt and Weber
13	— Critique of legal metaphysics — Theoretical tracks
14	— The current debate about normativity