

## Course Outline

Course number	RBE125					
Course title	Philosophy of Law					
Credit points	2					
Total hours	30					
Lecture hours	15					
Seminar and other hours	15					
Course level	Bachelor					
Prerequisites	None					
Category	Mandatory		Restricted elective	X	Free elective	

### COURSE RESPONSIBLE

<i>Name</i>	<i>Academic degree</i>	<i>Academic position</i>
Sandis Bērtaitis	Mg. iur, Bc. phil.	External lecturer

### COURSE TEACHERS

<i>Name</i>	<i>Academic degree</i>	<i>Academic position</i>
Sandis Bērtaitis	Mg. iur, Bc. phil.	External lecturer
Ēriks Selga	Mg. iur.	External lecturer
Helmuts Caune	Mg. phil.	External lecturer

### COURSE ABSTRACT

The course is an introduction to the philosophy of law. The course has a focus on the most significant schools of legal philosophy in historical and modern perspective (natural law, legal positivism, legal realism etc.), most influential legal philosophers and their notable ideas. The course has also a focus on the main concepts in the field of philosophy of law – liberty, liability, equality, justice etc. The studies cover both a theoretical and practical approach in analysing the problems of philosophy of law.

### COURSE OBJECTIVES

The objectives of the course are:

- 1) to introduce the students with the main problems and concepts of legal philosophy, as well as understanding their implications to the whole legal system;
- 2) to introduce the students with the most significant schools of legal philosophy and legal philosophers;
- 3) to enhance the skills of the students to analyse and interpret philosophical texts, formulate original opinion regarding subject matter and discuss it in critical manner;

- 4) to enhance the abilities of the students to recognize and construct logical arguments, as well as to evaluate the strengths and weaknesses of various philosophical arguments.

### GRADING CRITERIA

Criteria	Weighting
Class quizzes	10%
Activity in seminars	20%
Two written essays (mandatory)	30%
Final exam (mandatory)	40%

### COURSE PLAN – MAIN SUBJECTS

No.	Main subjects	Planned hours
1	Introduction	2
2	Classical schools of legal philosophy	8
3	Modern schools of legal philosophy	6
4	Core concepts of philosophy of law	10
5	Topical problems in contemporary philosophy of law	4

### COURSE PLAN – SESSIONS

Session	Session subjects and readings	Lecture/seminar
1	<p>Introduction to the course (SB, HC, ĒS)</p> <ul style="list-style-type: none"> <li>organization and objectives of this course</li> <li>academical requirements</li> </ul> <p>Introduction to the philosophy of law (SB)</p> <ul style="list-style-type: none"> <li>philosophy of law as a part of philosophy</li> <li>domain of the philosophy of law</li> <li>distinction among other disciplines</li> </ul> <p>Discussions</p>	Lecture and seminar
2	<p>Natural law: the classical tradition (SB)</p> <ul style="list-style-type: none"> <li>general remarks</li> <li>Ancient Greece (Plato, Aristotle)</li> <li>the Christian contribution (St.Augustine, St.Thomas Aquinas)</li> </ul> <p>Case studies and discussion</p>	Lecture and seminar
3	<p>Natural law: the classical tradition (SB)</p> <ul style="list-style-type: none"> <li>the secularisation of natural law</li> <li>natural law and rationality, state of nature, social contract (Grotius, Hobbes, Locke, Rousseau)</li> </ul> <p>Case studies and discussion</p>	Lecture and seminar
4	<p>Historical school of law (SB)</p> <ul style="list-style-type: none"> <li>general remarks</li> </ul>	Lecture and seminar

<b>Session</b>	<b>Session subjects and readings</b>	<b>Lecture/seminar</b>
	<ul style="list-style-type: none"> <li>German historical school of law (Hugo, Savigny)</li> </ul> Case studies and discussion	
5	Legal positivism: the classical tradition (SB) <ul style="list-style-type: none"> <li>general remarks</li> <li>law as command of sovereign (Bentham, Austin)</li> </ul> Case studies and discussion	Lecture and seminar
6	Legal positivism: the modern tradition (SB) <ul style="list-style-type: none"> <li>Kelsen and validity</li> <li>Hart's concept of law</li> </ul> Case studies and discussion	Lecture and seminar
7	Formalism and legal realism (SB) <ul style="list-style-type: none"> <li>formalism</li> <li>legal realism (Gray, Holmes)</li> </ul> Case studies and discussion	Lecture and seminar
8	Natural law: the modern tradition (SB) <ul style="list-style-type: none"> <li>the rise of natural law during XX century</li> <li>Dworkin on policies, principles and rights</li> </ul> Case studies and discussion	Lecture and seminar
9	The concept of liberty (HC) <ul style="list-style-type: none"> <li>liberal theories (Locke, Mill)</li> <li>communitarianism</li> <li>positive and negative liberty (Berlin)</li> <li>paternalism</li> </ul> Case studies and discussion	Lecture and seminar
10	The concept of liability (SB) <ul style="list-style-type: none"> <li>voluntary action and liability (Aristotle)</li> <li>the concept of free will and determination</li> </ul> Case studies and discussion	Lecture and seminar
11	Law and values (SB) <ul style="list-style-type: none"> <li>Objectivity and values in jurisprudence</li> <li>Relations between law, politics and morality</li> </ul> Case studies and discussion	Lecture and seminar
12	The concept of justice (ES) <ul style="list-style-type: none"> <li>Utilitarianism on justice</li> <li>Rawls's theory of justice</li> <li>Theories of distributive justice</li> </ul> Case studies and discussion	Lecture and seminar
13	The concept of equality (ES)	Lecture and

<b>Session</b>	<b>Session subjects and readings</b>	<b>Lecture/seminar</b>
	<ul style="list-style-type: none"> <li>• formal and proportional equality, moral equality</li> <li>• equality and non-discrimination</li> </ul> Case studies and discussion	seminar
14	Contribution of Habermas (ĒS) <ul style="list-style-type: none"> <li>• Habermas' theory of communicative action</li> <li>• applications in the realms of ethics and law</li> </ul> Case studies and discussion	Lecture and seminar
15	Problems in the philosophy of human rights (ĒS) Case studies and discussion	Lecture and seminar

## **COURSE LITERATURE**

<b>No.</b>	<b>Author, title, publisher</b>
1	Raymond Wacks "Philosophy of Law: A very short introduction", Oxford University Press, 2006
2	Martin P. Golding and William A. Edmundson "The Blackwell Guide to the Philosophy of Law and Legal Theory", Blackwell Publishing, 2009
3	Jules L. Coleman, Kenneth Einar Himma, Scott J. Shapiro "The Oxford Handbook of Jurisprudence and Philosophy of Law", Oxford University Press, 2002
4	Dennis Patterson "A Companion to philosophy of Law and Legal Theory", Blackwell publishers, 1999
5	Course compendium with additional materials