



# UNIVERSITÀ DEGLI STUDI DI PALERMO

DEPARTMENT	Giurisprudenza		
ACADEMIC YEAR	2022/2023		
MASTER'S DEGREE (MSC)	LAW		
SUBJECT	LEGAL PHILOSOPHY		
TYPE OF EDUCATIONAL ACTIVITY	A		
AMBIT	20002-Filosofico-giuridico		
CODE	15550		
SCIENTIFIC SECTOR(S)	IUS/20		
HEAD PROFESSOR(S)	SCHIAVELLO ALDO	Professore Ordinario	Univ. di PALERMO
	TRUJILLO PEREZ	Professore Ordinario	Univ. di PALERMO
	ISABEL ASCENSION		
OTHER PROFESSOR(S)			
CREDITS	9		
INDIVIDUAL STUDY (Hrs)	153		
COURSE ACTIVITY (Hrs)	72		
PROPAEDEUTICAL SUBJECTS			
MUTUALIZATION			
YEAR	1		
TERM (SEMESTER)	2° semester		
ATTENDANCE	Not mandatory		
EVALUATION	Out of 30		
TEACHER OFFICE HOURS	<p><b>SCHIAVELLO ALDO</b>  Wednesday 09:00 12:00 Dipartimento di giurisprudenza Piazza Bologni, 8, I piano- Stanza del Direttore del Dipartimento</p> <p><b>TRUJILLO PEREZ</b>  <b>ISABEL ASCENSION</b>  Monday 12:00 14:00 Piazza Bologni 8, quarto piano, stanza 5. Si prega di prenotare il ricevimento tramite il servizio online o di scrivere una mail a isabel.trujillo@unipa.it almeno due giorni prima.</p> <p>Wednesday 12:00 14:00 Piazza Bologni 8, quarto piano, stanza 5. Si prega di prenotare il ricevimento tramite il servizio online o di scrivere una mail a isabel.trujillo@unipa.it almeno due giorni prima.</p>		

**DOCENTE:** Prof. ALDO SCHIAVELLO- *Lettere F-N, - Lettere O-Z*

<b>PREREQUISITES</b>	Basic legal notions regarding the structure of legal powers in contemporary states, the constitutional review, the national and international legal sources, the concept of right.
<b>LEARNING OUTCOMES</b>	<p>Knowledge and understanding: knowledge and understanding of the main problems in the field of legal theory and philosophy.</p> <p>Applying knowledge and understanding: ability to apply their knowledge and understanding to both theoretical and practical legal issues.</p> <p>Making judgments: ability to make autonomous judgments about traditional problems in the field of legal theory and philosophy.</p> <p>Communication: ability to communicate in a clear and exhaustive way, to formulate autonomous judgments on traditional problems in the field of legal theory and philosophy, and to argue in their defence.</p> <p>Lifelong learning skills: development of ratiocinative and argumentative skills, also in dialectical contexts.</p>
<b>ASSESSMENT METHODS</b>	<p>Final exam.</p> <p>Exam type: oral exam; minimum number of questions: 2</p> <p>Evaluation: Grades on a scale between 18 and 30 cum laude.</p> <p>Evaluation Grid:</p> <ul style="list-style-type: none"> <li>- Excellent: 30-30 cum laude. Excellent knowledge and understanding, excellent communication and argumentative skills, proper use of technical language.</li> <li>- Very good: 26-29. Good knowledge and understanding, good communication and argumentative skills, proper use of technical language.</li> <li>- Good: 24-25. Basic knowledge and understanding, average communication skills, limited argumentative skills.</li> <li>- Average: 21-23. Limited basic knowledge and understanding, sufficient communication skills, poor argumentative skills.</li> <li>- Fair: 18-20. Minimal basic knowledge and understanding, poor communication skills, poor argumentative skills.</li> <li>- Poor. Non-sufficient knowledge and understanding</li> </ul> <p>Midterm Exam.</p> <p>A non-compulsory midterm exam will take place after the course's first six weeks</p> <p>Exam type: written exam (two open questions).</p> <p>Evaluation: Grades on a scale between 18 and 30 cum laude</p> <p>Evaluation grid: See above, Final exam.</p>
<b>EDUCATIONAL OBJECTIVES</b>	The course aims at introducing the fundamental topics and concepts of legal theory and philosophy, with special attention on the debate about the concept of law, the relationship between law and morals, and the protection of fundamental rights in contemporary constitutional democracies.
<b>TEACHING METHODS</b>	class
<b>SUGGESTED BIBLIOGRAPHY</b>	<p>Bruno Celano, <i>Lezioni di filosofia del diritto 2. Costituzionalismo, stato di diritto, codificazione, diritto naturale, positivismo giuridico</i>, Giappichelli, Torino, in corso di pubblicazione.</p> <p>For foreign students:</p> <p>H. L. A. Hart, <i>The Concept of Law</i> (Second Edition), With a Postscript edited by P. A. Bulloch and J. Raz, Clarendon Press, Oxford 1994</p>

## SYLLABUS

Hrs	Frontal teaching
2	introduction to philosophy of law
2	what is the law
2	what is the law
2	relations between law and morals
2	relations between law and morals
2	natural law theory
2	natural law theory after the II world war
2	legal positivism
2	natural law theory vs. legal positivism
2	neoconstitutionalism
2	rule of law
2	constitutional state
2	constitutionalization legal systems
2	legal sources
2	legal norm
2	legal right

## SYLLABUS

Hrs	Frontal teaching
2	legal system
2	legal interpretation
2	interpretative arguments
2	jurist and legislator
2	the role of the jurist in modern state
2	the role of the jurist in the constitutional state
2	democracy, an essentially contested concept
2	procedural democracy
2	deliberative democracy
2	the obligation to obey the law
2	reasons to belief and reasons to action
2	obligation to obey, the model of the bandit
2	obligation to obey, the moral model
2	obligation to obey, the autonomy model
2	balancing
2	legal clinic
2	the method of legal clinic
6	Natural law doctrine: The pluralistic version in the Oresteia

<b>PREREQUISITES</b>	Some legal basic notions related to: the structure of power in contemporary states, constitutional State and judicial review, national and international legal sources, subjective rights.
<b>LEARNING OUTCOMES</b>	<p>Knowledge and understanding: knowledge and understanding of the main problems in the field of legal theory and philosophy.</p> <p>Applying knowledge and understanding: ability to apply their knowledge and understanding to both theoretical and practical legal issues.</p> <p>Making judgments: ability to make autonomous judgments about traditional problems in the field of legal theory and philosophy.</p> <p>Communication: ability to communicate in a clear and exhaustive way, to formulate autonomous judgments on traditional problems in the field of legal theory and philosophy, and to argue in their defence.</p> <p>Lifelong learning skills: development of ratiocinative and argumentative skills, also in dialectical contexts.</p>
<b>ASSESSMENT METHODS</b>	<p>Midterm Exam.</p> <p>A non-compulsory midterm exam will take place after the course's first six weeks. It will consist of a multiple answer test.</p> <p>Evaluation grid: See above, Final exam.</p> <p>Final exam.</p> <p>Exam type: for those who do not take part in the midterm exam, the final exam will consist of a written exam (two questions in one hour, before the oral examination, that can be substituted by the midterm exam) and an oral discussion. It aims at verifying the comprehension of the central topics and argumentative skills.</p> <p>Evaluation: Grades on a scale between 18 and 30 cum laude.</p> <p>Evaluation Grid:</p> <ul style="list-style-type: none"> <li>- Excellent: 30-30 cum laude. Excellent knowledge and understanding, excellent communication and argumentative skills, proper use of technical language.</li> <li>- Very good: 26-29. Good knowledge and understanding, good communication and argumentative skills, proper use of technical language.</li> <li>- Good: 24-25. Basic knowledge and understanding, average communication skills, limited argumentative skills.</li> <li>- Average: 21-23. Limited basic knowledge and understanding, sufficient communication skills, poor argumentative skills.</li> <li>- Fair: 18-20. Minimal basic knowledge and understanding, poor communication skills, poor argumentative skills.</li> <li>- Poor. Non-sufficient knowledge and understanding.</li> </ul>
<b>EDUCATIONAL OBJECTIVES</b>	The course aims at introducing the fundamental topics and concepts of legal theory and philosophy, with special attention on the debate about the concept of law, the relationship between law and morals, and the protection of fundamental rights in contemporary constitutional democracies.
<b>TEACHING METHODS</b>	There will be lectures, seminars, mid-term exam, and self-evaluating tests.
<b>SUGGESTED BIBLIOGRAPHY</b>	<p>F. Viola, G. Zaccaria, B. Pastore, <i>Le ragioni del diritto</i>, Il Mulino, 2017 (nuova edizione: ISBN 978-8815272225); I Trujillo (a cura di), <i>Storie dei diritti umani</i>, Giappichelli, Torino 2021 (ISBN 9788892139275).</p> <p>For foreign students, F. Schauer, <i>The Force of Law</i>, Harvard University Press, Cambridge 2016 (ISBN 9780674736191) and T. Pogge, <i>Poverty and Human Rights</i>, Polity Press, Cambridge, 2008 (ISBN 9783110227352).</p> <p>Materiali aggiuntivi e/o sostitutivi saranno consigliati durante lo svolgimento delle lezioni.</p>

## SYLLABUS

Hrs	Frontal teaching
2	Goal and features of the philosophical legal approach. Legal Philosophy's tasks.
4	The nature of Law. Methods for definition of law
10	Law as a normative discourse. The guidance question. Normativity and language. Variety of norms. Legal systems
8	Law and Coercion. Coercion and legitimation of force. The contribution of coercion theories of law. Why sanctions? Law without sanctions.
8	Istituzioni and law. The institutional architecture of law. Law as a sociale institution. The forms of legal coordination. Law and society.
4	Legal and political forms of authorities. Authority as authorization.
10	Rule of law. Meaning, content, extension
8	Justice aptness of law. What is justice? Justice and rights.
6	The debate between Natural Law Theories and Legal Positivism and its contribution to the definition of law
6	State law as central case of law. The evolution of State law.

## SYLLABUS

Hrs	Frontal teaching
6	The evolution of law beyond the State. <i>Ius gentium</i> . <i>Communitas orbis</i> . Westphalia paradigm. The model of United Nations
4	The problem of the legal character of international law. International rule of law
Hrs	Practice
4	Current issues in Legal Philosophy