**THE GOVERNMENT OF THE RUSSIAN FEDERATION**

**Federal State Autonomous Educational Institution**

**for Higher Learning**

**THE NATIONAL RESEARCH UNIVERSITY**

**HIGHER SCHOOL OF ECONOMICS**

**Faculty of Law**

**Department of General and Interbranch Legal Disciplines**

**Chair of Public and Private International Law**

**Chair of Theory and History of Law**

**Bachelor Degree Curriculum (Year 2)**

Field of Education **40.03.01. – Jurisprudence**

Bachelor Program **Jurisprudence**

Level **Bachelor Degree**

**PUBLIC INTERNATIONAL LAW**

**Course Syllabus**

**Author of the Course / Course Instructor**

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| --- | --- |
| **Approved at the Department session** | **Approved at the Academic Council of Bachelor Program session** |
| Natalia Y. Erpyleva  Department Head  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  September 10, 2018 (Protocol N 1) | Bulat V. Nazmutdinov  Program Academic Supervisor  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  September \_\_\_, 2018 (Protocol N\_\_\_) |
| **Approved at the Chair session** |  |
| Natalia Y. Erpyleva  Chair Head  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  September 5, 2018 (Protocol N 1) |  |

**Moscow, 2018**

*This Syllabus cannot be used by other departments of the University or by other universities without a permission of the Departments, which drafted it*

1. **Sphere of Application and Normative References**

This Syllabus sets up minimal requirements to the knowledge and skills of students studying this discipline, the content of lectures and practical exercises, as well as types of examination and requirements thereto.

The Syllabus is addressed to lecturers, giving a course on «Public International Law», study assistants and students of the Bachelor program 40.03.01. «Jurisprudence».

The Syllabus is drafted in full correspondence with:

* educational Standard of the National Research University The Higher School of Economics on the Direction of study 40.03.01. «Jurisprudence», Bachelor level (approved by the Scientific Council of the HSE, minutes of 26 December 2014, № 10);
* curriculum of the HSE of study 40.03.01 «Jurisprudence», Bachelor level.

1. **Learning Objectives and Outcomes**

**Learning objectives**

This course is primarily aimed at providing the students the necessary tools to understand and study the nature, principles, and role of International Public Law (PIL) as well as to analyze, discuss the relevant issues in this field and master the structure and mechanisms of the international legal system.

During the first part, the course will cover a wide array of introductory and substantial topics such as the sources and subjects of PIL, states sovereignty and jurisdiction, territory, the UN legal system, the prohibition of the use of force and the right of self-defense. After the necessary introductory session, we will look at the specific branches of PIL, such as International Human Rights Law, International Humanitarian Law, and International Criminal Law, International Economic Law, International Maritime Law, and International Environmental Law. Moreover, the course will deal with current and emerging issues of PIL, such as terrorism and migration.

The course will analyze and discuss a number of international cases law decided by national and international Courts, as well as treaties, UN resolutions and other international legal instruments.

**Learning outcomes**

*(A) The students should gain knowledge and understanding.*

the role and importance of international law in the regulation of public relations;

• the basic principles of PIL, its main features (sources, subjects), the structure and mechanisms of the international legal system, the role and functioning of the International and Regional Organizations; as well as the role, functions and procedural mechanisms of the international and regional Courts, special Tribunals and quasi-judicial human rights bodies;

• PIL terminology and academic legal writing;

• of the sources of international law and learn how to identify the applicable law to solve possible case law (weekly classes, exams, written assignments)

• the law of treaties and the role of states and international organizations in law-making

• how international law, human rights law and the other specific branches developed a long history and their current trends.

*(B) The students should gain the following skills and abilities:*

• to learn and use specific terminology and sources of PIL;

• to develop practical abilities of legal research and analysis of customary law, treaties, soft law, decisions, and doctrines;

• to use appropriate referencing and bibliographic methods

• to read and correctly analyze case law (International Court of Justice, ICC, ICTY; ICTR, ECtHR, EUCJ, and international arbitration court) using lawyering skills and legal argumentation

• to use the major legal databases on international law and European law such as Peace Palace Library, ICJ website, Court of Justice, HUDOC, EURLEX, JSTOR, Lexis Nexis, WESTLAW, and the major journals, blog or dedicated websites for carrying out research activity and analyze current issues in the international law field.

*(C) Students should gain the following competencies and abilities:*

• to develop a professional methodology to work, learning to conduct exhaustive legal research, correct identification of relevant judicial decision and applicable law, which will be necessary for the fulfillment of their future scientific and professional tasks

• to apply a systematic legal approach and using comparative methods;

• to carry out professional activities in the field of International Public Law, Human Rights Law and/or Humanitarian Assistance;

• to identify legal issues in the field of PIL and to develop an independent analysis of such issues;

• to use national and international regulatory acts and judicial decision, for protecting human and civil rights and freedoms, and legitimate interests of legal entities

• to represent individuals in front of domestic and international courts, as well as quasi-judicial bodies

• to elaborate scientific publications and reports on PIL topics.

1. **Competencies gained as a result of the course**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Competence** | **Code** | **Level of competence** | **Descriptors** | **Forms and methods of teaching** | **Forms of control** |
| ***1) Universal Competencies:*** | | | | | |
| UC-5 | SK-Б6 | SD/MC | Able to identify and assess scientific problems in professional areas | Lectures, seminars, self-study | Exam |
| UC-3 | SK-Б8 | SD | Able to solve problems  professional  through activities based on analysis and synthesis | Lectures, seminars, self-study | Exam |
| UC-5 | SK-Б8 | SD | Able to find, evaluate and use information from various sources in order to solve scientific and professional issues (on the basis of a systematic approach) | Lectures, seminars, self-study | Exam |
| UC-6 | SK-Б9 | RB/SD | Able to conduct research activities, including analysis of case law, identifying and setting goals and objectives, of research, as well as the choice of methods of research, and assessing of its quality | Lectures, seminars, self-study | Exam |
| UC-9 | SK-Б11 | RB/SD | Able to assess and critically rethink the knowledge acquired and use this experience in his/her professional activity | Lectures, seminars, self-study | Exam |
| UC-10 | SK-Б11 | RB/SD | Able to perform professional activities in international settings | Lectures, seminars, self-study | Exam |
| ***2) Professional Competencies:*** | | | | | |
| PC-1 | PTD\_YU7.3 | SD | Able to identify and assess legal cases, and to apply the related law | Lectures, seminars, self-study | Exam |
| PC-2 | IK-4.1\_4.3\_  4.4\_PTD\_YU7.2 | SD/MC | Able to search, analyze and process legally relevant information through the use of qualitative and quantitative research, comparative methodology and other methods of research | Lectures, seminars, self-study | Exam |
| PC-4 | IK-2.2.2\_3.1\_  PTD\_YU7.1 | RB/SD | Able to draft  draft legal opinions, statements, written pleadings, claims, applications, memorials, response, legal memorandums, agreements, and other legal acts in accordance with the legal and procedural techniques, and practice | Lectures, seminars, self-study | Exam |
| PC-6 | IK-1.1ЭД\_PTD\_  YU7.2 | SD | Able to detect, prevent, uncover, investigate and classify crimes and other offenses, including corruption cases and bribery | Lectures, seminars, self-study | Exam |
| PC-6 | IK-6.1\_PTD\_  YU7.3 | RB/SD | Able to understand the ratio, nature, and consequences of crime; to prevent crimes and other offenses, to identify and eliminate the causes and conditions conducive to their commission | Lectures, seminars, self-study | Exam |
| PC-8 | IK-2.5.2\_3.1\_  3.2\_2.4.1\_  2.4.2\_PTD\_YU7.4 | RB/SD | Able to ensure the protection of the human rights and fundamental freedoms of individuals as well as, the rights and interests of legal persons through consultancy, representation in state and local bodies, Russian and international courts, quasi-judicial bodies, as well as in organizations International | Lectures, seminars, self-study | Exam |
| PC-9 | IK-2.2.1\_2.5.2(YU) | RB/SD | Able to elaborate written and oral communication in Russian in the professional framework | Lectures, seminars, self-study | Exam |
| PC-10 | IK-2.2.1\_2.5.2(YU) | RB/SD | Able to present the achievements obtained by his/her professional activities orally through public speaking and discussions | Lectures, seminars, self-study | Exam |
| PC-12 | IK-1.3\_  PTD\_YU7.3 | SD | Able to carry out various types of professional activities behaving in agreement with the legal and professional ethical standards | Lectures, seminars, self-study | Exam |
| PC-13 | IK-1.1AD\_  NID (S) | RB/SD | Able to conduct analytical studies in the field of law | Lectures, seminars, self-study | Exam |
| PC-14 | PTD\_YU 7.4 | SD | Able to discourage corrupt behaviour | Lectures, seminars, self-study | Exam |
| PC-16 | SLK-Б4(YU) | RB | Able to work in team, cooperation and problem-solving | Lectures, seminars, self-study | Exam |
| PC-19 | SLK-Б7(YU) | SD | Able to take responsible decisions in his/her professional activities | Lectures, seminars, self-study | Exam |

1. **Place of the discipline in the structure of Bachelor program**

This discipline belongs to the elective part of the professional courses (Major). The discipline is based on the following courses, studied by students: «Theory of state and law», «Constitutional law of Russia», «Constitutional law of foreign states», «History of state and law of foreign states», «Roman private law», «Administrative law».

Knowledge and skills gained by students at the course «Public » can be used at the courses of « International Law Human Rights in International Law », « private International law», « WTO Law», « European Union Law» and in the process of preparation to the final interdisciplinary exam.

**5. Content of the course**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| № | **Topic** | **Hours in total** | **Contact Hours** | | **Self-study** |
| ***Lectures*** | ***Seminars*** |
|  | Introduction of Public International | 10 | 2 | 0 | 8 |
|  | Sources of Public International | 12 | 4 | 4 | 6 |
|  | The Law of treaties | 12 | 2 | 2 | 6 |
|  | Public International Law and Municipal Law | 10 | 2 | 2 | 6 |
|  | Subjects of international law - States and their Recognition | 10 | 2 | 2 | 6 |
|  | Sovereignty, Jurisdiction, Diplomatic/ Consular Immunity | 10 | 2 | 2 | 6 |
| 7 | Territory and Borders | 10 | 2 | 2 | 6 |
| 8 | International Organizations and the United Nations | 10 | 2 | 2 | 6 |
| 9 | The Prohibition Of The Use Of Force | 10 | 2 | 2 | 6 |
| 10 | The Prohibition Of The Use Of Force | 10 | 2 | 2 | 6 |
| 11 | The Settlement Of International Disputes | 10 | 2 | 2 | 6 |
| 12 | State Responsibility For Internationally Wrongful Acts | 10 | 2 | 2 | 6 |
| 13 | International Protection Of Human Rights | 10 | 2 | 2 | 6 |
| 14 | International Humanitarian Law | 10 | 2 | 2 | 6 |
| 15 | International Criminal law | 10 | 2 | 2 | 6 |
| 16 | International Economic Law | 10 | 2 | 2 | 6 |
| 17 | International maritime law | 10 | 2 | 0 | 8 |
| 18 | International environmental law | 10 | 0 | 2 | 8 |
|  | **Total:** | **190** | **36** | **36** | **118** |

**6. Forms of control**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Type of control** | **Elements of control** | **Modules** | | | | **Content** |
| 1 | 2 | 3 | 4 |
| Mid-term and recurring controls | **Written Test (1)** |  |  | 8 |  | Written Tests (to be done in class at the end of module 3, 120 minutes, open questions and case analysis) |
| **Colloquium (2)** (Moot Court) |  |  |  | 4 | Moot Court: written memorials (10-15 pages, 7 days for preparation); oral pleadings (up to 20 min for each group) |
| **Home Tasks (3)** |  |  |  | 6 | Case analysis; preparation of legal reports, essays, applications/response/ memorials for the international and regional Courts (10-15 p., 14 days) |
| Final Control | **Exam (4)** |  |  |  | \* | Written exam, 1 hour 4 0 min |

All assignments (including the final exam) are graded on the scale of 0-10. Midterms and recurring controls consist:

* Written Test (in class)
* Colloquium (Moot Court - Jessup simulation: written and oral pleading)
* Home Tasks

**7. Criteria for evaluation of knowledge and skills**

**(1) Midterm Examination (max = 10)**

4 open questions (the use of additional materials is forbidden) + 1 case analysis (the use of additional legal sources and Internet is admitted)

|  |  |  |
| --- | --- | --- |
| **Type of task** | **Criteria of evaluation** | **Points** |
| **1. Open questions** | Correct Answer | 1 |
| Partially Correct Answer | 0,5 |
| Wrong Answer | 0 |
| 1. **Case analysis** | Correct answer based on an excellent use of sources, including relevant case law, and consistent legal argumentation | 5 |
| In general, a correct answer based on both legal sources, including relevant case-law, and consistent argumentation, but there are few (1-2) minor mistakes or omissions | 4 |
| In general, a correct answer based on both legal sources, including relevant case-law, and consistent argumentation, but there are few (3-5) minor mistakes or omissions | 3 |
| In general correct answer based on main legal sources, but there are no references to relevant case-law and few serious mistakes (1-2) and omissions | 2 |
| In general, correct answer based on main legal sources, but there are no references to relevant case-law and some serious mistakes (3-5) and omissions | 1 |
|  | Wrong answer. Sources and applicable law are not correctly identified | 0 |

**(2) Home Tasks (max = 10)**

|  |  |  |
| --- | --- | --- |
| **Type** | **Criteria of evaluation** | **Points** |
| **1. Preparation of case analysis; legal reports, essays, written memorials/applications/responses for the international and regional Courts (individual-work or team-work, 2-3 person)** | Correct, comprehensive and consistent analysis/pleadings based on an excellent use of primary and secondary sources, including relevant case-law, | 8-10 |
| In general, a correct and consistent argumentation based on both legal sources, including relevant case-law, and consistent argumentation, but there are few (1-2) minor mistakes or omissions | 6-7 |
| In general, a correct and consistent analysis/pleadings based on both legal sources, including relevant case-law, and consistent argumentation, but there are few (3-5) minor mistakes or omissions | 4-5 |
| In general, a correct and consistent analysis/pleadings based on main legal sources, but there are no references to relevant case-law and few serious mistakes (1-2) and omissions | 3-4 |
| In general, a correct and consistent analysis/pleadings based on main legal sources, but with no references to relevant case-law and some serious mistakes (3-5) and omissions | 1-2 |
| Wrong analysis, sources and applicable law are not correctly identified | 0 |

**(3) Colloquium (Moot Court) (max = 10)**

|  |  |  |
| --- | --- | --- |
| **Type of task** | **Criteria of evaluation** | **Points** |
| **Individual performance during the Moot Court** | Excellent written pleadings, comprehensive and consistent legal argument based on sources, including relevant case law. Excellent oral presentation. Strong ability to answer the questions. | 8-10 |
| In general, correct and comprehensive written pleadings based on both legal sources, including relevant case law, and consistent argumentation, but there are minor mistakes or omissions. The presentation was well structured, and most questions were answered correctly. | 6-7 |
| Incomplete written pleadings based on weak legal argumentation. The oral presentation was not well structured, there are mistakes or omissions and few questions were answered correctly. | 4-5 |
| Incomplete written pleading and poor legal argumentation. The oral pleadings were not structured and there were serious mistakes or omissions in the speech and in the answers. | 1-3 |

**(4) Final Examination (max = 10)**

4 open questions (the use of additional materiasl is forbidden) + 1 case analysis (the use of additional legal sources, notes, and Internet is admitted)

|  |  |  |
| --- | --- | --- |
| **Type of task** | **Criteria of evaluation** | **Points** |
| **1. Open questions** | Correct Answer | 1 |
| Partially Correct Answer | 0,5 |
| Wrong Answer | 0 |
| 1. **Case analysis** | Correct answer based on an excellent use of sources, including relevant case-law, and consistent legal argumentation | 5 |
| In general, a correct answer based on both legal sources, including relevant case-law, and consistent argumentation, but there are few (1-2) minor mistakes or omissions | 4 |
| In general, a correct answer based on both legal sources, including relevant case-law, and consistent argumentation, but there are few (3-5) minor mistakes or omissions | 3 |
| In general, correct answer based on main legal sources, but there are no references to relevant case-law and few serious mistakes (1-2) and omissions | 2 |
| In general, correct answer based on main legal sources, but there are no references to relevant case-law and some serious mistakes (3-5) and omissions | 1 |
|  | Wrong answer. Sources and applicable law are not correctly identified | 0 |

**8. The content of the discipline and assigned materials**

**Lesson 1 - Introduction to International Public Law (PIL)**

1. The basic principles of the international legal system.
2. Definition of International Law.
3. Is International Law a real law?
4. Specific features of Public International Law.
5. Difference between Private and Public International Law.
6. PIL and European Law (EU Law).
7. International Law and Domestic Law.
8. The different branches of PIL: special and “self-contained regimes”.
9. The historical background of PIL.
10. Natural Law *vs* Positive Law.
11. The Second World War and the new concept of PIL.
12. Expansion and fragmentation of PIL.
13. The contribution of Russian and Soviet scientists to the science of PIL.
14. Emerging issues and new challenges in PIL.

**Readings:**

* SHAW, M. N. (2017). International Law. Cambridge, United Kingdom; New York, Cambridge University Press. Chapter 1 “The nature and development of international law” and Chapter 2 “International law today”.
* KOSKENNIEMI, M. “What is International Law For?”, in Evans, M. (ed), International Law, Oxford: Oxford University Press (2010, 3rd edition).

**Recommended further readings:**

CASSESE, A. (2004). International Law. Oxford, Oxford University Press, Chapter 1 “The Main Legal Features of the International Community”.

DE VATTEL, E., & FENWICK, C. G. (1916). The law of nations, or, The principles of natural law: applied to the conduct and to the affairs of nations and of sovereigns. Translation of the edition of 1758; by Charles G. Fenwick. Carnegie Institution of Washington.

FASSBENDER, B., PETERS, A., PETER, S., & HÖGGER, D. (2012). The Oxford handbook of the history of international law. Oxford University Press.

GENTILI, A (1933). De iure belli libri tres (No. 16). Clarendon Press.

GROTIUS, H (1925). The Law of War and Peace, trans. FW Kelsey, Bobbs-Merrill, Indianapolis, IN.

HABERMAS, J. (2018). The concept of human dignity and the realistic utopia of human rights. In Human Dignity (pp. 52-70). Routledge.

JENNINGS, R. Y. (1982). The identification of international law. International law: teaching and practice, 3.

JESSUP, P. C. (1936), Neutrality: Today and Tomorrow. Columbia University Press.

KANT, I (1793), 'On the Common Saying: “This May be True in Theory, But it Does Not Apply in Practice”',

KANT, I (1970). Kant’s Political Writings, ed. H. Reiss, trans H. Nisbet (Cambridge).

KELSEN, H. (2003). Principles of international law. The Lawbook Exchange, Ltd.

KOSKENNIEMI, M. (2002). The gentle civilizer of nations: the rise and fall of international law, 1870-1960. Cambridge, UK, Cambridge University Press.

KOSKENNIEMI, M., & LEINO, P. (2002). Fragmentation of international law? Postmodern anxieties. Leiden Journal of International Law, 15(3), 553-579.

LAUTERPACHT, H (1933). The function of law in the international community. Oxford University Press, USA.

MCCAFFREY, S. C., SHELTON, D., & CERONE, J. (2010). Public International Law: Cases, Problems, and Texts. LexisNexis.

NEFF, S. C. (1990). Friends but no allies: economic liberalism and the law of nations. Political Economy of International.

NUSSBAUM, A (1947), Nussbaum, A. (1954). A concise history of the law of nations. Macmillan.

PUFENDORF, S., OLDFATHER, C. H., OLDFATHER, W. A., & SIMONS, W. (1995). De jure naturae et gentium libri octo. Buffalo, N.Y., William S. Hein.

**Main questions:**

1. Definition of PIL.
2. Is PIL a law?
3. Which are the branches of PIL?
4. Definition of “special” and “self-sufficient regimes”.
5. What are the functions of PIL?
6. What are the peculiarities of PIL as a special legal system?
7. What is the relationship between PIL and Private International Law?
8. What is the relationship between PIL and the EU law?
9. Describe the historical evolution of PIL
10. How the concepts of “fragmentation” and “system integration” are reflected in PIL?”

**Lesson 2 - Sources of Public International law**

1. The distinction between “source” and “norm”
2. Differences between formal and material sources
3. Definition and classification of the norms
4. Hierarchy of the PIL sources
5. Article 38 of the Statute of the International Court of Justice (ICJ)
6. Definition and characteristics of “*Jus cogens*”
7. Definition of Customary Law
8. State practice and “*Opinio juris*”
9. Regional and Local Customs
10. Treaties: Definition and categories
11. Soft Law
12. Judicial decisions
13. Doctrine
14. International Organization’s acts
15. Codification of norms of PIL: the International Law Commission

**Readings:**

* STATUTE OF THE INTERNATIONAL COURT OF JUSTICE. Article 38 https://www.icj-cij.org/en/statute.
* WOLFRUM, R. (2011). Sources of International law. Max Planck Encyclopedia of Public International Law, 9, 299-313.
* ROBERTS, A., & SIVAKUMARAN, S. (2018). The Theory and Reality of the Sources of International Law, in Evans, M. (ed.), International Law, 5th ed. Oxford, Oxford University Press.
* THIRLWAY, H. (2003). The sources of international law in Evans, M. (ed.), International Law, 2nd ed. Oxford, Oxford University Press.
* FROWEIN, J. A. (2009). Ius cogens,[w:] R. Wolfrum (red.). Max Planck Encyclopedia of public international law.

**Recommended further readings:**

ALLOTT, P. (1999). The concept of international law. European Journal of International Law, 10(1), 31-50.

BLUTMAN, L. (2014). Conceptual confusion and methodological deficiencies: Some ways that theories on customary international law fail. European Journal of International Law, 25(2), 529-552.

GUZMAN, A. T., & HSIANG, J. (2014). Some Ways that Theories on Customary International Law Fail: A Reply to László Blutman. European Journal of International Law, 25(2), 553-559.

MÄLKSOO, L. (2015). Russian Approaches to International Law. Oxford University Press, USA.

MATHIAS, S. (2006). The Statute of the International Court of Justice: A Commentary. Edited by Andreas Zimmermann, Christian Tomuschat, and Karin Oellers-Frahm. Oxford, New York: Oxford University Press.

PETSCHE, M. (2010). Jus Cogens as a vision of the international legal order. Penn St. Int'l L. Rev., 29, 233.

SIMMA, B., MOSLER, H., PAULUS, A., & CHAITIDOU, E. (Eds.). (2002). The Charter of the United Nations: a commentary (Vol. 1). Oxford: Oxford University Press.

THIRLWAY, H. (2014). The sources of international law. OUP Oxford.

VERDIER, P. H., & VOETEN, E. (2014). Precedent, compliance, and change in customary international law: An explanatory theory. American Journal of International Law, 108(3), 389-434.

VON BERNSTORFF, J. (2014). International Legal Scholarship as a Cooling Medium in International Law and Politics. European Journal of International Law, 25(4), 977-990.

VOYIAKIS, E. (2009). Do General Principles Fill Gaps in International Law. Austrian Rev. Int'l & Eur. L., 14, 239.

ZAMMIT BORDA, A. (2013). A Formal Approach to Article 38 (1)(d) of the ICJ Statute from the Perspective of the International Criminal Courts and Tribunals. European Journal of International Law, 24(2), 649-661.

**Case law:**

ICJ, North Sea Continental Shelf Cases (Federal Republic of Germany v Denmark, Federal Republic of Germany v Netherlands) (Merits) [1969] ICJ Rep 4 §§ 34-39; 58-86; 100-101.

ICJ, Barcelona Traction, Light and Power Co Ltd (Belgium v Spain) (Second Phase) [1970] ICJ Rep 3.

ICJ, Military and Paramilitary Activities in and against Nicaragua Case (Nicaragua v United States of America) (Merits) [1986] ICJ Rep 14.

ICJ, Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of 8 July 1996 §§64-79; 98-102.

ICJ, Case Concerning the Gabčíkovo-Nagymaros Project (Hungary / Slovakia), Judgment of 25 Sept. 1997, §§46-59; 82-115.

ICJ, Case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment of 26 February 2007, §§114-120.

ICTY, Prosecutor v. Anto Furundzija, Judgment of 10 December 1998, §§181-185.

**Other material:**

International Law Association (ILA), Final Report of the Committee, Statement Of Principles Applicable to The Formation of General Customary International Law, London, 2000.

International Law Commission (ILC), Guiding Principles Applicable to Unilateral Declarations of States Capable of Creating Legal Obligations, adopted in the ILC 2006 session

**Main questions:**

1. What are the sources of PIL?
2. Difference between source and norm.
3. What does art. 38 of the ICJ provide for?
4. Is there a hierarchy between the sources of PIL?
5. Does the article 38 of the Statute of the international court of justice contain an exhaustive list of sources of international law?
6. What is international customary law?
7. What elements does an international custom consist of?
8. What are the essential requirements of the state practice?
9. What does opinion juris mean?
10. Expand the concept of “*jus cogens*”.
11. What are the features of *jus cogens* norms?
12. Is there a specific source that regulates the *jus cogens* norms?
13. What are the features of “soft law”?
14. Is national law applicable or relevant in international law?
15. What are the general principles of law?
16. How do they differ from international customs?
17. How does the codification of PIL work?
18. Describe the competence, formation and main activities of the UN international law Commission.

**Lesson 3 - The Law of Treaties**

International Treaty: definition and types

Sources of the Law of Treaties and history of its codification.

Conclusion: the main stages and the power to conclude treaties.

Methods of expressing consent.

Reservations: concept, types, conditions of validity.

Effect of treaties in time, space and members. The effect of a treaty on third states.

Modifications and termination of treaties.

The principle of “*pacta sunt servanda*”: International treaties and national law.

Interpretation of treaties: concept, types, methods, and principles.

Conditions of validity and invalidity of treaties. The consequences of invalidity.

Termination and suspension of an international treaty

The impact of war on international treaties.

Ensuring compliance with international treaties.

**Readings:**

* FITZMAURICE, M. (2006). The practical working of the law of treaties in Evans, M. (ed.), International Law, 2nd ed. Oxford, Oxford University Press VIENNA CONVENTION ON THE LAW OF TREATIES, 1969 (Arts. 1-6, 18-23, 26-27, 31-32, 34-38, 53, 60, 62, 64) available at
* http://untreaty.un.org/ilc/texts/instruments/english/conventions/1\_1\_1969.pdf
* THE INTERNATIONAL LAW COMMISSION (ILC), Draft Articles on the Law of Treaties with Commentaries, http://legal.un.org/docs/index.asp?path=../ilc/texts/instruments/english/commentaries/1\_1\_1966.pdf&lang=EF&referer=http://legal.un.org/ilc/texts/1\_1.shtml

**Recommended further readings:**

AUST, A. (2006). Vienna Convention on the Law of Treaties (1969). Max Planck Encyclopedia of Public International Law.

AUST, A. (2013). Modern treaty law and practice. Cambridge University Press.

CORTEN, O., & KLEIN, P. (Eds.). (2011). The Vienna Conventions on the Law of Treaties: a commentary (Vol. 1). Oxford Commentaries on International Law.

DÖRR, O., & SCHMALENBACH, K. (Eds.). (2018). Vienna Convention on the law of treaties. Springer.

GARDINER, R. K. (2015). Treaty interpretation. Oxford University Press, USA.

GIEGERICH, T. (2017). Treaties, multilateral, reservations to. Max Planck Encyclopedia of Public International Law

KLABBERS, J. (2010). Treaties, Object and Purpose. Max Planck Encyclopedia of Public International Law.

LINDERFALK, U. (2007). On the interpretation of treaties: the modern international law as expressed in the 1969 Vienna Convention on the Law of Treaties (Vol. 83). Springer Science & Business Media.

LINDERFALK, U. (2015). Is Treaty Interpretation an Art or a Science? International Law and Rational Decision Making. European Journal of International Law, 26(1), 169-189.

MILANOVIC, M., & SICILIANOS, L. A. (2013). Reservations to Treaties: An Introduction. European Journal of International Law, 24(4), 1055-1059.

TAMS, C. J., & TZANAKOPOULOS, A. (Eds.). (2014). Research handbook on the law of treaties. Edward Elgar Publishing.

**Case Law:**

ICJ, Case Concerning the Gabčíkovo-Nagymaros Project (Hungary / Slovakia), Judgment of 25 Sept. 1997, §§46-59; 82-115.

PCIJ, Legal Status of Eastern Greenland (Denmark v Norway), Judgment of 5th April 1933, PCIJ Series A/B No 53, ICGJ 303

ICJ, Nuclear Test Case (Australia v. France) 1974),Judgment of 20 December 1974, ICJ Reports 1974

ECtHR, Beilos v. Switzerland, App No 10328/83, 29th April 1988

ICJ, Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, 28 May 1951, ICJ Reports 1951.

ICJ, Fisheries Jurisdiction (United Kingdom of Great Britain and Northern Ireland v. Iceland), Judgment of 2 February 1973, ICJ Rep 1973

ICJ, Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, Advisory Opinion, 1950

**Other material:**

ILC, Guide to Practice on Reservations to Treaties, 2011, <http://legal.un.org/ilc/reports/2011/english/addendum.pdf>

General Comment No. 24: Issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant, Doc. CCPR/C/21/Rev. 1/Add. 6147, available at <http://www.unhchr.ch/tbs/doc.nsf/0/69c55b086f72957ec12563ed004ecf7a?Opendocument>

ILC, Draft Articles On The Law Of Treaties Between States And International Organizations Or Between International Organizations With Commentaries, available at http://legal.un.org/ilc/texts/instruments/english/commentaries/1\_2\_1982.pdf

**Main questions:**

1. Definition of an international treaty.
2. What is a multilateral treaty?
3. What role do treaties play in the international legal system?
4. What are the sources of the Law of Treaties?
5. How are international treaties formed?
6. Which organs of the state have the authority to conclude a binding international treaty?
7. What are the ways of expressing consent to be bound?
8. What is a reservation?
9. How do reservations operate?
10. Are all the reservation allowed?
11. Could a multilateral Treaty bind a third States that is not a member of the agreement?
12. What does it mean the principle “*pacta sunt servanda*”?
13. How a treaty could be interpreted?
14. When one of the state parties could suspend or terminate the treaty without the consent of the others or prior to the end of the treaty?
15. What happens in the event of a material breach?
16. How does the war condition affect international treaties?
17. How are treaties enforced?

**Lesson 4 - The relationship between PIL and Municipal Law**

1. Monist and dualist approach
2. The interplay between the PIL and Municipal law
3. Domestic implementation of Public International Law

-International customary norms in Municipal Law

-Treaties in Municipal Law

1. Automatic incorporation *v.* statuary implementation
2. Self-executing and non-self-executing PIL’s norms.
3. Municipal Law before International Courts and Tribunals

**Readings:**

* DENZA, E, (2003). The relationship between international law and national law, in Evans, M. (ed.), International Law, 2th ed. Oxford, Oxford University Press.
* ZIMNENKO, B. L. & BUTLER W. E. (2007), International Law and the Russian Legal System.Utrecht: Eleven.

**Recommended further readings:**

Старженецкий В. В. [Временное применение международного договора, противоречащего национальному праву: невозможное возможно?](https://publications.hse.ru/view/160640220) // Международное правосудие. 2015. № 3. С. 118-127.

FATIMA, S. (2005). Using international law in domestic courts. Bloomsbury Publishing.

BUERGENTHAL, T. (1992). Self-executing and non-self-executing treaties in national and international law. Martinus Nijhoff.

FELDMAN, D. (1999). Monism, dualism and constitutional legitimacy. Aust. YBIL, 20, 105.

MENDIS, D. L. (1992). The legislative transformation of treaties. Statute L. Rev., 13, 216.

WATERS, M. A. (2007). Creeping monism: The judicial trend toward interpretive incorporation of human rights treaties. Colum. L. Rev., 107, 628.

KOKOTT, J., & SOBOTTA, C. (2012). The Kadi case–constitutional core values and international law–finding the balance?. European Journal of International Law, 23(4), 1015-1024.

**Case Law:**

ICJ, The LaGrand Case (Germany v United States of America), Judgment of the 27 June 2001 ICJ Rep § 466; 19–21.

ICJ, The Case Concerning Avena and Other Mexican Nationals (Mexico v United States of America), Judgment of the 31 March 2004, ICJ Rep 12.

ICJ, Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening), Judgment of the 3 February 2012, ICJ Rep, 80-103

Court of Justice of the European Union (CJEU), Kadi v. Council of the European Union and Commission of the European Communities, decision of 3 September 2008C-402/05 P and C-415/05 P.

**Other Materials:**

GREENWOOD, C. The Relationship between International Law and Municipal Law, available at <http://legal.un.org/avl/ls/Greenwood_IL.html>

KEITH, K. J. The Role of International Law in National Law - Part I /Part II, available at [http://legal.un.org/avl/ls/Keith\_IL.html#](http://legal.un.org/avl/ls/Keith_IL.html)

**Main questions:**

1. What is the difference between the monistic and dualistic approach

2. Are PIL and municipal (national) law considerable as parts of a single

system of law, or as two different systems?

3. Are states forced to give effect to treaties within their municipal law?

4. Do customary international rules have direct effects under domestic

law?

5. Which are the methods to incorporate treaties norms into domestic legal order?

6. What are self-executing norms?

7. How non-self-executing norms could be incorporated into the domestic law

8. Does an international court have the power to order a state to change its national law?

How can rules of municipal law affect the development of PIL?

9. Is the recognition of foreign judgments subject to the same rules as those applicable to the incorporation and transformation of treaties?

10. What dimension did the Kadi judgment introduce with respect to the incorporation of UN Security Council resolutions?

**Lesson- 5 Subjects of Public International Law – State and Recognition**

1. Classification: States, International Organizations, National Liberation Movements, Individuals,
2. State as a subject of PIL: definition and the test for statehood
3. Recognition
4. Duties and powers of states
5. State jurisdiction and Sovereign Immunities
6. Principle of self-determination: internal and external
7. Minority rights
8. Succession and annexations
   * What happened to previous legal obligations?
9. National Liberation Movement (NLM)

- NLM’s International Legal personality

1. De facto states and non-recognized states
2. Puppet states
3. Failed states

**Readings:**

* SHAW, M. N. (2017), International Law, Cambridge University Press, Cambridge, United Kingdom, Chapter 5 “The Subject of International Law”, Chapter 8 “Recognition” and Chapter 16 “State Succession”
* CRAVEN, M. (2003), “States and recognition in international law”, in Evans, M. (ed.), International Law, 2th ed. Oxford, Oxford University Press.
* Montevideo Convention on the Rights and Duties of States, 26 December 1933

**Further recommended reading:**

PORTMANN, R. (2010). Legal personality in international law (Vol. 70). Cambridge University Press.

CRAWFORD, J. (2006). The creation of states in international law. Oxford University Press.

LAUTERPACHT, H. (1943). Recognition of States in International Law. Yale LJ, 53, 385.

FRENCH, D. (Ed.). (2013). Statehood and self-determination: reconciling tradition and modernity in international law. Cambridge University Press.

MCCORQUODALE, R. (2003) “The individual and the international legal system”, in Evans, M. (ed.), International Law, 2th ed. Oxford, Oxford University Press.

SUMMERS, J. (2013). Peoples and international law. Brill.

CHETAIL, V. (2013). The legal personality of multinational corporations, state responsibility and due diligence: the way forward.

MEIJKNECHT, A. K., DONDERS, Y., HENRARD, K., MEIJKNECHT, A., & TEMPELMAN, S. (1999). Are Minorities Subjects of International Law? in

Donders, Y., Henrard, K., Meijknecht, A. K., & Tempelman, S. (1999). Law and Cultural Diversity. SIM Special, (25).

BEN-ARI, R. H. (2013). The legal status of international non-governmental organizations: analysis of past and present initiatives (1912-2012). Martinus Nijhoff Publishers.

**Case Law:**

ICJ, Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania), judgment, 9 April 1949, ICJ Reports 1949. Read just the judgment itself, not the declarations attached to it.

ICJ, Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion of 22 July 2010, §§57-84. Read also the Declaration of Judge Simma

ICJ, Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion of April 1949, ICJ Reports 1949, §§174-185

ICJ, LaGrand Case (Germany v. U.S.A.), Judgment of 27 June 2001, §§13-42.

ICJ, Nottebohm (Liechtenstein v. Guatemala), judgment, 6 April 1955, ICJ Reports 1955

ICJ, Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), judgment, 14 February 2002, ICJ Reports 2002. Read paragraphs 1, 13-15, 45, 46, 51-78 and Joint separate opinion of Judges Higgins, Kooijmans and Buergenthal, at paras. 1-5, 17, 18, 19, 45-52, 70-89.

ICJ, Western Sahara Case, Advisory Opinion of 16 October 1975.

**Other Materials**

UN General Assembly, Declaration on the Granting of Independence to Colonial Countries and Peoples, 14 December 1960, A/RES/1514(XV)

Security Council, Report of the Committee on the Admission of New Members concerning the application of Palestine for admission to membership in the United Nations, 11 November 2011, S/2011/705

UN General Assembly, Status of Palestine in the United Nations: resolution / adopted by the General Assembly, 4 December 2012, A/RES/67/19

The Prosecutor of the International Criminal Court, Fatou Bensouda, opens a preliminary examination of the situation in Palestine, January 2015

UN General Assembly, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 October 1970, A/RES/2625(XXV)

United Nations General Assembly Resolution 1541 (XV) on principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73e of the Charter, 15th December 1960 (UN Doc A/RES/1541(XV)

**Main Questions**

1. What does international legal personality mean?
2. What are the criteria of statehood provided by the Montevideo Convention of 1933?
3. Why is this Convention still relevant to the definition of a state?
4. What is the recognition of a state?
5. Is recognition a determinative criterion of statehood?
6. What is the functional theory of recognition?
7. Do international organizations enjoy international legal personality in the same manner as States and?
8. What does the ICJ stated in the Bernadotte case?
9. What is a puppet states? Do they have an international legal personality?
10. Does a National liberation movement enjoy the international legal personality?
11. Do human beings enjoy international legal personality in the same manner as States and international organizations?
12. Do transnational corporations enjoy international legal personality in the same manner as States and international organizations?
13. Is recognition of governments prevalent in contemporary international practice?

**Lesson 6 - Sovereignty, Jurisdiction and Diplomatic/Consular privileges and immunities**

1. The principle of domestic jurisdiction
2. Legislative, Executive and Judicial Jurisdiction
   * civil and criminal jurisdiction
3. Territorial, Nationality, Passive Personality, Universality Principles
4. Extraterritorial Jurisdiction
5. Extraterritorial Jurisdiction and Human Rights Treaties
6. Immunities: definitions, types and functions
7. Sovereign Immunity
8. Absolute v. Restrictive approach
9. Jure gestionii v. Jure imperii
10. State immunity and the violations of human rights
11. Organs of the state covered by immunities
12. Diplomatic immunity: sources, privileges, property, personal
13. Diplomatic representation: opening, composition, functions, termination of activities, privileges, and immunities.
14. Personnel of a diplomatic mission: the concept, composition, beginning, and termination of functions, immunities, and privileges.
15. Permanent missions of states with international organizations.
16. Special missions, state representations at international organizations, headquarters, and international organizations.
17. Consular immunity and privileges: concept and source
18. Consular headquarter, archives and properties.

**Readings:**

* SHAW, M. N. (2017), International Law, Cambridge University Press, Cambridge, United Kingdom, Chapter 11 “Jurisdiction”, Chapter 12 “Immunities from Jurisdiction” and Chapter 16 “State Succession”
* WICKREMASINGHE, C. (2003) “Immunities enjoyed by officials of states and international organizations”, in Evans, M. (ed.), International Law, 2nd ed. Oxford, Oxford University Press.

**Recommended further readings:**

Fox H., Webb Ph. (2015) The Law of State Immunity. 3rd ed. Oxford: Oxford University Press.

Старженецкий В. В. [ЭВОЛЮЦИЯ ИНСТИТУТА ЮРИСДИКЦИОННЫХ ИММУНИТЕТОВ ГОСУДАРСТВ: РАВНЫЙ НАД РАВНЫМ ВЛАСТЬ ИМЕЕТ?](https://publications.hse.ru/view/142034183) // Международное правосудие. 2014. № 4. С. 123-140.

Старженецкий В. В. [Юрисдикционные иммунитеты иностранных государств в контексте признания и приведения в исполнение решений международных инвестиционных арбитражей](https://publications.hse.ru/view/212705078) // Вестник экономического правосудия Российской Федерации. 2017. № 12. С. 60-79.

BROHMER, J. (2000). Immunity of a Former Head of State General Pinochet and the House of Lords: Part Three. LJIL, 13, 229.

AKANDE, D. (2013). Immunity of Consular Officials-The Arrest by the US of an Indian Deputy Consul-General, EJIL Talk, (available at http://www.ejiltalk.org/immunity-of-consular-officials-the-arrest-by-the-us-of-an-indian-deputy-consul-general

**Case Law:**

PCIJ, The Lotus Case (France v. Turkey) judgment of 7 September 1927, Series A - No. 10; Collection of Judgments, A.W. Sijthoff’s Publishing Company, Leyden, 1927.

ICJ, United States Diplomatic and Consular Staff in Tehran (United States v. Iran), Judgment of 24 May 1980, <http://www.icj-cij.org/icjwww/icases/iusir/iusirframe.htm>

ICJ, Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening), judgment of 3rd February 2012, ICJ Reports.

Special Court for Sierra Leone, Prosecutor v. Charles Taylor, Decision on Immunity 2004.

UKSC, Julian Assange v Swedish Prosecution Authority (2012)

**Main questions:**

1. What does it means “jurisdiction to prescribe” and “jurisdiction to enforce”?
2. List and explain the most commonly asserted based on jurisdiction
3. How has the doctrine of Foreign sovereign immunity evolved?
4. What does extraterritorial jurisdiction mean?
5. What does *jure imperii* mean?
6. What does *jure gestionis* mean?
7. What are the main sources of Diplomatic Law?
8. How is the composition and functions of a diplomatic mission?
9. List the privileges and immunities of the diplomatic mission and its staff.
10. What are the functions of a Consul and of a Consular office?
11. What are the sources of Consular Law?
12. Why are the consular privileges and immunities different from the diplomatic privileges and immunities?

**Lesson 7 - Territory and borders**

1. Classification of territories in accordance with international law
2. The concept of territory in PIL
3. Territorial sovereignty
4. State border
5. Settlement of border disputes
6. Acquisition and loss of state territory
7. Effective control
8. Territorial integrity, self-determination
9. *Uti possidendis*
10. The jurisdiction of the state and its limitations
11. Border and international rivers
12. International channels: the legal regime
13. The law of outer space
14. The legal regime of the Arctic: the concepts of “Arctic” and “ Arctic States”
15. The “sectoral principle”
16. Problems of delimitation of the continental shelf of the Arctic ocean
17. Features of the regime of navigation in the Arctic ocean
18. Antarctica: legal status and use.
19. Preservation of the Antarctica ecosystem.

**Readings:**

* SHAW, M. N. (2017), International Law, Cambridge University Press, Cambridge, United Kingdom, Chapter 10 “Territory”
* SAUL, B. AND STEPHENS, T.( 2014). Introduction in ‘Antarctic in International Law’, Sydney Law School Research Paper No. 14/24. Available at SSRN: <https://ssrn.com/abstract=2403587>

**Recommended further readings:**

VIDMAR, J. (2015) The Annexation of Crimea and the Boundaries of the Will of the People, 16 German Law Journal No. 3 Available at http://www.germanlawjournal.com/volume-16-no-03/

CATALA, A. (2015) Secession and Annexation: The Case of Crimea, Available at 16 German Law Journal No. 3 http://www.germanlawjournal.com/volume-16-no-03/

BANAI, A. (2015) Territorial Conflict and Territorial Rights: The Crimean Question Reconsidered, 16 German Law Journal No. 3 Available at <http://www.germanlawjournal.com/volume-16-no-03/>

FRANCK, T. M. (1992) The emerging right to democratic governance. AJIL, 86 46.

SHAW, M. N. (1996) The heritage of states: the principle of uti possidetis juris today. BYIL, 67: 75.

WELLER, M. (2009) Settling self-determination conflicts: recent developments. EJIL, 20: 111.

ROTHWELL, D. R.(2012), Polar Opposites: Environmental Discourses and Management in Antarctica and the Arctic. ENVIRONMENTAL DISCOURSES IN PUBLIC AND INTERNATIONAL LAW, Brad Jessup and Kim Rubenstein, eds, Cambridge University Press, 2012; ANU College of Law Research Paper No. 12-08. Available at SSRN: <https://ssrn.com/abstract=2024652>

BURLESON, E. (2011), Polar Law and Good Governance. Routledge Handbook Of International Environmental Law, Alam, Bhuiyan, Chowdhury, Techera, eds., Routledge, 2012. Available at SSRN: <https://ssrn.com/abstract=1884599>

HEMMINGS, A. D. AND STEPHENS, T. (2009). Reconciling Regional and Global Dispensations: The Implications of Subantarctic Extended Continental Shelf Penetration of the Antarctic Treaty Area, New Zealand Yearbook of International Law, 2009; Sydney Law School Research Paper No. 09/68. Available at SSRN: <https://ssrn.com/abstract=1437273>

**Case Law:**

Permanent Court of Arbitration (PCA), Island of Palmas Case (United States v. Netherlands), final award 4 April 1928, 22 AJIL 867

PCIJ, Legal Status of Eastern Greenland (Denmark v Norway), Judgment of 5th April 1933, PCIJ Series A/B No 53, ICGJ 303

ICJ, Frontier Dispute (Burkina Faso v Mali), Provisional Measures, Order 10th January 1986, ICJ Rep 3, ICGJ 114 (ICJ 1986)

ICJ, Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004.

**Main questions:**

1. What are the modes of territorial acquisition?
2. What are the necessary elements of an occupation?
3. Is annexation a lawful mode of territorial acquisition?
4. What does the principle of *uti possidetis* provide for?
5. Which is the legal regime applicable to Arctic region?
6. Which are the agreements that regulate the status of the different states over the Arctic regions?
7. What is the legal regime of the international channels?

**Lesson 8 - International and regional organizations**

1. Concept and classification of international organizations
2. Nature of the IGOs legal personality
3. Creation and termination of IGOs
4. Membership in IGOs: entry and exit procedures, exclusion from membership, suspension of membership
5. Functions and competence of an international organization
6. Structure of the international organization/ Immunities of IGOs and its officers
7. UN: history, objectives and basic principles of activity, main bodies and their competence, membership
8. UN specialized agencies
9. Council of Europe: history, main bodies, areas of activity
10. OSCE: history, main bodies, areas of activity, peacekeeping operations
11. CIS: history, principal organs, directions, major issues
12. European Union: history, structure, competence. Sources of European Union law/African Union: history, main bodies, activities
13. OAS: history of establishment, main bodies, activities
14. Eurasia Economic Union: history of establishment, main bodies, activities
15. ASEAN/ MERCOSUR/Shanghai Cooperation Organization: history, principal organs, functions
16. CSTO: history, principal organs, functions
17. NATO: history, main bodies, areas of activity
18. The legal status of an international organization and its employees
19. Legal status of permanent missions, observer missions of States to international organizations and their staff
20. International conferences: concept, preparation and convening, rules of procedure and decision-making, types of acts of international conferences and their legal significance.

**Readings:**

* SHAW, M. N. (2017). International Law. Cambridge, United Kingdom; New York, Cambridge University Press. Chapter 22 The United Nations and Chapter 23 International Institutions
* MAGLIVERAS, K. D. (2011). Membership in international organizations. Research Handbook on the Law of International Organizations, 84-10 available at <https://www.academia.edu/5757960/Research_Handbook_on_the_Law_of_International_Organizations_Edited_by>
* GUZMAN, A. (2013). International organizations and the Frankenstein problem. European Journal of International Law, 24(4), 999-1025.

**Further recommended reading:**

SIMMA, B., MOSLER, H., PAULUS, A., & CHAITIDOU, E. (Eds.). (2002). The Charter of the United Nations: a commentary (Vol. 1). Oxford: Oxford University Press.

ZIMMERMANN, A., TOMUSCHAT, C., OELLERS-FRAHM, K., & TAMS, C. J. (Eds.). (2012). The Statute of the International Court of justice: A commentary. Oxford University Press.

KLABBERS, J., & WALLENDAHL, A. (Eds.). (2011). Research handbook on the law of international organizations. Edward Elgar Publishing.

AUST, A. (2010). Handbook of international law. Cambridge University Press., Chapter 23 The European Union

CRAIG, P., & DE BÚRCA, G. (2011). EU law: text, cases, and materials. Oxford University Press.

CRAIG, P., & DE BÚRCA, G. (Eds.). (2011). The evolution of EU law. OUP Oxford.

**Main Questions:**

Define and explain what is an IGO and which are its essential elements?

What is a regional organization, definition and features?

Does an IGO have the same legal personality of a state?

What is the role of the UN? What are the main functions of the UNGA?

Which are the main organs of the UN?

Describe the historical evolution of the EU

What are the duties and tasks of the OSCE?

What is the COE? Are the decisions of the ECtHR binding for the member states?

What is the CSTO?

What does the art. 5 of the NATO provide for?

**Lesson 9 and 10 - International law and the Use of Force**

1. The historical evolution of the principle of prohibition of use of force
2. Scope of the prohibition and its legal nature
3. The collective security system of the UN.
4. The terms “use of force “and “threat of use of force”.
5. The horizontal exception to the prohibition: The right to individual and collective self-defense.
6. The essential requirements of te self-defense
7. The concept of “preventive self-defense” and preemptive self-defense
8. The notion of aggression in international law.
9. The vertical exceptions to the prohibition: the UN charter framework and practice
10. Noncoercive measures
11. Coercive measures
12. UN SC Authorization
13. Peace-keeping missions
14. Peace enforcing missions
15. Nation-building missions
16. The invasion of Kuwait (1990) and Iraq (2003)
17. *Humanitarian intervention* and *responsibility to protect*: concept, definition, sources and applicable law.
18. Collective security within the framework of regional defensive international organizations.
19. Disarmament: the legal framework.
20. The issue of nuclear disarmament. The reduction and elimination of strategic offensive arms.
21. The problem of the prohibition and destruction of nuclear weapons. International legal regulation of nuclear-weapon tests. The non-proliferation of nuclear weapons.
22. Prohibition and elimination of weapons of mass destruction.

**Readings:**

United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI: Article 2(3), 2(4), 51, 24, 25, Chapters VI, VII, and VII

Dinstein, Y. (2017). War, aggression, and self-defense. Cambridge University Press.

Focarelli, C. (2008). The Responsibility to Protect Doctrine and Humanitarian Intervention: Too Many Ambiguities for a Working Doctrine. Journal of Conflict and Security Law, 13(2), 191–213. Gray*,* C., “The Use Of Force And The International Legal Order”, in Evans M.D., International Law. 4th Ed. Oxford, 2014.

Gardam J. Necessity, Proportionality and the Use of Force by States. Cambridge, 2011.

Kretzmer D. The Inherent Right to Self- defense and Proportionality in Jus Ad Bellum // EJIL. 2013. - N1. <Http://www.ejil.org/pdfs/24/1/2380.pdf>

Orakhelashvili, A. (2011). Collective security. Oxford: Oxford University Press.

Christopher Greenwood. (1987). The Concept of War in Modern International Law. The International and Comparative Law Quarterly, 36(2), 283–306.

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**Recommended further readings:**

SIMMA, B., MOSLER, H., PAULUS, A., & CHAITIDOU, E. (Eds.). (2002). The Charter of the United Nations: a commentary (Vol. 1). Oxford: Oxford University Press.

Mallard G., Crafting the Nuclear Regime Complex (1950–1975): Dynamics of Harmonization of Opaque Treaty Rules // EJIL. 2014. Vol. 25. N 2. Http://ejil.org/pdfs/25/2/2496.pdf

Waxman M.C. Regulating Resort to Force: Form and Substance of the UN Charter Regime // EJIL. 2013. N1. Http://www.ejil.org/pdfs/24/1/2376.pdf

Akande, D. (n.d.). EJIL: Talk! – What Exactly was Agreed in Kampala on the Crime of Aggression? Retrieved from http://www.ejiltalk.org/what-exactly-was-agreed-in-kampala-on-the-crime-of-aggression/

Alexandrov, S. A. (1996). Self-defense against the use of force in international law (Vol. Developments in international law). The Hague: Kluwer Law International.

Bannon, Alicia L. (2005). Responsibility to Protect: The U.N. World Summit and the Question of Unilateralism, The, 115.

BIANCHI, A. (2009). The International Regulation of the Use of Force: The Politics of Interpretive Method. Leiden Journal of International Law, 22(04).

Blokker, N. (1AD). Is the authorization authorized? Powers and practice of the UN Security Council to authorize the use of force by ‘coalitions of the able and willing’. European Journal of International Law, 11(3).

Buchan. (1AD). Cyber Attacks: Unlawful Uses of Force or Prohibited Interventions? Journal of Conflict and Security Law, 17(2), 212–227.

Byers, M. (2003). Preemptive Self-defense: Hegemony, Equality and Strategies of Legal Change. Journal of Political Philosophy, 11(2), 171–190.

Byers, Michael. (1AD). The Shifting Foundations of International Law: A Decade of Forceful Measures against Iraq. European Journal of International Law, 13(1).

Campbell, B., & Moraitis, C. (2003). Memorandum of advice to the Commonwealth government on the use of force against Iraq. Melbourne Journal of International Law, 4(1), 178-183.

Chesterman, S. (2013). Syria deal no utopia for international law.

Christopher C. Joyner. (1984). Reflections on the Lawfulness of Invasion. The American Journal of International Law, 78(1), 131–144.

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**Case Law:**

Case Concerning Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America); Merits, International Court of Justice (ICJ), 27 June 1986

ICJ, Oil Platforms Case (Islamic Republic of Iran v. United States of America), Judgment of 12 December 1996

ICJ, Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania), judgment, 9 April 1949, ICJ Reports 1949

ICJ, Case Concerning Armed Activities on the Territory of the Congo (DRC v Uganda), judgment of 19 December 2005

ICJ, Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of 8 July 1996 §§64-79; 98-102.

ICJ, Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, §§36-50; 59-65

UN General Assembly, Implementing the responsibility to protect: report of the Secretary-General, 12 January 2009, A/63/677

AG Goldsmith’s Advice on Iraq: 14 January 2003. (n.d.). Retrieved from http://www.iraqinquiry.org.uk/media/46493/Goldsmith-draft-advice-14January2003.pdf

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**Main questions:**

Describe the historical path of the principle of prohibition of the use of force.

What does the UN Charter provide for the use of force?

Are there some exceptions to the prohibition of force?

When is the use of force in self-defense justified?

Is the preventive self-defense lawful?

Which is the difference between the preventive self-defense and the preemptive self-defense?

What does the art 41 of the UN Charter provide?

Explain in what consist and which are the source and the law applicable to the peace-keeping mission?

Could a regional defensive organization use the force outside the authorization of the UN SC?

Could the UN delegate the use of force to a state or a coalition of states?

Is the use of force for humanitarian intervention permitted under PIL?

Is the use of force for regime change permitted under PIL? Should it be?

**Lesson 11- The Peaceful settlement of international disputes**

1. The notion of international dispute.
2. Negotiation, Good offices, and mediation: definition and man features
3. Inquiry: definition and man features
4. Conciliation Commission: definition and man features
5. International Arbitration: historical background, definition and procedure
6. The Permanent Court of Arbitration and the other arbitration Courts
7. UN International Court of Justice: composition, competence, jurisdiction, procedure, types of decisions and legal force.
8. International Tribunal for the Law of the Sea.

**Readings:**

* United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI: Article 2(3), 33, 92 – 96.
* United Nations, Statute of the International Court of Justice, 18 April 1946: Article 34, 35, 36, 41, 59, 65 and 66.
* SHAW, M. N. (2017). International Law. Cambridge, United Kingdom; New York, Cambridge University Press, Chapter 17 “The settlement of disputes by peaceful means” and Chapter 18 “International Court of Justice”

**Recommended further readings:**

COLLIER, J. AND LOWE, V. (1999) The Settlement of Disputes in International Law. Oxford: Oxford University Press.

ODA, S. (2000) The compulsory jurisdiction of the International Court of Justice: A Myth? ICLQ, 49: 251.

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[REISMAN, W.M. & ARSANJANI M.H., (2017) “Legal Decisions and their Implementation in International Law”, in J. Crawford (et al.) (eds.), The International Legal Order: Current Needs and Possible Responses: Essays in Honour of Djamchid Momtaz, Leiden, Brill Nijhoff, pp. 149-161.](http://www.ppl.nl/link.php?num=412462850)

Crawford, J., Koroma, A., Mahmoudi, S., & Pellet, A. (Eds.). (2017). The International Legal Order: Current Needs and Possible Responses: Essays in Honour of Djamchid Momtaz. Brill.

Wolfrum, R., & Gätzschmann, I. (Eds.). (2012). International dispute settlement: room for innovations?. Springer Science & Business Media.

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[Schabas, W.A., and S. Murphy (eds.), Research Handbook on International Courts and Tribunals, Cheltenham, Edward Elgar Publishing, 2017.](http://www.ppl.nl/link.php?num=408342714)

**Case Law:**

ICJ, Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947, Advisory Opinion of 26 April 1988, §§33-58

ICJ, Certain questions of mutual assistance (Djibouti v. France) Judgment of 4 June 2008

ICJ, Case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment of 26 February 2007, §§80-113; 121-141

ICJ, Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, §§36-50; 59-65

**Main questions:**

1. Is it compulsory for the states to settle their dispute peacefully?
2. What is the difference between negotiation, good offices and mediation?
3. What are the duties and task of a conciliation commission?
4. How did the ICJ obtain the jurisdiction to decide disputes between the states?
5. What is the difference between arbitration and judicial settlement?
6. Why do states sometimes prefer to settle their disputes through arbitration and not through judicial settlement?

**Lesson 12 - State responsibility for internationally wrongful acts**

1. Nature of International responsibility
2. Sources and the historical evolution
3. The elements of state responsibility
4. Attribution of conduct to state
5. Circumstances precluding wrongfulness
6. Invoking state responsibility
7. The consequences of internationally wrongful acts
8. Cessation
9. Reparation
10. Serious breaches of peremptory norms (*jus cogens*)
11. Diplomatic protection and nationality of claims
12. The expropriation of foreign property: public purposes and compensation
13. Bilateral investment treaties
14. Lump-sum agreements
15. The Multilateral Investment Guarantee Agency
16. The responsibility of international organizations for wrongful acts

**Readings:**

* SHAW, M. N. (2017). International Law. Cambridge, United Kingdom; New York, Cambridge University Press, Chapter 14 “State responsibility”
* International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement No. 10 (A/56/10)

# ILC, Draft Articles on the Responsibility of International Organizations, 3rd June 2011 (UN Doc A/CN.4/L.778)

**Recommended further readings:**

CRAWFORD, J. (2002). The ILC’s articles on responsibility of states for internationally wrongful acts: a retrospect. American Journal of International Law, 96(4), 874-890.

JINKS, D. (2003). State responsibility for the acts of private armed groups. Chi. J. Int'l L., 4, 83.

CRAWFORD, J. (2013). State responsibility: the general part (Vol. 100). Cambridge University Press.

CRAWFORD, J. (2001). Responsibility to the International Community as a Whole. Indiana Journal of Global Legal Studies, 303-322.

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PROULX, V. J. (2007). Ragazzi, M. (ed.). International Responsibility Today: Essays in Memory of Oscar Schachter; Santiago Villalpando. L'emergence de la communaute internationale dans la responsabilite des Etats. European journal of international law= Journal europeen de droit international, 18(3), 581-590.

Case Law:

ICJ, Case concerning the United States Diplomatic and Consular Staff in Teheran (U.S.A. v. Iran), Judgment of 24 May 1980, §§60-95

ICJ, ‘Genocide Case’, Judgment of 26 February 2007, §§379-407.

ICJ, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, hereafter ‘Wall Case’, Advisory Opinion of 9 July 2004, §§70-80; 114-124; 132-163

Case Concerning the Difference between New Zealand and France Concerning the Interpretation or Application of two Agreements, concluded on 9 July 1986 between the Two States and which Related to the Problems Arising from the Rainbow Warrior Affair, 20 R.I.A.A. 215 (1990)

ICJ, Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania), judgment, 9 April 1949, ICJ Reports 1949.

ICJ, Case Concerning the Gabčíkovo-Nagymaros Project (Hungary / Slovakia), Judgment of 25 Sept. 1997, §§49-58, 82-87, 148-154

**Main questions:**

What is an 'internationally wrongful conduct'?

When an action can be attributed to a state?

Who are 'de facto' organs of a state?

What is a breach of an international obligation?

Are there some excuses that justify the wrongful State conduct?

What are the circumstances of precluding wrongfulness?

Is a valid consent a circumstance precluding the wrongfulness of a State conduct?

When a State may lawfully invoke necessity as a circumstance precluding wrongfulness?

Are countermeasures legal?

Are there some remedies that a state must enact?

What forms may the obligation of reparation take?

What does compensation mean?

Which state can invoke the responsibility of the culprit State?

In which cases may a non-injured State invoke the responsibility of the culprit State?

Define obligation *erga omnes*

What does the “Barcelona Tractions” case establish?

**Lesson 13 - International protection of human rights**

1. Definition of International Human Rights Law.
2. Human rights in the history of political-legal thought.
3. Historical background
4. First, Second and Third Generations of human rights.
5. Universality of human rights v. «Cultural relativism».
6. Nature and structure of human rights.
7. Positive and negative obligations.
8. Absolute rights
9. Derogation and restrictions from obligations on human rights protection
10. «International Bill of Human Rights».
11. Structure of international treaties on human rights.
12. Reservations regime to human rights treaties.
13. The relationship between International Human Rights Law and municipal law.
14. The relationship between International Human Rights Law and International Humanitarian Law.
15. Responsibility for human rights violations.
16. “responsibility to protect” (R2P).
17. International Human Rights Bodies.
18. Protection of human rights by main UN bodies: the General Assembly, the Security Council, the ECOSOC, and the ICJ.
19. The UN Human Rights Council: history of creation, members, competence. Universal periodic review. Special procedures. The Advisory Committee. Expert Mechanism on the Rights of Indigenous Peoples. Forum on Minority Issues. Social Forum. Complaints procedure.
20. UN treaty-based bodies on human rights: history of creation, members, competence. Human Rights Committee (CCPR). Committee on Economic, Social and Cultural Rights (CESCR). Committee on the Elimination of Racial Discrimination (CERD). Committee on the Elimination of Discrimination against Women (CEDAW). Committee against Torture (CAT). Subcommittee on Prevention of Torture (SPT). Committee on the Rights of the Child (CRC). Committee on Migrant Workers (CMW). Committee on the Rights of Persons with Disabilities (CRPD). Committee on Enforced Disappearances (CED).
21. UN High Commissioner on Human Rights.
22. The regional protection of Human Rights:

* The Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention of Human Rights)
* European Court of Human Rights: composition and structure, competence, procedure, criteria for admissibility of individual complaints, types and legal force of decisions. The decisions of the ECHR
* The American system for the protection of human rights
* The African system of human rights protection/Protection of the rights of women and children/Protection of the rights of national minorities/Protection of refugees ' rights/ Diplomatic Protection/Protection of human rights in armed conflict.

**Readings:**

* SHAW, M. N. (2017). International Law. Cambridge, United Kingdom; New York, Cambridge University Press. Chapters “The International Protection of Human Rights” and “The Regional Protection of Human Rights”
* United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI: Article 55-56
* UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III)
* UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171
* Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5

**Recommended further readings:**

LEVIN, L. S. (2012). Human rights: Questions and answers. Unesco.

SHEERAN, S., & RODLEY, N. (EDS.). (2014). Routledge handbook of international human rights law. Routledge.

KAMMINGA, M. T., & SCHEININ, M. (Eds.). (2009). The impact of human rights law on general international law (p. 84). Oxford University Press.

THEODOR, M. (2006). The Humanization of International Law. The Hague Academy of International Law.

FREEMAN, M. (2011). Human Rights: An Interdisciplinary Approach. 2d ed. Key Concepts. Cambridge, UK: Polity.

STEINER, H. J., ALSTON, P., & GOODMAN, R. (2008). International human rights in context: law, politics, morals: text and materials. Oxford University Press, USA.

MÄLKSOO, L. (2016). Russia’s Constitutional Court Defies the European Court of Human Rights: Constitutional Court of the Russian Federation Judgment of 14 July 2015, No 21-П/2015. European Constitutional Law Review, 12(2), 377-395.

MÄLKSOO, L. (2014). Russia and European human-rights law: the rise of the civilizational argument. Martinus Nijhoff Publishers.

**Case Law:**

ICJ, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, hereafter ‘Wall Case’, Advisory Opinion of 9 July 2004, §§70-80; 114-124; 132-163

**Other materials**:

UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3

UN General Assembly, Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: resolution / adopted by the General Assembly, 5 March 2009, A/RES/63/117

UN General Assembly, Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty, 15 December 1989

UN General Assembly, Declaration on the Right to Development: resolution / adopted by the General Assembly, 4 December 1986, A/RES/41/128

UN Human Rights Committee (HRC), CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), 10 March 1992

UN Human Rights Committee (HRC), CCPR General Comment No. 23: Article 27 (Rights of Minorities), 8 April 1994, CCPR/C/21/Rev.1/Add.5

UN Human Rights Committee (HRC), CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency, 31 August 2001, CCPR/C/21/Rev.1/Add.11

UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990, E/1991/23

**Main questions:**

What is the “International Bill of Human Rights”?

2. What contribution do the main UN bodies make to the protection of human rights?

3. What are the competencies of the UN Human Rights Council?

4. what is the “universal periodic review”?

5. List the human rights convention bodies under the auspices of the UN.

6. What are the competencies of the European Court of Human Rights?

8. What are the admissibility criteria for lodging individual complaints in front of the ECHR?

9. How is the European Convention for the Protection of Human Rights and Fundamental Freedoms implemented in the Russian Federation?

12. What is the international legal status of refugees?

13. What is meant by political asylum?

15. How are human rights protected in armed conflict?

**Lesson 14 - International humanitarian law**

1. Historical background of the International humanitarian law
2. The law of armed conflict and the Geneva Law
3. International humanitarian law: sources.
4. International armed conflict and non international armed conflict
5. waging war
6. The principles of IHL: distinction, proportionality, humanity, necessity
7. Combatants, civilians, levee en mass.
8. The status of volunteers, partisans, parliamentarians, military intelligence officers, spies, and mercenaries.
9. Prohibited means and methods of warfare. The concept of “military object.” The principle of proportionality and precautionary measures.
10. Neutrality in war: the concept and types of neutrality, the rights, and obligations of neutral and belligerent states in relation to each other. Neutrality and non-belligerent states. Military smuggling, prizes, trophies.
11. International legal protection of victims of war.
12. The regime of military captivity. Internment.
13. The regime of military occupation
14. Protection of civilians and civilian objects
15. Protection of cultural property during armed conflicts.
16. Ways of ending the war and its international legal consequences.
17. emerging problems: terrorism, cyberwar and autonomous weapons
18. The ratio of international humanitarian law and International Human Rights Law.

**Readings:**

* ICRC (2015), International Humanitarian Law: Answers to your Questions, available at https://www.icrc.org/en/publication/0703-international-humanitarian-law-answers-your-questions
* RUSINOVA V.N. The theory of correlation between the norms of international humanitarian law and International Human Rights Law // Law. Journal of Higher School of Economics. 2014. № 1.
* KOLB, R. (2014). Advanced introduction to international humanitarian law. Edward Elgar Publishing.
* KOLB, R., & GAGGIOLI, G. (2013) (Eds.) Research handbook on human rights and humanitarian law. Edward Elgar Publishing.

**Recommended further readings:**

PICTET, J. S. (1985). Development and principles of international humanitarian law: course given in July 1982 at the University of Strasbourg as part of the courses organized by the International Institute of Human Rights (Vol. 2). Martinus Nijhoff Publishers.

FLECK, D., BOTHE, M., & FISCHER, H. (Eds.). (1999). The handbook of humanitarian law in armed conflicts. Oxford University Press, USA.

PROVOST, R. (2002). International Human Rights and Humanitarian Law (Cambridge Studies in International and Comparative Law). Cambridge: Cambridge University Press.

RUSINOVA V.N. Human rights in armed conflicts: problems of the relationship between international humanitarian law and International Human Rights Law. M., 2015.

GOLDSMITH, J. (2013). How cyber changes the laws of war. European Journal of International Law, 24(1), 129-138.

BOTHE, M. (2013). The handbook of international humanitarian law. Oxford University Press.

WOLFRUM, R., & FLECK, D. (1995). Enforcement of international humanitarian law. The handbook of humanitarian law in armed conflicts. Oxford University Press, Oxford, 517-550.

**Case Law:**

International Criminal Tribunal for the former Yugoslavia (ICTY), Prosecutor v. Dusko Tadic (Appeal Judgement), IT-94-1-A, 15 July 1999

ICJ, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, hereafter ‘Wall Case’, Advisory Opinion of 9 July 2004, §§70-80; 114-124; 132-163

**Main questions:**

1. Describe the historical background of IHL
2. Which is the difference between the Law of International Armed Conflict and the Geneva Law?
3. List the main sources of International Humanitarian Law.
4. What is the III Geneva Convention about?
5. What are the basic principles of International Humanitarian Law?
6. What conflicts are qualified as “armed conflicts of an international character”?
7. What norms are applicable to “non-international armed conflict” ?
8. Give the definition of “theater of war” and “theater of military operations.”
9. Explain in what consists the principle of distinction
10. Combatants, civilians, and *hors de combat* who is protected under the IV Geneva Convention?
11. What does levee en mass mean?
12. What are considered as a prohibited means and methods of warfare?
13. Expand the concept of “military object.”
14. What is the content of the principle of proportionality in international humanitarian law?
15. What precautions should be taken by parties to an armed conflict?
16. What is meant by neutrality in the war? Expand the rights and obligations of neutral and belligerent states in relation to each other.
17. What is the status of “war victims”?
18. What is the content of the military occupation regime?
19. What norms are devoted to the protection of cultural property during armed conflicts?
20. What are the ways to end the war and what international legal consequences does it entail?
21. What are the features of the international legal regulation of non-international armed conflicts?
22. How do the norms of international humanitarian law and International Human Rights Law correlate?

**Lesson 15 - International Criminal Law**

1. International Criminal Law: definition and functions
2. Historical background of the International Criminal Law
3. The Nuremberg and Tokyo processes
4. International Crimes: concept and general features
5. War Crimes, Crimes against Humanity, Genocide, Aggression.
6. International criminal court: history, structure, competence, admissibility of cases and situations, principles of operation, pretrial proceedings and judicial proceedings, appeal and review of decisions, cooperation with States, enforcement of sentences.
7. ICTY, ICTR and the Special Tribunals: history and procedure, structure, competence, enforcement of sentences.
8. Extradition: extraditable offenses, legal grounds, and conditions for extradition.
9. International criminal police organization (Interpol): goals, objectives, activities.
10. Universal Jurisdiction
11. Piracy: the oldest crimes and the new methods of fighting
12. Combating terrorism
13. Fighting drug trafficking and psychotropic substances.
14. Combating Human smuggling and slavery in modern times.

**Readings:**

* GAETA, P. (2010), International Criminal Law, in Cali, Başak. International Law for International Relations. Oxford, UK: Oxford University Press. Available at <http://graduateinstitute.ch/files/live/sites/iheid/files/sites/international_law/users/vessier9/public/Gaeta%20-%20International%20criminal%20law.pdf>
* DINSTEIN Y. (2012). Aggression, Max Planck Encyclopedia of Public International Law available at <http://www.ius.bg.ac.rs/prof/materijali/jovmio/primeri%20metoda/Dinstein,%20Aggression.pdf>
* Rome Statute of the International Criminal Court, A/CONF.183/9, 17 July 1998, available at <http://legal.un.org/icc/statute/99_corr/cstatute.htm>

**Recommended further readings:**

Harvard International Law Journal (Spring 2017), Symposium on the illicit use of force and the crime of aggression, Vol. 58 available at <http://www.harvardilj.org/wp-content/uploads/ILJ_Online_2017_Symposium__FINAL.pdf>

Bassiouni, M. C. (2012). Introduction to international criminal law. Brill.

Shabas, W. (2010) The International Criminal Court: A Commentary on the Rome Statute, Oxford: Oxford University Press, lxx, 1,259 pp.

Shabas, W. (2011) Introduction to the International Criminal Court, 4th ed., Cambridge: Cambridge University Press, 2011, xiii, 579 pp.

Shabas, W. (2000) Genocide in International Law, Cambridge: Cambridge University Press, 2000, xvi, 624 pp.

Bassiouni, M C, Leila N. Sadat, and Michael P. Scharf (2008). The Theory and Practice of International Criminal Law: Essays in Honor of M. Cherif Bassiouni. Leiden: Martinus Nijhoff, available at <http://mcherifbassiouni.com/wp-content/uploads/Essays-in-Honour-of-MCB.pdf>

**Other Material:**

K. Riordan, Basic Ideas About International Criminal Law, UN audiovisual Library, available at <http://legal.un.org/avl/ls/Riordan_CLP.html>

**Main questions:**

1. Describe the historical evolution of the International Criminal Court.
2. Why the Nuremberg and Tokyo process have been criticized?
3. What are the essential elements of international crimes?
4. Is there some temporal limitation that the court must respect for having jurisdiction over crimes?
5. What are the features of the crimes against peace?
6. What are the features of war crimes?
7. What is a genocide? And what are its essential features?
8. What are the criticalities and limitations related to the crime of aggression?
9. What is the International Criminal Court?
10. What are the main competence and functions of the ICC?
11. Why is it different from the ICTY and ICTR?
12. What about terrorism and drug trafficking?
13. Which was the first Court that prosecutes sexual crimes?
14. Will victims be entitled to compensation?
15. Can a citizen from a country that is not a party to the agreement establishing the ICC be prosecuted?
16. Will the Court violate international law by having jurisdiction over members of national forces or of peacekeeping missions?
17. To whom is the Court accountable? And how will this affect its independence?

**Lesson 16 - International Economic Law**

1. Definition of international economic law
2. historical background of International economic law
3. Sources of international economic law
4. International actors and international financial institutions
5. Basic principles of International Economic Law: most favored nation treatment, preferential, reciprocity, non-discrimination.
6. The World Bank Group: historical background, structure, functions of the single bodies, competence and decision-making
7. WTO: historical background, the institutional setting, the normative principles and standards
8. WTO: dispute settlement mechanisms
9. International investment law: background and sources
10. Definition of investment and investor
11. Standards of treatment of foreign investments
12. Dispute settlement – umbrella clauses
13. Legal consequences and reparation in international investment law
14. International investment protection and public concerns

**Readings:**

* Andreas Lowenfeld, International Economic Law, Second Edition, Oxford University Press, Oxford, 2008, Chapters 3 - 13 and 15 – 17;
* Tanzi, Cristani (2013) (eds.), International Investment Law and Arbitration: an Introductory Casebook, CEDAM.

**Recommended further readings:**

SHAN, WENHUA, (2012) (ED.). The legal protection of foreign investment: A comparative study. Hart.

GAZZINI, T. (2016). Interpretation of international investment treaties. Bloomsbury Publishing.

LALANI, S., & LAZO, R. P. (Eds.). (2014). The role of the state in investor-state arbitration. Martinus Nijhoff Publishers.

Huerta-Goldman, J. A., Romanetti, A., & Stirnimann, F. X. (Eds.). (2013). WTO litigation, investment arbitration, and commercial arbitration. Kluwer Law International.

DING, JIEYING (2015). "Enforcement in International Investment and Trade Law: History, Assessment, and Proposed Solutions." Geo. J. Int'l L. 47: 1137.

SHAN, W., & SU, J. (Eds.). (2014). China and international investment law: twenty years of ICSID membership. Martinus Nijhoff Publishers.

HERDEGEN, M. (2016). Principles of international economic law. Oxford University Press.

**Main questions:**

1. How do we define international economic law?
2. What is the subject of regulation of international Economic Law?
3. What are the sources of international Economic Law?
4. Describe the historical background of the World Bank Group
5. What is the composition of the World Bank group?
6. How is lead the decision-making process within the World Bank Group?.
7. What is the jurisdiction and jurisdiction of the International Center for the Settlement of Investment Disputes?
8. What are the duties of the International Monetary Fund?
9. What is the WTO?
10. Describe the features of the dispute resolution mechanism in the WTO.
11. What does “direct” and “indirect” investments mean?
12. What are the sources of foreign investment law?
13. List the basic principles of international investment law.

**Lesson 17 - International Maritime Law**

1. Definition, sources and codification of the International Law of the Sea.
2. UNCLOS
3. International Maritime Law: Historical overview
4. Legal status of the territorial sea: definition, internal waters, methods for determining the baselines, delimitation of territorial sea between States with opposite or adjacent coasts, jurisdiction.
5. The right of innocent passage.
6. RULES APPLICABLE TO warships and other government ships operated for non-commercial purposes
7. Transit Passage
8. High seas: definition, legal status, jurisdiction and rights of the coastal state/s
9. The legal regime of the vessel on the high seas.
10. Contiguous zone: definition, legal status, jurisdiction, rights of the coastal and coastal states
11. Exclusive economic zone: definition and legal regime, rights, and jurisdiction of the coastal state, the rights of other states
12. Continental shelf: definition and Rights of the coastal State
13. Submarine cables and Pipelines
14. International seabed area: concept and legal status.
15. Archipelago waters: the concept, legal regime, conditions for the implementation of the archipelago passage.
16. International channel. The international legal regime of the Suez, Panama and Kiel canals.
17. Conservation and management of marine natural resources.
18. Marine scientific research international cooperation
19. the Tribunal of the law of the sea

**Readings**

* SHAW, M. N. (2017). International Law. Cambridge, United Kingdom; New York, Cambridge University Press. Chapter “The Law of the Sea”.
* United Nations Convention on the Law of the Sea <http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf>. Read also Annex V. Statute of the International Tribunal for the Law of the Sea

**Case-law**

ICJ, Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea, Nicaragua v Honduras, Judgment 8th October 2007, ICGJ 23

ICJ, Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania), judgment, 9 April 1949, ICJ Reports 1949.

ICJ, Fisheries Jurisdiction (United Kingdom of Great Britain and Northern Ireland v. Iceland), Judgment of 2 February 1973, ICJ Rep 1973

ICJ, Anglo-Norwegian Fisheries Case. (United Kingdom v Norway), Merits, Judgment of the 18th December 1951, ICJ Rep 116.

ICJ, Continental Shelf, (Libya v Malta), Merits, Judgment of the 3rd June 1985, ICJ Rep 13

ICJ, North Sea Continental Shelf Cases (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands) , I.C.J. Reports 1969, p.3

ICJ, Maritime Delimitation in the Area between Greenland and Jan Mayen, Denmark v Norway, Judgment of the14th June 1993, Merits

**Main questions:**

1. Describe the historical evolution of the law of the sea
2. What are territorial waters?
3. What is the right of innocent passage?
4. Which rights does the state have on the continental shelf?
5. Which state has jurisdiction over a ship in the high sea?
6. What is the EEZ?
7. Which rights does the costa state have over the EEZ?
8. Could the international community of the states exploit the marine resources without any limits?

**Lesson 18 - International Environmental Law**

1. International Environmental Law: History background and basic principles
2. The Scope of International Environmental Law
3. The role of international organizations in the development of international environmental law.
4. United Nations Framework Convention on Climate Change
5. Cooperation of States in the conservation and sustainable use natural resources.
6. Transboundary water resources.
7. International legal protection of the marine environment.
8. legal regime of the outer space
9. Climate change and the United Nations Framework Convention on Climate Change

**Readings**

* SHAW, M. N. (2017). International Law. Cambridge, United Kingdom; New York, Cambridge University Press. Chapter “International Environmental Law”.
* United Nations Framework Convention on Climate Change, May 9, 1992, S. Treaty Doc No. 102-38, 1771 U.N.T.S. 107.
* UN GA, Rio Declaration On Environment And Development (1992), Rio de Janeiro, 3-14 June 1992, UN Doc. A/CONF.151/26 (vol. I); 31 ILM 874 (1992)
* Kyoto Protocol to the United Nations Framework Convention on Climate Change, Dec. 10, 1997, U.N. Doc FCCC/CP/1997/7/Add.1, 37 I.L.M. 22 (1998).
* UNFCCC, Paris Agreement, 12 December 2015, C.N.92.2016.TREATIES-XXVII.7.d of 17 March 2016
* UN Commission on Human Rights, Human rights and the environment., 9 March 1994, E/CN.4/RES/1994/65

**Recommended further reading:**

Asselt, H. van, The Fragmentation of Global Climate Governance: Consequences and Management of Regime Interactions, Cheltenham, UK, Northampton, MA, USA, Edward Elgar Publishing, 2014.

Benidickson, J. (ed.), Environmental Law and Sustainability after Rio, Cheltenham, Elgar, 2011..

Clifford, M. and T.D. Edwards (eds.), Environmental Crime. 2nd ed., Burlington, MA., Jones & Bartlett Learning, 2012.

Dodds, F., From Rio+20 to a New Development Agenda: Building a Bridge to a Sustainable Future, London, New York, Routledge, Earthscan from Routledge, 2014.

Hall, J. (2016). Paris Agreement on Climate Change: A Diplomatic Triumph – How Can It Succeed?. New Global Studies, 10(2), pp.175-181.

**Case-Law**

ICJ, Case Concerning the Gabčíkovo-Nagymaros Project (Hungary / Slovakia), Judgment of 25 Sept. 1997

ICJ, Pulp Mills on the River Order, (Argentina v. Uruguay), Provisional Measures, 13th July 2006, ICJ Rep 113, (2006)

ICJ, Whaling in the Antarctic (Australia v. Japan: New Zealand intervening) Judgment, of the 31st March 2014, ICGJ 471

**Main questions:**

1. Describe the historical evolution of the International Environmental Law
2. Why do we need international environmental law?
3. What is the United Nations Framework Convention on Climate Change?
4. What are the UNFCC goals?
5. Which principles are included in Article 3 of the UN Framework Convention on Climate?
6. What does the Paris Agreement establish?
7. The conservation of the biodiversity is a common concern. Why?
8. Explain and discuss the legal nexus between international environmental law and the protection of human rights.

**9. Methods of Instruction**

Classes will be structured as participative lectures in order to stimulate class discussion. This course uses interactive educational technologies (problematic lectures, Socrates method, work in small groups, interactive seminars; brainstorming sessions)

Students are expected to be well prepared, they must carefully study the materials indicated before the seminar. Students are expected to spend 12-14 academic hours of house reading, researching, and preparation per week.

**9.1. Methodological instructions for students**

Every lesson will be followed by the correspondent seminars as specified in this program. In order to be prepared for lessons, it is necessary to use the sources and legal acts enlisted in this syllabus. To prepare for the seminar, it is necessary to study carefully the material assigned during the lesson. Particular attention should be paid to the basic principle, the sources, the definition and the correct terminology of international law. When preparing, it is recommended to refer to the works of the international authors and it is welcomed to refer to Russian scholars. It is compulsory to study, analyze and make reference the decisions of international judicial Courts and quasi-judicial bodies. Lectures by reputable international scholars on various topics of the course can be viewed online at the Library of Audiovisual Materials on UN International Law at http://www.un.org/law/avl/. Comments on the most pressing issues of international law can be found on the website of the European Association of International Law blog: http://www.ejiltalk.org

**9.2 Attendance Policy**

It is imperative that students attend classes. Participation at lessons and seminars is mandatory, except in case of a medical emergency (e.g. sickness). Students will need to provide evidence for missing class (doctor’s note). If evidence is provided, the missed class is considered as an excused class. If no evidence is provided immediately before or after the class, the missed class is counted as an absence. Late arrivals will be considered as absences if the delay is more than 30 minutes

Participation implies that students are on time, have studied the assigned material in advance and work actively.

If students are absent for many classes, they receive a penalty on their final grade.

If students are absent:

- for the 10% of the classes, they receive a penalty of 1 point on their overall grade (out of ) for that course.

- for the 20% of the classes, they receive a penalty of 3 points on their overall grade (out of ) for that course.

- for the 30% of the classes, they receive a penalty of 5 points on their overall grade (out of ) for that course.

-for the 40% of the classes, they receive a penalty of 7 points on their overall grade (out of ) for that course.

**9.3 Additional Course Policies**

**Late papers will not be accepted unless there are serious legitimate reasons.** Provision of a signed medical note is required, and notice must be given prior to the deadline.

**9.4 Plagiarism**

Dishonesty and plagiarism are NOT admitted in this course.

Cheating and plagiarism cases will be sanctioned. Works affected by plagiarism will be considered null and void.

If you report a sentence or a passage taken by someone else’s work or by your own past works, you must cite the source/s. References and citations must be comprehensive and in a standard citation style (APA, MLA, Harvard etc.). Please, pay attention to grammar, spelling, and punctuation.

10. Evaluation tools and samples

***A sample of* Midterm and Final examination - (1) and (4)**

*1. Provide a short answer to the following questions*

What does “international custom” mean? What are the basic elements of customary international law?

Describe the historical evolution of the right to self-determination

What does extraterritorial jurisdiction mean?

Explain the content of the principle of non-use of force and the possible exceptions provided by the UN Charter?

2. *Analyze the case, identify the sources (treaties or customary laws etc.), which may be pertinent in this case and the applicable law, and draft a legal opinion.*

After the terrorist attacks of September 11, 2001, NATO member states launched a military operation against the Taliban and Al Qaeda movements in Afghanistan: a protracted armed conflict began. Assess the validity of this invasion from the standpoint of Public International Law.

***A sample of* Home assignments and Colloquium (2) and (3)**

*1. Read carefully the case and draft a legal opinion*

Mr. V, a citizen of state R, suspected for the murder of four people in the territory of the state of T. between 2006 and 2009, was put on the international wanted list. After several years of investigation, on September 12, 2010, V. was arrested by the police while trying to escape. The arrest was carried out by police officers of the state of T. in the territory of the state K. The state of T. is a party to the European Convention of Human Rights (since September 10, 2010), the state of K and R are not parties.

Several police officers took part in the arrest of V. Mr. V was handcuffed and blindfolded. During the first interrogation, which lasted several hours, when Mr. V. was already in handcuffs and blindfolded, state investigators T. inflicted multiple blows on the head. From these blows, V. remained bruises. In addition, V. refused to eat food and after 3 days was subjected to force-feeding through a tube.

Mr. V. complains that during his arrest and interrogation he was subjected to the violation of human rights and that the state of T., according to the European Convention of Human Rights (ECHR), must be held responsible and released him from custody. After passing all the judicial instances in the state of T. (decision of the Cassation Court of January 15, 2012), on May 3, 2012, V. filed a complaint in front the European Court of Human Rights.

*2. Colloquium*

Like Jessup Moot Court, the students will be divided into teams and shall prepare two written memorials (applicant/respondent) and present their oral pleadings in front of a commission of judges, on the basis of a compromise that the professor has previously submitted to all the teams.

**9. Course Assessment**: **Assignments Overview**

**- Attendance, active participation and in-class discussion during seminars: 20%**

The students will be evaluated on their performance during the seminars. Each student is expected to attend all the seminars and lessons and being prepared on the topic of the lesson in advance. The students must have previously studied in depth the assigned material. The knowledge of the students will be also assessed in class through written tests (close and/or open questions), as well as on the ground of his/her active/inactive participation in class discussions. A proactive participation will be positively evaluated as well as asking inherent questions and make analytical comments about the assignments.

**-Home Tasks and Oral Presentation: 20%**

The knowledge of the students will be assessed on the ground of his/her performance during the oral presentations and the home assignments. The first assessment component includes a 10-minute in-class presentation during seminars. The students are required to present one of the subjects assigned by the professor. The second assessment component consists of 5 written home assignments (such as legal opinion, essay, reports or memorials). The knowledge assessment will be made by the mathematical average of all the assessments components.

**- Midterm exam: 10%**

Written exam (4 open questions + 1 case analysis)

**- Colloquium: 10%**

Moot Court

**- Final Exam: 40%**

Written exam (4 open questions + 1 case analysis)

The final mark is calculated using the following formula:

**Markfinal = 0,40 x Markexam + 0, 20 x Markseminar + 0,20 x MarkHT/pres +**

**0,10 x Markcolloquium + 0,10 х Markmidterm exam**

**Method of rounding the resulting assessment: rounding down from (0.0-0.5) rounding up (0.5-0.9).**

Re-examination is possible only once in the form of an in-class written exam (1 h 20 min, 4 open questions and a 1 case analysis).

**10. Reading list**

**10.1. Basic textbook**

1. *Shaw M*. International Law. 8th Ed., Cambridge, 2017.

2. *Evans M.D.* International Law. 4th Ed. Oxford, 2014.

3.*Brownlie I*. Principles of Public International Law. 8th Ed. Oxford, 2013.

**10.2. Main and Additional literature:**

Recommended readings vary from topic to topic. The student can find the main and further readings included in the content of each specific lesson.

**10.3 International Law Journal**

**1. American Journal of International** Lawhttps://www.asil.org/resources/american-journal-international-law

**2. Journal of International Economic Law:** http://jiel.oxfordjournals.org

**3. International Journal of Transitional Justice, The**

http://ijtj.oxfordjournals.org

**4. Harvard International Law Journal**

http://www.harvardilj.org

**5. International and Comparative Law Quarterly**

http://journals.cambridge.org/action/displayJournal?jid=ILQ

**6. International Journal of Human Rights**

http://www.tandfonline.com/loi/fjhr20#.VpOZMocWEW0

**7. Stanford Journal of International Law**

http://journals.law.stanford.edu/sjil

**8. British Yearbook of International Law**

http://bybil.oxfordjournals.org/

**9. European Journal of International Law**

http://www.ejil.org

**10. European Journal of Legal Studies**

http://www.ejls.eu

**11. German Yearbook of International Law**

http://www.gyil.org

**12. Goettingen Journal of International Law**

http://www.gojil.eu/

**13. Hague Journal on the Rule of Law**

http://journals.cambridge.org/action/displayJournal?jid=ROL

**14. Hague Yearbook of International Law**

http://hagueyearbook.weebly.com/index.html

**15. Heidelberg Journal of International Law**

http://www.hjil.de/

**16. Human Rights & International Legal Discourse**

http://www.hrild.org

**17. Human Rights Law Review**

http://hrlr.oxfordjournals.org/

**18. International and Comparative Law Quarterly**

http://www.biicl.org/publications/quarterly/

**19. International Community Law Review**

http://www.brill.com/international-community-law-review

**20. International Organisations Law Review**

http://www.brill.com/international-organizations-law-review

**21. International Review of the Red Cross**

http://www.icrc.org/eng/resources/international-review**/**

**22. Journal of Conflict and Security Law**

http://jcsl.oxfordjournals.org/

**23. Journal of the History of International Law**

http://www.brill.com/journal-history-international-law-revue-dhistoire-du-droit-international

**24. Journal of International Criminal Justice**

http://jicj.oxfordjournals.org/

**25. Journal of International Dispute Settlement**

http://jids.oxfordjournals.org/

**26. Leiden Journal of International Law**

http://journals.cambridge.org/action/displayJournal?jid=LJL

**27. London Review of International Law**

http://lril.oxfordjournals.org/

**28. Max Planck UN Yearbook**

http://www.mpil.de/ww/en/pub/research/details/publications/institute/mpyunl.cfm

**29. Netherlands International Law Review**

http://journals.cambridge.org/action/displayJournal?jid=NLR

**30. Netherlands Yearbook of International Law**

http://journals.cambridge.org/action/displayJournal?jid=NYL

**31. Revue Generale de Droit International:**

http://www.rgdip.com

**11. Internet-resources:**

1) http://www.icj-cij.org

2) http://www.un.org

3) http://treaties.un.org/

4) http://legal.un.org/ilc

5) http://www.centerforunreform.org

6) http://www.itlos.org/

7) http://www.icty.org/

8) http://www.unictr.org/

9) http://hub.coe.int/ru/

10) http://www.echr.coe.int

11) http://www.echr.coe.int/ECHR/EN/hudoc

12) http://www.coe.ru

13) www.mid.ru

14) http://www.un.org/law/avl/

15) http://www.esil-sedi.eu/node/88

**12. Software**

For successfully mastering the discipline the student uses the following software:

- Consultant Plus

- Lexis-Nexis

**12.1 Remote discipline support**

Remote discipline support is not provided.

**13. Material and technical support of the discipline.**

For lectures and seminars, a projector is used.

Author of the Course: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Maria Sole Continiello Neri

**Author of the Course / Course Instructor – Maria Sole Continiello Neri**, Ph.D., Post-Doctoral Research at the Centre of Comparative Public Law. Faculty of Law, National Research University – the Higher School of Economics (Moscow Campus) ([mcontinielloneri@hse.ru](mailto:mcontinielloneri@hse.ru))