**Legal Theory 2 – JOJB205XX0**

**Course description – 6 ECTS**

The course ‘Legal Theory 2’ treats the fundamental elements and problems of legal philosophy within a unified conceptual framework. Above all, it discusses the essence of law and its relation to justice, legal validity, the distinction between binding force, coercive force and violence, and the relationship and differences between law and morality. The emphasis is placed on grounding fundamental human rights and natural law institutions. The notion of legal argumentation, its possibilities and limits of application are also expounded within this theoretical framework. In this way, legal philosophy recovers its traditional, jusnaturalistic meaning and content, and thereby essential legal concepts, questions and institutions almost completely abandoned by contemporary legal theory regain their importance.

**Requirements and evaluation**

Attendance and active class participation are basic requirements. Four absences will result in your failing the course. Evaluation will be based partly on oral examination and partly on class participation.

**Readings**

Hans Kelsen, *Introduction to the Problems of Legal Theory* [1934], trans. B. L. Paulson and S. L. Paulson (Oxford: Clarendon Press, 1992), §§ 1–17, pp. 7–36

Herbert Hart, *The Concept of Law* [1961 ] (Oxford: OUP, 1994), ch. V, pp. 79-99

Gustav Radbruch, ‘Five Minutes of Legal Philosophy’ [1945],trans. B. L. Paulson and S. L. Paulson, *Oxford Journal of Legal Studies* 26 (2006), pp. 13–15

Gustav Radbruch ‘Statutory Lawlessness and Supra-Statutory Law’ [1946],trans. B. L. Paulson and S. L. Paulson, *Oxford Journal of Legal Studies* 26 (2006), pp. 1–11

Jacques Maritain, *Man and the State* [1951] (Washington: Catholic University of America Press, 1998), ch. IV, pp. 76–107

John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980), ch. II, 23-55

Jerome Frank, *Law and the Modern Mind* [1930] (New York: Anchor Books 1963), ch. I, 3-13

Alf Ross, ‘Tû-tû’, *Harvard Law Review* 70(1957), pp. 812-825