

**University of Vienna
School of Law****Winter Semester 2016/2017****Course Title: Legal Foundations of World Politics
Professor: Hanspeter Neuhold**

Purpose and summary of the course

The objective of this interdisciplinary course is to enable students to better understand the problems posed by some of the key legal principles governing relations between states and other subjects/actors of today's international system. These legal rules – the prohibition of the threat or use of force, non-intervention in internal affairs, the peaceful settlement of international disputes and self-determination of peoples – will be discussed against the background of political variables by which they were and still are shaped after the end of the Cold War and "9/11". Whenever possible, practical examples and cases will be taken from recent European history, above all the conflicts in the Balkans.

Theoretical approach and method

A "policy-oriented" approach to international law including the non-legal problems to be solved by legal rules will be adopted. Presentations by the instructor will be combined with discussions on the basis of assigned readings and questions raised by the instructor or students. Interaction and participatory learning will be encouraged

Literature

Hanspeter Neuhold, *The Law of international conflicts: force, intervention and peaceful dispute settlement*, Leiden, Brill Nijhoff (2016)

A reader and copies of the power point slides will be made available by the instructor.

Exam

The final written exam will consist of a number of questions focusing on the basic "messages" of the course and a short essay on a general issue for which students will be offered a choice between two or three topics.

Participation in discussions will also be taken into account for the final mark/grade (20%)

I. A Politically-Oriented Concept of International Law: The Normative Balance between Conflicting Interests

II. The Prohibition of the Threat or Use of Force in International Relations

1. Evolution of the principle: from the *jus ad bellum* to the *jus contra bellum*

- 1.1. positive norm-creating and enforcement functions of the resort to force?
- 1.2. three approaches to limiting the use of armed force in international relations:
 - 1.2.1. the law of war and international humanitarian law
 - 1.2.2. disarmament and arms control
 - 1.2.3. outlawing the resort to force
- 1.3. from "just war" to the "*jus ad bellum*" to Article 2 (4) of the UN Charter
- 1.4. efforts aimed at strengthening the prohibition in Article 2 (4)
- 1.5. the gap in the Charter system: non-international armed conflict/civil war

2. The UN system of collective security during the Cold War

- 2.1. the four prerequisites of collective security
- 2.2. the Cold-War record
- 2.3. efforts to strengthen the system: "Uniting for Peace" and the definition of aggression
- 2.4. the major innovation: peacekeeping operations and their legal basis

3. The UN system of collective security in the post-Cold War international system

- 3.1. Security Council authorization to use force: "*Operation Desert Storm*", "*Operation Deny Flight*"
- 3.2. "second-generation" peacekeeping operations: "mission creep" and the failure of UNPROFOR
- 3.3. "enforcement by consent" by non-UN forces: IFOR/SFOR, KFOR
- 3.4. preventive peacekeeping: UNPROFOR and UNPREDEP in Macedonia
- 3.5. from peacekeeping to enforcement - another case of "mission creep": ISAF
- 3.6. "robust" UN peace operations in Africa: DRC, Mali
- 3.7. non-military sanctions and the issue of legal limits to the discretion of the Security Council: "targeted" sanctions - limited effectiveness and new legal problems
- 3.8. international administration: Bosnia-Herzegovina and Kosovo
- 3.8. lawful "humanitarian intervention" without Security Council authorization?
- 3.9. "responsibility to protect" and enforcement action against the Gaddafi
- 3.10. the Security Council and the civil wars in Syria and Iraq

4. Self-defence under Art. 51 of the UN Charter

III. Non-Intervention in Internal Affairs

- 1. *The evolution of the principle***
- 2. *The thin line between desirable pressure and illegal interference***

IV. The Peaceful Settlement of International Disputes

- 1. *The advantages and shortcomings of the "classical" methods of dispute settlement***
- 2. *The International Court of Justice***
- 3. *The "proliferation" of courts and tribunal: fragmentation of international law?***
- 4. *The "Great Debate" on the "best" settlement method***
- 5. *The UN system for the peaceful settlement of disputes***

V. Self-Determination of Peoples

VI. Legal Aspects of the 2013/2014 Ukrainian Crisis

