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MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE

NATIONAL AVIATION UNIVERSITY

[Educational and Research Institute of Law](http://www.law.nau.edu.ua/index.php)

Department of Constitutional and Administrative Law

APPROVED

Rector

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“\_\_\_”\_\_\_\_\_\_\_\_\_\_2018



# Quality Management System

# **SYLLABUS**

# **on**

# **“State (Constitutional) Law of Foreign Countries”**

### Field of Study: 08 “Law”

### Speciality: 081 “Law”

Educational Professional Program: “Jurisprudence”

Year of Study – 2d Semester – 3d

Classroom Sessions – 51 Examination – 3d semester

Self-study – 54

Total (hours/ECTS credits) – 105/3,5

Index СB-9-081/17-2.1.8

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The Syllabus on “State (Constitutional) Law of Foreign Countries” is based on educational and professional program and Bachelor Curriculum № CB-9-081/17 for Speciality 081 “Law” Educational Professional Program “Jurisprudence”, order

№ 207/од of 27.04.2018 and correspondent normative documents.

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Discussed and approved by Department of Constitutional and Administrative Law, Minutes №\_\_\_\_\_ of “\_\_\_\_\_”\_\_\_\_\_\_\_\_\_\_ 2018.

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Discussed and approved by the Graduate Department for Speciality 081 “Law” and Educational Professional Program “Jurisprudence” – Department of Commercial, Air and Space Law, Minutes №\_\_\_\_\_ of “\_\_\_\_\_”\_\_\_\_\_\_\_\_\_\_ 2018.

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Discussed and approved by Scientific-Methodological-Editorial Board of Educational and Research Institute of Law, Minutes №\_\_\_ of “\_\_\_”\_\_\_\_\_\_\_\_ 2018.

Head of the SMEB \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ V. Vyshnovetsky

“Agreed” Director of the Institute

Director of ERIL of Innovative Technologies

and Leadership

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ I. Sopilko \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ K. Babikova

“\_\_\_\_\_”\_\_\_\_\_\_\_\_\_\_2018 “\_\_\_\_\_”\_\_\_\_\_\_\_\_\_\_2018

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1. **EXPLANATORY NOTE**

The Syllabus on “State (Constitutional) Law of Foreign Countries” was developed on the basis of “Methodical instructions for the development and execution of syllabus and course training programs of subjects” enacted by the order dated 16.06.2015 № 37/roz.

Study of the subject of “State (Constitutional) Law of Foreign Countries” favours political self-knowledge, understanding of the place and role of independent Ukraine in the world. Knowledge obtained during study of the subject is used by specialists in professional activity when working with foreign companies. During consideration of issues of the subject, data of general history, economics, politics and culture are analyzed, as well as other information that does not belong directly to legal sciences; there appears necessity to consider a number of provisions of the theory of state and law, as well as branch legal subjects. Study of the content of constitutional theory and practice should contribute to solving the questions of state formation in our country.

A purpose of teaching the subject of “State (Constitutional) Law of Foreign Countries” is the formation of a certain level of legal culture of a lawyer on the basis of acquisition of knowledge, skills on subject “State (Constitutional) Law of Foreign Countries”, as well as formation at future lawyers of knowledge, skills and abilities for work in the constitutional and legal sphere.

This subject favours political self-knowledge, understanding of the place and role of independent Ukraine in the world. Knowledge obtained during the study of subject is used by specialists in professional activity when working with foreign companies. During consideration of issues of the subject, data of general history, economics, politics and culture are analyzed, as well as other information that does not belong directly to legal sciences; there appears necessity to consider a number of provisions of the theory of state and law, as well as branch legal subjects. Study of the content of constitutional theory and practice should contribute to solving the problems of state formation in our country.

The subject of “State (Constitutional) Law of Foreign Countries” is a theoretical and practical basis of knowledge and skills that form the profile of a highly skilled specialist, favours students’ ability to analyze current constitutional legislation of foreign countries and mechanisms for its implementation at the present stage of their development, conduct a comparative analysis of the main institutes of constitutional law of the countries with developed democracy.

The tasks of the subject of “State (Constitutional) Law of Foreign Countries” are:

˗ formation at students of understanding of the main legal categories of constitutional law, their specifics and role in foreign countries;

˗ study of basic regularities of functioning of institutes of constitutional law;

˗ preparation of students for the analysis of world experience of constitutionalism, parliamentarism, world and European standards of democracy;

˗ formation at listeners of ability to orientate in the system of constitutional legislation of Ukraine and foreign countries, skills of use of legislative acts;

˗ formation at students of high legal culture and legal consciousness.

As a result of studying of this subject a student must:

**Know:**

˗ sources, structure and place of the subject in the system of national law;

˗ new methodological approaches of the science of constitutional law of foreign countries;

˗ concept, classification and peculiarities of the adoption of constitutions of foreign countries;

˗ peculiarities of constitutional responsibility;

˗ legal regulation grounds of activity of subjects of constitutional legal relations;

˗ fundamentals of constitutional law of the leading countries of the world.

**Be able to:**

˗ apply the general theoretical knowledge, taking into account the specifics of constitutional legislation of some countries, for the correct teaching of this topic;

˗ explain the essence of the concept of “subject” of constitutional law and characterize his legal personality;

˗ describe the procedure for creation, appointment or selection of a given subject as the carrier of particular power, his place and role in the field of exercising of state authority;

˗ determine the role of the subject in the sphere of protection of human rights and freedoms;

˗ analyze peculiarities of the norms of constitutional and legal acts of foreign countries regarding the legal regulation of the activitiy of subjects of constitutional law in the aspect of building of a law-governed state and civil society.

The academic material of the subject is structured according to module principle and consists of one academic module:

* the academic **module № 1 “Fundamentals of the State (Constitutional) Law of Foreign Countries”**, which is a logically complete, relatively independent, integral part of the subject, the mastering of which involves modular control work and analysis of the results of its fulfilment.

The subject of “State (constitutional) law of foreign countries” is based on the knowledge of such subjects as: “Theory of State and Law”, “Constitutional Law”, “History of State and Law of Ukraine”, “History of State and Law of Foreign Countries”.

**2. SUBJECT CONTENT**

**2.1. Module № 1 “Fundamentals of State (Constitutional) Law of Foreign Countries”**

**Topic 2.1.1. General characteristic of state (constitutional) law of foreign countries. Constitutions and constitutionalism in foreign countries**

The concept and subject of the branch of constitutional law. The concept of constitutional law of foreign countries. Differences in terms of “constitutional right” and “state law”. The subject of the branch of constitutional law of foreign countries.

System of constitutional law of foreign countries. Characteristics of the general principles of constitutional law, their classification. Constitutional and legal institutes. Constitutional and legal norms, their differences from the norms of other branches of law. Subjects of constitutional law of foreign countries, their characteristics and classification.

Sources of constitutional law of foreign countries, their classification. Laws. Normative and legal acts of executive power. Regulations of parliaments. Decisions of local self-government bodies. Judicial precedents. International treaties. Intra-national treaties. Legal customs.

Science of Constitutional Law of Foreign Countries. Characteristics of the main schools in foreign science of constitutional law. Constitutional Law of Foreign Countries as a subject.

Concept of constitutionalism. Theoretical foundations of the constitution: concept, essence, functions. Legal and factual constitution. Constitution in the material and formal sense. Legal properties of the constitutions. The essence of the constitution as a legal and social document. Legal, political and ideological functions of the constitution.

The procedure for making amendments and additions to constitutions. Evolution of constitutions. Ways of adopting constitutions: by constituent assembly, referendum, parliament, as a result of the contract, oktroy. Flexible, rigid and mixed constitutions. Evolution of content of constitutions.

**Topic 2.1.2. Forms of the state in foreign countries**

Form of government. The concept of the form of government. Monarchy. Characteristics of an absolute, dualistic and parliamentary monarchy. Republic. Characteristics of presidential, parliamentary, presidential-parliamentary and parliamentary-presidential republics.

Form of state system. The concept of confederation. Federations. Ways of creation of federations. Symmetric and asymmetric federations, their characteristics. Characteristic of the legal status of the subject of the federation. Principles of delimitation of competence of the federation and subjects of the federation.

Unitary form of state system. Centralized and decentralized unitary states. Autonomies in foreign countries. Characteristics of national-territorial and cultural-national autonomy.

Political regimes of foreign countries. The concept of a political regime, its elements. Classification of political regimes. Characteristic of a democratic political regime. Characteristic of a liberal political regime. Characteristics of an authoritarian political regime. Characteristics of a totalitarian political regime.

**Topic 2.1.3. Head of state and government in foreign countries**

The concept of the head of state, peculiarities of his constitutional status. Legal forms of the head of state. Peculiarities of legal status of the monarch. Characteristics of the main systems of succession. Peculiarities of constitutional status of the president depending on the form of government. Characteristics of the main ways of electing the president. Grounds for early termination of the president’s powers.

Competence of the head of state. External and internal authority. Authority concerning the Parliament. Authority to form other state bodies. Authority in the field of rule-making activity. Emergency management powers. Authority concerning armed forces. Authority in the field of appointment of civil servants and in the field of legal status of a person. Authority to declare referendums. The right to appeal to the parliament and people.

The concept of the government. Parliamentary and extra-parliamentary models of government formation. Structure of governments. Place of the government in the system of state bodies. Competence of the governments. Governance of the state apparatus. Enforcement of laws. Control over legislative activity of the parliament, rule-making activity of governments. Formation and execution of the budget. Performance of foreign policy. Extraordinary authority of governments.

**Topic 2.1.4. Parliaments and parliamentarism in foreign countries**

Parliament and parliamentarism, the essence and correlation of these concepts. Structure, composition and organization of parliaments. Single-chamber and bicameral parliaments. Ways of forming the upper and lower chambers of parliaments. Organization of work of parliaments: sessions, plenary meetings. Parliamentary holidays.

The internal structure of the chambers of parliaments. Parliamentary factions. Deputy groups Characteristics of leading bodies of parliaments. Standing commissions and committees of parliaments. The apparatus of parliaments.

Competence of parliaments of foreign countries. Parliaments with limited and unlimited competence. Legislative competence. Financial competence. Ratification and denunciation of international treaties. Announcement of referendums. Formation of state bodies. Forms of control over the activities of state bodies. Authority in the field of defense and state security. The right to adopt other normative acts besides laws. The right to delegate authority.

Characteristic of the legal status of a deputy of the parliament. The nature of the deputy mandate (free, imperative). Deputy immunity. Deputy indemnity. Rights and duties of the deputy. Guarantees of deputy activity. Grounds for early termination of the authority of the deputy.

**Topic 2.1.5. Judicial power and constitutional control in foreign countries. Local government and self-government in foreign countries**

The concept and essence of the judicial power and its place in the mechanism of the division of power. System and organization of the judicial power in foreign countries. Constitutional and legal fundamentals of organization of the judicial power in foreign countries. Constitutional principles of the administration of justice in foreign countries. Functions and competence of judicial authorities in foreign countries. Legal status of judges in foreign countries.

The concept of legal protection of the constitution. Correlation between constitutional control and constitutional supervision. The history of emergence of the idea of constitutional control. Concept and legal nature of constitutional control in foreign countries. Non-specialized and specialized constitutional control.

The main models of judicial constitutional control: American (decentralized) - diffusive and concentrated; European (Austrian, centralized). General principles of functioning of bodies of constitutional control in foreign countries.

Objects of constitutional control. Kinds of constitutional control: preliminary (preventive) and following (repressive); concrete and abstract; formal and material; compulsory and optional.

The order of formation and structure of bodies of constitutional control of foreign countries. Legal status of members of constitutional control bodies. Authority of constitutional control bodies in foreign countries. Legal consequences of acts of constitutional control in foreign countries. Responsibility of bodies of constitutional control and their members in foreign countries.

Concept and legal nature of bodies of local self-government in foreign countries. The system of local self-government. Anglo-Saxon, Continental, Iberian and Soviet systems of local self-government, their characteristics. Correlation of the system of local bodies with the form of state and administrative-territorial system of the country. Functions of local bodies in foreign countries. Competence of municipal bodies of foreign countries.

Organizational and legal forms of local self-government of foreign countries. Order of organization, structure of local bodies. The procedure for formation and authority of representative bodies of local self-government in foreign countries. Legal status of municipal advisers.

The material and financial base of bodies of local self-government. The financial base of bodies of local self-government. Local taxes and fees. Grants. Subventions. Executive bodies of local self-government of foreign countries: the order of their formation, organization, authority. Fundamentals of personnel policy in local bodies. Legal status of municipal servants. Authority of bodies of local self-government in foreign countries.

Relations between local bodies and central power. Forms of government control over the activities of bodies of local self-government. Constitutional and judicial responsibility.

**Topic 2.1.6. Fundamentals of the Constitutional Law of Germany**

General characteristics of the main law of the Federal Republic of Germany. The procedure for amending the Basic Law. Federal Constitutional Court as a body of constitutional control. Constitutional status of a person. General characteristics of basic human and civil rights. Political parties and party system. Electoral right and system.

Higher federal state bodies. Bundestag, the order of its formation. Internal organization of the Bundestag (leading bodies, committees, party factions). Legislative process in the Bundestag. Peculiarities of the formation and authority of the Bundesrat. Federal President, the order of his election. Authority of the president. Federal government, its composition. The order of formation of the government. Authority of the government.

German federalism. Legal status of lands. Distinction of competency between the federation and lands. Higher authorities in the lands: Landtags and governments of lands. Local government and self-government. Administrative and territorial division of the country. Systems of local government in cities, districts and communities.

**Topic 2.1.7. Fundamentals of the Constitutional Law of France**

General characteristics of the Constitution of France: characteristic features and peculiarities. The procedure for revision of the Constitution and constitutional reforms. Institute of constitutional control. The constitutional council, its composition and the order of formation. Forms of constitutional control. Constitutional status of a person. Personal rights and freedoms, social and economic rights. Political rights and freedoms, legal guarantees of human and civil rights and freedoms.

Political parties and party system. Electoral right and system. Institute of referendum. Higher state authorities. President of the Republic. The order of election of the president. His competence.

Government. Its composition and the order of formation. Council of Ministers and Government. Peculiarities of the executive power in France. Parliament. The structure of the parliament. Procedure for the formation of the National Assembly and the Senate. Internal organization of chambers (leading bodies, commissions of chambers, party factions). Legislative process in chambers. Competence of the Parliament.

Local government and self-government. Administrative and territorial division of the country. Systems of local bodies of government and self-government in regions, departments, districts, cantons, communes.

**Topic 2.1.8. Fundamentals of the US Constitutional Law. Fundamentals of the Constitutional Law of Great Britain**

General characteristic of the US Constitution. Basic Constitutional Principles. The procedure for amending the Constitution, the institute of constitutional control. The constitutional and legal status of a person. American Bill of Rights.

Election system. Active and passive electoral law. The procedure for the nomination of candidates. “Primaries” as a way of nominating of candidates. Organization and financing of elections. Definition of voting results. US party system, its features.

Higher federal government bodies. Structure of the Congress and procedure for formation of the House of Representatives and the Senate. The legal status of members of the Congress. Internal organization of chambers of the Congress. Leading bodies, committees of chambers, party factions. Competence of the Congress. Regulations of chambers, legal acts of the Congress. Legislative process in chambers. Lobism and its meaning in legislative activity.

President of the United States, his place in the constitutional mechanism. The order of election of the president. Formation of the United States Electoral College. Termination of authority of the president. Competence of the President, his legal acts. Vice President: the procedure for his election and place in the constitutional mechanism. System of executive bodies. Presidential administration, cabinet, departments, executive apparatus of the president, executive agencies.

Judicial power: concept, constitutional fundamentals of its organization. Federal courts, special federal courts. US Supreme Court. American federalism, its constitutional fundamentals. Differentiation of subjects of jurisdiction of federation and states. Constitutional and legal status of the state. Higher state authorities. Legislatures, executive power, judicial systems in the states. Status of the federal district of Colombia, Puerto Rico, Guam, the Virgin Islands, Eastern Samoa. Local self-government in the United States. Administrative and territorial division of states.

General characteristics of the unwritten British Constitution: the main features and peculiarities. Sources of the British Constitution. Constitutional status of a person. Citizenship: the order of acquisition and termination. The rights and freedoms of citizens. Political parties and party system of Great Britain.

Higher state authorities. Peculiarities of the principle of division of power. Parliament, its structure. The procedure for formation of the House of Commons. Internal organization of the House of Commons, leading bodies, committees of the chamber. Party factions. House of Lords. The procedure for formation of the House of Lords after the 1999 reform. Functions of the House of Lords.

Legislative process in the Houses of Parliament. Monarch as head of state. The order of succession. Royal prerogative. Secret Council at the monarch. Executive power. Government and Cabinet. Structure of the Cabinet, its functions. “Shadow” Cabinet of Ministers.

Judicial System. House of Lords, Judicial Committee of the Privy Council as Higher Courts. Court of Appeal. High Court. Crown Court, Magistrate Courts and County Courts. Peculiarities of the judicial system of Northern Ireland and Scotland.

The form of state system of Great Britain. The autonomy of Scotland, Wales and Northern Ireland. Administrative and territorial division. Systems of local bodies in counties, cities-counties, parishes and other administrative and territorial units.

**3. LIST OF REFERENCES**

**3.1. Basic references**

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3.1.4. Гринюк Р. Ф., Захарченко М. А. Конституційне право зарубіжних країн: Навчальний посібник. – К.: Істина, 2009. – 376 с.

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3.1.6. Лапка О. Я., Пікуля Т. О. Конституційне (державне) право зарубіжних країн (у схемах): Навчальний посібник. – К.: Атіка, 2008. – 216 с.

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3.1.8. Страшун Б. А. Конституційне (державне право) зарубіжних стран.В 4 т. Тома 1-2. Частина загальна: Підручник. – 3-е изд., Оновл. і дораб. – М.: Видавництво БЕК., 2000 – 784 с.

**3.2. Additional references**

3.2.1. Шаповал В.М. Вищі органи сучасної держави. Порівняльний аналіз. – Київ, „Програма Л”, 1995. – 136 с.

3.2.2. Чиркин В.Е. Конституционное право зарубежных стран: Учебник. – М: Юристъ, 2003. – 622 с.

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**АРКУШ ПОШИРЕННЯ ДОКУМЕНТА**

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**АРКУШ РЕЄСТРАЦІЇ РЕВІЗІЇ**

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**УЗГОДЖЕННЯ ЗМІН**

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