
EUROPEAN UNION LAW

JAVIER DE CENDRA DE LARRAGÁN

DEGREE: Bachelor of Laws

ACADEMIC YEAR: 2013-14

DEGREE COURSE YEAR: Second

1° SEMESTER 2° SEMESTER

CATEGORY: BASIC

COMPULSORY

OPTIONAL

NO. OF CREDITS (ECTS): 6

LANGUAGE: ENGLISH

1- SUBJECT DESCRIPTION

European Union Law is today similar to domestic law in the sense that it covers an increasing range of different fields of law. This course therefore focuses on the main legal rules and principles of EU law as well as the key judgments of the EU Courts, i.e. the Court of Justice and the General Court of the European Union. The aim is that students will acquire the essential skills and competencies fundamental to successfully practice European Union Law in any substantive area.

The course first focuses on the EU institutions, the decision-making process, the system of legal remedies and the EU constitutional principles, and then deals with the Internal Market. Throughout the course there will also be a particular emphasis on the political, economic and social context of the EU institutions and rules in order to understand them better.

Since European Union Law is, on the one hand, increasingly affecting the legal environment where companies operate and, on the other, limiting the competences of Member States to regulate different issues, as future lawyers advising companies or national governments, students need to be familiar with EU Law in order to advise their clients effectively.

This course forms part of the European Module “Towards a Common Private Law of Europe,” a IE University undertaking supported by the Jean Monnet Programme of the European Commission. As such, the course makes special reference to the different competences and instruments available for the EU to implement a Common Frame of Reference (CFR) containing a unified regulation of the core areas of private law, as academically codified in the Principles of European Contract Law (PECL) and the Draft Common Frame of Reference (DCFR).

2- OBJECTIVES AND SKILLS

- To understand the development of the European Integration process and the evolvement of European Union Law
- To acquire knowledge of the EU institutions and their tasks in relation to EU Law
- To know the main legal rules and principles of EU Law

- To know the key judgments of EU Law
- To learn to analyze judgments of the EU Courts
- To learn to solve cases on EU Law

3- CONTENT

The course consists of two parts. The first part centers on the so-called Constitutional Law of the European Union. It will cover the integration process, the political EU institutions, the decision-making process, the legal system of the European Union – including the legal instruments and legal actions – and the main constitutional principles of EU Law. The second part of the course will focus on the Internal Market.

EU CONSTITUTIONAL PRINCIPLES

SESSION 1

Introduction to the European Union: Historical Background

Readings:

- Fairhurst, *Law of the European Union*, 2012, pp. 3-8 (book)
- The Schuman Declaration of May 9, 1950 (s-c)
- Preamble of the EC Treaty (Treaty of Rome) (s-c)

SESSION 2

Introduction to the European Union: Legal background

Readings:

- Fairhurst, *Law of the European Union*, 2012, pp. 8-33 (book)
- Preamble of the Treaty on European Union 1992 (Maastricht Treaty) (s-c)
- Preamble of the Treaty on European Union 2007 (Lisbon Treaty) (s-c)

SESSION 3

Political Institutions: The European Council, the Council and the Commission

Readings:

- Note and questions (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 89-113 (book)
- Articles 16-18 TEU and Articles 235-250 and 293 TFEU (s-c)

SESSION 4

Political Institutions: The European Parliament

Readings:

- Note and questions (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 114-126 (book)
- Case 138/79 *Roquette Frères* (s-c)

SESSION 5

Competences and Principles of Subsidiarity and Proportionality

Readings:

- Note and questions (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 57-64 and 146-147 (book)
- Article 5 TEU (s-c)
- Protocol on the Application of the Principles of Subsidiarity and Proportionality (s-c)
- Case C-149/01 *British American Tobacco* (s-c)

SESSION 6

Decision-making and Legal Instruments

Readings:

- Note and questions (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 64-70, 128-146 and 149-152 (book)
- Case 45/86 *Commission v Council* (s-c)

SESSION 7

Judicial System: the Court of Justice and Preliminary References

Readings:

- Note and questions (s-c)
- Article 267 TFEU (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 154-159, 164-172, 175-177 and 180-195 (book)
- Case 166/73 *Rheinmühlen-Düsseldorf I* (s-c)
- Case 146/73 *Rheinmühlen-Düsseldorf II* (s-c)
- Case 283/81 *CILFIT* (s-c)
- Case 314/85 *Foto-Frost* (s-c)

SESSION 8

Enforcement Procedure (Action for Failure to Fulfill Obligations)

Readings:

- Note and questions (s-c)
- Articles 258-260 TFEU (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 199-220 (book)
- Case 7/68 *Commission v Italy (Art Treasure case)* (s-c)
- Case 77/69 *Commission v Belgium (Timber Tax case)* (s-c)
- Case 191/95 *Commission v Germany* (s-c)

SESSION 9

Action for Annulment and Failure to Act

Readings:

- Note and Questions – Action for Annulment (s-c)
- Article 263 TFEU (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 225-241 and 247-250 (book)
- Case C-309/89 *Codorniu* (s-c)

- Case C-50/00 *UPA* (s-c)
- Case T-18/10 *Inuit Tapiriit Kanatami and Others* (s-c)
- Case T-262/10 *Microban* (s-c)
- Note and Questions – Failure to Act (s-c)
- Article 265 TFEU (s-c)
- Case 377/87 *European Parliament v Council* (s-c)

SESSION 10

Action for Damages

Readings:

- Note and questions
- Article 340 TFEU (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 256-261 (book)
- Case C-352/98 *P Bergaderm* (s-c)

SESSION 11

Supremacy and Implementation of EU Law

Readings:

- Note and questions (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 264-268 (book)
- Case 6/64 *Costa v ENEL* (s-c)
- Case C-106/77 *Simmenthal* (s-c)

SESSION 12

Direct Effect: the General Principle

Readings:

- Note and questions (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 268-272 (book)
- Case 26/62 *Van Gend en Loos* (s-c)
- Case 36/74 *Walrave* (s-c)

SESSION 13

Direct Effect of Directives

Readings:

- Note and questions (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 272-279 (book)
- Case 41/74 *Van Duyn* (s-c)
- Case 148/78 *Ratti* (s-c)
- Case 106/89 *Marleasing* (s-c)

Additional readings:

- Case C-555/07 *Kücükdeveci* (s-c)

SESSION 14
State Liability

Readings:

- Note and questions (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 287-293 (book)
- Joined Cases C-6/90 and 9/90 *Francovich* (s-c)

Additional readings:

- Joined Cases C-46/93 and C-48/93 *Brasserie du Pêcheur* (s-c)
- Case C-224/01 *Köbler* (s-c)

SESSION 15
Fundamental Rights

Readings:

- Note and questions (s-c)
- Kaczorowska, *European Union Law*, 2013, pp. 213-226 (s-c)
- Case 1/58 *Stork* (s-c)
- Case 11-70 *Internationale Handelsgesellschaft* (s-c)
- Case 44/79 *Hauer* (s-c)
- Case C-60/00 *Carpenter* (s-c)
- Articles 51-54 of the Charter of Fundamental Rights of the European Union (s-c)
- Declaration concerning the Charter of Fundamental Rights of the European Union (s-c)
- Case C-617/10 *Åkerberg Fransson* (s-c)

Additional Readings:

Case C-399/11 *Melloni* (s-c)

SESSION 16
Mid-term Exam

INTERNAL MARKET

SESSION 17
Introduction to the Internal Market: Positive and Negative Integration

Readings:

- Note and questions (s-c)
- Excerpt from Molle, *The Economics of the European Integration*, 4th Edition (s-c)

SESSION 18
Free Movement of Goods: Customs Duties and Charges Having Equivalent Effect;
Discriminatory Internal Taxation

Readings:

- Note and questions (s-c)
- Articles 28, 30 and 110 TFEU (s-c)

- Fairhurst, *Law of the European Union*, 2012, pp. 561-562, 569-570, 574 and 580-582 (book)
- Case 24/68 *Commission v Italy (Statistical Levy)* (s-c)
- Case 112/84 *Humblot* (s-c)
- Case 184/85 *Commission v Italy (Bananas)* (s-c)

SESSION 19

Free Movement of Goods: Quantitative Restrictions and Measures Having Equivalent Effect (I)

Readings:

- Note and questions (s-c)
- Articles 34-36 and 114-115 TFEU (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 588-597, 602-606 and 644-647 (book)
- Case 8/74 *Dassonville* (s-c)
- Case 120/78 *Cassis de Dijon* (s-c)
- Case 178/84 *German Beer Purity Law* (s-c)

Additional readings:

- Regulation 764/2008/EC (s-c)

SESSION 20

Free Movement of Goods: Quantitative Restrictions and Measures Having Equivalent Effect (II)

Readings:

- Note and questions (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 607-613 (book)
- Case C-267 and 268/91 *Keck* (s-c)
- Case C-368/95 *Familiapress* (s-c)
- Case C-110/05 *Commission v Italy (Trailers)* (s-c)

SESSION 21

Free Movement of Persons: Workers

Readings:

- Note and questions (s-c)
- Article 45 TFEU (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 357-360 and 368-370 (book)
- Directive 2004/38/CE of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC
- Case C-139/85 *Kempf* (s-c)
- Case C-292/89 *Antonissen* (s-c)
- Case C-415/93 *Bosman* (s-c)
- Case C-145/09 *Tsakouridis* (s-c)

SESSION 22
EU Citizenship and Free Movement of Persons

Readings:

- Note and question (s-c)
- Articles 18, 20 and 21 TFEU (s-c)
- Articles 7, 16 and 24 of the Directive 2004/38 (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 317-318 and 343-348 (book)
- Case C-369/90 *Micheletti* (s-c)
- Case C-34/09 *Ruiz Zambrano* (s-c)
- Case C-209/03 *Bidar* (s-c)
- Case C-158/07 *Förster* (s-c)

Additional readings:

- Case C-135/08 *Rottmann* (s-c)
- Joined Cases C-22/08 and C-23/08 *Vatsouras* (s-c)

SESSION 23
Introduction to EU Private Law and Harmonization of EU Law

Readings:

- Beale, H., "European contract law; the Common Frame of Reference and beyond" in Twigg-Flsner, C., *The Cambridge Companion to European Union Private Law*, Cambridge University Press, 2010

SESSION 24
Case Study: Advancing Harmonization of EU Private Law by Means of Common Binding Legal Instruments

- Presentations by students on the following topics:
 - Harmonization of Commercial Contracts
 - Harmonization of Consumer Contracts
 - Adoption of a European Contract Code
 - Harmonization of Property Law
 - Adoption of a European Civil Code

SESSION 25
Freedom of Establishment: Self-employed Persons

Readings:

- Note and questions (s-c)
- Articles 49-53 TFEU (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 412-414, 443-445, 466-468 and 473-476 (book)
- Case 2/74 *Reyners* (s-c)
- Case 107/83 *Klopp* (s-c)
- Case C-55/94 *Gebhard* (s-c)

SESSION 26

Freedom of Establishment: Companies

Readings:

- Note and questions (s-c)
- Articles 49 and 54 TFEU (s-c)
- Case C-212/97 *Centros* (s-c)
- Case C-210/06 *Cartesio* (s-c)

SESSION 27

Freedom to Provide Services

Readings:

- Note and questions (s-c)
- Articles 56-62 TFEU (s-c)
- Fairhurst, *Law of the European Union*, 2012, pp. 414-417, 428-429 and 439-442 (book)
- Case C-384/93 *Alpine Investments* (s-c)
- Opinion of AG Jacobs in Case C-384/93 *Alpine Investments* (s-c)
- Joined Cases C-544/03 and C-545/03 *Mobistar* (s-c)
- Directive 2006/123/EC on services in the internal market

SESSION 28

Free Movement of Capital and the Economic and Monetary Union

Readings:

- Note and questions (s-c)
- Craig and de Búrca, *EU Law: Text, Cases, and Materials*, 2011, pp. 694-712
- Articles 63-66 TFEU (s-c)
- Case C-367/98 *Commission v Portugal* (s-c)
- Case C-443/06 *Hollmann* (s-c)
- Case C-112/05 *Commission v Germany (Volkswagen Law)* (s-c)

SESSION 29

Common Commercial Policy

Readings:

- Note and questions (s-c)
- Case 395/93 *Neckermann Versand* (s-c)
- Case C-26/88 *Brother* (s-c)
- Case C-173/05 *Commission v Italy* (s-c)
- Case C-351/04 *Ikea Wholesale* (s-c)

SESSION 30

Final Exam

4- METHODOLOGY AND ECTS WEIGHTING

The methodology of each session will consist of a mixture of interactive lectures, case discussions or presentations by students. One part of each class will be dedicated to a presentation by the professor explaining the EU institutions or the main rules and doctrines of EU Law, and an analysis of key judgments of the EU Courts. During the rest of the class some practical aspects will then be explored either by means of a discussion of a case that students have prepared in advance, or presentations by students of the application and enforcement of the EU rules in practice followed by a discussion involving the whole class.

For each class, students are expected to read the assigned readings, which will help them to follow the lecture and to prepare for the discussion in class. Throughout the course, students will solve cases in writing (either individually or in groups) that will then be discussed in class, or write group memorandums analyzing judgments of the EU Courts, which will be commented in class.

The interactive lectures will account for approximately 20% of the ECTS weighting, the case discussions and group presentations for 20%, while the group work outside class will account for 20% and individual studying outside class for 40%.

This subject does not require the use of a laptop in class; nevertheless, if students want to bring their laptop, they should contact the professor.

5- EVALUATION SYSTEM

5.1. GENERAL OBSERVATIONS

Each student has four attempts over two consecutive academic years to pass this course.

Students must attend at least 70% of the sessions. Students who do not comply with this attendance rule will lose their first and second chance to pass the course, and will go directly to the third one (they will need to enroll again in this course next academic year).

Students taking the exam for the third or fourth time should contact the professor during the first two weeks of the course.

Students are expected to do the readings and the assigned tasks for each class. Class preparation and class participation are essential in order to pass the course.

5.2. EVALUATION AND WEIGHTING CRITERIA

The final grade for the course will be based on both individual and group work. The evaluation is based on:

Written assignments: 20%

Participation: 30%

Exams: 50%

WRITTEN ASSIGNMENTS (30%)

Throughout the course, students will be requested to prepare group or individual assignments in writing. The assignments will consist in the solution of cases or the analysis of judgments of the EU courts that will be discussed in class.

Each written assignment will be posted on the internet platform IE Campus approximately one week before each class and students must then solve the case or prepare the memorandum before the class meeting. A hard copy of the document must be delivered to the professor at the beginning of each class. Students must also upload an electronic document on the *Turnitin Assignment* folder created for the memorandum on IE Campus.

The evaluation of the written assignments will focus on whether the document provides an answer to the questions asked or a clear and complete analysis of the legal issues raised, and how well students reason and argue their views. In addition, the document must be written in a clear and well-structured manner, and it must include the relevant footnotes when referring to statements given, opinions expressed or facts provided by other authors. Copy-pastes will not be accepted, but students must demonstrate that they are capable of conducting an independent analysis and explaining facts using their own words.

CLASS PARTICIPATION (30%)

Students are expected to attend and prepare in advance all class meetings and to participate actively in debates throughout the course. The class discussions aim to enhance students' capacity to argue and analyze legal issues of the European Union.

Students will also be requested to make two group presentations during the course.

The evaluation of class participation will depend on the depth and quality of the contribution, its clarity and the frequency of contributions. The contributions should demonstrate understanding and knowledge of the topic, capacity of independent analysis and reflection and ability to see the relationship between theory and practice. The contributions should be well-argued and expressed in a clear manner that it is easy to follow. Students must refrain from merely repeating what has already been said by other students.

EXAMS (40%)

The mid-term and final exam will consist of assessment or reflection questions and/or solution of cases or problem questions.

It is essential that students know and understand the key concepts and main rules and principles of the topics studied in the course. Similarly, they should be familiar with how those rules and principles are applied and enforced in practice.

The evaluation of the exams is based on similar factors as the evaluation of the written assignments. With regard to cases or practical problem questions, the students must analyze a factual situation, apply the appropriate legal principles to the facts and reason their conclusion.

5.3. RETAKE POLICY

In the July retake the maximum final grade will be 8 out of 10.

Grading for retakes will be subject to the following rules:

- Students failing the course in the first regular period will have to do a retake in July (except those not complying with the attendance rules, which are banned from this possibility).
- Dates and location of the July retakes will be posted in advance and will not be changed.

The retake will cover everything that students have learned in class, including readings, lectures, case discussions and group exercises.

6- BIBLIOGRAPHY

The readings of the course will consist of a mixture of readings from the course book (*Law of the European Union* by Fairhurst) and judgments of the EU Courts.

Students who wish to gain a deeper understanding of EU Law are encouraged to also consult the text by Craig and de Búrca.

6.1 COMPULSORY

Title: Law of the European Union

Author: Fairhurst, J.,

Publisher / Edition / Year: Pearson / 9th / 2012

ISBN / ISSN: 978-1408295267

Medium: PRINT ELECTRONIC

6.2 RECOMMENDED

Title: EU Law: Text, Cases, and Materials

Author: Craig, P. and de Búrca, G.

Publisher / Edition / Year: Oxford University Press / 5th / 2011

ISBN / ISSN: 978-0199576999

Medium: PRINT ELECTRONIC

7- CONTACT INFORMATION; OFFICE HOURS

Contact Information : javier.decendra@ie.edu

Office Hours: The professor is available for meeting students following an appointment made in advance by e-mail to the address indicated above.

8- PROFESSOR BIO

Javier de Cendra is Dean of IE Law School. He is also honorary senior research fellow at University College London (Faculty of Laws and Energy Institute), visiting professor at University of Malta, legal expert at the Malta Forum on Legal Issues of Adaptation to Climate Change, and member of the international advisory board of CEID Colombia.

Javier has engaged intensively in research and consultancy on climate change and energy law. He has participated in several European projects, and contributes regularly to the Malta Forum on Legal Issues on Adaptation to Climate Change, an academic body that provides legal advice on climate change adaptation. As a consultant, he has given advice on climate change law and policy to the European Commission (DG Clima) and to the British government.

Javier has published three books and many academic articles in journals such as the Yearbook of International Environmental Law, the Journal of Environmental Law, Climate Law, Climate Policy, the Journal of European Consumer Law, and RECIEL. He has presented papers at conferences such as the IUCN Academy of Environmental Law Annual Colloquia and the Global Conferences on Environmental Taxation. He is member of the editorial board of the journal Frontiers of Legal Research, and acts as expert reviewer for many journals, including Climate Law, Climate Policy, Transnational Environmental Law, RECIEL, and others.