

# **THE LAW OF THE EUROPEAN UNION**

**UG PROGRAMME 'JURISPRUDENCE'**

**YEAR 3**

**Module 4, Academic Year 2016/2017**

## **WELCOME NOTE**

Dear Bachelor's students of Jurisprudence,

Welcome to the study of the Law of the European Union. EU law governs, in one way or another, significant aspects of the lives of five-hundred million Europeans. It also governs certain aspects of legal persons operating within the EU. More widely, EU law has been created to establish, first and foremost, an environment of peace and stability for the free movement of persons, goods, services and capital in Europe. Together we shall introduce ourselves to certain of the most significant aspects of EU Law. The course of EU law, thus, offers us a unique opportunity to immerse ourselves into the key mechanics and intricacies of such a type of law.

I, therefore, invite you to make the best out of the course of EU law.

Dr. A.E. Platsas.

## **EU SYLLABUS' THEMATIC AREAS (TOPICS)**

### **PART I (INTRODUCTORY ELEMENT)**

1. History of the EU and EU Law
2. EU Official Organs & Related Law
3. Hierarchy of Norms & Legislative Instruments
4. Effect and Enforcement of EU Law
5. Judicial Review
6. External Relations

### **PART II (NORMATIVE ELEMENT *PER SE*)**

7. The Four (4) Freedoms of the Union
8. The EU Charter of Fundamental Rights
9. Anti-Cartel Law of the EU
10. The Legal Basis of the Eurozone

**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**

**Bachelor Degree Curriculum**

**Year 3**

**Field of Education 40.03.01. – Jurisprudence**

**Detailed Field Jurisprudence**

**Level Bachelor's Degree**

**THE LAW OF THE EUROPEAN UNION**

**Course Syllabus**

**Author of the Course / Course Instructor**

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**Approved at the Public and Private  
International Department session**

**Approved at the Academic Council of Bachelor  
Program "Jurisprudence" session**

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***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. Course Description

This syllabus sets up the minimum learning expectations (with regard to skills and knowledge) for Bachelor's students undertaking the course of the Law of the European Union (hereinafter 'EU Law'). It also offers students information on the content of scientific seminars, relevant practical exercises e.g. seminar questions and types of assessment.

The syllabus is drafted in accordance 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);
- Educational program on the direction of study 40.03.01 «Jurisprudence», Bachelor level;
- Curriculum of the HSE of study 40.03.01 «Jurisprudence», Bachelor level.
  - Pre-requisites:
    - Fluency in English
    - Completion of Year 2 of Jurisprudence Programme of Studies
    - Adequate knowledge of Public Law (as in Constitutional and/or Administrative Law) and Civil Law
    - Exchange students have to also satisfy relevant requirements according to their learning agreement and as appropriate, i.e. by satisfying similar pre-requisites to the ones expected of domestic students.
  - Course Type
    - Elective
  - Abstract
    - This course offers student body the opportunity to familiarise and acquaint themselves with the key mechanics, key norms and overall spirit of EU law. In particular, the course is divided into two (2) main areas: first, a general section (history, nature, structure and legal system of the EU as well as effect, enforcement and remit of EU law) and, second, a more specific section (material law of the EU: regulation of the internal market, economic and monetary union, competition law and fundamental rights).

## 2. Learning Objectives

1. To familiarise and acquaint Bachelor's students with the key mechanics, key norms and the spirit of EU law.
2. To develop relevant cultural, professional and cognitive competences (knowledge, skills and abilities) in the sphere of EU law.

### 3. Learning Outcomes

There are two (2) pedagogic clusters, when it comes to the learning outcomes of the course:

a. Acquisition of knowledge:

*Acquisition of knowledge will occur on:*

- role and significance of the EU Law in regulation of social and economic relations in so-called European legal space;
- main features of current EU Law, particularities of its subjects, sources, object of regulation;
- main directions of development of the EU Law;
- system of bodies and official organs of the EU;
- sources of EU Law;
- protection of human rights in the EU and by the EU;
- role of the EU in the modern society and in the world;
- external relations of the EU with third countries namely, Canada, China, Russia and the USA;
- judicial review of the EU;
- principles of the internal market of the EU;
- realisation and appreciation of the '4 freedoms' of movement in the EU;
- the legal basis of the monetary union;
- competition law of the EU;

b. Formation of the following skills and abilities:

*Formation of the following abilities and skills will develop on:*

- application of the EU norms in concrete situations;
- analysis of legal sources and interpretation of legal norms;
- familiarisation with and appropriate use of the special legal terms of EU Law;
- search and analysis of the scientific, legal and other types of information on EU law.

## Competences gained as a result of the course

Code of the competence	Content of the competence
SK-2	Able to use knowledge in practice
SK-11	Able to undertake professional activities in international framework
PK-1	Able to appreciate EU law and its key mechanics
PK-2	Able to undertake different types of academic activities on the basis of legal norms
PK-8	Able to search for, analyse and use relevant legal information applying formal-judicial, legal comparative and other methods
PK-12	Able to meet and address academic purposes of the course on the basis of relevant legal norms

#### 4. Course Plan

	Course Areas	Hours in sum	Hours		Self-study
			Lectures	Scientific Seminars	
	<b>Chapter I. Introductory Element</b>				
<b>1</b>	History of the EU and EU Law	8	0	3	5
<b>2</b>	EU Official Organs & Related Law	8	0	3	5
<b>3</b>	Hierarchy of Norms & Legislative Instruments	8	0	3	5
<b>4</b>	Effect and Enforcement of EU Law	8	0	3	5
<b>5</b>	Judicial Review	8	0	3	5
<b>6</b>	External Relations	6	0	2	4
	<b>Chapter II. Normative Element <i>per se</i></b>				
<b>7</b>	The Four (4) Freedoms of the Union	8	0	3	5
<b>8</b>	The EU Charter of Fundamental Rights	8	0	3	5
<b>9</b>	Anti-Cartel Law of the EU	8	0	3	5
<b>10</b>	The Legal Basis of the Eurozone	6	0	2	4
	<b>In sum:</b>	<b>76</b>	<b>0</b>	<b>28</b>	<b>48</b>

## 5. Reading Lists

### Required

- A Arnall and D Chalmers (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) *or*
- E Berry, MJ Homewood and B Bogusz, *EU Law: Text, Cases, and Materials* (Oxford University Press 2013).

### Optional

Optional reading lists are normally provided at the end of each and one of the specific course areas. Please refer accordingly.

### Case Law Updates

Considering the dynamic nature of EU jurisprudence, certain case law updates are provided at the end of certain units (topics) of this syllabus. Whereas you do not have to strictly follow all case law provided, you are advised to attempt to read relevant summaries of cases, as these would bring you up to speed with certain recent developments of EU law.

### Internet Resources

- General information on the European Union can be found here: <https://europa.eu/>
- Specific information on EU statutory and case law can be found here: <http://eur-lex.europa.eu/homepage.html>

## 6. Forms of Assessment

Type of Assessment	Forms of control	Modules				Content
		1	2	3	4	
	Summative Essay				*	This will be related to Chapter I of the Course.
	Oral Examination				*	This will be related to Chapter II of the Course.

Assessment is carried out on a number of criteria (see below). Forms of assessment will be:

- an initial summative essay
- a final oral examination



## **7. Guidelines for Knowledge Assessment (Criteria for Evaluation of Knowledge and Skills)**

(1) Summative Essay Question (Maximum: 10 out of 10 – Weight: 50% of total mark in the Course)

### **OVERALL ASSESSMENT CRITERIA**

As per learning outcomes.

### **SPECIFIC MARKING AND GRADING CRITERIA**

1. Critical Analysis and Evaluation;
2. Original Thinking;
3. Quality of Research;
4. Wealth of Resources;
5. Quality Presentation of Submitted Work;
6. Clarity of Ideas;
7. Coherence and Logic;
8. System and Method;
9. Proper Division of Submission's Entries;
10. Proper Application of the Law and Constant Use of Legal and Academic Authority.

(2) Oral Examination (Maximum: 10 out of 10 – Weight: 50% of total mark in the Course)

### **OVERALL ASSESSMENT CRITERIA**

As per learning outcomes.

### **SPECIFIC MARKING AND GRADING CRITERIA**

1. Critical Analysis and Evaluation;
2. Original Thinking;
3. Quality of Research;
4. Wealth of Resources;
5. Quality Presentation of your Work;
6. Clarity of Ideas;
7. Coherence and Logic;
8. System and Method;
9. Proper Division of Submitted Answer's Entries;

10. Proper Application of the Law and Constant Use of Legal and Academic Authority.

*In addition* students in an oral examination situation are also expected to deliver answers which are followed by the following qualities:

11. Audibility and clarity, pitch, proper articulation, pace and tone / appropriate emphasis;
12. Fluency, appropriate forms of language including addressing the examiner(s), clarity of expression;
13. Appropriate body language (posture, eye contact, appropriate gestures only, appropriate use of notes);
14. Appropriate content (proper coverage of legal issues, relevance of law in their responses, emphasis, anticipating or responding to other side; at least certain justification of the argument which has been supported);
15. Appropriate structure (introduction, development of argument, appropriate use of comparative and legal methodology if necessary, conclusion);
16. Appropriate authority (analysis based on a wealth of ideas, use of appropriate and relevant authority, correct use of authority).

**8. Methods of Instruction**

- Doctrinal approach
- Socratic approach
- Comparative approach
- Historical approach
- Economics approach

## 9. Course Content

### PART I

#### 1. History of the EU and EU Law

In this unit of the Syllabus, we shall concentrate on the history, the background and certain of the treaty fundamentals of EU law.

#### Key Areas of Learning:

1. Predecessors to the EEC and the EU
2. European organisations as organisations of peace and stability in Post-war Europe
3. Growth of the EU; recent developments
4. The EU in the world
5. From EEC law to EU law
6. Character of EU law
7. Treaty Law & Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union
8. EU law as a *sui generis* type of law

#### Core Readings

- Consolidated version of the Treaty on European Union (TEU); in particular:
  - Arts 1-8
  - Arts 9-12
  - Art 20
  - Arts 21-46;
- Consolidated version of the Treaty on the Functioning of the European Union (TFEU); in particular:
  - Arts 2-6;
- N Walker, 'The Philosophy of EU Law' in A Arnall and D Chalmers (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 3-27 or
- E Berry, MJ Homewood and B Bogusz, *EU Law: Text, Cases, and Materials* (Oxford University Press 2013) 1-33.

#### Additional Suggested Readings

- M Horspool and M Humphreys, *European Union Law* (7<sup>th</sup> edn, Oxford University Press 2012) 1- 34;
- C Barnard and S Peers, 'Introduction' and P Craig, 'Development of the EU' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 1-8; 9-35;
- J Dickson and P Eleftheriadis, 'Introduction: The Puzzles of European Union Law' in J Dickson and P Eleftheriadis (eds), *Philosophical Foundations of European Union Law* (Oxford University Press 2012) 1-22.

## 2. EU Official Organs & Related Law

In this unit of the Syllabus, we shall deal with the various organs of the EU; their role and EU law's legal ambit vis-à-vis EU Member States.

### Key Areas of Learning:

1. The EU as a complex legal machinery
2. The Organs of the EU
3. The Legal Authority of the EU
  - Exclusive Areas of Legal Authority of the EU
  - Shared Areas of Legal Authority as between the EU and Member States
  - Areas of Wider Co-operation between the EU and Member States

### Core Readings

- Consolidated version of the TEU; in particular:
  - Arts 3,4 and 6
  - Arts 13-19
- Consolidated version of the TFEU; in particular:
  - Arts 223-287;
- R Schütze, 'EU Competences: Existence and Exercise' in A Arnall and D Chalmers (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 75-102 or
- E Berry, MJ Homewood and B Bogusz, *EU Law: Text, Cases, and Materials* (Oxford University Press 2013) 25-50.

### Additional Suggested Readings

- M Horspool and M Humphreys, *European Union Law* (7<sup>th</sup> edn, Oxford University Press 2012) 35-65;
- A Rosas and L Armati, *EU Constitutional Law: An Introduction* (2<sup>nd</sup> edn, 2012 Hart) 20-31;
- S Peers, 'The Political Organs of the EU' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 36-70;
- K Culver and M Giudice, 'Not a System but an Order: An Inter-Institutional View of European Union Law' in J Dickson and P Eleftheriadis (eds), *Philosophical Foundations of European Union Law* (Oxford University Press 2012) 54-76.

### Case Law Updates

- Case C-432/04 *Commission v Cresson* [2006] ECR I-6387 (on the qualifications of employees in EU bodies)
- Case C-370/12 *Pringle v Government of Ireland, Ireland and the Attorney General* [2012] EU:C 2012: 756 (on the interpretation of the remit of exclusive competences of EU organs)
- Case C-55-06 *Arcor v Germany* [2008] ECR I-2931 (on the interpretation of a subsidiarity analysis vis-à-vis competences of legislative matters as between Member States and the Union)
- Case C-145/04 *Spain v UK* [2006] (on whether citizens of EU States' dependent territories are eligible to vote and stand in the European Parliament's elections)
- Case T-13/99 *Pfizer Animal Health v Council* [2002] ECR II-3305 (on the duty of EU organs to consult expert EU agencies prior to the authorisation of products or for informing future EU legislation)

- Joined Cases C-402/05 P and C-415/05 P *Kadi and Al Barakaat International Foundation v Council and Commission* [2008] ECR I-6351 (on the implied powers of the EU under Art 308 of Treaty Establishing the European Community (Art 352 TFEU)).

### 3. Hierarchy of Norms & Legislative Instruments

In this unit of the Syllabus, we shall engage ourselves with the hierarchy of norms within the EU and relevant legislative instruments.

#### Key Areas of Learning:

1. Hierarchy of Norms
2. Legislative Instruments
  - a. Treaties
  - b. Auxiliary Forms of Legislation

#### Core Readings

- Consolidated version of the TFEU; in particular:
  - Arts 288-292
  - Arts 293-299;
- D Curtin and T Manucharyan, 'Legal Acts and Hierarchy of Norms in EU Law' in A Arnull and D Chalmers (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 103-125 or
- E Berry, MJ Homewood and B Bogusz, *EU Law: Text, Cases, and Materials* (Oxford University Press 2013) 51-76.

#### Additional Suggested Readings

- M Horspool and M Humphreys, *European Union Law* (7<sup>th</sup> edn, Oxford University Press 2012) 93-121;
- K ST C Bradley, 'Legislating in the EU' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 97-139;
- A Rosas and L Armati, *EU Constitutional Law* (Hart 2012) 52-65.

#### Case Law Updates

- Case T-18/10 *Inuit Tapiriit Kanatami and others v Parliament and Council* [2011] ECR-05599 (on whether a legislative act of the EU constitutes a regulatory act)
- Case C-355/10 *Parliament v Council* [2012] ECLI:EU:C:2012:516 (on the delimitation of legislative powers and the possibility of delegation of legislative powers by EU bodies to other bodies)
- Joined cases T-64/01 and T-65/01 *Afrikanische Fruchtcompanie v Council* [2004] ECR II-521 (on the possibility of Council being able to delegate non-essential elements of policy to the Commission; in this respect, see also Art 290 TFEU)
- Case C-427/12 *Commission v Parliament* [2014] ECLI:EU:C:2014:170 (on the particularities of EU Parliament conferring powers to the Commission)
- Case C-213/07 *Michaniki AE v Ethniko Symvoulío Radiotileorasis and Ypourgos Epikrateias* [2008] ECR I-9999 (on the primacy of EU law over national law in relevant areas of law, i.e. in areas of law in which EU law has competence).

#### 4. Effect and Enforcement of EU Law

In this unit of the Syllabus, we shall proceed with the examination of EU law's effect and enforcement.

##### Key Areas of Learning:

1. Primacy of EU Law in Designated Areas of Law
2. The Mechanisms of Balancing of EU Law's Primacy
3. EU National Constitutions vis-à-vis Primacy of EU Law
4. Interplay between Court of Justice of the EU with National Courts
5. Applicability of EU Law
6. Preliminary Reference Procedure
7. Member State Liability

##### Core Readings

- Consolidated version of the TFEU; in particular:
  - Art 267
- M Claes, 'The Primacy of EU Law in European and National Law'; D Leczykiewicz, 'Effectiveness of EU Law before National Courts: Direct Effect, Effective Judicial Protection, and State Liability' in A Arnull and D Chalmers (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 178-211; 212-248 or
- E Berry, MJ Homewood and B Bogusz, *EU Law: Text, Cases, and Materials* (Oxford University Press 2013) 77-115; 133-166; 167-224.

##### Additional Suggested Readings

- M Horspool and M Humphreys, *European Union Law* (7<sup>th</sup> edn, Oxford University Press 2012) 67-92; 161-221;
- K ST C Bradley, 'The Effect of EU Law in the National Legal Systems' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 140-173;
- A Rosas and L Armati, *EU Constitutional Law* (Hart 2012) 66-85; 261-281;
- A Arnull, 'Judicial Dialogue in the European Union' in J Dickson and P Eleftheriadis (eds), *Philosophical Foundations of European Union Law* (Oxford University Press 2012) 109-133;
- 'For History's Sake: On *Costa v. ENEL*, André Donner and the Eternal Secret of the Court of Justice's Deliberations' (Editorial) [2014] *European Constitutional Law Review* 191;
- M Rasmussen, 'Revolutionizing European Law: A History of the van Gen en Loos Judgment [2014] 12 *International Journal of Constitutional Law* 136.

##### Case Law Updates

- Cases C-37 and 58/06 *Viamex Agrar Handels GmbH and another v Hauptzollamt Hamburg-Jonas* [2008] ECR I-69 (on the possibility of directives having direct effect on individuals)
- Case C-212/04 *Konstantinos Adeneler and Others v Ellinikos Organismos Galaktos (ELOG)* [2006] ECR I-06057 (on the application of community law on national law and the implementation of directives)
- Case C-224/01 *Köbler v Austria* [2003] ECR I-10239 (on the question of *res judicata* after a national court has adjudicated an EU law matter at last instance)

- Case C-314/08 *Filipiak* [2009] ECR I-11049 (on the position of national courts to apply national law provisions when these clash with EU law)
- Case C-321/05 *Hans Markus Kofoed v Skatteministeriet* [2007] ECR I-5795 (on the question as to how precise should national legislation be, when it comes to interpreting a directive)
- Case C-268/06 *Impact v Minister for Agriculture and Food* [2008] ECR I-2483 (on the question whether general principles of law apply in the application of EU law).



## 5. Judicial Review

In this unit of the Syllabus, we shall proceed with the exploration of the concept of judicial review in the workings of the EU.

### Key Areas of Learning:

1. Judicial Review
2. Commission Action for Judicial Review
3. Direct Action Procedure
4. *Locus standi* considerations
5. Remedies against Member States
6. Remedies against the EU

### Core Readings

- Consolidated version of the TFEU; in particular:
  - Art 258
  - Art 260
  - Art 263
  - Art 265
  - Art 340
- A Arnall, 'Judicial Review in the European Union' in A Arnall and D Chalmers (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 376-402 or
- E Berry, MJ Homewood and B Bogusz, *EU Law: Text, Cases, and Materials* (Oxford University Press 2013) 225-294.

### Additional Suggested Readings

- M Horspool and M Humphreys, *European Union Law* (7<sup>th</sup> edn, Oxford University Press 2012) 223-268;
- A Albors-Llorens, 'Judicial Protection before the Court of justice of the European Union' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 255-299.

### Case Law Updates

- Case C-325/98 P *Bergardem v Commission* [2000] ECR I-5291 (on equivalence of legal damages between the EU and Member States on equivalent circumstances)
- Case T-16/04 *Arcelor v Parliament and Council* [2010] ECR II-211 (on the liability of the EU legislature as measured against its degree of failure in exercising its powers)
- Case C-239/12 P *Abdulrahim v Council and Commission* [2013] 3 CMLR 41 (individuals must display that they have an interest in the rescindment of the measure in question)
- Joined Cases T-172/98 and T-175/98 to T-177/98 *Salamander AG, Una Film "City Revue" GmbH, Alma Media Group Advertising SA & Co. Partnership, Panel Two and Four Advertising SA, Rythmos Outdoor Advertising SA, Media Center Advertising SA, Zino Davidoff SA and Davidoff & Cie SA v European Parliament and Council of the European Union* (on the possibility of private individuals to challenge EU directives).

## 6. External Relations

In this unit of the Syllabus, we shall deal with the legal framework of the EU's external relations and common external policies.

### Key Areas of Learning:

1. EU as an organisation with a separate Legal Personality
2. Authority of the EU to conclude agreements with third countries on behalf of its Member States
3. Structure of Common External Policies
  - Commercial Policy
  - Foreign and Security Policy
  - Security and Defence Policy
4. Relations of the EU with Canada
  - Comprehensive Economic and Trade Agreement 2016 (signed on 30 October 2016)
5. Relations of the EU with China
6. Relations of the EU with Russia
7. Relations of the EU with the USA

### Core Readings

- Consolidated version of the TEU; in particular:
  - Arts 21-41
  - Arts 42-46
  - Art 47
- Consolidated version of the TFEU; in particular:
  - Arts 206-207
  - Art 218
- P Koutrakos, 'External Action: Common Commercial Policy, Common Foreign and Security Policy, Common Security and Defence Policy' in A Arnulf and D Chalmers (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 271-299 or
- H Merket, 'The European External Action Service and the Nexus between CFSP/CSDP and Development Cooperation [2012] 17 *European Foreign Affairs Review* 625.

### Additional Suggested Readings

- G De Baere, 'EU External Action' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 704-750;
- R Kleinfeld and K Nicolaïdis, 'Can a Post-colonial Power Export the Rule of Law?' in G Palombella and N Walker (eds), *Relocating the Rule of Law* (Hart 2009) 139-169;
- B Van Booren, 'A Legal-institutional Perspective on the European External Action Service' [2011] 48 *Common Market Law Review* 475;
- S Duke, 'Consistency, Coherence and EU External Action: The Path to Lisbon and Beyond' in P Koutrakos (ed), *European Foreign Policy: Legal and Political Perspectives* (Edward Elgar 2011) 15-54.

## PART II

### 7. The Four (4) Freedoms of the Union

In this unit of the Syllabus, we shall enquire into certain of the intricacies of Europe's common market.

#### Key Areas of Learning:

1. The Four (4) Freedoms
2. A Unified Economic Space
3. The EU as a fundamentally economic project
4. Development of the common market: from a free trade area to a monetary union

#### • Core Readings

- Consolidated version of the TEU; in particular:
  - Art 3
- Consolidated version of the TFEU; in particular:
  - Art 21
  - Art 30
  - Arts 34-36
  - Art 45
  - Art 49
  - Arts 56-57
  - Art 63
  - Art 110
- E Spaventa, 'The Free Movement of Workers in the Twenty-First Century'; K Armstrong, 'Governing Goods: Content and Context'; Z Adams and S Deakin, 'Freedom of Establishment and Regulatory Competition' and G Davies' 'The Law on the Free Movement of Services' in A Arnall and D Chalmers (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 457-476, 508-536, 537-561 and 562-585 or
- E Berry, MJ Homewood and B Bogusz, *EU Law: Text, Cases, and Materials* (Oxford University Press 2013) 337-458.

#### Additional Suggested Readings

- M Horspool and M Humphreys, *European Union Law* (7<sup>th</sup> edn, Oxford University Press 2012) 269-351;
- A Rosas and L Armati, *EU Constitutional Law: An Introduction* (2<sup>nd</sup> edn, 2012 Hart) 200-219;
- J Snell, 'The Internal Market and the Philosophies of Market Integration' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 300-324.

#### Case Law Updates

- Case C88/03 *Portugal v Commission* [2006] I-07115 (on what amounts to State aid, it being dependent on the degree of financial autonomy of supported geographical region)
- Joined Cases C-428/06 and C-436/06 *Unión General de Trabajadores de La Rioja (UGT-Rioja) and Others v Juntas Generales del Territorio Histórico de Vizcaya and Others* [2008]

ECLI:EU:C:2008:488 (on whether tax cuts at local level could be compensated by way of national financing)

- Joined Cases C-158/04 and C-159/04 *Alfa Vita Vassilopoulos AE and Carrefour Marinopoulos AE v Elliniko Dimosio and Nomarchiaki Aftodioikisi Ioanninon* (on the criteria as to what amounts to discrimination – see Advocate General Poiares Maduro’s rationale on this)
- Case C-458/08 *Commission v Portugal* [2010] ECR I-11599 (on the interpretation of Art 16 of Directive 2006/123/EC, i.e. on the interpretation of freedom to provide services)
- Case C-446/03 *Marks & Spencer* [2005] ECR I-10837 (on the indirect hindering of establishment of UK companies abroad due to tax reliefs for the domestic subsidiaries of UK parent companies)
- Case C-573/12 *Ålands Vindkraft AB v Energimyndigheten* [2014] ECR I-000 (on the expansive understanding of the concept of good under Art 34 TFEU)
- Case C-367/11 *Prete* [2012] ECR I-0000 (on the link that a workseeker ought to have with host nation market in which he is employed to the enjoyment of social rights).

## 8. The EU Charter of Fundamental Rights

In this unit of the Syllabus, we shall proceed with the examination of EU's Charter of Fundamental Rights.

### Key Areas of Learning:

1. Why a Charter of Fundamental Rights for the EU?
2. Rights to Human Dignity
3. Freedoms
4. Equality
5. Solidarity
6. Citizens' Rights
7. Justice

### Core Readings

- Consolidated version of the TEU; in particular:
  - Art 2
  - Art 6
- Charter of Fundamental Rights; in particular:
  - Arts 1-5
  - Arts 6-19
  - Arts 20-26
  - Arts 27-38
  - Arts 39-46
  - Arts 47-50
- A Williams, 'Human Rights in the EU' in D Chalmers and A Arnull (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 249-270 or
- E Berry, MJ Homewood and B Bogusz, *EU Law: Text, Cases, and Materials* (Oxford University Press 2013) 295-336.

### Additional Suggested Readings

- A Rosas and L Armati, *EU Constitutional Law: An Introduction* (2<sup>nd</sup> edn, 2012 Hart) 160-180;
- E Spaventa, 'The Political Organs of the EU' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 226-254;
- L Zucca, 'Monism and Fundamental Rights' in J Dickson and P Eleftheriadis (eds), *Philosophical Foundations of European Union Law* (Oxford University Press 2012) 54-76;
- T Ojanen, 'Making the Essence of Fundamental Rights Real: The Court of Justice of the European Union Clarifies the Structure of Fundamental Rights under the Charter. ECJ 6 October 2015, Case C-362/14, Maximilian Schrems v Data Protection Commissioner' [2016] 12 *European Constitutional Law Review* 318;
- A Williams, 'Promoting Justice after Lisbon: Groundwork for a New Philosophy of EU Law' [2010] 30 *Oxford Journal of Legal Studies* 663.

### Case Law Updates

- Case C-400/10 PPU J *McB v LE* [2010] ECLI:EU:C:2010:582 (on the parallel character of the Charter rights to ECHR rights)

- Joined Cases T- 439/10 and T- 440/10 *Fulmen and Fereydoun Mahmoudian v Council* [2012] ECLI:EU:C:2010:746 (on the principle of effective legal protection under European constitutional traditions, Arts 6 and 13 ECHR and Art 47 of the Charter)
- Joined cases C- 468/10 and 469/10 *Asociación Nacional de Establecimientos Financieros de Crédito (ASNEF) and another v Spain* 24 November [2011] ECLI:EU:C:2011:777 (on the defective implementation of the Data Protection Directive in Spain against Arts 7 and 8 of the Charter)
- Case C-362/14 *Maximillian Schrems v Data Protection Commissioner* [2015] ECLI:EU:C:2015:650 (on the power of the Court of Justice to strike down acts of national commissions in matters of data protection)
- Joined Cases C402/05 P and C415/05 P *Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union and Commission of the European Communities* [2008] (on the right to be heard and the right to effective judicial protection).

## 9. Anti-Cartel Law of the EU

In this unit of the Syllabus, we shall introduce ourselves to certain of the economics and normative fundamentals of EU's anti-cartel laws.

### Key Areas of Learning:

1. Rationale of EU's Anti-Cartel Law
2. Economic Substratum of EU's Anti-Cartel Law
  - Introduction to Related Economic Theories
    - Harvard School
    - Chicago School
    - Post-Chicago School
    - Ordoliberal School
3. Aims of EU Anti-Cartel Law and Policy
4. Art 101 TFEU
5. Art 102 TFEU

### Core Readings

- Consolidated version of the TEU; in particular:
  - Protocol No27 on the Internal Market and Competition
- Consolidated version of the TFEU; in particular:
  - Art 101
  - Art 102
- O Odudu, 'Competition and Merger Law and Policy' in A Arnull and D Chalmers and (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 612-640 or
- E Berry, MJ Homewood and B Bogusz, *EU Law: Text, Cases, and Materials* (Oxford University Press 2013) 459-518.

### Additional Suggested Readings

- M Horspool and M Humphreys, *European Union Law* (7<sup>th</sup> edn, Oxford University Press 2012) 429-481;
- A Jones, 'Competition Law' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 504-538;
- J Farrell and C Shapiro, 'Recapture, Pass-through, and Market Definition' (2010) 76 *Antitrust Law Journal* 576.

### Case Law Updates

- Case C-209/07 *The Competition Authority v Beef Industry Development Society Ltd and Barry Bros Meats Ltd* [2008] ECR I-8637 (on the presumption that co-ordination of economic activity between different enterprises amounts to harmful use of market position)
- Case T-41/96 *Bayer AG v Commission* [2000] ECR II-3383 (on co-ordinated cartel practices and whether mere joint intention to control the market in a particular way suffices)
- Case T-201/04 *Microsoft v Commission* [2007] ECR II-3601 (on who holds the burden of proof as to evidencing objective justification of co-ordinated practices)
- Case C-457/10 P *AstraZeneca v Commission* [2012] ECR I-000 (on the understanding of independent conduct in the market)

- Case C-369/04 *Hutchinson 3G v Commission* [2007] ECR I-5247 (on the development of competition law in Europe as a separate form of jurisprudence to the overall jurisprudence of internal market law).



## 10. The Legal Basis of the Eurozone

In this unit of the Syllabus, we shall examine the legal basis of the so-called Eurozone, as this has developed to date.

### Key Areas of Learning:

1. Architecture of the Eurozone
  - First stage (1969-1980)
  - Second stage (1988-1990)
  - Third stage (1999-to date)
2. Full Freedom of Capital and Payments
3. Excessive Government Deficit Prohibition
4. Convergence Criteria
5. Legal implications for non-Eurozone Member States
6. European Central Bank

### Core Readings

- Consolidated version of the TEU; in particular:
  - Protocol (No 4) on the statute of the European System of Central Banks and of the European Central Bank
- Consolidated version of the TFEU; in particular:
  - Art 63
  - Art 119
  - Arts 127-130
  - Art 283
- F Amtenbrink, 'The Metamorphosis of European Economic and Monetary Union' in A Arnulf and D Chalmers (eds), *The Oxford Handbook of European Union Law* (Oxford University Press 2015) 719-756 or
- A Rosas and L Armati, *EU Constitutional Law: An Introduction* (2<sup>nd</sup> edn, 2012 Hart) 220-235.

### Additional Suggested Readings

- *ECB Convergence Report 2016* (ECB 2016) 1-41;
- F Fichtner and P König, 'A Stronger Union through Crisis? 25 Years of Monetary Integration in Europe' (2015) 5(27) *DIW Economic Bulletin* 376;
- F Amtenbrink and K van Duin, 'The European Central Bank before the European Parliament: Theory and Practice after 10 years of Monetary Dialogue' [2009] 34 *European Law Review* 561;
- A Hinarejos, 'Economic and Monetary Union' in C Barnard and S Peers (eds), *European Union Law* (Oxford University Press 2014) 567-590.

### Case Law Updates

- Case C-27/04 *Commission v Council* [2007] ECLI:EU:C:2004:436 (on the inter-institutional disagreement between the Commission and the Council as to the approach to be followed with regard to the French and German excessive deficits)

- Case C-370/12 *Pringle v Government of Ireland, Ireland and the Attorney General* [2012] EU:C 2012: 756 (on the compatibility of European Stability Mechanism with the law of the EU)
- Case C-182/08 *Glaxo Wellcome* [2009] (on the interpretation of Directive 88/361 under Art 63 TFEU by including the concepts of direct investment *inter alia*).

**10. Examples of Questions for Self-Studying (these are questions which may also be asked during your Oral Examination)**

1. The rationale behind the creation of European organisations, after the end of the 2<sup>nd</sup> World War, was peace and stability. Discuss with reference to EEC and EU law.
2. What do you know about the predecessors to the organisation we call the EU today? What was their legal remit?
3. When and how was the EEC created?
4. When and how was the EU created?
5. Scholars have argued that the EU expanded at a very rapid pace in the noughties, this causing considerable legal challenges for its organs and institutions. Do you agree/disagree? Discuss.
6. Why is EU law important from the comparative point of view?
7. What is the difference between the Treaty of the European Union and the Treaty on the Functioning of the European Union?
8. It has been argued that EU law is a *sui generis* type of law. Discuss.
9. It has been argued that EU law is another form of international law. Discuss.
10. The EU is a complex legal structure. Discuss.
11. Are all EU laws of equal importance? For instance, are decisions and recommendations of EU bodies as important as directives and/or regulations?
12. Identify an example of primary EU legislation. Identify an example of secondary EU legislation. Discuss and critically elaborate on their precise legal effect.
13. Surely, Regulations serve rather different purposes to Directives. If so, what are the differences between Regulations and Directives? Discuss.
14. EU law can be automatically applicable on certain occasions. Discuss a situation wherein EU law automatically applies.
15. How does judicial review on EU law occur at Member State level?
16. How does judicial review on EU law occur at EU level?
17. The EU now enjoys a separate legal personality. Why is this important for its Member States at the international law level?
18. The EU Charter of Fundamental Rights is a legal novelty in the face of EU law, which otherwise started as an economic project. Discuss the legal implications of the Charter for the EU and its importance for EU law.
19. Arts 101 and 102 TFEU are the pillars of EU anti-cartel law and policy. Discuss and elaborate by reference to specific examples.
20. The EU's Internal Market Law is based on four (4) freedoms. Elaborate and discuss why these freedoms are important from the legal point of view, i.e. by referring to statute and/or case law.

## 11. Examples of Summative Essay Questions

1. The historical rationale behind the creation of the EU has been politically-driven (see establishing peace in Europe after the 2<sup>nd</sup> World War). Nonetheless, the EU has come to become a rather complex legal structure in the process, it moving away from its original configuration as an economic project. Discuss.
2. From the legal point of view, the EU is a rather complex legal structure. Discuss with reference to at least three (3) EU institutions.
3. What is the precise benefit of secondary EU legislation for primary EU legislation? Critically discuss by referring to examples of EU secondary legislation in the furtherance of EU primary legislation.
4. Discuss the functions of the EU's three (3) judicial bodies. Thereafter, compare their remit.
5. What do you know about the Court of Justice of the EU? What is the significance of this Court for EU law matters? Discuss.
6. The hierarchy of norms is important for any system or ordering of law. This being the case, what is the precise role of hierarchy of norms in EU law? Critically evaluate the position of hierarchy of law in the face of EU law.
7. The EU has a number of competences based on the principle of conferred powers. Discuss the different types of legal authority of the EU.
8. What is the position of the EU in international law? Is EU law yet another form of international law?
9. EU law is governed by a number of principles. Discuss at least two (2) principles of EU law.
10. Discuss and compare the principle of proportionality under EU law and under European Convention of Human Rights law.
11. The preliminary reference procedure is certainly one of the more dynamic forms of legal procedure for the judicial effecting of EU law, it enhancing the dialogue between national European courts and the Court of Justice of the EU. Discuss and elaborate.
12. The Comprehensive Economic and Trade Agreement 2016 (between the EU and Canada) has been recently signed, it effectively abolishing 99% of tariffs as between Canada and the EU. Discuss the likely benefit of such an agreement with reference to a legal and an economics analysis.
13. What is the point of the four (4) freedoms of the EU? Discuss with reference to normative matter but also by taking an interdisciplinary approach too in your answer.
14. The EU Charter of Fundamental Rights is a new insert in the body of EU law. Why has this instrument been received as a particularly important novelty in the face of EU law?
15. Anti-cartel law forms a considerable part of the economic law backbone of the EU. Discuss with reference to Article 101 TFEU.
16. EU anti-cartel law has been generated with the European consumer in mind. Critically discuss relevant rationale behind EU anti-cartel law.
17. What is the point of anti-cartel law? Discuss with reference to economic theory and with reference to Articles 101 and 102 TFEU.
18. The Growth and Stability Pact, as this was concluded in 1997, is a key resolution of the so-called Economic and Monetary Union. After twenty (20) years of existence and after amendments to it in 2011, 2013 and 2014, the Pact has been criticised as a rather

narrow and occasionally obsolete instrument in practical terms, in that it has not managed to always implement the letter of the Maastricht Treaty of 1992. Discuss.

19. Former President of the European Central Bank once called the 'euro as a catalyst of legal convergence in Europe'. Discuss with reference to the legal developments in the Eurozone ever since 2000 to date.
20. The Eurozone has been seen as the apex of the economic and legal convergence in Europe. Discuss with reference to the world financial crisis and with regard to relative norms.

## 12. Seminar Questions

1. What is the difference between the EEC and EU and between EEC law and EU law?
2. Why has the Treaty of Rome 1957 been an important treaty in the face of European and international law? Has this treaty been replaced?
3. Is it true that EU law is an economic type of law?
4. What is the difference between the Treaty on the Functioning of the European Union and the Treaty on the European Union?
5. How many Member States comprise the EU? How many Member States comprise the Eurozone? What are the overall legal implications for Member States who are members of the Eurozone and for those who are not members thereof?
6. The degree of authority of EU law depends on the area of law in which EU law operates. Discuss with reference to three (3) examples of different areas of law, wherein EU law demonstrates different degrees of authority.
7. Why does the EU have different degrees of legal authority depending on area of law?
8. The EU has a number of official organs. Discuss two (2) official organs of the EU by demonstrating their legal powers.
9. Discuss the development of EU legal powers by reference to a single official body of the EU.
10. Who is the EU's prosecuting body for EU law matters? Who is the EU's adjudicating body in such matters? Which is the EU's body with the greatest degree of political power? Elaborate on your answer by reference to specific EU treaty provisions.
11. The EU has been attacked as an organisation which lacks a perfect degree of democratic legitimacy. Discuss with reference to at least a single official organ of the EU.
12. There has been movement towards the strengthening of the democratic legitimacy of the EU in its treaties. Discuss with reference to specific provision.
13. The hierarchy of norms within the EU is of central importance from the legal point of view. What do you understand out of such term?
14. Which one prevails over which? EU treaty law over auxiliary forms of EU law or auxiliary forms of EU law over EU treaty law? Justify your answer by reference to relevant legal authority.
15. Can EU official organs delegate their powers to other organs? If so, how? What about the principle of *delegatus non potest delegare*? Does this apply to the devolving of powers by EU organs?

16. Based on the EU's hierarchy of norms structure, does national constitutional law normally prevail over EU norm? If not, are there exceptions? Discuss with reference to legal authority.
17. What do you know about EU treaties? Which have been the main treaties to date?
18. What do you know about auxiliary forms of legislation in the EU? Which are the main types of such a type of legislation? What are their differences? What are their similarities (if any)?
19. Considering the multiplicity of legal tools at the disposal of the EU, would you opine that the EU amounts to a complex legal machinery?
20. Which type of EU legislation would you use, if you wanted to achieve certain legal goals by allowing concurrently the methods of implementation to Member States?
21. Is EU law supreme in the Member States? If so, when and how?
22. What are the mechanisms of EU law which counter-balance the supreme nature of EU law in its areas of exclusive legal authority?
23. What is the preliminary reference procedure? Does this enhance the legal dialogue as between the judiciaries of EU Member States and the EU's judiciary? If so, how?
24. The effect of EU law may come with Member State liability. How does this occur in practical terms? Elaborate on your answer by reference to EU case law.
25. What is the role of the European Civil Service Tribunal? Is this a judicial body?
26. The process of judicial review based on EU law is multifaceted. Discuss and elaborate.
27. What are the relevant *locus standi* considerations when it comes to judicial review in the EU?
28. What are the EU's judicial remedies against the EU?
29. What are the EU's judicial remedies against EU Member States?
30. When did the EU acquire separate legal personality? Why has this been significant?
31. What do you know about the EU's common commercial policy?
32. What do you know about the EU's common foreign and security policy?
33. What do you know about the EU's common security and defence policy?
34. What do you know about the missions of Canada, China, Russia and the USA to the EU? What is their role?
35. What do you know about the current state of legal and political affairs between the EU and Canada, China, Russia and the USA?
36. The so-called four (4) freedoms are the cornerstone of the economic law structure of the EU. Discuss.
37. Why could one claim that the EU is predominantly an economic law project?
38. The EU's internal market amounts to a unified economic space. Does this present advantages? Discuss.
39. Which of the four (4) freedoms is of the greater importance? Are they of equal value?
40. Discuss one of the four (4) freedoms with reference to relevant TFEU provision(s).
41. Is the creation of an internal market the final stage of the legal and economic union?
42. Can EU Member States governments subsidise domestic companies?
43. What is the aim of the EU Charter of Fundamental Rights?
44. Is the EU Charter of Fundamental Rights different to the European Convention on Human Rights? How?
45. The EU Charter dedicates a legal chapter to the abstract notion of dignity. Discuss the significance of such a notion for EU Law.

46. What are the freedoms provided in the charter? Critically elaborate on their legal remit.
47. How is justice dealt in the Charter?
48. How are citizens' rights dealt in the Charter?
49. What is the ambit of Art 101 TFEU?
50. What is the ambit of Art 102 TFEU?
51. What do you know about relevant economic theories behind modern competition law?
52. What is the aim of EU anti-cartel law?
53. What is the benefit of EU anti-cartel law for the citizen?
54. What is the benefit of EU anti-cartel law for corporate actors and EU States?
55. What do you know about the historical building of the Eurozone?
56. What do you know about the legal basis of the Eurozone?
57. What do you know about the legal basis of the European Central Bank?
58. What are the legal implications for EU States, which do not participate in the Eurozone?
59. What is the excessive government deficit prohibition?
60. The Eurozone is about almost complete freedom of capital. Discuss.

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