

Course Map Autumn 2010

EUROPEAN UNION LAW

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Lecture/ Seminar	Topics	Literature
1 3.11	<p>Introduction In the beginning of the course, the participants receive the guidelines and references for independent work. The course consists of 12 practical and substantial seminars, where the students' independent work will be discussed and case patterns will be solved. The Discussion Topics and Review Question follow:</p>	<p>Chalmers, Monti 49-61</p>
2 3.11	<p>Introduction to the Treaties and Institutions Aims and development of the basic treaties. TEU. TFEU. Institutions and Methods. Institutional changes. The European Council: Agenda setting. The role of the High Representative of the Union for Foreign Affairs and Security Policy in the European Council's work. The Council of the EU: The role of the Council in EU developments. Changes in Council formations, in public deliberations on EU legislative acts, in reading the votes. Draft 18 month programme of the Council (<u>Spain, Belgium, Hungary</u>) 16771/09 POLGEN 219. The Commission: The College of Commissioners. The High Representative of the Union for Foreign Affairs and Security Policy as Member of the Commission. Presidency of the Commission. Competences and agenda setting. <u>Commission Work Programme 2010 in COM(2010) 135. Europe 2020 in COM(2010) 2020.</u> Europe 2030. Participation in decision-making. Political influence of the Commission on the Council's decisions. The European Parliament: Composition. Election of MEPs. Functioning. Powers (legislative, appointment and dismissal, supervisory, budgetary). The Role. Agenda setting.</p>	<p>Comp: Slides Comp: Craig, De Búrca 6-37, 38-81 Comp: Chalmers, Monti 1-18, 19-29 Weatherill 2010 TFEU TEU</p>

	Petitioning. Balance of political and legal powers of the EU institutions in the EU's legislative procedures. The Court of Justice of the European Union (CJEU). The General Court. Civil Service Tribunal. The Court of Auditors. ECB. Economic and Social Committee. Committee of the Regions. Agencies. The European Ombudsman.	
3 10.11	Competence, Law-making and Policy-making EU legal acts: regulations, directives, decisions. General requirement to give reasons. Non-legislative procedures: European Council alone. Council of the EU alone. Commission alone. Council of the EU and Commission together. Social partners procedure. Legislative Procedures. Ordinary Legislative Procedure. Consent. Consultation. Democratic deficit. Annual report 2009 on relations between the European Commission and national parliaments. Protocol on the role of national parliaments in the European Union. Protocol on the application of the principles of subsidiarity and proportionality. Comitology. Enhanced cooperation.	Comp: The Lecturer's slides Comp: Craig, De Búrca 82-88, 108-143 Comp: Chalmers, Monti 30-48 Weatherill 2010 TFEU TEU
4 10.11	New Forms of Governance Harmonisation and the „New-Style” Directives. The Open Method of Coordination (OMC). Federal limits of EU law: conferral of powers, shared powers, complementary powers, implied powers, Article 352 TFEU. Subsidiarity. Proportionality. Better regulation. The Commission's White Paper on Governance. Governance Agenda. New forms of governance.	Comp: The Lecturer's slides Comp: Craig, De Búrca 88-93, 144-166 Comp: Chalmers, Monti 49-61 Weatherill 2010 TFEU TEU
5 17.11	Free Movement of Goods (FMG) The economic objective in the TFEU. The concept of „Internal Market“, its justifications. A New Strategy for the Single Market (Monti Report) 2010. The concept of „goods“. Goods from Third Countries in free circulation within the EU. Removal of fiscal	Comp: The Lecturer's slides Comp: Craig, De Búrca 638-665, 666-722 Comp: Chalmers, Monti 100-111 Weatherill 2010 TFEU

	<p>barriers. Customs duties: TFEU 28. Customs duties: TFEU 30. „Charges having equivalent effect“. Indirect taxation: TFEU 110. Prohibition of discriminatory physical and technical barriers to trade: TFEU 34. Quantitative restrictions. „Measures having equivalent effect to quantitative restrictions“ (MEEQRs). MEEQRs in EU secondary law (Directives). MEEQRs in the case law of the CJEU. Distinctly applicable measures. Indistinctly applicable measures. The Case of Cassis de Dijon. Case Dassonville. The Joined Cases of Keck and Mithouard. Quantitative restrictions and MEEQRs on exports. Developments in the case law. Criticisms on the case law. The “purely internal situation” and the “concrete dimension” of the FMG. Legal exceptions and case law limitations. TFEU 36. The grounds of exception under TFEU 36: public morality; public policy; public security; health and life of humans, animals and plants; protection of national treasures possessing artistic, historic or archaeological value; protection of industrial and commercial property. Application of the principle of proportionality. The difference btw. Art. 36 and the „case law exceptions“. Harmonisation and the „New-Style” Directives.</p>	<p>TEU</p>
<p>6 17.11</p>	<p>Free Movement of Persons (FMP), Citizenship and Democracy Legal Basis. Definition of worker: Material scope, Personal scope. Family members. Material rights of workers and their families. Rights of entry and residence. Access to employment. Equality of treatment. Right to remain. Citizens’ rights and non-discrimination. Employers. Territorial scope. Limitations and exceptions to mobility rights. Public policy and public security. Public health. Public service. EU enlargement and FMP. Non-EU nationals within the EU. Temporal limits to FMP. Determination of nationality. Derived rights. Internal market and FMP. Association agreements and international agreements. Area of</p>	<p>Comp: The Lecturer’s slides Comp: Craig, De Búrca 847-873, 743-790 Comp: Chalmers, Monti 120-130, 131-133 Weatherill 2010 TFEU TEU</p>

	Justice, Freedom and Security. Title IV Chapter 2 TFEU: Policies on border checks, asylum and immigration. Legal immigration, Illegal immigration. Terrorism and police co-operation. Democracy in the EU: Representative democracy, participatory democracy, other forms of democracy. From democracy to <i>demos</i> -cracy – its political and legal meaning. A Citizens' Agenda in <u>COM(2006) 211</u> . Proposal for a Regulation of the European Parliament and of the Council on the Citizens' Initiative in <u>COM(2010) 119</u> . European transparency initiative. Political parties at European level – as contributors to forming European political awareness and to expressing the will of citizens of the EU.	
7 24.11	<p>Right of Establishment and Freedom to Provide Services</p> <p>Right of Establishment. Legal basis. Direct effect. Non-discrimination and restrictions. Direct and indirect discrimination. Indistinctly applicable measures. Establishment by companies. Exceptions and derogations: Treaty-based, Case law based.</p> <p>Freedom to provide services. Legal basis. Direct effect. Non-discrimination and restrictions. Indistinctly applicable measures. Types and modes of providing services. Concept of services. Cross-frontier element. Services and other freedoms. Exceptions and derogations: Treaty-based, case law based.</p>	<p>Comp: The Lecturer's slides</p> <p>Comp: Chalmers, Monti 133-139, 141-143 Weatherill 2010 TFEU TEU Craig, De Búrca 791-813, 813-846</p>
8 24.11	<p>Free Movement of Capital (FMC)</p> <p>FMC, Monetary Union, payments and other financial services and investment. Capital in the TFEU. Direct effect. Scope. Restrictions. Exceptions and justifications. Difficulties. The CJEU's case law. Recent issues in FMC: Broadening the concept, impact on company law (the golden shares cases).</p> <p>Economic and Monetary Union. The three stages. I Stage. II Stage. III Stage. The structure of EMU, Legal basis. Economic policy. Convergence criteria (excessive government deficits and</p>	<p>Comp: The Lecturer's slides and material</p> <p>Comp: Craig, De Búrca 723-742 Comp: Chalmers, Monti 112-119 Weatherill 2010 TFEU TEU</p>

	<p>price stability). Monetary policy. The European Central Bank (ECB): monetary functions, organisational structure, independence. Independence and price stability. Independence and political influence. Euroconversion. Euro. Private law issues: Continuity of contracts, conversion and rounding, Substitution of euros for the currencies of participating Member States, accounting, invoices, tax issues, euroconversion, tax payments in euros, listing securities in euros, institutional issues, government debt management. The ECB and financial market regulation. Monetary Union and centralization of banking supervision. Joint central banking and banking supervision. Banking supervision and the Maastricht Treaty. Advisory functions. Supervisory tasks. Supervision, the State, the euro and the ECB. Payments systems. Free movement of payments. The role of the ECB. The cross-border credit transfers. The cross-border payments in euros.</p>	
<p>9 1.12</p>	<p>Competition Law (Competition and State Aid) TFEU 101. TFEU 101 (1): “Undertakings”, “Agreements, decisions and concerted practices”, “Object or effect of preventing, restricting or distorting competition”. Internal Market integration. “Effect on inter-state trade”. Agreements of minor importance. Particular sectors. “Extraterritoriality”. Concepts in TFEU 101 (3): “Agreements, decisions and concerted practices”, “Agreement or category of agreements”. The criteria contained in Article 101 (3). Individual exemption. Judicial review of the Commission by the General Court. Specified period, conditions and obligations. Block exemption. Opposition procedure. Article 101 (3) and Article 102. TFEU 102, its aims. Concepts in TFEU 102: “Undertakings”, “Effect on inter-state trade”, “Dominant position”. Relevant market“. “Market power”. “Abuse”. “Collective dominant positions”. Civil consequences of infringing Art.102. “Extraterritoriality”. The Council’s 16th December 2002</p>	<p>Comp: Comp: The Lecturer’s slides Comp: Chalmers, Monti 153-162, 163-170, 171-179, 180-187, 188-194 Weatherill 2010 TFEU TEU Craig, De Búrca 950-982, 1005-1021, 1070-1102</p>

	Modernisation Regulation 1/2003/EC. EU Merger Regulation 139/2004/EC. TFEU 106. TFEU 106 (1). TFEU 106 (2). TFEU 106 (3). State aid and dumping. TFEU 107-109. The relationship btw. EU and domestic competition law.	
10 1.12	<p>Anti-Discrimination Law</p> <p>What is discrimination? Origins and purposes of EU discrimination law. Grounds of discrimination: sex; nationality; age; disability; “on the grounds of disability”; religion and belief; sexual orientation; race. Sex discrimination. Material scope. Pay. Retirement pensions as „Pay“. Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). Equal treatment. Social security. Goods and services. Kinds of sex discrimination. Direct sex discrimination. Indirect sex discrimination. Positive sex discrimination. Problems concerning direct sex discrimination: Pregnancy. Transsexualism. Sexual orientation. Dress codes. Sexual harassment. Enforcement of EU sex discrimination law. Burden of proof. Remedies in national law. Enforcing EU sex discrimination law in national courts and in the CJEU.</p>	<p>Comp: The Lecturer’s slides</p> <p>Comp: Chalmers, Monti 144-152</p> <p>Weatherill 2010</p> <p>TFEU</p> <p>TEU</p> <p>Craig, De Búrca 874-949</p>
11 8.12	<p>External Relations</p> <p>The EU as an external actor. External competencies of the EU. Legal basis. Legal personality of the EU. International legal personality of the EU. Foreign policy. Common commercial policy. Common foreign and security policy. The forms of the external competencies of the EU: daily relations with the Third States. Participation in international organizations. Diplomatic representations. Assumption of foreign obligations. Conclusion of international agreements. Direct and implied powers. Parallelism of internal and external powers. Widening the scope of powers by</p>	<p>Comp: The Lecturer’s slides</p> <p>Comp: Craig, De Búrca 167-228</p> <p>Weatherill 2010</p> <p>TFEU</p> <p>TEU</p>

	the CJEU. Distribution of powers btw. the EU and Member States. Bindingness of international agreements.	
12 8.12	<p>The Nature and Effect of EU Law</p> <p>Direct effect: direct effect of primary law; direct effect of secondary law – of Regulations and Decisions, of Directives. State liability. The principle of national procedural autonomy. Supremacy. Primacy. Human Rights: The Charter of Fundamental Rights of the EU. Accession of the EU to the ECHR.</p>	<p>Comp: The Lecturer's slides</p> <p>Comp: Craig, De Búrca 268-304, 305-343, 344-353,</p> <p>Comp: Chalmers, Monti 50-51, 62-74</p> <p>Weatherill 2010</p> <p>TFEU</p> <p>TEU</p>

13 15.12	<p>Judicial and Non-judicial Remedies and Enforcement of EU Law</p> <p>Judicial relations of the EU. Accountability and review of EU institutions. Accountability and review of EU Member States. Direct actions in the CJEU, General Court, and Civil Service Tribunal: Actions for annulment. Actions for failure to act. Actions for damages. Staff cases. Actions for failure to fulfil obligations (infringement actions): Commission's action for declaration of an infringement, Member State's action for declaration of an infringement, Actions for fulfilment. The arbitration court functions of the CJEU and General Court. (Cases over international agreements, where one party is the EU; Cases over agreements btw. Member States upon the Treaty objects). The aims, parties, criteria of admissibility, consequences of the direct actions. Indirect actions in the CJEU, General Court, and Civil Service Tribunal: Plea for illegality. Plea for damages. Interim measures. Third Party intervention. Appeals on the judgments of the General Court. Appeals on the judgments of the Civil Service Tribunal. References for preliminary rulings. The aims, parties, criteria of admissibility, consequences of the indirect actions. Responsibility of an EU institution. State responsibility. Direct and indirect enforcement of EU law. The role of the European Commission in infringement procedures and competition procedures. Remedies at EU agencies. Other non-judicial remedies. Enforcement of EU law: the powers of the CJEU to sanction Member States; the duty to apply EU law in national courts.</p>	<p>Comp: The Lecturer's slides</p> <p>Comp: Chalmers, Monti 75-81, 82-90, 91-99 Weatherill 2010 TFEU TEU Craig, De Búrca 305-343, 428-459, 460-501, 502-575, 576-603</p>
14 15.12	<p><i>Repetitorium</i></p> <p>Please, ask questions about the final exam!</p>	

Compulsory Literature:

1. Craig, Paul; De Búrca, Gráinne. EU Law. Text, Cases and Materials. Fourth Edition. Oxford: Oxford University Press, 2008
2. Damian Chalmers, Giorgio Monti. European Union Law. Updating Supplement. Cambridge: Cambridge University Press, 2008
3. Stephen Weatherill, Cases and Materials on EU Law. Oxford; New York: Oxford University Press, 2010
4. Electronic learning materials and the literature referred in those materials
5. TFEU
6. TEU

Replacement Literature:

1. Craig, Paul; De Búrca, Gráinne. EU Law. Text, Cases and Materials. Fourth Edition. Oxford: Oxford University Press, 2008
2. Damian Chalmers, Giorgio Monti. European Union Law. Updating Supplement. Cambridge: Cambridge University Press, 2008
3. Stephen Weatherill, Cases and Materials on EU Law. Oxford; New York: Oxford University Press, 2010
4. Electronic learning materials and the literature referred in those materials
5. TFEU
6. TEU

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