EUROPEAN UNION LAW

PROF. JOHANNA JACOBSSON

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 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 to give the students the basic skills and competencies that are fundamental to successfully practice EU law in any substantive area.

The first part of the course focuses on the EU institutions, the decision-making process, the system of legal remedies and the EU’s constitutional principles. The second part deals principally with the EU’s internal market law. In addition, the EU’s external relations and the common commercial policy will be dealt with. Throughout the course there will be a particular emphasis on the political, economic and social context of the EU institutions and rules to foster a better understanding of the overall context of European integration.

EU law significantly affects the legal environment in which companies operate and limits the competence of EU Member States to regulate different issues. Therefore, irrespective of the career path that students wish to follow upon graduation, aspiring practitioners, academics and members of diplomatic corps are all expected to have a solid knowledge of the fundamentals of EU law. EU law is relevant also for lawyers working outside Europe as it is a legal system covering one of the biggest economies in the world, along China and the United States.

This course forms part of the European Module “Liability of Robots: A European Vision for a New Legal Regime,” an IE University undertaking supported by the prestigious Jean Monnet Programme of the European Commission. Therefore, the course includes a number of case studies concerning the regulation of Artificial Intelligence (AI) giving students a more practical approach to decision-making and regulation in the Union in relation to AI, a topical field that requires a comprehensive understanding of not only legal issues, but economic, political and ethical aspects as well. To this aim, the course makes special reference to the different competences, instruments, and strategies available for the Union to regulate AI and follows closely the legislative development of this field in the European Union.
2- OBJECTIVES AND SKILLS

- To understand the development of the European Integration process and the evolution 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, including EU constitutional principles and the rules of the Internal Market
- To acquire a sound understanding of the key judgments of EU Law
- To learn to critically analyse judgments of the EU Courts
- To learn to solve cases on EU Law

3- METHODOLOGY

The methodology of each session will consist of a mixture of interactive lectures and 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 on 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) and write group memorandums analyzing judgments of the EU Courts or answering assessment questions that will be discussed in class.

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<thead>
<tr>
<th>Teaching Methodology</th>
<th>Weighting</th>
<th>Estimated time a student should dedicate to prepare for:</th>
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<tbody>
<tr>
<td>Lectures</td>
<td>(20)%</td>
<td>30 hours</td>
</tr>
<tr>
<td>Discussions and exercises</td>
<td>(20)%</td>
<td>30 hours</td>
</tr>
<tr>
<td>Group work</td>
<td>(20)%</td>
<td>30 hours</td>
</tr>
<tr>
<td>Individual studying</td>
<td>(40)%</td>
<td>60 hours</td>
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<tr>
<td>TOTAL</td>
<td>100%</td>
<td>150 hours are required for a 6 ECTs course (30 sessions); 75 hours, for 3 ECTs (15 sessions)</td>
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4- CONTENT

The course consists of two parts. The first part centres on the so-called Constitutional Law of the European Union. It covers the integration process, the EU’s political institutions, the decision-making process, the legal system of the EU – 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 of the EU, in addition to which the EU’s Common Commercial Policy is introduced.
PART I: EU CONSTITUTIONAL PRINCIPLES

SESSION 1
Introduction to the European Union: Historical Background

Readings:
The Schuman Declaration of May 9, 1950
Preamble of the EC Treaty (Treaty of Rome)

SESSION 2
Introduction to the European Union: Legal background

Readings:
Preamble of the Treaty on European Union 1992 (Maastricht Treaty)
Preamble of the Treaty on European Union 2007 (Lisbon Treaty)
Art. 50 TEU (Withdrawal from the EU)

SESSION 3
Political Institutions: The European Council, the Council and the Commission

Readings:
Note and questions
Articles 16-18 TEU and Articles 235-250 and 293 TFEU

SESSION 4
Political Institutions: The European Parliament

Readings:
Note and questions
Articles 14 TEU and 223-226, 229-231, 233 and 234 TFEU

SESSION 5
Competences and Principles of Subsidiarity and Proportionality

Readings:
Note and questions
Articles 2-6 TFEU and Article 5 TEU
Protocol on the Application of the Principles of Subsidiarity and Proportionality
Note and questions
Case C-149/01 British American Tobacco

Assignment: Regulating AI – the issue of Union competence and appropriate legal base
*Co-funded by the Erasmus+ Programme- Jean Monnet Activities -of the European Union
SESSION 6
Decision-making and Legal Instruments

Readings:

Note and questions
Articles 16, 238, 294 TFEU and Article 218 TFEU
Case C-43/12 Commission v Parliament and Council
Case Study: Regulating AI – the legislative process, legal instruments and actors involved
*Co-funded by the Erasmus+ Programme- Jean Monnet Activities -of the European Union

SESSION 7
Supremacy (primacy) and Implementation of EU Law

Readings:

Excerpt from Schütze, R., European Union Law, 2015, pp. 127-133
Note and questions
Case 6/64 Costa v ENEL
Case C-106/77 Simmenthal

SESSION 8
Direct Effect: The General Principle

Readings:

Note and questions
Case 26/62 Van Gend en Loos
Case 36/74 Walrave

SESSION 9
Direct Effect of Directives

Readings:

Note and questions
Case 41/74 Van Duyn
Case 148/78 Ratti
Case 106/89 Marleasing

SESSION 10
State Liability and EU Non-contractual Liability

Readings:

Note and questions
Articles 268 and 340 TFEU
Joined Cases C-6/90 and 9/90 Francovich
Case C-352/98 P Bergaderm
Additional reading:

Joined Cases C-46/93 and C-48/93 *Brasserie du Pêcheur*

SESSION 11
Judicial System: The Court of Justice and Preliminary Rulings

Readings:


Note and questions

Article 267 TFEU

Case 283/81 *CILFIT*

Case 314/85 *Foto-Frost*

SESSION 12
Action for Annulment and Failure to Act

Readings:


Note and Questions – Action for Annulment

Article 263 TFEU

Case 25/62 *Plaumann*

Case C-309/89 *Codorniu*

Note and Questions – Failure to Act

Article 265 TFEU

Case 377/87 *European Parliament v Council*

SESSION 13
Enforcement Procedure (Action for Failure to Fulfil Obligations)

Readings:


Explanation of the infringement procedure on the Commission’s website

Note and questions

Articles 258-260 TFEU

Case 7/68 *Commission v Italy (Art Treasure Case)*

Case 191/95 *Commission v Germany*

SESSION 14
EU External Relations and review

Readings:


SESSION 15
Mid-term exam
SESSION 16
Fundamental Rights

Readings:

Note and questions
Articles 51-54 of the Charter of Fundamental Rights of the European Union
Declaration concerning the Charter of Fundamental Rights of the European Union
Case 1/58 *Stork*
Case 44/79 *Hauer*
Case C-60/00 *Carpenter*
Case C-617/10 *Akerberg Fransson*

**PART II: INTERNAL MARKET**

SESSION 17
Introduction to the Internal Market and Harmonisation of EU Law

Readings:

Note and questions
Excerpt from Molle, *The Economics of the European Integration*, 4th edition

*Case Study: Regulating AI – a study of the civil liability rules of the Union. What legal framework for AI?*
*Co-funded by the Erasmus+ Programme- Jean Monnet Activities -of the European Union*

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

Readings:

Note and questions
Articles 28, 30 and 110 TFEU
Case 24/68 *Commission v Italy (Statistical Levy)*
Case 112/84 *Humblot*
Case 178/84 *Commission v Italy (Bananas)*

SESSION 19
Free Movement of Goods (II): Quantitative Restrictions and Measures Having Equivalent Effect (I)

Readings:

Note and questions
Articles 34-36 and 114-115 TFEU
Case 8/74 *Dassonville*
Case 120/78 *Cassis de Dijon*
Case 178/84 *German Beer Purity Law*
Additional readings:

Regulation 764/2008/EC

SESSION 20
Free Movement of Goods (III): Quantitative Restrictions and Measures Having Equivalent Effect (II)

Readings:


Note and questions
Case C-267 and 268/91 Keck
Case C-368/95 Familiapress
Case C-110/05 Commission v Italy (Trailers)

Assignment: a case concerning the free movement of goods and AI – implications of different regulatory choices and standards
*Co-funded by the Erasmus+ Programme- Jean Monnet Activities -of the European Union

SESSION 21
Free Movement of Persons (I): Workers and job-seekers

Readings:

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 (please bring a printed copy to the class)

Note and questions
Articles 18, 20, 21 and 45 TFEU
Case 139/85 Kempf
Case C-292/89 Antonissen
Case C-415/93 Bosman
Case C-369/90 Micheletti

SESSION 22
Free Movement of Persons (II): EU Citizenship; Other Beneficiaries of Free Movement; Derogations and Justifications

Readings:


Note and questions
Articles 18, 20 and 21 TFEU
Articles 2, 3, 7, 16 and 24 of the Directive 2004/38
Case C-34/09 Ruiz Zambrano
Case C-83/11 Rahman
Case C-209/03 Bidar
Case C-333/13 Dano
Case C-145/09 Tsakouridis

SESSION 23
Freedom of Establishment: Self-employed Persons

Readings:

Note and questions
Articles 49-53 TFEU
Case 2/74 Reyners
Case C-55/94 Gebhard

Additional Recommended Readings:

Directive 98/5/EC to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained
Directive 2005/36/EC on the recognition of professional qualifications

SESSION 24
Freedom of Establishment: Companies

Readings:

Note and questions
Articles 49 and 54 TFEU
Case C-212/97 Centros
Case C-210/06 Cartesio

SESSION 25
Freedom to Provide Services; Recap on the exceptions to the free movement rights

Readings:


Directive 2006/123/EC on services in the internal market *(please bring a printed copy to the class)*
Note and questions
Articles 56-62 TFEU
Case C-215/01 Schnitzer
Case C-384/93 Alpine Investments
Opinion of AG Jacobs in Case C-384/93 Alpine Investments

Additional Readings:

Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services

SESSION 26
Introduction to the Economic and Monetary Union

Readings:


SESSION 27
Free Movement of Capital
Readings:
Note and questions
Articles 63-66 TFEU
Case C-367/98 Commission v Portugal
Case C-443/06 Hollmann
Case C-112/05 Commission v Germany (Volkswagen Law)

SESSION 28
Common Commercial Policy

Readings:
Excerpt from Van Vooren and Wessel, *EU External Relations Law. Text, Cases and Materials*,
Cambridge University Press, 2014
Note and questions
Articles 206 and 207 TFEU

Additional Readings:
Opinion 2/15 *Conclusion of the Free Trade Agreement between the European Union and the Republic of Singapore*

SESSION 29
Review

SESSION 30
Final Exam

5- BIBLIOGRAPHY

The readings of the course will consist of a mixture of readings from the course book (European Union Law by Barnard and Peers) and judgments of the EU Courts. In addition, students will sometimes be provided with readings from other books or sources. Students who wish to gain a deeper understanding of EU Law are encouraged to also consult the book by Craig and de Búrca.

COMPULSORY

Title: European Union Law
Author: Barnard, C. and Peers, S.
Publisher / Edition / Year: Oxford University Press / 2nd / 2017
ISBN / ISSN: 978-0198789130
Medium: PRINT

RECOMMENDED

Title: EU Law: Text, Cases and Materials
Author: Craig, P. and de Búrca, G.
6- EVALUATION SYSTEM

6.1. GENERAL OBSERVATIONS

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

Dates and location of the final exam will be posted in advance and will not be changed.

Students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year).

Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

6.2. EVALUATION AND WEIGHTING CRITERIA

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

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<thead>
<tr>
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<th>Class participation</th>
<th>20%</th>
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<tbody>
<tr>
<td>A</td>
<td>Group assignments and presentations</td>
<td>20%</td>
</tr>
<tr>
<td>B</td>
<td>Mid-term exam</td>
<td>30%</td>
</tr>
<tr>
<td>C</td>
<td>Final exam</td>
<td>30%</td>
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TOTAL 100%

CLASS PARTICIPATION (20%)

Students are expected to prepare in advance for all class sessions. This includes reading all the designated materials, taking notes on them and preparing any assigned tasks. During the sessions, the students are expected to participate actively in discussions. Attendance alone does not contribute to the class participation grade but active participation is required. 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 clear manner that it is easy to follow. Students must refrain from merely repeating what has already been said by other students. They must participate in class discussions throughout the course. Quiz tests will be held during the semester to provide further input for this part of the evaluation.

WRITTEN GROUP ASSIGNMENTS (20%)
Throughout the course, students will be requested to prepare group assignments. The assignments will consist of analyses of cases that will be discussed in class or brief group memorandums covering legal issues involved in various topical issues. Students are expected to engage in independent research activity in preparation of the memorandums.

A hard copy of the memorandums must be delivered to the professor at the beginning of the class in which the work is due. Students must also upload an electronic version on the Turnitin Assignment folder created for the memorandum on IE Campus prior to the session.

The evaluation of the written assignments will focus on whether the memorandum 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.

EXAMS (60%)

The mid-term (30%) and final exam (30%) will consist of essay questions and/or the resolution 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 group assignments. With regard to cases or practical problems, the students must analyse a factual situation, apply the appropriate legal principles to the facts and reason their conclusion.

6.3 RETAKE POLICY

Any student whose weighted final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).

Grading for retakes will be subject to the following rules:

- The retakes will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.
- The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained is 8 out of 10.
- The third attempt will require the student to complete:
  - individual assignments (40%);
  - a mid-term (30%); and
  - a final exam (30%)

  This is also applicable to students who do not have required attendance, e.g. sickness.

- Dates and location of the retakes will be posted in advance and will not be changed.
7- PROFESSOR’S BIO

Johanna Jacobsson is Professor of European and International Law at the IE University. She holds an LL.B. and LL.M. from the University of Helsinki and a Ph.D. in International Trade Law from the European University Institute (Florence, Italy). She also holds a B.A. in Russian and East European Studies from the University of Helsinki.

Professor Jacobsson’s main research interests are in the fields of EU law, international trade and business law and international dispute settlement. She has previously acted as a law clerk at the Court of Justice of the European Union and been a visiting researcher at the Finnish Institute of International Affairs. Professor Jacobsson has also practiced law in a commercial law firm where her practice focused on dispute settlement (national/EU litigation and commercial arbitration) as well as on competition, employment and general corporate law.

Contact Information: johanna.jacobsson@ie.edu

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