

European Law in Context – FALL TERM 2021

Lectures:

In-Person Phase:

1. Setting the Scene: European Integration and European Law in Context

Law is violent: Legal interpretation takes place on a field of pain and death. Law is also a mechanism by which power is distributed among social actors; law is also a storage medium for events and histories that play a major role in the memory of a political community. Law possesses a multitude of dimensions that are not exhausted in form, nor can they be captured by the formalistic.

The law of the European Union is worth intensive study if only to satisfy intellectual curiosity. The EU has a unique, increasingly important and highly interesting legal system. After all, Union law tells the story of European integration, through which a Europe physically and morally devastated by World War II emerged within a generation as the world's largest trading bloc and, increasingly, as a political entity with weight.

2. European Constitutional Law I: The political system of the EU - institutions and actors, Competences and subsidiarity

The European Union can be understood as an experiment in stably institutionalizing political rule beyond the nation-state and thus taming the hypertrophies of statehood. One of the enduring ideals of European integration is to secure peace in Europe through economic and political integration. This experiment has been so successful that today the EU has established itself as a new transnational form of rule alongside the state, competes with it in parts, and is seen as a hope for a supranational, post-national polity with exemplary character. The state has become deeply engraved in our European collective memory, but the EU, it is hoped, could lead us out of these thought structures, which are often understood as atavistic. The more the Union moves into this role, the more clearly it must also allow itself to be questioned on issues such as democracy and legitimacy.

3. European Constitutional Law II: Forms of action and governance and Implementation of European Law

Government requires action, and action requires form. Like the state, the European Union has at its disposal an arsenal of forms of action, which are deployed according to regulation and need in order to bring about the most satisfactory possible regulatory solution to the problem to be dealt with. Decision-making processes lead to decisions, so addressing the question of what comes at the end of the process is part of any procedural analysis of Union governance.

4. Law in books vs. Law in action - Legislative process in the EU

Law in books: The ordinary and extraordinary legislative procedure. The ordinary legislative procedure is designed in such a way that the three major institutions involved - the

Commission, the Council and the European Parliament - must reach consensus among themselves in order to adopt a legal act. The concept of special legislative procedure is found in Article 289 (2) TFEU.

Law in action: legislative negotiations. The legislative procedure is one of the areas in Union law where the text of the Treaty and the practice are very clearly at discrepancy. Law in action is different but depends on law in books.

5. The Rule of Law in Europe - The Community of Law and the ECJ, Legal Protection System + Homework: Read the Case and prepare arguments

Law has played an extraordinary role in the process of European integration from the very beginning. From Walter Hallstein, the first President of the European Commission, come the sentences: "Not force, not subjugation is used as a means, but a spiritual, a cultural force: law." The majesty of law is to create what blood and iron have not been able to do in centuries. Even today the Union is called a community of law, not only by literature, but also and especially by the ECJ itself.

6. Union Law and National Law - Direct Applicability, National Remedies, Sanctions, Liability, Precedence + Moot Court based on real Case

The relationship between the legal order of the European Union and the legal systems of the Member States is the key issue of European integration. This applies both to the founding phase of the Union and to the current phase of crisis management, self-discovery and readjustment. In the founding phase, Union law met the legal systems of the sovereign member states as international law, and the relationship between these legal systems was initially governed by the international law. This has been changed in the meantime.

Digital Phase:

7. Human Rights Protection in the EU and European citizenship

The elements of the European legal order dealt with so far - in particular the system of European legal protection as well as the direct applicability, the supremacy of EU law and the liability regime of EU law - have led to the fact that the Union legal order has developed from the field of international law into a constitutional order. It has therefore been called constitutional law without a constitution.

The term constitution opens up a whole new horizon of meaning. Constitutions are something categorically different from treaties under international law. This applies not only to the functional, but especially to the symbolic level of meaning. Fundamental rights and citizenship have such symbolic and integrative force.

8. The Four Freedoms in the EU and EU Business Law

Political Wisdom: From the Sheol to the Market. Of course, the common market is not the finality of the Union. The founding ideals include, above all, a stable peace order. But the market and the fundamental freedoms associated with it are the central instrument for achieving this objective.

9. EU Competitive Law and Antitrust Law

Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market (107 TFEU).

The purpose of competition law is to prevent companies from reducing the welfare of the end consumer of the goods in question by restricting competition among themselves or with others.

EU-Antitrust Law prohibits as incompatible with the internal market all agreements between undertakings and decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market.

10. EU Family Law and Inheritance Law, EU Labour Law and Social Security Law

Lecture deals with measures concerning family law, inheritance law with cross-border implications. The main objection is European International Private Law.

Within the framework of European labor law and social law, the following matters are to be discussed: equal treatment of men and women - direct and indirect discrimination, equal treatment on the basis of other criteria (such as religion, belief, disability, age, sexual orientation), collective redundancies, fixed-term employment contracts, protection of employees in the event of employer insolvency, occupational health and safety law, protection of expectant and young mothers, and brand new The Whistleblower Directive (EU) 2019/1937.

11. EU Tax Law, EU Criminal Law

The EU adopts provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition.

Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in specific areas.

12. Examination (short test)