**Introduction to European Union Law LEGS5433**

**Course Instructor:** Marie-Pierre Granger (PhD) , Associate Professor, Department of Public Policy, Department of Legal Studies

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Term: Fall AY 2023-24

**Level**: Master’s

**Status:** Mandatory-Elective for CCL LL.M, IBL LL.M (LEGS) & Mundus MAPP EPP track (DPP); Elective for HR MA and LL.M (*pre-requisite* for EU Human Rights Law and Policy; students interesting in taking EU human rights law and policy and who can already demonstrate equivalent academic knowledge of EU law may request an exemption in writing from taking this introductory course by email to the course instructor and the relevant department coordinator and programme director, before registration for the Fall term is closed).

**Schedule:** Tues 8.50-10.30 (check Moodle/SITS for change)

**Mode:** in-person

**Credit:** 2 US credit / 4 ECTS credits

**Pre-requisites:** None

**E-learning:** <https://ceulearning.ceu.edu/course/view.php?id=14770>

**Office hours and contact information for consultation**: in person/online  (Teams/Zoom) Thurs3.30-5.00; Tues 11.00-12.00 + by appointment by e-mail at grangerm@ceu.edu.

**BRIEF INTRODUCTION:**

This course consists of 10 seminar sessions, one in-class mid term exam session, and one guest lecture (21 Sept). It offers a short introduction to the law of the European Union (EU). It is focused on institutional law aspects, but offers some insights into core substantive legal fields of European integration (ie free movement, non-discrimination) and engages with past and current challenges (eg rule of law). It adopts a ‘law-in-context’ perspective, which situates legal developments in their broader institutional contexts, and social, political and economic environment. It combines theoretical and conceptual insights and their practical applications. The course seeks to equip participants with a basic knowledge of the EU legal system, which is essential to anyone wishing to practice law in a European context or in countries which have closer relationships with the EU, to those working in policy jobs which involve engagement with EU regulatory norms and policies, or to those studying and researching EU law and policy, or the law of one of the EU member states. It is also relevant for those interested in comparative law, international law, transnational regimes, or global regulation.

**GOALS:**

The main aim of the course is to provide participants with a basic understanding of the EU legal order: its historical development, defining institutional features (ie law-making and enforcement procedures, including judicial remedies; sources of law and legal instruments and their relationships; core principles organizing the relationship between the EU and national legal orders) and selected substantive law aspects. It serves as a foundation for other courses which explore in more depth substantive aspects of EU law, or specific EU processes or contemporary challenges.

**LEARNING OUTCOMES:**

At the end of this course, participants should:

* demonstrate a basic understanding of the current EU legal order, as it results from a particular historical process, and be able to assess it in its broader context;
* be familiar with the main EU institutions, law-making processes, legal instruments and sources, and relationships between them;
* demonstrate awareness and understanding of core principles organizing the relationship between national and EU law;
* be able to identify and critically evaluate the main judicial remedies available for the enforcement of EU law at both EU and national level;
* be able to identify, process and understand relevant EU case law;
* have gained some insights into essential instruments, principles and mechanisms in selected areas of EU substantive law;
* demonstrate an ability to apply legal analytical skills to the specific EU legal context;
* have developed written and oral communication skills.

**LEARNING ACTIVITIES AND TEACHING METHODS:**

* Short introductory lectures exposing core features and concepts;
* Seminar discussions on core issues of European Union law and legal integration, linking to recent developments and events
* Small group activities, including practical case solving, mini-mock exercises, debating sessions, collective text annotations, quizzes, etc

**ASSESSMENT:**The final grade is based on the following graded assignments. Students will receive a combination of letter+ numerical (/100 CEU scale) for each separate grade component. Grading on the curve applies above 12 students.

(1) Preparation and class participation (20% of the final grade): each student is expected to do the mandatory reading and/or consult other required materials, and to actively participate in class discussions and activities. It will be assessed based on reading quizzes and annotations, oral participation in class discussions and exercises, and written contributions in various class activities (via Perusall, Padlet, Blackboard, shared document/presentation, etc)

(2) Case brief and presentation (20% the final grade): Each student taking the class for grade must prepare at least one written case brief and presentation during the term. Before the end of the first week of class, students must sign up for a presentation date (not more than 2-3 per class, depending on overall class side). At the latest one week before the given presentation date, and preferably earlier, they must identify a very recent case (ideally less than one year old) which is relevant to the topic and issues raised in the mandatory reading for the given class, but that is not discussed in the assigned mandatory readings. Students are encouraged to check relevant blogs, EUlawlive and the CJEU press releases and case search tool, to identify this recent case. They must inform the instructor and TA of their choice at least one week before the relevant class. Two days before the given class, they should submit a case brief (on Moodle, as a Turnitin assignment), following the standard case brief format (template and instructions provided) and highlighting the aspects and implications of the case which are the most pertinent given the topics and issues discussed in the particular session. It should fit on one A4 side. The brief will be assessed based on overall accuracy and clarity in the presentation of the key facts and procedural aspects and core legal issues, and the ability to *select and outline the most important and relevant legal outcomes and elements of legal reasoning*. Students should prepare a 10 mins presentation on the case they have briefed. They can do it ‘live; or pre-record it using PANOPTO, and share it with their instructors and peers before the class (students attending online should pre-record it). The presentation should provide a short overview of the case based on the brief, but should be focused on critically engaging with the case, in the light of the topic of the class, and relating is to issues raised in mandatory readings or other preparatory materials. Students will receive written feedback on their brief and presentation, using the evaluation template available on Moodle.

(5) Mid-term ‘in-class’ reflection paper (30%): The mid-term assignment consists in a 600-800 words reflection paper. The topic is set so as to assess the student’s knowledge and understanding of key features of EU institutional law and to critically assess specific aspects or elements of the EU legal order, acquired during the first half of the course, through mandatory readings, student’s case briefs and presentations, and participation in required class activities, up to the assignment date. Students should be able to complete this assignment without further research or reading. Students can bring their course notes with them, but will not have access to electronic devices or the Internet.

(4) Final ‘take home’ practical case exam (30%): Students will work with a practical case scenario. They should describe, in +/- 1000 words, how they would approach the problem if they were a ‘practitioner’ (eg a lawyer defending the position of a national government, the *référendaire* to an advocate general at the CJEU, etc).. The answer will be assessed based on the understanding of the factual matters and the ability to identify and address effectively and creatively the legal issues at stake, and develop a solution/strategy based on sound legal reasoning, as well as sensitivity to the broader contexts and possible implications. Students should be able to understand the problem and outline the main avenue(s) based on the course materials and discussions.

**COURSE MATERIALS:**

The course materials consist of a selection of academic readings, policy documents, EU institutions online materials (eg websites), and some audio-visuals productions, put together specifically for this course, and made available on the course’s Moodle e-learning platform. Some of the materials subject to copyright may only be accessed through the Library electronic database, either on campus or connecting through via the secured VPN (see <https://library.ceu.edu/using-the-library/connect-from-off-campus/>).

**Key references materials**

*Textbooks*

* P Craig and G De Búrca (eds): *European Union Law: Texts, Cases and Materials* (7th ed., OUP, 2020)
* TC Hartley and T. Tridimas*, The foundations of EU law* (9th ed, OUP, 2022)
* S Peers and C Barnard (eds) *European Union Law* (4th ed, OUP, 2023)
* P Craig and G De Búrca (eds): *The Evolution of EU Law* (3rd ed., 2021)
* R. Schutze, *An Introduction to European Union Law* (4th ed) OUP, 2023)
* Marios Costas and Steve Peers, *Steiner and Woods EU Law* (OUP, 2023)
* N Foster, *EU Law Directions* (OUP, 2023)

*Research handbooks*

* A Lazowski (ed), *Research Handbook on EU Institutional Law (*Edward Elgar, 2016)
* D Chalmers and A Arnull (eds) *The Oxford Handbook of European Union Law* (OUP, 2015)
* PJ Cardwell and MP Granger (eds), *Research Handbook on The Politics of EU Law* (Edward Elgar, 2020)
* P Koutrakos and Snell (eds) *Research Handbook on The Law Of The Internal Market* (Edward Elgar, 2017)
* C Harlow et al (eds), *Research Handbook on EU Administrative Law* (2017)
* Ziegler, K. S., Neuvonen, P. J., & Moreno-Lax, V. (Eds.), *Research Handbook on General Principles in EU Law: Constructing Legal Orders in Europe* (Edward Elgar Publishing, 2022)

*Journals*

* Common Market Law Review
* European Law Open
* European Law Journal
* European Law Review
* German Law Journal
* European Constitutional Law Review
* Journal of Common Market Studies
* Maastricht Journal of European and Comparative Law
* European Journal of Risk Regulation
* Journal of European Public Policy

*Blogs and online resources covering EU law news and resources*

[EUlawlive](https://eulawlive.com/), [European Law Blog](https://europeanlawblog.eu/), [EU law Analysis](http://eulawanalysis.blogspot.com/), [EJIL-Talk!,](https://www.ejiltalk.org/)[Verfassungsblog](https://verfassungsblog.de/)

Readings in yellow may be updated for new editions, if available in time for the start of the course.

**REQUIRED AND RECOMMENDED READINGS, ASSIGNMENTS:**

**Class 1. EU institutions and law-making (1): The Development of EU Law and Treaty Change (Tues 19 sept 2023)**

In this session, we cover key historical developments in European legal integration, with a focus on formal ‘constitutional’ change. We look at the modes and methods of Treaty reform in the EU, and how they have evolved over-time (from secretive IGCs to the more open Convention process, the use of national referenda v parliamentary ratification, etc). We also take stock of more informal modes of constitutional change (eg political practices, case law, etc)

*Mandatory reading*

* P Craig and G De Búrca (eds): *European Union Law: Texts, Cases and Materials* (7th ed., OUP, 2020), chapter 1 ‘The development of European integration’ 1-30 (read at least from page 1 to 22).
* K Bradley, ‘Legislating in the European Union’, in S Peers and C Barnard (eds) *European Union Law* (3rd ed, OUP, 2020) 101-153, read p.144-147.
* Consult the European Parliament infographic on ‘How EU treaties are changed’ <https://www.europarl.europa.eu/RegData/etudes/ATAG/2019/640167/EPRS_ATA(2019)640167_EN.pdf>
* Have a look at the archived [website](https://wayback.archive-it.org/12090/20230216155930/https:/futureu.europa.eu/en/) of the Conference on the Future of Europe (<https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/conference-future-europe_en#videos>) and watch the two short (2 min) videos (the Conference in Summary and the Experience of participants).

*Optional materials*

* S Peers, ‘Amending the EU Treaties’ in R Schütze and T Tridimas (eds) *Oxford Principles of European Union Law* (OUP, 2018) 423-457 (read from 423-450)
* Video recording of a policy dialogue on the conference on the Future of Europe: <https://www.bruegel.org/events/conference-on-the-future-of-europe-vehicle-for-reform-versus-forum-for-reflection/>

*Questions for discussion*

What are the treaties that form the EU constitutional frameworks, and how have they evolved over time? Which actors are influential in the formal Treaty reform process? Are Treaty reform events where fundamental ‘constitutional’ change occur? Do the Treaties need further reform? How easy/difficult is it to amend EU Treaties and does that matter? Should EU citizens/civil society be more involved in the EU treaty reform process? Is the Conference on the Future for Europe as a vehicle for further Treaty/constitutional reform?

**Class 2 Mandatory guest lecture (Thursday 21 Sept 2023, 5.40 – 7.20) NOTE SPECIAL SCHEDULING**

Prof. Iyiola Solanke, Jacques Delors Professor of European Union Law, University of Oxford/ Fellow of Somerville College.

*Rethinking the Introduction to EU Law*

‘Decolonisation' of EU law has the potential to constitute a starting point for current examinations of EU law.  What could this look like – what happens when we take decolonisation as the starting point for our introduction to EU law? Furthermore, how does this idea of ‘decolonisation’ amend the purpose, principles and practice that inform our research and teaching in EU law today?

Attendance of the lecture is mandatory. It has been scheduled so as not to clash with mandatory courses at LEGS and DPP. In case of conflicts with other mandatory commitments, please inform the instructor as soon as possible. The lecture should be recorded/streamed (TBC).

*Instructions*

After the class, reflect on what you would change in this syllabus in light of prof. Solanke’s proposed decolonization perspective. Make 3 concrete proposals to that effect, and submit them on Moodle (this will count as part of the course participation grade).

**Class 3. The EU ‘political’ institutions and the institutional balance (Tues 26 Sept)**

In this session, we review the EU institutions and bodies, and critically assess the nature, role and influence of the core political institutions, namely the European Commission, the Council of the European Union, the European Council, and the European Parliament. We critically engage with the notion of ‘institutional balance’ as it plays out in the EU, and evolved over time and across policy areas.

*Mandatory reading*

* Europa: <https://europa.eu/european-union/about-eu/institutions-bodies_en>
* S Peers, ‘The EU’s political institutions’, in S Peers and C Barnard (eds) *European Union Law* (3rd ed, OUP, 2020) 40-74, read p 43 to 71.
* P Craig, ‘Institutions, Power and Institutional Balance’ in P Craig and G De Búrca (eds): *The Evolution of EU Law* (3rd ed., 2021) 46-89, read p. 78-88.

*Optional materials*

* Watch the video on the EU institutions explained by their Presidents: <https://www.youtube.com/watch?v=ZwVBa8ig9NQ>
* P Craig and G De Búrca (eds): *European Union Law: Texts, Cases and Materials* (7th ed., OUP, 2020), ch. ‘The Institutions’ 59-101.
* TC Hartley and T. Tridimas*, The foundations of EU law* (OUP, 2022), ch. 1 ‘The institutions’
* JC Piris ‘The Lisbon Treaty – a legal and political analysis’ (Cambridge 2010), Chapter on ‘Institutions’ and ‘Democracy’

*Questions for discussion:*

Can we easily compare the EU to national political systems? How have EU institutions powers evolve over time? How did the Lisbon treaty affect institutional balance? How accountable are EU institutions?

**Class 4 –The EU courts and the application and interpretation of EU law (Tues 3 Oct 2023)**

In this class, we focus on the EU judicial bodies, namely the Court of Justice of the European Union (CJEU) and the General Court (GC): their role and functions, their composition and organization, important features of the EU judicial process, institutional independence, and elements of legal reasoning (e.g. methods of interpretation, use of precedent, etc).

*Preparatory activities*

* (re) read the ruling of the case you plan to present, and check the composition of the formation of judgment, the number and identity of those who submitted observations or intervened in the case, and pay attention to the Court’s legal reasoning, identifying methods of interpretation used, how the Court relies on precedent, etc.
* Try to watch [here](https://curia.europa.eu/jcms/jcms/p1_1477137/en/) the livestream of an oral hearing at the CJEU, checking the [judicial calendar](https://curia.europa.eu/jcms/jcms/Jo1_6581/); livestream are available a few hours after the hearing.

*Mandatory reading*

* CJEU, ‘The CJEU: ensuring the protection of EU law’ (August 2021) <https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-05/cour_garante_qd-03-20-178-en-n.pdf>
* J Komárek, ‘Legal reasoning in EU law.’ In D Chalmers and A Arnull (eds) *The Oxford Handbook of European Union Law* (OUP, 2015) 28-51, read at least from page 42 (II.3)
* Note by AG Sharpston in the Scottish legal (20 Aug 2021): <https://www.scottishlegal.com/uploads/Note%20by%20Eleanor%20Sharpston%20dated%206%20August%202021.pdf>

*Optional reading*

* M Bobek, ‘The Court of Justice of the European Union.’ *The Oxford Handbook of European Union Law* (OUP, 2015): 153-177
* A. Alemanno, The Court of Justice of the EU goes (almost) public, VerfBlog, 2022/4/26, https://verfassungsblog.de/the-court-of-justice-of-the-eu-goes-almost-public/, DOI: [10.17176/20220427-062108-0](https://dx.doi.org/10.17176/20220427-062108-0).

*Questions for discussion*

Is the procedure for the nomination and appointment of judges at the CJEU likely to enhance its independence or to make it more sensitive to member states’ interests? To what extent does the CJEU decision-making process provide guarantees for judicial independence? How accessible and open is the EU judicial process? What are the interpretation methods used and favored by the CJEU, and how does that matter for European integration? Does the CJEU follow precedent? In which language(s) does the Court work, and does it matter?

**Class 5. EU case law and European legal integration: the ‘supremacy/primacy doctrine’ and the relationship between EU and national law (Tues 10 Oct 2023)**

In this class, we explore the way in which the CJEU constitutionalized the EU legal order, with a focus on the concept of primacy (supremacy) of EU law, and how it has been received and contested by national authorities (eg concerns related to fundamental rights, competences, national constitutional identity, etc)..We discuss the implications for the dynamics of European integration.

*Mandatory reading*

* JHH Weiler, ‘The transformation of Europe’ *Yale Law Journal* (1991): 2403-2483, read p. 2413-2415.
* P Craig and G De Búrca (eds): *European Union Law: Texts, Cases and Materials* (7th ed., OUP, 2020), Ch. 10, 304-352, read from p. 304 to 317, and *one* of the countries’ sections
* Commission statement reaffirming the supremacy of EU law, 7 October 2021, <https://ec.europa.eu/commission/presscorner/detail/en/statement_21_5142>

*Further reading*

* B de Witte, ‘Direct Effect, Primacy, and the Nature of the Legal Order' in P Craig, and G Búrca (eds), *The Evolution of EU Law* (3rd edn, OUP, 2021) Oxford, 187-227, p 187-192, and 205-227
* M Claes, ‘The primacy of EU law in European and national law.’ in D Chalmers and A Arnull (eds) *The Oxford Handbook of European Union Law* (OUP, 2015) 178-211.

*Questions for discussion:*

Is there a difference between the primacy and supremacy of EU law? What are the implications of EU law supremacy for the relationship between EU and national legal orders, and for European integration more broadly? Is EU law supremacy absolute and unconditional? Is it accepted without reservations and limitations in all the member states’ legal systems? Is there resistance? Where and why? How is the CJEU and other EU institutions reacting to it?

**Class 6. EU institutions and law-making (3): EU legislation and legislative process (Tues 17 Oct 2023)**

In this session, we explore the scope and limits of EU competences, which define the basis and contours of EU legislative interventions. We identify the main types of EU legislative acts, and the distinctions between them. Finally, we examine the processes that lead to the adoption of EU legislative acts such as Directive, Regulations, and others, with a focus on the EU ordinary legislative procedure.

*Mandatory reading/activities*

* K Bradley, ‘Legislating in the European Union’, in S Peers and C Barnard (eds) *European Union Law* (3rd ed, OUP, 2020) 101-153, read until p. 132.
* Consult the EU website on how EU policy is decided (<https://european-union.europa.eu/institutions-law-budget/law/how-eu-policy-decided_en>) and the EP page on the EU legislative procedure (<https://www.europarl.europa.eu/about-parliament/en/powers-and-procedures/legislative-powers>)
* Consult the [European Parliament legislative train site](https://www.europarl.europa.eu/legislative-train/spotlight-JD22), and check progress on [legislative priorities for 2023.](https://www.europarl.europa.eu/legislative-train/spotlight-JD%2023-24) Pick on proposal, and check how it is going, whether it is stuck and if so why that may be/

*Optional materials*

* TV show ‘Parlement’ , season 1 and 2
* <https://eulawlive.com/commission-replies-to-european-citizens-initiative-on-reducing-animal-testing/>
* Council’s video on ‘how drafts become EU law’: <https://www.consilium.europa.eu/en/council-eu/decision-making/ordinary-legislative-procedure/>
* U Bux, ‘Sources and scope of European Union Law’ <https://www.europarl.europa.eu/factsheets/en/sheet/6/sources-and-scope-of-european-union-law>
* M Claes and B de Witte, ‘Competences: codification and contestation’ in A Lazowski and S Blockmans (eds), *Research handbook on EU institutional law* (Edward Elgar, 2016), 46-87
* S H Türk, Primary legislation and legislative procedures’ R Schütze and T Tridimas (eds) *Oxford Principles of European Union Law* (OUP, 2018) 689-715 (read at least until 711)
* D David , C Cuadra, and R. Miel, European Parliament, ‘Troubled Waters’ (2007) [comic strip]
* V Papakonstantinou, ‘[The actification of EU law – the long overdue move towards eponymous legislation’,](https://europeanlawblog.eu/2021/01/26/the-act-ification-of-eu-law-the-long-overdue-move-towards-eponymous-eu-legislation/) blogpost, European Law Blog, 26 Jan 2021
* <https://europeanlawblog.eu/2021/01/26/the-act-ification-of-eu-law-the-long-overdue-move-towards-eponymous-eu-legislation/>
* ‘Joint Handbook for the presentation and drafting of acts subject to the ordinary procedure’: <https://www.consilium.europa.eu/media/47929/joint-handbook-en-31_july-2020_clean_def.pdf>

*Questions for discussion*

How can we identify EU legislation, and why does it matter? What are the differences between Directives, Regulations, Decisions, and other acts of EU law? Who is the EU legislator? Which institutional actors have most influence in the EU legislative process? What is a legal basis and why do we care? Which informal processes bear influence on legislative outcomes, which are not explicitly regulated by the Treaties? How democratic and accountable is the EU legislative process?

**Class 7. EU institutions and law-making (4): EU ‘regulatory’ acts and comitology’ + the hardening/softening of EU law (Tues 24 Oct 2023) [by F. Pupeter]**

In this class, we explore the notion of regulatory acts in the EU (ie post-Lisbon, delegated and implementing acts), and look into the process of their adoption (eg comitology). We discuss the distinction between legislative and regulatory acts, which is particularly relevant for the judicial review of EU acts, and between different types of non-legislative acts and processes. We also critically examine the rise of soft law in the EU. We wrap up with a reflection on the relations between legal norms in the EU, and the democratic qualities of the EU.

*Mandatory reading/activities*

* P Craig and G De Búrca (eds): *European Union Law: Texts, Cases and Materials* (7th ed., OUP, 2020), ch. ‘Instruments and hierarchy of norms’, section ‘hierarchy of norms’, pp. 141-152.
* K Bradley, ‘Legislating in the European Union’, in S Peers and C Barnard (eds) *European Union Law* (3rd ed, OUP, 2020) 101-153, read from p.132 to 143.
* Watch video ‘why does comitology exists in EU policy-making’?’: <https://www.eurosci.net/polls/why-does-comitology-exist-eu-policy-making>
* Check out the Commission’s Communication ‘Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia’ (2022/C 131 I/01) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.CI.2022.131.01.0001.01.ENG> Assess its possible (legal) implications? (for an analysis, you may consult the [blogpost by O Stefan](https://europeanlawblog.eu/2022/04/12/entrenching-emergency-soft-law/) ‘Entrenching Emergency Soft Law’, 12 April 2022) - TBC

*Optional materials*

* Video lecture by A. Alemano: EU Rule-making: comitology, COURSERA: <https://www.coursera.org/lecture/europe/eu-rulemaking-comitology-g9Uuy>
* P Craig, ‘Delegated and implementing acts’ in R Schütze and T Tridimas (eds) *Oxford Principles of European Union Law* (OUP, 2018) 716-746
* J Bast, 'New Categories of Acts after the Lisbon Reform: Dynamics of Parliamentarization in EU Law', (2012), 49:3 *Common Market Law Review,* 885-927
* T Christiansen and M Dobbels, ‘Non‐Legislative Rule Making after the Lisbon Treaty: Implementing the New System of Comitology and Delegated Acts’ *European Law Journal*, *19*:1 (2013) 42-56.
* T Van Den Brink, ‘Danger! Glyphosate may Expose Weaknesses in Institutional Systems: EU Legislation and Comitology in the Face of a Controversial Reauthorisation.’ *European Journal of Risk Regulation* 11:3 (2020): 436-449.
* J Gruson, M Merkx, 'The Comitology Proposal: Shifting the Legislative Balances in EU VAT', (2021), *EC Tax Review* 30:3, 99-110
* F Terpan, ‘Soft Law in the European Union—The Changing Nature of EU Law.’ (2015) 21.1 *European Law Journal* 68-96.

*Questionsfor discussion*

What do we mean when we talk about the EU regulatory regime or regulatory governance in the EU? Do lawyers and political scientists have the same understanding of the concept of ‘regulation’. Are all EU Regulations ‘regulatory acts’ under EU law? How can be identify EU regulatory measures and why does is matter? How are EU regulatory measures adopted? How are the various EU institutions involved in the process? How accountable are processes for the adoption of EU regulatory acts? What is the role played by EU agencies in the EU regulatory regime?

**Class 8: in-class exam (31 October 2023) – Room (Computer Lab) TBC**

**Class 9. Direct and indirect effects and the decentralized enforcement of EU law (Tues 7 Nov 2023)**

In this class, we examine the effect that EU law produces at domestic level, and in particular under which circumstance provisions of EU law can be directly invoked and relied on before domestic courts, and the interpretative duties which EU law imposes on national authorities.. We further discuss the extent to which these judicial doctrines, by empowering (certain) litigants, play into the dynamics of European integration.

*Mandatory reading*

* B de Witte, ‘Direct Effect, Primacy, and the Nature of the Legal Order 'in P Craig, and G Búrca (eds), *The Evolution of EU Law* (3rd edn, OUP, 2021) Oxford, 187-227, re-read p 187-192, 211-227, and read 192-204.
* Op-ed by X Groussot and A Loxa, ‘The practicability of direct effect and the doctrine of change; (29 March 2022): <https://eulawlive.com/op-ed-of-the-practicability-of-direct-effect-and-the-doctrine-of-change-by-xavier-groussot-and-alezini-loxa/>

*Optional reading*

* M Bobek,’ The effects of EU law in the national legal systems’ in S Peers and C Barnard (eds) *European Union Law* (3rd ed, OUP, 2020) 154-189, read P. 154-174
* D Leczykiewicz, Effectiveness of EU law before national courts: direct effect, effective judicial protection, and state liability. D Chalmers and A Arnull (eds) *The Oxford Handbook of European Union Law* (OUP, 2015) p. 1-10 (of the pdf).

*Questions for discussion*

What is direct effect? What are its concrete implications for the application of EU law jn member states? What is the difference between horizontal and vertical direct effect? Do all provisions of EU law have horizontal and vertical direct effect? Why does it matter? Do general principles and Charter provisions also have direct effect? What is indirect effect, and what are its concrete implications for national courts?

**Class 10. Effective judicial protection: national remedies (Tues14 Nov 2023)**

In this class, we will examine the day-to-day judicial application and enforcement of EU law at the domestic level of the member states, between the principle of national procedural autonomy and the requirement of effective judicial protection. We will look at the evolving case law of the CJEU on national remedies (with the principles of equivalence and effectiveness) and the codification of the principle of effective judicial protection in the Treaty. We will also discuss their relevance in upholding the rule of law in the EU.

*Mandatory reading*

* F Episcopo. The Vicissitudes of Life at the Coalface: Remedies and Procedures for Enforcing Union Law before the National Courts, in P Craig, and G Búrca (eds), *The Evolution of EU Law* (3rd edn, OUP, 2021, 175-305 TBC
* European Commission [Rule of Law Report](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023DC0800) (July 2023), see [press release](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3631) (part 1 Justice reform)

*Optional reading*

* M Avbelj, ‘National procedural autonomy: concept, practice and theoretical perspectives’ in A Lazowski and S Blockmans (eds), *Research handbook on EU institutional law* (Edward Elgar, 2016), 421-440, read at least pp 421-435.
* Lenaerts, K. (2013). ‘Effective judicial protection in the EU’ (paper delivered at *Assises de la Justice*) (part II)
* Pech, L. ‘The Rule of Law’ in P Craig, and G Búrca (eds), *The Evolution of EU Law* (3rd edn, OUP, 2021, 307-338

*Questions for discussion*

Does EU law create specific remedies for the enforcement of EU law? To what extent is the judicial enforcement of EU law dependent on the availability and effectiveness of national remedies? Does the EU impose minimum requirements on national remedies? To what extent is the EU competent to address deficiencies in national judicial protection system and rule of law challenges in member states?

**Class 11. Effective judicial protection : EU judicial procedures (Tues 21 Nov 2023)**

In this class, we look at judicial procedures available at the EU level in order to challenge either EU acts, or national measures, for violations of EU law. We will cover the action for annulment/failure to act against EU acts and actions in damages against EU institutions; the infringement procedure against member states who fail to comply with their EU obligations, and the preliminary reference procedure, whereby national courts may or must refer to the CJEU questions related to either the validity or interpretation of EU law, the later often being used as a means to challenge national measures incompatible with EU law.

*Mandatory reading*

* A Albors-Llorens, ‘Judicial protection before the Court of Justice of the European Union’ in S Peers and C Barnard (eds) *European Union Law* (3rd ed, OUP, 2020) 283-333

*Optional reading*

* Lenaerts, K. (2013). ‘Effective judicial protection in the EU’ (paper delivered at *Assises de la Justice*) (part I and III)
* https://eulawlive.com/commission-takes-action-to-ensure-timely-transposition-of-directives-by-member-states/

*Questions for discussion*

Is it easy to challenge EU acts before the CJEU? Are certain measures easier to contest before the EU courts than others? Are certain actors privileged when it comes to contesting EU acts? Can individuals, companies or organizations bring cases against a member state which fails to comply with EU law directly to the CJEU? Does the EU judicial system meet effective judicial protection standards? Why is the preliminary reference procedure considered as a keystone of European integration? To what extent do threats to the rule of law and judicial independence threaten European integration?

**Class12 Substantive EU law insights - Free movement & non-discrimination**

In this class, we explore the foundational provisions and judicial doctrines which underpin EU integration. We start with the basic principles regulating the free movement of goods, then discuss the extent to which similar logics apply to other aspects of market integration (free movement of services, capital, etc), and go on to also shape the concept of EU citizenship, its development and application. We also look into the principle of equality/non-discrimination, which straddle internal market and social policy.

*Mandatory reading/activities*

* Watch video from You and EU ‘Dinner without the free movement of goods’: <https://www.youandeu.com/post/dinner-without-eu-free-movement-of-goods>
* Case 120/78 *Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein*.(Cassis de Dijon) EU:C:1976:188
* Enchelmaier, ‘Free movement of goods: evolution and intelligent design at the foundations of EU law’ in P Craig, and G Búrca (eds), *The Evolution of EU Law* (3rd edn, OUP, 2021) 546-578
* C. Barnard, ‘Free movement of natural persons and citizenship of the Union’ in S Peers and C Barnard (eds) *European Union Law* (3rd ed, OUP, 2020) 397-437
* M Bell, ‘Non-Discrimination’ in in P Craig, and G Búrca (eds), *The Evolution of EU Law* (3rd edn, OUP, 2021) 651-677, read at least 653-660 (the whole chapter if you can).

*Further reading*

* Ch 12:Union Policies: Overview, in R. Schutze, *An Introduction to European Union Law* (4th ed) OUP, 2023)
* European Commission, ‘[Guide on Articles 24-36 TFEU](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC0323(03)&rid=9) (2021/C 100/03) ‘https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC0323(03)&rid=9
* J Snell ‘The internal market and the philosophy of market integration’ in C Barnard and S Peers European Union Law (OUP, 2020) 334-364
* P. Oliver and M.M. Navaro. ‘Free movement of goods’ in C Barnard and S Peers European Union Law (OUP, 2020), 364-396
* M-P Granger. ‘The civil right to free movement: the beating heart of European Union citizenship?. In *Civil Rights and EU Citizenship* (Edward Elgar Publishing, 2018) 152-193.
* Video: C Barnard, ‘The UK, Eu citizenship and free movement of persons’ (2014) <https://migrationobservatory.ox.ac.uk/resources/primers/the-uk-eu-citizenship-and-free-movement-of-persons/>
* J Shaw ‘Citizenship: Constrasting dynamics at the interface of integration and constitutionalism’ in P Craig, and G Búrca (eds), *The Evolution of EU Law* (3rd edn, OUP, 2021, 608-650, read part 2, 621-630
* P Oliver and MM Navarro, Free movement of goods in S Peers and C Barnard (eds) *European Union Law* (3rd ed, OUP, 2020) 365-396
* C Barnard and J Snell, ‘Free movement of legal persons and the provisions of services’ in S Peers and C Barnard (eds) *European Union Law* (3rd ed, OUP, 2020) 438-478
* NN Shuibhne, ‘The Developing Legal Dimensions of Union Citizenship in D Chalmers and A Arnull (eds) *The Oxford Handbook of European Union Law* (OUP, 2015) 477-507.
* E Spaventa, ‘The free movement of workers in the twenty-first century’ in D Chalmers and A Arnull (eds) *The Oxford Handbook of European Union Law* (OUP, 2015), 459-475.
* European Commission (2020) *EU Citizenship report,* at <https://mycitizenrights.eu/files/en/Citizen-Report-EN.pdf>

*Questions for discussion*

What are measures having equivalent effects, and why are they problematic for market integration? What is the doctrine of mutual recognition and why does it matter? Which type of goods have marked the development of EU internal market law and why? Are all measures restricting business or trade prohibited under internal market law, or are there legitimate limitations or exceptions? Is ‘market access’ a suitable test? To what extent is the concept of EU citizenship (still) rooted in EU market integration? Is free movement the most (only?) meaningful EU citizenship rights? Are all EU citizens protected by the EU Charter rights? How dependent is EU citizenship of member state citizenship? Do all EU citizens have equal rights under EU law? Does the concept of EU citizenship support social integration or is it exclusionary?

**Optional practice session (TBC)**

There may be a optional session to rehearse and practice for the final assignment, practical case ‘take home’ exam. Timing TBC.

## Final take home cover page

**Title of the course: Introduction to European Union Law**

**Name of the Instructor: Marie-Pierre Granger**

**Duration and type of the exam** eg.:

* Take home: 24h. Students should set aside 4 hours to complete the exam.

**Instructions:**

* Write your CEU ID number on each page of your responses. You should NOT write your name on the paper. Refrain from making references which might reveal your identity.
* Answer each question. / Answer (2/3/4) questions out of (8/9/10) questions.
* You are allowed to use (in case of in-class exams):
* Please refrain from communicating with each other in any form or by any means during the entire exam.
* In the next page, you will find the practical case and the tasks/questions assigned.

Good Luck!

**Practical case**

**Tasks/questions**