

Descriptif d'enseignement / *Course descriptions*

Academic Year 2022-23

Semestre 1

Titre du cours - *Course title*

The European Union institutions and the law-making process

Type de cours : Séminaire

Langue du cours/Language of instruction : English - Anglais

Enseignant(s) – *Professor(s)*

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Résumé du cours – Objectifs - *Course description – Targets*

European Union and legislative process: A complex institutional architecture with an extraordinary law-making process.

The course provides an overview of how the European Union (EU) is governed and how it governs the EU citizens, with a special emphasis to the law-making process. Through lectures will be provided a detailed understanding of the integration process and a view into the treaties that have led to the current structure of the Union. The lectures will review how the EU institutions work, how EU law is adopted, and how the EU interacts with Member States' governments. The course both covers the institutional perspective, highlighting the role of the different institutions within the Union, and focuses on those substantive issues that are currently topical in the EU, such as the financial and euro-crisis, migration and defence of fundamental rights. The course will provide an introduction to the law of the European Union, and will present the law-making process, which is peculiar to the EU institutional structure. In the same time, will be shown the interaction between the EU law framework and its' Member States. In this context, a particular focus will be given to the legal order of the EU – which is based largely on the Treaty of European Union and the Treaty on the functioning of the European Union, and the legislation made under the treaties by the Council, the Parliament and the Commission – and to the legislative process. A special focus will be given to the EU legislative process, including the presentation of the principles, guidelines and methodology in drafting European Union legislation. Moreover, the course will consider the fundamental law cases of the European Courts, as they are of considerable importance in the study of EU law.

Syllabus / Targets

The development of European integration: history, theories and treaties.

Main issues: Introduction, history and European integration background, main theories on the integration process; the "Ventotene Manifesto" ("For a Free and United Europe. A Draft Manifesto"), the Organisation for European Economic Cooperation (OEEC) and the Organisation for Economic Co-operation and Development (OECD), the Western European Union (WEU), the BENELUX Treaty, the Council of Europe and the European Convention on Human Rights (ECHR), the

“Schuman Declaration”, the Treaty establishing the European Coal and Steel Community (ECSC), the European Defence Community Treaty (EDC) and the European Political Community (EPC), the Treaty establishing the European Economic Community (EEC), the Treaty establishing the European Atomic Energy Community (EURATOM), the Merger Treaty, the Luxembourg Compromise (1966), the Treaty of Luxembourg (1970), the Treaty of Brussels (1975), European Monetary System (EMS), the Single European Act, the Treaty on European Union (Maastricht Treaty), the Treaty of Amsterdam, the Treaty of Nice, the Laeken European Council and Convention on the Future of Europe, the Treaty establishing a Constitution for Europe, the Treaty of Lisbon, the consolidated versions of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU).

The institutional framework.

The European Parliament, the Commission, the European Council, the Council, the Court of Justice (European Court of Justice, General Court, specialized courts), the Court of Auditors, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions, the European Investment Bank, other bodies and agencies.

The principles of the European Union.

Mainly: respect for human dignity, freedom, democracy, equality, the rule of law, respect for human rights, minority rights, solidarity.

The EU's legal order; the legislative process; non-legal instruments.

The hierarchy of norms. The principle of conferral, the principle of proportionality, the principle of subsidiarity (Article 5 TEU). Exclusive competence, shared competence, supporting and supplementary action. The sources and supremacy of EU law. Legal acts: regulations, directives, decisions; non-legislative acts; delegated acts and implementing acts; other acts (recommendations and opinions). The legislative process: the “ordinary” legislative procedure; the “special” legislative procedures: the “consent” or “approval” procedure and the “consultation” procedure; the simplified procedure. Principles, style and methodology in the drafting of European Union legislation.

The EU system of legal protection and the Court of Justice.

Main issues on proceedings: Treaty infringement proceedings (Articles 258-259 TFEU); actions for annulment (Article 263 TFEU); complaints for failure to act (Article 265 TFEU); actions for damages (Articles 268 and 340(2) TFEU); appeals procedure (Article 256(2)); preliminary rulings (Article 267 TFEU); provisional legal protection (Articles 278 and 279 TFEU).

Drafting EU legislation: principles, guidelines and methodology.

General structure of an act subject to the ordinary legislative procedure. Title; Preamble; Citations; Recitals; Enacting terms/operative part – dispositive; Scope, Definitions, Entry into force. Annexes (possible part); The subject matter and scope; Multilingual nature of EU legislation; Council Regulation No 1 of 15 April 1958.

Samples of drafting the EU legislative acts, with practical exercise.

Evaluation - *Assessment*

Final assessment: students will be required to write a final essay on a topic of the course and to give an oral presentation of this essay, answering to some questions, at the end of the course. The topic will be specific to each student. In the overall evaluation, active participation in the course will be taken into account.

Plan – Séances - *Course outline*

Classroom lessons of two or three hours each.

During the classes there will be some exercises on the drafting of European Union legislative texts. Meetings, on site or online, with external guests will be organized.

Bibliographie - Bibliography :

Suggested textbooks:

CHALMERS, DAVIES, MONTI, *European Union Law*, Fourth edition, Cambridge, 2019.

CRAIG and DE BÚRCA, *EU Law. Text, cases and materials*, Seventh edition, Oxford, 2020.

EDWARD and LANE, *European Union Law*, Cheltenham, 2014.

Key documents:

The European Treaties, which are available at https://europa.eu/european-union/index_en and will be provided during lessons.

Drafting EU legislation:

Joint declaration on practical arrangements for the codecision procedure (article 251 of the EC Treaty), Official Journal of 30.6.2007, C 145/02.

Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016, Official Journal of 12.5.2016, L 123/1.

Joint Practical Guide of the European Parliament, the Council and the Commission for persons involved in the drafting of European Union legislation, Publications Office of the European Union, 2015.

Other resources:

The EU website at https://europa.eu/european-union/index_en contains all kinds of relevant information about the EU.

Recent case law of the European Court of Justice is available at <http://curia.europa.eu>, and past case law, legislation and all sorts of other legal sources are available at <http://eur-lex.europa.eu/homepage.html>

During the course, specific bibliography and study materials will be given and also appropriate documents on legislation, legislative procedures and drafting EU legislation will be provided from time to time.