

EU Mergers and Acquisitions (B001420)

Course size *(nominal values; actual values may depend on programme)*

Credits 4.0

Study time 120 h

Contact hrs

30.0h

Course offerings and teaching methods in academic year 2022-2023

A (semester 2)

English

Gent

lecture: response lecture

10.0h

lecture

10.0h

guided self-study

10.0h

Lecturers in academic year 2022-2023

De Wulf, Hans

RE21

lecturer-in-charge

Cerfontaine, Jan

RE21

co-lecturer

Offered in the following programmes in 2022-2023

[Master of Science in Teaching in Social Sciences\(main subject Laws\)](#)

crdts

4

offering

A

[Master of Laws in Laws](#)

4

A

[Exchange Programme in Law](#)

4

A

Teaching languages

English

Keywords

Company law, contract law, Mergers, acquisitions, takeovers, corporate restructurings

Position of the course

The course is intended for students at master's level who have a knowledge of company and contract law, and want to apply this to the field of corporate merger and acquisition activity. It treats the subject matter in an integrated way (links between different fields of law such as corporate, contract, and tax), but there is not enough time to deal with competition law or social law aspects.

Guest lectures by practitioners are an important feature of the course. Approx. 25% of the course is taught by guest lecturers, mainly attorneys.

Contents

An important aspect of the course is a complicated takeover case (hypothetical) designed and introduced by Stibbe law firm. Students will have to study the case on their own, acquire knowledge of the relevant rules (takeover bids, disclosure and transparency rules, insider dealing and market manipulation, takeover defenses, ...) largely on their own, and will have to write an individual paper answering the legal and strategic questions raised by the case. The students will however be divided into groups with each group focusing on a subset of issues/the position of a certain group of parties involved in the acquisition. The case will conclude with a group discussion.

LL.M and exchange students get a different case so that they don't have to apply Belgian law.

In addition to solving this case, students are expected to attend all lectures

The contents of the lectures will slightly vary from year to year- most years we will try, in addition to the schedule below, to invite either an investment banker or someone from private equity to talk about target selection or deal financing- but typically will look as follows:

Lecture 1 (each lecture 3hrs; H. De Wulf): Introduction to M&A: overview of

different forms of M&A: legal mergers and split ups; negotiated share or asset deals; public take-over bids, LBO's, ...; different players (bidders and targets, lawyers, investment bankers, ...); some basics about financing and tax considerations; role of private equity; role of regulators

lecture 2 (H. De Wulf): overview of theoretical and empirical economic literature on different forms of M&A: what drives M&A activity, are the different forms beneficial?

Extra meeting in week 2 of the semester (at night; attendance obligatory; students will have to be flexible with agenda) with team from Stibbe law firm, who will introduce students to a takeover case designed by them (1 hr)

lecture 3 (H. De Wulf): Legal cross-border mergers and divisions, company law aspects: tenth EU directive; indirect techniques, esp. if company from outside EU is involved.

lecture 4 (practitioner): due diligence

Lecture 5 (practitioner): overview of negotiated acquisitions process except due diligence (confidentiality, letter of intent, auctions, signing, closing, ...)

Lecture 6 (in groups of about 10 students; guided by lawyers): analysis of different clauses of an SPA (share purchase agreement)

Lecture 7 (H. De Wulf): introduction to (hostile) take-overbids: 13th EU directive; some basic rules under US law; applicable law and competent regulatory supervisors; voluntary bids; mandatory bids; role of the board of directors; defensive techniques (both pre- and post-bid); squeeze-out; sell-out.

Extra meeting at night with team of Stibbe lawyers to discuss first draft of students' legal advice on Stibbe takeover case

Lecture 8 (guest lecturer, eg David Ballegeer, Linklaters): deal financing

Lecture 9: case studies

Lecture 10 (practitioner): joint ventures

Lecture 11 : group discussion of final students papers on Stibbe case

This scheme varies slightly from year to year but gives a good impression of what is to be expected.

LLM students get an additional assignment: they have to give a short (15 min.) presentation to their group in a collective evening session about a specific M&A topic (eg. recent court decisions concerning MAC clauses"). This extra session presents an additional collective learning moment.

Initial competences

A basic knowledge of national company and contract law of the country of origin of the student.

Final competences

- 1 1 Have knowledge of the most important forms of mergers and acquisitions, and to a more limited extent of the different ways of restructuring companies in an international context
- 2 Have strategic insight into M&A activity and structuring acquisitions
- 3 3. to offer students the possibility to acquire the legal skills required to deal with real-world mergers and acquisitions, mainly through interactive and often practitioner-led seminars and group discussions around specific topics. Klik om te editeren ---
- 4 4. ability to draft merger agreements and to vet existing draft agreements;
- 5 5. ability to communicate with other professionals, including bankers and accountants, about M&A activity;
- 6 6. ability to work quickly to resolve legal questions, under pressure;
- 7 7. ability to look at a problem from different legal angles (corporate, tax, social...law) and treat it in an integrated way;
- 8 8. awareness of the importance of non-legal aspects of M&A activity, such as the financial and human resources angle;
- 9 9. awareness of the need for great precision in legal documentation concerning M&A

Conditions for credit contract

Access to this course unit via a credit contract is unrestricted: the student takes into consideration the conditions mentioned in 'Starting Competences'

Conditions for exam contract

This course unit cannot be taken via an exam contract

Teaching methods

Guided self-study, Lecture, Lecture: response lecture

Extra information on the teaching methods

To a large extent, this has been detailed in the "Content" section.

The Stibbe case/paper for LLM students is crucial. It tests and sharpens writing and debating skills and gives a taste of learning to deal with strategic and financial angles.

Students regularly have to prepare for class by reading judgements, legislation and M&A contracts, in order to enable an interactive discussion about these.

Learning materials and price

Set of materials (reading list and copies of relevant articles) provided at the start of the course, price approx 20 EUR; slides and documents posted on Minerva

References

Bart Bellen Share purchase agreements
Patrick A. Gaughan, Mergers, Acquisitions and Corporate Restructurings, Wiley, N.J., USA, 4th edition 2007; D. Oesterle, Mergers and Acquisitions in a nutshell, Wiley, latest edition;
see also list of other recommended background reading in the course materials.

Course content-related study coaching

Teacher is available after lectures and through e-mail.

Assessment moments

end-of-term and continuous assessment

Examination methods in case of periodic assessment during the first examination period

Written examination

Examination methods in case of periodic assessment during the second examination period

Written examination

Examination methods in case of permanent assessment

Simulation, Participation, Assignment

Possibilities of retake in case of permanent assessment

examination during the second examination period is possible in modified form

Extra information on the examination methods

There are several evaluation moments and types and students have to take part in all of them:

-All students have to write a paper about the hypothetical case or M&A problem assigned to them (50% of grade). For the Belgian undergraduate students this is the Stibbe case, including a written paper (one per group of students) that is graded by the professor taking into account the peer review among students. For the LLM and exchange students this may be a paper on a hypothetical or a more theoretical paper (approx. 15 pages in both cases) on an important M&A issue. By way of illustration: in 2015-16 LLM students had to comment on takeover defense issues in the cross-border takeover attempt between Mylan and Teva. LLM students have to give a presentation (see above) on a specific M&A topic. Written exam during regular exam period (50% of grade). Open questions (3 hours) that gauge the insight and understanding of students, not their mere knowledge. use of legislation is permitted, but usually useless.

Calculation of the examination mark

- 50% on case paper (and oral arguments for undergraduates doing the Stibbe case).

- 50 % on written exam.
 - exchange students (e.g. Erasmus, but NOT LLM) may choose not to write a paper, in which case 100% of their grade is determined by the written exam
- Students who do not participate in all evaluations will be declared unsuccessful for this course. In concrete terms, this means that if the final score is nevertheless a figure of ten or more out of twenty, the final score will be reduced to a figure of 7/20.

Retake: in the second exam session, students will have to write an exam paper on a different topic than in the first session. The other parts of the exam remain the same. Students have to take the initiative to contact the responsible professor in a timely manner in order to receive their assigned paper topic. Papers will have to be handed in by August 20 (or the first working day if August 20 is not a working day).

Facilities for Working Students

It's important to attend classes for this course in person, on campus and therefore this course is less suitable for working students, though they are not excluded from the course.