

## The Autonomous EU Legal Order (B001691)

Due to Covid 19, the education and assessment methods may vary from the information displayed in the schedules and course details. Any changes will be communicated on Ufora.

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

**Credits 6.0**

**Study time 180 h**

**Contact hrs**

45.0h

**Course offerings and teaching methods in academic year 2021-2022**

A (semester 1)

English

Gent

seminar

20.0h

guided self-study

5.0h

microteaching

5.0h

lecture

10.0h

**Lecturers in academic year 2021-2022**

Van Elsuwege, Peter

RE22

lecturer-in-charge

**Offered in the following programmes in 2021-2022**

**crdts**

**offering**

Master of Science in Teaching in Social Sciences(main subject Laws)

6

A

Master of Laws in Laws

6

A

Master of Laws in European Union Law

6

A

Master of Laws in International and European Law

6

A

Master of Laws in International Business Law

6

A

Exchange Programme in Law

6

A

**Teaching languages**

English

**Keywords**

Autonomy of the EU legal order, direct effect and primacy, fundamental rights, legal certainty, judicial protection, procedures, access to the European Court of Justice and General Court, composition and functioning ECJ General Court, concept of national court, preliminary procedure.

**Position of the course**

The specificity and characteristics of the 'new and autonomous' EU legal order (Van Gend & Loos) are the subject of study in this course. The most important procedures are analysed by way of case-studies (incl. direct and indirect access to the CJEU for individuals). Specific attention is devoted to concepts such as primacy and direct effect, the relationship between EU law and the national constitutional law of EU Member States as well as to the protection of fundamental rights by the CJEU and the interaction with the ECtHR.

**Contents**

The principal method of study consists of an analysis of the Treaty provisions and case law of the Court of Justice of the EU. A first part will deal with the specificity of the European legal order and the direct procedures before the Court of Justice and the General Court. The specific character of the European legal order will be further clarified through a simulation game and case-studies. Another part of the course will focus more specifically on the preliminary ruling procedure and the issues of primacy and direct effect, rights of individuals and State liability. Students have to prepare readings in advance of class discussions to acquire the necessary legal tools and skills to master new developments in EU law.

**Initial competences**

Students should be acquainted with legal reasoning and terminology in general. They should have a basic understanding of EU law. Prior knowledge of EU judicial

protection is not required.

### **Final competences**

- 1 Understand the basic concepts and specific characteristics of the EU legal order.
- 2 Understand the dynamic nature and scope of the EU Legal Order and EU judicial protection.
- 3 Be capable to solve problems and cases in a legally sound manner.
- 4 Be capable to analyse and comment cases with a good understanding of the various legal procedures.
- 5 Have a critical analytical approach to issues and cases concerning EU judicial protection.
- 6 Engage in individual readings prior to group discussions.
- 7 Be open to individual research and appraisal of primary sources from a critical analysis perspective
- 8 Conduct individual legal research and address primary legal sources in a critical-analytical manner
- 9 Understand and assess the implications of the EU Legal Order for the domestic legal order of the Member States
- 10 Understand and evaluate the impact of (legal) cultural differences between the Member States for the EU legal order.
- 11 Be able to enter into well-founded discussions with colleagues from different disciplines and/or different legal cultures.
- 12 Be open towards guest lectures and/or extra-curricular activities (incl. visit CJEU)

### **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**

Microteaching, Guided self-study, Seminar, Lecture

### **Extra information on the teaching methods**

A 'case-based' and 'research-based' methodology is used in this course. An active participation of students to class discussions on the basis of prior readings is required to acquire the necessary legal tools and skills to master new developments in EU law. Each student actively participates in a simulation game. Students also draft a reading schedule (max. 3p.) concerning a key judgments, on which he/she intervenes orally in class discussions.

### **Learning materials and price**

A syllabus with legal doctrine and primary sources (legislation and judgments) will be made available via Ufora. (upon request a printed version can be ordered; estimated cost: 25 EUR).

### **References**

- B. De Witte, "European Union Law: How Autonomous is its Legal Order?", *Zeitschrift für öffentliches Recht* (2010) 141-155.
- T. Molnar, "The Concept of Autonomy of EU Law from the Comparative Perspective of International Law and the Legal Systems of Member States", *Hungarian Yearbook of International and European Law*, 2015, pp. 433-459.

### **Course content-related study coaching**

Interactive support via Ufora; appointments with professor and assistants

### **Assessment moments**

end-of-term and continuous assessment

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

Written examination, Open book examination

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

Written examination, Open book 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 not possible

### **Extra information on the examination methods**

Written open book exam (50 %). This part aims to assess the student's capacity to understand the autonomous EU legal order and judicial protection, including the different procedures as well as their ability to solve practical cases in a legally sound manner. The non-periodical evaluation (50 %) is based on the student's active participation to the simulation game, presentations and class discussions. Retake of the permanent evaluation is not possible. The score of the permanent evaluation will be transferred to the second examination period

### **Calculation of the examination mark**

- 50 % permanent evaluation
- 50 % periodic evaluation

Retake of the permanent evaluation is not possible. The score of the permanent evaluation will be transferred to the second examination period

Students are obliged to take part in all evaluations (permanent and periodic evaluation). Without participation the student will fail the exam and will get the highest non-compensable mark.