Course description for the course Advanced European Economic Law (15 ECTS) AUTUMN 2024

General information about the course

Content and objectives

Overall objective of the course:

The main objective of the course is to enhance students' understanding of the institutional structure of the European Union (EU), the constitutional principles for the EU legal order, and how these affect the Internal Market. The course focuses on overarching constitutional and methodological issues such as the relationship between national and supranational law, the Union's powers and their limits, the impact of EU law, the EU doctrine of sources of law, as well as the significance of general principles of EU law and fundamental rights and freedoms. The starting premise for the course is the interplay between European constitutional law and European economic law.

The course includes the following course elements:

- The course includes study of the design and function of the EU institutions, particularly the different proceedings before the Court of Justice of the European Union and interpretative methods.
- The course highlights the impact of the rules on the balance of power between member states and the Union, as well as between the Union's legislative bodies and the EU Court of Justice.
- The main provisions in the Treaty on the Functioning of the European Union about free movement are studied and insights are conveyed on the provisions' significance as the basis for rights of economic actors and individuals in the EU legal order as well as for the penetration of EU law into national law.
- The course seeks to increase students' ability to work with EU legal sources and methods of interpretation in order to thereafter be able to address complex issues within European economic law.
- The course further aims to impart insights into the broader political and constitutional context of the Internal Market.
- To prepare students for their independent Master thesis project, the course includes introductory seminars on academic writing, as well as on research methods in European economic law.

Upon completion of the course, students are expected to be able to:

- demonstrate knowledge and understanding of the EU's institutional structure and constitutional principles as well as how these affect the Internal Market of the Union;
- demonstrate knowledge of EU legal methods, particularly the role of different legal sources in the EU doctrine of legal sources, and interpretation methods of the EU Court of Justice;
- display the ability to use appropriate EU legal methods to analyse issues concerning constitutional and institutional EU law and its relationship to European economic law,

- demonstrate knowledge of European law and of the social context for European integration.

Pedagogical approach

Instruction consists of 10 weeks of full-time studies. It is structured as a three-step model, as follows:

- A series of introductory lectures on institutional and constitutional EU law, as well as its relationship to European economic law;

- Interactive seminars on selected topics in institutional and constitutional EU law as well as essential European economic law. Students work with analysis of case law from the EU Court of Justice (CJEU). They prepare written and oral assignments that involve application, investigation and argumentation and are presented at seminars, both individually and as a group.

- The course also includes introductory seminars on academic writing and scholarly accuracy, as well as on research methods within European economic law.

The language of instruction is English. Active participation in 80 per cent of the seminars and workshops is compulsory. In the event of special circumstances, the head of the course can grant exception. In this case, the student shall be responsible for completing an additional assignment.

More about the course

Teaching methods

Teaching will take place on campus with occasional lectures and seminars online, through the platform Zoom. The course consists of three basic learning activities: (1) lectures where the teacher provides the tools for studying an area of law, (2) seminars where you are expected to take active part in the discussions and (3) workshops where you discuss legal writing and method.

Lectures
Preferably, you read the text and material indicated in the reading instructions prior to the lectures so that you may take part in the discussion. Texts indicated as “further reading” will help you to better understand the topic and the core reading (Schütze’s book). Texts suggested as “optional reading” are intended to broaden your horizons if you have particular interest in a specific topic. You are welcome to ask for clarifications and to raise additional questions at the lectures.

Seminars
For seminars, students must prepare, solve and discuss real as well as hypothetical problems. Students are expected to prepare the questions individually and then in the study group and to present comments and answers to the seminar questions before the class, both individually and in groups.

Workshops
Workshops are intended to be more hands-on and interactive. They relate to methodology and essay writing.

Written assignment (Case note)

Each student will be given a written assignment (a case note) consisting in analysing a given CJEU ruling linked to a specific seminar. The assignments are to be written individually and submitted no later than the indicated deadline. At the seminar, to which a case is related, the student writing the case note will be expected to be able to present and briefly analyse the case.

The purpose of the assignment is to develop the experience of actively analysing and presenting a subject in some depth, rather than passively responding to lecturing on the subject.

When writing the case note, both footnotes and a separate bibliography are expected. Furthermore, the assignment should be written in 1½ line space; font Times New Roman, font size 12; and 2,5 cm margins. The page limit is 4-5 pages, not including a separate cover sheet, table of contents and bibliography of relevant doctrine.

Attendance requirements

Students are encouraged to attend and actively participate in all learning activities (lectures, seminars, and workshops). A formal attendance requirement must be met in order to obtain a final grade. Students need to **attend 80% of the seminars and workshops (with a grade Pass)** in addition to taking the written exam. Exemptions can be made only in exceptional cases e.g. when a medical certificate can justify a special treatment. In this case, the student shall be responsible for completing an additional assignment.

Study instructions

Textbooks

• R Schütze, *European Union Law* (Oxford University Press, 2021).

Recommended literature for extra reading
• P.Craig and G De Burca, The Evolution of EU Law (Oxford University Press, 3rd ed., 2021).
• P Craig, *EU Administrative Law* (Oxford University Press, 3rd ed., 2018).
• K Lenaerts et al, *EU Procedural Law* (Oxford University Press, 2014); note that a new edition is expected with preliminary publication date 7 September 2023.
• T Tridimas, *The General Principles of EU Law* (Oxford University Press, 2nded., 2007).
• C Barnard, *The Substantive Law of the EU* (Oxford University Press, 7th ed., 2022).

Source materials

• Case Law Compilation (available on the course website).

Other materials

Other literature and materials will be posted on the website of the course by the lectureres and seminar instructors. Please check regularly for updates on the Athena platform.

Preparations for teaching

At this level of your studies, you are expected to be able to determine yourself how to prepare appropriately for lectures and seminars in order to achieve the course's learning outcomes and to get good grades. Therefore, the following instructions are only recommendations on how you can structure your studies.

Reading instructions for seminars will be published on the course website at least a few days before each seminar. The seminars are fundamental to achieve the course's learning outcomes and you need to be well-prepared for them in order to actively participate and contribute. You are also expected to work in teams (study groups) and prepare as a team.

Detailed instructions

Lectures

Lecture I "The history and nature of the European Union" (ABE)
• Schütze, ch. 1 & 2

Further reading:
• P Craig, 'The Treaty of Lisbon, process, architecture and substance' (2008) *ELRev* 137.

Optional reading:
• J Weiler, 'The Transformation of Europe' (1991) *Yale Law Journal*, 2403.
• J Weiler, 'The Transformation of Europe Revisited: The Things that Do not Transform', in Maduro and Wind (eds) *The Transformation of Europe 25 Years On* (Cambridge: CUP, 2017), 333-352.

Lecture II "From an Internal Market to a Union of values" (ABE)
• Schütze, relevant parts of ch. 1, 2 and of ch. 12.
• L Pech, 'The Rule of Law in the EU: The Evolution of the Treaty Framework and Rule of Law Toolbox, RECONNECT, Working Paper No. 7, March 2020, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3608661
• A von Bogdandy, 'Principles of a Systemic Deficiencies Doctrine: How to Protect Checks and Balances in the Member States' (2020) 57 *CMLRev* 705.
• Case C-64/16 *Associação Sindical dos Juízes Portugueses*
• Case C-619/18 *Commission v Poland*

Further reading:
• Editorial comments, 'Compromising (on) the General Conditionality Mechanism and the Rule of Law' (2021) *CMLRev* 267-284.
• The Rule of Law in the EU: Crisis and Solutions, SIEPS 2023:1op, available at: https://www.sieps.se/globalassets/publikationer/2023/2023_1op_2ed_web.pdf?

Lecture III "Institutions of the Union, Division of Functions, Legal Acts" (ABE)
• Schütze (2021), ch. 3, 4

Further reading:
• J-P Jacque, 'The Principle of Institutional Balance' (2004) *CMLRev* 383
• M Chamon, 'The Institutional Balance, an Ill-Fated Principle of EU Law?', 21(2) *European Public Law* (2015), 371–392.

Optional:
• M. Kohler, 'European Governance and the European Parliament: From Talking Shop to Legislative Powerhouse' (2014) 52 *Journal of Common Market Studies,* 600

Lecture IV "Direct Effect and Effectiveness of EU Law" (ABE)
• Schütze (2021), ch. 5, ch. 11
• Case 26/62 *Van Gend en Loos*

Further Reading:
• M Dougan, 'When worlds collide! Competing visions of the relationship between direct effect and supremacy' (2007) *CMLR* 931.
• M Brenncke, 'Hybrid Methodology for the EU Principle of Consistent Interpretation' (2018) *Statute Law Review*.

Optional reading:
• S Robin-Olivier, 'The evolution of direct effect in the EU: Stocktaking, problems, projections' (2014) 12:1 *International Journal of Constitutional Law,* 165
• T Lock, 'Is private enforcement of EU law through state liability a myth? An assessment 20 years after Francovich' (2012) 49 *CMLRev,* 1675-1702

Lecture V "Fundamental Rights" (HA)
• Schütze, ch. 12

• U Bernitz, 'The Scope of the Charter and its Impact on the Application of the ECHR', in de Vries et al, *The EU Charter of Fundamental Rights as a Binding Instrument, Five Years Old and Growing* (Hart, 2015).

Optional reading:
• M Dougan, 'Judicial Review of Member State Action Under the General Principles and the Charter: Defining the "Scope of Union Law" (2015) 52 *CMLRev*, 1201-1246.

Lecture VI "Division of powers and supremacy: EU and Member States" (ABE)
• Schütze (2021), ch. 6
• Case 6/64 *Costa v ENEL*

Further reading:
• K Lenaerts & T Corthaut, 'Of Birds and Hedges: The Role of Primacy in Invoking Norms of EU Law' (2006) *ELRev* 287.
• M. Madsen, H. Olsen, and U. Šadl, 'Competing Supremacies and Clashing Institutional Rationalities: The Danish Supreme Court's Decision in the *Ajos* Case and the National Limits of Judicial Cooperation' (2017) 23 *European Law Journal* 140

Lecture VII "Legislative powers: competences and procedures" (GG)

• Schütze, ch. 7

Further reading:
• G Moens & J Trone, 'The Principle of Subsidiarity in EU Judicial and Legislative Practice: Panacea or Placebo?' (2015) 41(1) *Journal of Legislation,* 134-154.

Optional reading:
M Dougan, 'EU competences in an age of complexity and crisis: challenges and tensions in the system of attributed powers' (2024) 61 *CMLRev*, 93.

Lecture VIII "Judicial System" (IS)
• Schütze (2021), ch. 4.2 & 10
• Teaching material on the website.

Lecture IX "Intro to the Internal Market: The Economic Constitution" (ABE)
• H Hofmann and K Pantazatou, 'The transformation of the European Economic Constitution', in Barnard and Hofmann, *European Union Law*, 2-24.

Optional reading:
• F W Scharpf, 'The Double Asymmetry of European Integration, Or: Why the EU Cannot be a Social Market Economy', *MPIfG Working Paper*, No. 09/12.
• M Poiares Maduro, 'Reforming the Market or the State? Article 30 and the European Constitution: Economic Freedom and Political Rights', 3 *European Law Journal* (1997), 55-82.

Lecture X "Free Movement of Goods" (ABE)
• Schütze, ch. 13, 14.1 & 14.3

Further reading:
• I Lianos, 'In Memoriam Keck: The Reformation of the EU Law on Free Movement of Goods' (2014) 40(2) *European Law Review*, 225-248.

Optional reading:
• C Barnard, *The Substantive Law of the EU, the Four Freedoms* (Oxford University Press, 2022) pp. 69-197.

•J Zglinski, 'The end of negative market integration: 60 years of free movement of goods litigation in the EU (1961–2020) (2024) 31(3) *Journal of European Public Policy*, 633-656.

Lecture XI "Free Movement of Services" (AT)
• Schütze, ch. 16.1-16.2

Optional reading:
• C Barnard, *The Substantive Law of the EU, the Four Freedoms* (Oxford University Press, 2022) pp. 400-512.

Lecture XII "Free Movement of Persons" (JP)
• Schütze, ch. 15

Further reading:
• A Tryfonidou, 'The ECJ recognises the right of same-sex spouses to move freely between EU Member States: the *Coman* ruling' (2019) 44 (5) *European Law Review*, 663-679.

Lecture XIII "Financial Services and Banking" (SS)
• Schütze, ch. 16.3-16.4

Lecture XIV "EU Competition Law: an introduction" (BL)
• Schütze, ch. 17

Seminars

Seminar assignments and reading will be provided on the course website shortly before the seminar.

Seminar 1 "Legislative procedures and legislative actors (GG)

Seminar 2 "Division of powers and general constitutional principles" (NOM)

Seminar 3 "Judicial Dialogue – the Solange saga" (NOM**)**

Seminar 4 "Direct effect and supremacy" (ABE)

Seminar 5 "Constitutional principles. Delegated Acts" (JR)

Seminar 6 "Free movement of goods" (ABE)

Seminar 7 "Free movement of services" (AT)

Seminar 8 "Free movement of persons" (JP)

Seminar 9 "Competition Law" (BL)

Workshops

Workshop 1 "How to read a Court Ruling" (IS)
- Teaching material posted on the course website.

Workshop 2 "Working with EU Law. Methodology" (ABE)
• Schütze (2021), relevant parts of ch. 5, Schütze, pp. 206-207
• Case 283/81 *CILFIT*

• Case C-561/19 *Consorzio*

Further reading:
• P Syrpis, 'The Relationship between Primary and Secondary Law in the EU' (2015) *CMLR* 461.
• K Lenaerts and J. A. Gutiérrez-Fons, 'To Say What the Law of the EU Is: Methods of Interpretation and the European Court of Justice', *EUI Working papers*, AEL 2013/9.
• Broberg and Fenger, 'If You Love Somebody Set Them Free: On the Court of Justice's Revision of the *Acte Clair* Doctrine' (2022) 59 *Common Market Law Review* 711-738

[Workshop 3 "EU Research Methods" (ABE) NB! outside the time-frame of the AEEL course]
• B De Witte, 'European Law - a Unified Academic Discipline?', EUI Working papers, RSCAS 2008/34, available at https://cadmus.eui.eu/handle/1814/10028
• M P Maduro, 'Interpreting European Law: Judicial Adjudication in the Context of Constitutional Pluralism' (2007) *European Journal of Legal Studies* 1.
• Teaching material posted on the course website

Examination

Examined moments

The assessment of students' performance is based on (i) active participation in the seminars and workshops (10%), (ii) a written assignment (10%), and (iii) a written examination (80% of the grade). All course requirements must be met in order to pass the course.

Students who initially fail the examination are given the opportunity to be assessed a second time. Students who have received a passing grade are not allowed to be assessed again in order to achieve a higher grade. Students who fail the course twice from the same examiner have the right to request a different examiner for their next examination. This, however, does not apply if there are particular reasons that a different examiner cannot be appointed.

The seminars are based on active participation and are graded Pass/Fail in reference to the learning outcomes set out in the course syllabus. In the event a student does not meet the minimum of 80% passed seminars and workshops the student is required to write an additional assignment. A grade "Pass" gives 5 points for the final grading.

Assignments (case notes) are graded Pass/Fail. A grade Pass on the assignment is required in order to be admitted to the written examination. An additional assignment is required in the case of a failed assignment. A grade "Pass" gives 5 points for the final grading.

The written exam lasts for three hours during which the student is required to answer two to three questions which may be divided into sub-questions. The questions may consist of a given problem or invite students to write shorter analytical essays. The maximum points that can be obtained at the exam are 40.

The written examination is based on all the texts and materials indicated in the reading instructions, and on the information and materials provided for the lectures and seminars throughout the course. Hence, the answers can be found in the course literature indicated in the literature list in this Syllabus and in the seminar materials. Since it is an open book exam, students may consult the course literature, the course statute book, the compilation of cases, any written notes and source material stated in the course literature list, as well as any other material they consider useful. Dictionaries are also allowed.

Exam registration

Students must register for the exam no later than 10 calendar days before the date of the exam. Registration for the exam requires registration on the course. **Students who have not registered for the exam are not allowed to write the exam.**

Students with a documented disability who have been issued a certificate of extra pedagogical support from Stockholm University must report this to the course administrator/teaching assistant as soon as possible (see below, "studying with a disability").

Documents allowed at the exam

All students are required to show a valid ID on the day of exam. Driving licenses, passports and ID cards that are still in date are approved as identification. In case of stolen or lost ID, students may also prove their identity by providing a police report of no more than three months. Foreign ID documents are also accepted, preferably passports and ID cards.

Permitted aids and other exam regulations

Students must be in the examination room at least 15 minutes before the exam is set to start.

At the exam, different examination options can be applied. Information about the different examination options and the rules that apply can be found on the Department of Law's website. The presence of unauthorized exam aids, notes and the like, as well as violations of exam regulations may lead to a notification to the university Disciplinary Committee. The Disciplinary Committee, led by the university president, can decide on a warning or a suspension.

In the course of Advanced European Economic Law, the examination option 4 is applied.

Grading criteria on the A-F(x) grading scale

The grading system uses a criterion-referenced scale of seven grades with passing grades of A (Excellent), B (Very good), C (Good), D (Satisfactory), or E (Sufficient). Failing grades are Fx (Insufficient) or F (Entirely insufficient). For grading criteria, see below, Appendix I-III.

Request for grade review:

Requests for grade reviews are submitted on a special form to the course administrator/teaching assistant. The request must be carefully supported and a copy of the exam must be attached.

Studying with a disability

General

Stockholm University offers various forms of extra pedagogical support for people with permanent disabilities. The support offered depends on the individual's situation and is intended to facilitate studies. The goal is for all students to have an opportunity to study on equal terms.

To take advantage of the support offered, students must submit an application to the university's Disability Services (part of the Student Services). To do this, they must log into the system NAIS via a link found on Student Services's web page (Stockholm University > Education > Studying with a disability > how to apply for support) and fill in the online form. To complete the application, a certificate confirming the disability must be attached.

When the application is received, the student will be contacted by the Student Services to book a personal meeting.

Once the student is granted support, they will need to contact their department's contact person and submit the certificate issued by the Student Services. International master students must contact the Office of International Affairs at master@juridicum.su.se.

Examination

Note that the course administrator/teaching assistant must be informed of a student's documented disability **no later than 3 weeks** before each examination in order for the extra pedagogical support to be in place in time. If the information is received later, the department cannot guarantee that the examination can be carried out as desired**. Please also note that registration for the exam must be done in the usual manner no later than 10 calendar days before the exam**. Also note that in order to receive extra pedagogical support during the entire course (e.g. note-taking assistance) or special extra measures (e.g. dividing up the exam), the course administrator/teaching assistant must be contacted at the latest **at the start of the course**.

Student influence and course development

All students are asked to complete an anonymous electronic course evaluation at the end of the course. The course evaluation is of great importance for the quality assurance of the course content and its pedagogical structure. The course is constantly changing and evolving, and the views and ideas expressed in the course evaluation are always carefully considered.

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Appendix I: Assessment Criteria for the Seminars

Grade	Criteria
Pass (5 points)	Structured and relevant answers addressing several central aspects of the seminar questions showing that the student is able to analyse, evaluate and assess legal arguments, methods and theories; adequate reference to legal sources relating to EU constitutional and economic law and correct use of relevant facts; indicating ability to engage in abstract reasoning and to make an independent assessment of problems, including critical reflection.
Fail	Answers which observe only some aspects of the seminar questions; insufficient use of legal sources relating to EU constitutional and economic law and relevant facts and/or revealing no signs of ability to make an independent assessment of problems, including critical reflection.

Appendix II: Assessment Criteria for the Written assignment

Grade	Criteria
Pass (5 points)	A well-structured reasoning with a focus on central aspects and with relevance in the light of the questions posed in the given case from the CJEU; reference to legal sources and correct use of relevant facts; ability to engage in abstract reasoning and to make an independent and balanced assessment of problems.
Fail	A reasoning which observes aspects that are relevant to the questions posed in the given case from the CJEU but with insufficient reference to legal sources and relevant facts and/or no signs of ability to make an independent assessment of problems.

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Appendix III: Assessment Criteria for the Written Exam

Grade	Criteria
A 36-40	Overall, a set of very well-structured and exclusively relevant answers with a clear focus on the central aspects of EU constitutional and economic law; extensive references to legal sources and correct use of all relevant facts; revealing great ability to engage in abstract reasoning and to make an independent assessment of problems, including critical reflection.
B 31-35	Overall, a set of well-structured and highly relevant answers with a clear focus on the central aspects of EU constitutional and economic law; convincing references to legal sources and correct use of relevant facts; revealing a high ability to engage in abstract reasoning and to make an independent assessment of problems, including critical reflection.
C 26-30	Overall, a set of well-structured and mainly relevant answers addressing most central aspects of EU constitutional and economic law; convincing references to legal sources and correct use of relevant facts; revealing an ability to engage in abstract reasoning and to make an independent and balanced assessment of problems.
D 21-25	Overall, a set of structured and relevant answers addressing several central aspects of EU constitutional and economic law; adequate reference to legal sources and correct use of relevant facts; revealing signs of ability to engage in abstract reasoning and to make an independent assessment of problems.
E 16-20	Overall, a set of transparent answers addressing some central aspects of EU constitutional and economic law; some reference to legal sources and use of some relevant facts; revealing signs of ability to make an independent assessment of problems.
Fx 10-15	Overall, a set of answers which observe only some aspects of EU constitutional and economic law; insufficient use of legal sources and relevant facts and/or revealing no signs of ability to make an independent assessment of problems.
F 0-9	Blank to a reproduction of disjointed facts with insufficient reasoning.

Appendix IV: Final Grading

Grade	Criteria
A 45-50	Grade "Pass" on (i) seminar participation and (ii) assignment. Very well-structured and highly relevant answers on the written exam (iii)
B 39-44	Grade "Pass" on (i) seminar participation and (ii) assignment. Well-structured and relevant answers on the exam.
C 33-38	Grade "Pass" on (i) seminar participation and (ii) assignment. Well-structured and mainly relevant answers addressing most central aspects on the written exam (iii).
D 27-32	Grade "Pass" on (i) seminar participation and (ii) assignment. A set of structured and relevant answers addressing several central aspects on the written exam (iii).
E 21-26	Grade "Pass" on (i) seminar participation and (ii) assignment. A set of transparent answers addressing some central aspects on the written exam.
Fx 15-20	Grade "Pass" on (i) seminar participation and (ii) assignment Answers which observe only some aspects on the written exam.
F 0 – 14	Grade "Pass" on (i) seminar participation and (ii) assignment Blank to a reproduction of disjointed facts with insufficient reasoning on the written exam.