

Degree	Type	Year
2500786 Law	OT	4

Contact

Name: Marta Pons De Vall Alomar

Email: marta.ponsdevall@uab.cat

Teachers

Marta Pons De Vall Alomar

Teaching groups languages

You can view this information at the [end](#) of this document.

Prerequisites

There are no specific prerequisites for attending this course. There will be a single group for this course. This course will be taught in English, but students may participate in class or produce their exams or exercises also in Catalan or Spanish. During the 2024/2025 academic year, the professor responsible for teaching and assessment will be Professor Marta Pons de Vall Alomar.

The course will start on the week of 10 September.

Objectives and Contextualisation

This course aims at offering:

- a basic overview of the principles and main legal framework of the European Union internal market: the "four freedoms" of movement (persons, goods, services and capital) and EU competition law. Most of the course will be devoted to the four freedoms,
- an analysis of the impact of EU internal market law on the legal order of Member States, and the limits that internal market law imposes on Member States,
- an explanation of the criteria used by the Court of Justice of the European Union to solve possible conflicts between free movement rights and other public interest objectives,

- a basic knowledge of the topics analysed during the course, so as to facilitate further specialised studies in this area, such as for instance in the context of the elaboration of an end-of-degree essay (TFG) or postgraduate studies.

This course is part of the ODS 4 goal with the aim of ensuring that all students acquire the theoretical and practical knowledge necessary to promote sustainable development, among other things through education for sustainable development, human rights, gender equality, the promotion of a culture of peace and non-violence, global citizenship and the appreciation of cultural diversity and the contribution of culture to sustainable development

Competences

- Apprehending the necessary mechanisms in order to know, assess, and apply the legislative reforms as well as to follow the changes produced in a concrete subject.
- Arguing and laying the foundation for the implementation of legal standards.
- Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
- Identifying and solving problems.
- Identifying the underlying conflicts of interest in disputes and real cases.
- Identifying, assessing and putting into practice changes in jurisprudence.
- Identifying, knowing and applying the basic and general principles of the legal system.
- Integrating the importance of Law as a regulatory system of social relations.
- Managing bibliographic and documentary resources: databases, browsing, etc.
- Memorising and utilising legal terminology.
- Present information in a way that is appropriate to the type of audience.
- Searching, interpreting and applying legal standards, arguing every case.
- Students must be capable of demonstrating the unitary nature of the legal system and of the necessary interdisciplinary view of legal problems.
- Students must be capable of learning autonomously and having an entrepreneurial spirit.
- Using the main constitutional principles and values as a working tool in the interpretation of the legal system.

Learning Outcomes

1. Applying an interdisciplinary and integrated vision of the legal problems in an international environment.
2. Assessing legislative changes and reforms in a context of plurality of systems.
3. Assessing the underlying conflicts of interest in the legal problems proposed in an international environment.
4. Building a legal reasoning or discourse in the field of Public International Law, Private International Law and European Union Law.
5. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
6. Identifying and assessing the changes and evolution of jurisprudence in a context of plurality of systems.
7. Identifying and knowing the basic contents of every stipulated speciality.
8. Identifying and solving problems.
9. Integrating the importance of Law as a regulatory system of social relations, and the contextualisation of the legal phenomenon in the international environment.
10. Managing bibliographic and documentary resources: databases, browsing, etc.
11. Memorising and using the specific terminology of Public International Law, Private International Law and European Union Law.
12. Present information in a way that is appropriate to the type of audience.
13. Seek out, interpret and apply legal provisions related to Public International law, Private International Law and European Union Law.
14. Students must be capable of learning autonomously and having an entrepreneurial spirit.

- Using the constitutional values as a criterion for interpretation and solution of conflicts, specially in case of a contradiction between the main fundamental principles of several legal systems.

Content

Lesson 1: Introduction.

Economic integration. Forms of economic integration. Aims and principles of the European Union (EU). The internal market: the "four freedoms" (persons, goods, services and capital) and competition policy. From the Common Market to the European Union. The role of the Court of Justice of the European Union (CJEU) and the role of national judges.

Possible remedies against breaches of the free movement provisions by Member States: complaints addressed to the European Commission.

PART I: THE FREEDOMS OF MOVEMENT

Lesson 2: Free Movement of Goods (I)

General aspects: concept of "good". Goods covered by the free movement provisions. The legal regime applicable to commerce between Member States and its distinction with the regime applicable to commerce with third countries (common commercial policy). Extension of the regime applicable within the EU towards the countries of the European Economic Area (EEA).

Basic concepts: the customs union. The common external tariff. Tariff barriers (customs duties) and other tax obstacles. Non-tariff barriers to trade.

Customs duties and charges having equivalent effect (art. 30 of the Treaty on the Functioning of the European Union, TFEU): the concept of charge having an equivalent effect to a customs duty in the case-law of the CJEU. Taxes that fall outside this concept. Taxes required for the entry to or exit of a part of the territory of a Member State.

Article 110 TFEU: higher internal taxes imposed on goods coming from other Member States ("discriminatory" taxes) and internal taxes on goods imported from other Member States indirectly protecting national products ("protective" taxes). Discriminatory taxes: similarity of goods and higher taxation. Protective taxes: goods in a "competitive relationship" and an indirect "protective effect".

Remedies against customs and tax obstacles which are not in conformity with EU Law: restitution of the sums unduly paid. Compensation for damages and losses.

Lesson 3: Free movement of Goods (II)

Non-fiscal barriers. Articles 34 to 36 TFEU: the prohibition of "quantitative restrictions" and "measures having an equivalent effect" (hereafter, MEE). Meaning of a measure having equivalent effect. Conditions to be met.

Detailed analysis of the condition relating to the effects on trade between Member States in the context of art. 34 TFEU (MEE affecting imports): sense of this condition. Restriction to market access. Possible restrictive measures: A) measures the object or effect of which is to treat products coming from other Member States less favourably; B) in the absence of harmonisation, measures relating to the requirements to be met by products, even if those measures apply to imported and domestic products alike; C) any other measure which hinders access of a product coming from a Member State to the market of another Member State. The measures on selling conditions and the "Keck/Mithouard" case-law (24-11-1993), as far as it relates to measures on "selling arrangements" (rules relating not to the requirements for products, but to their marketing or commercialisation) still applicable? New case-law rendered in the context of directive 2006/123, on services in the internal market.

Measures hindering exports: Article 35 TFEU. Evolution of the case-law.

Possible justification of restrictive measures: A) secondary EU law; "mandatory requirements" or reasons of public interest ("Cassis de Dijon" case law, 20-2-1979). The conditions relating to non discrimination, necessity and proportionality of the measure. The doctrine of "mutual recognition" of national rules which are equivalent as to the level of protection of the general interest concerned; C) article 36 TFEU: cases and conditions of application. Protection of industrial property rights as an exception to the prohibition of measures having equivalent effect.

Other legal acts: A) the harmonization of laws in the EU; B) the prevention of new restrictive rules and the information procedure laid down in directive 2015/1535 (formerly 98/34); C) Regulation 2019/515, of 19-3-2019, on mutual recognition of goods lawfully marketed in another Member State.

Lesson 4: Free movement of persons

Introduction and general aspects: personal scope of the provisions on the free movement of persons, distinction of the different categories enshrined in the TFEU and main legal provisions. Impact of the agreement on the European Economic Area (EEA) on the free movement of persons. Extension of the scope of the free movement rules to persons who do not undertake an economic activity. The citizenship of the European Union. The principle of non discrimination among nationals of Member States.

The regime applicable to nationals of third countries in the EU: basic concepts.

Directive 2004/38. The right of residence within the EU. The right of equal treatment and its limitations.

Free movement of workers: concept of "worker" in the sense of art. 45 TFEU. Conditions for the application of the TFEU provisions on the free movement of workers. Regulation 492/2011, of 5-4-2011, on the free movement of workers. Directive 2014/54, of 16-4-2014, on measures to facilitate the exercise of rights conferred by the free movement of workers. The rights conferred on workers: equal treatment with the nationals of the host Member State.

The access for nationals of a Member State to posts in the administration of other Member States.

Limitations justified on grounds of public policy, public security or public health.

Lesson 5: Right of establishment and freedom to provide services

General aspects. Distinction between the freedom of establishment and the freedom to provide services. Activities concerned by these two freedoms. Excluded activities: interpretation of the exclusion of activities connected with the exercise of official authority. Beneficiaries of these rights: special consideration of companies and other legal persons. Principal and secondary establishment. Application of the TFEU provisions on establishment and services in purely internal cases.

Historical development of both freedoms: from the prohibition of discriminatory measures to the prohibition of unjustified measures, even if they are indistinctly applicable. Directive 2006/123, on services in the internal market.

Possible justification of restrictive measures on grounds of general interest and the introduction of the "mutual recognition" rule in the field of establishment and services. Limitations expressly provided in the TFEU: public policy, public security or public health. Exceptions based on the general interest principle. Test of proportionality.

A specific issue: temporary posting of workers in the context of an international provision of services by their employer.

Freedom to provide services and right of establishment of lawyers.

PART II: EU COMPETITION LAW

Lesson 6: Introduction and fundamental concepts of competition Law

Objectives and addresses of EU competition law.

Concepts of "undertaking". "agreement" and "relevant market".

Sources of EU competition law.

Territorial scope of EU competition law.

Relations between EU competition law and Member States' competition law,

Lesson 7: Conducts relevant for EU competition law

1) Prohibited conducts:

1.1. Agreements between undertakings that restrict or distort competition (cartels): agreements between undertakings, decisions by associations of undertakings or concerted practices. Examples. Block exemption regulations. Horizontal agreements and vertical agreements. Regulation 2022/720 on vertical agreements.

1.2. Abuse of a dominant position. Concept of "dominant position" and concept of "abuse".

Regulation 1/2003, on the implementation of the rules on agreements restricting competition and on abuse of a dominant position. Directive 2014/104 on antitrust damages actions.

2) Conducts subject to control:

2.1. Control of mergers: the situation before 1989. The current merger control Regulation: Regulation 139/2004.

Activities and Methodology

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Theoretical Lectures.	23	0.92	2, 3, 6, 7, 9, 11, 15
Work in Classroom- debating and solution of practical cases, comments and questions.	22	0.88	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 14, 15
Type: Autonomous			
Assessment	5	0.2	1, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15
Search, reading and study of bibliography, legal texts and case law.	90	3.6	2, 3, 6, 7, 8, 9, 11

The theoretical lectures refer to the teacher's general presentation of the lessons of the programme. Work in classroom refers to the analysis of selected case-law of the CJEU and debating and solving practical cases. Comments and questions by the students will also be considered work in classroom. Lessons will be based on the Socratic basis to allow discussion of issues at stake.

The usual *modus operandi* of the practical exercises will be as follows: the teacher will propose a practical case, that students should resolve it in writing, in the classroom, in approximately one hour. After having submitted their written exercises, an oral discussion will take place, among the students and with the teacher.

Communications by the teachers to the students, and particularly those which are more important, such as the publishing of grades or warnings, will be published in the space of the "campus virtual" corresponding to this subject,

The teacher of this course will be Marta Pons de Vall.

Annotation: Within the schedule set by the centre or degree programme, 15 minutes of one class will be reserved for students to evaluate their lecturers and their courses or modules through questionnaires.

Assessment

Continous Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
4 practical case	20 % (2 points out of 10)	6	0.24	1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 14, 15
Final Exam	50 % (5 points out of 10)	1.5	0.06	1, 2, 3, 4, 5, 6, 7, 9, 11, 15
Final practical case	20% (2 points/10)	1.5	0.06	4, 7, 12, 13
Participarion in class (written and oral)	10 % (1 point out of 10)	1	0.04	1, 3, 4, 5, 7, 10, 12, 13

According to the usual grading system, marks will range from 0 to 10. For passing the subject it is necessary to obtain at least an average grade of 5.

1) Ordinary assessment or evaluation:

For the grading of the course, three activities will be considered:

1.1. Participation in classroom, mainly through written exercises on practical cases, but also through the oral discussion following those exercises (20 %), to solve the case.

1.2. A final practical case. The final practical case will take place on December 2024. (20 %, 2 points out of 10).

1.3. A theoretical exam, that will take place on the official date indicated by the Faculty (in January 2025). This exam will have two questions, and students will have a maximum time of an hour to answer them (50 %, 5 points out of 10)

Students will be assessed as long as they have completed a set of activities whose weight is equivalent to a minimum of 2/3 of the total grade of the subject. If the value of the activities carried out does not reach this threshold, the teacher of the subject may consider the student as not evaluated.

2) Sole evaluation

In justified cases, students may request a sole evaluation. This will consist of two tests with the following format:

i) Theoretical written exam of two questions to be developed (50%)

ii) Resolution of written case study (50%)

3) Extraordinary assessment or reevaluation:

Those students who have not passed the subject at the ordinary assessment phase may take the reevaluation proof, that will take place on the date indicated by the Faculty. The possibility of participating in the reevaluation proof is subject to the condition that the student has participated at least in one of the activities of classroom participation (number 1.1. above) and that he or she has taken, in the frame of the ordinary assessment, either the end-of-course practical case (number 1.2. above) or the final exam (number 1.3. above), or both of them. Students who have taken, in the frame of the ordinary assessment, both the end-of-course practical case and the final exam and have passed the subject may not take the reevaluation proof in order to try to improve the grade previously obtained.

The reevaluation exam will have two parts:

3.1. A practical case (40 %, 4 points out of 10), to be solved in a maximum time of one hour and a half.

3.2. A theoretical exam with two questions, to be answered in a maximum time of one hour (25 % each question, so 5 points out of 10).

According to applicable academic regulations, students may ask for a review of their exams or proofs. The minimum time between the publishing of the grades in the "campus virtual" and the moment of such review will be 24 hours.

Apart from other possible responsibilities according to the disciplinary rules, those students who cheat or try to cheat in an exam or proof will be graded with a 0 mark in such exam or proof. Proofs or exercises in which plagiarism is detected will also be graded with 0, and their author will receive a warning. In case of reiteration of such conducts the student will fail the subject with a 0 mark.

Bibliography

1. Compulsory bibliography:

There is no textbook that adapts perfectly to the content of the programme, so there is not a compulsory reference textbook for this course.

However, the English textbook most well adapted to the part of the programme of the course relating to the four freedoms is: C. Barnard, ***The Substantive Law of the EU. The four freedoms***, Oxford University Press, 2022.

2. Complementary bibliography:

2.1. Introductory bibliography;

Ortega Álvarez, Luis Ignacio and De la Sierra Morón, Susana (dirs.), *Estudios de la Unión Europea*, Centro de Estudios Europeos, Universidad de Castilla-La Mancha, 2011, pp. 103-120 (free movement of persons), pp. 121-136 (free movement of goods), pp. 137-149 (freedom to provide services), pp. 151-158 (free movement of capital).

Sánchez, Víctor M^a (dir.), *Derecho de la Unión Europea*, Barcelona, Huygens, 2017, lessons 23 to 26.

2.2. Specialised bibliography:

Barnard, Catherine, *The Substantive Law of the EU: The Four Freedoms*, Oxford University Press, 5^a ed., 2022.

Beneyto Pérez, José M^a (dir.), Maíllo González-Orús, Jerónimo, Becerril Atienza, Brelén (coords.), *Tratado de Derecho y políticas de la Unión Europea (tomo VI: mercado único europeo y unión económica y monetaria)*, Aranzadi, 2014.

Beneyto, José M^a y Maíllo, Jerónimo (dirs.), Corti, J., Milla, P. (coords.), *Fostering Growth in Europe: Reinforcing the Internal Market*, Madrid, CEU ediciones, 2014 (disponible a la biblioteca digital de la UAB).

De Grove-Valdeyron, Nathalie, *Droit du marché intérieur européen*, Paris, LGDJ, 5^a ed., 2017.

EU Commission, Free movement of goods. Guide to the application of Treaty provisions governing the free movement of goods, Luxembourg, Publications Office of the EU, 2010 (available on line, open access).
 Fernández Navarrete, Donato, Fundamentos económicos y políticas de la UE, Madrid, Delta, 2014.
 Garben, Sacha and Govaere, Inge (eds.), The Internal Market 2.0, Hart Publishing, 2021,

García Murcia, Joaquín (dir.), Libertad de circulación y derechos de protección social en la Unión Europea, Lisboa, Jurv editorial, 2016.

Grriz Lpez, Carlos and Arenas Garca, Rafael (coords.), Libertad de establecimiento y Derecho europeo de sociedades, Barcelona, Atelier, 2017.

Grynfofel, Catherine, Droit europen de la concurrence, Paris, LGDJ, 2016.

Gutirrez Velasco, nigo (coord.), El Tribunal de Justicia de la UE ante el espejo del Derecho social, Tirant lo Blanch, 2017 (available at the UAB digital library).

Hyltn-Cavallius, Katarina, EU Citizenship at the Edges of Freedom of Movement, Hart Publishing, 2020.

Kaupa, Clemens, The Pluralist Character of the European Economic Constitution, Hart Publishing, 2016.

Lorenz, Moritz, An Introduction to EU Competition Law, Oxford University Press, 2013.

Martos Garca, Juan Jesus, "Las exacciones de efecto equivalente a los derechos de aduana en la Unin Europea. Anlisis jurisprudencial", Crnica Tributaria, nm. 144, 2012, pp. 55-87 (available at the UAB digital library).

Miquel Rodrguez, Jorge and Prez Troya, Adoracin, Derecho de sociedades europeo, Aranzadi, 2019.

Oliva, Anne Marie, Leons de droit matriel de l'Union Europenne, Paris, Ellipses, 2013

Prez de las Heras, Beatriz, El mercado interior europeo. Las libertades econmicas: mercancas, personas, servicios y capitales, Universidad de Deusto, 2011.

Reich, Norbert et al., Understanding EU Internal Market Law, Intersentia, 3rd ed., 2015.

Vogel, Louis, *Droit europen des affaires*, Paris, LGDJ, 2nd. ed., 2019.

Vogel, Louis, European Competition Law, LawLex/Bruylant, 3rd. ed., 2020.

Internet websites:

- European Union:

<http://www.europa.eu/>

- Law and legislative procedures of the EU:

eur-lex.europa.eu/homepage.html

- Court of Justice of the European Union:

<http://curia.europa.eu/>

- Web on several topics about the EU:

europa.eu/european-union/topics_es.htm

Particularly, the following topics: "Citizenship of the Union", "Competition", "Consumers" and "Internal market".

- SOLVIT network:

<http://ec.europa.eu/solvit/index.htm>

Software

This subject does not require any specific software.

Language list

Name	Group	Language	Semester	Turn
(PAUL) Classroom practices	1	English	first semester	morning-mixed
(TE) Theory	1	English	first semester	morning-mixed