

# **Syllabus**

## **Advanced European Economic Law – the Foundations**

**AEEL  
Autumn 2023**



**Stockholm University  
Department of Law**

In this Syllabus you will find information about the structure of the course, learning activities, assessment and grading. More information, including a continuously updated schedule can be found at the course website. If there are any queries, please do not hesitate to contact us:

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**Important dates**

28 August 2023

31 October 2023

Introduction

Written examination

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1. Literature
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## 1. Literature

### Literature:

- R Schütze, *European Union Law* (Oxford University Press, 2021).
- Case Law Compilation (available on the course website).

### Recommended literature for extra reading

- P.Craig and G De Burca, *The Evolution of EU Law* (Oxford University Press, 3<sup>rd</sup> ed., 2021).
- P Craig, *EU Administrative Law* (Oxford University Press, 3<sup>rd</sup> 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, 2<sup>nd</sup>ed., 2007).
- C Barnard, *The Substantive Law of the EU* (Oxford University Press, 7<sup>th</sup> ed., 2022).

## 2. Reading instructions

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.

### 2.1 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](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 Juizes Portugueses*

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\\_top\\_2ed\\_web.pdf](https://www.sieps.se/globalassets/publikationer/2023/2023_top_2ed_web.pdf)

**Lecture III** "Institutions of the Union, Division of Functions, Law Making Procedure" (ABE)

- Schütze (2021), ch. 3, 4, 7

Further reading:

- J-P Jacque, 'The Principle of Institutional Balance' (2004) *CMLR* 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
- 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.

**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 Brenneke, '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 *CMLR* 1675-1702

**Lecture V** "Division of powers and supremacy: EU and Member States" (ABE)

- Schütze (2021), ch. 6, 7.1.
- 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 VI** "Sources of EU Law and Methods of Interpretation" (ABE)

- Schütze (2021), relevant parts of ch. 5, Schütze, pp. 206-207
- Case 283/81 *CILFIT*
- Case C-561/19 *Conorzio*

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

**Lecture VII** "The Charter and the ECHR" (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 *Common Market Law Review*, 1201–1246.

**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 Póitres 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.

## **Lecture XI & XII “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 XIII “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 XIV “Financial Services and Banking” (SS)**

- Schütze, ch. 16.3-16.4

## **Lecture XV “EU Competition Law: an introduction” (BL)**

- Schütze, ch. 17

## **2.2 Seminars**

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

**Seminar 1** “Direct effect and supremacy” (ABE)

**Seminar 2** “Fundamental rights” (HA)

**Seminar 3** “Division of powers” (NOM)

**Seminar 4** “Judicial Dialogue – the Solange saga” (NOM)

**Seminar 5** “Legislative acts” (JR)

**Seminar 6** “Free movement of goods” (ABE)

**Seminar 7** “Free movements of services” (AT)

**Seminar 8** “Free movement of persons” (JP)

**Seminar 9** “Competition Law” (BL)

## 2.3 Workshops

### Workshop 1 “How to read a Court Ruling” (IS)

- Teaching material posted on the course website.

### Workshop 2 “Working with EU Law - The Methodology of European Law” (ABE)

- 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

[Workshop 3 "EU Research Methods" (ABE) NB! outside the time-frame of the AEEL course]

## 3. Teaching methods

Teaching will take place on campus with occasional lectures and seminars online, through the platform Zoom (mainly external lecturers). The course consists of four basic learning activities: (1) lectures where the teacher provides the tools for studying an area of law, (2) case sessions, where you prepare for the seminars by reading and analysing cases together with your study group and a teacher, (3) seminars where you are expected to take active part in the discussions and (4) 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.

### Case sessions

Case sessions are teacher-led and seek to engage students in closer analysis of selected cases of the CJEU, and thus prepare students for the subsequent seminars where the cases will be further discussed. Students are expected to study the cases for each session in smaller study groups. In addition, each student is assigned a specific case and is required to write a case note (written assignment) analysing the case and presenting the analysis at one of the case sessions.

## **Workshops**

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

## **4. Learning Outcomes**

After successful completion of the course, the student is expected to be able to:

- demonstrate knowledge of EU law and of the social context for European integration;
- demonstrate knowledge and understanding of the EU's institutional structure and constitutional principles as well as how these affect the internal market;
- demonstrate knowledge of EU legal methods, particularly the role of different sources of law in the EU doctrine of sources of law, and interpretation methods of the CJEU; and
- 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.

## **5. The Assignment**

Each student will be given an assignment consisting in analysing a given CJEU ruling linked to a specific seminar (a case note). The assignments are to be written individually and submitted no later than the indicated deadline.

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.

In addition, the student is asked to give a concise oral presentation of the case and its background at one of the case sessions. This is to develop the skill of summarizing and presenting the essence of a case which is essential in professional life after university.

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.

## **6. Forms of examination**

The assessment of students' performance is based on (i) active participation in the seminars and workshops (10%), (ii) a written assignment and its oral presentation at a case session (10%), and (iii) a written examination (80% of the grade).

*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* to be written and presented at a case session 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 four hours during which the student is required to answer 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, as well as any written notes and source material stated in the course literature list. Dictionaries are also allowed.

## **7. Attendance requirements**

Students are encouraged to attend and actively participate in all learning activities (lectures, seminars, case sessions 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. Needless to say, students must attend the case session where they present their written assignment. Participation in all other case sessions is strongly recommended.

## **8. Teachers**

Antonina Bakardjieva Engelbrekt (ABE)

Arvin Tayari (AT)

Björn Lundquist (BL)

Gloria Golmohammadi (GG)

Helene Andersson (HA)

Jaan Paju (JP)

Jane Reichel (JR)

Imola Strehö (IS)

Karolina Zurek (KZ)

Noreen O'Meara (NOM)

Sideek Seyad (SS)

## **Appendix I: Assessment Criteria for the Seminars**

<b>Grade</b>	<b>Criteria</b>
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 Assignment**

<b>Grade</b>	<b>Criteria</b>
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.

### **Appendix III: Assessment Criteria for the Written Exam**

<b>Grade</b>	<b>Criteria</b>
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**

<b>Grade</b>	<b>Criteria</b>
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.