Course description

1. The content of this course

In this course we are going to cover different topics of economic analysis of public law. The main focus of this course will be on regulations. The last part of the course will be devoted to special topics in economic analysis of criminal law.

Many aspects of people’s lives are regulated by the state. For instance, traffic rules, education, marriage, etc. Economic analysis helps to identify the justifications and the forms of regulations in different areas of life. We will start with the public interest theory and continue to private interest theories (e.g. political economy theory). The fundamental question in this context is whether regulations are driven by interests and needs of the public or the personal interests of those who make the rules. Those theories will also shed light on the chosen forms of regulations in each particular area.

In the next step we will study the specificities of risk regulations. This field of research focuses on regulating behaviour or situations that pose a certain risk. The fundamental question in this context is which methodology should be adopted and to which extent public perception of risks should play a role.

The third part on regulations will be devoted to the emerging field of behavioural law and economics and policymaking. In recent years, application of insights from behavioural sciences (cognitive and social psychology, sociology) to regulations has become popular. Behavioural law and economics approach challenges the strict assumptions of the rational choice theory and demonstrates how people deviate from predicted behaviour. For as much as effectiveness of regulations depends on the responsiveness of its target group (public), understanding whether people are rational is crucial. In this part of the course I will introduce you to the studies of different psychological biases and demonstrate how those findings can affect the design of regulations.

In the last part you will learn how economic theory can be applied to the behaviour of agents in the criminal justice system. We will focus in particular on the behaviour of prosecutors and the institution of plea-bargaining. Furthermore, we will see how insights from behavioural studies can have an impact on the economic theory of deterrence and the assumption of rational behaviour of other agents of the criminal justice system.

2. The goal of this course
The first goal of this course is to demonstrate to you how economic theory can contribute to the understanding and the design of public law. At the end of the course you should be able to understand the various economic theories that describe behaviour of public agents and to be able to apply those theories in other contexts. Of course, public law is a broad concept that incorporates different areas of law (e.g. constitutional law, criminal law, etc.) therefore, we will not cover all possible theories and their application.

The second objective of the course is to help you develop analytical skills in order to be able to implement economic theories in your research and future work. At the end of the course you should be able to analyse, for instance, you national legislation in light of the theories and examples you have studied.

The third aim of the course is to help you develop critical view on different aspects of policy and research. On the side of research, you should be able to identify problems in theories, e.g. its assumptions, and its application. You ought to critically evaluate the value of different arguments. On the policy level, you should be able to analyse critically different national legislations of your countries or international agreements, etc.

Finally, the general goal of this course is to show you the value of economic analysis of law and to trigger your curiosity for future research. I hope this course will provide you tools to develop your own ideas in law and economics research (whether it is by extending existing theories, testing them or developing new theories).

3. Requirements and materials

For each class you will receive a list of mandatory readings. You are expected to read this before the class. Furthermore, for some of the lectures, we will have one discussion paper. You are expected to read it carefully and to actively participate in class discussions. Finally, I will always provide a list of additional reading materials for those who would like to explore more a particular topic.

Most of the reading materials can be found in the university e-sources or library (University library or Sanders library). Materials that are difficult to retrieve I will upload to Google Drive. Moreover, after we finish each topic, I will upload to Google drive the slides.

4. Evaluation

Your final grade in this course consists of two parts:

First part is based on a group presentation and constitutes **30% of your grade.** In the first class you will be divided to eight groups and each group will be allocated to one of the following topic:

1. Regulation of commercial sex industry
2. Regulation of 3D printing
3. Regulation of the drug industry
4. Regulation of gambling
5. Regulation of human organ sale
6. Regulation of prisons
7. Regulation of (American) gun possession
8. Regulation of ‘market for babies’

You will need to prepare a presentation analysing those markets based on the theories we will learn during the course, and according to questions that will be provided to you after the first class (in a separate document that will be uploaded to Google Drive). The time frame for the presentation will also be mentioned in that document. The last three classes will be devoted to presentations of these topics by the groups. In addition, you will need to provide a summary report of the analysis. The grade will depend on the level and accuracy of the analysis and your understanding of the studied material in the course.

The second part of the final grade will be based on your performance in the final class exam (closed books) and it will constitute **70% of your final grade.** The exam will take place on **December 16.** Prior to the exam you will receive an explanation of the structure of the exam and an example question for you to know what to expect from the exam.
Course Structure

The course consists of six topics. For each topic you can see the number of lectures that will be devoted to it, the subjects that will be covered, the mandatory and the optional reading.

1. Introduction (Lecture 1)

- Introduction to the course
- Introduction to Regulation
- Justifications of Regulation: Public Interest Theories
- Public Interest Theories: Criticism

Reading:

- Anthony Ogus, Regulation Legal Form and Economic Theory (Oxford, Hart Publishing 2004), pp. 29-54. [This section will be available on Google drive. The 1994 version of the book is available in the library].

Optional Reading:


2. Private Theories of Regulation (Lectures 2-3)

- Political economy theory (public choice)
  - Politicians
  - Bureaucracies
  - Voters
- Interest Groups and Rent-Seeking
- Public Choice and Constitutional Economics

Reading:


Discussion paper:

Optional Reading:


3. Forms of Regulation (Lectures 4-5)

- Social and Economic Forms of Regulation
- Public and Private Interest Explanations for the Forms of Regulation

Reading:


Discussion paper:


Optional Reading:


4. Risk Regulations and Cost-Benefit Analysis (Lecture 6)

- Introduction to Risk Regulation
- CBA: Methods and Problems
Reading:


Optional Reading:


5. Behavioural Law & Economics and “Soft” Regulation (Lecture 7)

- Introduction to Nudging
- Libertarian Paternalism
- Nudging and Public Choice

Reading:


Discussion Paper:


Optional Reading:


6. Economic Analysis of Criminal Justice System—Selected Topics (Lecture 8-9)

- Procedural rules
Prosecutors and plea-bargains

Behavioural approach to criminal law

Reading:


Discussion paper:


Optional Reading:


7. Class Presentations (Classes 9-11)

Good luck!
COMPETITION LAW AND ECONOMICS

Prof. Dr Roger Van den Bergh

Syllabus

Lectures

1. Goals of competition law
2. Definition of market power
3. Horizontal restrictions (2 lectures)
4. Vertical restrictions (2 lectures)
5. Abuse of dominant position: price abuses
6. Abuse of dominant position: tying and bundling
7. Merger control
8. Case studies (3 lectures)
9. Tutorial

All lectures follow a comparative approach: EU competition law and US antitrust law are critically analysed according to insights from competition economics.

Study materials

Concepts and Methods of Law & Economics

EUROPEAN MASTER IN LAW & ECONOMICS

Dr. Ann-Sophie Vandenberghe

Lecturer: Dr. A.-S. Vandenberghe
vandenberghe@law.eur.nl
Course manual
Concepts and Methods of Law & Economics

Content
This course offers an introduction to the basic concepts and methods of law and economics. Economics, whose subject is the implications of rational choice, is an essential tool for figuring out the effects of law. An economic analysis of law comprises two related enterprises. The first enterprise is positive. It focuses on providing an economic explanation for the rules and institutions we have. The second enterprise is normative and examines how the law can be improved to coincide more with the goal of economic efficiency.

The course is organized in two ways. The first part sketches basic economic concepts that can be used to understand a wide range of legal issues: efficiency, Coase theorem, positive and negative externalities, internalization, transaction costs, incentives, cheapest cost avoider, enforcing rights (property rules and liability rules), economics of risk allocation, ex post versus ex ante, principal-agent problem, adverse selection, moral hazard, bilateral monopoly, holdup problem, holdout problem, collective action problem, free riding, rules versus standards, (marginal) deterrence, enforcement costs, error costs, judgment proof problem, internalizing rules (prices) versus coercive rules (sanctions). The second part then applies the economics to the analysis of core areas of law, such as marriage, property rights, law enforcement, criminal law, and procedural law.

The course is designed for both economics and law students. For economics students, it is an interesting application of the economic way of thinking to real-world problems and policy issues. Examining actual legal cases gives students experience in relating abstract economic models to practical problems and demonstrates their direct relevance. Law students will learn to understand legal issues from an economic perspective with a focus on a clear understanding of the logic and underlying economic intuition rather than just the results. The economic approach to law provides a unified vision of the law, tying together diverse areas of law into a common theoretical structure.
Learning objectives:
On satisfying the requirements for this course, students should have the knowledge and skills to
- recognize the economic issues in a legal problem and apply the economic way of thinking to analyse it;
- make a comparative analysis of alternative legal arrangements based on transaction costs, incentives, and risk allocation;
- assess the efficiency effects of legal rules and policies;
- making use of economics to understand the rules we have and to decide what rules we should have.

Format:
The course will follow a lecture/seminar format. Students are required to be prepared for active class discussion by completing all reading assignments, and actively participating in oral discussions.

Examination:
final written test. Student performance is tested by means of his/her performance on an examination (100% of final grade).

Exam material:
Class materials (mandatory literature), class content and class discussion notes, slides and other material made available.

Class materials (mandatory literature):


### Schematically, subjects of the lectures and reading assignments.

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<tr>
<th>Week</th>
<th>Theme</th>
<th>Reading assignment</th>
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<td>40(1)</td>
<td>Introduction and The distinguishing features of the Law &amp; Economics approach</td>
<td>Farnsworth (2007)</td>
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<td>41(2)</td>
<td>Coase, Calabresi (property rules and liability rules) Incentives, transaction costs and risk analysis</td>
<td>Cheung (1969)</td>
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<td>41(3)</td>
<td>Property</td>
<td>Demsetz (1967)</td>
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<td>43(7)</td>
<td>Criminal law</td>
<td>Cooter and Ulen (CH 11, 3rd ed.)</td>
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<td>44(8)</td>
<td>Procedural law</td>
<td>Miller (1997)</td>
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<td>44(9)</td>
<td>Dispute resolution: settlement versus litigation</td>
<td>Ramseyer and Nakazato (1989)</td>
</tr>
<tr>
<td>44(10)</td>
<td>Recap, summary and conclusions</td>
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<tr>
<td>46</td>
<td>Exam</td>
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TORT LAW AND ECONOMICS SYLLABUS – EMLE 2017/2018
(Rotterdam, 1st term)

Summary syllabus

1. Introduction to tort law
2. The economic approach to tort law
3. Strict Liability and Negligence (I)
4. Strict Liability and Negligence (II); Liability of Firms; Findings of Negligence;
5. Untaken Precautions; Property Rules and Liability Rules
6. Causation (I)
7. Causation (II); Empirical Research
8. Damages (I)
9. Damages (II)
10. Damages (III)
11. Optimal Enforcement; Insurance (I)
12. Insurance (II)
13. Spare lecture

Literature


L.T. Visscher, Tort Damages, RILE Working Paper 2008/02

Extended syllabus

1. **Introduction to tort law**
   - Organization of the course
   - Description of ‘tort law’
   - Tort law in common law and civil law
   - Focus: negligence and strict liability
   - Definition of strict liability
   - Definition of negligence
   - Goals of tort law
   - What is ‘unreasonable risk’?
   - Hand formula and comparable cases

   *Lit:*  *Shavell 2003 Ch 1 + 2*

2. **The economic approach to tort law**
   - Economic problem: negative externalities
   - Coase theorem; transaction costs
   - Techniques
   - The unilateral model
   - Optimal care (model)
   - Optimal care (graph)
   - The bilateral model

   *Lit:*  *Shavell 2003 Ch 1 + 2*

3. **Strict Liability and Negligence (I)**
   - Unilateral model: care level
     - Tables
     - Graphs
   - Care level with no liability, strict liability and negligence
   - Bilateral model: care level
     - Game theory
   - Care level with various rules.
   - Relevance of comparative/contributory negligence
   - Comparison of liability rules

   *Lit:*  *Shavell 2003 Ch 1 + 2 + 3*
4. **Strict Liability and Negligence (II); Liability of Firms; Findings of Negligence**
   a. **Strict Liability and Negligence (II)**
      - Unilateral model: care and activity level
      - Comparison of liability rules
      - Bilateral model: care and activity level
      - Comparison of liability rules
   b. **Liability of Firms**
      - Victims are strangers
      - Victims are consumers
        - Perceived Full Price
        - Relevance of information
        - Comparison of liability rules
      - Problems with negligence rule if injurer is a firm
   c. **Findings of Negligence**
      - Why do we find negligence in reality?
        - True care
        - Momentary care
        - Due care
        - Differences among parties / reasonable man
        - Prior precautions

   *Lit: Shavell 2003 Ch 4, p. 1-9*

5. **Untaken Precautions; Property Rules and Liability Rules**
   a. **Untaken Precautions**
      - Idea of Mark Grady
      - Difference with traditional L&E approach of negligence
      - Example
      - Graph
      - Contribution of Ott and Schäfer: dynamic approach
   b. **Property Rules and Liability Rules**
      - Calabresi and Melamed
      - First order decision: who gets entitlement?
      - Second order decision: how to protect entitlement?
        - Property rules
        - Liability Rules
        - Inalienability Rules
      - Relevance for and examples in tort law settings
      - ‘Rule 4’
      - Spur Industries v. Del E. Webb Development Co (1972)
      - Remarks
        - Coleman and Kraus
        - Krier and Schwab
        - Kaplow and Shavell

   *Lit: Calabresi/Melamed 1972; Grady 1989; Ott/Schäfer 1997*
6. **Causation (I)**
   - But-for cause
   - Adequate cause
   - Actions, consequences; state of the world
   - Causation and care (strict liability and negligence)
   - Causation and crushing liability (strict liability)
   - Coincidental accidents
   - Correction of Marcel Kahan
   - Examples

   *Lit:*  *Kahan 1989; Shavell 2003 Ch 4, p. 18-23*

7. **Causation (II); Empirical Research**
   a. **Causation (II)**
      - Uncertainty over causation
      - Threshold
      - Proportional Liability
      - Bayesian update of beliefs
   b. **Empirical research**
      - Example: road traffic liability
      - Input analysis
         - Damages
         - Claim rate
         - Mistakes
         - Insurance
      - Output analysis
         - No fault liability insurance
         - Landes; Devlin; Cummins et al

   *Lit:*  *Cummins et al 2001; Kahan 1989; Shavell 2003 Ch 4, p. 18-23*

8. **Damages (I)**
   - Magnitude of losses
   - Probability of losses
   - Mistakes by courts
   - Pure economic loss
      - Bishop
      - Rizzo
      - Gomez and Ruiz
   - Pecuniary versus non-pecuniary losses
   - Fatal accidents: Value of a Statistical Life (Year)
   - Examples

   *Lit:*  *Gomez/Ruiz 2002; Shavell 2003 Ch 4, p. 9-18; Visscher 2008*
9. **Damages (II)**
   - Prevention theory
   - Insurance theory
     - Why do rational people insure against pecuniary losses?
     - Decreasing marginal utility of wealth
     - Non-pecuniary loss: no loss of wealth
   - Ex ante willingness to pay to avoid loss (also non-pecuniary)
   - Ex ante determined damages
   - Quality Adjusted Life Years (QALYs)
     - What is a QALY?
     - Relevance for pain and suffering damages
     - How to measure QALYs (HUI3 and EQ-5D-5L)

   **Lit:** Shavell 2003 Ch 4, p. 9-18; Visscher 2008; Visscher/Karapanou 2015

10. **Damages (III)**
   - Monetizing QALYs
   - Examples of using QALYs to assess pain and suffering damages
   - Punitive damages
   - Mitigation of losses
   - Judgment proof problem
   - Vicarious Liability
   - Particularistic elements in damages

   **Lit:** Shavell 2003 Ch 4, p. 9-18; Visscher 2008; Visscher/Karapanou 2015

11. **Optimal Enforcement; Insurance (I)**
   a. **Optimal Enforcement**
      - Liability versus other approaches
      - Regulation, injunction, tax, fines, criminal law
      - Enforcement ex ante or ex post
      - Private or public enforcement
      - Private law solutions for enforcement problems in case of dispersed losses
        - Financing litigation (legal expenses insurance; third party litigation funding; fee arrangements)
        - Mass litigation
        - Punitive damages (also see lecture 10)
   b. **Insurance (I)**
      - Risk attitudes
      - Decreasing marginal Utility of Wealth (recap of lecture 9)
      - Moral Hazard
      - Adverse Selection
      - Solutions

   **Lit:** Faure/Weber 2015; Shavell 2003 Ch 6; Shavell 1984; Shavell 2003 Ch 5
12. **Insurance (II)**
   - Priest: tort law and insurance crisis
   - Torts and insurance combined
   - Socially ideal situation
     - optimal care
     - optimal activity
     - optimal risk bearing
   - Collateral benefits
     - subtraction
     - no-subtraction
     - subrogation

*Lit:* Priest 1987; Shavell 2003 Ch 5

13. **Spare lecture**
MICROECONOMICS SYLLABUS – EMLE 2017/2018 (Rotterdam, 1st term)

Summary syllabus

1. Preliminaries; Gains from trade
2. Demand and supply
3. Elasticity
4. Behind demand: consumer choice
5. Introduction to game theory
6. Behind supply: producer costs
7. Perfect competition
8. Welfare analysis and government intervention
9. Monopoly & market power
10. Price discrimination
11. Monopolistic competition & oligopoly
12. Decision-making under uncertainty
13. Market failures: externalities, public goods, asymmetric information

Tutorials

See separate document

Extended syllabus

1. Preliminaries: what is (micro)economics all about
   a. Introduction
      - Scarcity of resources
      - Ten principles/jargon
      - I. Trade-offs
      - II. Opportunity costs
      - III. Marginal change/Marginal thinking
      - IV. People respond to incentives
      - V. Trade generates mutual gains (globalization)
      - VI. Markets usually work well (market economy)
      - VII. Governments sometimes improve on market outcomes (market & government failure)
      - VIII. (Product, Productivity and Growth)
      - IX. (Money and Inflation)
      - X. (Trade-off between Inflation and Full Employment)

   Lit: Mankiw/Taylor, CH 1

   b. Methodology of economics
- Economic models and role of assumptions
- The circular flow model
- Micro & Macro-economics
- Positive & normative analysis

Lit:  *Mankiw/Taylor, CH 2
      *Appendix is good math repetition!

c. Gains from trade
- Production possibility frontier
- Marginal rate of transformation and opportunity cost
- Specialization & gains from trade
- Absolute advantage
- Comparative advantage

Lit:  *Mankiw/Taylor, CH 19 (only until p. 391)

2. Demand and supply

a. Demand
- Demand schedule and demand curve
- Horizontal sum
- Movements along the curve vs. shifts in the curve
- Factors affecting demand
- Substitutes and complements

b. Supply
- Supply schedule and supply curve
- Horizontal sum
- Movements along the curve vs. shifts in the curve
- Factors affecting supply

c. Market equilibrium
- Clearing price
- Shortage and surplus
- Shocking the equilibrium: comparative statics

Lit:  *Mankiw/Taylor, CH 3

3. Elasticity

a. Elasticity of demand
- Price elasticity: meaning and determinants
- Factors affecting price elasticity of demand
- Calculating and visualizing price elasticity
- Elasticity and total expenditure
- Other demand elasticities (income and cross-elasticity)

b. Elasticity of supply
- Elasticity of supply: meaning, calculating, visualizing
- Short-run and long-run
- Elasticity and total revenue

c. Applications of elasticity

Lit: Mankiw/Taylor, CH 4

4. Introduction to game theory

a. What is game theory?
- Unilateral and bilateral situations
- Strategic behaviour
- Cooperative and noncooperative games
- Simultaneous and sequential games
- Normal form and extensive form

b. Elements of a game
- Players
- Actions/moves
- Strategy
- Payoffs
- Equilibrium

c. Equilibrium concepts
- Dominant strategies
- Iterated dominance
- Nash equilibrium
- Maximin

d. Repeated games

Lit: Pindyck/Rubinfeld, pp. 479-509 and 517-520

5. Behind demand: consumer choice

a. Representing consumer choice
- Consumer’s possibilities: the budget constraint
- Consumer’s wants: indifference curves
- Marginal rate of substitution and other properties of indifference curves
b. **Choice under constraint**
   - Optimal consumer choice
   - Change in income
   - Change in prices
   - Income effect and substitution effect
   - Deriving a demand curve

c. **Applications**

   *Lit:* *Mankiw/Taylor, CH 5*

6. **Behind supply: producer costs**

   a. **Understanding costs**
      - Accounting costs vs. opportunity costs
      - Economic profit

   b. **Measuring costs**
      - Product and cost functions
      - Total, average, and marginal cost
      - Relation between marginal and average costs
      - Shape of cost curves

   c. **Short run and long run**
      - Average long run costs
      - Economies of scale

   *Lit:* *Mankiw/Taylor, CH 6 (pp. 112-126)*

7. **Perfect competition**

   - Assumptions of perfect competition
   - Price taking and the demand curve of a competitive firm
   - Profit maximization
   - Supply curve in the short run
   - Decision to enter/exit the market
   - Supply curve in the long run

   *Lit:* *Mankiw/Taylor, CH 6 (pp. 127-144)*

8. **Welfare analysis and government intervention**

   a. **Welfare analysis and market efficiency**
      - Willingness to pay and consumer surplus
      - Calculating consumer surplus from demand schedule/curve
- Willingness to sell and producers surplus
- Calculating producer surplus from supply schedule/curve
- Price changes: impact on surpluses
- How market equilibrium maximizes total surplus
- A cautionary note on market failure

b. Government intervention in markets
- Price ceilings
- Price floors
- Incidence of taxes
- Welfare effect of taxes
- Laffer curve

Lit: Mankiw/Taylor, CH 7, CH 8 and CH 9 (only pp. 179-186)

9. – 10. Monopoly, market power, and price discrimination

- The makings of a monopoly
- Demand curve of a monopolist
- Profit maximization by a monopolist
- Welfare effects of monopoly
- Monopoly pricing and monopoly power
- Price discrimination
- Policies towards monopoly

Lit: Mankiw/Taylor, CH 14
Excerpts from Pindyck/Rubinfeld:
  o CH 10 (pp. 354-356; 361-366)
  o CH 11 (pp. 392-403)

11. Monopolistic competition and oligopoly

- Monopolistic Competition
- The makings of oligopoly
- The Cournot model
- Residual demand and reaction curves
- Competition versus Collusion: The Prisoners’ Dilemma
- Implications of the Prisoners’ Dilemma for Oligopolistic Pricing
- Cartels

Lit: Excerpts from Pindyck/Rubinfeld, CH 12 (pp. 443-455; 461-475)

12. Decision-making under uncertainty

a. Describing Risk
- Probability
- Expected Value, Variance

b. Preferences toward Risk
- Expected Utility
- Risk Aversion

c. Reducing Risk
- Diversification & Insurance
- Information

Lit: Excerpts from Pindyck/Rubinfeld, CH 5 (pp. 159-176)

13. Market failures

- Market & government failures: a reminder
- Negative and positive externalities
- Policies towards externalities
- Public goods and common resources
- Government failures
- Asymmetric information
- Moral Hazard
- Adverse Selection
- Introduction to Behavioral Economics

Lit: Mankiw/Taylor, CH 10, CH 11, and CH 12

Literature:


Handouts
EMLE course Introduction to Law 2017/2018
Course outline Erasmus School of Law

Lecturers: Sanne Taekema, Lukas van den Berge and Renny Reyes

Schedule

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<th>Monday 2</th>
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<td>L1</td>
<td>T1A: 11.00-12.45</td>
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<td>13.00 – 14.45 (Introduction)</td>
<td>T1 B: 13.00 – 14.45 (Legal Sources)</td>
<td>15.00 – 16.45 (Concepts &amp; Sources of Law)</td>
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<td>T 3A – 11.00 – 12.45</td>
<td>T 3B – 13.00 – 14.45 (Criminal Law)</td>
<td>L4 - 13.00 – 14.45 (Criminal Law)</td>
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<td>T 5A – 11.00-12.45</td>
<td>T 5B – 13.00 – 14.45 (International law)</td>
<td>L6 – 13.00 – 14.45 (Multilevel legal order)</td>
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<td>EXAM</td>
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Literature and Case Law

Main book (selected chapters)
- Jaap Hage and Bram Akkermans (eds), Introduction to Law (Springer 2014), available on SpringerLink: http://link.springer.com/book/10.1007%2F978-3-319-06910-4 (Please note that free access to this source is only available on computers connected to the campus internet network! Chapters can be downloaded and saved in pdf.)

Excerpts from other books (available at EUR University Library and on Google Drive)
- Geoffrey Samuel, A Short Introduction to the Common Law (Edward Elgar 2013), pp. 95-103

**Articles** *(available online at EUR University Library and on Google Drive)*
- Hanneke van Eijken and Jan Willem van Rossem, ‘Prisoner disenfranchisement and the right to vote in elections to the European Parliament: Universal suffrage key to unlocking political citizenship?’ [2016] 114
- Lon Fuller, ‘The Case of the Speluncean Explorers’ [1949] HLR 616

**Web sources**

**Case law**

- **Court of Justice of the European Union (CJEU)**
  - Case 26/62 *Van Gend en Loos* [1963] ECR 1
  - Case 6/64, *Costa v Enel* CJEU, Costa v ENEL [1964] ECR 585
  - Case C-489/07 *Messner* [1989] ECR 4209
  - Case C-415/93 *Bosman* [1995] ECR I 4921
  - Case C-189/01 *Foot and mouth disease* [2001] ECR I-5689
  - Case C-210/03 *Swedish Match* [2004] ECR I-11893
  - Case C-303/05 *Advocaten voor de Wereld* [2007] ECR I3633
  - Joined Cases C-402 and 415/05 *Kadi* [2008] ECR I6351
  - Case C-402/07 *Sturgeon* [2009] ECR I 10923
  - Case C-426/11 *Alemo Herron* [2013] OJ C260/10
  - Case C-399/11 *Melloni* [2013] OJ C114/12
Case C-650/13 Delvigne [2015] EUECJC 650/13
Case C-398/12 M [2015] CMLR 2

- European Court of Human Rights (ECtHR)
  K.-H. W v. Germany App no 37201/97 (22 March 2001)
  Streelz, Kessler and Krenz App nos 34044/96, 35532/97 and 44801/98 (22 March 2001)
  Hirst v UK App no 74025/01 (6 October 2005)
  Salduz App no 36391 (27 November 2008)
  M v Germany App no 19359/04 (17 December 2009)

- Bundesverfassungsgerichtshof
  2 BvE 2/08 Lisbon Decision (30 June 2009)

- UK House of Lords
  Donoghue v Stevenson [1932] AC 562

Course outline

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Programme

Week 1: Concepts and Sources of Law

Lecture 1

Introduction
- System of the law
- Common law and civil law
- European multilevel legal system
- Overview of the course programme

Literature
- Hage, chapters 1 (Foundations) and 10 (The law of Europe)

Practicum 1

Finding and analysing legal sources (legislation, treaties, case law)
- Interpreting legal sources
Preparatory assignment: students are requested to search for national legislation from their home country regarding the topic of human rights.

Materials
- Treaty on the European Union
- Treaty on the Functioning of the European Union
- Classic judgments of the Court of Justice of the EU: Case 26/62 Van Gend en Loos [1963] ECR 1, Poiares Maduro, chapter De Witte (pp. 9-15); Case 6/64, Costa v Enel CJEU, Costa v ENEL [1964] ECR 585, Poiares Maduro, chapter Fennelly (pp. 39-46)
- European Convention on Human Rights
- Examples of legislation from selected common law and civil law jurisdictions regarding human rights protection

Lecture 2

Concepts of law
- Concepts of law and sources of law
- Concepts of law and legal context
- Legal Interpretation

Literature
- Hage, ch 2 (Sources of law)
- Samuel, ch 5 (pp. 95-103)
- Lon Fuller, ‘The Case of the Speluncean Explorers’ [1949] HLR 616

Cases
- Case 26/62 Van Gend en Loos [1963] ECR 1, Poiares Maduro, chapter De Witte (pp. 9-15)
- Case 6/64, Costa v Enel CJEU, Costa v ENEL [1964] ECR 585, Poiares Maduro, chapter Fennelly (pp. 39-46)
- 2 BvE 2/08 Lisbon Decision (30 June 2009)
Week 2: Private Law

Practicum 2
Solving a simple private law case
- Analysis of a fictional case in light of relevant laws and European case law

Preparatory assignment: students are requested to consider the fictional case from the perspective of the Court of Justice and formulate a provisional answer to the legal question.

Materials
- Case C-415/93 Bosman [1995] ECR I 4921, with Poiares Maduro, chapter Infantino and Mavroidis (pp. 498-505)
- Case C-489/07 Messner [1989] ECR 4209
- Case C- 402/07 Sturgeon [2009] ECR I 10923
- Case C-426/11 Alemo Herron [2013] OJ C260/10

Lecture 3
Private law
- Subjects of private law
- Rationalities of private law
- Contract and tort

Literature
- Hage, chapters 4 (The law of contract) and 6 (Tort law)

Case Law
UK House of Lords
- Donoghue v Stevenson [1932] AC 562 (UK House of Lords)

CJEU
- Case C-489/07 Messner [1989] ECR 4209
- Case C-415/93 Bosman [1995] ECR I 4921, with Poiares Maduro, chapter Infantino and Mavroidis (pp. 498-505)
- Case C- 402/07 Sturgeon [2009] ECR I 10923
- Case C-426/11 Alemo Herron [2013] OJ C260/10
Week 3: Criminal Law

Practicum 3
Solving a simple criminal law case
- Analysis of a fictional case in light of relevant laws and European case law
Preparatory assignment: students are requested to consider the fictional case from the perspective of the defendant’s legal counsel and prepare a provisional advice concerning the usefulness of lodging an application with the European Court of Human Rights.

Materials
ECtHR
- K.-H. W v. Germany App no 37201/97 (22 March 2001)
- Strelelz, Kessler and Krenz App nos 34044/96, 35532/97 and 44801/98 (22 March 2001)
- M v Germany App no 19359/04 (17 December 2009)
- Salduz App no 36391 (27 November 2008)

Lecture 4
Criminal law
- Rationalities of criminal law
- EU Criminal Law

Literature
- Hage, chapter 7 (Keiler, Panzavolta and Roef, Criminal law)

Case Law
ECtHR
- K.-H. W v. Germany App no 37201/97 (22 March 2001)
- Strelelz, Kessler and Krenz App nos 34044/96, 35532/97 and 44801/98 (22 March 2001)
- M v Germany App no 19359/04 (17 December 2009)
- Salduz App no 36391 (27 November 2008)

CJEU
- Case C-398/12 M [2015] CMLR 2
- Case C-303/05 Advocaten voor de Wereld [2007] ECR I3633
- Case C-399/11 Melloni [2013] OJ C114/12
**Week 4: Constitutional and Administrative Law**

**Practicum 4**
Solving a simple constitutional / administrative law case

*Preparatory assignment: students are expected to consider the fictional case from the perspective of the Court of Justice and formulate a provisional answer to the legal question.*

**Materials**
- Case C-189/01 *Foot and mouth disease* [2001] ECR I-5689
- Case C-210/03 *Swedish Match* [2004] ECR I-11893

**Lecture 5**
*Constitutional and administrative law*
- Subjects of constitutional and administrative law
- Rationalities of constitutional and administrative law
- Proportionality in EU administrative law

**Literature**
- Hage, chapters 8 (Constitutional law) and 9 (Administrative law)

**Case Law**
- Case C-189/01 *Foot and mouth disease* [2001] ECR I-5689
- Case C-210/03 *Swedish Match* [2004] ECR I-11893
Week 5: International Law and the Multilevel Legal Order

Practicum 5
- International law, multilevel legal order
Preparatory assignment: students are required to prepare a short written analysis on the constitutional provisions which integrate EU law in three legal systems (Netherlands, Germany, France). Students are also required to prepare a short written analysis regarding the legal status of the European Convention on Human Rights in the United Kingdom.

Materials
Case C-34/09, Ruiz Zambrano [2011] ECR I-1177
Hirst v UK App no 74025/01 (6 October 2005)
Case C-650/13 Delvigne [2015] EUECJC-650/13
Joined Cases C-402 and 415/05 Kadi [2008] ECR I6351

Lecture 6
The rule of law in the European multilevel legal order
- Rule of law guarantees at the national and supranational levels
- Multilevel legal order

Literature
- Hage, chapters 10 (The law of Europe), 11 (International law) and 12 (Human rights)
- Hanneke van Eijken and Jan Willem van Rossem, ‘Prisoner disenfranchisement and the right to vote in elections to the European Parliament: Universal suffrage key to unlocking political citizenship?’ [2016] 114

Case Law
Case C-34/09, Ruiz Zambrano [2011] ECR I-1177
Hirst v UK App no 74025/01 (6 October 2005)
Case C-650/13 Delvigne [2015] EUECJC-650/13
Joined Cases C-402 and 415/05 Kadi [2008] ECR I6351
Examination

Paper assignment
The paper assignment (30% of final grade) will be made available on 18 October at 15.00. This assignment concerns the solving of a simple case. Students can choose between a private law and a criminal law case. The submitted paper (maximum word count 1500, footnotes and bibliography excluded) should consist of a text in which legal sources are applied in a consistent and structured analysis serving the solution of the case. This analysis should present arguments based on the examined legal sources and also present possible counter-arguments to the defended solution. Deadline: 29 October at 23.59.

Written exam
The written exam (70% of final grade) will consist of open questions and will take place at Friday 10 November. Further information about the exam will be provided during the course.