

| 1. GENERAL INFORMATION | | | |
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| 1.1. Course teacher | Tamara Čapeta | 1.6. Year of the study programme | 5 (4+1) |
| 1.2. Name of the course | Constitutional Law of the European Union | 1.7. Credits (ECTS) | 7 |
| 1.3. Associate teachers | No associate teachers, but visiting professors will give lectures | 1.8. Type of instruction (number of hours L + S + E + e-learning) | L (28 hours) + S (28 hours) |
| 1.4. Study programme (undergraduate, graduate, integrated) | graduate | 1.9. Expected enrolment in the course | 30 |
| 1.5. Status of the course | Required | 1.10. Level of application of e-learning (level 1, 2, 3), percentage of online instruction (max. 20%) | 0 % |
| 2. COUSE DESCRIPTION | | | |
| 2.1. Course objectives | To develop knowledge of institutional framework and legal system of the European Union; to develop understanding of basic tensions in relationship of EC and national, particularly constitutional law; to develop understanding of basic economic logic and policy shaping the four freedoms, particularly free movement of goods; to make distinction between different branches of jurisdiction and understand differences and choices of different judicial procedures under the TEC/Draft Constitutional Treaty | | |
| 2.2. Course enrolment requirements and entry competences required for the course | Level 6 competences of European Qualifications Framework. Knowledge of English language. | | |
| 2.3. Learning outcomes at the level of the programme to which the course contributes | <p>Problem solving</p> <p>Students will have demonstrated basic skills in application of knowledge at situations of limited complexity in order to reach reasoned solutions to real or hypothetical problems.</p> <p>Research</p> <p>Student will have demonstrated basic ability to identify legal issues, to find and retrieve legal sources in paper and electronic format, to use relevant primary and secondary legal sources.</p> <p>Analysis, synthesis, critical judgment and evaluation</p> | | |

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| | <p>Student will have ability to identify sources and problems and to rank the materials as to their relevance and importance, to gather information from a variety of sources, to demonstrate synthesis of relevant doctrinal problems, to critically evaluate arguments, to choose among several possibilities and to explain the choice.</p> <p>Independence and ability to learn</p> <p>Student will have demonstrated basic capacity to implement student research supervised by a professor, regardless whether the area of research was previously discussed in class or not, to reflect upon process of learning and to be able to ask for and use advice of his or her supervisor.</p> <p>Communication and literacy</p> <p>Student will have been able to use professional language and to present information in a way that is comprehensible to others, to read and discuss legal materials written in technical and complex language, and to write a student essay and be able to present it in appropriate way.</p> <p>Other general learning outcomes</p> <p>Student will have ability to use internet, including e-mail, to work in a group and to contribute to achievement of group goals.</p> |
| <p>2.4. Learning outcomes expected at the level of the course (4 to 10 learning outcomes)</p> | <ol style="list-style-type: none"> (1) To have knowledge about relevant legal sources of the European Union law and to be able to distinguish them based on their characteristics and effects. To be able to differentiate legal sources of EU law from national legal sources, international legal sources and law of the Council of Europe; (2) To understand main political objectives of the European integration and to be able to recognize them on grounds of analysis of primary sources, secondary sources and case law. To understand how economic integration and political objectives are interrelated, and how they were defined by the founding fathers of the EU. To acquire ability to identify such objectives by analysis of legal materials; (3) To understand competences of the institutions of the European union and to have command of the basic concepts relevant for law making in the European Union; (4) To understand the concept of conferred powers and why is the European union an organization of conferred powers. To understand importance of having a valid legal basis for enactment of secondary legislation of the European Union. To understand a concept of dual legal basis and to acquire ability to decide when certain legal act can be adopted on grounds of a single or dual legal basis; (5) To understand concepts of subsidiarity and proportionality and to be able to recognize their main elements in legislative and judicial practice; |

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| | <p>(6) To understand the role of the European Court of Justice in development and constitutionalisation of EU law, and place and function of its decisions within the legal order of the EU;</p> <p>(7) To develop basic understanding of the Community method and to be able to distinguish it from international law method, method of civil law and the common law method;</p> <p>(8) To understand the concept of <i>new legal order of European law</i>, its main characteristics, and what makes it different from legal orders of Member States of the EU and the legal order of international law;</p> <p>(9) To familiarize with basic obligations of national courts when they apply EU law and their obligations in case of conflict between legal rules of national law and legal rules of EU law, particularly, in context of constitutional review of national law;</p> <p>(10) To understand economic and political background of legal regulation of market freedoms, in particular in area of free movement of goods, services, workers and capital.</p> |
| <p>2.5. Course content broken down in detail by weekly class schedule (syllabus)</p> | <p>The Course is organized in 15 units, each extending over one week of the semester, during 15 weeks. Each unit comprises a methodological and research component.</p> <p>Unit 1 – Evolution of the European Union and its basic legal framework</p> <p>Learning objectives: to understand the structure of the European Union under the Treaty of Lisbon and its historic evolution. To understand the main stages of European economic integration, and how economic integration affects political and social sphere. To understand economic and political objectives of the European integration and to understand links between economic integration and political goals of the founding fathers of the EU.</p> <p>Unit 2 – European Union after the Lisbon Treaty</p> <p>Learning objectives: To understand the institutional setting of the European Union, to get acquainted with its institutions, particularly, their roles and interrelationship. To understand the vertical separation of powers between the EU and her Member States. To understand competences of the European Union and to develop ability to determine their scope. To understand the role of Member States in the European regulatory process, particularly the role of national parliaments. To get basic understanding of concepts of subsidiarity, proportionality and conferred powers. To understand the European regulatory process and roles of individual actors (Commission, the Council, the European Parliament).</p> <p>Unit 3 – The European Court of Justice</p> <p>Learning objectives: To get the basic overview of the judicial structure of the European Union, notably, the General Court and the European Court of Justice. To understand the main branches of jurisdiction of the European Court of</p> |

Justice, notably, the preliminary rulings procedure (Art. 267 TFEU), infraction proceedings (Arts. 258-261 TFEU), and actions for annulment of the acts of the EU and failure to act (Arts. 263-266 TFEU).

Unit 4 – The "new legal order"

Learning objectives: To understand the concept of the "new legal order of European Law" and what makes it different from the legal orders of Member States of the EU and the legal order of international law. To get familiarized with the legal reasoning of the ECJ. To develop understanding of inductive and deductive method and to understand their relevance for judicial reasoning. To understand the role of the ECJ in process of constitutionalisation of EU law. To understand place and function of its decision in the legal order of the EU. To acquire understanding of concepts of "direct effect" and "supremacy" of EU law.

Unit 5 – Supremacy of EU law from the national perspective

Learning objectives: To get acquainted with differences in understanding of supremacy of EU law that exist between the ECJ and national courts. To understand national arguments that challenge supremacy of EU law and counterarguments that contend the opposite. To familiarize with the major national judicial decisions that challenge supremacy of EU law, particularly the doctrine of the German Bundesverfassungsgericht.

Unit 6 – Procedural supremacy and the Simmenthal doctrine

Learning objectives: To understand obligations of national courts flowing from doctrines of supremacy and direct effect. To understand procedural and interpretative problems that may arise in this context. To understand different models of judicial review and how they are affected by the Simmenthal doctrine. To get a theoretical overview of national systems of preliminary rulings and how they compare to the Preliminary ruling procedure under Art. 267 TFEU. To develop understanding how Community law is applied in national legal systems, especially regarding the principle of supremacy of Community law and obligations of national courts when confronted with choice between national and European legal sources.

Unit 7 – Sources and effects of EU law

Learning objectives: To get acquainted with sources of secondary EU law and to understand the difference between primary and secondary EU law. To learn to distinguish vertical from horizontal direct effect of the Founding Treaties, to understand the importance of that distinction, and to understand what effects primary EU law has in national legal order. To understand the concept of general principles of EU law and how they relate to primary and secondary sources. To develop ability to determine the scope of EU law based on applicability of particular categories of applicable legal rules (primary law, secondary law, general principles of law).

Unit 8 – Secondary EU law: Regulations

Learning objectives: To understand obligations of Member States related to application of Regulations. To understand effects of Regulations in national legal orders of Member States. To develop ability to identify and apply, in national law, individual rights created by a Regulation.

Unit 9 – Secondary EU law: Directives 1

Learning objectives: To understand specific characteristics of Directives as a source of secondary EU law. To develop basic knowledge about their effects in legal order of the EU and in national legal orders. To understand the difference between Directives and Framework Decisions under the Treaty of Nice, and the changes introduced by the Treaty of Lisbon. To understand the TFEU distinction between Regulations and Directives and reasons for choice of one of the two categories of sources.

Unit 10 – Secondary EU law: Directives 2

Learning objectives: To understand how ECJ justifies vertical direct effect of directives and to develop understanding of judicial policy in case of Member State failure to implement a Directive. In this respect, to understand the concept of "emanation of State" in case law of the ECJ. To understand differences between vertical and horizontal effects of directives and to develop skill to discuss arguments for and against such effects.

Unit 11 – Interpretative duties of national authorities

Learning objectives: To understand obligation of Member States to apply EU law, particularly Directives, fully, correctly and effectively. To acquire ability to distinguish between direct and indirect effect of Directives. To understand concept of EU law-friendly interpretation and to be able to determine the limits of such interpretation. To understand motivation and method of the ECJ in relevant cases where that concept was introduced. To understand principles of equivalence and effectiveness of legal protection of rights based in EU law.

Unit 12 – State liability for damages in case of breach of EU law

Learning objectives: To understand criteria for Member State liability for damages in case of non-implementation of directives and other breaches of Community law. To acquire ability to recognize "sufficiently serious breach" of Community law. To understand obligations of national courts for proper application of Community law and their responsibility for breach of Community law. To understand changes in balance of power in Member States that were caused by the relevant decisions of the ECJ.

Unit 13 – The 4 freedoms: legal regulation of economic disarmament

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| | <p>Learning objectives: To understand the economic and political background of the internal market. To understand the motivation of the ECJ that underlies its reasoning. To understand basic concepts such as: prohibition of quantitative restrictions and measures of equivalent effect, mutual recognition, mandatory requirements.</p> <p>Unit 14 – The 4 freedoms: justification of national measures</p> <p>Learning objectives: To understand how national measures restricting market freedoms can be justified. To understand concepts of subsidiarity, proportionality and non-discrimination, as applied in the law of the EU, especially to be able to perform basic proportionality analysis, based on the facts of a case. To understand the concept of margin of appreciation, as applied by the ECJ. To understand the roles of the actors, particularly, the legislature and the judiciary on national and European level.</p> <p>Unit 15 – Fundamental rights in the EU</p> <p>Learning objectives: To understand relationship between market freedoms and fundamental rights in the EU and how are they balanced by the ECJ. To acquire ability to critically assess the balance between market freedoms and fundamental rights in the legal order of the EU. To understand different sources of fundamental rights and how to interpret and apply them in the legal order of the EU. To get acquainted with evolution of protection of fundamental rights in the EU and to determine situations in which they can be invoked before national courts and before the ECJ.</p> | | | | | |
| 2.6. Format of instruction: | <input checked="" type="checkbox"/> lectures <input checked="" type="checkbox"/> seminars and workshops <input type="checkbox"/> exercises <input type="checkbox"/> on line in entirety <input checked="" type="checkbox"/> partial e-learning <input type="checkbox"/> field work | | <input checked="" type="checkbox"/> independent assignments <input type="checkbox"/> multimedia and the internet <input type="checkbox"/> laboratory <input type="checkbox"/> work with mentor <input type="checkbox"/> (other) | | <p>2.7. Comments:</p> <p>The course is based on socratic method. E-learning includes access to teaching materials and student assignments requiring on-line research of sources.</p> | |
| 2.8. Student responsibilities | <p>Students need to attend classes and prepare by reading assigned materials which will be discussed in class. They will be required to write an 3000 word essey based on an individually tailored research project and pass a written, open book exam. 18 hours of lectures and 18 hours of seminar.</p> | | | | | |
| 2.9. Screening student work (<i>name the proportion of ECTS credits for each activity so that the total number of ECTS credits is equal to the ECTS value of the course</i>) | Class attendance | 2 | Research | 2 | Practical training | |
| | Experimental work | | Report | | (other) | |
| | Essay | | Seminar essay | | (other) | |
| | Tests | | Oral exam | | (other) | |
| | Written exam | 3 | Project | | (other) | |
| 2.10. Grading and evaluating student work in class and at the final exam | <p>Class attendance and class activity will be evaluated by the professor. A 3000 word research based essay will be discussed in class and evaluated by the professor. Final open-book exam based on a hypothetical situation will</p> | | | | | |

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| | cover issues discussed during the term and evaluated by the professor. The final grade is aggregate of the 3 components, graded on scale from 1 to 5. | | |
| 2.11. Required literature (available in the library and via other media) | Title | Number of copies in the library | Availability via other media |
| | Craig & De Búrca: EU Law: Text, Cases, and Materials, Oxford UP, 5th edition | 5 | no |
| | Čapeta & Rodin, Osnove prava EU, Narodne novine, Zagreb 2011 | 5 | no |
| | J. H. H. Weiler, the Transformation of Europe, 100 Yale Law Journal, No. 8 (1991) | 1 | Yes, on-line |
| | A. von Bogdandy, A Bird's Eye View on the Science of European Law: Structures, Debates and Development Prospects of Basic Research on the Law of the European Union in a German Perspective | 1 | Yes, on-line |
| | S. Rodin, T. Čapeta i I. Goldner Lang (ur.), Reforma Europske Unije – Lisabonski ugovor | 5 | no |
| | Rodin, Čapeta & Goldner Lang, Izbor presuda Europskog suda, Informator, Zagreb 2009 | 5 | no |
| 2.12. Optional literature (at the time of submission of study programme proposal) | Any other major EU law textbook Treaty on European Union OJ C 115/13 Treaty on Functioning of the European Union, OJ C 115/47 | | |
| 2.13. Quality assurance methods that ensure the acquisition of exit competences | Quality assurance in accordance with requirements of the University of Zagreb. All written submissions will be kept on file for 12 months after the course for purpose of peer review. Validation of the course by EACEA, as a part of Jean Monnet program. Self-evaluation will be performed. | | |
| 2.14. Other (as the proposer wishes to add) | Course heavily relies on reading of primary sources, e.g. judicial decisions, European Commission documents, etc. Those are not listed in this document but are available on internet and students will be instructed how to access them. | | |