European Union Law

## Prof. Andrea Santini (*1st semester*); Prof. Giulia Rossolillo (*2nd semester*)

COURSE AIMS AND INTENDED LEARNING OUTCOMES

The objective of the European Union Law course is to introduce students to the EU legal system, both for its peculiarities with respect to national legal systems, and for the importance of the relationship between EU law and national laws. Once students have been led to understand and know the principles, structure and functioning of the judicial protection of this system, they will delve into the rules relating to the internal market and the related case law of the Court of Justice.

Intended learning outcomes

The course programme, especially if accompanied by the attendance of lectures, will teach students the fundamental principles on which the EU is based, its institutional structure and the sources of its legal system, also appreciating the effectiveness of the latter with respect to national law and their ability to affect relations between individuals and between the individual and the State.

To this end, it is essential to know the jurisprudential activity of the Court of Justice, the principles elaborated by it and the lines of reasoning and interpretation that it follows, including from a perspective of concretely understanding the functioning of the Union's rules and developing the capacity for critical analysis of the rules typical of the judicial function.

COURSE CONTENT

The course aims to illustrate the institutional profiles of the European Union and the law of the European internal market. In the *first semester*, after having touched on the origins and evolution of the European integration process, the current structure of the Union will be analysed, focusing in particular on the following aspects: general characteristics and competences of the Union; composition and powers of political institutions; sources of the legal order of the Union and its relations with the legal system of the Member States (with particular reference to the Italian one). In the *second semester*, the structure and competencies of the Court of Justice of the European Union will first be delved into, followed by a study of the internal market and its freedoms of movement, which will include an examination of the relevant jurisprudence of the latter.

READING LIST

Passing the exam requires the study and knowledge of the following volumes:

1. U. Draetta-F. Bestagno-A. Santini, *Elementi di diritto dell’Unione europea – Parte istituzionale*, Giuffrè Francis Lefebvre, Milan, 2022, 7th ed., the entire volume with the sole exception of the ninth chapter.

2. A. Arena-F. Bestagno-G. Rossolillo, *Mercato unico e libertà di circolazione nell’Unione europea,* Giappichelli, Turin, 2020, 2nd ed., of which the following parts are to be studied: Chapter 1, Sections A, B, C, D, E and F; Chapter 2, Sections A, B and C; Chapter 3, Sections A and B; Chapter 4, Sections A, B and C; Chapter 5, Sections A, B and C; Chapter 6, Sections A and B. In the sections indicated, all the Comments will be examined, as well as only the judgments indicated below; on the other hand, the *rules* contained in the book are not intended for study, and consultation is simply recommended in order to better understand the Comments and judgments.

Judgments of the Court of Justice to be prepared from the second EDITION of the volume "Mercato unico e libertà di circolazione nell’Unione europea":

Chapter 1: Free movement of goods

B. Relevance and effects of EU laws on the free movement of goods

2.1 Judgment of 5 February 1963, Case 26/62, Van Gend en Loos (p. 22)

2.4 Judgment of 5 March 1996, Joined Cases C-46/96 and C-48/93, Brasserie du Pečheur (p. 27)

C. The prohibition of obstacles of a fiscal nature in trade between Member States

2.5 Judgment of 4 May 1986, Case 106/84, Comm. c. Denmark ("grape and fruit wines", p. 43)

D. The prohibition of quantitative restrictions and measures having an equivalent effect: the distinctly applicable measures

3.1 Judgment of 11 July 1974, Case 8/74, Dassonville (p. 55)

E. Following: the measures indiscriminately applicable

3.1 Judgment of 20 February 1979, Case 120/78, "Cassis de Dijon" (p.71)

3.2 Judgment of 24 November 1993, Joined Cases C-267/91 and C-268/91, Keck and Mithouard (p. 73)

3.4 Judgment of 10 February 2009, Case C-110/05, Commission v. Italy (trailers, p.78)

F. Margins of regulatory autonomy of the Member States in the protection of general interests

3.3 CG Judgment of 10 November 1982, Case 261/81, Rau (p. 104)

Chapter 2: European Citizenship

A. European Citizenship and National Citizenship

3.1 Judgment of 7 July 1992, Case C-369/90, Micheletti (p. 125)

3.3 Judgment of 2 October 2008, Case C-148/02, Garcia Avello (p. 126)

3.4 Judgment of 2 March 2010, Case C-135/08, Rottmann (p. 127)

B. Civil rights stemming from European citizenship

3.3 Judgment of 19 October 2004, Case C-200/02, Chen (p. 149)

3.4 CG Judgment of 8 March 2011, Case C-34/09, Ruiz Zambrano (p. 150)

3.6 Judgment of 5 June 2018, Case C-673/16, Coman (p. 153)

Chapter 3: Facilitating the free movement of workers

A. General characteristics and scope of application of the rules on the free movement of workers

3.2 Judgment of 3 July 1986, Case 66/85, Lawrie-Blum (p. 183)

3.4 Judgment of 26 February 1991, Case C-292/89, Antonissen (p. 187)

B. The conditions of access and exercise of employment

3.4 CG Judgment of 6 June 2000, Case C-281/98, Angonese (p. 206)

Chapter 4: Freedom of establishment

A. The scope of freedom of establishment

3.1 Judgment of 30 November 1995, Case C-55/94, Gebhard (p. 224)

3.3 Judgment of 27 September 1988, Case 81/87, Daily Mail (p. 226)

B. Negative integration in terms of establishment

2.1 CG Judgment of 16 December 2008, Case C-210/06, Cartesio (p. 230)

2.4 Judgment of 25 July 1991, Case C-221/89, Factortame (p. 233)

C. Exceptions to freedom of establishment

3.5 CG Judgment of 6 November 2003, Case C-243/01, Gambelli (p. 247)

D. Positive integration in terms of establishment

4.4 CG Judgment of 17 July 2014, Joined Cases C-58/13 and C-59/13, Torresi (p. 269)

Chapter 5: Freedom to provide services

A. The scope of freedom to provide services

3.2 CG Judgment of 26 April 1988, Case 352/85, Bond van Adverteerders (p. 279)

3.3 Judgment of 2 February 1989, Case 186/87, Cowan (p. 280)

B. Negative integration in terms of services

2.3 CG Judgment of 10 May 1995, Case C-384/93, Alpine Investments (p. 290)

C. Exceptions to the freedom to provide services

2.1 Judgment of 14 October 2004, Case C-36/02, Omega (p. 297)

2.7 CG Judgment of 5 October 1994, Case C-23/93, TV 10 (p. 307)

Chapter 6: The free movement of capital and payments

A. The scope of free movement of capital and payments

4.1 CG Judgment of 31 January 1984, Joined Cases 286/82 and 26/83, Luisi and Carbone (p. 325)

B. Negative and positive integration in terms of capital and payments

2.1. CG Judgment of 4 June 2002, Case C-367/98, Commission v. Portugal (golden shares) (p. 330)

TEACHING METHOD

The teaching method is mainly based on classroom lectures given by lecturers. The didactic activities of this course characteristically combine the theory with an examination of the jurisprudence of the Court of Justice. This teaching method is used due to the centrality of case law in defining the specific characteristics, general principles and substantive discipline of the legal system of the Union. The analysis of judgments is also aimed at allowing students to develop knowledge of the reasoning and argumentation method of the Court of Justice.

ASSESSMENT METHOD AND CRITERIA

Attending students who so wish, will be able to take the exam in two tests. The first will be held during the suspension of classes between the first and second semesters and will consist of a paper comprising multiple-choice and open-ended questions. The final test, based on the contents covered in the second semester, will be oral. Each of the two tests will contribute 50% to the final mark.

For students not attending lectures (and those attending lectures but who don't take or fail the interim written test) the exam will take the form of a single oral exam.

The assessment will take into account the level of knowledge and understanding of the course topics, as well as the student's ability to adequately present them, using also the relevant terminology.

NOTES AND PREREQUISITES

Notes

In light of the teaching method used, i.e. classroom lectures based not only on the theoretical framework but also on the discussion of judgments made by the EU Court of Justice, attendance at lectures is recommended.

In the case of non-attendance, however, the two volumes for study provide a complete coverage of the subject. The holders and collaborators of the chair are available for any clarification for those who have not been able to attend.

It is not possible to write a thesis on European Union law without an adequate knowledge of the English language. Preferential elements in assigning the thesis are: good knowledge of French or another language of a Member State; previous course attendance; and passing the International Trade Law exam, due to the fundamental importance of the exclusive competence of the EU in trade policy.

Prerequisites

The teaching of Constitutional Law is preparatory to that of European Union Law. Therefore, students who have not passed the Constitutional Law exam cannot take the European Union Law exam.

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=Eng or on the Faculty notice board.