



STUDY PROGRAMME

(1) European Legal Studies Programme

(2) Transatlantic affairs

ACADEMIC YEAR

2019-2020

SEMESTER

Second

COURSE TITLE

Legal Transition in Central, Eastern and Southern Europe from a Pre-accession Dimension into a Post-accession Reality

COURSE PROFESSOR

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COURSE ASSISTANT

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NATURE OF COURSE (COMPULSORY, OPTIONAL)

Optional

LANGUAGE OF INSTRUCTION

English

ECTS CREDITS

4

1. COURSE OBJECTIVES

This seminar is an enlargement-based seminar, which means that the seminar will focus on all aspects of the so-called EU enlargement process /including its most recent challenges like e.g. Montenegro's and Serbia's recently accelerated accession process to the EU or Ukraine's enhanced legal alignment process or the Kosovo-EU relations etc./ The course analyzes mainly the legal, institutional and to some extent the related political, social and economical aspects of the transition process in Central, Eastern and Southern Europe (including e.g. an analysis of the comparative experiences of the Western Balkan area, Turkey and the countries of the ex-Soviet Union). It focuses in particular on all the challenges of constitutional, legal and institutional nature, with special emphasis on the process of legal approximation, democratization, rule of law issues, Accession Treaty negotiations, reform of national judiciaries etc.) being brought by the so-called EU enlargement process in a pre-accession context. The seminar also undertakes a case-law-based analysis of the first experiences, learned in general from the application and implementation practice of EU laws in the new Member States after accession. Finally the seminar specifically examines the main impacts of the Lisbon Treaty on the process of the EU enlargement as well as on possible alternatives to accession (e.g. the relevance of the new Article 8 TEU on privileged partnership, or of the revised Article 49 TEU on the admission procedure of a new Member State, or of the EU Charter of Fundamental Rights on pre-accession preparations as well as the envisaged accession of the EU to the ECHR and their possible impact on enlargement etc.). The course is suggested, therefore, to those, who would like to:

- know more about the legal system, legal traditions, legal culture of the countries of Central, Eastern and Southern Europe, in particular, in the context of and related to the EU enlargement process and its pre-accession preparatory phases;
- have a better understanding about the practical difficulties of the legal approximation and the



institutional adaptation process in Central, Eastern and Southern Europe;

- know more about the legal and institutional aspects (difficulties) of Turkey's preparation for accession to the EU, or about the great legal challenge of Kosovo's accession process to the EU;
- know more about the impacts of the EU sovereign debt crisis or of the BREXIT process on the EU enlargement process in general, and on the effective implementation of the Accession Treaties, concluded with the new Member States, in a post-accession dimension in particular;
- know more about the concrete practices and challenges of implementing or negotiating on the Stabilization and Association Agreements in the Western Balkan ;
- know about the great legal challenges of Western Balkan's rehabilitated accession process to the EU or of Ukraine's, Georgia's and Moldova's enhanced legal alignment process within the context of the so-called Deep and Comprehensive Free Trade Agreements or the specificities of the most recent Comprehensive and Enhanced Partnership Agreement with Armenia;
- know about the legal and institutional aspects of the economic transformation process in the so-called "transition countries" in Europe in more general terms (for example the law on privatization, on competition and state aids, trade etc.);
- know about the practical insights of drafting EU Accession Treaties;
- know more about what legal and institutional challenges the Treaty of Lisbon has brought about from an enlargement point of view, for example, in connection with the principle of solidarity (vis-à-vis the migration crisis) or the problem of double standards (as regards the rule of law crisis both in a pre-accession context as well as after accession, or independency issues of national courts etc.).

MATA students will acquire in-depth understanding of legal as well as related political, institutional, social and economic aspects of legal transitory in the context of the EU's enlargement process, including challenges posed, for example, by the democratisation process, the legal approximation issues or the application difficulties of EU laws in the new Member States after their accession to the EU etc. Students will acquire methodological skills to analyse in a comparative legal dimension complex legal constitutional, institutional and judicial aspects of the EU's enlargement process. Class presentations and simulation exercises will also improve their presentation skills.

2. LEARNING OUTCOMES

The course objectives tie in with the following learning outcomes of the programme **European Legal Studies**:

- 1.1. Possess advanced knowledge of the European Union (EU), its institutions, competences, substantive principles and legal doctrines;
- 1.2. Possess general knowledge on the main elements of the EU's law and policy at large;
- 1.3. Possess in-depth, scientific knowledge on specific areas of EU law;
- 2.1. Be able to think analytically, correctly analysing complex legal problems in a multi-level legal order, the various sources of law, legal instruments and actors, and to formulate a scientifically sound position on the basis of logical reasoning;
- 2.2. Be able to think dynamically, to understand the constantly changing and evolving nature of the European integration process and to provide constructive commentary on its possible future development;
- 2.3. Be able to think critically, formulating an independent opinion and interpretation of complex legal problems, contextualising findings and weighing a multitude of different factors, including findings from other disciplines;
- 2.4. Be able to process a large amount of information within a short amount of time and to deliver accurate and reflective outcomes;



- 2.5. Be able to work with primary sources of law, such as judgments and legislation, and to reflect independently on their significance and interpretation;
- 2.6. Be able to work in a multi-cultural context, understanding and mediating different legal systems, legal traditions and normative frameworks in a constructive way;
- 2.7. Be able to develop, research, discuss and critically answer questions regarding a scientific research question of EU law in a scientifically responsible way;
- 2.9. Draft a clear legal scientific text in the area of EU law;
- 2.10. Present and defend orally an issue relating to EU law on the basis of legal argumentation or a personal position;
- 2.11. Be able to study and work in the area of EU law in English and French, including through interaction with native speakers.

The course objectives tie in with the following learning outcomes of the programme **Transatlantic Affairs:**

- 1.1 The graduate masters the most important theoretical approaches and concepts of, depending on his or her disciplinary focus, Economics, International Relations and Diplomacy Studies, **Legal Studies** and/or Political Science relevant for the analysis of transatlantic affairs;
- 1.3 The graduate has good knowledge of, depending on his or her disciplinary focus, the political and/or legal systems, the decision-making processes, the economic structures and the main internal and external policies of the European Union and the United States;
- 2.4 The graduate is capable of processing a large amount of information and appropriately analyze relevant sources depending on his or her disciplinary focus within a short period of time and of suggesting possible actions that contribute to problem-solving in a creative way;
- 2.5 The graduate has the intellectual maturity and skills to take responsibilities and function autonomously in a professional environment at national or international level, and especially in a transatlantic context, and to work efficiently and effectively through planning, organizing, setting priorities, meeting deadlines, cooperating across cultural boundaries and networking.

3. COURSE CONTENTS

The title of the seminar highlights three important elements of the content of this seminar: first it is about 'legal transition', i.e. analyzing on the main legal and institutional aspects/models/patterns of the transition process 'in Central, Eastern and Southern Europe': this seminar focuses mainly on Central, Eastern and Southern Europe, as clear from its title, and 'From a Pre-accession Dimension into a Post-accession Reality': meaning that the analyses will be conducted in the constantly evolving and developing practice and reality context of the EU enlargement process.

4. TEACHING METHOD

Professor gives an introductory lecture (by highlighting the main issues for each topic), which is conceived to encourage debate in class and questions from the students, considering that the number of students is limited and allows for a more interactive course. The seminar is primarily focused on case studies, based on relevant ECJ case law (linked to new Member States so far from 2004 up to now, or to the Accession Treaties or to the pre-accession preparatory process), and governed by an interdisciplinary approach, which means that it deals not only with legal questions, but also tries to look behind the different legal institutions or notions and tries to address also the related historical, political and social aspects of legal models and practices, chosen by the different transition countries in the region (e.g. the different dimensions of how to prepare the national judiciaries for EU accession etc.)



The seminar will follow the method of putting related questions on board and then having a discussion on each of them in a creative and conclusive manner with the professor acting as a moderator. It is to be noted that there will be a more detailed syllabus, specific to each individual class, in order to assist and help the easy preparation of students for the classes.

5. FURTHER DETAILS ON THE TEACHING METHOD

The students are kindly asked by the Professor to do an oral presentation (maximum 10 minutes) in class on a topic of their free choice, but within the context of the course (based on an indicative list of possible topics, which will be made available at the beginning of the course).

Students are also invited to participate in a Moot-Court simulation exercise: the Professor provides the students with a hypothetical case and they are asked to simulate an oral hearing before the CJEU under the guidance of the Professor based on a pre-distributed facts-sheet).

6. COURSE MATERIAL

A detailed syllabus with the suggested readings (and discussion questions) for each individual session will be made available to the students well in advance of when the seminar is due to begin. Each of the 4 syllabus is essentially composed of relevant case-law and legislations, as well as of relevant bibliography. There will be also a so-called "Seminar reading list", which will offer to the students an up-dated list of recommended principal works, books, articles, EU legislations and of relevant CJEU rulings and Constitutional Court rulings of the concerned Member States, relating to the seminar topics and ordered following its outline structure. The reading list is not compulsory; it aims only at giving further assistance to students in their orientations regarding the different questions to be discussed within the framework of the seminar and serves, notably, as starting point for the research to be done by students either by those who undertake to contribute to the success of the seminar with a small oral presentation or who choose to write their master thesis in the context of this seminar.

7. EVALUATION

Students are evaluated by an oral exam. The Professor sends to students well in advance an indicative list of questions that can be asked during the exam. This includes two types of questions, indicated with L (lexical) or E (explanatory). During the oral exam, students draw one question of each type and have preparation time of 30 minutes to prepare their answers.

Students then have 30 minutes to present their answers and the Professor may ask some additional (related) questions.

During the exam students are allowed to have before them an un-annotated version, but only of the legal texts and the relevant jurisprudence identified as relevant in the four syllabus.

Active participation in class, eventual oral presentation and active participation in the Moot-Court simulation game are taken into account with maximum 4 points in determining the final overall mark, while the oral exam is attributed maximum 16 points at the end of the Academic semester.

Attendance of all the classes by students is compulsory (except for duly justified absences).

Participation in all evaluation forms (permanent and periodic evaluation) is compulsory and a prerequisite to receive an exam mark. In case of non-compliance the final score will automatically be reduced to the highest non-passing and non-compensable grade.

Resit-exams, organised in second session period, are 100% written exams.