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THE NATIONAL RESEARCH UNIVERSITY
HIGHER SCHOOL OF ECONOMICS

Faculty of Law
Public and Private International Law Department

Bachelor Degree Curriculum
Year 4
Field of Education **40.03.01. – Jurisprudence**
Detailed Field – **Jurisprudence**
Level – **Bachelor Degree**

THE LAW OF THE EUROPEAN UNION AND
THE EURASIAN ECONOMIC UNION
IN A COMPARATIVE PERSPECTIVE
Course Syllabus

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This Syllabus cannot be used by other departments of the University or by other universities without a permission of the Departments, which drafted it.

1. Sphere of Application and Normative References

This Syllabus sets up minimal requirements to knowledge and skills of students studying this discipline, content of lectures and practical exercises, as well as types of examination and requirements thereto. The Syllabus is addressed to lecturers, giving a course on «The Law of the European Union and the Eurasian Economic Union in a comparative perspective», teaching assistants and students of the Bachelor program 40.03.01. «Jurisprudence».

The Syllabus is drafted in full correspondence with:

- Educational Standard of the National Research University “The Higher School of Economics” on the Field of Education 40.03.01. «Jurisprudence», Bachelor level (approved by the Academic Council of the HSE, protocol of 26 December 2014, № 10);
- Educational program on the Field of Education 40.03.01. «Jurisprudence», Bachelor level;
- Curriculum of the HSE on the Field of Education 40.03.01 «Jurisprudence», Bachelor level.

2. Learning Objectives and Outcomes

Abstract

This course aims to illuminate the processes of regional integration and functioning of the legal orders of the European Union (EU) and the Eurasian Economic Union (EAEU). The EU is an established entity with a formed legal order and arguably is the most successful example of supranational integration. The EAEU is a rather recent development, a newly emerged legal order, which takes after the EU in many respects (albeit far from all), which has been constantly reiterated on various levels, including the highest political ones. Taking a comparative perspective will lead to a better understanding of the law of these two organizations and the legal framework of integration processes as such. The course takes into account current affairs and aims to illustrate the strongly dynamic nature of regional integration comparing the two organizations, whose aims, policies, institutional structures, and legal orders have been in a continuous and vibrant process of development and expansion.

Learning Objectives

The objective of the course is twofold: first, to make participants familiar with the institutions, competences, legal orders, judicial practices and some substantive areas of the EU and the EAEU; second, to gain a comprehensive understanding of the integration processes and law through comparison of the two organizations.

Learning Outcomes

Students must gain knowledge on:

- main features of EU law and EAEU law, particularities of its subjects, sources, object of regulation;
- main directions of development of EU law and EAEU law;
- role of EU law and EAEU law in regulation of social and economic relations within the respective legal orders;
- sources of EU law and EAEU law;
- external relations of the EU and the EAEU with third countries and organizations;
- judicial review in the EU and EAEU;
- principles of the internal market of the EU and EAEU;
- implementation of the four freedoms in the EU and EAEU.

Skills and abilities:

- familiarization with and appropriate usage of EU- and EAEU-specific terminology and integration law terminology overall;
- practical abilities of research and analysis of case-law and academic publications;
- skills to analyse and solve cases, building up of a legal position in the sphere of EU and EAEU law.

Students should gain the following competences:

- ability to work with the founding treaties and other legal sources of the EU and EAEU;
- ability to carry out professional activities in the international environment;
- ability to search, analyse, and work with legally relevant information by using the juridical, comparative and other specific methods;
- ability to describe legal problems and situations in the fields of EU and EAEU law.

3. Competences gained as a result of the course

Code of the competence	Content of the competence
UK-2	Able to identify core academic problems in professional field
UK-5	Able to work with information: to find, to assess, to use information from different sources which is relevant for resolving academic and professional tasks, including systemic approach
PK-2	Able to search, analyse and use relevant legal information applying formal-juridical, legal comparative and other

	methods
PK-4	Able to write legal opinions, statements, actions, complaints, claims, contracts and other acts of application of law in conformity with rules of legal technique, normative legal acts, local acts and customs
PK-10	Able to present the results of professional activity orally in course of public presentations and discussions
PK-12	Able to carry out different types of professional legal activity and to direct them on the basis of legal and professional ethical rules
PK-13	Able to carry out analytical research in the field of law
PK-20	Able to adapt flexibly to the different professional situations, to demonstrate creative approach, initiative and persistency in reaching aims of professional activity

4. Place of the discipline in the structure of Bachelor program

This discipline is elective and belongs to the optional part of the professional courses. The discipline is based on the following courses, studied by students: primarily “Public International Law” with some aspects of “Private International law” and “Constitutional Law”. Knowledge and skills gained by students during the course can be used in the process of preparation to the final interdisciplinary exam.

5. Content of the discipline

№	Topic	Hours in total	Contact Hours		Self-study
			Lectures	Seminars	
1.	Historical narrative of the EU and EAEU integration projects and respective legal systems		2	2	
2.	Supranational and intergovernmental functioning of the EU and the EAEU		2	2	
3.	Sources of EU and EAEU law		4	2	
4.	Competences of the EU and the EAEU		2	2	

5.	Judicial review in the EU and the EAEU		4	2	
6.	The EU and the EAEU as global actors: external relations law		4	4	
7.	The four freedoms of integration		2	2	
	Total:		20	16	

6. Forms of control

Type of control	Forms of control	Modules				Content
		1	2	3	4	
Current control	Participation in class			*		Attendance to class and pro-active participation. Correct answer to the exercises given at home and performance of situations simulated
	Home task: essay			*		Write a 2.500 words essay on a topic assigned in class
Final control	Oral examination			*		Answer to two questions

Current control is carried out on the basis of a ranking system.

6.1. Criteria for evaluation of knowledge and skills

Oral Examination (Maximum: 10 out of 10 – Weight: 40% of total mark in the Course)

Overall assessment criteria

As per learning outcomes.

Specific marking and grading criteria

1. Critical analysis and evaluation;
2. Original thinking;
3. Quality of research;
4. Wealth of resources;
5. Quality presentation of your work;
6. Clarity of ideas;
7. Coherence and logic;
8. System and method;
9. Proper division of submitted answer's entries;
10. Proper application of the law and references to legal and academic authority.

In addition students in an oral examination situation are also expected to deliver answers which are followed by the following qualities:

11. Audibility and clarity, pitch, proper articulation, pace and tone / appropriate emphasis;
12. Fluency, appropriate forms of language including addressing the examiner(s), clarity of expression;
13. Appropriate body language (posture, eye contact, appropriate gestures only, appropriate use of notes);
14. Appropriate content (proper coverage of legal issues, relevance of law in their responses, emphasis, anticipating or responding to other side; at least certain justification of the argument which has been supported);
15. Appropriate structure (introduction, development of argument, appropriate use of comparative and legal methodology if necessary, conclusion);
16. Appropriate authority (analysis based on a wealth of ideas, use of appropriate and relevant authority, correct use of authority).

7. Content of the course

Topic 1.

Historical narrative of the EU and EAEU integration projects and respective legal systems.

1. The notion of integration and its types. The scope and spheres of integration processes. Positive and negative integration. The notion of multispeed integration. Concepts of regionalism and regionalization.

2. The concept of integration law and its categories.
3. Defining and delimiting European and Eurasian integration. The notions of Europe and Eurasia in social sciences.
4. Development of European integration from the end of the World War to the establishment of the European Union: the narrative, institutional changes, substantive changes, the three-pillar structure and its elimination, enlargements.
5. Development of Eurasian integration from the fall of the Soviet Union to the establishment of the Eurasian Economic Union: the narrative, stages, institutions and substantive changes.
6. The legal nature and the issue of legal personality of the integration entities within respective integration projects prior to the establishment of the Unions: European Communities, Eurasian Economic Community, Customs Union, Single Economic Space.
7. The legal nature of the EU and EAEU. Defining an international organization. Constitutionalization of international organizations. The issue of international legal personality.

Readings:

Borchardt K.-D., *The ABC of European Union Law*. – Luxembourg: Publications Office of the European Union, 2010, pp. 9-18, 29-32.

Craig P., de Búrca G. *EU Law: Text, Cases, and Materials*. 6th ed. – Oxford: OUP, 2015, pp. 1-29 *or*

Chalmers D., Davies G., Monti G. *European Union Law: Cases and Materials*. 3rd ed. – Cambridge: CUP, 2014, pp. 1-56

Кашкин С.Ю., Четвериков А.О. *Право Евразийского экономического союза*. – М.: Проспект, 2016, с. 21-26.

Кашкин С.Ю., Четвериков А.О. *Основы интеграционного права*. – М.: Проспект, 2016.

Additional Suggested Readings:

Craig P., de Búrca G. *The Evolution of EU Law*. – OUP, 2011, pp. 41-84.

Van der Loo G. and Van Elsuwege P. *Competing Paths of Regional Economic Integration in the Post-Soviet Space*, 37(4) *Review of Central and East European Law* (2012).

Libman A. and Vinokurov E. *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*. – Palgrave Macmillan, 2012.

Jan Klabbbers, Anne Peters, and Geir Ulfstein. *The Constitutionalization of International Law*. – OUP, 2009.

Винокуров, Е.Ю. *Евразийская континентальная интеграция* / Е.Ю. Винокуров, А.М. Либман. Санкт-Петербург: Евразийский банк развития, 2012.

Topic 2.

Supranational and intergovernmental functioning of the EU and the EAEU.

1. The concept of supranationality. ‘Traditional’ and ‘supranational’ international organizations and their fundamental characteristics.
2. The institutional frameworks of the Unions. The separation of powers beyond the state.
3. The broad correspondence between the EU and EAEU institutions. The European Commission and the Eurasian Economic Commission as fundamentally different entities. The issue of representation.
4. The decision-making process in the EU: legislative initiative and practice, the ordinary legislative procedure and the special legislative procedure, delegated acts, implementing acts. Enhanced cooperation.
5. The decision-making process in the EAEU: regulatory initiative and the ‘Belarusian elevator’ principle.
6. The structure of the judiciary: the Court of Justice of the EU and the EAEU Court. The issue of independence and the issue of dissenting opinions.

Readings:

Schermers H. and Blokker N. *International Institutional Law: Unity within Diversity* (Leiden: Martinus Nijhoff Publishers, 2003), pp. 46-47.

Borchardt K.-D., *The ABC of European Union Law*. – Luxembourg: Publications Office of the European Union, 2010, pp. 42-78, 98-102.

Craig P., de Búrca G. *EU Law: Text, Cases, and Materials*. 6th ed. – Oxford: OUP, 2015, pp. 30-72, 124-161 *or*

Chalmers D., Davies G., Monti G. *European Union Law: Cases and Materials*. 3rd ed. – Cambridge: CUP, 2014, pp. 57-155.

Кашкин С.Ю., Четвериков А.О. *Право Евразийского экономического союза*. – М.: Проспект, 2016, с. 33-47.

Additional Suggested Readings

Paul Craig, Gráinne de Búrca. *The Evolution of EU Law*. – OUP, 2011, pp. 155-186.

Rilka Dragneva and Kataryna Wolczuk, “EU Emulation in the Design of Eurasian Integration”, in D. Lane and V. Samokhvalov (eds.), *The Eurasian Project and Europe: Regional Discontinuities and Geopolitics* (Palgrave Macmillan, Houndmills, Basingstoke, Hampshire, 2015), 135-152.

Бекяшев К.А., Моисеев Е.Г. *Право Евразийского экономического союза*. – М.: Проспект, 2016.

Байльдинов Е. *Договор о Евразийском экономическом союзе: шаг вперёд, два шага назад*, 77(10) *Евразийский юридический журнал* (2014), 25-33.

Глазьев, С.Ю. *Европейский Союз и Евразийское экономическое сообщество: сходство и различие процессов интеграционного*

Topic 4.

Competences of the EU and the EAEU.

1. The nature of powers of international organizations. The principle of attributed (conferred) powers.
2. The principles of proportionality and subsidiarity in exercising powers.
3. The powers of the EU and their typology. Exclusive, shared and supporting competences. The concept of pre-emption. The competence within the economic, employment and social policy. The harmonization clause.
4. The powers of the EAEU beyond strict typology.
5. Express and implied powers of international organizations. Genesis of the implied powers doctrine: national legal order (the U.S.) and international legal order (the UN).
6. The implied powers of the EU and the ‘flexibility’ clause. The possibility for implied powers in the EAEU.

Readings:

Borchardt K.-D., *The ABC of European Union Law*. – Luxembourg: Publications Office of the European Union, 2010, pp. 38-41.

Craig P., de Búrca G. *EU Law: Text, Cases, and Materials*. 6th ed. – Oxford: OUP, 2015, 73-104 *or*

Chalmers D., Davies G., Monti G. *European Union Law: Cases and Materials*. 3rd ed. – Cambridge: CUP, 2014, pp. 199-246.

Бекяшев К.А., Моисеев Е.Г. *Право Евразийского экономического союза*. – М.: Проспект, 2016.

Additional Suggested Readings:

Azoulai L. *The Question of Competence in the European Union*. – OUP, 2014.

Engstrom V. *Constructing the Powers of International Institutions*. – Martinus Nijhoff, 2012.

Craig P., de Búrca G. *The Evolution of EU Law*. – OUP, 2011, pp. 85-110.

Suggested case-law:

McCulloch v. Maryland, 17 U.S. 316 (1819).

Case 8/55 *Fédération charbonnière de Belgique* [1954–1956] ECR 292 (implied powers; official fixing of prices).

Case 22/70 *AETR* [1971] ECR 263 (legal personality and treaty-making powers of the EU).

Case 6/76 *Kramer* [1976] ECR 1279 (external relations; international commitments; authority of the EU).

Opinion 1/91 [1993] ECR I-6079 (EEA Agreement I; distribution of powers).

Opinion 2/91 [1993] ECR I-1061 (distribution of powers between the EU and the Member States).

Opinion 1/94 [1994] ECR I-5267 (WTO Agreement; distribution of powers).

Opinion 2/94 [1996] ECR I-1759 (accession by the EC to the ECHR; absence of powers).

Topic 3.

The EU and EAEU legal orders.

1. The concept of autonomy and the autonomous legal order of international organizations. Autonomy relative to member states' legal orders. Autonomy relative to international legal order(s).
2. Sources of EU law and their hierarchy. Primary sources of EU law: the founding treaties, the reform treaties and the consolidated treaties. Secondary sources of EU law: regulations, directives, decisions.
3. Sources of EAEU law and their hierarchy. The founding treaty, international agreements within the EAEU framework, international agreements of the EAEU with third parties, decisions and orders of the EAEU institutions. Sources of international law as sources of EAEU law.
4. The nature and effect of EU law. Direct effect of treaty provisions, regulations, decisions and directives.
5. The nature and effect of EAEU law. Direct applicability of decisions. The issue of direct effect.
6. National legal orders vis-à-vis Unions' legal orders. Priority of EU law from the EU perspective and from the perspective of member states. The issue of priority of EAEU law.

Readings:

Borchardt K.-D., *The ABC of European Union Law*. – Luxembourg: Publications Office of the European Union, 2010, pp. 79-88, 113-124.

Craig P., de Búrca G. *EU Law: Text, Cases, and Materials*. 6th ed. – Oxford: OUP, 2015, pp. 105-123, 184-224, 266-315 *or*

Chalmers D., Davies G., Monti G. *European Union Law: Cases and Materials*. 3rd ed. – Cambridge: CUP, 2014, pp. 199-246, 291-336.

Кашкин С.Ю., Четвериков А.О. *Право Евразийского экономического союза*. – М.: Проспект, 2016, с. 48-69.

Additional Suggested Readings:

René Barents, *The Autonomy of Community Law* (Kluwer Law International, The Hague, 2004).

Martinez M. *National Sovereignty and International Organizations*. – Kluwer Law International, 1996.

Paul Craig, Gráinne de Búrca. *The Evolution of EU Law*. – OUP, 2011, pp. 323-362.

Weiler J.H.H. *The Transformation of Europe*, 100(8) *Yale L.J.* 2403 (1991).

Исполинов А.С. *Статус международных договоров в национальном праве*, 1(94) *Российский юридический журнал* 191 (2014).

Марочкин С.Ю. *Действие и реализация норм международного права в правовой системе Российской Федерации*. – М.: Норма, Инфра-М, 2011.

Исполинов, А.С. *Требуются прагматики: Конституционный Суд России и евразийский правопорядок / А.С. Исполинов // Сравнительное конституционное обозрение*. — 2014. — № 5. — С. 14–20.

Suggested case-law:

Case 26/62 *Van Gend & Loos* [1963] ECR 1 (nature of Union law; rights and obligations of individuals).

Case 6/64 *Costa v ENEL* [1964] ECR 1251 (nature of Union law; direct applicability, primacy of Union law).

Case 14/83 *Von Colson and Kamann* [1984] ECR 1891 (interpretation of national law in line with Union law).

Case C-213/89 *Factortame* [1990] ECR I-2433 (direct applicability and primacy of Union law).

Joined Cases C-6/90 and C-9/90 *Francovich and others* [1991] ECR I-5357 (effect of Union law; liability of Member States for failure to discharge Union obligations: non-transposal of a directive).

Joined Cases C-46/93 and C-48/93 *Brasserie du pêcheur and Factortame* [1996] ECR I-1029 (effect of Union law; general liability of Member States for failure to discharge Union obligations).

Joined Cases C-10/97 to C-22/97 *IN.CO.GE '90* [1998] ECR I-6307 (primacy of Union law).

Case C-416/00 *Morellato* [2003] ECR I-9343 (primacy of Union law).

Joined Cases C-397/01 to C-403/01 *Pfeiffer and others* [2004] ECR I-8835 (interpretation of national law in line with Union law).

Case 2/74 *Reyners* [1974] ECR 631 (direct applicability; freedom of establishment).

Case 33/74 *van Binsbergen* [1974] ECR 1299 (direct applicability; provision of services).

Case 41/74 *Van Duyn* [1974] ECR 1337 (direct applicability; freedom of movement).

Case 11/77 *Patrick* [1977] ECR 1199 (direct applicability; right of establishment).

Case 70/83 *Kloppenburg* [1984] ECR 1075 (directives; direct applicability).

Case 152/84 *Marshall* [1986] ECR 723 (directives; direct applicability).

Case 103/88 *Costanzo* [1989] ECR 1861 (directives; direct applicability; conditions; consequences).

Case 322/88 *Grimaldi* [1989] ECR 4407 (recommendations; direct applicability or its absence; observance by national courts).

Case C-188/89 *Forster* [1990] ECR I-3343 (directives; horizontal direct effect).

Case C-292/89 *Antonissen* [1991] ECR I-773 (statements in Council minutes; status for interpretation purposes).

Case C-91/92 *Faccini Dori* [1994] ECR I-3325 (directives; horizontal direct effect).

Case C-431/92 *Commission v Germany* (Grosskotzenburg) [1995] ECR I-2189 (directive; effect of objective law).

Case C-465/93 *Atlanta Fruchthandelsgesellschaft* [1995] ECR I-3761 (examination of validity of a regulation; preliminary ruling; ordering of interim measures; conditions).

Case C-469/93 *Chiquita Italia* [1995] ECR I-4533 (direct effect of provisions of the GATT and the Lomé Convention).

Case C-368/96 *Generics* [1998] ECR I-7967 (statements in minutes; status for interpretation purposes).

Case C-144/01 *Mangold* [2005] ECR I-9981 (directive; horizontal direct effect).

Topic 5.

Judicial review in the EU and the EAEU.

1. The essence of powers of the EU and the EAEU judiciaries.
2. Infringements, actions for annulment and failures to act.
3. Enforcement actions against member states.
4. Preliminary rulings as the major feature of preserving uniform interpretation of EU law and effective functioning of the legal order. Courts or tribunals which can or must refer. Relationships between national courts.
5. Preliminary ruling procedure in the Eurasian Economic Community. Mechanisms ensuring identical contents of law in all member states available in the EAEU. The relations between the EAEU Court and national courts.
6. The reduction in powers and the limitations of the EAEU Court as compared to the Court of Justice of the EU.

Readings:

Borchardt K.-D., *The ABC of European Union Law*. – Luxembourg: Publications Office of the European Union, 2010, pp. 103-112.

Craig P., de Búrca G. *EU Law: Text, Cases, and Materials*. 6th ed. – Oxford: OUP, 2015, pp. 429-508 *or*

Chalmers D., Davies G., Monti G. *European Union Law: Cases and Materials*. 3rd ed. – Cambridge: CUP, 2014, pp. 156-198, 337-378.

Zhenis Kembayev, “The Court of the Eurasian Economic Union: An Adequate Body for Facilitating Eurasian Integration?” 41 *Review of Central and East European Law* (2016), 342-367.

Евразийская интеграция: роль Суда, под ред. Нешатаевой Т.Н. – М.: Статут, 2015.

Additional Suggested Readings:

Ispolinov A. *First Judgments of the Court of the Eurasian Economic Community: Reviewing Private Rights in a New Regional Agreement*, 40(3) *Legal Issues of Economic Integration* 225 (2013).

Karliuk M. *The Limits of the Judiciary within the Eurasian Integration Process in The Eurasian Economic Union and the European Union: Moving toward a Greater Understanding* (A. Di Gregorio and A. Angeli, eds., The Hague: Eleven International Publishing, 2017).

Craig P., de Búrca G. *EU Law: Text, Cases, and Materials*. 6th ed. – Oxford: OUP, 2015, pp. 509-606.

Judging Europe's Judges: The Legitimacy of the Case Law of the European Court of Justice / M. Adams, H. de Waele, J. Meeusen, G. Straetmans (eds.). – Hart Publishing, 2013.

Craig P., de Búrca G.. *The Evolution of EU Law*. – OUP, 2011, pp. 121-154, 363-406, 407-438.

Исполинов А.С. *Навязанный монолог: первое преюдициальное заключение Суда ЕврАзЭС*, 8(63) *Евразийский юридический журнал* 21-30 (2013).

Исполинов А.С. *Решение Большой Коллегии Суда ЕврАзЭС по делу Южного Кузбасса: насколько обоснован судейский активизм?* 5(60) *Евразийский юридический журнал* 22 (2013).

Исполинов, А.С. *Евразийское правосудие: от Суда Сообщества к Суду Союза* / А.С. Исполинов // *Государство и право*. — 2015. — № 1. — С. 80–88.

Исполинов, А.С. *Первые решения Суда ЕврАзЭС: теоретические и практические вопросы юрисдикции* / А.С. Исполинов // *Российское правосудие*. — 2013. — № 6. — С. 89–101.

Нешатаева, Т.Н. *Евразийский суд: назад в будущее* / Т.Н. Нешатаева // *Закон*. – 2012. - № 9. – С. 152-161.

Нешатаева, Т.Н. *К вопросу о создании Евразийского союза: интеграция и наднационализм* / Т.Н. Нешатаева // *Международное правосудие*. 2014. – № 2. – С. 57-70.

Нешатаева, Т.Н. *Роль Суда в евразийской интеграции: текущий момент* / Т.Н. Нешатаева // *Российское правосудие*. – 2015. – № 4 (108). – С. 5-19.

Topic 6.

The EU and the EAEU as global actors: external relations law.

1. The framework and general principles of the EU external action. The post-Lisbon institutions of the EU international action. The limited nature of the EAEU international action.
2. External relations competences of the Unions.
3. Fields of law of the EU external action. The Common Commercial Policy (CCP). Development policy, technical cooperation, and humanitarian aid. External dimensions of other internal policies. Regulation of external trade in the framework of the WTO.
4. The scope and limits of the Common Foreign and Security Policy (CFSP). Legal acts within CFSP. The issue of sanctions and dual-use goods.
5. EU's regional initiatives: European Neighbourhood Policy and Common Spaces with Russia.
6. International agreements of the EU and their typology. The complexity of mixed agreements. International agreements of the EAEU.
7. The procedures for concluding international agreements by the EU and the EAEU. Competence issues prior to and after the negotiations and the conclusion of agreements.
8. The legal basis, criteria and procedures for accession to and withdrawal from the EU and the EAEU. The case study of Brexit.
9. International legal order vis-à-vis the legal orders of the Unions. The legal effect of international agreements in the legal orders of the EU and EAEU. The effect of other rules of international law and of international agreements to which member states are party.
10. The role of the EU and EAEU courts in the external relations. The issue of pre-emptive jurisdiction.

Readings:

Craig P., de Búrca G. *EU Law: Text, Cases, and Materials*. 6th ed. – Oxford: OUP, 2015, pp. 316-379.

Кашкин С.Ю., Четвериков А.О. *Право Евразийского экономического союза*. – М.: Проспект, 2016, с. 163-184.

Additional Suggested Readings:

Eeckhout P. *The External Relations of the European Union: Legal and Constitutional Foundations*. – Oxford: OUP, 2011.

Van Elsuwege P. *EU External Action after the Collapse of the Pillar Structure: In Search of a new Balance Between Delimitation and Consistency* / 47 *C.M.L.Rev.*, 2010.

Kaddous C. *External Action under the Lisbon Treaty* / Pernice I., Tanchev E. (eds.): *Ceci n'est pas une Constitution – Constitutionalisation without a Constitution?* – Normos, 2009.

Craig P., de Búrca G. *The Evolution of EU Law*. – OUP, 2011, pp. 217-268.

Hillion Ch., Koutrakos P. (eds.) *Mixed Agreements Revisited: The EU and its Member States in the World*. – Oxford and Portland, Oregon: Hart Publishing, 2010.

Avbeji M., Fontanelli F., Martinico G. *Kadi on Trial: A Multifaceted Analysis of the Kadi Trial.* – Routledge, 2014.

Koutrakos P. *European Foreign Policy: Legal and Political Perspectives.* – Cheltenham and Northampton, Massachusetts: Edward Elgar Publishing Limited, 2011.

Suggested case-law:

Opinion 2/13 *ECHR Accession* (18 December 2014) EU:C:2014:2454.

Case T-315/01 *Kadi v Council and Commission* (21 September 2005) ECLI:EU:T:2005:332.

Case T-306/01 *Yusuf and Al Barakaat International Foundation v Council and Commission* (21 September 2005) ECLI:EU:T:2005:331.

Cases C-402 and 415/05 P *Kadi & Al Barakaat International Foundation v Council and Commission* (3 September 2008) ECLI:EU:C:2008:461.

Case T-85/09 *Kadi v Commission and Council* (30 September 2010) ECLI:EU:T:2010:418

Joined Cases C-584, C-593, & C-595/10 P *Kadi v Commission and Council* (18 July 2013) ECLI:EU:C:2013:518.

Joined Cases 21 to 24/72 *International Fruit Co* [1972] ECR 1219

Joined Cases 3, 4 and 6/76 *Kramer* [1976] 1279

Opinion 1/00, *Common Aviation Area* [2002] ECR I-3493

Opinion 1/03, *Lugano Convention* [2006] ECR I-1145

Opinion 1/09 *Patents Court* [2011] ECR 0

Opinion 1/75, *Understanding on a Local Cost Standard* [1975] ECR 1355

Opinion 1/76, *European Laying-up Fund for Inland Waterway Vessels* [1977]

Opinion 1/78, *International Agreement on Natural Rubber* [1979] ECR 2871

Opinion 1/91, *European Economic Area I* [1991] ECR I-6079

Opinion 1/92, *European Economic Area II* [1992] ECR I-2821

Opinion 1/94, *WTO: GATS and TRIPS* [1994] ECR I-5267

Opinion 2/00, *Cartagena Protocol on Biosafety* [2001] ECR I-9713

Opinion 2/91, *Convention N 170 ILO* [1993] ECR I-1061

Topic 7.

The four freedoms of integration.

1. Economic integration: forms and techniques.
2. The internal market and its purpose in the EU and the EAEU. Varying techniques of regulation in the two Unions.
3. Customs Union and the regulatory framework of the free movement of goods. Measures equivalent to a quantitative restriction, product standards and selling arrangements. Duties and charges, discriminatory tax provisions, barriers to trade.

4. Single economic space and the regulatory framework of free movement of services, capital and workers. The four modes of services and the scope of their implementation. Taking up and pursuit of an occupation in another member state. The Economic and Monetary Union in the EU and prospects for the EAEU.
5. The regulatory framework of the coordinated economic policy.

Readings:

Craig P., de Búrca G. EU Law: Text, Cases, and Materials. 6th ed. – Oxford: OUP, 2015, pp. 607-609.

Chalmers D., Davies G., Monti G. European Union Law: Cases and Materials. 3rd ed. – Cambridge: CUP, 2014, pp. 667-702.

Кашкин С.Ю., Четвериков А.О. Право Евразийского экономического союза. – М.: Проспект, 2016, с. 70-90.

Additional Suggested Readings:

Craig P., de Búrca G. EU Law: Text, Cases, and Materials. 6th ed. – Oxford: OUP, 2015, pp. 638-851.

Chalmers D., Davies G., Monti G. European Union Law: Cases and Materials. 3rd ed. – Cambridge: CUP, 2014, pp. 754-941.

Paul Craig, Gráinne de Búrca. The Evolution of EU Law. – OUP, 2011, pp. 499-573, 611-640.

8. Methods of Instruction

- use of interactive educational technologies (problematic lectures, Socratic method, work in small groups);
- use of ratings and accumulative system of control.

10. Evaluation tools and samples

Essay topics and sample questions will be provided during the class.

11. Final mark for the discipline

Mark final = 0,3 x Mark_{essay} + 0,4 x Mark_{attendance/participation} + 0,4 x Mark_{exam}

Re-examination is carried out in the form of an oral exam (research paper of 6.000 words on an assigned topic).

12. Reading list

Books

Avbeji M., Fontanelli F., Martinico G. *Kadi on Trial: A Multifaceted Analysis of the Kadi Trial.* – Routledge, 2014.

Azoulai L. *The Question of Competence in the European Union.* – OUP, 2014.

Balassa B. *The Theory of Economic Integration*, Richard D. Irwin, 1961.

Borchardt K.-D., *The ABC of European Union Law.* – Luxembourg: Publications Office of the European Union, 2010.

Chalmers D., Davies G., Monti G. *European Union Law: Cases and Materials.* 3rd ed. – Cambridge: CUP, 2014.

Craig P., de Búrca G. *EU Law: Text, Cases, and Materials.* 6th ed. – Oxford: OUP, 2015.

Eeckhout P. *The External Relations of the European Union: Legal and Constitutional Foundations.* – Oxford: OUP, 2011.

Engstrom V. *Constructing the Powers of International Institutions.* – Martinus Nijhoff, 2012.

Hillion Ch., Koutrakos P. (eds.) *Mixed Agreements Revisited: The EU and its Member States in the World.* – Oxford and Portland, Oregon: Hart Publishing, 2010.

Jan Klabbers, Anne Peters, and Geir Ulfstein. *The Constitutionalization of International Law.* – OUP, 2009.

Judging Europe's Judges: The Legitimacy of the Case Law of the European Court of Justice / M. Adams, H. de Waele, J. Meeusen, G. Straetmans (eds.). – Hart Publishing, 2013.

Kaddous C. *External Action under the Lisbon Treaty* / Pernice I., Tanchev E. (eds.): *Ceci n'est pas une Constitution – Constitutionalisation without a Constitution?* – Normos, 2009.

Kembayev, Z. *Legal Aspects of the Regional Integration Processes in the Post-Soviet Area* / Z. Kembayev. – Berlin; Heidelberg: Springer, 2009. – 217 p.

Koutrakos P. *European Foreign Policy: Legal and Political Perspectives.* – Cheltenham and Northampton, Massachusetts: Edward Elgar Publishing Limited, 2011.

Libman A. and Vinokurov E. *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration.* – Palgrave Macmillan, 2012.

Martinez M. *National Sovereignty and International Organizations.* – Kluwer Law International, 1996.

Paul Craig, Gráinne de Búrca. *The Evolution of EU Law.* – OUP, 2011.

René Barents, *The Autonomy of Community Law* (Kluwer Law International, The Hague, 2004).

Rilka Dragneva and Kataryna Wolczuk, “EU Emulation in the Design of Eurasian Integration”, in D. Lane and V. Samokhvalov (eds.), *The Eurasian Project and Europe: Regional Discontinuities and Geopolitics* (Palgrave Macmillan, Houndmills, Basingstoke, Hampshire, 2015).

Schermers H. and Blokker N. *International Institutional Law: Unity within Diversity* (Leiden: Martinus Nijhoff Publishers, 2003).

Бекяшев К.А., Моисеев Е.Г. Право Евразийского экономического союза. – М.: Проспект, 2016.

Винокуров, Е.Ю. Евразийская континентальная интеграция / Е.Ю. Винокуров, А.М. Либман. Санкт-Петербург: Евразийский банк развития, 2012. – 224 с.

Глазьев, С.Ю. Европейский Союз и Евразийское экономическое сообщество: сходство и различие процессов интеграционного строительства / С.Ю. Глазьев, В.И. Чушкин, С.П. Ткачук. – Москва: ООО «Виктор медиа», 2013. – 239 с. С. 143.

Каширкина, А.А. Международно-правовые модели Европейского союза и Таможенного союза: сравнительный анализ: монография / А.А. Каширкина, А.Н. Морозов; отв. ред. А.Я. Капустин; Москва: Институт законодательства и сравнительного правоведения при Правительстве РФ; Юридическая фирма «Контракт», 2012 – 368 с.

Кашкин С.Ю., Четвериков А.О. Право Евразийского экономического союза. – М.: Проспект, 2016.

Кашкин, С.Ю. Интеграционное право в современном мире / С.К. Кашкин, А.О. Четвериков и др. – Москва: Проспект, 2015. – 416 с.

Кашкин С.Ю., Четвериков А.О. Основы интеграционного права. – М.: Проспект, 2016.

Основы правового регулирования интеграционных процессов на постсоветском пространстве / под ред. С.Ю. Кашкина. – М.: Норма, 2013.

Articles

Ispolinov A. *First Judgments of the Court of the Eurasian Economic Community: Reviewing Private Rights in a New Regional Agreement*, 40(3) *Legal Issues of Economic Integration* 225 (2013).

Karliuk M. *The Limits of the Judiciary within the Eurasian Integration Process in The Eurasian Economic Union and the European Union: Moving toward a Greater Understanding* (A. Di Gregorio and A. Angeli, eds., The Hague: Eleven International Publishing, 2017).

Van der Loo G. and Van Elsuwege P. *Competing Paths of Regional Economic Integration in the Post-Soviet Space*, 37(4) *Review of Central and East European Law* (2012).

Van Elsuwege P. *EU External Action after the Collapse of the Pillar Structure: In Search of a new Balance Between Delimitation and Consistency* / 47 *C.M.L.Rev.*, 2010.

Weiler J.H.H. *The Transformation of Europe*, 100(8) *Yale L.J.* 2403 (1991).

Zhenis Kembayev, “The Court of the Eurasian Economic Union: An Adequate Body for Facilitating Eurasian Integration?” 41 *Review of Central and East European Law* (2016), 342-367.

Байльдинов Е. *Договор о Евразийском экономическом союзе: шаг вперед, два шага назад*, 77(10) *Евразийский юридический журнал* (2014), 25-33.

Исполинов А.С. *Статус международных договоров в национальном праве*, 1(94) Российский юридический журнал 191 (2014).

Исполинов, А.С. *Требуются прагматики: Конституционный Суд России и евразийский правопорядок* / А.С. Исполинов // Сравнительное конституционное обозрение. — 2014. — № 5. — С. 14–20.

Исполинов А.С. *Навязанный монолог: первое преюдициальное заключение Суда ЕврАзЭС*, 8(63) Евразийский юридический журнал 21-30 (2013).

Исполинов А.С. *Решение Большой Коллегии Суда ЕврАзЭС по делу Южного Кузбасса: насколько обоснован судейский активизм?* 5(60) Евразийский юридический журнал 22 (2013).

Исполинов, А.С. *Евразийское правосудие: от Суда Сообщества к Суду Союза* / А.С. Исполинов // Государство и право. — 2015. — № 1. — С. 80–88.

Исполинов, А.С. *Первые решения Суда ЕврАзЭС: теоретические и практические вопросы юрисдикции* / А.С. Исполинов // Российское правосудие. — 2013. — № 6. — С. 89–101.

Марочкин С.Ю. *Действие и реализация норм международного права в правовой системе Российской Федерации*. – М.: Норма, Инфра-М, 2011.

Нешатаева, Т.Н. *Евразийский суд: назад в будущее* / Т.Н. Нешатаева // Закон. – 2012. - № 9. – С. 152-161.

Нешатаева, Т.Н. *К вопросу о создании Евразийского союза: интеграция и наднационализм* / Т.Н. Нешатаева // Международное правосудие. 2014. – № 2. – С. 57-70.

Нешатаева, Т.Н. *Роль Суда в евразийской интеграции: текущий момент* / Т.Н. Нешатаева // Российское правосудие. – 2015. – № 4 (108). – С. 5-19.

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