

| 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. 28   | 28L + 28S |
| 1.4. Study programme (undergraduate, graduate, integrated)                           | Graduate  | 1.9. Expected enrolment in the course   | 20        |
| 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 understanding of the current constitutional structure of the European Union and constitutional relationships at the horizontal level, between the EU institutions, and vertical level, between the EU and the Member States. To understand the role of different actors in shaping of the EU constitution, especially to understand the relationship between the European Court of Justice and other actors – EU institutions, Member States and their courts. To develop ability to find different sources of EU law and discuss their effects in social relations.   |   |           |
| 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> <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> |   |           |

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|   | <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"> <li>(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;</li> <li>(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;</li> <li>(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;</li> <li>(4) To understand the concept of conferred powers and why is the European union an organization of conferred powers.</li> <li>(5) To understand concepts of subsidiarity and proportionality and to be able to recognize their main elements in legislative and judicial practice;</li> <li>(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;</li> <li>(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;</li> <li>(8) To understand the relationship and tensions between the EU and national constitutions of EU member states</li> <li>(9) To familiarize with basic obligations of national courts when they apply EU law and their obligations in case of conflict</li> </ol> |

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|  | <p>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 and EU citizenship</p>   |
| <p>2.5. Course content broken down in detail by weekly class schedule (syllabus)</p> | <p>The Course is organized in 12 units. Each unit comprises a methodological and research component, and is implemented partly through lectures and partly through students' presentations and discussions.</p> <p>Unit 1 – The constitutional evolution of the EU and basic concepts: constitutionalisation and federalism in the EU</p> <p>Learning objectives: to understand current structure of the European Union 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. To get familiar with the concepts of constitutionalisation and federalisation. To understand the concept of conferred powers and discuss EU internal and external competences.</p> <p>Unit 2 – European Union – the main political actors</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 (the European 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 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). To understand the involvement of the CJEU in the constitutionalisation of the European Union. To discuss the legitimacy of the law-creative role of the courts generally and the CJEU specifically.</p> <p>Unit 4 – The transformation of the EU legal order - "new legal order"</p> <p>Learning objectives: To discuss early, foundational judgments initiating the process of constitutionalisation of the EU legal order. To acquire understanding of concepts of "direct effect" and "supremacy" of EU law. To understand the concept of the "new legal order of European Law" as proposed by the CJEU and what makes it different from the legal orders of Member</p> |

States of the EU and the legal order of international law. To get familiarized with the legal reasoning of the ECJ. To understand the role of the ECJ in process of constitutionalisation of EU law and its relationship with other actors.

#### Unit 5 – 'Ordinary' 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 develop understanding the tensions flowing from European and domestic role of national courts when confronted with choice between national and European legal sources.

#### Unit 6 – Constitutional supremacy of EU law: limits imposed by national constitutions

Learning objectives: To understand limits to European integration imposed by national constitutions of its Member States. To get acquainted with differences in understanding of supremacy of EU law that exist between the ECJ and national courts of constitutional jurisdiction. 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 7 – Sources and effects of EU law

Learning objectives: To get acquainted with sources of EU law and to understand the difference between primary and secondary EU law. 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). To discuss the new Treaty systematization of legal sources introduced by the Lisbon Treaty.

#### Unit 8 – Secondary EU law: the case of Directives

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 TFEU distinction between Regulations and Directives and reasons for choice of one of the two categories of sources. To understand judicial development of the case-law on the effect of Directives. To learn to distinguish vertical from horizontal direct effect and to understand the importance of that distinction.

#### Unit 9 – Interpretative duties of national authorities

Learning objectives: To understand obligation of Member States to apply EU law fully, correctly and effectively. To acquire ability to distinguish between direct and indirect effect of EU law. To understand concept of EU law-friendly interpretation and to

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|                                    | <p>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.</p> <p>Unit 10 – From general principles of law to the EU Charter of Fundamental Rights</p> <p>Learning objectives: To understand the reasons for the inclusion of fundamental rights into the EU legal system; to understand the function of fundamental rights in the EU legal order and to discuss current practice. To discuss the usefulness of multiple systems of fundamental rights protection in Europe.</p> <p>Unit 11 – Disobedient state – remedies for violations of EU law</p> <p>Learning objectives: To understand mechanisms through which the EU law may be enforced against the Member States, especially the infringement procedure and state liability for damages. To discuss use of both mechanisms from the point of view of an individual. To discuss the role of the European Commission in infringement procedure. To discuss penalties system against the states. To acquire ability to recognize "sufficiently serious breach" of EU law.</p> <p>Unit 12 – From economic foundations based in the internal market to EU citizenship</p> <p>Learning objectives: To understand the economic and political background of the internal market. To understand judicial choices in the development of the internal market rules, using free movement of goods as an example. To understand the motivation of the ECJ that underlies its reasoning. To discuss restrictive influence of four freedoms on national regulatory choices. To understand how national measures restricting market freedoms can be justified. To discuss the reasons for the introduction of the concept of EU citizenship into the Treaties. To understand the judicial transformation of the concept of citizenship. To discuss the interrelation between law and politics in the background of judicial development of EU market freedoms and EU citizenship.</p> |  |  |
| <p>2.6. Format of instruction:</p> | <p><input checked="" type="checkbox"/> lectures</p> <p><input checked="" type="checkbox"/> seminars and workshops</p> <p><input type="checkbox"/> exercises</p> <p><input type="checkbox"/> on line in entirety</p> <p><input type="checkbox"/> partial e-learning</p> <p><input type="checkbox"/> field work</p>   | <p><input checked="" type="checkbox"/> independent assignments</p> <p><input type="checkbox"/> multimedia and the internet</p> <p><input type="checkbox"/> laboratory</p> <p><input type="checkbox"/> work with mentor</p> <p><input type="checkbox"/> (other)</p> | <p>2.7. Comments:</p> <p>The course is based on socratic method. Students need to prepare for each class in advance. Teaching materials for each class are placed on the web and student assignments require on-line research of</p> |

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|  |   |   |               |  | sources.                            |
| 2.8. Student responsibilities  | Students need to attend classes and prepare by reading assigned materials which will be discussed in class. They will be required to write a short paper based on an individually tailored research project and pass a written, open book exam.   |   |               |  |                                     |
| 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  | 1 | Research      | 1                                      | Practical training                  |
|  | Experimental work   |   | Report        |  | (other)                             |
|  | Essay   |   | Seminar essay | 1                                      | (other)                             |
|  | Tests   |   | Oral exam     |  | (other)                             |
|  | Written exam  | 4 | Project       |  | (other)                             |
| 2.10. Grading and evaluating student work in class and at the final exam   | Class attendance and class activity will be evaluated by the professor. Short papers are presented and discussed in class and evaluated by the professor. Final open-book exam based on a hypothetical situation will 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)   | <b>Title</b>  |   |               | <b>Number of copies in the library</b> | <b>Availability via other media</b> |
|  | Craig & De Búrca: EU Law: Text, Cases, and Materials, Oxford UP, 6th edition, 2015  |   |               | unknown                                | No                                  |
|  | J. H. H. Weiler, the Transformation of Europe, 100 Yale Law Journal, No. 8 (1991)   |   |               | 1                                      | Yes, on-line                        |
| 2.12. Optional literature (at the time of submission of study programme proposal)  | Any other major EU law textbook .<br><br>Articles or book chapters will be included in syllabus within each Unit for each new generation depending on the new developments in law.  |   |               |  |                                     |
| 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.  |   |               |  |                                     |
| 2.14. Other (as the proposer wishes to add)  | Course heavily relies on reading of primary sources, especially judicial decision. Those are not listed in this document but are available on internet and students will be instructed how to access them.  |   |               |  |                                     |