

MODULE DESCRIPTOR

MODULE TITLE	EU LAW IN JUDICIAL REVIEW		
MODULE CODE	LW3024(L6)	CREDIT VALUE	20 UK CREDITS / <u>10 ECTS</u>
SCHOOL	SCHOOL OF LAW		

MODULE AIMS

1. The module provides students with the opportunity to consolidate and extend the skills and knowledge gained from study of the LW2503 EU Law module.
2. To critically analyse the purpose, process and principles of judicial review as a means of testing whether the actions of both EU institutions and national authorities comply with EU law.
3. Critical assessment of the availability of remedies, before both national and EU courts, for breaches of EU law is also assessed.
4. A critical assessment of the extent to which cross-fertilisation of public law principles between the national courts and the EU courts has occurred

MODULE CONTENT

1. The EU Dimension in Domestic Judicial Review: Critical evaluation of the importance of EU law in domestic public law proceedings and the particular characteristics of judicial review challenges based on EU law principles. Analysis of procedural issues related to commencing an EU Law judicial review challenge before the Administrative Court
2. The European Ombudsman: Critical evaluation and comparative analysis of the role of the European Ombudsman and the EU Courts in securing better decision-making at EU level.
3. The Public/Private Divide: The problem of delineating public and private law issues is analysed. Particular emphasis is given to attempts by the Court of Justice to maintain a distinction between public law and private law in the realm of EC Directives. Case C-188/89 Foster v. British Gas [1990] ECR I-3313 and subsequent rulings are examined closely. Comparative analysis of the public/private divide maintained by English courts in English Claims for Judicial Review will be also undertaken. Those jurisdictions that acknowledge the difficulties in practice of distinguishing between public law and private law matters will be discussed
4. EU Law Remedies before National Courts: Critical evaluation of the role played by the EU's Court of Justice in developing an EU wide system of remedies to protect EU rights conferred on the citizen.
5. Damages Liability for Breaches of EU Law: Critical evaluation of the impact in domestic judicial review claims of the damages liability of Member States who breach EU standards (under Case C-6, 9/90 Francovich and Bonifaci v Republic of Italy [1991] ECR I-5357 and subsequent rulings). The damages liability of the EU's own Institutions (under Case 5/71 Schoppenstedt v. Council [1971] ECR 975 and Case C-352/98P Laboratoires Pharmaceutiques Bergaderm v. Commission [2000] ECR I-5291) is also comparatively analysed.

6. Judicial Review before the EU Courts: Examining the problems the individual (affected by unlawful EU activity) may face in challenging the lawfulness of EU action before the General Court and the Court of Justice of the European Union. The following provisions of the Treaty on the Functioning of the European Union will be examined: Article 263 (The Action for Annulment); Article 265 (The Action for Failure To Act); Article 277 (The Plea of Illegality)

7. Challenging the Validity of EU law before the Domestic Courts using the Preliminary Reference Procedure: The potential advantages and disadvantages of raising the issue of unlawful EU activity (using Article 267 TFEU) in the context of national proceedings.

8. The General Principles of EU law: Identifying the principles and critically evaluating their use in actions before the EU courts and the national courts

9. The EU and Fundamental Rights Protection: Critical evaluation of the EU's Court of Justice in developing fundamental rights protection. Analysis of the EU Charter of Fundamental Rights. Critical assessment of the impact of EU fundamental rights protection before the national courts.

INTENDED LEARNING OUTCOMES

1. **Appraise critically the range of contemporary issues regulated by EU public law**
 2. **Show appreciation and awareness of the importance and application of the case law of the Court of Justice of the European Union in the areas covered.**
 3. **Evaluate the effectiveness of current law and identify the policy considerations underlying these issues**
 4. **Interpret relevant legal source materials and apply the legal principles to factual situations**
 5. **Present reasoned and well-structured arguments both in workshops, through participation and effective contribution and in written work**
 6. **Explain the development of EU law in this field and evaluate the strengths and weaknesses of this development**
 7. **Communicate their understanding and analyses both orally and in writing**
 8. **Display an ability to research, analyse and apply legal materials to relevant factual situations**
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TEACHING METHODS

The module will utilise a variety of learning strategies designed to place the student at the centre of the learning process. Student learning will be encouraged by participation and independent research as well as by enhancing problem solving and analytical skills.

One-hour face-to-face lectures highlight the key issues to be covered in the workshops. The primary object of lectures is to impart the information and elicit the understanding, which students can use as a base for their independent study directed to the requirements of the workshops.

Workshops are interactive sessions for groups of around 20 students, which take place fortnightly. The students build upon their understanding, gained from the lectures, by reading specified cases, Treaty provisions, journal articles, and textbooks. The aims and learning

outcomes of each individual workshop set out clearly for students the workshop tasks and activities.

Workshops will take the form of a tutor led Q & A Session followed by group activities in the form of comprehension exercises, moots and mini-presentations. Use of case studies and discussion points, further enhances the student's ability to solve problems, investigate, and communicate solutions, arguments, and ideas clearly and analytically. The workshop activities will develop presentational reasoning, criticising and persuading skills. They will also encourage students to make reasoned judgement based on an informed understanding.

The eLearn facility is utilized to full effect to make available: e-lectures & workbook; further reading materials; quizzes; the online chat facility (which is used for Q&A sessions by module tutors).

Formative, online assessments will assess the student's ability to accurately state the relevant legal principles, their ability to apply these principles to the question under review and their ability to extract information from advanced materials.

ASSESSMENT METHODS

The module is assessed through an online assessment, a presentation or a moot and coursework.

LANGUAGE OF INSTRUCTION

English