

Academic Year: ( 2022 / 2023 )

Review date: 22-09-2022

Department assigned to the subject: International Law, Ecclesiastical Law and Philosophy of Law Department

Coordinating teacher: MOREIRO GONZALEZ, CARLOS JAVIER

Type: Compulsory ECTS Credits : 10.0

Year : 1 Semester : 2

**REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)**

International Public Law  
 Commercial Law (contract law and obligations)  
 Civil Law (contract law and obligations)  
 Administrative Law (administrative proceedings and liability of the State for damage caused to individuals)  
 European Union Law (Institutions and legal system)

**OBJECTIVES**

The approach will combine both conceptual and practical analysis of the European and national antitrust legal systems. A specific analysis must be drawn regarding the following fields:

- 1 Antitrust:
- 2 Restrictive agreements, horizontal and vertical cooperation.
- 3 Cartel agreements
- 4 Abuse of dominant position
- 5 Specific economic sectors
- 6 Merger control
- 7 State Aid

Particular focus will be provided to the inter-relation and coordination between the European, National and Regional Competition Authorities, giving a specific importance to the new Spanish Competition Authority (Comisión Nacional de los Mercados y la Competencia or CNMC).

In addition, not only the details of the administrative proceedings will be lectured, but also the appeal procedure of the Administration's decisions.

Lectures are addressed at gaining knowledge of practicing law in a law firm or company considering the current stage of the administrative practice and case-law. Lectures will be given under a highly practical perspective combined with some lectures focused on the resolution of practical cases. By the end of this course, students are expected to:

- have acquired a sufficient technical level in order to face real problems with clients, by providing advice in questions like cartel agreements, horizontal and vertical agreements, merger control or State aid, to lawyers and business;
- have acquired a sufficient technical level to be able to prepare legal advice for clients, in the context of administrative proceedings and merger control notifications.

**DESCRIPTION OF CONTENTS: PROGRAMME**

EU competition law

1. Basics of Competition Law; 1.1 Personal and substantive application; 1.2 Extraterritoriality of competition law enforcement; 1.3 Fundamental principles; 1.4 Tools for relevant market assessment.
2. Merger control: 2.1 Concept of merger and notification rules; 2.2 Joint Ventures; 2.3 The obligation to suspend, rules governing exemptions and sanctions for the early implementation of an unauthorized merger; 2.4 Substantive analysis: ancillary restrictions, deals and judicial review.
3. Restrictions of free competition: 3.1 Prohibition, invalidity and exemptions; 3.2 Horizontal agreements: joint trade, exchange of information, cartels; 3.3 Vertical agreements, distribution and agency.
4. Abuse of dominance: 4.1 Definition of the relevant market; 4.2 Concept of dominant position; 4.3 Obligations of the dominant undertakings; 4.4 Abuses of exploitation and abuses of exclusion, legal

justification.

5. State aid: 5.1 Concept of aid; 5.2 Procedure of previous notification and authorization; 5.3 Consequences of an illegal State aid, the obligation to recovery; 5.4 Rules governing the economic services of public interest and the services of public interest.

6. Proceedings and sanctions; 6.1 Proceedings for infringement of rules concerning restrictive practices; 6.2 Voluntary termination and agreements on termination; 6.3 Sanctions for infringement; 6.4 Leniency programme; 6.5 Dealing in cartel cases; 6.6 Inspections and right of defence.

7. Compensation for damages caused to individuals by an infringement of competition law.

8. Brexit and EU Competition Law.

## LEARNING ACTIVITIES AND METHODOLOGY

### 3.1. Lectures.

Lectures will focus on the study of European and National Competition Law. They will be face-to-face classes that will be the basis and incentive for the individual work and the corresponding training.

The classes will split in two parts. The first hour will be used for giving a detailed and practical description of the topics. Thereafter, for approximately thirty minutes a debate between the students and the lecturer will take place in order to analyse the most relevant issues.

Legal texts for preparing the lectures will be provided in advance in order to give students some time to prepare the lecture and to anticipate a preliminary opinion on the subject. Such a preparation will enable them to discover the new materials and explanations that the professor will give them, but also to share their conclusions with their peers.

### 3.2. Classes

Students will apply the theoretical knowledge acquired along the course, and their own personal opinion about the actual problems analysed. Therefore, professors will present and analyse the conceptual aspects with a permanent reference to the current issues.

Besides, lectures include complementary activities such as dealing with practical cases.

### 3.3 Student's personal work

As a result, the abovementioned classes will provide an accurate basis for gaining deeper knowledge and a subsequent individual reflection.

Students may carry out activities that allow for reflection, internalization and learning of the required academic contents and to implement the desired skills. Thus, they will jointly reach the general and specific objectives of this subject.

## ASSESSMENT SYSTEM

Students will participate in all the lectures, and will have to solve the practical cases. Therefore, there will be an ongoing assessment through all the course 40%(30+10)

Ordinary session.

An individual final examination will take place, which will mean up to 60% of the total mark.

Extra-ordinary session:

End-of-term exam, consisting in a practical case to solve individually: 100%of total mark.

The absence of more than 20% of the front classes causes dismissal from the course.

<b>% end-of-term-examination:</b>	60
<b>% of continuous assessment (assignments, laboratory, practicals...):</b>	40

## BASIC BIBLIOGRAPHY

- Andriychuk, O. The Normative Foundations of European Competition Law, Elgar, 2017
- B.Mäihäniemi Competition Law and Big Data, Elgar, 2020
- Burke, J. A Critical Analysis of Article 106(2) TFEU, Hart, 2017
- Di Porto, Fabiana - Podszun, Rupprecht Abusive Practices in Competition Law, Elgar, 2018
- Fox, E. M., Gerard, D. EU Competition Law, Elgar, 2017
- Jacobs, M., Healey, D. Research Methods in Competition Law, Elgar, 2018
- L.Lovdahl Gormsen European State Aid and Tax Rulings, Elgar, 2019

- Moreiro González, C. J. El juez nacional de medidas cautelares y la tutela del Orden Público y del Interés Público de la Unión Europea, Revista de Derecho Comunitario Europeo, n. 54, 2016
- Parcu, P. L., Monti, G., Botta, M. Abuse of Dominance in EU Competition Law, Elgar, 2017
- Peter Roth WC y Vivien Rose Bellamy & Child, European Union Law of Competition, Ed. Oxford, 7ªEdición, 2013
- Richard Whish & David Bailey Competition Law, 9ªEdición, Ed. Oxford, 2018
- Slot, P.J., Farley, M. An Introduction to Competition Law, Hart, 2017
- Valentine Korah, Ioannis Lianos & Paolo Siciliani Competition Law , Oxford University Press , 2019
- Van den Bergh, R. J. Comparative Competition Law and Economics, Elgar, 2017
- VerLoren van Themaat, Weijer - Reuder, Berend European Competition Law, Elgar, 2018
- Wijckmans Vertical Agreements in EU Competition law, Ed. Oxford, 2011
- Witt, A. c. The More Economic Approach to EU Antitrust Law, Hart, 2016

#### BASIC ELECTRONIC RESOURCES

- Comisión Nacional de los Mercados y la Competencia . Decisions and Guidelines: <https://www.cnmc.es/>
- Court of Justice of the European Union . Case Law: [http://curia.europa.eu/jcms/jcms/j\\_6/en/](http://curia.europa.eu/jcms/jcms/j_6/en/)
- European Commission DG Competition . Decisions and Guidelines: [http://ec.europa.eu/competition/index\\_en.html](http://ec.europa.eu/competition/index_en.html)