The rule of law and mutual trust in global and European governance

Lecturers
Ramona COMAN (Coordinator) and Anne WEYEMBERGH

Course mnemonic
TRAN-O610

ECTS credits
5 credits

Language(s) of instruction
English

Course period
First term

Campus
Solbosch

Course content

This course provides for an interdisciplinary understanding of the rule of law and mutual trust in global and European governance. It brings together the political and legal perspectives, taught by a political scientist (prof. Ramona Coman) and an academic specialized in European Law (prof. Cecilia Rizcallah).

The course

> examines the normative, legal and political dimensions of the rule of law and mutual trust.

> seeks to identify the main actors involved in the rule of law and mutual trust promotion and the reasons of their diffusion at the European and global level

> focuses on the politics of the rule of law in the EU and the emergence of a rule of law policy

> sheds light on how these principles are implemented in the EU, drawing on a selected number of cases.

> scrutinizes the EU through comparative lenses by considering the rule of law and mutual trust approaches of other international/regional organisations

21/09 - Lecture 1 - The normative foundations of the rule of law

28/09 - Lecture 2 – International/regional actors, tools and approaches

5/10 - Lecture 3 – Rule of law in the EU. Tools and Challenges. The role of the European Commission

12/10 - Lecture 4 – Rule of law in the EU. Tools and Challenges. The role of the European Parliament

19/10 - Lecture 5 – Tools and Challenges. The role of the Council/ European Council. Article 7 TEU

26/10 – Lecture 6 : The adoption and implementation of Regulation 2020/2092 and the general regime of conditionalities in the EU including the Recovery and Resilience Facility (Next Generation EU)

09/11 – Lecture 7 – The architecture of the protection of fundamental rights in the EU

16/11 – Lecture 8 – The protection of EU values and judicial independence by the EU Court of Justice

23/11 - Lecture 9 – The principle of mutual trust: a new constitutional principle of EU law based on EU common values (1st part)

30/11 - Lecture 10 – The principle of mutual trust: a new constitutional principle of EU law based on EU common values (2nd Part)

7/12 - Lecture 11 – The principle of mutual trust and the ECHR (Gisela Gori)

14/12 - Lecture 12 – Conclusions and Q&A session

Objectives (and/or specific learning outcomes)

After successfully completing this course participants will:

> understand and be able to reflect on the broader definition of rule of law and mutual trust;

> understand the normative, legal and political dimensions of these principles

> have a comparative understanding on how the EU and other international/regional organizations promote these principles

> be able to explain how the rule of law and mutual trust are implemented in the EU

> be able to explain why the EU integration process is based on mutual trust and the rule of law.

> and ultimately explain the politics of the rule of law in the EU and the emergence of new tools, as well as increased contestation and dissensus over values.

In addition, students will be able:

> to use this knowledge to interpret key political and legal issues as well as recent developments in the EU

> to engage critically with important political/legal issues

Pre-requisits and co-requisits

Required knowledge and skills

A good understanding of the EU, its institutions and decision-making procedures

Teaching method and learning activities

This course is composed of lectures and in-class discussions given by the two professors and invited guests, when possible.

Contribution to the teaching profile

This course provides for an interdisciplinary and comparative understanding of the rule of law and mutual trust in global and European governance.

References, bibliography and recommended reading

21/09 - Lecture 1 - The normative foundations of the rule of law (R. Coman)

Compulsory readings (1 of your choice):

Pech, L. (2022) 'The Rule of Law as a Well#Established and Well#Defined Principle of EU Law', Hague Journal on the Rule of Law, 44:107-138.

Krygier, M. (2014). The Rule of law (Ch 4) in J.R. Silkenat et al. (eds.), The Legal Doctrines of the Rule of Law and the Legal State 45 (Rechtsstaat), Ius Gentium: Comparative Perspectives on Law and Justice.

28/09 - Lecture 2 – International/regional actors, tools and approaches (R. Coman)

Compulsory reading: Carothers, Th. (1998) 'The Rule of Law Revival', FOREIGN AFF. 95.

5/10 -Lecture 3 – Rule of law in the EU. Tools and Challenges. The role of the European Commission (R. Coman)

Compulsory reading (1 of your choice):

> Scheppele, K. L. (2023) 'The Treaties without a Guardian: the European Commission and the Rule of law', Columbia Journal of European Law, 29(2): 93-184.

> Closa, C. (2019), 'The politics of Guarding the Treaties: Commission Scrutiny of Rule of Law Compliance', Journal of European Public Policy, Vol. 26, No. 5, 2019, p. 696-716.

12/10 Lecture 4 – Rule of law in the EU. Tools and Challenges. The role of the European Parliament (R. Coman)

Compulsory reading (1 of your choice):

> Meijers, M. J and Van Der Veer, H. (2019), 'MEP Responses to Democratic Backsliding in Hungary and Poland. An Analysis of Agenda Setting and Voting Behaviour'; JCMS, 57, 4, 839-856.

> Coman, R. (2022), The politics of the rule of law in the EU polity. Actors, tools and challenges, Palgrave (Chapter 5 The European Parliament: How Coalition Formation and Internal Group Dynamics Shape EU's Rule of Law Policy?)

19/10 - Lecture 5 – Tools and Challenges. The role of the Council/European Council. Article 7 TEU (Pauline Thinus, R. Coman)

Compulsory reading (1 of your choice):

> Kochenov, D. Forthcoming in M Kellerbauer, M Klamert and J Tomkin (eds.), The EU Treaties and the Charter of Fundamental Rights – A Commentary (2nd ed. Oxford University Press, 2023). This is just a draft, please consult the book for the final polished version.

> Coman, R. and Thinus, P (forthcoming) 'Article 7 TEU on the agendas of the Council's rotating presidencies: Still a "nuclear option" or rather "a talking shop"?' in Coman, R., Costa, O. and Sierens, V. (eds), EU Council Presidencies in Times of Crises, Palgrave.

26/10 – Lecture 6 : The adoption and implementation of Regulation 2020/2092 and the general regime of conditionalities in the EU including the Recovery and Resilience Facility (Next Generation EU)

Compulsory reading:

> Baraggia, A., & Bonelli, M., (2022). Linking Money to Values: the new Rule of Law Conditionality Regulation and its Constitutional Challenges. German Law Journal, 23, 131-156.

> Regulation 2020/2092

> https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ%3AL%3A2020%3A433I%3ATOC&uri=uriserv%3AOJ.LI.2020.433.01.0001.01.ENG

> Conclusions of the European Council, December 2020 https://www.consilium.europa.eu/media/47296/1011-12-20-euco-conclusions-en.pdf

09/11 – Lecture 7 – The architecture of the protection of fundamental rights in the EU (C. Rizcallah)

Compulsory readings:

> D. Sarmiento, "Who's afraid of the Charter? The Court of Justice, national courts and the new framework of fundamental rights protection in Europe", Common Market Law Review, Volume 50, Issue 5 (2013) pp. 1267 – 1304.

> A. Torrez-Perez, "Rights and Powers in the European Union: Towards a Charter that is Fully Applicable to the Member States?", Cambridge Yearbook of European Legal Studies, 22 (2020), pp. 279–300

16/11 – Lecture 8 – The protection of EU values and judicial independence by the EU Court of Justice (C. Rizcallah)

Compulsory readings:

> CJEU, 27 February 2018, Associação Sindical dos Juízes Portugueses, C-64/16

> CJEU, 24 June 2019, Commission v. Poland, C-619/18

> CJEU, 16 February 2022, Hungary v. Parliament and Council, C-156/21

> CJEU, 16 February 2022, Poland. Parliament and Council, C-157/21

23/11 - Lecture 9 – The principle of mutual trust: a new constitutional principle of EU law based on EU common values (C. Rizcallah) – First Part

Compulsory readings:

> Lenaerts, K., (2017), 'La vie après l'avis: Exploring the principle of mutual (yet not blind) trust', Common Market Law Review, pp. 805#840.

30/11 - Lecture 10 – The principle of mutual trust: a new constitutional principle of EU law based on EU common values (C. Rizcallah) – Second Part

Compulsory readings:

> CJEU, 21 December 2011, N.S., C-411/10 and C-493/10, ECLI :EU:C:2011:865

> CJEU, 5 April 2016, Aranyosi and Căldăraru, C#404/15 and C#659/15 PPU ECLI:EU:C:2016:198

> CJEU, 25 July 2018, LM, C-216/18 PPU, ECLI:EU:C:2018:586

7/12 - Lecture 11 – The principle of mutual trust and the ECHR (Gisela Gori)

Compulsory readings:

> ECtHR, 21 January 2011, M. S. S. c. Belgium and Greece, req. n ° 30696/09, points 323 to 360.

> ECtHR, 9 July 2019, Roméo Castano c. Belgium, req. n °8351/17, points 29 – 92.

14/12 - Lecture 12 – Conclusions and Q&A session (R. Coman and C. Rizcallah)

More readings are available on the Université virtuelle

Course notes

Université virtuelle

Other information

Place(s) of teaching

Solbosch

Contact(s)

[[table]]

Evaluation method(s)

written examination

Evaluation method(s) (additional information)

Written exam (2h30) in January (re-sit exam in August):

The exam will comprise three questions:

> The first question will focus one of the topics addressed in the first part of the class taught by Prof. Ramona Coman

> The second question will be about the second part of the class taught by Prof. Cecilia Rizcallah

> The third question will be based on one of the compulsory readings.

Determination of the mark (including the weighting of partial marks)

Written exam 100%

Main language(s) of evaluation

English

Programmes

Programmes proposing this course at the institute of European studies

MS-EURI | Specialized Master in EU Interdisciplinary Studies | unit U

Programmes proposing this course at the faculty of Philosophy and Social Sciences

MA-ETEU | Master in European Studies | finalité European Politic/ unit 1, finalité European Politic/unit 2 and finalité EU and Asia/unit 1