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**Course: Law**

**Degree:** Bachelor

**Branch:** Core curriculum

**Study plan:** Aviso n.º 9088/2019, de 23 de maio

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**Teaching staff:**

**Professor in charge of the curricular unit**

Prof.ª Katarina Pijetlovic ([kpjetlovic@ucp.pt](mailto:kpjetlovic@ucp.pt))

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**Language of instruction:**

English

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**Functioning:**

In-class lectures

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**Intended learning outcomes:**

By the end of the course students should be able to identify the breaches of EU competition law (cartels, abuses of dominant position on the market, and illegal mergers and acquisitions) and apply relevant case law and legislation to solve hypothetical legal problems. They should acquire the skills necessary to understand and assess the jurisprudence of the Court of Justice of the EU and the EU Commission practice in the competition cases. Also, student will be able to carry out independent research, assess the value of sources and find relevant materials for their assessment.

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**Syllabus:**

22-23 November:

INTRODUCTION

- Structure of markets and basic economic theory of competition
- Introduction to the topic of competition law

ABUSE OF DOMINANT MARKET POSITION

- Art. 102 TFEU: elements
- Relevant product, geographic and temporal market
- Concept of dominance and elements of dominance
- Activities which amount to abuse of dominant market position

24 November and 4-5 December

#### CARTELS

- Article 101(1) TFEU: Prohibited collusions
- Treatment of horizontal and vertical agreements
- Agreements of minor importance, concept of appreciable effect on the competition.
- Article 101(3) TFEU: Exemption
- Block Exemptions
- Framework for the assessment of regulatory rules of private monopolistic bodies

#### ENFORCEMENT SYSTEM

- Procedure: Implementation of competition law; history of enforcement system, the role and powers of the EU Commission, National Competition Authorities, and the national courts. Rights of undertakings under investigation.

6-7 December

#### MERGERS AND ACQUISITIONS

- Mergers: intro and overview of the topic
- Purposes of merger control.
- Jurisdictional issues: Art. 3 ECMR concepts of concentration and full-function joint ventures
- Art.1 ECMR thresholds: concepts of “undertakings concerned” and “turnover”.
- Alternative ways of obtaining jurisdiction: Art 9, 22, 4(4)-(5) ECMR.
- Substantive appraisal of concentrations under Art. 2 ECMR.

#### PREPARATION FOR THE ASSESSMENT

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#### ***Evidence of the syllabus coherence with the curricular units intended learning outcomes:***

The syllabus is presented in such a way as to harmoniously achieve the objectives of the course. The introductory topics will lead into more complex themes, but we will make these complex issues easy to understand. Throughout the course students will be encouraged to think critically, analyse the issues from multiple angles, and consult the reliable and quality sources.

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#### ***Recommended prior learning (or curricular units whose prior attendance is recommended):***

It would be useful (but not essential) to have already taken EU Institutional Law and Constitutional Principles or similar course

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**Teaching and assessment methods:**

The assessment be in the form of take-home exam with hypothetical case (4 hours). Separate assessment preparation will be provided for the students at the end of the course.

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**Evidence of the teaching methods and the intended learning outcomes:**

The main teaching method used is that of spiral curriculum in which key concepts are presented repeatedly throughout the curriculum, but with deepening layers of complexity, and in different practical applications.

Emphasis is also placed on concise and clear visual presentations of more difficult issues, making them easy to understand.

Practicing analytical skills through common reading of selected parts of Court's judgements and open discussions will be crucial to developing critical analysis skills.

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**Bibliography:**

Suggested textbooks:

Whish and Bailey *Competition Law* Oxford UP (2021)

Jones & Sufrin *EU Competition Law: Text, Cases & Materials* Oxford UP (2023)

Lianos, Korah & Siciliani *Competition Law: Analysis, Cases, & Materials* (2021)

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**Legislation:**

NB: All legislation listed below can be accessed at [https://competition-policy.ec.europa.eu/index\\_en](https://competition-policy.ec.europa.eu/index_en)

Treaty on the Functioning of the EU

Regulation 1/2003

Merger Regulation 139/2004

Commission Notice on immunity from fines and reduction of fines in cartel cases

Commission Notice on cooperation within the Network of Competition Authorities

Commission Notice on the co-operation between the Commission and the courts of the EU Member States in the application of Articles 81 and 82 EC

Commission Notice on the handling of complaints by the Commission under Articles 81 and 82 of the EC Treaty

Commission Notice on informal guidance relating to novel or unresolved questions concerning Articles 101 and 102 of the Treaty on the Functioning of the European Union that arise in individual cases (guidance letters)

Commission Notice - Guidelines on the effect on trade concept contained in Articles 81 and 82 of the Treaty

Commission Notice - Guidelines on the application of Article 81(3) of the Treaty (Article 101(3) TFEU)

Commission Notice on agreements of minor importance which do not appreciably restrict competition under Article 101(1) of the Treaty on the Functioning of the European Union (De Minimis Notice)

Commission notice on the definition of the relevant market for the purposes of Community competition law

Communication from the Commission: Guidance on its enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings (see also amendments on EU Commission Competition Policy website)

Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004

Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings

Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings

Commission Notice on restrictions directly related and necessary to concentrations

Commission Notice on Case Referral in respect of concentrations

Guidance on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases

Commission Notice on remedies acceptable under the Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004

Commission notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU Text with EEA relevance