

Course title	<i>Comparative Public Policy and the Law</i>
Duration	8 hours
Dates & Time	July 25, 9:00-13:10; July 26, 9:00-11:00; July 29, 14:20-16:20
Instructors	Prof. Ioannis Lianos, University College London Dr. Georgios Dimitropoulos, Max Planck Institute Luxembourg Dr. Philipp Hacker, Humboldt University of Berlin
Course Description	
<p>Public policy outputs in various policy fields differ from country to country, even if the social science inputs on which these policies rely and the methodologies employed by policy-makers are similar. This may be due to various factors, some related to the policy process, others to prior beliefs and assumptions by the regulators, cultural understandings and ideologies, vested interests, the respective role of experts and that of politics in decision-making etc. The course provides students with an opportunity to explore how public policies and the subsequent legal rules adopted may diverge, despite their common social science inputs and methodological underpinnings. The course first introduces one of the variables that may explain public policy divergence despite common social science foundations: the policy process. It then focuses on the one end of the policy pipeline, by exploring the trajectory of a social science input, behavioural economics, in the policy process and the efforts made by different public policy systems to integrate this new learning. It then explores the other end of the policy pipeline, public policy outputs, in several fields, such as the regulation of the food value chain and big data and digital identities, with an attempt to explain and analyse the different regulatory strategies adopted.</p>	
Course Outline	
<p>The first block of the course will serve as a general introduction to the basic concepts of the interplay between law and public policy, focusing on comparative policy process. The main interest is on institutions and regulatory interventions. Different government and societal institutions, and regulatory methods can explain why different countries exhibit differences in public policies and legal frameworks. At the same time, many countries exhibit similar patterns of development in their institutional set up and regulatory toolbox. The move away from market-based policy-making and the transition towards and the spread of behavioural public policies in many countries around the world will be studied in more detail, using environmental law as a case study.</p> <p>In the second block, the focus will be on how the rise of behavioural economics may transform the policy process. This involves an introduction to the heuristics and biases literature as well as to the economics and psychology of internalities, i.e., conflicting preferences or misperceptions within one person that may generate harms to that very person over time. Behavioural economics buttresses the intuitive notion that individual preferences are not always well-defined and logically ranked, but rather subject to emotions, biases, and change over time. However, these deviations from the assumptions of rational choice are not uniform and not always predictable, either. Therefore, the key challenge for behavioural law and economics is to come to terms with significant empirical uncertainty about the existence, direction and intensity of cognitive biases. The solution of this problem reintroduces normative theory into the regulatory domain. On a descriptive level, the block will shed light on the ways in which various jurisdictions have integrated behavioural economics in their policy process. In</p>	

doing so, it will also offer a normative perspective on how behavioural economics may change the policy process.

The third block will discuss various case studies that will be drawn from the fields of the regulation of the food industry, and digital identities and big data. This part of the course will aim to link the substantive laws and policies adopted with the broader question of institutions and the policy process.

Educational Outcomes

- Offer a fundamental understanding of innovative approaches to legal analysis and public policy by examining the interplay between law, economics and society
- Comprehend the complex interplay between government institutions, societal organizations, domestic and local cultures, and the law
- Make students familiar with public policies in the fields of environmental protection, the regulation of the food industry, and big data
- Understand how and why public policies differ from nation to nation
- Explore whether there is currently a convergence of public policies in countries with different cultures, and whether there is a transition towards behavioral public policy-making in domestic regulatory frameworks

Basic Bibliography

First Block

Comparative Public Policy

Kuhika Gupta, *Comparative Public Policy: Using the Comparative Method to Advance Our Understanding of the Policy Process*, 40 POLICY STUDIES JOURNAL 11 (2012)

Law and Public Policy

Georgios Dimitropoulos, *Administrative Law 3.0*, INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW BLOG (ICONNECT), Dec. 18, 2015, at: <http://www.iconnectblog.com/2015/12/administrative-law-3-0/>

Philipp Hacker & Georgios Dimitropoulos, *Behavioural Law & Economics and Sustainable Regulation: From Markets to Learning Nudges* (2016, on file with the authors)

Susan Rose-Ackerman, *Economics, Public Policy and Law*, 26 VICTORIA UNIVERSITY OF WELLINGTON LAW REVIEW 1-16 (1996)

Susan Rose-Ackerman, *Public Choice, Public Law and Public Policy* Keynote address, First World Meeting of the Public Choice Society, Amsterdam, March 31, 2007, available at <http://www.creedexperiment.nl/pc2007/Rose-AckermanPCS07keynote11111.pdf>

Susan Rose-Ackerman, *Regulation and Public Law in Comparative Perspective*, 60 UNIVERSITY OF TORONTO LAW JOURNAL 519-535 (2010)

Behavioural Regulation

Christine Jolls & Cass R. Sunstein, *Debiasing through Law*, 35 J. LEGAL STUD. 199 (2006)

Cass R. Sunstein, *The Storrs Lectures: Behavioral Economics and Paternalism*, 122 YALE LAW JOURNAL 1826 (2013)

Ryan Bubb & Richard H. Pildes, *How Behavioral Economics Trims Its Sails and Why*, 127 HARVARD LAW REVIEW 1593 (2014)

Policy Documents

OECD, OECD Regulatory Policy Outlook 2015, available at http://www.oecd-ilibrary.org/governance/oecd-regulatory-policy-outlook-2015_9789264238770-en

OECD, Indicators of Regulatory Policy and Governance 2015, available at <http://www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm>

OECD, Recommendation of the Council on Regulatory Policy and Governance, 2012, available at <http://www.oecd.org/gov/regulatory-policy/2012-recommendation.htm>

Second Block

Behavioural Law & Economics and Internalities

Christine Jolls, Cass R. Sunstein, and Richard H. Thaler, *A Behavioral Approach to Law and Economics*, 50 STANFORD LAW REVIEW 1471-1550 (1998)

Brian Galle, *The Problem of Intra-Personal Cost*, Working Paper, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2767868

Will Davies, *The return of social government. From 'socialist calculation' to 'social analytics'*, 18 EUROPEAN JOURNAL OF SOCIAL THEORY 431-450 (2015) (particularly pp. 439 et seqq).

Uncertainty

Philipp Hacker, *Overcoming the Knowledge Problem in Behavioral Law and Economics: Uncertainty, Decision Theory, and Autonomy*, Working Paper, available at <http://ssrn.com/abstract=2632022>

Behavioral Law & Economics in Different Countries

Joint Research Centre, European Commission, *Behavioural Insights Applied to Policy: European Report 2016*, available at <https://ec.europa.eu/jrc/en/event/conference/biap-2016>

Philipp Hacker, *The Behavioral Divide. A Critique of the Differential Implementation of Behavioral Law and Economics in the US and the EU*, 11 EUROPEAN REVIEW OF CONTRACT LAW 299-345 (2015), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2609531

Philipp Hacker, *More Behavioral vs. More Economic Approach: Explaining the Behavioral Divide between the US and the EU*, *Hastings International and Comparative Law Review* (forthcoming), available at http://papers.ssrn.com/sol3/Papers.cfm?abstract_id=2699082

Third Block

Case study: Analysing the global food value chain

Philip McMichael, Value-chain Agriculture and Debt Relations: contradictory outcomes, *Third World Quarterly*, 34:4, 671-690 (2013)

Ioannis Lianos, Dmitry Katalevsky and Alexey Ivanov, *The Global Seed Market, Competition Law and Intellectual Property Rights: Untying the Gordian Knot*, available at <https://www.ucl.ac.uk/cles/research-paper-series/index/edit/research-papers/cles-2-2016>

KPMG International, *The agricultural and food value chain: entering an new era of cooperation* (2013), available at <https://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/Documents/agricultural-food-value-chain-report.pdf>

Koen Backer & Sébastien Miroudot, *Mapping Global Value Chains* (European Central Bank, Working paper Series, 2014, No. 1677), available at <https://www.ecb.europa.eu/pub/pdf/scpwps/ecbwp1677.pdf>

Philip McMichael, Value-chain Agriculture and Debt Relations: contradictory outcomes, *Third World Quarterly*, 34:4, 671-690 (2013)

KPMG International, *The agricultural and food value chain: entering an new era of cooperation* (2013), available at <https://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/Documents/agricultural-food-value-chain-report.pdf>

	<p>Koen Backer & Sébastien Miroudot, Mapping Global Value Chains (European Central Bank, Working paper Series, 2014, No. 1677), available at https://www.ecb.europa.eu/pub/pdf/scpwps/ecbwp1677.pdf</p> <p><i>Case study: Digital identities and Big data</i></p> <p>Boston Consulting Group, The Value of Our Digital Identity (Liberty Global Series, 2012), available at http://www.libertyglobal.com/PDF/public-policy/The-Value-of-Our-Digital-Identity.pdf</p> <p>Brad Brown et al., Are You Ready for the Era of “Big Data”?, MCKINSEY Q., Oct. 2011, available at http://www.mckinsey.com/insights/strategy/are_you_ready_for_the_era_of_big_data</p> <p>The Economist Intelligence Unit, The Data Storm- Retail and the Big Data Revolution (2013), available at http://www.economistinsights.com/sites/default/files/The_Data_Storm_Web_1.pdf</p> <p>Lindsey Gilpin, How big data is going to help feed nine billion people by 2050, Tech Republic, available at http://www.techrepublic.com/article/how-big-data-is-going-to-help-feed-9-billion-people-by-2050/</p> <p>Randall Picker, Competition and privacy in Web 2.0 and the Cloud (John M. Olin Program in Law and Economics Working Paper No. 414, 2008), available at http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1113&context=law_and_economics</p> <p>Pamela Jones Harbour, and Tara Isla Koslov, Section 2 in a Web 2.0 world: An expanded vision of relevant product markets, Antitrust Law Journal, 76: 769-797 (2010), available at http://www.nortonrosefulbright.com/files/us/images/publications/20100816Section2InWebWorld.pdf</p>				
Teaching methodology	<table border="0"> <tr> <td>Frontal lecture</td> <td>4 hours</td> </tr> <tr> <td>Active participation</td> <td>4 hours</td> </tr> </table>	Frontal lecture	4 hours	Active participation	4 hours
Frontal lecture	4 hours				
Active participation	4 hours				
Language	English				
Location	EPLO Headquarters, Sounion				