

Course title	<i>Private Enforcement of EU law: Theoretical Challenges and Practical (mis)application</i>
Duration	2 hours
Dates& Time	July 26, 11:10-13:10
Instructors	Dr. Maria Ioannidou, Queen Mary University of London

Course Description

The debate on private enforcement of EU law has been invigorated in the last decade in the context of competition law. However, legal developments in this area, namely enforcement of rights granted by EU law before national courts go a long way back. This 2-hour seminar will trace the evolution of private enforcement of EU law and discuss the role of judicial and legislative developments. We will also contextualize private enforcement of EU law within wider EU debates on adversarial legalism and new modes of governance.

Embarking from a brief discussion of general principles of EU law (direct effect and supremacy), the seminar will then move on to the discussion of remedies granted by EU law and the development and curtailment of Member States' national procedural autonomy. The role and – arguably – judicial activism of the EU Court of Justice (ECJ) will be discussed coupled with legislative developments in selected areas, primarily competition law.

Private enforcement of EU law is a challenging and fascinating topic, as it cuts straight to the heart of competence division between Member States and the EU. At times – such division is clearer – whereas in other occasions the ECJ has employed varied means of judicial ingenuity. The role of the Court is occasionally complemented by the adoption of legislative instruments at EU level. The course will adopt a critical perspective in a bid to evaluate the multifaceted challenges involved in the enforcement of EU rights before national courts. Particularly challenging is the means to reconcile EU and Member States competence in a field where we observe a variable Member States' geometry of diverse remedies and procedures.

Course Outline

1. Introduction
2. General principles (direct effect, supremacy)
3. Principle of national procedural autonomy: rights, remedies and procedures
4. Case study: competition law
5. Theoretical challenges: discussion

Educational Outcomes

- Demonstrate an in-depth understanding of the different variables affecting private enforcement of EU law;
- Critically assess the recent legislative developments;
- Evaluate the Commission and Court's practice;
- Critically reflect on the relevant case law;
- Understand the more complex political questions underpinning this area of EU law; and

- Appreciate the complex interplay between EU and Member States' competence.

<p>Basic Bibliography</p>	<p><u>Case law:</u></p> <p>Case 26/62 <i>Van Gend & Loos</i> [1963] ECR 3</p> <p>Case 6/64 <i>Costa v ENEL</i> [1964] ECR 1141</p> <p>Case 33/76 <i>Rewe-Zentralfinanz GmbH v Landwirtschaftskammer für das Saarland</i> [1976] ECR 1989 (<i>Rewe I</i>)</p> <p>Case 199/82 <i>Amministrazione delle Finanze dello Stato v San Giorgio</i> [1983] ECR 3595</p> <p>Case C-213/89, <i>The Queen v. Secretary of State for Transport, ex parte: Factortame Ltd and others</i> [1990] ECR I-2433, paras. 19 – 23</p> <p>Cases C-6/90 and C-9/90 <i>Francovich and Bonifaci v Italy</i> [1991] ECR I-5357</p> <p>Cases C-46/93 and C-48/93, <i>Brasserie du Pêcheur SA v Germany and R v Secretary of State for Transport ex p Factortame Ltd</i></p> <p>Case C-453/99 <i>Courage v Crehan</i> [2001] ECR I-6297</p> <p>Cases C-295 to C-298/04 <i>Manfredi v Lloyd Adriatico Assicurazioni SpA</i> [2006] ECR I-1591</p> <p><u>Relevant literature</u></p> <p>W Van Gerven, 'Of Rights, Remedies and Procedures' (2000) 37 CMLRev 501.</p> <p>M Dougan, 'The Vicissitudes of Life at the Coalface: Remedies and Procedures for Enforcing Union Law before the National Courts' in P Craig and G de Búrca, <i>The Evolution of EU Law</i> (2nd ed, OUP 2011), Chapter 14;</p> <p>M Bobek, 'Why There Is No Principle Of Procedural Autonomy Of The Member States' in Bruno de Witte and Hans Micklitz (eds), <i>The European Court of Justice and the Autonomy of the Member States</i> (Antwerp, Intersentia 2011)</p> <p>A Komninos, 'Private Enforcement in the EU with Emphasis on Damages Actions' in I Lianos and D Geradin, (eds), <i>Handbook on EU Competition Law: Enforcement and Procedure</i> (Edward Elgar 2013) 228.</p> <p>M Ioannidou, <i>Consumer Involvement in Private EU Competition Law Enforcement</i> (OUP 2015) Chapter 2;</p> <p>D Kelemen, 'Americanisation of European Law? Adversarial Legalism à la européenne' (2008) 7 <i>European Political Science</i> 32</p> <p>D Kelemen, 'Suing for Europe: Adversarial Legalism and European Governance' (2006) 39 <i>Comparative Political Studies</i> 101</p> <p>R Kagan, 'American and European Ways of Law: Six Entrenched Differences' in V Gessner and D Nelken (eds), <i>European Ways of Law: Towards a European Sociology of Law</i> (Hart 2007) 41</p>
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Teaching methodology	<p>Frontal lecture 1.5 hours</p> <p>Active participation 0.5 hours</p> <p>Delivery in an interactive seminar manner – encourage student participation throughout the seminar</p>
Language	English
Location	EPLO Headquarters, Sounion
General note	<p><i>Reading tip!</i></p> <p>There is an indicative list of cases. There are many more! Students do not need to read the cases, prior to the seminar. We will discuss the main points in class.</p>