



**School of Law**  
**LLM Programmes at the Irish Centre for Human Rights**  
**Academic year 2009-2010**

**Course Outline for**  
**EU Fundamental Rights Law and Policies**

**(LW474: “The European Union and Human Rights”)**

<b>Objective</b>	<p>Respect for fundamental rights is one of the basic principles on which the European Union (EU) is based. The objective of this course is to first examine the evolution and development of the EU’s system of fundamental rights protection, from the early case law of the Court of Justice to the most recent Treaty and legislative changes, and in particular the content and scope of the EU Charter of Fundamental Rights. The interplay between the EU and the Council of Europe systems of fundamental rights protection is also scrutinised.</p> <p>The second part of this course focuses on EU Fundamental Rights Policies. The challenges that the EU faces internally are outlined and particular consideration is given to the newly established Fundamental Rights Agency. Finally, EU promotion and protection of fundamental rights as regards prospective Member States and Third Countries as well as EU actions in multilateral fora will be covered.</p>			
<b>Lecturer</b>	<p><b>Name</b></p> <p>Dr. Laurent Pech, <i>Jean Monnet</i> Lecturer in EU Public Law</p>	<p><b>Office</b></p> <p>School of Law, Room 501 (Tower 2)</p>	<p><b>Ext</b></p> <p>3256</p>	<p><b>E-mail</b></p> <p><b>Laurent.pech@nuigalway.ie</b>  (please <b>email</b> to arrange appointment, etc.)</p>
<b>Times (6 seminars of 3hrs each)</b>	<p><b>Semester</b></p> <p>II</p>	<p><b>Day</b></p> <p>Wednesday</p>	<p><b>Time</b></p> <p>14.00-17.00</p>	<p><b>Venue</b></p> <p>HRC</p>
<b>Overall Learning Outcomes</b>	<p>Upon completion of this course you will be able to:</p> <ul style="list-style-type: none"> <li>- Outline the evolution of the role played by the EU concerning the protection of human rights;</li> </ul>			

	<ul style="list-style-type: none"> <li>- Understand the basic principles of EU human rights law;</li> <li>- Explain how EU human rights law is enforced and in particular how EU and Member State action can be challenged;</li> <li>- Critically evaluate the recent institutional initiatives and policy development in the human rights field;</li> <li>- Critically evaluate the complex relationship between the EU and the ECHR;</li> <li>- Critically evaluate the role played by the EU in the promotion and protection of human rights worldwide.</li> </ul>
<b>Format</b>	The course comprises a combination of seminars as well as guest lectures. All students are expected to complete required readings <b>PRIOR</b> to seminar meetings. They should engage the readings actively, look for underlying themes and problems, and be prepared to discuss issues arising at the seminars.
<b>Programme(s)</b>	LL.M. Programmes at the Irish Centre for Human Rights
<b>Course Material</b>	Reading materials (primary materials, academic articles and cases) will be made available on blackboard ( <a href="http://blackboard.nuigalway.ie">http://blackboard.nuigalway.ie</a> )
<b>Core Text / Additional References</b>	<p>There is currently no textbook <i>specifically</i> covering EU Human Rights Law and Policies. Change is, however, on the way as OUP has announced the forthcoming publication in 2010 of a textbook by Olivier de Schutter entitled <i>Fundamental Rights in the European Union</i>. This book will offer the first full-length overview of the EU as a human rights organization and will certainly be ideal as a companion for this graduate course.</p> <p>To palliate the absence of a specific textbook, a large number of academic articles will be made available on Blackboard. For additional references, my advice would be to first consult Craig and de Burca's classic textbook whose 4<sup>th</sup> edition was published in 2008 and which offers a substantial introduction to EU human rights law (see chapter 11, pp. 379-427).</p>
<b>Assessment</b>	<p>Students who choose two 7.5 credit courses will only be required to submit a single piece of work (10,000 words) on <b>one</b> of the courses.</p> <p>Students wishing to submit an essay for this course must email me their essay title/research proposal.</p> <p>The final submission date for ALL essays is <b><u>May 7th, 2010.</u></b></p>

## DETAILED SEMINAR OUTLINE (Provisional)

<p><b>Topic 1:</b> <b>Introduction - Fundamental Rights in the EU Legal Order</b>  (Seminar 1: Feb. 24)</p>	<p><b>1. The ECJ's Decisive Lead</b></p> <p>1.1 The EC bound by "General Principles of Law" including Human Rights</p> <p>1.2 The Rights Protected within EU law: Sources</p> <p>1.3 Human Rights Amendments to the Treaties</p> <p><b>2. Challenges to EU Action: Adjudication of Rights Claims</b></p> <p>2.1. First Pillar</p> <p>2.2 Second and Third Pillar</p> <p><b>3. Overview of the situation post-Lisbon Treaty</b></p> <p><u>Reading materials:</u></p> <p>P. Alston and J.H.H. Weiler, "An 'Ever Closer Union' in Need of a Human Rights Policy: The European Union and Human Rights" (1998) 9 <i>European Journal of International Law</i> 658</p> <p>L. Pech, <i>The European Union and its Constitution. From Rome to Lisbon</i> (Clarus Press, 2008), chapter 6</p> <p>H. Abbott, "The European Court of Justice and the Protection of Fundamental Rights" (2008) 1-2 <i>Irish Journal of European Law</i> 79</p>
<p><b>Topic 2:</b> <b>Recurrent and New Problems</b>  (Seminars 2 and 3: March 3 and 10)</p>	<p><b>1. Challenges to Member State Action</b></p> <p>1.1 Situations "within the scope" of Community/Union law</p> <p>1.2 Situations "outside the scope" of Community/Union law</p> <p><b>2. Conflict of Norms: Fundamental Freedoms v. Fundamental Rights</b></p> <p>2.1 Case C-112/00 <i>Schmidberger</i> [2003]</p> <p>2.2 Case C-36/02 <i>Omega</i> [2004]</p> <p>2.3 Case C-341/05 <i>Laval</i> [2007]</p> <p><b>3. The EU and the ECHR</b></p> <p>2.1 EU accession to the ECHR</p> <p>2.2 Potential inconsistencies between the case law of the ECJ and the ECtHR</p>

	<p>2.3 ECtHR review of EU measures</p> <p><b>4. EU Courts review of UNSC measures: L’Affaire <i>Kadi</i></b> (ECJ, Joined Cases C-402/05 P and C-415/05 P, <i>Kadi and Al Barakaat v. Council and Commission</i> [2008])</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><u>Readings Materials:</u></p> <p>J. Morijn, “Balancing Fundamental Rights and Common Market Freedoms in Union Law: Schmidberger and Omega in the Light of the European Constitution” (2006) 12 <i>European Law Journal</i> 15</p> <p>S. Greer and A. Williams, “Human Rights in the Council of Europe and the EU: Towards ‘Individual’, ‘Constitutional’ or ‘Institutional’ Justice” (2009) 15 <i>European Law Journal</i> 462</p> <p>G. Harpaz, “The European Court of Justice and its Relations with the European Court of Human Rights: The Quest for Enhanced Reliance, Coherence and Legitimacy” (2009) 46 <i>Common Market Law Review</i> 105</p> <p>P. Eeckhout, “Community Terrorism Listings, Fundamental Rights, and UN Security Council Resolutions. In Search of the Right Fit” (2007) 3 <i>European Constitutional Law Review</i> 183</p> <p>B. Kunoy and A. Dawes, “Plate Tectonics in Luxembourg: The Ménage à Trois Between EC Law, International Law and the European Convention on Human Rights Following the UN Sanction Cases” (2009) 46 <i>Common Market Law Review</i> 73.</p> </div>
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<p><b>Topic 3:</b> <b>The EU Charter of Fundamental Rights</b> (Seminar 4: 24 Mars)</p>	<p><b>1. Legal status</b></p> <p>1.1 Status pre-Lisbon</p> <p>1.2 Status post-Lisbon</p> <p><b>2. Content</b></p> <p><b>3. Controversial Features</b></p> <p>3.1 Distinction Right/Principle and the Justiciable nature of Socio-Economic Rights</p> <p>3.2 Scope of Application</p> <p>3.3 UK/Poland/Czech “Op-out” Protocol</p> <p><b>4. Human Rights Proofing of EU Legislation</b></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><u>Reading Materials:</u></p> <p>Charter of Fundamental Rights of the European Union, [2007] OJ C/303/1</p> <p>Explanations Relating to the Charter of Fundamental Rights, [2007]</p> </div>
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	<p>OJ C/303/17</p> <p>C. McCrudden, "The Future of the EU Charter of Fundamental Rights" <i>Jean Monnet Working Paper</i> No. 10/01.</p> <p>Lord Goldsmith, "The Charter of Rights - a brake not an accelerator" (2004) 5 <i>European Human Rights Law Review</i> 473</p>
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<p><b>Topic 4:</b> <b>The EU Fundamental Rights Agency</b> (Seminar 5: <b>Friday,</b> March 26)</p>	<p><b>1. The FRA's role as laid down by Regulation 168/2007</b></p> <p>1.1 Geographical scope</p> <p>1.2 Thematic Remit of the Agency</p> <p>1.3 Structure/Independence of the Agency</p> <p>1.4 Co-operation with other bodies</p> <p><b>2. Overview of the FRA's activities</b></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><u>Reading materials:</u></p> <p>Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights</p> <p>EU FRA Annual Report (Vienna: 2009), 120p.</p> <p>A. Von Bogdandy and J. Von Bernstorff, "The EU Fundamental Rights Agency within the European and International Human Rights Architecture: The Legal Framework and some Unsettled Issues in a New Field of Administrative Law" (2009) 46 <i>Common Market Law Review</i> 1035</p> </div>
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<p><b>Topic 5:</b> <b>Fundamental Rights Protection as an objective of EU External Policies</b> (Seminar 6: March 31)</p>	<p><b>1. Introduction: Externally Focused Human Rights Policies</b></p> <p><b>2. Overview of Relevant EU Instruments</b></p> <p><b>3. Case-study: Human Rights Clauses in EU's External Agreements</b></p> <p>3.1 Legality of the Human Rights Clause</p> <p>3.2 Examples of Human Rights Clauses</p> <p>3.3 Use and Scrutiny of the Human Rights Clause</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Reading Materials:</p> <p>B. Brandtner and A. Rosas, "Human Rights and the External Relations of the EC: An Analysis of Doctrine and Practice" (1998) 9 <i>European Journal of International Law</i> 468</p> <p>European Parliament, Note: Human Rights and Democracy Clauses in the EU's International Agreements, 29 September 2005</p> <p>EU Report on Human Rights 2008 (Luxembourg: EC, 2008)</p> </div>
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