

MUNI
LAW

Introduction to the Law of the European Union

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Information on the course

- Lectures every 2 weeks, attendance is **not** compulsory, but expected
- Completion of the subject:
 1. seminar paper presented orally on last two lectures. Topic: Your country and the EU (from the legal point of view - case-law, treaties, trade relations etc.)
 2. written colloquium (multiple-choice test)
- Literature:
 - Any at your convenience (visit our library)
 - Some of the English textbooks are available at the library - our favorite are:
 - *Trevor Hartley*: The Foundations of European Union Law. 8th ed. Oxford: Oxford Uni Press, 2014.
 - *Robert Schütze*: European Union Law. 2nd ed. Cambridge: Cambridge Uni Press, 2018.

Introduction – what is the “law”?

- The term is usually understood as “national law” or a “domestic law”
- What does the theory of law say about the term “law”?
 - The law is therefore a normative system and not the only one, can you mention some other NS?
- What makes law different?
- What is the general purpose of law?
- Who creates the law?
- To whom does the law apply?

Law (national) - characteristics

- According to the theory of law the law is a system of rules created by a state or its institutions and enforced by it
- The key characteristic of law therefore is its **enforceability!**
- Who does enforce the law? – only the respective state!
- Generally every state has its **own** law
- This state law has a **territorial** character (*principle of territoriality*)
- *Principle of subordination*

Law is not only a domestic law...

- Relations among states must be regulated as well which brings us to → **international (public) law (IL)**
- International public law is often confused with *private international law (PIL)* - what is the difference?
- The third known system of law is European Union (formerly European Community / EC) law

Structure of a domestic law

- Vertical structure:
 - Law is not a system of norms of equal level
 - Legal order has a hierarchic structure
 - There are several levels of legal norms according to their legal force
 - What is the hierarchical structure of your legal order?
- Horizontal structure:
 - Private vs. public law
 - Name the basic legal disciplines according to this division!
- *Please keep it in mind – and compare with the structure of IL / EU law ...*

Principle of subordination

- *Relates to who creates the law, for what reason / purpose, to whom is it addressed*
- Who is an individual?
- What describes the relation between individuals?
- How would you describe the relationship between an individual and a state (from the legal point of view)?
- And what is the position of a state within the domestic law?

International (public) law - IL

- States together constitute the international community
- Relations among states shall be regulated as well
- National law cannot apply to the *international community!*
- *Why?*
- Purpose of IL
- Who creates IL? Who is the addressee ?
- Who enforces IL?

Scope and purpose of IL

- Deals with:
 - What a state is, characteristics
 - state immunity
 - the acquisition of territory
 - legal responsibility of states
 - Relations among states (political, economical,...)
 - International agreements and conventions
 - Individuals and their treatment within (other than home) states
 - Protection of fundamental rights and freedoms of individuals
 - War conditions
 - International crimes
 - Global environment
 - Foreign investments
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What is the relation between the IL and DL?
How/where is it defined?

Czech Constitution and IPL

- Art. 1: *The Czech Republic shall observe its obligations under international law.*
- Art. 10: *Promulgated international agreements, the ratification of which has been approved by the Parliament and which are binding on the Czech Republic, shall constitute a part of the legal order; should an international agreement make provision contrary to a law, the international agreement shall be applied.*

Sources and Structure of the IL

- Unlike the domestic law the IPL is **horizontal** in its structure
(no hierarchy of norms/sources)
- Sources of IL:
 - International treaties
 - Customs
 - General principles of law

International organization

- A forum where representatives of states can meet and negotiate
- means of permanent (continuous) cooperation within a defined area, but not integration
- Form of cooperation: *intergovernmental*
- Examples ?

European Union Law

- Unique system of law, different from IL, as well as DL
- The origin dates back to 1950s (next lecture on history of Eu.integration)
- Characteristics: partly IL, partly domestic law
- Horizontal and vertical in its structure
- Individuals – subjects and direct addressees (x IL!)
- Unlike the domestic law, the EU law does not have complex regulatory character in the society (*bread with raisins*)