

Ius Commune Conference 2019

Workshop: EU Internal Market and Competition Law

Friday, 29 November (14.00 – 17.00)

Building: Oude Valk

Room: Grote Vergaderzaal

Participants

Theme: Towards a sustainable EU competition and internal market law

The objective of this workshop is to critically assess how and to what extent sustainable development goals are incorporated in different fields of economic law, and whether it is desirable to do so. The focus is on EU internal market law ('four freedoms') and competition law.

Presentations will be limited to 10 minutes per person, so that sufficient time remains for discussion.

Seminar conveners: Wouter Devroe, Sybe de Vries, Anna Gerbrandy

Chair: Anna Gerbrandy (Utrecht University)

14.00 – 14.05 *Welcome*

Panel I: Regulating for Sustainability

14.05 – 14.15 **Lennard Michaux** (KU Leuven)
Sustainability and Public Procurement

Public procurement law has traditionally promoted multiple sustainability goals: non-discrimination, economic development, fair institutions... As in other domains of EU economic law, several *new* sustainability arguments have been invoked – and accepted – over time, i.e. environmental and societal issues. This presentation will explain how the latter are concretely implemented within the public procurement regime. Are we using the right methodology to balance these different interests? And is there a place for the rule of reason in public procurement law?

Respondent: **Sarah Schoenmakers** (Maastricht University)

14.15 – 14.25 **Stijn Vanoppen** (KU Leuven)
Sustainability and Tax Law

14.25 – 14.35 **Steffie De Cock** (KU Leuven)
Competition law and Development Cooperation

Economic studies show that developing countries tend to achieve the strongest and most consistent growth when they have adopted measures to improve their own effectiveness and encourage vibrant competition. More growth in these countries means less poverty. This is one of the reasons why it makes sense for the EU to stimulate the enforcement of competition law in developing countries as an alternative or as a complement to granting development aid. This panel will focus on which tools the EU is using to promote EU competition law in developing countries.

14.35 – 14.55 **Discussion**

Chair: **Sybe de Vries** (Utrecht University)

Panel II: **Products & Markets**

14.55 – 15.05 **Anaïs Michel** (KU Leuven)
Sustainability and Product Durability

There are nowadays growing and widespread suspicions about the premature obsolescence of consumer goods. Empirical studies have confirmed these suspicions, at least for certain products. Major legal developments and proposals at EU and national level have been adopted over the past few years to promote product sustainability and durability. Policies contributing to extend product lifetime include measures aiming to increase the reparability of products put on the market. While the focus is generally on consumer rights when dealing with product reparability, this presentation will address this topic from a repairer perspective, pointing out the different obstacles they can encounter as well as legislative measures that are implemented or proposed to overcome those obstacles at EU and national level.

15.05 – 15.15 **Elias Van Gool** (KU Leuven)
Sustainability and Liability for Products and Services

Traditional tangible consumer products are increasingly made available through new B2C business models or C2C interactions, such as product-life extensions, sharing or product-as-a-service models. These circular and collaborative economic developments have the potential to contribute to a more sustainable economy. The intervention will discuss how current liability law for consumer products and services is being challenged by these developments. Particular attention will be given to the EU Product Liability Directive, which appears to have been specifically designed for a linear and sales-dominated economy.

15.15 – 15:25 **Discussion**

15.25 – 15.45 **Coffee break**

15:45 – 15.55 **Belle Beems** (KU Leuven – Radboud University)
Digital Agriculture, Sustainability and Data Sharing under the EU economic law acquis

The rise of digital agriculture is changing the way we produce food. This phenomenon allows farmers to boost productivity, while also reducing the impact of farming on environment and climate. Nonetheless, the opportunities of digital agriculture remain largely untapped. In order to realize the potential, data sharing is of pivotal importance. However, data sharing is hampered by various technical barriers and legal obstacles. This presentation aims to uncover the obstacles created by and maintained through the EU economic law acquis.

15.55 – 16.05 **Chris Verleye** (KU Leuven)
Sustainability and Pharmaceuticals

Respondent: **Nina Colpaert** (KU Leuven)

16.05 – 16.15 **Discussion**

Chair: **Wouter Devroe** (KU Leuven)

Panel III: **Broadening the Horizon**

16.15 – 16.25 **Nathan Meershoek** (Utrecht University)
An Internal Market for Defence Equipment? National Security Interests and the EU's Strategic Autonomy

The EU Defence Procurement Directive aims to integrate European defence industry by obliging Member States to organize non-discriminatory tenders for the procurement of military goods. Liberalization is deemed necessary for the development of the military capabilities required for a European defence policy and more generally for the geopolitical strategic autonomy of the EU. Although the EU-Treaties since the Maastricht Treaty (1992) provide a basis for “a common Union defence policy”, there is no far-reaching policy which the Member States unanimously agree on yet. At the same time, the EU-Treaties recognize national security as the Member States’ sole responsibility and provide an exemption from the internal market rules for military goods. The question arises whether national security interests can (still) justify industrial policies aimed at the preservation of national industries and whether this problematizes the internal market legal basis of the Directive.

16.25 – 16.35 **Pauline Phoa** (Utrecht University)
A Hermeneutic Approach for the EU Single Market and Fundamental Rights Protection

This philosophical research examines the ways in which a judgment of the Court of Justice of the EU (CJEU) reflects and shapes the ways of thinking and talking about EU law, the stories we tell ourselves, about human life and human interaction in the Europe. In EU law we have to accommodate with a multitude of interests, cultures, languages and legal traditions. Our life in EU law is a complex practice of reading and writing, of cross-cultural ‘meaning making’. We shape not only a new legal order, but also a new reality for individuals through the legal texts we produce, and this is particularly important in cases in which economic interests are balanced against fundamental rights. The tension that it felt to exist in these cases, may not just be a clash between rights, but between narratives and world views.

16.35 - 16.45

Lavinia Kortese (Maastricht University)

The Recognition of Qualifications in the EU: Blurring the Lines of Competences between the Internal Market and Education

Recognition of qualifications is an important precondition to mobility and the realisation of the free movement of workers and of establishment. In the EU, extensive legislation and policy exists aimed at recognising the qualifications (i.a. diplomas and work experience) of migrating citizens. At the root of the topic is a distinction regarding the purpose for which qualifications are used. This may either be for employment or educational purposes. Whereas the EU has been competent to act on professional recognition ever since the 1957 Rome Treaty, the later introduction of a competence on academic recognition with the 1992 Maastricht Treaty has forever separated the two recognition types in distinct competences. The first an internal market competence enabling harmonisation and the second an education competence subject to a prohibition of harmonisation. The existence of separate competences for distinct situations would not be problematic if all cases of recognition could be categorised as either professional or academic recognition. Nevertheless, this delineation is challenged in practice, in part due to the mobility of citizens. This overlap between professional and academic recognition also challenges the present division of competences. This presentation explores the synergies between the fields of the internal market and education that challenge the system as it stands today and examines the boundaries of the two recognition competences in the Treaties.

16.45 - 17.00

Discussion