

Faculty of Law



PUBL2346 Public regulation of the economy (EU and Belgian law)

[30h] 4.5 credits

This course is taught in the 1st semester

Teacher(s): Philippe Maystadt, Philippe Maystadt
Language: French
Level: Second cycle

Content and teaching methods

The European Community is based on an open market economy with free competition, "favouring an efficient allocation of resources". In this context, several issues related to State intervention in the economy are examined.

1. Public undertakings

Under EU law, Member States may establish and operate public undertakings, namely publicly-owned undertakings or undertakings to which the State grants special or exclusive rights. However, under the EC Treaty, public undertakings have to comply with the rules of the Treaty, including the principle of equality and competition rules. How can the establishment and operation of public undertakings carrying out economic activities be made compatible with the Treaty?

2. Services of general economic interest

Art. 86(2) of the EC Treaty, and subsequently the new Art. 16 of the same Treaty, emphasised "the place occupied by services of general economic interest in the shared values of the Union as well as their role in promoting social and territorial cohesion". This can justify derogation from the rules of the Treaty. What are the principles applicable and the conditions required for such derogation?

3. Liberalisation of economic sectors

Art. 86(3) of the EC Treaty empowers the Commission to address directives to the Member States. In parallel, the Council may adopt directives pursuant to Art. 95 of the EC Treaty. On this basis, directives have provided for liberalisation of economic sectors, such as telecommunications and energy. What is the result of these liberalisation measures?

4. State aid

Free competition in the common market requires a prohibition in principle on aid funded out of the public purse that distorts or threatens to distort competition (Art. 87 of the EC Treaty). What is covered by this prohibition of State aid? By way of exception, which types of aid are compatible with the common market? May the public authorities still intervene as shareholders, creditors or contractors? Does compensation for costs incurred in discharging public-service obligations constitute State aid within the meaning of Art. 87?