

Course Syllabus 2024/2025

Concepts and Methods of Law & Economics

Course Syllabus

Dr. Ann-Sophie Vandenberghe

Lecturer: Dr. A.-S. Vandenberghe
vandenberghe@law.eur.nl

Concepts and Methods of Law & Economics

Content

This course offers an introduction to the basic concepts and methods of Law & Economics. Economics, whose subject is the implications of rational choice, is an essential tool for figuring out the effects of law. An economic analysis of law comprises two related enterprises. The first enterprise is positive. It focuses on providing an economic explanation for the rules and institutions we have. The second enterprise is normative and examines how the law can be improved to coincide more with the goal of economic efficiency.

The course is designed for both economics and law students. For economics students, it is an interesting application of the economic way of thinking to real world problems and policy issues. Examining actual legal cases gives students experience in relating abstract economic models to practical problems and demonstrates their direct relevance. Law students will learn to understand legal issues from an economic perspective with a focus on a clear understanding of the logic and underlying economic intuition rather than just the results. The economic approach to law provides a unified vision of the law, tying together diverse areas of law into a common theoretical structure.

Learning objectives:

On satisfying the requirements for this course, students should have the knowledge and skills to

- recognize the economic issues in a legal problem and apply the economic way of thinking to analyse it;
- make a comparative analysis of alternative legal arrangements based on transaction costs, incentives, and risk allocation;
- assess the efficiency effects of legal rules and policies;
- making use of economics to understand the rules we have and to decide what rules we should have.

Format:

The course will follow a lecture/seminar format. Students are asked to be prepared for active class discussion by completing the reading assignments.

Examination:

Final written test. Student performance is tested by means of his/her performance on an examination (100% of final grade).

Exam material:

Class materials (mandatory literature), class content and class discussion notes, slides and other material made available.

Class materials (mandatory literature):

Cheung, Steven N.S. (1969) 'Transaction Costs, Risk Aversion, and the Choice of Contractual Arrangements', *Journal of Law & Economics*, XII (1), April, 23-42.

Cooter, Robert and Thomas Ulen, *Law and Economics*, 2007, 5th ed., CHAPTER 11 An Economic Theory of Crime and Punishment and CHAPTER 12 Topics in the Economics of crime and Punishment (can be downloaded from: http://works.bepress.com/robert_cooter/)

De Geest, Gerrit (2013) 'Irredeemable Acts, Rent Seeking, and the Limits of the Legal System: A Response to Professor Raskolnikov', 103 *The Georgetown Law Journal Online*, 23-28.

Demsetz, Harold (1967), 'Toward a Theory of Property Rights', *American Economic Review, Papers and Proceedings*, LVII (2), May, 347-359.

Farnsworth, Ward *The Legal Analyst: A Toolkit for Thinking about the Law*, The University of Chicago Press, 2007, Chapter 1 Ex ante and Ex post (can be downloaded from: <http://www.the-legalanalyst.com/ExAnte.pdf>)

D.D. Friedman, *Law's Order: What Economics Has to Do with Law and Why It Matters* 2000, introduction, chapters 1 and 2 (can be downloaded from: <http://old.unipr.it/arpa/defi/econlaw/D%20Friedman%201.pdf>.) or http://www.daviddfriedman.com/laws_order/

Miller, Geoffrey P. (1997), 'The Legal-Economic Analysis of Comparative Civil Procedure', *American Journal of Comparative Law*, 45 (4), 905-918.

Posner, Eric A., *Agency Models in Law and Economics*, Chicago John M. Olin Law & Economics Working Paper No. 92, 2000. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=204872

Posner, Richard (2006), 'Do We Have Too Many Intellectual Property Rights?', 9 *Marquette Intellectual Property Law Review* 173-185.

Ramseyer, Mark J. and Minoru Nakazato (1989), 'The Rational Litigant: Settlement Amounts and Verdict Rates in Japan', *Journal of Legal Studies*, XVIII (2), June, 263-290.

Schäfer, Hans-Bernd (2006), 'Rules versus Standards in Rich and Poor Countries: Precise Legal Norms as Substitutes for Human Capital in Low-Income Countries', 14 *Sup. Ct. Econ. Rev.*, 113 - 134.

Shavell, Steven, *Economic Analysis of the General Structure of the Law*, Harvard John M. Olin Center for Law, Economics and Business, Discussion Paper, 408, 02/2003 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=383443

Schwab, Stewart J. (2017), "Law-and-Economics approaches to Labour and Employment Law", 33 *International Journal of Comparative Labour and Industrial Relations*

Schematically, subjects of the lectures and reading assignments.

Class	Theme	Reading assignment
(1) Tuesday 01/10	Course introduction. The distinguishing features of the Law & Economics way of thinking	
(2) Wednesday 02/10	The distinguishing features of the Law & Economics way of thinking (continued)	Farnsworth (2007); Friedman (2000)
(3) Monday 07/10	Efficiency analysis of law: Incentives, transaction costs, and risk costs Agency relationships	Cheung (1969); Posner (2000)
(4) Tuesday 08/10	Property: Coase theorem; private versus common property	Demsetz (1967)
(5) Monday 14/10	Intellectual property Transfer of property; Calabresi and Melamed.	Posner (2006)
(6) Tuesday 15/10	General structure of law and enforcement of law	Shavell (2003) Schaefer (2006) De Geest (2013)
(7) Monday 21/10	Criminal law – the rational criminal	Cooter and Ulen (CH 11-12)
(8) Tuesday 22/10	Procedural law	Miller (1997)
(9) Monday 28/10	Dispute resolution: settlement versus litigation - the rational litigant	Ramseyer and Nakazato (1989)
(10) Tuesday 29/11	Law-and-Economics approaches to law: application to labour and employment law	Schwab (2017)
Friday 08/11	Exam	