

## INTERNATIONAL TRADE LAW (8 ECTS)

### 1. Premises and Course Description

The so called “crisis of the juridical modernity”, in the sense of the crisis of the traditional sources of law as well as crisis of the State as unique entity that holds the regulatory power in a certain territorial context, has brought out a new body of rules, practices and processes that it is possible to call Transnational Private Regulation (TPR).

The need of international harmonization to overcome normative fragmentation of market regulation, weaknesses of States as global rule-makers and of public international law in dealing with the transformation of public sphere, are all factors that have contributed to the emergence and consolidation of TPR.

In the perspective of TPR, a crucial role in regulation settings is played by private actors, firms, NGOs, independent experts like technical standard-setters and epistemic communities, either exercising autonomous regulatory power or implementing delegated power, conferred by international law or by national legislation.

Its recent growth reflects (A) a reallocation of regulatory power from the domestic to the global sphere and (B) a redistribution between public and private regulators. When in place, TPR produces strong distributive effects both among private actors and between them and nation states. It differs both from global public regulation and from conventional forms of private rule-making identifiable with the law merchant. The main differences concern both actors and effects.

Having said that, the course aims to provide students fundamentals about regulation’s theories (concept of regulation; regulatory relationships among private/public regulators, beneficiaries and third parties negatively affected; rule-making and rule-enforcement; valuation of regulation and cost-benefit testing; setting standards; regulating risks; self-regulation and co-regulation). Then, particular attention will be dedicated to the above mentioned TPR, exploring conflicts of interest and responses from governance regimes. Finally, in a litmus test perspective, particular concerns will be examined (environmental regulation and public/private agreement in environmental matters, the competitive regulatory models in online gambling)

### 2. Learning Outcomes

#### *Knowledge and understanding*

The Course will take students through the central issues of regulation and discuss these from a multidisciplinary perspective.

#### *Applying knowledge and understanding*

Regulation is a key concern of governments, industries, consumers, citizens and NGO’s alike. Understanding complexity of regulation in regulatory multi levels contexts (regional law, national law, European law as well as ASEAN, OHADA or MERCOSUR law, WTO constrains, *lex*

*mercatoria*, etc.), disengaging and systemizing pluralities and conflicting interests among different subjects in a pretty often regulatory overlapped contexts, does represents an infeasible expertise either in a public management perspective or in a private one.

### *Making judgments*

Students will be able to analyze complexity of regulatory regime dealing with some crucial concerns: 1. Multi-level regulatory systems: from national perspective to global one and vice versa; 2. Hybrid and mixed regulatory regime (private law and procedures with public ones); 3. Hard law and soft law techniques.

Students will be accustomed to value benefit and detriment of different regulatory approaches (command and control, self regulation and co-regulation as well), analyzing solutions in a juridical, sociological and economical perspective.

Students will be called to apply theoretical knowledge to the solution of practical case-studies.

### *Communication*

Students will present and discuss relevant literature, will be called also to discuss and propose solution for case studies in class, as well as discuss personal research on some topics.

### *Learning skills*

Students will acquire skills that are required for self-studies of the literature on the subject and to investigate the relationship between Administrative Law and public bodies.

## **3. Course Content**

The course is divided into three parts:

### **c) Fundamentals of Regulation**

- Concept of regulation: rules setting, monitoring and enforcement;
- Regulatory relationships among private/public regulators;
- Beneficiaries and third parties negatively affected;
- Rule-making and rule-enforcement;
- Valuation of regulation and cost-benefit testing;
- Standards setting;
- Regulating risks;
- Self-regulation and co-regulation.

### **d) Transnational Private Regulation**

- TPR and private actors, interplaying with international organizations and intergovernmental organizations;
- Models of TPR: (a) regulatory frameworks concerning individual enterprises, promoted by shareholders or by other stakeholders, (b) the product and process regulation of small enterprises by large multinational corporations

along the supply chain, (c) the regulation of financial aspects of firms governed by rating agencies and accounting firms, (d) the regulation of transnational employment standards promoted by unions and international organizations such as ILO, and (e) the regulation of environmental aspects;

- Voluntary regulation and delegated private regulation in TPR;
- Relationship between International Soft Law and TPR
- Multi-level complementarity between public and private law: contract law as a vehicle to harden transnational soft law: supply chain structure and self-enforcing contracts;
- Multi-level complementarity between public international soft law and private law: tort law as a vehicle to harden transnational soft law;
- TPR and Global Governance.

#### **e) Particular Topics**

- Environmental regulation and public/private regulatory agreement;
- Regulatory instruments for Online Gambling.

### **4. Course Design**

The course is comprised of lectures, seminars, group discussions, students' presentations and individual assignments/papers. An overall attendance rate of 80% in scheduled sessions is required, and attendance is mandatory in the group discussions, students' presentations, and seminars, and active participation is required in those sessions.

### **5. Student's Evaluation**

Assessment is carried out by means of evaluation of individual and group assignments. For a passing grade the student must (a) have pass marks on all the assignments; (b) have participated in the mandatory sessions; (c) have an adequate overall attendance rate. In addition, the grade is based on a project report and its presentation.

An ECTS grade is provided to the student at the end of the course according to the A–F scale. Students not successfully fulfilling all the course requirements within the regular time frame have the option of a re-sit the following semester.