



# The Impact of European Union Law on National Criminal Law

## *Challenges and Constraints to Individual Liability in the Member States*

30<sup>th</sup> June 2017  
08.30 to 16.00  
G.05, 50 George Square  
Edinburgh, EH8 9LH

**Free and open to all but registration required:**

<https://uoe-workshop.eventbrite.co.uk>

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### Outline of event

The aim of the workshop is to understand how the peculiarities of the European Union (EU) as a legal order shape the EU Court of Justice (CJEU) approach to criminal liability at national level. The impact of EU law on national criminal law has significantly increased over the years. This can be traced back to two main factors. Starting with the Maastricht Treaty, the Union has been provided with growing powers in criminal law, this resulting in the adoption of many legislative instruments in the area. Furthermore, EU competences more broadly have expanded, as shown by the establishment of EU citizenship and the Union provisions on immigration. This heightened the chance of interplay and conflict between state criminal law and EU law.

The two dynamics just described has had three main consequences. Firstly, even more pieces of national legislation have been attracted under the umbrella of EU law and, as a consequence, the interpretative monopoly of the CJEU. Secondly, unprecedented principles have been applied to criminal law, as is the case of mutual recognition. Thirdly, traditional guarantees (the principle of legality, ne bis in idem) have been involved in this interaction, and their content has been redefined. This has had huge impact both on sovereignty and fundamental rights. The Court has had a key role to promoting and managing that dialogue. The EU Charter of Fundamental Rights, which has taken on legally-

binding value following the Lisbon Treaty, has been an integral part of such an interpretative task.

In this workshop, we discuss landmark judgments of the CJEU arising from the interaction between criminal liability at national level, on the one hand, and rights and principles protected by EU law, on the other. In order to provide a more reliable account of the impact of EU law on state criminal law, we take into account the peculiarities of the EU legal order. Therefore, we look not only at the relationship between Union norms and criminal liability per se, but also at the effects that the latter has on individual rights protected by EU law. Furthermore, we evaluate the impact that these judgment have had both at EU, and national law, levels.

The judgments have been selected by taking into account the substantive impact they have had on: the specific area of law and policy concerned; the definition of the rights and principles at stake. We analyse the following decisions, each covering a different area of EU law: C-387/02, Berlusconi et al. (substantive criminal law - retroactivity of more lenient penalties); C-105/14, Taricco (procedural criminal law - principle of legality); C-617/10, Fransson (scope of application of the Charter - ne bis in idem); C-61/11 PPU, El Dridi (immigration – effectiveness of EU Law and decriminalisation); C-304/14, C. S. (EU Citizenship - protection against expulsion and effects of criminal convictions).



## Welcome

**08.30** - Registration and Refreshment

**09.00** - Welcome of the Head of School of Law

**09.15** - Introduction of the organizers

### First Session:

#### Building European Criminal Law: Principles and Constitutional Tensions

##### **09.30 – 10.30 – General Principles of Substantive Criminal Law**

Professor Frank Meyer, University of Zurich  
*The principle of legality in European Criminal Law*

Professor Alberto di Martino, Sant'Anna School of Advanced Studies  
*Retroactivity of more lenient penalties from the perspective of Italian criminal law*

Chair: Dr. Leandro Mancano, University of Edinburgh

##### **10.30 – 11.30 – Criminal Procedure**

Professor Silvia Allegrezza, University of Luxembourg  
*Direct effect of EU Law and disapplication of national criminal law*

Professor Vittorio Manes, University of Bologna  
*The principle of Legality as Counter-Limit: Reflections on the Taricco case*

Chair: Professor Valsamis Mitsilegas, Queen Mary University of London

##### **11.30 – 12.00 – Coffee Break**

##### **12.00 – 13.00 – Ne Bis in Idem**

Professor Steve Peers, University of Essex (TBC)  
*Scope of the EU Charter of Fundamental Rights and Criminal Proceedings*

Associate Professor Maria Bergström, Uppsala University  
*The impact of the CJEU's case-law on ne bis in idem from the Swedish perspective*

Chair: Maria Fletcher, University of Glasgow

##### **13.00 – 13.45 – Lunch**

### Second Session:

#### The Impact of European Criminal Law beyond Criminal Law: Citizenship and Immigration

##### **13.45 – 14.45 – Criminal Law and Immigration Control**

Dr. Niovi Vavoula, Queen Mary University of London  
*EU Law as a limit to criminalisation of migration at national level?*

Professor Alessandra Annoni, University of Ferrara  
*Reshaping migration control through general principles of EU Law: the Italian example*

Chair: Professor Niamh Nic Shuibhne, University of Edinburgh

##### **14.45 – 15.45 – EU Citizenship and Criminal Law**

Professor Niamh Nic Shuibhne, University of Edinburgh  
*The evolving character of the criminal EU citizen*

Dr Leandro Mancano, University of Edinburgh  
*EU Citizenship and criminal convictions: an insight into the United Kingdom approach*

Chair: Dr Niovi Vavoula, Queen Mary University of London

##### **15.45 – 16.00 – Concluding Remarks**

##### **16.00 – Depart**

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