

Central European University  
**Department of Economics**

- 1. Name of Course:** **Economics of Law**
- 2. Lecturer:** **Professor Antony W. Dnes** (Room: FT 509)
- 3. No. of Credits (no. of ECTS credits):** **4 CEU credits** (8 ECTS)
- 4. Semester or Time Period of the course:** Winter term
- 5. Pre-requisites:** Introduction to Law and Legal Systems; Microeconomics.
- 6. Course Level:** MA Economics and Legal Studies
- 7. Course Outline:** The course gives an up to date coverage of the most important issues in law and economics, treated as a subdiscipline.
- 8. The goals of the course:** The course provides an overview of standard models of the economic analysis of law, based on common-law and civil-law countries: studying property rights, contracts, torts, crime, legal costs regimes, and litigation issues from an economic perspective. Students learn about empirical work testing the standard models and draw some parallels between the models and national experience. There is some emphasis on property rights issues throughout the course. Students successfully completing this course should be able to apply modern economic analysis to problems of legal doctrine, reforms and design.
- 9. The learning outcomes of the course:** i) development of analytical skills to a level where students can evaluate critically law and economics research outputs and design and carry out themselves such research projects.
- 10. More detailed display of contents:**

*Assumed Background*

- Intermediate level microeconomics
- Some knowledge of basic laws in at least one jurisdiction
- Elementary statistics
- Algebraic manipulation
- Graphical analysis

*Preliminary Syllabus*

- Introduction to law and economics
- Formation of property rights
- Conflict over property rights
- Coase theorem
- Least cost avoidance and environmental problems

- Contract formation and doctrines
- Breach of contract
- Reliance, restitution and expectations damages
- Tort law as control of externality
- Least-cost accident avoidance
- Crime, punishment and risk
- Deterrence hypothesis and empirical tests
- Litigation and procedure
- American and English cost rules
- Contingency fees and class actions
- Family law
- Legal impact of changing laws of marriage and divorce
- Cohabitation

**11. Assessment:** There will be one mid-term individualized assignment with a total of 30% weight in the assessment, and a final examination with 70% weight.

## **12. Detailed Plan of Lectures with Associated Reading**

(More advanced reading indicated by \*)

### 1. Introduction Week 1

Scope and method of law and economics; the benefits to lawyers and economists of integrated studies; rationality and reasonableness.

Dnes, A.W. (2006) *The Economic Analysis of Law: Property, Contracts and Obligations*, Cengage: Mason, Ohio, Ch.1

Posner, R.A. (2007) *Economic Analysis of Law*, 7<sup>th</sup> edition, Kluwer: Boston. Chs. 1&2\*

### 2. Property Rights Weeks 1- 2

Legal view of property and entitlements; theories of property rights; problems when private rights are missing; intellectual property.

Dnes, *Op Cit.* Ch.2

Lueck, D. and Michael, J.A. [2003] Preemptive habitat destruction under the Endangered Species Act, 46 *Journal of Law and Economics*, 27-60.

Dnes, A. and Lueck, D. [2009] Asymmetric information and the structure of servitude law, 38 *J. Legal Studies*, no.1 and available as a Cardon Research Paper (<http://ag.arizona.edu/AREC/pubs/researchpapers/2007-03dneslueck.pdf>), Department of Agricultural and Resource Economics, Univ. Arizona.\*

Grafton, R.Q., Squires, D. and Fox, K.J. (2000) Private property and economic efficiency: a study of a common-pool resource, 43 *Journal of Law and Economics*, 679-714; available at [http://search.ssrn.com/sol3/papers.cfm?abstract\\_id=231786](http://search.ssrn.com/sol3/papers.cfm?abstract_id=231786).\*

### 3. Conflict over Property Rights Week 2

Conflicting property rights and nuisance; Coase Theorem; public and private nuisance; planning and zoning; compulsory purchase.

Dnes, *Op Cit.* Ch.3

Coase, R.H. (1960) The problem of social cost, 3 *J. Law & Econ.* 1-44\*

Anderson, T. & McChesney, F. (1994) Raid or trade? An economic model of Indian-White relations, 37 *J. Law & Econ.* 39-74.

Somin, I. (2007) Post-Kelo America, *Reason Magazine*, April 20 available at <http://www.reason.com/news/show/119766.html>

Krause, M. (2000) Property rules versus liability rules, entry 3800 in *The Encyclopedia of Law and Economics*, Boudewijn Bouckaert, and Gerrit De Geest eds., Edward Elgar, Cheltenham, available at <http://encyclo.findlaw.com/3800book.pdf>

### 4. Contract Week 3

Classical contract law; evolution of contract; breach of contract; long-term contracts and contract renegotiation; hostages and ugly princesses; optimal promises; optimal breach of contract; remedies for breach of contract (specific performance or damages); unconscionability.

Dnes, *Op Cit.* Chs.4 & 5

Dnes, A.W. (1995) The law and economics of contract modifications: the case of *Williams v. Roffey*, 15 *International Rev. Law & Econ.* 225-240

Coleman, J. L. (2007), Some reflections on Richard Brooks's "Efficient Performance Hypothesis," 116 *Yale Law J. Pocket Part* 416, available at <http://www.thepocketpart.org/2007/07/23/coleman.html>\*

### 5. Tort Weeks 3-4

Definition of a tort; negligence; contributory negligence; comparative negligence; strict liability; least-cost avoidance; insurance; measuring compensation; judicial cost-benefit analysis (the Hand formula); product liability; litigation mania?

Dnes, *Op Cit.* Ch. 6

Posner, R.A. (2007) *Op Cit.* Ch.6

Schäfer, H-B. and Schönenberger, A. (2000) Strict liability v. negligence, entry 3100 in The Encyclopedia of Law and Economics, Boudewijn Bouckaert, and Gerrit De Geest eds., Edward Elgar, Cheltenham, available at <http://encyclo.findlaw.com/3100book.pdf>

Goldberg, V.P. (1994) Recovery for economic loss following the Exxon Valdez oil spill, 23 *J. Legal Studies* 1-41.\*

#### 6. Crime & Criminal Law Week 4-5

Criminal law; economics of criminal acts; optimal punishment and deterrence; crime waves around the world; capital punishment and abolition; drug trafficking; crimes against property.

Dnes, *Op Cit.* Ch7

Dezhbaksh, H., Rubin, P. & Shepherd, J. (2003) Does capital punishment have a deterrent effect? New evidence from post-moratorium panel data, 5 *Amer Rev Law and Econ*, 344-376

Becker, G.S (1968) Crime and punishment: an economic approach, 69 *J. Pol. Econ.* 169-217.\*

Dnes, A.W. & Seaton, J.S. (1997) An exploration of the tort-criminal boundary using manslaughter and negligence cases, 17 *International Rev. Law & Econ* 537.\*

#### 7. Litigation and Procedure Weeks 5-6

Levels of litigation in the USA and elsewhere; American and European cost rules; contingency fees.

Dnes, *Op Cit.*, Ch 8

Zamir, E. and Ritov, I. (2008) Neither saints nor devils: a behavioral analysis of attorneys' contingent fees, SSRN paper available at <http://ssrn.com/abstract=1085985>\*

#### 8. Family Law Week 6

Marriage, cohabitation and divorce: trends and issues in social protection and financial settlements. Contract analogies.

Dnes, *Op Cit.*, Ch 9

Binner, J. and Dnes, A (2001) Marriage, divorce and legal change: evidence from England and Wales, with J. Binner, 39 *Economic Inquiry* 298-306.\*

Mechoulan, S. (2006) Divorce laws and the structure of the American family, 35 *Journal of Legal Studies*, 143-174; available at

[http://econpapers.repec.org/article/ucpjlstud/v\\_3A35\\_3Ay\\_3A2006\\_3Ap\\_3A143-174.htm](http://econpapers.repec.org/article/ucpjlstud/v_3A35_3Ay_3A2006_3Ap_3A143-174.htm)\*