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Law and Economics

Economics and Development MSc

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1st LESSON

What is Law and Economics? Various definitions



What is Law and Economics?

- Various definitions concerning
 - method of analysis used by historians of law
 - (i.e., history and typology of administrative and economic planning of the 30s)
 - economic analysis of the (historical) sources of economic law
 - method of legal sociology
 - general theory of law



Why many definitions?

- The definition of law and economics is correlated on the kind of relationship between the legal system and the framework of the economic and financial sectors



Law and Economics as A Legal Discipline: Economic Law

- The interactions between the legal component and the system as a whole are the object of study of an autonomous legal science: economic law
- Economic law studies legal rules in relation to the establishment and functioning of the economic systems



Economic Law: profile

Economic law is usually considered to encompass the legal rules designed to bring about and enforce efficiency oriented decision-making with regard to the production, trade and consumption of goods and services

(K. Meessen, *Economic Law in Globalizing Markets*, Kluwer Law International, The Hague, 2004, p. 15)



About the term “Economic Law”

- Any country’s economic development—and, on an individual level, the economic well-being of a particular individual or family or business entity— takes place within the context of laws



Which is the role of Law?

Law is society's official method of

- imposing requirements,
- establishing procedures,
- offering solutions,
- resolving disputes, and
- reflecting societal values



Role of rules concerning “Economic Law” (examples)

- ❑ providing the means by which individuals can join together into companies for the purpose of carrying out business;
- ❑ establishing a system by which a business can get access to banking services, such as financing for the purchase and sale of goods;
- ❑ setting forth minimum requirements as to how a company should treat its employees, or refrain from damaging the environment, or conduct its business fairly



Economic Law: contents

- If you consider a market economy
 - Competition law
 - Contract law
 - Corporate law
 - ... (many other disciplines depending on the kind of legal system)
- The subject matter of economic law overlaps with the one of commercial law, but...



Economic Law vs Commercial or Business Law

Economic Law is economic system oriented
while commercial law is business operations
oriented

- so they are interdependent (i.e., freedom of contract largely remains a dead letter if we are in a monopolistic market)



The duality of Economic Law

Economic Law is understood to serve two purposes at one time

- **Efficiency (Distributive Justice)**
 - Individual decision-makers are to decide by themselves with whom to contract and on what terms
- **Social engineering (Social Justice)**
 - Means of social engineering include collecting revenues by taxation, granting social benefits and subsidies as well as restricting the use of property for public purposes and supervising business conduct



Two Concepts of Justice and Economic Law

In Economic Law distributive and social justice and the corresponding rules of private and public law sometimes switch roles

- **Social legislation** seeks to provide for **distributive justice**
- **Rules of private law** sometimes strive for **social justice**



- Which is the political system where the legislation takes place?
- How the government works?
- Which is the “constitutional” law of such system?
- When, to what extent, to what purpose and how public institutions take “economic decisions”?