

European Union Law
Professor Teachout
Fall Term, 2021

Syllabus

Text: Dammann, Introduction to European Union Law (2019)

Office Hours: M & W at your convenience by appointment

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Course Overview

This course offers a comprehensive introduction to European Union Law, with particular focus on key decisions of the European Court of Justice. We begin with an historical overview. How what today is called the “European Union” was transformed from a coalition of six states with modest powers in the period following World War II into one of the world’s largest trading blocks and a major player on the global stage forms a fascinating story of institutional creativity and development. We then turn to study the major institutions of the European Union (Council, Parliament, Commission, and Courts), their unique functions and interrelationships, and the procedures employed for proposing and adopting legislation. With that as a foundation, we embark upon an in-depth study of key decisions of the European Court of Justice, particularly those dealing with relationships between the European institutions and member state governments, the four freedoms that form the core of the European open market (free movement of goods, persons, services, and business enterprises), and the protection of fundamental rights.

European Union Law – Trento

Regrettably we are unable to offer the optional one-credit-hour *EU Law –Trento* course this year because of Covid-related travel restrictions. However students who successfully complete the European Union Law course will be eligible to participate in the Trento course next year (assuming travel restrictions have been lifted). This course offers an opportunity for VLS students to visit Trento, Italy, during the semester break and attend a series of lectures in English by the law faculty there on specialized topics of current interest and importance. This is a unique opportunity to study European Union law in a European university setting.

Evaluation

Evaluation of student performance will be based on two primary components: (1) an in-class two-hour open-book final exam and (2) a 10-to-15 minute oral exam in which students will be asked to demonstrate their understanding of the basic terms and concepts of EU law. The in-class exam (traditionally consisting of two traditional law school essay type questions) will be worth 90% of the final grade; the oral exam, 10%. I will provide students with a list of terms and concepts potentially covered in the oral exam in advance. I will also provide examples of typical essay questions for the in-class component in advance. We will be working through similar essay-type questions over the course of the term. I reserve discretion to increase a student’s final grade by up to half a grade for exceptional classroom participation and to deduct up to half a grade for disappointing performance.

Resources

The most comprehensive resource for information about the European Union is the official EU site: <https://europa.eu/>. I invite you to open the site (click on English language) and explore the rich research opportunities made available. We will have more to say about research resources as the course proceeds.

Syllabus

I. Introduction

Session #1: Introduction to the European Union: Basic Facts and Current Issues

In this session, we introduce and discuss some of the most important current issues facing the European Union. Please read and be prepared to discuss the following articles:

“Brexit”:

<https://www.cfr.org/in-brief/whats-eu-uk-brexite-deal>

Climate Change: European Green New Deal:

[A European Green Deal | European Commission \(europa.eu\)](#) (introductory glimpse only)

Immigration Crisis:

<https://www.theguardian.com/world/2020/oct/08/europe-migration-crisis-prejudice-eu-refugee-orban-christian>

Response to Coronavirus:

https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/overview-commissions-response_en

Role and Reputation of the European Court of Justice:

<https://european.economicblogs.org/economist-europe/2020/economist-europe-wizards-luxembourg>

II. The Evolution of the European Union: From Six States with Modest Powers in the Post WWII Era Into a 27-Member Global Powerhouse

Session #2: Historical Background

Read: Text, Ch. 1, “Historical Background,” pp. 1-6 (mid), pp. 12-16;
Ch 2, “The Founding of the European Communities,” pp.17-27
(biographical material at end of chapter optional)

III. The Institutions and the Legislative Process

Session #3: The Treaties/ Key Institutions: Their Functions and Interrelationships

Read: Text, Ch. 3, “Institutions,” pp. 33-49; Ch. 4, “Judiciary,” pp. 53-57 (top)

Session #4: The Legislative Process and Major “Legal Instruments”

Read: Text, Ch. 10, “The Legislative Process,” pp. 151-57(mid); Ch. 3, “Basics of EU Law,” pp. 45-51.

Read and prepare answers to questions in “Reading a Directive,” posted on the TWEN site for this session.

IV. A Unique “Constitutional Framework:” The European Court of Justice as an “Engine of Integration”

Session #5: The Preliminary Ruling Procedure

Read: Text, Ch. 5, “Preliminary Ruling Procedure,” pp. 63-76

Read: “Reading an ECJ Judgment: *Cowan v. Tesor Public* (1989) posted on TWEN.

Session #6: “Direct Effect” and “Supremacy:” The Building Blocks of ECJ Jurisprudence

Read: Text, Ch. 7, “Direct Effect,” pp. 95-110(bottom); Ch. 8, “Supremacy,” pp.121-29.

Session #7: Enforcement Actions

Read: Text, Ch 6, “Enforcement Actions,” pp. 77-93

V. The Internal Market/ Core Free Movement Principles

Session #8: Free Movement of Goods: The Customs Union

Read: Text, Ch. 11, “Free Movement of Goods: The Customs Union,” pp. 171-90.

Session #9 Free Movement of Goods: Quantitative Restrictions (Articles 34 and 36 TFEU)

Read: Chapter 12, pp. 191-96 (omit 196-99 on exports); pp. 199-223 (omit practice questions pp. 223-25); pp. 225-26 (outline)

Session #10: Free Movement of Goods: Some Practice Questions (Mode of Analysis Employed in Analyzing Free Movement of Goods Problems)

Read and Prepare: (1) Free of Goods Movement Problem (posted on TWEN); (2) Practice Questions, text pp. 223-25)

Session #11: Free Movement of Workers (Article 45 TFEU)

Read: Chapter 13, pp. 227-44

Session #12: Free Movement of Workers (Article 45 TFEU) continued

Read: Chapter 13, pp. 245-56 and prepare Practice Questions pp. 254-55

Session #13: Free Movement of E.U. Citizens (Article 21 TFEU and Directive 2004/38/EC)

Read: Article 21 TFEU; Chapter 14, pp. 257-68

Session #14: Free Movement of EU Citizens and Workers (Directive 2004/38/EC and Regulation 1612/68/EEC): Practice Questions

Read and prepare: Practice Questions pp. 268-71 (Note: texts of Directive 2004/38/EC and Regulation 1612/68/EEC are set out in textbook at pp. 462-84; you will need to cross-reference specific provisions in these documents in seeking answers to the Practice Questions)

Session #15: Freedom of Establishment (Article 49 TFEU): Free Movement of Businesses or “Undertakings”

Read: Chapter 15, pp. 273-300

Session #16: Free Movement of Services (Article 56 TFEU)

Read: Chapter 16, pp. 301-15

Session #17: Free Movement of Capital

Read: Chapter 17, pp. 317-26

VI. Common Problems

Session #18: Common Problems (Failure to Act/ Application to Private Parties)

Read: Chapter 18, pp. 327-44

Session #19: Member State Liability for Violations of EU Law

Read: Chapter 9, pp. 137-49

Prepare: Problem question posted on TWEN

Session #20: Limitations on Access to the European Courts by “Non-Privileged Actors”

Read: Readings posted on TWEN

VII. Protection of Fundamental Rights

Session #21: Charter of Fundamental Rights

Read: Readings posted on TWEN

Session #22: Charter of Fundamental Rights (cont); The “Same Sex Marriage” Judgments

Read: Readings posted on TWEN

VIII. The “Hungary and Poland Problem:” Sanctioning Member States for Failure to Adhere to the Rule of Law

Session #24: Sanctioning Member States for Failure to Adhere to Rule of Law: Hungary and Poland

Read: Readings posted on TWEN

IX. Review

Sessions ##25-26: Review

Readings to be assigned