

EUS 4932 - EU in Practice: THE CJEU and EU Law

Course Day & Times:

Wednesday, period 6 (12:50 – 1:40 pm)

Instructor:

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Office Hours:

Time: Fridays 10:00 – 11:00 am

Course Description

The course will be based primarily on a view of the EU judiciary from the inside, as a result of a personal experience of about 35 years as a member of the two courts that compose it (Advocate General, Judge and President of Chamber at the Court of Justice; founding President of the Court of First Instance - now the General Court of the EU), as well as a lawyer who practised before the two EU courts, the Portuguese courts and international arbitration tribunals in various fields of EU law.

Note about the class

This course is part of the **UF Jean Monnet Center of Excellence (JMCE) "EU in Practice"** series of courses. These are 1-credit courses taught virtually over the course of a full semester or in-person during an intensive one-week seminar. These courses are supported by the European Union (EU) through the Jean Monnet Programme which is part of Erasmus+.

These classes are unique opportunities for students to be taught by practitioners who have worked with, or for, the European Union. The instructors, in general, are not professors, though they may have prior experience teaching to diverse audiences. These courses will be different from other courses at UF, and are likely to require more work than you might generally expect a 1-credit course to require. Please be sure to carefully review the full syllabus and assignments to ensure you are familiar with them prior to the end of add/drop week. As there is generally a wait list for these courses we would like to avoid students dropping mid semester.

In particular, for those without a background in EU Studies (including, but not limited to EUS 4210) it will likely be necessary to complete additional reading assignments early in the semester to facilitate comprehension in the class. In general instructors will not provide students with basic introductory information on the European Union, but full participation in the course may require it. Information on suggested materials for those unfamiliar with the EU is provided on the home page.



Required Textbooks

There is no required textbook for this course. All readings will be available on Canvas.

Suggested Book

Simon Usherwood & John Linder, The European Union: A Very Short Introduction, Oxford University Press, 2018.

- *This book is available electronically from [Amazon](#) for those who prefer that method and want to read it ahead of class (suggested)*
- *Any recent (2018 or newer) textbook on the European Union can also be used. Students should read the sections on institutions and history.*

Assignments

Attendance – 20 points

Weekly Discussion Posts – 20 points

Short Papers – 60 points (3 papers, 20 points each)

Attendance:

Attendance will be taken for each class session. To be considered present is not sufficient to simply log into the Zoom meeting. The student must be actively engaged in the class - this may be demonstrated through visible engagement/presence using the camera function within Zoom and or by engaging via the chat function in Zoom.

Attendance is also different than participation. Merely being in class (and visible) is not the same as being active, asking questions, participating in discussions, etc.

Participation will be evaluated based upon each student's individual engagement with the course during lectures as well as via the discussion posts (responding to other students, answering questions, making comments and generally participating in the activity of the course).

This is distinct from simply attending course, though failure to attend will obviously negatively impact a student's ability to fully participate.

Discussion Posts:

Each week a discussion question will be posted on the Canvas course page related to that week's theme and readings. Students are expected to respond to the weekly question and are encouraged to engage with each other's comments, in a respectful and professional manner. Each discussion post is worth 5 points.

Discussion responses are expected to show that the student has read the material and is actively analyzing the question and engaging with the reading material. Students will not be able to see each other's posts until after they have submitted their comment. Posts should contain more than just "I agree" or "I disagree," and instead support their argument with evidence from class and readings.

Short Papers

Short papers are intended to serve as a reflection and demonstrate the student's understanding of the core themes and readings from each section. Three papers are required over the course of the semester. Guiding questions will be provided to students. will write three short papers



Papers should be 750-1250 words, use standard font (Times New Roman, 12pt, or similar), 1.5 or double spaced, and 1-inch margins. Papers should also include a header with at least the student's last name and a footer with page numbers.

Grading Policy

| Letter Grade | A | A- | B+ | B | B- | C+ | C | C- | D+ | D | D- | F |
|--------------|-----|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-----|
| Percentage | +94 | 90 93 | 87 89 | 84 86 | 80 83 | 77 79 | 74 76 | 70 73 | 67 69 | 64 66 | 60 63 | -60 |

Class Attendance and Make-up

Attendance and participation are required for success. This class meets once a week and as such attendance is critical and required. Students are allowed (1) unexcused absence. Any subsequent unexcused absences will result in a loss of three points in your attendance grade.

Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies. For further information about the University of Florida's attendance policy, please see [the current Undergraduate Catalogue](#).

Accommodation for Students with Disabilities

Students with disabilities who experience learning barriers and would like to request academic accommodations should connect with the disability Resource Center. Click here to get started with the Disability Resource Center. It is important for students to share their accommodation letter with their instructor and discuss their access needs, as early as possible in the semester.

Course Evaluation

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluer.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>

Honesty Policy

UF students are bound by The Honor Pledge which states, "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: "On my honor, I have neither given nor received unauthorized aid in doing this assignment." The Conduct Code specifies a number of behaviors that are in violation of this code and the possible sanctions. Click here to read the Conduct Code. If you have any questions or concerns, please consult with the instructor or TAs in this class.



In-Class Recording

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

Campus Resources

U Matter, We Care: If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit U Matter, We Care website to refer or report a concern and a team member will reach out to the student in distress.

Counseling and Wellness Center: Visit the Counseling and Wellness Center website or call 352-392-1575 for information on crisis services as well as non-crisis services.

Student Health Care Center: Call 352-392-1161 for 24/7 information to help you find the care you need, or visit the Student Health Care Center website.

University Police Department: Visit UF Police Department website or call 352-392-1111 (or 9-1-1 for emergencies).

UF Health Shands Emergency Room / Trauma Center: For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; Visit the UF Health Emergency Room and Trauma Center website.

GatorWell Health Promotion Services: For prevention services focused on optimal wellbeing, including Wellness Coaching for Academic Success, visit the GatorWell website or call 352-273-4450.



Course Schedule and Required Readings

Part I: The Structure of the EU Judicial System & How it Works

Week 1 (January 5): Introduction

- *Intro to Course*
- *Setting the Stage*

Readings

1. [CILFIT, 283/81](#) (encompassed by C-561/19)
 - [Summary](#)
 - [Opinion](#)
2. [Foto-frost, C-314/85](#)
 - [Summary](#)
 - [Opinion](#)
3. [Consorzio Italian Management, C-561/19](#)
 - [Abstract](#)
 - [Preliminary Ruling](#)
4. [AG Bobek Opinion](#) in *Consorzio Italian Management*, C-561/19
5. Barnard & Peers, *European Union Law*, pp. [284-288](#); and [316-324](#)

Week 2 (January 12): The General Principles of the EU Legal Order – Matching Substance and Procedure

- *The Unique Nature of the EU Legal Order*
- *Concept of Direct Effect*

Readings

1. [Van Gend & Loos, 26/62](#)
2. [Costa / Enel, 6/64](#)
3. [Poplawski, C-573/17](#)
 - [Abstract](#)
 - [Opinion](#)
 - [Preliminary Judgement](#)
4. Barnard & Peers, *European Union Law*, [Chapter 6](#)

Optional

1. [Simmenthal, C-106/77](#)

Week 3 (January 19): The General Principles of the EU Legal Order II

- *Primacy of EU Law*
- *Other General Principles of EU Law*

Readings

1. [Rewe, C-33/76](#)
2. [Brasserie du Pêcheur, C-46/93 and C-48/93](#)
3. [Francovich, C-6/90 e C-9/90](#)
4. [João Filipe Ferreira da Silva e Brito e o., C-160/14](#)



- [Summary](#)
- [Opinion](#)
- [Preliminary Judgement](#)

Week 4 (January 26): The General Principles of the EU Legal Order III

- *Primacy of EU Law*
- *Consistent Interpretation (Indirect Effect)*
- *State Liability for Breach of EU Law*
- *Procedural Autonomy, Equivalence, and Effectiveness*
- *Conferral, Proportionality, and Subsidiarity*

Readings

1. The same readings already assigned for Week 3;
2. [Thelen Technopark Berlin, C-261/20](#)
3. K. Lenaerts & P. Van Nuffel, "European Union Law", Sweet & Maxwell, 3rd edition, 2011, pp. 16-24.

Week 5 (February 2): Discussion Session

Part II: Quality Checks – Structure and Substance

Week 6 (February 9): The Right to an Effective Judicial Protection

- *Article 47 of the Charter of Fundamental Rights*
- *Article 263 TFEU*

Readings

1. [Plaumann, C-65/62](#)
 - [Summary](#)
 - [Opinion](#)
2. [International Fruit, 44/70](#)
 - [Summary](#)
 - [Opinion](#)
3. [Les Verts, C-294/83](#)
 - [Summary](#)
 - [Opinion](#)
4. Vilaça, EU Law and Integration, [Chapter 9](#)
5. Barnard & Peers, European Union Law, [chapter 10](#), until p. 316.

Week 7 (February 16): The Right to an Effective Judicial Protection II

- *Notion of 'individual concern'*
- *Notion of 'regulatory act'*
- *Notion of 'implementing measures'*

Readings

1. [AG Jacobs opinion in case UPA, C-50/00](#)
2. [General Court's judgment in Jégo-Quéré, T-177/01](#)
3. [Court of Justice's judgment in UPA, C-50/00;](#)



4. [Admissibility Criteria post-Lisbon](#)

Week 8-9 ([February 23](#) & [March 2](#)): Right to Effective Judicial Protection III

- *Infringement Proceedings*
- *Action of failure to act*
- *Action for damages*
- *Contractual liability*
- *Staff cases*
- *Jurisdiction over CFSP*

Readings

1. Barnard & Peers, Chapter 10 (already assigned for previous sessions)
2. [Commission v Poland \(*Régime disciplinaire des juges*\), C-791/19](#)
3. [Hungary v Slovak Republic, C-364/10](#)
4. [Commission v France, C-304/02](#)
5. [Parliament v Council, case 13/83](#)
6. [Agraz e o., C-243/05 P](#)

Optional readings:

1. [Commission v France, C-416/17](#)

Week 10 (March 9): No class – Spring Break

Week 11 (March 16): The Judicial Machinery of the EU Courts

- *The Structure, the mindset and the decision-making process of the Court*
- *Evolution of EU law through the case law*
- *Most notorious U-turns*

Readings

1. [Dassonville, 8/74](#)(para 5); [Cassis de Dijon, C-120/78](#)(para 14) [Keck and Mithouard, C-267/91 and C-268/91](#)(Para 14[1], 16)[2].
2. [Parliament v Council \(Comitology\), C-302/87](#) (paras 26 and 28[3]) [Parliament v Council \(Chernobyl\)](#), C-70/88 (paras 15 and 16; see also 26 and compare with paras 19-21 of Comitology). See also [Parti Écologiste Les Verts \(C-294/83\)](#), paras 24 and 25.
3. [Taricco and Others \(Taricco I\), C-105/14](#) (para 58[4]) [M.A.S. and M.B. \(Taricco II\), C-42/17](#) (para 59[5])
4. [Hoffmann-La Roche v Commission, 85/76 Intel](#), C-413/14 (paras 137-138)[6].
5. [Ruiz Zambrano, C-34/09](#)

Week 11 (March 23): Judicial Machinery II

- *The evolution of the Court as an institution*
- *Consequences of the EU legal order*

Readings

1. Eleanor Sharpston, '[Making the CJEU more productive](#)', Maastricht Journal of European and Comparative Law, 2014

2. Listen to J. Weiler's interview to EU law live (podcast): <https://eulawlive.com/podcast/a-conversation-with-joseph-weiler-part-1-on-the-past-present-and-future-of-european-integration/>
3. Lenaerts, I. Maselis, and K. Gutman, EU procedural Law, Oxford, 2014 ([2.01-2.49](#))

Part V: The Challenges Ahead

Week 12 (March 30): The Constitutional Dimension

- *Is the Court of Justice a Constitutional Court?*
- *Building a Constitutional legal order*
- *The 'new' constitutional clash*
- *Do we really need a European Constitution?*

Readings

1. Vilaça, EU Law and Integration, [Chapter 3](#)
2. [Press release of the PPSP judgment](#)
3. [Vilaça, 'The judgment of the German federal constitutional court and the court of justice of the European Union – judicial cooperation or dialogue of the deaf?'](#)
4. [Case summary on constitutional pluralism and constitutional identity](#)

Optional:

- Vilaça, EU Law and Integration, [Chapter 2](#)

Week 13 (April 6): The Rule of Law Backsliding

- *The Charter of Fundamental Human Rights and its limits*
- *Evolution of case-law from ASJP*
- *Non-regression in EU-law?*

Readings

1. [Associação Sindical dos Juizes Portugueses, C-64/16](#)
2. [Repubblika, C-896/19](#)
3. [K. Lenaerts, 'New Horizons for the Rule of Law Within the EU', German Law Journal \(2020\), 21, pp. 29–34](#)
4. Podcast ['The rule of law in Europe: a conversation with Daniel Halberstam and Paul Nemitz'](#), in EU Law Live.

Week 14 (April 13): The EU in the International Context

- *Immigration and Asylum*
- *CSDP?*
- *Mutual trust in danger?*

Readings

1. [Barnard & Peers, Chapter 25](#)
2. [Rosas, pp. 262-269](#)
3. [N. S. and Others, C-411/10](#)



Week 15 (April 20): Discussion Session

