

University of Florida
European Regulatory Law and Politics
EUS 3930
Fall 2022

COURSE INFORMATION:

Instructor: Prof. Alexander Panayotov, Ph.D.

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Course Location: Turlington Hall 1105 (Tuesday) and Turlington Hall 1101 (Thursday)

Course Time: Tuesday 10:40 -11:40 AM, Thursday 10:40-12:35 PM

Office Location: Turlington Hall 3343

Office Hours: Tuesday 12:00-2:00 PM (in person), Thursday 12:45-1:45 (Zoom), and by appointment

“Thoughts without content are empty, intuitions without concepts are blind.”
Immanuel Kant

COURSE DESCRIPTION:

This is an introductory course in European regulatory law and politics. It has three main objectives. First, we will study the basic concepts underpinning the legal system of the European Union. It will provide you with the methodological apparatus for studying the modern European law. Second, we will learn how the Court of Justice of the European Union (CJEU) operates, resolves disputes, and justifies its decisions. Finally, we will analyze the most important aspects of the European regulatory law and the political conflicts shaping legal rules. Specifically, we will learn the operation of the rules regulating competition, environment, digital economy, and consumer welfare and safety. We will pay particular attention to the regulatory competition and cooperation between the United States and the European Union.

In this class, we will study European law. We will examine European legal rules and disputes resolved by both EU and national courts. You will learn different styles of legal analysis and argumentation. Understanding these styles might prove challenging. Because of this, be prepared to discuss them during the class. The class discussion is a deliberative exercise: you are expected to contribute to it because everyone will benefit from a vigorous exchange of ideas. In order to facilitate this exchange, I will call people in class. Please note that class attendance is mandatory. Don't forget that collegiality and tolerance are virtues not vices.

LEARNING OBJECTIVES:

Students in this course will:

- Explore the foundations of European law and politics
- Learn the methodological skills to read, analyze, and understand European legal cases.

- Refine their writing, editing, and presentation skills.

COURSE TEXTS:

1. Margot Horspool, Mathew Humphreys, and Michael Wells-Greco, *“European Union Law”* 11th edn. (Oxford University Press, 2021) [hereinafter EUL]. Check carefully and don’t buy previous edition of the book.
2. Anu Bradford, *“The Brussels Effect: How the European Union Rules the World”* Oxford University Press, 2021) [hereinafter BE].
3. Materials on the Canvas web site.

EXAMINATIONS AND ACADEMIC HONESTY:

- I will not be able to change exams’ parameters and presentation dates except in the following cases: a medical emergency, which must be properly documented, and a death in the immediate family.
- Absences from class must be properly documented. An absence without proper documentation will be counted as an unexcused one. Two or more unexcused absences will result in lowering of your attendance and participation grade.
- Depending on our progress, there might be changes in the schedule. You will be notified of all changes in advance.
- No extra credit assignments will be offered.
- Please note that 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 Honor Code (<http://www.dso.ufl.edu/scr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor in this class. Please note that this is a research-intensive course. Because of this, plagiarism and other forms of academic dishonesty will not be tolerated. Students are required to read, understand, and abide by the University of Florida Academic Honesty policy. The policy can be found here: <https://sccr.dso.ufl.edu/process/student-conduct-code/> . All violations of the said policy will be reported in accordance with the process outlined in it.
- The requirements in the syllabus are consistent with the UF grading policy. The policy can be found here: <https://catalog.ufl.edu/UGRD/academic-regulations/grades-grading-policies/>

GRADE CONCERNS:

If a student disagrees with her grade, she must outline her concerns in writing within 48 hours of receiving the grade. I will not accept grade concern statements after the expiration of the 48 hour period. The statement must contain a reasoned claim backed by textual evidence. After evaluating the merit of the claim, I will do one of the following: 1) increase the grade; 2) lower

the grade; or, 3) leave the grade unchanged. The student will be notified about my decision within a reasonable time frame and the grade will be adjusted accordingly. Please note that this policy will not be applicable to the final paper and the overall final grade.

ATTENDANCE:

- Please be advised that class attendance is mandatory. I will revise your grade one grade step down (e.g. B+ to B) for systemic unexcused absences from class (three or more absences).
- Arrive on time. I will lower your attention and participation grade in cases of systematic tardiness. I define systematic tardiness as “three or more late arrivals to class.”
- Do not leave early. If you leave early three or more times, I will lower your attention and participation grade.
- Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>

INCOMPLETES:

Incompletes will be granted under exceptional circumstances. A student who wants to receive an incomplete must: (1) inform the professor 10 (ten) days prior to the last day of class and (2) provide a written explanation about the reasons necessitating the incomplete. These reasons must be properly documented. In addition, the student must provide a written plan for finishing the missing work. The student must complete the work during the following semester. Failure to complete the work will result in an E.

COURSE EVALUATIONS:

“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.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.”

ACCOMMODATIONS:

Students with disabilities who experience learning barriers and would like to request academic accommodations should connect with the disability Resource Center by visiting disability.ufl.edu/students/get-started. 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

Faculty can expect to receive a student’s accommodation letter within the first 3 weeks of classes; however, if a student registers with the DRC later in the semester faculty are still obligated to facilitate accommodations. Neither faculty nor administrators may independently deny a request for accommodation that is approved by the Disability Resource Center.

Students are also advised to explore the opportunities offered by the UF Disability Resource Center. The Center is located at 001 Reid Hall, web page: <https://disability.ufl.edu/#> .

CLASS EXPECTATIONS:

In response to COVID-19, the following recommendations are in place to maintain your learning environment, to enhance the safety of our in-classroom interactions, and to further the health and safety of ourselves, our neighbors, and our loved ones. If you are not vaccinated, get vaccinated. Vaccines are readily available and have been demonstrated to be safe and effective against the COVID-19 virus. Visit one.ufl.edu for screening / testing and vaccination opportunities. If you are sick, stay home. Please call your primary care provider if you are ill and need immediate care or the UF Student Health Care Center at 352-392-1161 to be evaluated. Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work.

RECORDINGS:

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.

RESPONSIBILITIES:

- Ensure that you have a reliable access to Canvas because it will be used extensively throughout the semester. Note that you will be responsible for printing or viewing the assigned material.
- Read the materials in advance and in the order indicated in the syllabus.

- Turn off your cell phones **before** coming to class.
- Restrict the use of electronic devices to class-related activities, e.g., note-taking or article reading.
- Please do not eat in class. Drinks in closed containers are permitted.
- Please note that I will call people in class. This means that it's your responsibility to be prepared at all times. I reserve the right to lower your participation grade if you are unprepared.

GRADE SCALE:

A	94-100
A-	90-93
B+	87-89
B	84-86
B-	80-83
C+	77-79
C	74-76
C-	70-73
D+	67-69
D	64-66
D-	60-63
E	0-59

ASSIGNMENTS AND DEADLINES:

DUE DATE	ASSIGNMENT	DESCRIPTION	WEIGHT
	Attendance and participation	Please note that attendance is mandatory. Participation is an essential ingredient for your success in the course. I reserve the right to revise your grade one grade step up (e.g. A- to A) to reward your class participation. I also reserve the right to revise your grade one grade step down (e.g. B+ to B) for systemic unexcused absences from class (two or more absences). I will consider revising the grade one grade step down (e.g. B+ to B) for systemic tardiness (three or more late arrivals). I will not revise grades upwards to reward regular attendance. Do not leave early. If you leave early three or more times, I reserve the right to lower your attention and participation grade.	10%
15-Sep-2022	Précis	The précis is a one-page summary of an important EU law concept. I will post three concepts on Canvas and you will have to select one of them. The précis will have to be 1'' margin all around, Times New Roman font, size 12, single line spacing. You may cite course materials or external sources — books, articles, judicial decisions or primary documents — related to the concept. All sources must be properly cited in a bibliography, which will not be counted toward the page requirement. Please submit the assignment by using the Canvas web site. I will deduct 20 points for assignments submitted after the deadline and before 11:59 PM on September 17 th . I will not accept submissions after that and no points will be awarded for this assignment.	20%
08-Oct-2022 – 15-Oct-2022 11:59 pm	Midterm (take-home exam)	The midterm will consist of two questions and one short answers. The answer to each essay question should not exceed 5 double-spaced pages. The short answers should not exceed five sentences. The additional requirements for the essay questions and the short answers are: 1'' margin all around, Times New Roman font, size 12. Your answers should reflect the assigned readings and the class discussions. I will deduct 15 points if an exam is submitted after the deadline and prior to 11:59 PM on October 17 th . I will not accept submissions after that and no points will be awarded for this assignment.	30%

15-Dec-2022 7:30AM – 9:30AM	Final Exam (in-class)	The final exam will consist of two questions and two short answers. The answer to each essay question should not exceed 5 double-spaced pages. The short answers should not exceed five sentences. The additional requirements for the essay questions and the short answers are: 1'' margin all around, Times New Roman font, size 12. Your answers should reflect the assigned readings and the class discussions. The exam will be open-book based on the lectures, assigned reading, and the class discussions. The final exam will cover all materials studied throughout the semester.	40%
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SUBMISSIONS: All assignments should be submitted by using the class Canvas web site unless otherwise noted in the syllabus.

IMPORTANT DATES:

- **September 15th:** Précis due
- **October 15th:** Midterm due
- **December 15th:** Final Exam

TOPICS AND READINGS:

EUROPEAN LAW AND REGULATION: THE INSTITUTIONS

"When we come to matters with a European element, the Treaty is like an incoming tide. It flows into the estuaries and up the rivers. It cannot be held back,"

Lord Denning, Bulmer Ltd v. J. Bollinger SA"

Date	Subject	Readings
25-Aug-2022	Methodology	1. <i>How to Read European Legal Cases?</i> [Power Point presentation, Canvas] 2. <i>BE</i> xiii-xix 3. <i>BE</i> 1-6 4. <i>EUL</i> 1-11
30-Aug-2022	Constitutional Basis	1. <i>EUL</i> 12-25
01-Sep-2022	Constitutional Basis Institutions I	1. <i>EUL</i> 25-40 2. <i>EUL</i> 42-57
06-Sep-2022	Institutions II	1. <i>EUL</i> 57-78
08-Sep-2022	How does the European Union Regulate?	1. <i>BE</i> 25-65
13-Sep-2022	The Court of Justice of the European Union I	1. <i>EUL</i> 73-89
15-Sep-2022	The Court of Justice of the European Union II	1. <i>EUL</i> 89-107 2. <i>CILFIT</i> [Canvas]

EUROPEAN LAW AND REGULATION: THE LEGAL SYSTEM

"If we do not maintain justice, justice will not maintain us."

Francis Bacon

Date	Subject	Readings
20-Sep-2022	Sources of Law I	1. <i>EUL</i> 108-120
22-Sep-2022	Sources of Law I	1. <i>EUL</i> 120-139
27-Sep-2022	REVIEW SESSION	There are no readings for this class.
29-Sep-2022	Principles of European Law	1. <i>EUL</i> 140-154 2. <i>EUL</i> 154-176 (skim) 3. <i>EUL</i> 177-184
04-Oct-2022	Direct Effect	1. <i>EUL</i> 186-200 2. <i>Van Gend & Loos v. Netherlands Inland Revenue Administration</i> [Canvas]

06-Oct-2022	Supremacy	1. <i>EUL</i> 200-205 2. <i>EUL</i> 212-221 3. <i>Costa v. E.N.E.L.</i> [Canvas]
11-Oct-2022	State Liability	1. <i>EUL</i> 225-245
13-Oct-2022	Review of Legality and Damages	1. <i>EUL</i> 269-291

SPECIALIZED AREAS OF EUROPEAN REGULATORY LAW

“I would rather have questions that can’t be answered than answers that can’t be questioned”
Richard Feynman

Date	Subject	Readings
18-Oct-2022	Free Movement of Goods I	1. <i>EUL</i> 300-309 2. <i>EUL</i> 322-329 3. <i>EUL</i> 329-335 (skim)
20-Oct-2022	Free Movement of Goods II	1. <i>EUL</i> 335-361
25-Oct-2022	Free Movement of Services	1. <i>EUL</i> 363-390
27-Oct-2022	Competition Law and Policy I	1. <i>EUL</i> 480-503
01-Nov-2022	Competition Law and Policy II	1. <i>EUL</i> 510-539
03-Nov-2022	Digital Economy I	1. <i>BE</i> 131-155
08-Nov-2022	Digital Economy II	1. <i>BE</i> 155-169 2. <i>Google v. Spain</i> [Canvas]
10-Nov-2022	Environment I	1. <i>EUL</i> 440-459 2. <i>EUL</i> 459-464 (skim)
15-Nov-2022	Environment II	1. <i>BE</i> 207-231
17-Nov-2022	Consumer Health and Safety	1. <i>EUL</i> 570-584 2. <i>EUL</i> 590-595
22-Nov-2022	European Sanctions	1. Forwood et al., “ <i>EU Restrictive Measures</i> ” [Canvas] 2. Please familiarize yourself with the European sanction map: https://sanctionsmap.eu/#/main
29-Nov-2022	Are European Regulations Effective?	1. <i>BE</i> 235-263
01-Dec-2022	The Future of European Regulations	1. <i>BE</i> 265-288
06-Dec-2022	REVIEW SESSION	There are no readings for this class.

USEFUL LINKS:

1. The American Society of International Law: www.asil.org
2. The EISIL (Electronic Information System for International Law): <http://www.eisil.org/>
Research Guides at NYU School of Law
<https://www.law.nyu.edu/library/research/researchguides>
3. The Court of Justice of the European Union: https://curia.europa.eu/jcms/jcms/j_6/en/
4. The European Court of Human Rights:
<https://www.echr.coe.int/Pages/home.aspx?p=home>
5. EU Law Live: <https://eulawlive.com/>
6. European Union Legal Materials: User's Guide:
https://www.nyulawglobal.org/globalex/European_Union1.html

A (VERY) SHORT DICTIONARY OF FOREIGN PHRASES:

A contrario: “from a contrary position”

A fortiori: “for a still stronger reason”

Ad hoc: “for this; for the specific purpose”

Contra legem: “against the law” (often used in the context of legal interpretation)

De jure: “according to law”

De facto: “in reality; in fact”

Erga omnes: “toward all” (often used in relation to obligations)

De lege ferenda: “law as it should be”

De lege lata: “law as it is”

Opinio juris: “opinion of the law”

Rebus sic stantibus: “things standing thus” (doctrine used to describe fundamental change of circumstances in international law, Art.62 of the VCLT)

Travaux préparatoires: “preparatory work” (often used for interpreting international treaties in accordance with Art. 32 of the VCLT)