

University of Florida
Rules, Authority and Law: US and European Perspectives
EUS 3930
Fall 2021

COURSE INFORMATION:

Instructor: Prof. Alexander Panayotov, Ph.D.

Course Location: Mat 0002

Course Time: Tuesday 10:40-11:30 AM; Thursday 10:40 AM-12:35 PM

Office Location: Turlington Hall 3343

Office Hours: Tuesday, 11:45 AM-1:45 PM (Zoom); Thursday 1:00-2:00 PM (Zoom)

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

Immanuel Kant

COURSE DESCRIPTION:

In this course, we will explore the interplay between legal rules and social science theories in a comparative perspective. You will learn different styles of 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 addition, please respect your colleagues’ views because we will study problems open to multiple interpretations. Don’t forget that collegiality and tolerance are virtues not vices.

LEARNING OBJECTIVES:

This course has three main objectives: 1) to explore the nature of law and legal reasoning in a comparative perspective; 2) to outline both the classic and contemporary theories explaining socio-legal phenomena; and, 3) to demonstrate how law constraints and shapes human behavior. Main concepts will be supplemented by a systematic examination of cases decided by both European and US courts. The main unifying theme of this course is the systematic exploration of the dispute-resolution process in both the civil and common law traditions. No prior knowledge of law is assumed or required.

TEXTS:

- Frederick Schauer, “*Thinking Like a Lawyer: A New Introduction to Legal Reasoning*” (Harvard University Press, 2009) [hereinafter *TLL*]
- John Henry Merryman and Rogelio Perez-Perdomo, “*The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America*” (Stanford University Press, 2018, 4th edition) [hereinafter *CLT*]
- Mathieu Deflem, “*Sociology of Law: Visions of a Scholarly Tradition*” (Cambridge University Press, 2008) [hereinafter *SL*]
- Katharina Pistor, “*The Code of Capital: How the Law Creates Wealth and Inequality*” (Princeton University Press, 2019) [hereinafter *CC*]
- Materials on Canvas

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/sccr/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 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).
- Arrive on time. I reserve the right to 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 reserve the right to 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/#> .

RECORDINGS:

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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%
21-Sep-2021	Précis I	The précis is a one-page summary of an important socio-legal 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 your answer by using the Canvas web site. Alternatively, you can send the document to apanayotov@ufl.edu . <u>If you choose the latter option, you must use your UF account.</u> I will deduct 10 points if an exam is submitted after the deadline and prior to 11:59 PM on September 23 rd . I will not accept submissions after that and no points will be awarded for this assignment.	10%
28-Sep-2021 – 05-Oct-2021	Midterm (take home exam)	The midterm will consist of one question and one short answer. The short answer should not exceed five sentences. The answer to the question should exceed seven pages. The answer to the question should exceed double-spaced pages. Please submit your answer by using the Canvas web site. Alternatively, you can send the document to apanayotov@ufl.edu . <u>If you choose the latter option, you must use your UF account.</u> I will	30%

		deduct 10 points if an exam is submitted after the deadline and prior to 11:59 PM on October 7 th . Your answers should reflect the assigned readings and the class discussions.	
02-Nov-2021	Precis II	The précis is a one-page summary of an important socio-legal 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 your answer by using the Canvas web site. Alternatively, you can send the document to apanayotov@ufl.edu . <u>If you choose the latter option, you must use your UF account.</u> I will deduct 10 points if an exam is submitted after the deadline and prior to 11:59 PM on November 4 th . I will not accept submissions after that and no points will be awarded for this assignment.	10%
07-Dec-2021 – 14-Dec-2021	Final Exam (in class)	The final exam will consist of two questions and one short answer. The short answer should not exceed five sentences. The answer to each question should not exceed six double-spaced pages. 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 final exam will cover all materials studied throughout the semester. Please submit your answer by using the Canvas web site. Alternatively, you can send the document to apanayotov@ufl.edu . <u>If you choose the latter option, you must use your UF account.</u> I will deduct 10 points if an exam is submitted after the deadline and prior to 11:59 PM on December 16 th . I will not accept submissions after that and no points will be awarded for this assignment.	40%

SUBMISSIONS:

All assignments should be submitted by using the class Canvas web site unless otherwise noted in the syllabus.

IMPORTANT DATES:

- September 21st: Precis I due
- October 5th: Midterm due
- November 2nd: Precis II due
- December 14th: Final Exam due

TOPICS AND READINGS:

"Words strain, Crack and sometimes break, under the burden, Under the tension, slip, slide, perish, Decay with imprecision, will not stay in place, Will not stay still."

T.S. Eliot

I. Rules and People: Behind the Mystery of Law and Legal Reasoning	
24-Aug-2021	INTRODUCTION
26-Aug-2021	1. SL 1-8 2. Julie Novkov, "How to Read a Case" [Canvas] (Short and useful, read it carefully) 3. Lawrence M. Friedman, "The Law and Society Movement" [Canvas] 4. Karen Alter, "Law, Political Science and EU Legal Studies: An Interdisciplinary Project?" [Canvas] (Please read Alter's contribution and skip the rest).
31-Aug-2021	1. TLL 1-35 2. <i>The Structure of a Legal System</i> [handout, Canvas] 3. <i>The Operation of Legal Rules</i> [handout, Canvas]
02-Sep-2021	1. TLL 36-84 2. <i>MacPherson v. Buick</i> [BB] (read pp.1-11, skim pp.11-17)
07-Sep-2021	1. TLL 85-102
09-Sep-2021	1. TLL 103-123 2. Oliver Wendell Holmes, "The Path of the Law" [Canvas]
14-Sep-2021	1. TLL 124-147 2. SL 97-116
16-Sep-2021	1. TLL 148-184 2. Karl N. Llewellyn, "Remarks on the Theory of Appellate Decision and the Rules or Canons about how Statutes Are to be Constructed" [Canvas]
21-Sep-2021	1. TLL 188-202
23-Sep-2021	1. TLL 203-223
28-Sep-2021	REVIEW SESSION
30-Sep-2021	1. CLT 1-56
05-Oct-2021	1. CLT 57-87
07-Oct-2021	1. CLT 88-126
12-Oct-2021	1. CLT 127-163

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

II. Theories, Rules, and People: What Do We Know about Law and Society?	
14-Oct-2021	1. SL 17-36
19-Oct-2021	1. SL 56-74 2. Roger Cotterrell, “ <i>The Durkheimian Tradition in the Sociology of Law</i> ” [Canvas]
21-Oct-2021	1. SL 37-56
26-Oct-2021	1. SL 145-161
28-Oct-2021	1 SL 162-180
02-Nov-2021	1. SL 181-197

“We feel as if we had to repair a torn spider’s web with our fingers”
Ludwig Wittgenstein, “Philosophical Investigations”, §106

III. Law, Society, and Legal Change: How Law Creates Wealth and Inequality	
04-Nov-2021	1. CC 1-46
09-Nov-2021	1. CC 47-76
11-Nov-2021	NO CLASS
16-Nov-2021	1. CC 77-107 2. CC 108-131 (skim)
18-Nov-2021	1. CC 132-182
23-Nov-2021	1. SL 250-270
30-Nov-2021	1. CC 184-204
02-Dec-2021	1. CC 205-234

Philosophers make imaginary laws for imaginary commonwealths, and their discourses are as the stars, which give little light because they are so high.”
Francis Bacon

IV. Conclusion: What’s the Meaning of All That?	
07-Dec-2021	REVIEW SESSION 1. SL 271-277

USEFUL LINKS FOR CLASS DISCUSSIONS:

1. The Law and Society Association: <http://www.lawandsociety.org/>
2. The Legal Information Institute at Cornell Law School: <http://www.law.cornell.edu/>
3. The Avalon Project at Yale Law School: <http://avalon.law.yale.edu/>
4. The Oyez Project (the U.S. Supreme Court) : <http://www.oyez.org/>

USEFUL LINKS FOR INTELLECTUAL ENRICHMENT:

1. Arts and Letters Daily: <http://www.aldaily.com/>
2. BBC “In Our Time” (podcasts): <http://www.bbc.co.uk/programmes/b006qykl>

FOREIGN LEGAL 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”

BOOK LIST (OPTIONAL):

WRITING	Bryan A. Garner, “ <i>Legal Writing in Plain English</i> ” 2 nd edn. (The University of Chicago Press, 2013)
EDITING	Claire Cook, “ <i>Line by Line: How to Edit Your Own Writing</i> ”, Houghton Mifflin Harcourt, 1985
PRESENTATION	Jerry Weissman, “ <i>Presenting to Win</i> ” <i>The Art of Telling Your Story</i> ” (Pearson FT Press, 2008)
LEGAL REASONING (ADVANCED)	Antonin Scalia and Bryan A. Garner, “ <i>Reading Law: The Interpretation of Legal Texts</i> ” (West Publishing, 2012) Edward H. Levi, “ <i>An Introduction to Legal Reasoning</i> ”, (The University of Chicago Press, 2013)