

# PS 306 The European Union: Its Institutions, Laws, and Citizens

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# **Course Description**

Brexit, the rise of populist movements, and a growing suspicion towards international organizations do not seem to offer a promising future for the European Union. Nevertheless, the concept of the European Union's supranationality offers a unique history of international collaboration that was developed with clear goals by founding members.

This course will examine this early context of the former European Community for Steel and Coal —the forerunner of the Union—and the bloc's painstaking integration. It will also analyze the institutions that have developed over the more than 70-year history and major cases tried in the European Court of Justice (CJEU) that have shaped the Union's political advancements. We will discuss the European Union's "democracy deficit" and look at political processes, including the recent European electoral-law reform and the reform of the judicial system in Poland, which sheds new light on the way the EU deals with gender, human rights, and the rule of law. Court cases will lend insight into how the European Union's citizens used—or tried to use—established mechanisms to advocate for their interests. We will also engage with original EU policy documents to provide with the skills of analyzing and interpreting them.

Finally, the course will provide an understanding of the Union's characteristics in comparison with those of the nation-state and of traditional international organizations, enabling a clearer judgement regarding the future of the European project as well as a keener evaluation of broader political processes. The importance of civic engagement as a component of politics will be key in thinking about our own future and about how to shape our lives.

Please note that this syllabus is a work in progress. We can make changes according to the particular interests of the group.

# Requirements

#### **Academic Integrity**

Bard College Berlin maintains the highest standards of academic integrity and expects students to adhere to these standards at all times. Instances in which students fail to meet the expected standards



of academic integrity will be dealt with under the Code of Student Conduct, Section 14.3 (Academic Misconduct) in the Student Handbook.

#### **Attendance**

Attendance at all classes is a crucial part of the education offered by Bard College Berlin. To account for minor circumstances, two absences from twice-per-week courses or the equivalent (e.g. one absence from a once-per-week course) should not affect the participation grade or require documentation.

If you must miss class for religious observance, an athletic trip, or an official extra-curricular event, please let me know at the beginning of the semester so those absences can be excused. If you become seriously ill or if a personal family emergency will cause you to miss more than two classes, please let me know as soon as possible.

Bard College Berlin does not offer credit for any course in which a student has missed more than 30% of classes, regardless of the reasons for the absences. The full Bard College Berlin attendance policy can be found in the Student Handbook, Section 2.8.

SPECIAL CONSIDERATIONS FOR FALL 2021: Some students may need to begin the semester remotely due to travel restrictions caused by the pandemic. In addition, all students and instructors must refrain from in-person attendance if they are feeling ill. Instructors should make efforts to offer alternatives to in-person attendance where needed, including remote participation or asynchronous options.

#### Assessment

#### **Assignments**

CLASS PARTICIPATION: Each week, you are required to participate in a discussion about the readings. We will engage in conversation, responding to each other, and add additional information or thoughts about the topic. Discussion and participation are a major emphasis in this course. It will be your responsibility to come to class ready, having read the texts assigned and willing to take part in group knowledge-building. Your participation grade for this class will be primarily based upon small groupwork and activities in class. This grade will also reflect your level of investment in classroom discussion. You will also be working in small groups for in-depth discussion and present the results to the whole class afterwards. I will provide you with a provisional participation grade at one check point during the semester. (2 x 15% = 30 % of grade)

ORAL PRESENTATION: When we will work on the "democracy deficit" and the public sphere in the EU you will be asked to present either on one of the democracy-deficit theories or on one of the theoretical approaches discussing the public sphere. You will choose one text and present a short power point (4-8 slides) summarizing the key elements of the text/judgment. This presentation will serve as a basis for our discussion in class. You should address the topic, the historical context, and any other informational aspects you deem to be meaningful to the decision. The presentation should contain a final slide with a bibliography that evidences the works you consulted to prepare the presentation. The length of your presentation should be circa 20 minutes. (30% of grade)

<u>END-OF-SEMESTER-ESSAY</u>: In your end-of semester essay, you will show that you are able to assess the advantages and disadvantages of the theoretical concepts of the democracy deficit and contextualize them within the political reality (2,500-3,500 words). A bibliography of articles or monographs you consulted must be included at the end of the essay.

The topic of the end of semester essay will be given to you in week 7, and the final essay is due on the Tuesday of completion week via email (b.ebert@bard.berlin.edu). You are encouraged to form writing groups to discuss your drafts with each other. (40% of grade)

Papers should be sent to me via email and as a printout on the due day. Please submit your documents in Microsoft Word ".doc" or ".docx" file. They must be double-spaced, 12-point type, standard margins, and have proper Modern Language Association citations.

#### Cell Phones and Notebooks

Cell phone noises can disturb interaction, dialogue, and concentration of the whole class. Cell phones must be shut off upon entrance to the classroom; texting is not allowed. If you need to text or call, you must ask for permission to step out of the class. Laptops and notebooks are permitted when we need them for research in class; otherwise they are to remain closed. Kindly do bring your laptops or notebooks to class so that we can use them for research purposes. (Students with disabilities will be granted exceptions.)

# Policy on Late Submission of Papers

Essays that are up to 24 hours late can be downgraded up to one full grade (from B+ to C+, for example). Instructors are not obliged to accept essays that are more than 24 hours late. Where an instructor agrees to accept a late essay, it must be submitted within four weeks of the deadline. Thereafter, the student will receive a failing grade for the assignment. Grades and comments will be returned to students in a timely fashion. Students are also entitled to make an appointment to discuss essay assignments and feedback during instructors' office hours.

Students receive mid- and end-of-semester grades for their seminar work. Students are entitled to make an appointment with an instructor to discuss seminar participation or may be asked to meet with the instructor at any stage in the semester regarding class progress.

# Grade Breakdown

Seminar Preparation and Participation (week 1-7)	15 % of final grade
Seminar Preparation and Participation (week 8-15)	15 % of final grade
Oral presentation (incl. a written outline/presentation)	30 % of final grade
End of semester essay	40 % of final grade

# Schedule

Week 1 September 3 Introduction	Students will become familiar with class procedures, introduce themselves, and learn about my motives for teaching this course.
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Week 2 September 10

Movie One, Two, Three

The World before and after World War II: European Federalists, the Interwar Period, and Concept of Sovereignty

Together, we acquire a sense of the concepts of European integration in the interwar period, the motives for coordination amongst states, and the definition of the term *integration*. A closer look at federalist movements and their historical contexts beginning in the 1920s will be key in understanding the Schuman Plan, the document announcing the European Coal and Steel Community in 1951. Furthermore, embedded in the historical context of the 1940s and the beginnings of the Cold War, the concept of international organizations will be introduced. We will discuss the rationale of the founding of the many international institutions of 1940s. The United Nations, the General Agreement on Tariffs and Trade, Organization for European Economic Cooperation, North Atlantic Treaty Organization, Council of Europe, the European Convention of Human Rights, and the World Health Organization, among others. This will help us to identify the unique features of the EU in comparison to other international organizations later in the semester.

#### Readings:

- Dieter Grimm. Sovereignty in Europe, in: Grimm, Dieter: The Constitution of European Democracy, Oxford University Press 2017, p.39-56.
- Coudenhove-Kalergi: *Pan-Europa* (Preface); Vienna 1923, p. 10-14.
- Briand, Aristide: Memorandum on the Organization of a Regime of European Federal Union, 1930.
- Churchill, Winston: *United States of Europe*, University of Zurich, September 19, 1946.

#### Film:

- Movie One, Two, Three (Directed by Billy Wilder, 961)

#### Additional book recommendation (voluntary reading):

- Bodin: On Sovereignty: Six Books Of The Commonwealth, 2009 (1576).

Week 3 September 17

"A Revolutionary Leap into the Unknown": The Schuman Declaration, the Concept of Supranationality and the Institutions of the European Community

(European Commission, the Council, and the European Council) We will look at the factors that led to the concept and the rationale of Jean Monnet, who is today associated with the concept of suprantionality. This will lead to the defining features of supranationality – then a new concept in international politics. We will find out how integration took place. Which political institutions were founded and why? How do they function today? Which mandates do they have? The class will also delve into the different kinds of European law – primary and secondary law as well as the law-making process that is so decisive for the Union's uniqueness in comparison with other international organizations.

# Please make sure to bring your copy of the Treaty of Lisbon to this session.

#### Readings

- Monnet, Jean: *Memoirs*, 1978, p.318-336.
- The Schuman Declaration, May 9, 1950.

# Additional Videos and Additional Readings:

- Interview with Jacques-René Rabier, aide to Jean Monnet, present at Schuman's press conference on 9 May 1950, available online: https://www.youtube.com/watch?v=grDDeqn6GkE
- Treaty Establishing the European Coal and Steel Community, 1951, available online: <a href="https://www.cvce.eu/content/publication/1997/10/13/11a21305-941e-49d7-a171-ed5be548cd58/publishable\_en.pdf">https://www.cvce.eu/content/publication/1997/10/13/11a21305-941e-49d7-a171-ed5be548cd58/publishable\_en.pdf</a>

# Week 4 September 24

# Institutions Continued: The European Court of Justice

The European Court of Justice is an institution that is constantly debated: How does it work? Is it an activist institution? Has it advocated for an agenda of its own? Is it the source of an undemocratic development of the European Union? In addition to learning about the work of CJEU, and the sources of EU law, we will look at two key CJEU judgments, namely *Costa v. E.N.E.L.*, in which the Court interpreted the supremacy of EC law and *Van Gend en Loos*, which dealt with the so-called direct effect of EC law.

#### Please make sure to bring your copy of the Treaty of Lisbon to this session.

 Amedeo, Arena: "From an Unpaid Electricity Bill to the Primacy of EU Law: Gian Galeazzo Stendardi and the Making of Costa v. ENEL," In: The European Journal of International Law, Vol. 30 No. 3, pp. 1017-1037.

#### **Court Cases**

- Court of Justice of the European Union: Judgment of the Court of 5 February 1963. NV
   Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland
   Revenue Administration, Reference for a preliminary ruling: Tariefcommissie, Pays Bas. Case 26-62.
- Court of Justice of the European Union: Judgment of the Court of 15 July 1964.
   Flaminio Costa v E.N.E.L., Reference for a preliminary ruling: Giudice conciliatore di Milano, Italy. Case 6/64, 1964.

#### **Additional Voluntary Readings:**

Statute of the Court of Justice of the European Union, available online:
 https://curia.europa.eu/jcms/upload/docs/application/pdf/2016-08/tra-doc-en-div-c-0000-2016-201606984-05\_00.pdf (You will receive a copy in class)

#### Week 5 October 1

# The European Parliament and the Reform of the Electoral Law

Until 1979, the European Parliament was composed of members appointed by and from national parliaments. The first direct elections took place in 1979. However, the European Parliament is different than parliaments in nation states. You will learn how and why that is and evaluate the 2015 approach to reform the electoral law aiming at more democracy in the Union. We work with original documents. Finally, we will look at the law making process and the forms of EU law (Article 288 TFEU).

#### Readings:

- European Parliament resolution of 11 November 2015 on the Reform of the Electoral law of the European Union (2015/2035(INL))
- Council Decision (EU, Euratom) 2018/994 of 13 July 2018 Amending the Act Concerning the Election of the members of the European Parliament by Direct Universal Suffrage, Annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976
- Leinen, Jo: Parliament Mulls '1st Steps' to Reform EU Elections before 2019, Interview,
   20 October 2015

We will also devote some time of this session to discuss requirements for the mid-semester and end of semester essays.

Week 6 October 8  Why Do States Give Up Sovereignty?: Functionalism, Neo- Functionalism, Liberal Intergovernmentalis m  anduh Charles de Gaulle just walks away	This is the first session in the class covering integration theory, and first answers will be given to one of the key questions of this course: Why do states collaborate? Why do they give up sovereignty? This question is not only important in the context of the 1950s but constantly present in current international political debate, for example concerning the pandemic and Brexit. When discussing these matters, we will learn about one of the first theories of EU integration: Functionalism (Mitrany) and Neo-Functionalism (Haas, Schmitter), which explain the dynamics of regional integration. Neo-Functionalism is closely linked to Jean Monnet's strategy of "petits pas, grands effets." If time allows, we shall see a lecture by Philippe C. Schmitter, a student of Ernst B. Haas, who can be considered the forefather of Neo-Functionalism. In addition, we will be identifying the main objectives of liberal intergovernmentalism, the actors and the policy fields to which the concept can be applied. We will also compare intergovernmentalism and functionalism, shedding light on the various levels of EU policy making and the actors involved. In this context, we will analyze what is considered one of the first big crises of the European Communities: Charles de Gaulle's refusal to take part in any of the EC Council meetings.
	<ul> <li>Readings:         <ul> <li>Schmitter, Philippe C.: Neo-Functionalism as a Theory of Disintegration, Paper prepared for "European Disintegration - A Blind Spot of Integration Theory?' 22nd CES Conference, Paris July 8-10, 2015.</li> <li>Lindberg, Leon N.: Integration as a Source of Stress on the European Community System, International Organization, Vol. 20, No. 2, 1966, pp. 233–265.</li> <li>Moravcsik, Andrew: Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach, Journal of Common Market Studies, Vol. 31, No. 4, December 1993.</li> </ul> </li> <li>Voluntary additional readings:         <ul> <li>Mitrany, David: A Working Peace System, Chicago 1966. (To be distributed in class)</li> <li>Haas, Ernst B.: The Uniting of Europe (The Expansive Logic of Sector Integration), Notre</li> </ul> </li> </ul>
	Dame 2004, p. 283-317.
Week 7 October 15  Visit of the Office of the European	Office of the European Commission Unter den Linden 78 10117 Berlin We will meet at S Bahnhof Brandenburger Tor. You will receive details as we get closer to
Commission in Berlin October 18 -24	the date. Fall Break

Week 8 October 29

# The Democracy Deficit (Part 1): Constitutionalism versus Democracy?

Whereas integration theory explains the reasons for international collaboration, theories centering around the so-called "democracy deficit" of the EU focus on the EU institutions' (lack of) accountability to the people. Together, we will identify their main arguments in weeks 9-10. These theoretical frameworks will enable you to also think further about your own countries' political systems and the various ways of addressing the will of the people in a political system. We will apply these concepts in our analysis of the EU gender policy later in the semester. You will have to read the texts before class so that we can engage in discussion in order to define the main features of each theory.

#### Readings:

- Habermas, Jürgen: *Why Europe Needs A Constitution*; in: Eriksen, Erik Oddvar (et.al): *Developing a Constitution for Europe*, p.19-34.
- Grimm, Dieter: "On the Status of the EU's Democratic Legitimacy after Lisbon," in: Grimm, Dieter: *The Constitution of European Democracy*, Oxford University Press 2017, p.57-80.

# Additional voluntary reading:

- Bundesverfassungsgericht: Judgment of the Second Senate of 30 June 2009
   (Lissabon-Urteil), 2 BvE 2/08, paras. 1-421, available online:
   http://www.bverfg.de/e/es20090630\_2bve000208en.html (To be distributed in class)
- Grimm, Dieter: "The Democratic Costs of Constitutionalism: The European Case;" in: *European Law Journal*, Vol. 21, No. 4, July 2015, p.460–473.

### Week 9 November 5

# The Democracy Deficit (Part 2): "Who is Without Sin Cast the First Stone"

#### **Readings:**

- Majone, Giandomenico: "The European Union Post-Brexit: Static or Dynamic Adaptation?," *European Law Journal*, Vol. 23, No. 1-2, August 2017, p.9–27.
- Moravcsik, Andrew: *In Defense of the "Democratic Deficit": Reassessing Legitimacy in the European Union*, Center for European Studies Working Paper No. 92.
- Zweifel, Thomas: "Who Is without Sin Cast the First Stone: The EU's Democratic Deficit in Comparison," Journal of European Public Policy, 2002 / 01 Vol. 9; Iss. 5.

#### Week 10 November 12

# The European Public Sphere

## Readings:

- de Vreese, Claes H.: "The EU as a Public Sphere," in: Living Review of European Governance, Vol. 2, Nr. 3, 2007, available online: http://www.europeango vernancelivingreviews.org/Articles/lreg-2007-3/download/lreg-2007-3BW.pdf
- Garavoglia, Matteo. Democracy in Europe: "Politicizing Champions for the European Public Sphere," in: *Istituto Affari Internazionali* (IAI), 2011, www.jstor.org/stable/resrep09693.
- Brueggemann, Michael/Schulz-Forberg, Hagen: "Becoming Pan-European.
   Transnational Media and the European Public Sphere," in: *The International Communication Gazette*, 1748-0485; Vol. 71(8), p.693-712.

# Additional voluntary reading (recommended monograph)

- Fraser, Nancy/Nash, Kate: *Transnationalizing the Public Sphere*, Polity 2014.
- Habermas, Jürgen: Structural Transformation of the Public Sphere: An Inquiry Into a Category of Bourgeois Society, Blackwell Publishers 1992.

# Week 11 November 19 **The Case of Poland**

Recent reforms of the judiciary in Poland have started with the Presidency of Andrzej Duda in in 2015. They have affected the rule of law and effective judicial protection. By lowering the retirement age of judges, the sphere of gender equality in Poland suddenly became center-stage of international attention. We will look at the Polish reforms, the reactions of the EU institutions and the legal effects, especially at those of Articles 2 TEU and 7 TEU.

- Ziółkowski, Michał: "Two Faces of the Polish Supreme Court After "Reforms" of the Judiciary System in Poland: The Question of Judicial Independence and Appointments, European Papers, Vol. 5, Nr. 1, 2020.
- Judgment of the Court (Grand Chamber), Case C 192/18, European Commission versus Republic of Poland, November 5, 2019. (Will be distributed in class)
- Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 1
  December 2020 on a general regime of conditionality for the protection of the Union
  budget, L 433-1. (Will be distributed in class)
- Ongoing hearings under article 7(1) of the TEU regarding Poland and Hungary, European Parliament resolution of 16 January 2020, P9\_TA(2020)0014 (Will be distributed in class)
- Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), Official Journal of the European Union, L-204. (Will be distributed in class)

# Week 12 November 26

# Gender Equality: Citizens and the Law

Equal pay for men and women has a long history in the EU shaping its law until today, leading into various policy areas, including the access to work and social policies. We will elaborate on how the European Court of Justice evaluated equal pay and the accompanying policies and what role citizens played in advancing it. You will collect data on civil society movements, non-governmental institutions, and historical and political environments. In order to understand as many policy measures as possible, we will look at the Court decisions in small groups and present the results in class.

- Judgment of the Court of 15 June 1978, Gabrielle Defrenne v Société anonyme belge de navigation aérienne Sabena (equal pay)
- Trybus, Martin: "Sisters in Arms: Female Soldiers and Sex Equality in the Armed Forces," *European Law Journal*, 2003 (9), pp. 631–658. (Equal Pay / Military)
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A Union of Equality: Gender Equality Strategy 2020-2025, COM (2020) 152, March 2020

#### CJEU judgments to be discussed in class (You will receive print outs)

- Judgment of the Court of 11 January 2000, Tanja Kreil v Bundesrepublik Deutschland (access to employment, limitation of access by women to military posts in the Bundeswehr).
- Judgment of the Court of 26 October 1999, Angela Maria Sirdar v The Army Board and Secretary of State for Defence. (Equal treatment for men and women - Refusal to employ a woman as a chef in the Royal Marines),
- Judgment of the Court of 15 May 1986, Marguerite Johnston v Chief Constable of the Royal Ulster Constabulary. (Women as armed members of a police force)

# Additional voluntary reading:

 Ebert, Berit/Fradinger, Moira: Gender Dissidence in the Twenty-First Century, The Berlin Journal, No. 34, October 2020: 78-83, available online: <a href="https://www.americanacademy.de/wp-content/uploads/2020/10/BJ34\_spreads.pdf">https://www.americanacademy.de/wp-content/uploads/2020/10/BJ34\_spreads.pdf</a>

Week 13 December 3	Your choice! Topic to be determined by class.
Week 14 December 10	Conversation with Oliver Renner, Head of Global Communications at Bayer Pharmaceuticals.  Online course evaluation forms to be completed in class.
	Your <u>END OF SEMESTER ESSAY</u> is due on Thursday, December 9, 2021, at 2:00 pm. Please send your essay to me via email (b.ebert@bard.berlin.edu)
Week 15 / Completion Week	

Fall classes start on Monday, August 30, and run until Friday, December 17, with fall break planned from October 18 – October 24. Completion week is from December 13 through December 17. Students are required to be on campus during completion week.

Scheduled class times will be available online under the relevant course heading: <a href="https://berlin.bard.edu/academics/courses/">https://berlin.bard.edu/academics/courses/</a>

# **Essay Deadlines**

END-OF-SEMESTER ESSAY: 2,500-3,500 words. Due on Thursday, December 9, at 2:00 pm.

# Library and Book Purchase Policies

#### Books

- Please make sure to purchase a copy of the Treaty of Lisbon: Treaties of the European Union:
   Consolidated Versions of Treaty on European Union and Treaty on the Functioning of the
   European Union (Lisbon Treaty). It is available on amazon:
   <a href="https://www.amazon.de/gp/product/1520121423/ref=ppx\_yo\_dt\_b-search\_asin\_title?ie=UTF-8&psc=1">https://www.amazon.de/gp/product/1520121423/ref=ppx\_yo\_dt\_b-search\_asin\_title?ie=UTF-8&psc=1</a>
- Charter of Fundamental Rights of the European Union, available online: <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN">https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN</a> (You will receive a print-out in class)
- All official EU documents (directives, regulations, cases) can be read online and downloaded under: <a href="https://eur-lex.europa.eu/homepage.html?locale=en">https://eur-lex.europa.eu/homepage.html?locale=en</a>

# Additional books (voluntary for further readings)

- Gardner, Anthony Luzzatto: Stars with Stripes: The Essential Partnership between the European Union and the United States, 2020.
- Grimm, Dieter: *The Constitution of European Democracy*, Oxford University Press 2017.
- Haas, Ernst B.: *The Uniting of Europe*, Notre Dame 2004.
- Hoskyns, Catherine: *Integrating Gender*, Verso 1996. (on our reserved shelf in the library)
- Paul Craig/Grainne de Búrca: *EU Law: Text, Cases, and Materials*, Oxford 2020. (on our reserved shelf in the library)