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

Seminar Leader: Berit Ebert Email: <u>b.ebert@bard.berlin.edu</u> Course Time Spring Semester: Wednesday from 15:45-19:00 Office Hours: By appointment

Course Description

Brexit, the war in Ukraine, 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", the debate about European public sphere, and look at political processes, including the 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 and the rule of law. Court cases will lend insight into how civil society used—or tried to use—established mechanisms to advocate for their interests. We will also engage with original EU policy documents to acquire the skills of analyzing and interpreting them. Finally, the course will provide an understanding of the Union's supranational 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.

<u>Attendance</u>

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 extracurricular 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.

Assessment

Assignments

<u>CLASS PARTICIPATION</u>: 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. $(2 \times 15\% = 30\% \text{ of grade})$

<u>ORAL PRESENTATION</u>: When we will work on the democracy deficit, the public sphere and policies in/of the EU you will be asked to present either on one of the democracy-deficit theories, one of the theoretical approaches discussing the public sphere or an EU policy area. You will choose one text and present a short power point (2-6 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 institutional set-up and policies of the EU (4,500-5,000 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 (<u>b.ebert@bard.berlin.edu</u>). 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 American Psychological Association citations (https://apastyle.apa.org/instructional-aids/reference-guide.pdf).

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.) Any kind of recording during class is forbidden.

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

Schedule

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Week 1 Introduction (Feb. 1)	Students will become familiar with class procedures, introduce themselves, and learn about the rationale of this course.
Week 2 The World before and after World War II: European Federalists, the Interwar Period, and Concept of Sovereignty February 8, 2023	 To lay the groundwork to think about the EU, we acquire a sense of the concepts of sovereignty, the European integration in the interwar period, the motives for coordination amongst states, and begin to think about supranationality as opposed to nation-state sovereignty. A closer look at federalist movements and their historical contexts beginning in the 1920s will be key in understanding the Schuman Plan (in week 3), 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. This will help us to identify the unique features of the EU in comparison to other international organizations later in the semester – an issue that will continuously bring us back to the question of sovereignty, who holds it, and if the European Union challenges the understanding of nation state sovereignty. Readings (PLEASE READ BEFORE CLASS): Bodin, J. (2009). On Sovereignty: Six Books Of the Commonwealth, Chapter VIII, Concerning Sovereignty, 65–71. (Original work published 1576) Hobbes, T. (2017). Leviathan, Chapter XVII, Of the Causes, Generation, and Definition of a COMMON-WEALTH, 137–141. (Original work published in 1651) Hobbes, T. (2017). Leviathan, Chapter XVIII, Of the Rights of Soveraignes by Institution, 141–150. (Original work published in 1651) Goudenhove-Kalergi, R. (2019). Pan-Europa (Preface). Vienna: Pan-Europa Editions, 10-14. (Original work published 1923) Coudenhove-Kalergi, R. (2019). Pan-Europa (Paths towards Pan-Europa). Vienna: Pan-Europa Editions, 151–154. (Original work published 1923)
	 Briand, A. (1930). <i>Memorandum on the Organization of a Regime of European Federal</i> <i>Union</i>. Churchill, W. (1946). United States of Europe. Speech given at the University of Zurich.
Week 3 "A Revolutionary Leap into the Unknown": The Schuman Declaration, the	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 supranationality, back then a new pattern in international politics and now the reason for the Union's uniqueness in comparison with other international organizations. We will define the key features of supranationality and the respective political institutions. How do they function today? Which mandates and competencies do they have? Please bring your Treaty of Lisbon to this session.
Concept of Supranationality and the Institutions of the European Community	 <u>Readings:</u> Monnet, J. (2015). <i>Memoirs</i>. London: Profile Books Ltd., 318–33. (Original work published 1978) <i>The Schuman Declaration</i>. (1950). <u>https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en</u>
(European Commission, the Council, and the European Council)	 <u>Additional Videos and Additional Readings:</u> Interview with Jacques-René Rabier, aide to Jean Monnet, present at Schuman's press conference on 9 May 1950. <u>https://www.youtube.com/watch?v=grDDeqn6GkE</u>
February 15, 2023	 European Coal and Steel Community (1951). Treaty Establishing the European Coal and Steel Community. <u>https://www.cvce.eu/content/publication/1997/10/13/11a21305-</u> 941e-49d7-a171-ed5be548cd58/publishable_en.pdf

Week 4 The European Court of Justice: Direct Effect and Primacy of EU Law February 22, 2023	 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 <i>Costa</i> <i>v. E.N.E.L.</i>, in which the Court interpreted the supremacy of EC law and <i>Van Gend en Loos</i>, which dealt with the so-called and much debated direct effect of EU law. Please bring your Treaty of Lisbon to this session. Amedeo, A. (2019). From an Unpaid Electricity Bill to the Primacy of EU Law: Gian Galeazzo Stendardi and the Making of <i>Costa v. ENEL</i>. <i>The European Journal of</i> <i>International Law</i>, 30 (3), 1017-1037. <u>Court Cases</u> Court of Justice of the European Union (1963). <i>NV Algemene Transport- en Expeditie</i> <i>Onderneming van Gend & Loos v Netherlands Inland Revenue Administration</i>, Reference
	 For a preliminary ruling: Tariefcommissie, The Netherlands. 5 February 1963. C-26/62. Court of Justice of the European Union (1964). <i>Flaminio Costa v E.N.E.L.</i>, Reference for a preliminary ruling: Giudice conciliatore di Milano, Italy. 15 July 1964. C-6/64. <u>Additional Voluntary Reading:</u> Statute of the Court of Justice of the European Union. <u>https://curia.europa.eu/jcms/upload/docs/application/pdf/2016-08/tra-doc-en-div-c-0000-2016-201606984-05_00.pdf</u>
Week 5 The European Parliament and the Reform of the Electoral Law March 1, 2023	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. The class will also delve into the different kinds of European law – primary and secondary law as well as the <i>Ordinary Legislative Procedure</i> , which is the general rule for passing legislation at EU level, covering the majority of Union action today.
- march 1, 2025	Please bring your Treaty of Lisbon to this session.
	 <u>Readings:</u> Leinen, J. (2015). Parliament Mulls '1st Steps' to Reform EU Elections before 2019. Interview. <i>Euractiv</i>, 20 October 2015. <u>https://www.euractiv.com/section/eu-priorities-2020/interview/leinen-parliament-mulls-first-steps-to-reform-eu-elections-before-2019/</u> European Union. (2015). European Parliament resolution of 11 November 2015 on the Reform of the Electoral law of the European Union (2015/2035(INL)). <u>https://www.europarl.europa.eu/doceo/document/TA-8-2015-0395_EN.pdf</u> European Union. (2018). 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. <u>https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018D0994&from=EN</u> If you are interested further in the Ordinary Legislative Procedure, please consult the OLP Handbook: <u>https://www.europarl.europa.eu/cmsdata/215107/OLP_2020_EN.pdf</u>
Week 6	Federal Holiday: International Women's Day

Week 7 Essay Question (was week 8 before) March 15, 2023	You will receive your final essay question and, together, we will explore ways how to approach it.
Week 8 The War in Ukraine, Accession to the EU & the Future of the EU's Foreign and Security Policy (was week 7 before)	"EU Member states have committed themselves to a Common Foreign Security Policy for the European Union" states the website of the European Union, and French President Emanuel Macron, in his famous 2017 speech at the Sorbonne called for a stronger Union in the matter. To place his speech and subsequent calls for an intensified military cooperation within the Union, we will use this seminar to analyze the Union's competencies in the field, the expectations that the Union is confronted with, and estimate in how far it can deliver within the current treaty framework. The goal of this session is to provide everyone with a solid understanding of both the possibilities and limits of the EU's foreign policy framework.
March 22, 2023	Please bring your Treaty of Lisbon to this session. We will analyze Title V: General Provisions on the Union's External Action and Specific Provisions on the Common
We will be joined by Ariel Ezrahi (nonresident senior fellow, Atlantic Council Middle East Programs)	 Foreign and Security Policy (Art. 21–46 TEU) as well as accession (Article 49 TEU). Readings: Wessel, R. et al. (2020). The future of EU Foreign, Security and Defence Policy: Assessing legal options for improvement, <i>European Law Journal</i>, 26(5-6), 371–390. https://doi.org/10.1111/eulj.12405 Scholz, O. (2022). Speech by Federal Chancellor Olaf Scholz at the Charles University in Prague on Monday, 29 August 2022. https://www.bundesregierung.de/breg-en/news/scholz-speech-prague-charles-university-2080752 Voluntary: Council of the European Union. (2022). A Strategic Compass for Security and Defence: https://data.consilium.europa.eu/doc/document/ST-7371-2022-INIT/en/pdf
Week 9 Giving Up Sovereignty?: Functionalism, Neo- Functionalism, Liberal Intergovernmentalism anduh Charles de Gaulle just walks away March 29, 2023	 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 two main theories of EU integration: While Liberal Intergovernmentalism (Moravcsik) puts the nation-state center stage, Neo-Functionalism (Schmitter, Lindberg) explains the dynamics of regional integration, 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. Readings: Schmitter, Philippe C. (2015). 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. Lindberg, Leon N. (1966). Integration as a Source of Stress on the European Community System. <i>International Organization</i>, 20 (2), 233–265. Moravcsik, A. (1993). Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach. <i>Journal of Common Market Studies</i>, 31 (4), 473–525.

Week 10 The Democracy Deficit April 12, 2023	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. <u>Readings:</u>
	 Habermas, J. (2005). Why Europe Needs A Constitution. In Eriksen, Erik Oddvar (et.al): Developing a Constitution for Europe, New York: Routledge, 9–34. Grimm, D. (2017). On the Status of the EU's Democratic Legitimacy after Lisbon. In Grimm, D. The Constitution of European Democracy, Oxford: Oxford University Press, 57–80. Majone, G. (2017). The European Union Post-Brexit: Static or Dynamic Adaptation?. European Law Journal, 23 (1-2), 9–27.
WEEK 11 Subnational Governance in the European Union April 19, 2023	When the 1992 Maastricht Treaty established the Committee of the Regions (CoR), research developed around subnational actors' mobilization in influencing EU policy-making. Brussels offers various access points to influence policy outcomes, Liesbeth Hooghe and Gary Marks pioneered research about the multi-level dynamics between EU institutions and subsequently emerging subnational actors. They emphasized the state-transcending nature of the European multilevel polity and the diversity in the mobilization of actors, which ultimately connects subnational influence with the discussion about the EU's democracy deficit.
	 Please bring your Treaty of Lisbon to this session (Art. 13, 4 TEU, Art. 300, 305–307 TFEU) Hooghe, L./Marks, G. (2001). Channels to Europe. In Hooghe, Liesbeth/Marks, Gary: <i>Multi-Level Governance and European Integration</i>. Lanham: Rowman & Littlefield Publishers, 81–92. Tatham, M./Thau, M.(2014). The more the merrier: Accounting for regional paradiplomats in Brussels. <i>European Union Politics</i>, 15(2), 255–276. doi: 10.1177/1465116513512539
Week 12 Guest Lecture by Dieter Grimm April 26, 2023	 Dieter Grimm will visit us at BCB to talk about the Constitutional Court of the Federal Republic of Germany and its perspective on democracy. He will take into account the "Lisbon Judgement" of June 30, 2009. <u>Readings:</u> Bundesverfassungsgericht: Judgment of the Second Senate of 30 June 2009 (Lisbon Judgement), 2 BvE 2/08, paras. 1-421. http://www.bverfg.de/e/es20090630 2bve000208en.html Grimm, G. (2017): Sovereignty in Europe. In Grimm, Dieter: <i>The Constitution of European Democracy</i>, Oxford: Oxford University Press 2017, 39-56. (Voluntary in addition): Grimm, D. (2015). The Democratic Costs of Constitutionalism: The European Case. <i>European Law Journal</i>, (21) 4, 460-473.

Week 13 The European Public	Over the years and with treaty changes, a debate concerning the existence of a public sphere in the EU evolved. Directly linked to the discussions about the democracy deficit we will examine what role the media and political parties play.
Sphere May 3, 2023	 Readings: de Vreese, Claes H. (2007). The EU as a Public Sphere. <i>Living Review of European Governance</i>, 2 (3), 2007. http://www.europeango vernance-livingreviews.org/Articles/lreg-2007-3/download/lreg-2007-3BW.pdf Garavoglia, M. (2011). Democracy in Europe: Politicizing Champions for the European Public Sphere. <i>Istituto Affari Internazionali</i> (IAI). www.jstor.org/stable/resrep09693 Brueggemann, M. /Schulz-Forberg, H. (2009). Becoming Pan-European. Transnational Media and the European Public Sphere. <i>The International Communication Gazette</i>, 71(8), 693–712. doi.org/10.1177/1748048509345064
Week 14 Upholding the Rule of Law? The Article 7 Mechanism, Gender Equality, and the Polish Judicial Reforms May 10, 2023 We will be joined by Carl Otto Lenz (CJEU advocate general 1984- 1997)	This session provides an overview of the interaction of EU legislative developments and gender equality after the Second World War. We will analyze the interdependency of the gender equality and the rule of law. Furthermore, we will see that since the famous Defrenne cases in the 1970s, EU citizens actively made use of EU law and thereby contributed to a transnational understanding of gender equality in the Union. Today, following the recent reforms of the judiciary in Poland have started with the Presidency of Andrzej Duda in 2015, Polish activists also lean upon the EU legal framework of gender equality derived increasingly from Article 2's human rights and egalitarian values, threating autocratic governments that emphasize gender and sexual differences in their political narratives. Finally, we will familiarize ourselves with the Article 7 procedure, the mechanism provided for in the Treaty of Lisbon to safeguard the Union's rule of law principle and to hold accountable governments whose actions threaten it. The Commission invoked Article 7 in December 2017 for the first time since its creation in response to the erosion of judicial independence in Poland by the Law and Justice (PiS) Party government.
	 <u>Readings:</u> Court of Justice of the European Union (2019). <i>European Commission versus Republic of Poland</i>, November 5, 2019. C 192/18. <u>https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0192</u> 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, December 16, 2020 (signature). <u>https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32020R2092</u> <u>Additional voluntary reading:</u> Ebert, Berit/Fradinger, Moira (2020). Gender Dissidence in the Twenty-First Century. <i>The Berlin Journal</i>, 34, October 2020, 78–83. <u>https://www.americanacademy.de/wp-content/uploads/2020/10/BJ34_spreads.pdf</u> Ebert, Berit (2022). Poland: The European Union's Bright Promise of Gender Equality. <i>The Berlin Journal</i>, 36, September 2022, 74–75. <u>https://www.americanacademy.de/wp-content/uploads/2022/09/BJ36_Web-Version_jsc.pdf</u>
Week 15 / Completion	Please bring your copy of the Treaty of Lisbon to this session. Your <u>END OF SEMESTER ESSAY</u> is due on Tuesday, May 16, 2023, at 2:00 pm. Please
Week	send your essay to me via email (b.ebert@bard.berlin.edu)

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

Essay Deadlines

END-OF-SEMESTER ESSAY: 4,500-5,000 words. Due on Tuesday, May 16, 2023, at 2:00 pm.

Library and Book Purchase Policies

<u>Books</u>

- Please make sure to either purchase or download 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). The treaty of Lisbon is available on amazon. It can also be downloaded from the EU's official website:
 Consolidated Version of the Treaty on European Union (TEU): https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF
 Consolidated Version of the Treaty on the Functioning of the European Union (TFEU): https://eur-lex.europa.eu/resource.html?uri=cellar:9e8d52e1-2c70-11e6-b497-01aa75ed71a1.0006.01/DOC_3&format=PDF
- Official EU documents (directives, regulations, cases) can be read online and downloaded under: https://eur-lex.europa.eu/homepage.html?locale=en

Additional books (voluntary for further readings)

- Charter of Fundamental Rights of the European Union, available online: <u>https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN</u>
- 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. (reserved shelf in the library)
- Paul Craig/Grainne de Búrca: *EU Law: Text, Cases, and Materials*, Oxford 2020. (reserved shelf in the library)