

EUROPEAN UNION LAW

Fall Semester 2004

Professor Gregory Shaffer

Course No: 942; **Credits:** 3 credits

Time: Tuesdays 3:30-5:30

Room: 2211

Office: Room 8104; tel. 265-4187

e-mail: gshaffer@wisc.edu

Office Hours: Tuesdays and Thursdays from 1.20-2.20 or by appointment. Please feel free to make an appointment with me after class or via e-mail.

Class list serve: I encourage students to use the list serve at eu-law@lists.students.wisc.edu to raise questions and discuss issues. I may also use it to send assignments and questions for class.

Assigned Materials:

Casebook: Cases and Materials on EU Law (6th edition) by Stephen Weatherill (OUP 2003).

Course Supplements: There are two *Course Supplements* that you must purchase from the Bookmart. One of the Course Supplements consists of the Treaty Establishing the European Community (the "Treaty") and the Treaty of the European Union ("TEU").

Newspapers and periodicals: Discussions of developments in Europe and the European Union are constantly in the news. You should try to read one or more papers or periodicals covering such issues, such as The Economist, The Financial Times, and The New York Times (although the latter's coverage of Europe is relatively scant). You should look at the weekly European Voice (in the library) which provides fullest coverage.

Considerations in taking the course. This course is strongly recommended to those interested in Europe and European law and to those interested in an international legal practice. The European Union remains the United States' primary trading partner and is the largest economic block in the world. In many policy areas, the law of the European Union and its Member States provide alternatives to the US system that should be considered. The course also is recommended to those interested in comparative constitutionalism, and comparisons of specific substantive areas of law (such as environmental, consumer, antitrust, labor, or trade law). The course likewise should attract those interested in regional integration elsewhere (be it in Asia, Africa or the Americas), for which the developments in Europe serve as alternatives. This course also will be highly beneficial for those attending the exchange program with European University Institute, including in relation to the application process.

Speakers: The following distinguished visitors are scheduled to come to the law school this fall. They will each give an independent talk that you are encouraged to attend, unless a requirement is indicated in the syllabus. They are: Professor Bruno de Witte (European University Institute, Florence); Professor Miguel Poirares Maduro (Advocate General on the European Court of Justice); Professor Merit Janow (tentative, Columbia University and newest member of the WTO Appellate Body); Ambassador Stuart Eizenstat (tentative, Ambassador to the European Union during the Clinton administration and a major figure in Washington at Covington & Burling); Professor David Kennedy (Harvard Law School); Professor John Braithwaite (Australia National University, winner of Law and Society lifetime achievement award, author of *Global Business Regulation*). The University's European Union has a schedule

of visitors that may be of interest. See <http://wiscinfo.doit.wisc.edu/eucenter/>.

Matters Covered: The course will introduce students to the scope of European Union law, the constitutional/treaty framework for its enactment, implementation and enforcement, and the creation of a common European market for the free movement of persons, goods, workers, and services.

Research Paper. This course is designed as a 3-credit seminar pursuant to which students will write a research paper of their design on a topic related to EU law or the EU more generally. It is recommended that the paper be about 30 pages (double-spaced). You are required to prepare a full thesis statement, outline and bibliography (*see assignments for Oct. 12 and Nov. 11*), and a *final paper by noon on the last day of the exam period*. You should feel free to contact me any time to discuss your topic, including any time after class. I highly recommend that you try to write a first draft for my review. I guarantee that the earlier you get started on your paper, the better that it will be.

Papers could analyze any developing EU case law or provide a comparative analysis of EU treatment of a specific legal issue or area with treatment under US law or WTO law. Paper topics could concern, to list just a few examples,

- * a constitutional law issue (division of powers, federalism, democratic deficit, fundamental rights, relation of ECJ to member state courts);
- * a governance issue, such as the role of governmental and non-governmental actors in any regulatory sector;
- * the community system of judicial remedies, EU-member state cooperation for enforcement;
- * a substantive issue under EU law, such as competition law; consumer law, social policy, environmental law, commercial law, intellectual property law, corporate law, securities law, or anti-discrimination law;
- * an analysis of case law involving intra-European trade and its relationship with member state national norms and law in any policy area (the environment, consumer protection, culture, etc);
- * issues involving free movement of workers, services, or capital in the EU;
- * the notion of a European citizenship; policies against social exclusion;
- * the creation of a common currency; the impact of enlargement of the EU;
- * EC powers over European external trade policy; the impact of WTO law on EU lawmaking; the direct effect of international law on EU law and its limits;
- * US-EU regulatory conflicts (over any area of law, such as data privacy, food safety, securities, mergers, electronic commerce, aircraft hush kits, tax policy; intellectual property);
- * the impact of an EU policy on global norms; on internal policies in the United States;
- * the EU common agricultural, fisheries or development policy.

EU Law Research Web sites. See <http://www.jeanmonnetprogram.org/eu/legalresearch.html>. The EU's official web sites are <http://europa.eu.int/>; and <http://www.eurunion.org/>. For EU research and events at UW, see <http://www.library.wisc.edu/guides/EU/>; and <http://wiscinfo.doit.wisc.edu/eucenter/>. Sunil Rao at the UW law library can help orient you with EU-related research. Bill Ebbott at the Law Library is also quite knowledgeable about EU law materials.

Assignments, Class Attendance and Participation. Class attendance, thoughtful preparation and engaged participation are required.

Grading. The grade primarily will be based on the final paper. It will be modified (upwards or downwards) by one or two points on the basis of (i) class attendance, preparation and participation, and (ii) the thoughtfulness of the questions raised for class discussion for which you are responsible (see immediately above).

Missing a Class. This is a seminar and class attendance is absolutely required. If you have to miss a class for a valid reason, you must let me know beforehand.

Books on Reserve. Some general source books have been placed on reserve, including

- * Jo Shaw, *Law of European Union* (3rd ed., 2002).
- * Paul Craig and Grainne de Burca, *EU Law. Text, Cases and Materials* (2003)
- * George Bermann et al, *European Union Law* (West 2002)
- * Helen Wallace and William Wallace, *Policy-Making in the European Union* (4th edition, 2000).
- * Simon Hix, *The Political System of the European Union* (Macmillan 1999).
- * Joseph Weiler, *The Constitution of Europe, Do the New Clothes Have an Emperor* (CUP, 1999).
- * Miguel Maduro, *We the Court: The European Court of Justice and the European Economic Constitution* (Hart 1998).
- * Kenneth Armstrong and Simon Buler, *The Governance of the Single European Market* (Manchester 1998).

Notes re All Assignments

i. The Consolidated Version of the Treaty Establishing the European Community.

The provisions of the *Treaty Establishing the European Community* (the EC Treaty, as amended) were all renumbered in 1998. In the Casebook, citations to EC Treaty provisions from pre-1998 cases will sometimes cite to the old numbering.

ii. Specific questions for class discussion. *Each student will be responsible for raising around 5-7 questions for discussion for one class during the semester. These must be posted by e-mail to me by no later than the prior Thursday at noon as an attachment in Word Format.* I will then post them on the Class List Serve and you must print and bring the questions to class. You should write out quick responses, though you will not submit written responses to me. This means that for one class period, you should read the materials sufficiently in advance to prepare thoughtful questions and then play more of a leading role in discussion during that class. You may wish to consider doing some extra reading, as from Shaw or other books on reserve, for that particular class, but you are not required to do so.

iii. Questions in Text of Casebook; Cases. There are questions set forth in the text of the Casebook. You should think through questions and be prepared to discuss (or feel free to raise) them. You should of course be prepared to discuss the cases, although you will note that they are presented in a more summary format than in a traditional US-style casebook.