

THE UNIVERSITY OF MICHIGAN
LAW SCHOOL
ANN ARBOR, MICHIGAN 48109-1215

Winter 2006

THE EUROPEAN LEGAL ORDER
Professor Halberstam

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Class Hours: Monday - Wednesday: 11:15 - 12:10, Room 132

Reading Materials: Bermann et al., Cases and Materials on European Union Law (West 2002)
Bermann et al., EU Law: Supplement & Selected Documents (West 2004)
C-Tools Resources(distributed via Course Tools website)

Optional Additional Source on Reserve: Craig & DeBúrca, EU Law.

Final Examination:

There will be an **eight hour self-scheduled take-home examination**.

You also have the option of writing a research paper in lieu of taking the final examination. In order to write such a paper, you must first clear the topic with me, and you must hand in the final version of your paper **no later than May 5** (regardless of whether you plan to graduate this year). If you would like me to read a draft, I will be happy to do so, as long as you give me your draft **no later than April 1**. If I read a draft and give you comments, I expect you to make revisions in response to my comments.

What's this about two sections of the same course meeting at the same time?

The registrar created two sections of this course purely for the sake of administrative convenience regarding the upper level writing requirement. If you choose to write a paper for this course, and you are an upper level student who wants that paper to satisfy your upper level writing requirement, then you should, at some point before the end of the term, register for section 2 of this course. If you are taking the exam, or if the paper you write will not fulfill the upper level writing requirement (i.e. you are a first-year student), you should be registered in section 1.

Course Syllabus

Casebook (“CB”)
Supplement & Selected Documents (“SD”)
C-Tools Resources (“R”)

Sometime during the first couple of weeks, you should take the time to read, or at least skim, the following:

CB 28-74 The Treaties and the Institutions
SD 295-420 Treaty Establishing the European Community
SD 421-443 Treaty on European Union

I. The Idea of European Integration

CB 3-27 The History of the European Community and the European Union
SD 3-14 Enlargement and the Convention on the Future of Europe

R Schuman declaration
R Preamble of EC Treaty (pre-Maastricht)
SD 422-23 Preamble of EU Treaty (Maastricht)
SD 448-49 Preamble of Draft Constitution (June 24, 2004)
R 49-64 Paul Craig, “The Nature of the Community: Integration, Democracy, and Legitimacy”

II. The Legal Architecture

A. The Relationship Between Community and National Legal Orders

1. Direct Applicability of Primary Law

R *Van Gend en Loos*
R Comparative Note on Supremacy and Direct Effect

CB 246-247 *Van Duyn v. Home Office*
R *Walrave and Koch*
CB 248-253 *Defrenne*
CB 589-91 *Angonese v. Cassa Di Risparma Di Bolzano*

2. Direct Effect of Secondary Law

a. Vertical Effect

CB 253-259 *Van Duyn, Ratti, Inter-Environnement Wallonie*
R *Ratti*, Opinion of Advocate General Reischl

b. Horizontal Effect

CB 260-61 *Marshall*

CB 1347 Note 3 on *Foster v. British Gas*

CD 262-69 *Marleasing, Faccini Dori*, and “Triangular” note

R *Pfeiffer*

3. Supremacy

R Note on Background to *Costa v. ENEL*

CB 243-246 *Costa*

CB 269-272 *Costa*

R *Simmenthal*

CB 274-276 *Factortame*

B. The Reception of European Law in the Member States

CB 282-284 Introduction

1. Germany & Italy

CB 171-174 *Internationale Handelsgesellschaft*

P2 *Solange, Frontini, Granital*

2. Trouble ahead?

R *Brunner - Germany*

CB 326-330 *Carlsen - Denmark*

R Polish European Arrest Warrant Decision

C. National Remedies for the Enforcement of Community Law

1. Effectiveness of Remedy

CB 385-387 Introduction

CB 387-88 *Rewe-Zentralfinanz* (case only)

CB 390-92 *Van Colson* (case only)

CB 393-94 *Marshall* (case only)

CB 395-398 *van Schijndel* (including notes and questions)

CB 398-400 *Eco Swiss* (case only)

CB 401-04 *Factortame* (notes and questions)

2. State Liability

CB 407-409 *Francovich* (case only)

CB 411-418 *Brasserie du Pêcheur* (ECJ) (case only)

R *Brasserie du Pecheur* (BVerfG), *Köbler*

D. External Relations

CB 1023-26 Introductory materials
CB 1028-34 *Commission v. Council* (ERTA) (through note 3)
CB 1083-91 *Opinion 1/94* (WTO)

E. Fundamental Rights

R Fundamental Rights Resource
 1-11 *Stork, Hauer, Cinetheque*
 12-15 *Wachauf* (read only paragraphs 2-3 & 16-23)
 16-20 *ERT*
 21-25 *Mary Carpenter*

 26-33 *Schmidberger*
 34-39 *Omega Spielhalle*

 40-56 *Opinion 2/94* (Accession by the Community to the ECHR)

III. The Internal Market

A. Free Movement of Goods

1. Quantitative Restrictions and Measures Having Equivalent Effect

CB 477-79 *Dassonville*
CB 508-13 *Rewe-Zentral* (Cassis de Dijon)
CB 482-88 *Commission v. Ireland* (Buy Irish), *Commission v. France* (Produce Imports)

2. Justifying MEQs

R *Commission v. France* (Woodworking)
CB 489-501 *Commission v. UK* (UHT milk), *Dean Milk Co. v. City of Madison* (U.S. S.Ct.), *Commission v. Germany* (Crayfish), *Heijn, Sandoz, Commission v. Germany* (German Beer)
CB 516-518 *Commission v. Germany* (German Beer)
CB 504-505 *Henn & Darby*

3. Nondiscriminatorily Applicable Selling Arrangements

CB 519-535 From *Cassis to Keck*. Post-*Keck*

4. Legislative Powers

CB 155-161 *Germany v. Parliament and Council* (Tobacco Advertising)

B. Free Movement of Services

1. Cross-Border Provision of Services

CB 653-659 Introductory material

CB 662-666 *Van Binsbergen, Piper*

CB 670-672 *Commission v. France* (Tour Guides)

CB 672-676 *Commission v. Germany* (German Insurance)

CB 676-678 *Schindler*

2. Cross-Border Receipt of Services

CB 679 Introductory material

CB 680-81 *Cowan*

CB 681-682 Note 4 - *Kohll*

CB 502-503 *Decker*

CB 683-684 *Bickel and Franz*

CB 682-683 *SPUC v. Grogan*

R *SPUC v. Grogan* (AG's Opinion)

C. Free Movement of Workers

1. General Principles

CB 576-579 Introduction

CB 580-582 *Ugliola, Hicklin v. Orbeck* (U.S. S.Ct.)

CB 603-606 *Rutili*

CB 610-613 *Commission v. Belgium*

CB 622-626 *Bosman*

R *Simutenkov*

2. Access to Education

CB 618-621 *Lair*

CB 638-640 *Blaizot*

CB 641-644 *Vlandis*

IV. European Citizenship

- R Preamble of EC Treaty (pre-Maastricht)
- SD 422-23 Preamble of EU Treaty (Maastricht)
- R Articles 8a-8e Treaty on European Community (Maastricht version)
- R *Martinez Sala,*
- R *Grzelczyk*
- R *Baumbast*
- R *Collins*
- R *Baldinger*

- R *D'Hoop*
- R *Trojani*
- R *Bidar*
- SD 303-04 Articles 17-22 EC (current version)
- SD 451-52 Article I-8 Draft Constitutional Treaty (proposed Citizenship provisions)

Additional Topics to be Coordinated with Visitors