

MA European Union Studies: Justice and Home Affairs

Semester 2, 2014-2015

Course Code: 5184KEU02

Level: 500

ECTS: 5.0

Lecturer: Dr Jan Oster

Language of instruction: English

Time and Place: Tuesday, 13:00-17:00

Blackboard: see **Blackboard**.

Contact information: With the lecturer, by e-mail (j.s.oster@hum.leidenuniv.nl)

I. Course Description

This course aims at analyzing EU policies and initiatives in the field of Justice and Home Affairs and at understanding the processes at the basis of their development. The course will engage participants in an in-depth study of the different aspects of the “Area of Freedom, Security, and Justice” (AFSJ): JHA policy concepts, actors involved in this field, policy-making processes, cooperation mechanisms and theoretical frameworks allowing us to understand this area. The course has been designed to provide students with the necessary tools to take informed positions in academic and policy-oriented debates about the AFSJ.

II. Course objectives

Having successfully completed the course, students will be familiar with the main legal questions that arise in the context of the AFSJ. In terms of skills, the students will be able to find sources (judgments, secondary legislation) and to identify the important elements of these sources. The Moot Court furthermore enables them to use their academic skills, by applying researched knowledge to specific cases and train their oral and organisational skills by pleading in groups.

III. Assessment method

Class participation (30%) and two essays will determine the mark (first essay 30%, second essay 40%). Maximum word count is 2,500 words for the first essay and 5,000 words for the second essay (including footnotes). Deadlines and other requirements will be announced in class.

IV. Attendance

This course is taught in 4-hour lecture sessions. Six sessions are scheduled. If you miss more than one session and/or deadlines without genuine extenuating circumstances, your work will not be marked.

V. Required reading and further sources

1. Required course textbook

The textbook for this course is Chalmers, Davies and Monti, *European Union Law*, 3rd edition 2014 (Cambridge University Press).

You will also need your own copy of the basic EU legislation. These are to be found most conveniently either in Kenner, *European Union Legislation* (Routledge Student Statutes), or in Blackstone's *EU Treaties and Legislation*, edited by Nigel Foster, Oxford University Press. **You are requested to bring a copy of one of these books to every class!**

For legislation not contained in these books you will be reliant on the *Official Journal of the European Communities* (OJ), the voluminous official gazette of the EU which has an "L" series (for legislation) and a "C" series (for other matters, including legislative proposals). New issues are now also published on the Internet, at <http://eur-lex.europa.eu/en/index.htm>.

2. Suggested (but not mandatory) textbooks

- Peers, *EU Justice and Home Affairs Law*, 3rd ed., 2012 (Paperback), Oxford University Press
- Craig and de Búrca, *EU law: Text, cases, and materials* (Oxford University Press: Oxford, 5th edn., 2011), Chapters 11 (Human Rights), and 25 (Criminal Law)
- Steiner and Woods, *EU Law* (Oxford University Press, 11th ed. 2012), Chapter 26 (Freedom, Security and Justice)
- Kaczorowska, *European Union Law* (Routledge 3rd edn., 2013, paperback), Chapters 2 (Values and objectives of the EU including the creation of an area of Freedom, Security and Justice) and 9 (The protection of fundamental human rights in the EU)

3. Periodicals

The principal EU law periodicals in English are

- European Law Journal (ELJ)
- European Law Review (ELRev)
- Common Market Law Review (CMLRev)
- Yearbook of European Law (YEL)
- Maastricht Journal of European and Comparative Law
- International and Comparative Law Quarterly (ICLQ)
- Journal of Common Market Studies (JCMS)
- Journal of European Integration / Revue d'intégration européenne (JEI/RIE)

Important periodicals in French are

- Cahiers de droit européen (CDE)
- Revue du marché commun (RMC)
- Revue trimestrielle de droit européen (RTDeur)

The most important EU law journals in German are

- Europarecht (EuR)
- Europäische Zeitschrift für Wirtschaftsrecht (EuZW)
- Europäische Grundrechte-Zeitschrift (EuGRZ)

4. EU Law on the Internet

You may find the following sites particularly useful in your studies and research:

- http://europa.eu/index_en.htm has links to the homepages of all the Union institutions. Useful links are also to be found on <http://www.law.cam.ac.uk/cels/links.htm>.
- The Jean Monnet website is also particularly attractive, see <http://www.jeanmonnetprogram.org>.
- EU Treaties, including the new Lisbon Treaty: <http://eur-lex.europa.eu/en/treaties/index.htm>
- Official Journal of the European Union from 1998: <http://eur-lex.europa.eu/JOIndex.do>
- Judgments of the Court of Justice of the EU are also found on the Court's website under <http://curia.europa.eu/>.
- ECJ and CFI judgments from 1958, in a less-user friendly form: <http://eur-lex.europa.eu/JURISIndex.do?ihmlang=en>
- You can also freely access the CELEX search engine, which offers several techniques to search a particular legal instrument or case (http://eur-lex.europa.eu/RECH_celex.do).

VI. Course syllabus

| Week | Date | Seminar |
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| 1 | 3.2. | <p>Introduction: Actors, historical development, and policy areas</p> <p><i>Required reading:</i></p> <ul style="list-style-type: none"> • Article 3(2) TEU, Articles 67-89 TFEU • Chalmers, Davies and Monti, <i>European Union Law</i>, Chapters 2 and 3 <p><i>Recommended reading:</i></p> <ul style="list-style-type: none"> • Steve Peers, Mission accomplished? EU justice and home affairs law after the Treaty of Lisbon, <i>Common Market Law Review</i> 2011, 48(3), 661-693. • Ester Herlin-Karnell, Subsidiarity in the area of EU justice and home affairs law: a lost cause?, <i>European Law Journal</i> 2009, 15(3), 351-361 • Estella Baker and Christopher Harding, From past imperfect to future perfect? A longitudinal study of the third pillar, <i>European Law Review</i> 2009, 34(1), 25-54 • Hans Lindahl, Finding a place for freedom, security and justice: the European Union's claim to territorial unity, <i>European Law Review</i> 2004, 29(4), 461-484 • Dorota Leczykiewicz, Constitutional conflicts and the third pillar, <i>European Law Review</i> 2008, 33(2), 230-242 |
| 2 | 10.2. | <p>Police cooperation and criminal law</p> <p><i>Required reading:</i></p> <p>Chalmers, Davies and Monti, <i>European Union Law</i>, Chapter 14</p> <p><i>Recommended reading:</i></p> |

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| | | <ul style="list-style-type: none"> • Estella Baker, The European Union's "Area of Freedom, Security and (Criminal) Justice" ten years on, <i>Criminal Law Review</i> 2009, 12, 833-850 • Florian Geyer, European arrest warrant: Court of Justice of the European Communities: judgment of 3rd May 2007, case C-303/05, <i>Advocaten voor de Wereld VZW v. Leden van de Ministerraad</i>, <i>European Constitutional Law Review</i> 2008, 4(1), 149-161 |
| 3 | 17.2. | <p>Border control, asylum, and migration policy <i>Required reading:</i> Chalmers, Davies and Monti, <i>European Union Law</i>, Chapter 12</p> <p><i>Recommended reading:</i></p> <ul style="list-style-type: none"> • Eva Nanopoulos, Trust issues and the European common asylum system: finding the right balance, <i>Cambridge Law Journal</i> 2013, 72(2), 276-280 • Nadine El-Enany, The EU asylum, immigration and border control regimes: including and excluding the "deserving migrant", <i>European Journal of Social Security</i> 2013, 15(2), 171-186 • Gina Clayton, Asylum seekers in Europe: <i>M.S.S. v Belgium and Greece</i>, <i>Human Rights Law Review</i> 2011, 11(4), 758-773 • Julia Mink, EU asylum law and human rights protection: revisiting the principle of non-refoulement and the prohibition of torture and other forms of ill-treatment, <i>European Journal of Migration and Law</i> 2012, 14(2), 119-149 • Purdey Devisscher, Legal migration in the relationship between the European Union and ACP countries: the absence of a true global approach continues, <i>European Journal of Migration and Law</i> 2011, 13(1), 53-94 • Dario Melossi, Security, social control, democracy and migration within the "Constitution" of the EU, <i>European Law Journal</i> 2005, 11(1), 5-21 <p>Georgia Papagianni, Forging an external EU migration policy: from externalisation of border management to a comprehensive policy? <i>European Journal of Migration and Law</i>, 2013, 15(3), 283-299</p> <ul style="list-style-type: none"> • Kees Groenendijk, Legal concepts of integration in EU migration law, <i>European Journal of Migration and Law</i> 2004, 6(2), 111-126 |
| | 20.2. | Deadline first writing assignment, Friday, 20 February, 17:00 |
| 4 | 24.2 | <p>External relations, human rights, and judicial review <i>Required reading:</i></p> <ul style="list-style-type: none"> • CJEU, Joined Cases C-148/13 to C-150/13, A, B and C v Staatssecretaris van Veiligheid en Justitie • CJEU, Case C-130/10, <i>European Parliament v Council</i> • ECtHR, <i>Soering v United Kingdom</i> <p><i>Recommended reading:</i></p> <ul style="list-style-type: none"> • Stephen Carruthers, The Treaty of Lisbon and the reformed jurisdictional powers of the European Court of Justice in the field of justice and home affairs, <i>European Human Rights Law Review</i> 2009, 6, 784-804 • Eleni Kosta, Fanny Coudert and Jos Dumortier, Data protection in the third pillar: in the aftermath of the ECJ decision on PNR data and the Data Retention Directive, <i>International Review of Law Computers & Technology</i>, 2007, 21(3), 347-362. • Theodore Konstadinides, Destroying democracy on the ground of defending it? The Data Retention Directive, the surveillance state and our constitutional ecosystem, <i>European Law Review</i> 2011, 36(5), 722-736 • Sarah Wolff and Gregory Mounier A kaleidoscopic view on the external dimension of Justice and Home Affairs, <i>European Foreign Affairs Review</i> 2012, 17 Supp (Special Issue), 143-162. |

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| | | <ul style="list-style-type: none"> • Jorg Monar, The EU as an international actor in the domain of justice and home affairs, <i>European Foreign Affairs Review</i> 2004, 9(3), 395-415 • Florian Trauner and Helena Carrapico, The external dimension of EU Justice and Home Affairs after the Lisbon Treaty: analysing the dynamics of expansion and diversification, <i>European Foreign Affairs Review</i> 2012, 17 Supp (Special Issue), 1-18 • Francesca Longo, Justice and home affairs as a new dimension of the European security concept, <i>European Foreign Affairs Review</i> 2013, 18(1), 29-46 |
| 5 | 3.3. | Moot Court I |
| 6 | 10.3. | Moot Court II |
| | 13.3. | Deadline second writing assignment, Monday 6 April, 17:00 |