

FU/BEST Program

Name: Maximilian Wagner

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Course title: European Legal Traditions

Course number: FU-BEST 17

Language of instruction: English

Contact hours: 45

ECTS-Credits: 5 **U.S. semester credits:** 3

Course description

This course is designed for future law students but also for all those who are interested in gaining a closer understanding of how the history of law intermingles with European political thought and cultural practices.

The course seeks to provide a broad and theoretical overview of European legal traditions from a social, political, economic and comparative perspectives. Starting with Roman Law, its coverage ranges from discussing the authority of law in history, literature, economics and religion, through the creation of the European legal frameworks up to the establishment of a human rights tradition in Europe and beyond. Focus is given to the wider scope of legal developments in history that have shaped the conceptualization of law in present-day Europe and beyond.

The course is roughly divided into two parts. The first part encompasses a brief overview of European legal thought from Roman law to the development of the common and civil legal traditions.

In the second half of the course, after the Midterm Exam, we will examine the more recent developments of European politics and law. The first session will be dedicated to how social aspects (i.e. geography and religion) influence European legal developments. During the second session we will deal with the fascist tendencies leading to World War Two. This links up with one option for the Independent Project, which entails a closer look into the fascist laws passed in Germany as portrayed in "Places of Remembrance in the Bavarian Quarter: Exclusion and deprivation, expulsion, deportation and murder of Berlin Jews in the years 1933 to 1945" in Schöneberg. The last two sessions will be dedicated to European integration and the formation of European Union mainly as an answer to the two World Wars. The focus here will be on the legal coverage of the Union's economy and respect for human rights through supranational cooperation.

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Learning objectives

The overarching objective of this course is to enable students to:

- Identify the different European legal traditions;
- Contextualize these traditions in their respective historical contexts; &
- Think of the different European legal traditions critically.

Student profile

Second-semester sophomore or above

Prerequisites

None

Course Requirements

Midterm exam: 25 %

Term-Paper: 25 %

Final exam: 25%

Class participation (includes 1 Independent Project report and regular class reading summaries): 25%

Literature

Photocopied course reader

Course schedule

Sessions	Topics, Readings, etc.
Session 1	Topic: Introduction: Picturing European traditions in literature: Reading: "Before the Law" by Franz Kafka, (Transl. Ian Johnson), http://www.kafka-online.info/before-the-law.html
Session 2	Topic: General history of European legal thought Reading: 1. Franz Wieacker and Edgar Bodenheimer, "Foundations of European Legal Culture", <i>The American Journal of Comparative Law</i> , Vo. 38, No. 1 (Winter 1990) pp. 1-29; and 2. Alan Watson, "The Importance of 'Nutshells'," <i>The American Journal of Comparative Law</i> , Vol. 42, No. 1 (Winter, 1994) pp. 1-24
Session 3	Topic: Topic: Roman law Reading: 1. Peter Stein, <i>Roman Law in European History</i> , Cambridge University Press 1999, pp. 1-32; and 2. Livy (Titus Livius 59 B.C. - 17 A.D.), <i>The History of Rome by Titus Livius</i> , tr. George Baker, New York, 1823, Vol I (of VI) [Widener Lo 16 412] http://sites.fas.harvard.edu/~chaucer/canttales/physt/livy-vir.html
Session 4	Topic: Topic: The Common Law Tradition Reading: 1. Mary Ann Glendon et al. (eds.), <i>Comparative Legal</i>

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	Traditions, 2nd ed., West Publishing 1994, 439-454; and 2. H. L. A. Hart, "Bentham and the Demystification of the Law", <i>The Modern Law Review</i> , Vol. 36, No. 1 (Jan., 1973), pp. 2-17
Session 5	Topic: The Civil Law Tradition Reading: 1. Mary Ann et al. (eds.), <i>Comparative Legal Traditions</i> , 2nd ed., West Publishing 1994, 44-64; and 2. Luis Kutner, "Legal Philosophers: Savigny: German Lawgiver," <i>Marquette Law Review</i> 55 (1972), pp. 280-295.
Session 6	Midterm Exam
Session 7	Topic: European law and its Context Reading: 1. Reut Yael Paz, "Religion, Secularism and International Law", in <i>Oxford Handbook of International Legal Theory</i> , Eds. Anne Orford and Florian Hofmann, 2016, pp. 923-938 and 2. Bernard Grossfeld, Geography and Law, <i>Michigan Law Review</i> . Vol. 82, No. 5/6 Festschrift in Honor of Eric Stein (Apr.- May, 1984), pp. 1510-1519
Session 8	Topic: The Fascist Legal tradition in Europe Reading: 1. Michael Stolleis, "Prologue: Reluctance to Glance in the Mirror. The Changing face of German Jurisprudence after 1933 and post-1945", pp. 1-19; and 2. JHH. Weiler, "Epilogue", pp. 389-402 in <i>Darker Legacies of Law in Europe: The Shadow of National Socialism and its Legal Traditions</i> , eds. Christian Joerges, Navraj Singh Ghaleigh, Hart Publishing, 2003.
Session 9	Topic: The Rebuilding of Europe, the Marshal Plan and European Integration through law Reading: 1. Alfred de Zayas, "Marshall Plan (European Recovery Program)", in <i>Max Planck Encyclopaedia of Public International Law [MPEPIL]</i> March 2009. 2. JHH Weiler, "European Integration", in <i>Max Planck Encyclopaedia of Public International Law [MPEPIL]</i> March 2009.
Session 10	Topic: General Principles of law in European Union Reading: 1. Robert Schütze, <i>An Introduction to European Law</i> , 2nd Edition, Cambridge University Press, 2015, pp. 90-112. 2. "The European Union and Religion", <i>Netherlands Scientific Council for Government Policy</i> , Amsterdam University Press 2004, pp. 25-43.
Session 11	Topic: Guest Lecturer: European Legal Attempts to Regulate Climate Change Professor Felix Creutzig (TU/Mercator Research Institute on Global Commons and Climate Change) Reading: Jarrod Hayes and Janelle Knox-Hayes, "Security in Climate Change Discourse: Analyzing the Divergence between US and EU Approaches to Politics", <i>Global Environmental Politics</i> , Volume 14, Issue

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Session 12	Topic: The European Union Law and the Single Market Reading: 1. Armin Cuyvers, "The EU Common Market", in <i>East African Community Law</i> , Eds. Emmanuel Ugirashebuja, John Eudes Ruhangisa, et al, Brill 2017, pp. 293-304; and 2. Andrea Sangiovanni, Solidarity in the European Union, <i>Oxford Journal of Legal Studies</i> , Vol. 33, No.2 (Summer2013) pp. 213-241.
Session 13	Final Exam