

Courts, Power and Politics - Europe in Context

Syllabus (Fall 2026)

Silje Synnøve Lyder Hermansen

silje.hermansen@ifs.ku.dk

Abstract

Far from impartial interpreters of the law, courts often shape and are shaped by politics. The judicialization of politics—the phenomenon by which an increasing number of political and societal values are allocated by courts rather than elected politicians—has become a defining feature of governance in Europe. At its helm is the Court of Justice of the European Union (CJEU). This is a general judicial politics course, where we will see dominant theories of judicial behavior combined with empirical studies. The CJEU is a running example throughout the course, but also see examples from other courts in Europe and the United States.

Courts would have no political role if judges simply applied the law and politicians readily complied with their rulings. Instead, legislators often leave high courts with extensive interpretative discretion, while judges lack the power to enforce their decisions. The result is a strategic interplay where courts navigate their independence within political constraints.

We will ask questions like:

- Are judges' political preferences reflected in their decisions?
- Is there a tradeoff between competence and ideology?
- How do we balance judicial independence with accountability?
- What is the influence of public opinion on courts' willingness to challenge governments?
- How do governments shape high court decisions?
- What mechanisms shape judicial legitimacy?

The course draws on a variety of political science research methods, including quantitative, qualitative, and formal approaches. Students will engage with a mix of classics in the field and cutting-edge research to evaluate judicial behavior, institutional design, and the broader implications of courts in democratic governance. The course is relevant both for students looking to study EU decision making from a different angle and those interested in the strategic dynamics of political institutions in established democracies.

Learning outcomes

Knowledge:

- Understanding the elements that lead courts to take a political role and the elements that constrain them.
- Knowledge of leading theories of judicial politics
- A view of strategic institutional interactions in established democracies

Skills:

- Critically discuss and confront empirical studies on judicial decision making.
- Independently apply theoretical and empirical insights to contemporary political issues involving the judiciary.
- Usefully engage with studies drawing on diverse methods (quantitative and qualitative methods; formal models and argumentative pieces) to discuss political decision making.

Competences:

- Integrate theoretical and empirical insights from judicial politics into broader political science debates on institutional design and democratic politics.
- Critically engage with and contribute to academic and policy discussions on the role of courts in political decision-making, with a focus on strategic and comparative perspectives.

Time and place

We meet once a week. As a general rule, the first week on a topic is dedicated to the lecture, while the second week is seminar based.

- *Thursdays (weeks 36-41; 43-50) 1500-1700 in XX, except for weeks 37 and 49 (XX)*

Study technique

This is a work-intensive class insofar as students are expected to do the readings for each topic and partake in discussions. Most topics run over two sessions. If so, I expect that you have at least started on the readings (e.g. the theory and podcast) before our first session, then that all readings are done for our second session.

The best way to prepare, is to work in groups and exchange insights. You will learn the most if you have already had a first stab at the readings before the class, then completed them before the second week.

Reading

The readings are listed in a suggested order, usually beginning with the theoretical contribution, then empirical examples. In some weeks, we also have podcast episodes or blogposts intended to illustrate either how practitioners experience court decision making or how academics discuss the topics. These are the “assigned readings” in this course. Each topic is previewed with one or two theoretical contributions. Take a moment to explain to yourself what the *theoretical insight* is, and write a quick summary of it. One way to read, is to go quickly through the theory, then go back to it once you have more examples at hand.

The remainder of the readings are *empirical studies* that probe observable implications of the theory; either explicitly or implicitly. For each empirical reading, focus on the authors’ main argument, the mechanisms that drive the results and how they test their argument. Take a minute to summarize each reading in two sentences. This summary should be the main take-away (“elevator pitch”). Here, too, it might be useful for you to read twice: once with the main take-away in mind, then a second time if you want to understand the details. The point of the empirical readings – together with the student presentations on “Courts in the media” – is to provide examples for you. This will help you prepare the first portfolio essay. It also means that there might be methodological and factual elements that are still unclear to you. That’s OK. Parts of the transferrable skills you acquire in this course is to usefully engage with studies drawing on diverse methods without being an expert in all of them.

At the end of each topic, you can *go back and link*: What are the theoretical elements reflected in the empirical studies? What are the mechanisms that drive the results? Are there recurring themes or feedback loops with previous topics? How do the readings relate to each other: do they add nuance, explore more implications, debate or follow up on the logic? This study technique allows you to have a *written overview* of the topics and readings covered in the course and will be a good starting point for your “executive summary” required for the portfolio. It also helps you to gain the overview needed to participate in class.

The theories covered in this course are “positive”. They seek to describe actual judicial behavior rather than to prescribe it. However, the insights we gain are ripe with normative underpinnings that motivate why we should study judicial behavior. The course does not aim to provide any definite answers. Instead, you will find a number of trade-offs that you can discuss: What are the pros and cons of different solutions? Discussing these questions with class mates will help you prepare the ground for the second portfolio essay.

Reading questions

The *reading questions* are there to help you focus your reading. You can browse through them before you do your readings, then go back and see if you can answer them with your study buddies afterwards.

The *hone your vocabulary* is a self-study category of questions you can look up and that help you better understand the readings. Answering each question requires maximum a few lines.

These are factual questions you can look up on the Internet or using ChatGPT. Having this brief overview may help some of you to assimilate the readings.

Supplementary readings are suggested readings that might help you dive deeper into a topic – in your work on the portfolio piece (e.g. the topic related shorter papers) or for later studies. I also sometimes suggest other pieces that present the theoretical perspectives in a slightly different way.

Class activities and feedback

You will have the opportunity to present your work in class. Sign up with your full name on the relevant page on Absalon (our online digital classroom). Pick a date that is convenient for you if you have no preference for the topic. You also do not need to know any of your fellow students to sign up. This is a way for me to help you meet new comrades and work together.

You may collaborate on presentations with other students without handing in the final portfolio piece with them. However, the presentations can help you prepare for the final exam portfolio. This is also why you receive feedback on what you present.

See the weekly overview for further details on the class activities and suggestions for class preparations.

Exam

The evaluation form for the class is “ongoing”; that is, a “portfolio exam”. As per usual, you may coauthor the portfolio and submit it as a group exam. BA students can only coauthor with BA students, and the same goes for MA students. You can choose to write alone, or have one or two coauthors. The length of the exam is adjusted accordingly, following the University guidelines.

The portfolio exam is due on [Absalon](#) on December 20th 2026. While you hand in your portfolio on Absalon, you receive your grades on eksamen.ku.dk. Make sure to state your full name(s), level of study (BA / MA) as well as proper pagination in the hand-in. This is so that I can grade your submission and report the correct grade to the correct student(s) on exam.ku.dk.

Examination form: ongoing/portfolio

The exam format is chosen to make your learning curiosity driven, and class activities are designed to help you prepare. .

The final portfolio consists of four elements: an executive summary, two portfolio essays and an appendix that documents your contribution to the class’ collective learning. The core of your portfolio are items 2 and 3 summing up to a maximum of 38.400 characters for MA

students (48.000 for two MA students; 57.600 for three MA students). You can find a full overview for the character limits for BA and MA students, respectively on Absalon and here.

Item	Description
1 Executive summary	Summary of course themes and readings
2 Courts in the media	Applied analytical essay
3 Essay	Analytical essay
4 Documentation	Slides and documentation of participation

1. Preface: A course summary (ca. 2000 characters, 1-2 pages)

Your portfolio is prefaced by an executive summary of the class. Its aim is to summarize the different topics covered in class: What are the main theoretical approaches, topics and empirical take-aways? *The text should contain references to all the readings.* You may inspire yourself from your own notes over the semester. My presentation of the weekly readings exemplifies the exercise.

2. Courts in the media (applied analytical essay)

Pick a recent or historical event where courts play a part and write a short essay where you analyze the case by drawing on our readings.

To get feedback, you may prepare a 10 minute presentation for the class. Present the relevant facts of the event and your reflections on how this makes the court into a political actor. Depending on where we are in the semester, you may already accompany your presentation with an analysis linking to the syllabus, and in particular the theoretical frameworks we operate with.

You are free to pick your own topic, but here are some examples:

- President of the European Commission's Ursula Von der Leyen's shopping spree for Covid vaccines was brought to the CJEU right before her confirmation hearing in 2024. How does the court's timing of the event affect its political role? Example from [Politico](#).
- The self-coup organized by President Yoon in South Korea in 2024. What was the role of the public, legislator (parties in Parliament) and the Court? [Le Monde Diplomatique](#)
- The Støjberg case: Former Danish immigration minister Inger Støjberg of Venstre was convicted by the Danish Court of Impeachment (Rigsretten) in 2021 after ordering the automatic separation of asylum-seeking couples where one partner was under 18, without legally required individual assessments. The case became a major political and media controversy because it juxtaposed a popular hardline immigration policy with principles of due process, ministerial responsibility, and the rule of law.
- Corruption charges of sitting Israeli Prime Minister Netanyahu. How does corruption charges of incumbent heads of government affect court's political role? To what extent would the situation in Israel be different if Netanyahu had not been so desperate to stay in power? How did Trump's interference play out? [France 24](#)

- The ineligibility of Marine Le Pen following her (and her party colleagues) fraudulent spending of European Parliament money.
- President Trump’s sanction of individual judges at the International Criminal Court [Le Monde](#).
- The European Commission’s political use of EU antitrust legislation [Politico](#)
- The United Kingdom’s Supreme Court’s ruling on the definition of “man”, “woman” and “sex” in *For Women Scotland Ltd v The Scottish Ministers*.
- The CJEU Coman case from 2016 on gay marriage.
- Climate litigation in Denmark. [Danish Institute for Human Rights](#)
- The Danish “Ghetto law” before the CJEU. [The Guardian](#)

3. Analytical essay

Write an analytical essay responding to one of the essay prompts released during the semester. The prompts will draw on the theoretical debates and empirical themes covered in class.

The purpose of the essay is to demonstrate your ability to formulate and defend a political science argument by engaging explicitly with the course literature.

A strong essay should:

- clearly formulate the problem or debate addressed in the prompt,
- identify the relevant theoretical perspectives and mechanisms,
- discuss implications, trade-offs, and institutional consequences,
- support the argument with examples from the course and relevant empirical studies,
- explicitly engage with assigned readings from the syllabus
- you can also draw on new empirical examples or the ones we have seen in class.

The essay should not merely summarize the literature or present personal opinions. Instead, it should use the readings to construct and defend an analytical argument.

Possible questions can be:

- Does legal realism (knowledge that judges have political motives and are strategic) kill a court’s sociological legitimacy? (weeks 2 and 12)?
- Should we have a political appointment of judges? (weeks 2, 4 and 6)
- Is the CJEU an agent of member states or a policy maker in its own right? (weeks 4, 6 and 8)
- Have CJEU judges exchanged external independence for internal dependence (the internal judicial hierarchy)?
- Is the public a reliable, effective or even desirable, alliance partner for fledgling courts?

4. Documentation of class activities

Everyone has something to contribute with to help the group learn. Your portfolio allows you to document that participation.

- a. Links to your group works/presentations on Absalon
- b. Links to your other course participation, if relevant (e.g. sharing of notes and solutions).

Examination length

The length of the two portfolio items is decided by the University, and depends on your level of study and the number of people that submit the exam together.

Number of students	BA Students (7.5 ECTS)	MA Students (7.5 ECTS)
One student	14,400 keystrokes (6 standard pages)	19,200 keystrokes (8 standard pages)
Two students	19,200 keystrokes (8 standard pages)	24,000 keystrokes (10 standard pages)
Three students	24,000 keystrokes (10 standard pages)	28,800 keystrokes (12 standard pages)

How to read the table: If you are an MA student that write your exam on your own, you will hand in two essays that together make up 38400 keystrokes (ca 8x2 pages), as well as an executive summary and documentation (they do not count towards the length limit). References, tables and figures do not count towards the final length count.

Assessment

The brunt of the grade is determined by your portfolio items 2 and 3, while the executive summary and the appendix document your good citizenry and engagement with the class during the semester. The executive summary allows you to demonstrate that you have acquired an overview of our theme for this semester by reading and connecting the assigned pieces. I use this item when I grade, as well as your documented contribution to class, as a tie-breaker testifying to your effort to build the learning foundations.

The grade is determined by your ability to a) relate concrete examples (specificity) from the readings and b) the maturity of your discussion (linking topics, seeing trade-offs and tensions).

Online resources

Popular media: podcasts, movies and blogs

Are you curious? Looking for examples? Or just looking for a way to procrastinate? Here are a few resources for your general education.

- [More Perfect](#): especially the earlier episodes (2016-17) go through some of the path breaking Supreme Court cases in the US. Illustrates many of the problems that judges, politicians and litigants encounter in the search for justice and political change. This is a podcast for the general public and interesting for a political science listener. (podcast)
- [Borderlines](#) : Especially the series on the CJEU conducts interviews with many of the Court's members. It's more nerdy, but features practitioners' views on how they make their decisions and the role of the CJEU in the political life of the EU. (podcast)
- [Not another politics](#) have several episodes about the US Supreme Court. It's a very nerdy research-based podcast for political scientists with a clear US slant. Useful to get a glimpse of how researchers discuss courts. Here are a few episodes: "Does The Public View The Supreme Court As Legitimate In A Post-Dobbs World?", "Roe & Departure From Precedent In The Supreme Court", "Should The Supreme Court Have Term Limits?", "Reining In The Supreme Court". (podcast)
- [The Verfassungsblog](#) and [EU Law Live](#) are two blogs for lawyers with a view of what moves in the courts across Europe (and especially the CJEU). They are by an large more legal and nerdy. (blog)
- "The Supremes" *The West Wing* (Season 5, Episode 17, the HBO series available through HBO Max, Amazon Prime, Apple TV, or Google / Youtube Movies) features the drama of US Supreme Court judicial appointments. A supreme court judge dies, and the question is who should be proposed as their successor (TV series).
- *Twelve angry men* is a 1957 movie (legal drama including Henry Fonda) depicting the tie that jurors may run into when deciding together. It's on rental from Amazon and Apple TV. This is a theatrical piece that illustrate courtroom dynamics. (movie)

Course plan

For a detailed course plan, a list and a presentation of the assigned readings, see the "Weekly overview".