

COURSE

7397 COMPARATIVE GROWTH MGT LAW

CLASSES FEBRUARY 9 - FEBRUARY 18: SYLLABUS

Juli Ponce,

Professor & Associate Dean

School of Law, University of Barcelona

jponce@ub.edu

<http://www.urcosos.net/e-index.html>

Meeting Time: Mondays and Wednesdays, 9:00 AM- 10:15 AM

Class Location: Room 330

Ponce jponce@ub.edu
Contact:

Course Description: These sessions will explore the comparative legal aspects of metropolitan growth management and control as it affects the human, urban and physical environments.

The main objective of the classes is to give an overview for an American audience of the European perspective in relation to the concepts of urban sustainability and economic, social and territorial cohesion. The method used is based on several case studies related to the European Union, some individual European countries,

regional examples (specifically Catalonia, a region in the northeast of Spain) and the city of Barcelona, which is implementing various programs that are being imitated by other major European cities.

In these classes we will try to highlight different ways in which law and public policy cross-fertilization could help us to face urban challenges in both Europe and the United States during the 21st century.

OVERVIEW

The classes begin with an introductory session, which analyze the changing patterns of land use in Europe comparing them with the American situation.

Urban sprawl is becoming a new European concern, the "ignored challenge" according to the title of a report published by the European Environment Agency in 2006. On the other hand, traditional American urban sprawl is being dealt with by different new planning movements (e.g. Smart Growth and New Urbanism) which promote urban developments based on the ideas of compact cities, urban infill, city center revitalization, mixed uses or a more pedestrian-oriented style of urban life. These tendencies on both sides of the Atlantic show a possible process of future convergence, with similar problems and possible common solutions, including legal techniques.

In that sense, a couple of problems are considered specifically: firstly, the issues related to housing and land use discrimination, both in Europe and in the US, as well as the legal techniques developed to fight it and promote mixed communities (American inclusionary zoning and similar European techniques); secondly, religious uses of land in the context of multicultural societies and American and European legal developments to guarantee the right to freedom of religion.

Although the American and the EU legal systems show important differences, they also face similar social problems and use common approaches to achieve solutions which try to respect constitutional requirements.

COURSE OBJECTIVES

1. To appreciate the EU legal system and its *constitutional* framework, as well as a consideration of some EU member states' national legal solutions

following it.

2. To understand the similarities and differences between the US and the EU regarding some principles of land use planning
3. To Identify the systems of governance planners and lawyers may face during their careers, in the US and in their relationships with European legal systems, and understand the political context of growth management through case analysis.
4. To promote open discussion and comparison between American and European legal way of reasoning.

SCHEDULE OF COURSE CONTENT

1. February 9, 2009: Introductory session

Urban Planning Law, Social Cohesion and Sustainable Development: a comparative approach between the US and the EU

2. February 11, 2009

Urban Sprawl, New Urbanism in the US and "Classical" European Urbanism

3. February 16, 2009

The Fight Against Discrimination. Affordable Housing and Inclusionary Zoning: The Rationale for Mixed Communities.

4. February 18, 2009

Religious Land Use and The Law

COURSE READINGS AND SUGGESTIONS FOR DISCUSSION (ALL THE READINGS ARE PROVIDED BY PROFESSOR PONCE IN ELECTRONIC FORMAT)

1. February 9, 2009: Introductory session

Urban Planning Law, Social Cohesion and Sustainable Development: a comparative approach between the US and the EU

Required readings

-Readings from the journal *The Economist* (1)

-Juli Ponce *Land Use Law, Liberalization, and Social Cohesion Through Affordable Housing in Europe: The Spanish Case*, 36 *Urban Lawyer* 322 (2004).

-Voula Mega, *The Concept and Civilization of an Eco-society: Dilemmas, Innovations, and Urban Dramas* (Excerpts)

in *Cities and the Environment: New Approaches for Eco-societies* 47 (Edited by Takashi Inoguchi, Edward Newman, and Glen Paoletto 1999)

- COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT on *Thematic Strategy on the Urban Environment*, Brussels, 1/11/2006, COM(2005) 718 final

Questions to be discussed (among other possible aspects):

-What can we learn from each other's experiences?

-Globalization, legal issues, common problems and...common solutions?

-Is the American approach similar to the European holistic point of view revealed in the Communication of 2006 "Thematic Strategy to the Urban Environment"?

2. February 11, 2009

Urban Sprawl, New Urbanism in the US and "Classical" European Urbanism

Required readings:

-Readings from the journal *The Economist* (2)

- Eric M. Braun, *Growth Management and New Urbanism: Legal Implications*, 31 *Urban Lawyer* 817(1999) (Excerpts)

- EEA (2006), *Urban sprawl in Europe — the ignored challenge*, EEA Report No 10/2006, European Environment Agency, Copenhagen (Briefing).

- PUBLIC AGENDA, *A Nice Place to Live. Creating Communities, Fighting Sprawl*, 1999 (Excerpts).

Questions to be discussed (among other possible aspects):

-Can similar trends be identified in the US and Europe?

-Is urban sprawl something inevitable?

-What are the social, economic and environmental impacts of urban sprawl?

-What could the role of land use law be in opposing urban sprawl? What are the possible legal techniques?

3. February 16, 2009

The Fight Against Discrimination. Affordable Housing and Inclusionary Zoning: The Rationale for Mixed Communities.

Required Readings:

- Readings from the journal *The Economist* (3 and 4)
- Padraic Kenna, *Globalization and Housing Rights*, Indiana Journal of Global Legal Studies Vol. 15 #2 (Summer 2008)
- Volker Busch-Geertsema, *Measures to Achieve Social Mix and their Impact on Access to Housing for people who are Homeless*, European Journal of Homelessness _ Volume 1, December 2007
- Deborah Kenn, *One Nation's Dream, Another's Reality: Housing Justice in Sweden*, 22 Brooklyn J. Int'l L. 63 (1996) (Excerpts)
- *Nine Lessons for Inclusionary Zoning*, Keynote Remarks of David Rusk to the National Inclusionary Housing Conference, Washington, DC
- Charles M. Haar, *Suburbs under Siege. Race, Space and Audacious Judges*, Princeton University Press, 1996 (Excerpts)
- Mount Laurel I (Southern Burlington County NAACP v. Township of Mt. Laurel, 336 A.2d 713 (NJ))

Questions to be discussed (among other possible aspects):

- What are the challenges of multicultural societies in the field of land use?
- Is there a constitutional right to housing in the US? Why? What is the situation in the European Union?
- Are mixed communities a desirable goal? Why? Is urban segregation a problem?

Why? Does the existence and location of affordable housing influence segregation in schools? Why?

-Is exclusionary zoning a legal or an illegal practice? Why?

-How does American inclusionary zoning work? Can we identify similar techniques in Europe?

4. February 18, 2009

Religious Land Use and The Law

Required readings:

- Readings from the journal *The Economist* (5)
- European Convention of Human Rights (article 9)
- Charter of Fundamental Rights of the European Union (see articles 10 and 21)
- COUNCIL DIRECTIVE 2000/43/EC of June 29, 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin
- Decision of the *European Court of Human Rights*, case *Vergos v. Greece*, Application No.65501/01
- Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA")
- Islamic Centre of Mississippi, Inc. v. City of Starkville, Mississippi*, 840 F.2d 293, United States Court of Appeals, Fifth Circuit, March 23, 1988

Questions to be discussed (among other possible aspects):

- How does the first amendment of the US Constitution affect land use law? Can a similar *constitutional* clause be identified in the European legal system?
- Is there a European RLUIPA? What is the role of the EU Directive 2000/43 in relation to housing and land use?
- Can similarities between American and European case law in relation to religious land use be found? Why?

OPTIONAL ADDITIONAL READINGS (PROFESSOR PONCE DOES NOT PROVIDE THE TEXTS IN ELECTRONIC FORMAT UNLESS OTHERWISE INDICATED)

-T.R. Reid, *The United States of Europe. The New Superpower and the End of American Supremacy*, The Penguin Press, 2004.

-Timothy Beatley, *Green Urbanism. Learning From European Cities*, Island Press, 2000

-James A. Kushner, *Comparative Urban Planning Law. An introduction to Urban Land Development Law in the United States through the Lens of Comparing the Experiences of Other Nations*, Carolina Academic Press, 2003.

-Juli Ponce (Ed.), *Land Use Law, Housing and Social and Territorial Cohesion*, RMLUI, Denver University, 2006.

-Montserrat Pareja and Teresa Tapada, *Urban Renewal Planning in Barcelona: What Can We Learn From Experience?*, *European Spatial Research and Policy*, volume 8, number 2, 2001, pages 39 ff (provided in electronic format).

-Javier Burón, *Land Reserves for Subsidized Housing: Lessons Learned from Vitoria-Gasteiz*, *Architecture, City and Environment*, Volume 1, Number 2, October 2006, pages 1 ff. (provided in electronic format).

SOME RELATED EUROPEAN WEB PAGES OF INTEREST

<http://http://www.eukn.org/eukn/>

<http://www.eea.europa.eu/themes/urban>

http://www.espon.eu/mmp/online/website/functions/home/homepage/index_EN.htm
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http://ec.europa.eu/regional_policy/interreg3/index_en.htm

<http://www.interact-eu.net/4098/0/0/0>

<http://urbact.eu/>

http://www.europarl.europa.eu/committees/regi_home_en.htm

<http://europa.eu/scadplus/leg/en/s24000.htm>