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COURSE DESCRIPTIONS GLOBAL LAW BACHELOR  
Year and semester in curriculum 2013-2014

<i>Name of the course</i>	<i>curriculum</i>
Accounting and Finance for Lawyers	LLB3-1
Administrative Law	LLB3-1
Civil Procedure and Dispute Resolution	LLB3-1
Constitutional Law	LLB2-2
Corporate / Business Law	LLB2-2
Criminal Law	LLB2-2
Economics for lawyers	LLB1-2
Environmental Law	elective LLB3-2
European Legal History	LLB1-1
European Union Law	elective LLB3-2
Intellectual Property Law	elective LLB3-2
International Legal History	LLB1-2
Introduction to International and European Law	LLB1-1
Labour Law	elective LLB3-2
Legal Philosophy I	LLB1-1
Legal Philosophy II	LLB3-1
Linguistic and Argumentation Skills	LLB1-1
Methods & Techniques of Legal Research	LLB2-2
Methods & Techniques of Social Science Research	LLB1-2
Moot court and final essay	LLB3-2
Obligations and Contract Law I	LLB2-1
Obligations and Contract Law II	LLB3-1
Perspectives on Law	LLB2-1
Political Science for lawyers	LLB1-2
Private Interna. Law and Transnat.Litigation	LLB3-2
Property Law	LLB2-2
Psychology and Criminology	LLB1-1
Public International Law	LLB3-2
Strategy and Organisation for Lawyers	LLB2-1
Tax Law	LLB3-2
Technology and Society	LLB1-2
Tort Law	LLB2-1
Transactions and Organisations	LLB1-2
World Legal Systems	LLB2-1

## European Legal History

### *Aims and learning outcomes*

After successfully completing this course the student should:

- Have a thorough and profound knowledge of the historical development of the two main legal traditions of Europe, the civil law and the common law tradition, from Roman Antiquity to the present;
- Have a profound understanding of the interaction between law, politics and culture in European history;
- Have a basic knowledge and understanding of the process of dissemination of European law outside Europe.

### *Content*

The subject of the course is the external history of the civil and common law traditions from – in so far relevant – Roman Antiquity to the present day.

'External' legal history means that the historical evolution of the two legal traditions is placed within the context of general history. The focus thereby lies with political as well as cultural/intellectual developments.

The course is divided into five main parts.

In the first part, the external history of ancient Roman law is studied (7<sup>th</sup> century BC-6<sup>th</sup> century AD). The second part covers the emergence and (relative) decline of the state from the Late Middle Ages to the present. The third part focuses on the rise and development of the civil law system, from the rediscovery of the Digest of Justinian in the 11<sup>th</sup> century until the early 20<sup>th</sup> century. In the fourth part, the historical evolution of the common law, from the 12<sup>th</sup> century to the early 20<sup>th</sup> century is studied. The final part deals with legal developments of the 20<sup>th</sup> century as well as the dissemination of European law over the globe.

### *Literature*

- Randall Lesaffer, *European Legal History: A Political and Cultural Approach*, Cambridge 2009.
- Reader with additional texts on common law and the history of globalization of law.

### *Teaching and assessment methods*

The course will consist of 18 lectures of 2 hours each. For each class, students will need to prepare literature with the aid of some general questions. During class, these questions will be discussed according to the Socratic method (as applied at US law schools).

The course will be concluded with a written, open book exam.

### *Lecturers*

Professor Randall Lesaffer

Dr. Raymond Kubben (coordinator)

## **Linguistic and Argumentation Skills**

### *Course aims*

The course helps students to develop their English skills in order to function in an English-speaking academic environment as well as in their future international careers. More specifically, the course aims for students to:

- Improve their general academic and specifically legal writing style. This includes being able to write a well-structured text with appropriate register, grammatical accuracy and referencing.
- Build legal listening and reading skills.
- Improve their oral skills, including fluency, accuracy and pronunciation, in a number of contexts.

### *Content*

The course covers the following topics:

- Text structure: The course will consider a variety of writing products with their specific styles and structures, with a main focus on writing an argumentative text. Attention will be paid to efficient and insightful construction of paragraphs, overall text structure, and clear marking of argumentative steps.
- Discussing sources: Students will learn to critically discuss and incorporate sources into their argumentative texts by means of quotation, paraphrase and summary using the appropriate referencing format.
- Written and spoken accuracy: Students should be able to describe and argue complex issues, using appropriate vocabulary and terminology as well as accurate language. Students will therefore build vocabulary, learn how to use dictionaries and other language sources, and work on a number of language and grammar issues.
- Reading and Listening: Both reading for main ideas and details will be practiced on the basis of a number of legal texts. Students will receive training in listening for information, including notetaking.
- Oral proficiency: Students also need to be able to express themselves orally in a variety of contexts. Speaking training will deal with answering questions and persuasively arguing a point during debate or discussion. The focus will be on fluency, rhetorical devices, and pronunciation.

### *Compulsory reading and course tools*

- Course book or reader to be determined.
- English Legal Toolbox (available on Blackboard)
- Tilburg University RefCite (online referencing module)
- Readabulary (online vocabulary building module)

### *Teaching and assessment methods*

The course will consist of 18 lectures in total. During 12 weekly interactive seminars, students work primarily on improving their writing skills (structure, style and accuracy). In the other 6 seminars, which run parallel to the weekly seminars, students work on improving their passive skills (reading & listening) and their oral skills.

All seminars are taught in groups of a maximum of 22 students in order to make the seminars as interactive as possible. Students are required to actively participate in the discussions with both instructor and each other and give peer feedback on writing products and spoken expressions. On a number of occasions, students receive personal teacher feedback on their writing assignments.

The students will be assessed by means of:

1. A written argumentative text of approximately 2,000 words according to the academic conventions taught during the seminars.
2. A language test covering a number of grammatical and vocabulary issues as well as general academic skills.
3. A short debate in which they orally present their opinion on a current legal topic.

### *Other course specifics*

- Since this is a practical course, a minimum attendance of 80% is required.
- Target level: C1 level according to the CEFR (Common European Framework of Reference)

*Lecturers*

Instructor from the Tilburg University Language Center

*Contact*

Linda Mous, M.A. (coordinator)

[L.Mous@tilburguniversity.edu](mailto:L.Mous@tilburguniversity.edu)

## Legal Philosophy I

### *Aims and learning outcomes*

After successfully completing this course the student should have:

- thorough knowledge of the foundational problems linked to the qualification of the European Union as 'European' and as a 'Union';
- acquired a preliminary understanding of why these foundational problems illustrate more general concerns about constitutionalism and global law;
- acquired a general understanding of the normative and epistemological dimensions of the political representation of the EU;
- acquired a concept of law that is sufficiently capacious to encompass both state law and European law, as well as to understand the nature of the interactions between them;
- learnt how philosophical analysis and reasoning can contribute to better focusing and resolving doctrinal problems arising in the development of European law;
- acquired a preliminary understanding of how and why the practical orientation of the academic study of law is itself an exercise in theoretical thinking.

### *Content*

The Course has a 'circular' structure. In a first phase, and drawing on the qualification of the EU as a 'sui generis' polity, it shows how legal practice and the legal doctrine struggle to account for the nature of the EU as 'European' and as a 'Union'. As to the former, the basic question concerns the notion of European identity and the boundaries between Europe and the rest of the world. As to the latter, the question is whether, in addition to being an economic and a legal union, the EU is also a political union. Having shown that the available conceptual frameworks do not suffice to provide an adequate answer to these questions, the second phase unveils a philosophical analysis of political representation, with a view to showing how this analysis sheds new light on the problems of European identity and political union. It also allows for a comparative study between the emergence of the EU as a political union, at the hands of the well-known *Van Gend & Loos* and *Costa v. ENEL* judgments of the European Court of Justice, and the emergence of the United States of America as a federal state, at the hands of the Supreme Court's famous *Martin vs. Hunters' Lessee* judgment. In a third, and final phase, the course suggests how the fundamental philosophical analyses of political representation can contribute to clarifying the properly institutional dimensions of the so-called 'democratic deficit' of the EU.

### *Compulsory reading*

The reader will consist of (at least) the following reading materials:

- The *Van Gend & Loos* judgment (1962) of the European Court of Justice;
- The *Costa v. ENEL* judgment (1964) of the ECJ;
- The *Les Verts* judgment (1986) of the ECJ;
- The *Cassis de Dijon* judgment (1978) of the ECJ;
- The *Keck* judgment (1991) of the ECJ;
- The *Grogan* judgment (1990), of the ECJ;
- Advice 1/91 of the European Court of Justice
- Koen Lenaerts, 'Constitutionalism and the Many Faces of Federalism', in *The American Journal of Comparative Law* (1990);
- The *Maastricht* judgment (1993) of the German Constitutional Court;
- The *Lisbon* judgment (2009) of the German Constitutional Court;
- Th. Koopmans, 'Federalism': The wrong debate', (1992) *Common Market Law Review*
- Neil MacCormick, selected tracts of *Questioning Sovereignty* (OUP, 1999)
- Neil Walker, 'Taking Constitutionalism Beyond the State, in *Political Studies*, 56 (2008), 519-543.
- Joschka Fischer, 'From Confederacy to Federation: Thoughts on the Finality of European Integration', in Ch. Joerges et al. (eds.), *What Kind of Constitution for What Kind of Polity? Responses to Joschka Fischer* (2000), on-line publications of the RSCAS of the EUI.
- Joseph Weiler, 'Fischer: The Dark Side', in *What Kind of Constitution for What Kind of Polity? Responses to Joschka Fischer* (2000), on-line publications of the RSCAS of the EUI
- Hans Kelsen, fragments from his Introduction to his *Problems of Legal Theory* (1992)
- Dieter Grimm, 'Does Europe Need a Constitution?', *European Law Journal* (1995)
- Steve Boom, 'The European Union After the Maastricht Decision: Will Germany be the 'Virginia' of Europe?', *The American Journal of Comparative Law* (1995);

- Robert Dehousse, 'Integration through Law Revisited: Some Thoughts on the Juridification of the European Political Process', in Francis Snyder (ed.), *The Europeanisation of Law* (Hart, 2000)
- Hans Lindahl, "The Paradox of Constituent Power: The Ambiguous Self-Constitution of the European Union", in *Ratio Juris* (2007).
- Charles Taylor, 'Social Theory as Practice', in Charles Taylor, *Philosophy and the Human Sciences. Philosophical Papers 2* (CUP, 1985).

*Teaching and assessment methods*

The course will consist of 15 lectures and 3 encounters in which the students debate among themselves about issues arising in the course of the lectures. The students will be expected to read all obligatory reading material in advance of the lectures, and intensive discussion of the texts is an integral part of course participation by the students. Students will be assessed on the basis of their participation in the debates (30% of the final grade) and a written exam (70% of the final grade), composed of a number of short questions and answers that, drawing on the course material, establish whether the student has sufficiently mastered the course aims.

*Lecturer*

Prof. Dr. Hans Lindahl

## International legal history

### *Aims and learning outcomes*

After successfully completing the course "International Legal History (GLB)", the student is able:

1. to describe and outline the emergence, evolution and expansion of international systems;
2. to describe, explain and understand how law structures international systems and operates within them;
3. to describe, discuss, and explain the legal consequences of interaction, collision and integration of international systems;
4. to understand and discuss the relevance of structural and cultural aspects of international order to the nature and operation of law from an historical perspective;
5. to relate insights of international relations theory on international systems and international law to historical cases;
6. to understand, explain and discuss fundamental changes in international legal orders from an historical perspective;
7. to express his/her views on international legal history in written form;
8. to conduct a small research using historical international legal sources in cooperation with fellow students.

### *Content*

The course international legal history addresses the normative aspects of relations between autonomous political entities as they have developed throughout history. Throughout the course we will study the emergence, evolution, and expansion of international systems with attention to both structure and culture. We will study how law structures these systems and operates within them. Furthermore we will study the legal consequences of interaction or collision between international systems and the integration of international systems both in terms of political and military relations and in terms of commerce and migration. The historical analysis will be embedded in international relations theory insights in international order and the relation between international order and law. Subsequently, a chronological path will be followed starting in ancient Greece and China and ending on the eve of World War II. Along this path we will come across several historical international systems or occasions of collision between systems. While some attention will be paid to ancient international systems, medieval Europe, and non-European views on world order, the focus will be on the emergence, rise, and expansion of the modern states system. Furthermore, attention will be paid to the engagement of the European states system with other systems or parts of the world, such as medieval Europe's encounter with the Islamic world, early modern Europe's relations with the Americas and Asia, 19<sup>th</sup>-century imperialism and the expansion of the European system to encompass the entire globe. The history of the normative aspects of relations between autonomous political entities will be embedded in the evolution of the international order regarded from a geopolitical and systemic perspective. The course will avoid an exclusive focus on 'international law' and its alleged predecessors but take into regard other kinds of law relevant to relations between autonomous political entities as well. Furthermore, the discussion will bring together international legal practice and international legal doctrine.

### *Compulsory reading*

- B. Buzan & R. Little, *International Systems in World History. Remaking the study of international relations*, Oxford, 2000
- Reader International Legal History for Global Law, 2013-2014

### *Recommended reading*

A rich list of recommended literature will be available.

### *Teaching and assessment methods*

The course will consist of 18 lectures in which the lecturer will engage in a dialogue with the students and students initiate discussions on the basis of the compulsory literature and/or assignments.

Students will be assessed by means of two individual assignments (30% each) and a group assignment (40%). Students write two short individual essays on the basis of a question or proposition indicated by the lecturers that relate to the themes and literature of the course. In a small group of three to four students, students work on a small research assignment. The research will consist of an analysis of historical sources (available on line or in the university library) on the basis of a question indicated by the lecturers. Information and instructions on technical aspects of writing an essay and the research assignment will be placed on BlackBoard.

#### **Schedule**

1. introduction: IR perspectives on world order between structure and culture
2. introduction: IR perspectives on world order between structure and culture
3. international order in antiquity: ancient Greece
4. international order in antiquity: ancient Rome
5. international order in medieval Europe: Latin Christianity & Byzantium
6. international order in medieval Europe: Latin Christianity & Byzantium
7. Islamic-Arab world views and international relations in the medieval Middle East and Mediterranean
8. international order in the medieval Far East: China from Warring States to the Celestial Empire
9. international order in the medieval Far East: China from Warring States to the Celestial Empire
10. the Birth of the European States System: 1202-1453
11. the European States System: 1453-1756
12. the European States System: 1453-1756
13. Europe and the outside world in early modernity: European encounters with Americans and Asians
14. Europe and the outside world in early modernity: Europe and the Ottoman Empire
15. the modern states system 1756-1939
16. the modern states system 1756-1939
17. the expansion of the modern states system: China's and Japan's confrontation with modern international law
18. the expansion of the modern states system: New Imperialism, decolonization and the restoration of a supranational legal order

#### *Lecturers*

Dr. R.M.H. Kubben (coordinator)

## Psychology and Criminology

### *Aims and learning outcomes:*

After successfully completing this course the student should:

- Have a thorough and profound knowledge of main social science perspectives on crime, criminal justice, criminal law and punishment, including social and moral psychology; the psychology and philosophy of criminal law; economics, political science and sociology;
- Have insight in some of the key topics and research findings of these perspectives in the field of criminal justice
- Be able to apply and understand the value of different social science perspectives in the study of law

### *Content:*

The course consists of 18 lectures, divided into four parts. The first lectures consider a brief introduction to crime, criminal justice and the philosophy of criminal law. The introduction also connects the course to the other classes the students will be taught. The second section of lectures discusses different criminological perspectives on crime, including those derived from developmental and social psychology, sociology and economics. The third section considers the main social science perspectives on the criminal justice process, focusing on legal psychology. Finally a number of key forms of crime are discussed. This will also include viewing situations, in the cases of political violence and international crimes, where societies as a whole fall victim to crime.

### Introduction

1. What is crime : an introduction in 90 minutes
2. A world of crime: measuring criminal phenomena
3. Criminal justice at a glance: main actors and main features
4. Why punish? An introduction to penology

### Criminological perspectives

5. Nurture and/ or nature: developmental psychology and crime
6. Can everyone be a killer? Classic experiments in social psychology
7. Dangerous markets and routine activities: economic perspectives on crime
8. The seductions of crime from Jack Katz to Jay-Z
9. Cultures of fear, cultures of control: recent themes in sociology

### Legal psychology

10. Mad or Bad? Psychological disorder and crime perpetration
11. Total recall or minds playing tricks: memory in criminal investigation
12. Difficulties in judicial decision making: heuristics, bias and tunnel vision
13. Can I get a witness? The complexities of interrogation
14. Lie to me: the science of lying and spotting liars

### Crime types

15. In cold blood? Considering homicide
16. A new crime? Stalking and extreme forms of harassment
17. Politics and violence: the crime of terrorism
18. Dealing with a problem from hell: criminal justice and international crimes

### *Compulsory reading:*

The reader will consist at least of the following literature:

- Daly, K. (2006). The limits of restorative justice. In Sullivan, D. & Tifft, L. (eds.) Handbook of Restorative Justice: Global Perspectives. London: Routledge.
- Darley, J. (2009). Morality in the law: the psychological foundations of citizens desire to punish transgressions. Annual Review of Law and Social Science, 5, 1-23.
- Feinberg, J. (1970). The expressive function of punishment. In Feinberg J. Doing and deserving: essays in the theory of responsibility. Princeton: Princeton University Press.
- Fletcher, L. E. & Weinstein, H.M. (2002). Violence and social repair: rethinking the contribution of justice to reconciliation. Human Rights Quarterly, 24, 573-639.
- Garland, D. (2000). The culture of high-crime societies. British Journal of Criminology, 40(3), 347-375.
- Holloway, W. & Jefferson, T. (2002). The risk society in an age of anxiety. In McLaughlin, E., Muncie, J. & Houghes, G. (eds.). Criminological perspectives: essential reading. Thousand Oaks, CA. Sage.

- Hulsman, L.H.C. (1986). Critical criminology and the concept of crime. *Crime, Law and Social Change*, 10, 63-80.
- Johnstone, G. (2002). Introduction to restorative justice. In Johnstone, G. *Restorative Justice, Ideas, values, debates*. Cullumpton, Devon, UK, Willan Publishing.
- Katz, J. (2002). Seductions and repulsions of crime. In McLaughlin, E., Muncie, J. & Houghes, G. (eds.). *Criminological perspectives: essential reading*. Thousand Oaks, CA. Sage.
- Levitt, S.D. & Miles, T.J. (2006). Economic contributions to the understanding of crime, *Annual review of Law and Social Science*, 2, 147-164.
- Tyler, T. (2003). Procedural justice, legitimacy and the effective rule of law. In Tonry, M. (ed.) *Crime and Justice: a review of research 30*. Chicago: Chicago University Press.
- Von Hirsch A. (2002). 'Giving criminals their just deserts' . In McLaughlin, E., Muncie, J. & Houghes, G. (eds.). *Criminological perspectives: essential reading*. Thousand Oaks, CA. Sage.
- Vrij, A. Granhag, P.A. & Porter, S.B. (2010). Pitfalls and opportunities in nonverbal and verbal lie detection, *Psychological Science in the public interest*, 11, 89-121.
- Wells, G.L. (1993). What do we know about eyewitness identification? *American Psychologist*, 48(5), 553-571.
- Wilson, James Q. (2002). 'On deterrence,'. In McLaughlin, E., Muncie, J. & Houghes, G. (eds.). *Criminological perspectives: essential reading*. Thousand Oaks, CA. Sage.

*Recommended reading:*

A rich list of recommended literature will be available.

*Teaching and assessment methods:*

The course consists of 18 interactive lectures. Assessment will consist of a written exam.

*Lecturers*

Dr. A. Pemberton (coordinator)  
Kim Lens MSc

## **Introduction to International Law and European Union Law in a Global Context**

### *Aims and Learning Outcomes*

Students that have successfully completed this course shall

- Have a thorough understanding of the basic systemic elements of International Law and of European Union Law;
- Be able to apply their knowledge to given problems;
- Be acquainted with the contemporary challenges to and trends within these legal orders;
- Be aware of the contested nature of law and of the European project in the increasingly de-territorialized spaces of economic, cultural and social interaction;
- Be able to locate and contextualize International Law and European Union Law within the shifting global legal landscape.

### *Content*

While this course follows the classic outline of an introductory course to these two legal orders – as it is important that students have a strong understanding of the basics in order to be able to understand the challenges and opportunities that both are facing – it does so whilst simultaneously viewing both orders through the lens of the extraordinary changes we are witnessing at the global legal level. In particular, this shall include the nature of the challenges that globalization represents – for example, the dramatic expansion in the number and types of actors that are demanding recognition from and participation in international law; and consider how the construction of both International and European Union Law has entailed the internalization of certain perspectives and thereby excluded alternative ways of thinking.

The course consists of 18 classes, which are divided into two parts:

The Public International Law section of the course deals with three basic sets of themes:

- The purpose, nature, sources and subjects of international law
- The development of international law
- The functioning of international law, including enforcement by both peaceful and non-peaceful means
- Contemporary trends and challenges of international law, including globalization, terrorism, human rights and climate change

The European Union Law section of the course deals with the key constitutional and substantive elements of EU law and their application in practice. In particular it focuses on:

- the establishment and development of the EU and its dynamic evolution; the key 'constitutional' principles of EU law underpinning the relationship between the EU and its Member States.
- the institutional structure of the EU and the exercise of their powers; the dynamics of law-making in the EU and the sources of EU law
- the role of the Court of Justice of the European Union in the European integration process, with a focus on the rights and the available remedies for individuals
- the key features of substantive EU law, in particular of internal market and of competition law; the expansion of the European project beyond goals of economic interaction and the challenges that European integration brings about.

### *Compulsory reading*

- Jan Klabbers, *International Law* (Cambridge: Cambridge University Press, 2013)
- Nigel Foster's *EU Law Directions*, 3rd edition, (Cambridge: Cambridge University Press, 2012)

### *Recommended reading*

The coursebook will direct students to relevant treaties and case-law on a case-by-case basis.

### *Teaching and assessment methods*

Classes take the form of an interactive lecture in the first part of the class and a discussion of the assignment in the second half.

Students will prepare a short assignment, which will be submitted via blackboard prior to each class. One assignment will be selected at random and be graded; this shall consist of 25% of the overall course grade. The main form of assessment will be a written, open-book, exam, in which students will be expected to apply their knowledge to given problems. The exam will also test their understanding of the challenges that these two normative orders are facing. The exam constitutes 75% of the overall course grade.

*Lecturers*

Dr. M.E.A. (Morag) Goodwin (course co-ordinator)

Dr. A. (Angelos) Dimopoulos

## Technology and Society

### *Aims and learning outcomes*

After successfully completing this course the students will have knowledge of important trends in technological developments to the degree that these developments are relevant for regulation, legislation and enforcement. They will also have an understanding of the different types of questions raised by the social impact of these developments. They will have a basic understanding of different modalities of regulation in addition to traditional law, such as regulation by social morality, the market, and technology itself, and of the dimensions of efficiency, efficacy and legitimacy of regulation. Finally, they will have a basic understanding of the appropriateness of different types of regulatory responses to the issues raised from the perspectives of efficiency, efficacy and legitimacy.

### *Content*

Technological developments have an undisputed impact on the human predicament. Their influence on individual and social life cannot easily be overestimated. Currently, some global trends in technological development are expected to profoundly transform elementary dimensions of individual and societal life and action, thereby challenging traditional and more or less “settled” normative outlooks and regulatory arrangements.

This course provides the students with information about these trends so that they are able to understand the regulatory challenges that they can be expected to produce. The first section of the course (two sessions) will consist of a general introduction into the cultural and social meaning of technology and its relation to the regulatory perspective. In the second section (eight sessions) several technologies and tendencies will be discussed. Ample attention will be paid to information and communication technologies, focussing on the internet, ultrafast networks, cloud computing, web 3.0, ambient intelligence, and information technology’s pivotal role for all the other developments and trends to be discussed. The other technologies for discussion are: robotics, neurotechnology, nanotechnology and biotechnology.

The regulatory issues to be discussed in relation to these technologies and trends are issues related to a delimited set of themes: risks, hazards and precaution, individualization / personalization, globalization, ageing, and interfering (“tinkering”) with nature. In discussing these, not only the traditional disciplines of legal doctrine that are almost always relevant for technological developments, such as liability law, (intellectual) property rights law, contract law, and standardization, will be brought to the fore. In addition, fundamental rights and the normative premises of the rule of law will be topics of discussion. The discussion will also focus on the question: To what degree can traditional law be an appropriate response to possibly negative consequences of technological developments.

The concluding section of this course (two sessions) will focus on issues of efficacy, efficiency and legitimacy of different types of regulatory arrangements that may be developed in response to the generally expected tendency of the previously mentioned technological developments to converge.

### *Compulsory readings:*

Online available reader to be produced.

The reader will include amongst others:

- Online available materials (Readings and videos) explaining and illustrating important technological developments and their social impact (e.g. concerning the primordially of information technology in all other technological developments and IT itself, nano-technology, bio-technology, neurotechnology)
- Standard readings on standardization and liability law
- Standard materials on risk assessment and management, by Shrader-Frechette, Slovic, Kahneman)
- A published lecture by L. Lessig on modalities of regulation
- A paper by Anton Vedder on efficiency, efficacy, acceptance and legitimacy

### *Recommended readings*

A list of recommended literature will be made available in due course.

### *Teaching and assessment methods*

The course will consist of 18 sessions with a mixed character (lecture/working group).

The students will be assessed on the basis of group assignments and individual assignments that must be made during the course and a small written exam at the end of the course.

### *Lecturers*

Dr. Anton Vedder and dr. Colette Cuijpers.

Some lectures may be taught by guest lecturers.

## Political Science and Public Administration for lawyers

### *Aims and learning outcomes*

To successfully complete this course the student should:

- Have an understanding of the context of law of which Politics and Public Policy are essential features.
- Have a thorough and profound knowledge of the main theoretical and methodological issues that underpin the study of politics and public administration.
- Have an understanding of the institutional and political processes that affect the modus operandi of government and law.
- Have an understanding of the policy process and performative issues surrounding political/governmental systems.
- Have an understanding of the Nation-State, multilevel and transnational governance in an era of Global Politics.
- Have an understanding of forms of interaction between government and other societal actors.

### *Content*

Law can be regarded as an integral part of politics and public administration and part of processes in which moral, economic and political considerations coincide with the (re)production of values into a concrete legal system. From this point of view, for a certain norm to become embedded in law it has to fulfill non legal requirements determined by an environment of which Politics and Public Policy are essential features. For that reason an understanding of Political science (the study of Political thought, conflict and power struggles) and Public Administration (the study of the workings of Government, the policy process and modes of governance) is central to an understanding of Law.

This course explores the multifaceted nature of Politics and Public Administration. It is organized around five central themes.

1. The theoretical issues that underpin the study of Politics and the Policy Process (lecture 1-4).
2. The (significance of) the Nation-State, multilevel and transnational governance in an era of global politics (lecture 5 and 6).
3. Forms of interaction between government and the governed (lecture 7 and 8).
4. The institutional and political processes that affect the nature and modus operandi of government (lecture 9 and 10).
5. The Policymaking process and the performance of political systems (lecture 11, 12).

### *Compulsory Reading*

- Heywood, A. (2007) *Politics*, 3<sup>rd</sup> edition. Palgrave
- Reader with a selection texts

### *Recommended reading*

- Parsons, W. (1995) *Public Policy: Introduction to the Theory and Practice of Policy Analysis*, Edward Elgar (a thorough analysis of policy and the policy making process).
- Hendriks, F. *Vital Democracy; a theory of democracy in action*, Oxford (The book outlines a theory of democracy in action based on four elementary forms of democracy: pendulum, consensus, voter and participatory democracy).
- Heywood, A. (2000) *Key concepts in Politics*, Palgrave (A clear and accessible guide to the major ideas and concepts encountered in political analysis).
- Leftwich, A. (ed.) (1984) *What is Politics? The activity and Its Study*, Blackwell
- Dunleavy, P. and O'Leary, B. (1987) *Theories of the State*, Palgrave (A carefully structured and accessible introduction to five major approaches to the state and politics of liberal democracy)
- Burchill, S. et al. (2001) *Theories of International Relations*, Palgrave (a concise and informative introduction to the range of theoretical traditions in the field of international relations)
- Almond, G. A. and Verba, S. (eds.) (1980) *The Civic Culture Revisited*, Brown (An updated version of the author's classic 1963 analysis of the conditions required for democratic stability).
- Alexander, L. (ed.) *Constitutionalism: Philosophical foundations*, Cambridge University Press (reflections on theories and ideas that underpin constitutionalism).

### *Teaching and assessment methods*

The course will consist of 12 lectures. In these lectures students will be motivated to actively participate in discussions. Reading of the compulsory literature prior to each lecture is essential. The

students will be assessed by a midterm multiple choice exam and a final exam consisting of open ended as well as multiple choice questions.

*Lecturers*

Prof. Dr. Frank Hendriks

Dr. T. Metze

Dr. Linze Schaap (course coordinator)

## Transactions and Organisations

### *Aims and objectives*

At the end of this course, students should:

1. Understand the role of contracting in projects where several partners co-operate;
2. Have a basic understanding of different types of contracts;
3. Enable participants to identify the major risks and challenges related to different types of contracts;
4. Understand different roles of the various partners and their conflicting interests;
5. Recognize situations where risks have to be foreseen, compared and accepted in order to improve business success;
6. Understand why excellent contracts without trust may lead to disasters;
7. Be able to participate as a partner in contracting discussions and negotiations on complex “joint venture” projects with internal and external business partners;
8. Translate contractual arrangements into effective arrangements with partners;
9. Consider what type of contracts will be most appropriate (license agreement or joint development agreement); and
10. Choose between alternative arrangements for dispute resolution.

### *Content*

Transactions and organizations vary in their details, but this course shows that all transactions and organizations present common economic problems. In addition to identifying the common problems, the course offers a menu of solutions. Students are asked to assume the role of a deal lawyer and explain how they would tackle problems presented in various case studies. Consider a corporate acquisition. How does the acquirer of a corporation know what it is getting? The answer is lawyers! Lawyers who draft the acquisition agreement assist the acquirer in addressing the problem of the seller knowing more about the business than the acquirer. For instance, lawyers will demand that the seller provide pages of representations and warranties that set out the condition of the business: assets, liabilities, financial statements, taxes, litigation, contracts, pension commitments, environmental exposure and so on. This example is relatively simple and well understood. More exotic situations will be discussed during this course, presenting complex problems and innovative solutions. Understanding the problems inherent in transactions and organizations helps to bridge gaps that would otherwise kill deals or interfere in the proper working of organizations.

### *Compulsory reading*

A list of research papers that can be downloaded from the Social Science Research Network (SSRN) will be made available.

### *Teaching and assessment methods*

A distinctive element of this course is the case method of instruction. In contrast to a lecture-based approach to education, class time is spent discussing cases about actual business problems and potential solutions. During course, students will work on cases. Each case presents a series of decisions to be made, and students — as the lawyers— must analyze the situation and express what they would do. Since collaboration and teamwork are hallmarks of the “Global Law” experience, three to four students will collaborate to work through and understand each case. They will write a legal opinion together. The “legal opinion” will be graded on presentation and content. The third (and final) assignment will also be carried out in teams. Each team will prepare a 15-20 pages Discussion Paper on a topic related to Transactions and Organizations. The Discussion Paper will be presented in class.

### *Lecturers*

Prof. Dr. Erik P.M. Vermeulen (coordinator)

Ms. Jing Li LLM

Ms. Priyanka Priydershini

Mr. Diogo Pereira Dias Nunes

## Economics for lawyers

### *Aims and learning outcomes*

After successfully completing this course the student should:

- know and understand the standard assumptions of economic science;
- have a basic knowledge of the main results in microeconomics that are relevant for subsequent law studies.

### *Content*

The course covers the relevant fundamentals of economics, starting with very general issues and principles, and then going through more specific elements in microeconomics. Along the way, class experiments are used to illustrate the functioning of some well-known economic institutions.

The lectures go through the main elements of economics needed for subsequent legal studies:

- the aim and standard methodology of economics as a scientific endeavor;
- the conventional distinction between micro- and macroeconomics;
- the individual as decision-maker, trade-offs, consumption choices, individual demand curves, and the concept of demand elasticity;
- the gains from trade and the Coase theorem;
- the theory of production for price-taking firms, and the construction of the individual supply curve;
- the theory of perfect competition with and without public interference;
- market failures and the room for public intervention: public goods and externalities, market power, asymmetric information (if time allows);
- the limitations of the rational actor model.

### *Compulsory reading*

A standard basic economics textbook will be used for the course, such as Mankiw, *Principles of Microeconomics*, Krugman, *Economics*, McDowell, Thom, Frank, and Bernake, *Principles of Economics*.

### *Teaching and assessment methods*

Given the small class size, teaching will emphasize interactive methods, including taking part in, and analyzing, class experiments, solving cases, and answering questions found in the textbook.

Assessment is made on the basis of class participation and a written exam.

### *Lecturer*

Cédric Argenton (coordinator) or other designated faculty member

## Methods and Techniques of Social Science Research

### *Aims and learning outcomes*

After successfully completing this course students should:

- Have an understanding of the different approaches within the qualitative and quantitative research traditions.
- Be able to make a well-considered choice from the range of qualitative and quantitative research methods in order to answer specific research questions.
- Be able to draw up a research design, for which they make a well-considered choice from different methods for data collection and to apply these methods adequately.
- Have the necessary methodological knowledge to criticize a qualitative or quantitative research proposal.
- Be familiar with the ways in which results of research are reported.

### *Content*

During the course students gain knowledge about the principles of doing social science research. This includes both an introduction in methodological concepts as well as a guide in gaining insights in the research process. Examples of empirical social science research and their fundamentals will be discussed. The course starts off with an overview of empirical research traditions. Subsequently, the design of qualitative and quantitative studies is addressed, with specific attention to the role of a conceptual model, nature of the data, various methods for data collection as well as issues of preparation, planning and strategy. Students will familiarize themselves with software for quantitative data analysis. Finally, the course deals with the writing and reporting on research.

### *Compulsory Reading*

Robson, C. (2011) *Real World Research* (3<sup>rd</sup> ed.) Blackwell

### *Recommended reading*

- Blaikie, N. (2010) *Designing Social Research* (2<sup>nd</sup> ed.) Polity Press
- Booth, W., Colomb, G. G. and Williams, J. M. (2008) *The craft of Research* University of Chicago Press
- Ballenger, B. (2011) *The curious researcher* (7<sup>th</sup> ed.) Longman

### *Teaching and assessment methods*

The course will consist of 12 lectures and 2 training modules (qualitative and quantitative data analysis). During the lectures students will be motivated to actively participate in discussions. Reading of the compulsory literature prior to each lecture is essential. The students will be assessed by a midterm multiple choice exam and a final exam consisting of open ended as well as multiple choice questions.

### *Lecturers*

Dr. Merlijn van Hulst (course coordinator)

## **World Legal Systems**

Traditions, Theories and Topics

### *Aims and learning outcomes*

The course 'World Legal Systems' offers a general introduction and lays the foundations necessary to study the law in a comparative and transnational perspective. The course has three main aims. First, it gives students insight in the general characteristics of the leading legal traditions in the world, as well as the major differences between national legal systems within these legal traditions. Second, it will explain the differences between legal traditions and systems by exploring the historical development of these legal traditions and systems within their different political and cultural contexts. Third, it will acquaint students with the methodology of comparative law.

### *Content*

The course consists of two major parts.

The *first part* pertains to the study of the main formal characteristics and institutions of the major legal traditions and some important national systems which represent these traditions. The focus is on the formal, external characteristics pertaining to the process of lawmaking and law enforcement.

The major traditions to be studied are the civil law tradition, the common law tradition, the tradition of Islamic law and the tradition of Chinese law. In this part, the four legal traditions are studied autonomously, without direct comparison. For each tradition, the main stages of its historical development and the current status of the lawmaking and law enforcement mechanisms and underlying theories are explained. The historical analysis is external and contextualized, in the sense that the historical development is used to indicate the interactions between cultural, political and legal developments.

The *second part* is comparative. It introduces some major theories about the methodology of legal comparison. Typical questions to be dealt with are: how can knowledge about a foreign legal system be gained so that real comparison between two or more systems becomes possible? What obstacles is one likely to encounter when comparing legal traditions, concepts and institutions? In this part, students will apply these methods in relation to two or three major material legal issues for the four legal traditions studied.

### *Compulsory literature*

- Reader 'World Legal Systems' 2013-20114
- Collection of Sources (to be made by the teaching team)

### *Teaching and assessment method*

There will be 18 discussion classes. Discussion classes are classes using the Socratic method of American law schools. Students have thoroughly to prepare literature on the basis of questions; the classes are taught in the form of discussion through question and answer. Students have to turn in an assignment on the literature every week. This does not count towards the final grade.

Students who chose so can make a presentation during class of 20 minutes. The number of slots is limited so they will be granted on a serve-first basis. Students can gain 0,5 points out of 10 for their final grade with this.

The exam is a written open book exam.

### *Teaching team*

Professor Maurice Adams  
Professor Randall Lesaffer

## Perspectives on Law

### *Aims and learning outcomes*

After successfully completing this course, the student will:

- Have a basic knowledge of methods of legal reasoning and argumentation that are being employed in the West by lawyers, judges, legislators and other legal professionals
- Have a basic knowledge of the methods of legal interpretation and of some scholarly views on them
- Be able to use elementary methods of the art of rhetoric in constructing and de-constructing legal arguments
- Be able to orientate themselves in various professional worlds of law, of either a national or transnational nature, by paying attention to how the various people who practice law use their professional language in order to shape and influence interaction
- Be aware of alternative (non-Western, non-White, non-male etc) methods of legal reasoning
- Have basic knowledge of the rhetoric and language of human rights and how they are deployed by different legal professionals or subjects

### *Content*

Legal reasoning and argumentation are skills employed by legal professionals, but also by subjects of law. This course will, firstly, introduce students to the Western tradition of rhetoric, legal reasoning and interpretation. Secondly, it will introduce students to the different perspectives and use of legal reasoning by different legal professionals, notably the judge, the lawyer, the law-maker and the law professor. We will examine how these actors reason and use law differently to serve their own perspective. Thirdly, this course will consider the alternative perspective of those upon whom the law acts i.e. the subjects of law; we will examine the classic idea from common law jurisprudence of 'the man on the Clapham omnibus', as well as examine the 'alternative' perspectives of the non-Western, non-white, non-male subject of the law. Finally, we will consider the increasing importance of human rights as a global legal language.

### *Compulsory reading*

There is no single book that will be used in this course; rather, reading material will be drawn from a variety of sources. The following books will be used in more than one session and hence students may wish to consider investing in a copy:

Frederick Schauer, *Thinking Like A Lawyer*, Harvard University Press, 2009.

William Twining and David Miers, *How to do things with rules*, Cambridge University Press, 5<sup>th</sup> edition, 2010.

Eve Darian-Smith, *Law and Societies in Global Contexts*, Cambridge University Press, 2013.

### *Recommended reading*

The coursebook will list compulsory and recommended readings class-by-class. The coursebook will be available via blackboard.

### *Teaching and assessment methods*

This course will take the form of 3 hour tutorials, which will be co-taught by both lecturers. The topic of each class will be introduced by one of the lecturers, after which we will discuss the assigned readings. In addition, students will be required to complete individual and group assignments, which will be presented and discussed in class. These assignments will include a small moot court.

Students will be assessed by a final essay on a given topic (50%); and by their individual and group assignments (50%). The precise contribution of each assignment to the final grade will be clearly marked in the coursebook.

### *Lecturers*

Prof. Dr W.J. Witteveen

Dr. M.E.A. Goodwin (co-ordinator)

## Tort law

### *Aims and course goals*

After successfully completing this course the student should:

- Have a thorough knowledge of the general principles of tort law, and the various choices that are made in specific national systems of tort law;
- Have an understanding of different national approaches to tort law;
- Have a good grasp of the main issues within tort law, and the diverse national solutions to these issues;
- Be capable of a brief comparative analysis of topics within tort law;
- Be familiar with the structure and content of the non-binding European principles in the field of tort law (PETL and DCFR Book VI);
- Have a working knowledge of supranational influences to tort law, in particular the impact of EU law, the ECHR, and the case law of the ECJ and ECHR;

Throughout the course, emphasis will be put on the law and economics of tort law, as an alternative approach to the more traditional deontic approach. Tort law will also be put in context, i.e. within the broader set of compensation and deterrence schemes, including indemnification via public funds and insurance (first- and third-party).

### *Content*

The course consists of a series of meetings.

1. The concept of tort and tort law – General perspectives on the organization of tort law
2. Theoretical approaches to tort law: law and economics vs. deontic approaches
3. Scope of protection I: Protection of the person
4. Scope of protection II: Protection of property, economic interests and collective interests
5. Liability for one's own conduct (fault-based liability)
6. Causation
7. Vicarious liability
8. Liability not based on conduct I: General principles, car accidents, environment
9. Liability not based on conduct II: Product liability
10. Defences and contributory fault
11. Remedies and compensation
12. Convergence, harmonization, and supranational influences

### *Compulsory reading*

The primary textbook is W. van Gerven, J. Lever, P. Larouche, *Tort Law*, Hart Publishing: Oxford 2000

Additional articles and case law will be prescribed in order to cover recent developments in tort law. Developments include:

- The Principles of European Tort Law
- The Draft Common Frame of Reference, book VI
- new case law from national jurisdictions, the ECJ and the ECHR
- new EU legislation

### *Recommended reading*

Primarily recommended are:

- C.C. van Dam, *European Tort Law*, Oxford University Press: Oxford 2005.
  - Chr. von Bar, *The Common European Law of Torts*, vol. 1 and 2, Oxford University Press: Oxford 1999 and 2000.
  - Chr. von Bar, *Principles of European Law, vol. 7: Non-Contractual Liability Arising out of Damage Caused to Another*, Oxford University Press: Oxford 2009.
  - *Draft Common Frame of Reference (DCFR). Full Edition*, Sellier: München 2009.
- Further literature will be recommended in the course book.

### *Teaching and assessment methods*

The course will consist of 12 meetings. Beforehand the students will be required to study the course materials prescribed for the meeting, and actively engage with the material with a weekly assignment (submitted through Blackboard). During the meetings students will be required to actively participate in discussions. They will be asked specific questions regarding the materials and topics, and invited

to formulate possible consequences and alternatives of theories and positive law on the basis of further cases and examples.

Depending on the number of students, they will be assessed by means of an oral or a written examination. The examination will include both fact-pattern and essay types of questions. Possibly some of the weekly assignments or a short essay will be part of the assessment as well.

*Lecturers*

Prof.dr. T.F.E. Tjong Tjin Tai (coordinator)

Prof.dr. P. Larouche

## Strategy and organisation for Lawyers

### *Aims and objectives*

1. Make students knowledgeable about the strategic and organisational issues facing large organisations, i.e. organisational design, need to elaborate strategy and perils of implementing it. Students must understand how the large organizations within which and amongst which they will be working determine their course of action and their organisation; and
2. Have students learn how legal professionals organize themselves: the organisation and functioning of in-house legal departments, the position of lawyers within public administrations, etc., including new and alternative forms of legal service provision.

### *Content*

Market demands put pressure on the strategies that lawyers pursue. We no longer live in a world where lawyers can easily secure a decent pay by just providing legal advice and using boilerplate documentation to contain specific business transactions. Given the active competition from new alternative sources of legal expertise, and the rapid rise of a legal information market, lawyers are increasingly faced with challenges of designing laws and creating value for their clients. Globally, the fast-growing economies of emerging markets also ask for the support of better legal rules and services. These new trends have significant implications on the organization of law firms.

As stated by Professor Ribstein: “Large law firms face unprecedented stress. Many have dissolved, gone bankrupt, or significantly downsized in recent years.” During this course, we will discuss pressures, such as increased global competition and the rise of in-house counsel, which resulted in the restructuring of the large law firm’s business model. Combining insights from the theory of the firm, intellectual property, and the economics of legal services, this course discusses new business models for the organization of lawyers. In addition, students will learn how to move beyond rendering merely “legal” advice to becoming members of various teams that render different types of advice or services. Students will be familiarized with and prepared for the often multidiscipline and international collaboration between lawyers and other professionals across different organizations and countries, which they will more and more experience in potential real life practice.

Ten lectures address the following key topics:

- (a) The challenges confronting lawyers
- (b) The need and demand for legal services
- (c) Resourcing legal services - in-house
- (d) Resourcing legal services – external providers

### *Compulsory reading*

A list of research papers that can be downloaded from the Social Science Research Network (SSRN) will be made available.

### *Teaching and assessment methods*

This course uses the case method of instruction. In contrast to a lecture-based approach to education, class time is spent discussing cases about actual business problems and potential solutions. During course, students will work on cases. Each case presents a series of decisions to be made, and students must analyze the situation and express what they would do. Since collaboration and teamwork are hallmarks of the “Global Law” experience, three to four students will collaborate to work through and understand each case. They will write a legal opinion together. The “legal opinion” will be graded on presentation and content. The third (and final) assignment will also be carried out in teams. Each team will prepare a 15 pages memo in which they provide recommendations to an existing legal department of a multinational organization.

### *Lecturers*

Prof. Dr. Erik P.M. Vermeulen (coordinator)  
Ms. Jing Li LLM  
Ms. Priyanka Priydershini  
Mr. Diogo Pereira Dias Nunes

## Obligations and Contract Law I

### *Content*

Obligations and Contract Law I introduces students to the basic principles of contract law and the different stages in the life of contract. Students will acquire knowledge about the requirements for a valid contract to be established, the contents and operation of contracts, the remedies available to parties in case of non-performance, as well as the termination of contracts.

The course starts from a general, theoretical perspective on contracts and contracting, exploring connections between law, moral theory, and economics. The central focus will be on the paradigm two-party contract in which each of the parties is involved in obligations. The standard example is a contract of sale, in which the seller obliges himself to deliver goods and the buyer to pay the price for those goods. Questions that will be discussed are: why do certain promises give rise to obligations that the law will uphold? What does it mean to be bound to a contract, for example in terms of the remedies that are available in case of non-performance? And what is the basis on which the law in particular circumstances (e.g. duress, fraud) sets aside otherwise binding obligations?

From this general, transnational perspective, the course will dive deeper into the rules of positive law that we find in major legal traditions around the world (incl. the common law tradition, and civil law systems such as German and French law). Also, selected harmonized laws will be studied (e.g. the Vienna Convention on Contracts for the International Sale of Goods (CISG), and the Draft Common Frame of Reference (DCFR)).

### Learning goals:

After successfully completing this course the student should:

- Identify and explain the main topics of contract law in Germany, France, the U.K. and The Netherlands
- Identify and explain the main topics of contracts as laid down in the Draft Common Frame of Reference and the Vienna Convention on Contracts for the International Sale of Goods (CISG)
- Explain the differences between the above mentioned fields of knowledge
- Apply the acquired knowledge on the different stages of contracting to hypothetical problem cases
- Give a reasoned opinion about a specific contract law topic by means of writing a short essay

These learning goals are specified under 'classes'.

### *Compulsory reading:*

- Contract Law, Cases, Materials and Text, Hugh Beale e.a. Hart Publishing 2010
- Robert A. Hillman, The Richness of Contract Law. An Analysis and Critique of Contemporary Theories of Contract Law (Kluwer 1997), Chapter 1

### *Recommended reading:*

- Stephen A. Smith, Contract Theory (OUP 2004)
- Charles Fried, Contract as Promise (Harvard University Press 1981)

Examination will be through a written assignment consisting of eight questions, of which students are obliged to elect and answer four. The questions will be a mix of essay questions and problem cases. Students will be required to answer two problem questions and two essay questions.

### *Lecturers and contact*

The lecturers of this course are Dr. M.W. de Hoon and Dr. V. Mak. We also have guest lectures: Dr. S. Van Gulijk and Z. Niu (LL.M).

## Methods and Techniques of Legal Research

### *Aims and learning outcomes*

After successfully completing this course the student should:

- Have a basic understanding of what constitutes legal research and what are the differences between scholarly legal research and applied research by practitioners
- Be able to find and locate and analyze relevant literature, case law and legislation.
- Be equipped to conduct internet research and use software applications.
- Know how to assess the relevance of research material with regard to a research question.
- Have knowledge of the basic components of a research proposal and the elements of a legal research design.
- Understand the relevance and function of research methods in law and be able to formulate different types of research questions.

### *Content*

The course first of all intends to raise awareness about the relevance of methodology for legal research. Why is methodology important? Why are methods in traditional legal research often kept implicit? What methodologies are available for legal research and how are these affected by a number of trends in law, such as globalization and a shift from monodisciplinary to multidisciplinary research? From a more practical perspective the course is designed to provide students guidance and support for assessing the relevance of research material and legal research in general. In this course, students learn to write (parts of) an academic research paper, select a relevant topic and transform that into a research proposal. This includes the embedding of the research in the relevant domain. Describing the state of the art implies that students will have to search for relevant legislation, case law, and other relevant materials. Additionally, students will need to demonstrate the scientific and social relevance of their research question given the studies that have already been published.

### *Compulsory reading*

- M. McConville and W. Hong Chui (ed.), *Research Methods for Law*, Edinburgh University Press: Edinburgh 2007
- I. Curry-Sumner et al., *Research Skills. Instruction for Lawyers*, Nijmegen: Ars Aequi 2010.
- N. Walliman, *Your research project: a step-by-step guide for the first-time researcher*, Sage: London 2005.

### *Recommended reading*

A list of recommended literature will be made available later.

### *Teaching and assessment methods*

The course will consist of six lectures on the elements of a research proposal. Each lecture will focus on a different element of the research design. The final assignment will consist of writing a research proposal that includes the elements of a research proposal. The lectures will therefore be followed by two feedback sessions on the particular research proposal.

Students will first choose a research topic. Prior to the lectures, students will start writing parts of their research proposal, which will be discussed in class. This way, they will be writing their research proposal during the courses. Lectures provide a theoretical background and feedback on the proposals and students will also be invited to assess each other's work, for example by using a rubrics scale that applies academic research proposals. The course includes an additional library assignment. In the assignment, students will learn how to collect relevant literature for describing the state of the art in the research proposal. Next to this they will be made aware of the do's and don'ts with respect to the use of Internet sources.

Final grades are based on the quality and originality of the research proposal individual and on the library assignment.

### *Lecturers*

Prof. Rob van Gestel  
Dr. Gijs van Dijck

## Constitutional Law

### *Aims and objectives*

The course aims for students to:

- acquire foundational knowledge of the basic dimensions of public power;
- recognise and understand the basic constitutional concepts underlying some major political systems in the world today;
- understand the constitutional protection of the rights and freedoms of individuals across systems;
- develop an analytical framework for the transnational study of different legal systems;
- practise in searching various sources of legal information (constitutions, legislation, case law, books, journals, newspapers, the internet) to characterise specific public institutions across systems;
- discuss and evaluate the positive and negative aspects of various political institutions, and to acquire a sensitivity to the paradoxes and trade-offs involved;
- construct convincing legal and political arguments;
- critically follow and reflect upon constitutional issues and politics in the daily news, mindful of national differences in political institutions to create a better understanding of the processes and dilemmas posed by these.

### *Content*

*General introduction* (3 weeks): historical overview on the development of constitutionalism and constitutional law and introduction to some core constitutional concepts and definitions such as the Rule of Law, legality, legitimacy, democracy, sovereignty, liberty and equality.

*Systems of Government* (3 weeks): analysis of the 'horizontal' separation of powers, with an examination of the different forms of government (parliamentary, presidential, semi-presidential, directorial) and a discussion of issues such as the powers and functions of representative bodies, of executives, and of heads of state; of electoral systems and their functions and consequences.

*Legal Systems* (3 weeks): analysis of the institutional set up and role of the judiciary, with a specific focus on judicial review of legislation and the protection of fundamental rights.

*Federalism and Transnational Law* (3 weeks): analysis of the 'vertical' separation of public powers, departing from the examination of domestic federal arrangements (federalism, regionalisation, decentralisation) and ending with the study of forms of supranational integration, transnational cooperation, and global constitutionalism.

### *Compulsory reading*

We will compose a reader based on a selection of the following materials:

- T. Ginsburg & R. Dixon (ed.), *Comparative Constitutional Law*, Elgar 2011;
- T. Koopmans, *Courts and Political Institutions*, CUP 2003;
- V. Amar & M. Tushnet, *Global Perspectives on Constitutional Law*, OUP 2008;
- Selected material from various Law journals: 'Parliamentary Affairs', 'International Journal of Constitutional Law', 'Zeitschrift für Öffentliches Recht', 'German Law Journal' etc.
- texts of national Constitutions
- various online law sources via the TILL portal  
<http://www.portill.nl/php/index.php?lang=en&>

### *Teaching and assessment methods*

The course will be taught by means of 'Socratic' lectures. These lectures aim to stimulate critical thought and analysis based on thorough preparation by students.

Students will each write 1 research paper (including a research question, statement on method, critical analysis and reflection, conclusion, bibliography) on a problem of constitutional law of their choosing, but approved by the lecturer (approx. 2500 words - 25% of the overall mark); the course will be finished with a written examination (75% of the overall mark) which will assess students' comprehension of the topics covered and allow their ability to reflect critically and independently on these topics to be tested.

### *Lecturers*

- Dr. F. Fabbrini (TiU, dept. Public Law, Jurisprudence and Legal History)
- Dr. G. Leenknecht (TiU, dept. Public Law, Jurisprudence and Legal History)
- Dr. G. van der Schyff (TiU, dept. Public Law, Jurisprudence and Legal History)

- Guest lectures by constitutional scholars of note, and political leaders, in order to emphasise the theoretical significance and practical application of the constitutional principles discussed.

## Criminal Law

### *Aims and objectives*

After completion of this course the student should:

- Have a solid knowledge and understanding of the basic foundations of (substantive) criminal law, including the structure and definition of a criminal offence, criminal liability, grounds for excluding criminal responsibility and penalties;
- Have a solid knowledge and understanding of the major principles in criminal law, in particular the legality principle;
- Have a solid knowledge and understanding of the interrelatedness of substantive criminal law and criminal procedural law; and
- Have a solid knowledge and understanding of the similarities, differences and interrelatedness of criminal law and its major principles in different national, European and international laws as well as criminological aspects that may impact criminal law and its major principles.

### *Content*

The course consists of three segments:

1. During the first segment – lectures one to six – the students get acquainted with (substantive) criminal law in general, with a focus on the structure and definition of a crime, criminal liability, grounds for excluding criminal responsibility and penalties. In this segment, the focus will be on the legality principle. Students are expected to study the meaning of the legality principle (and a range of standards stemming from this principle) as an underlying value for criminal law. The rationale and effects of these standards will be discussed. Some of these standards are addressed to the legislator. They impose limits on the legislator with regard to criminalizing behavior and they offer instructions on the way in which prohibited behavior has to be circumscribed in the offence. Some of these standards guide the judiciary in explaining and applying penalizations and in determining the sanctions imposed.
2. In the second segment, lectures seven and eight, students will be taught that substantive criminal law can only be successfully applied in an adapted procedural context. The law of criminal procedure aims to provide a framework that provides the authorities with legal instruments which enable them to track, prosecute and try criminal offences. In this course, the focus will not be primarily put on the contents of specific instruments in national systems, but on the relation between a) the necessity of authorities being able to maintain substantive criminal law on the one hand and b) the necessity of providing for safeguards against the use of powers by authorities on the other. By doing so, the value of major legal principles like subsidiarity and proportionality can be brought to the surface. Their value will be discussed in light of a globalizing society.
3. In the final segment, lectures eight and nine, the legal aspects of this course will be put in a criminological context.<sup>1</sup> The mainstream criminological theories will be discussed. A central question in this interdisciplinary segment will be which criminological theories could give an explanation for specific categories of criminal offences such as homicide and fraud. During the tenth lecture groups of students will present a topic of their choosing. The topic has to be related to one of the key issues addressed during this course.

Integrated in the discussions of the abovementioned topics of this course is, *at all times*, an in-depth analysis of similarities, differences and interrelatedness of the world's major criminal justice systems and policies, that is common, civil, Asian and Islamic law traditions. In addition, European and other international and human rights influences on criminal law generally and the legality principle in criminal law more specifically will also be studied as are traditional, historical, social, political and cultural aspects that may impact criminal law and its major principles.

### *Compulsory reading*

- G.P. Fletcher, *Basic concepts of criminal law*, Oxford University Press 1998
- S. Cote, *Criminological Theories*, Thousand Oaks: SAGE 2002
- Kenneth S. Gallant, *The Principle of Legality in International and Comparative Criminal Law*, New York: Cambridge University Press 2009

### *Recommended reading*

A rich list of recommended literature will be available.

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<sup>1</sup> Criminological issues are also addressed in the LL.B 1 course on Psychology and Criminology.

### *Teaching and assessment methods*

The course consists of ten lectures; nine lectures – two of which are criminological by nature – are given by the lecturers and one lecture involves presentations by the students.

The lecturers of this course aim to have students participate actively in the discussions. This is encouraged by providing the students problem statements based on the obligatory reading materials beforehand, which will be addressed by the lecturers and the students during the lecture. In addition, the research that students have to undertake to be able to present in this course, will also allow them to take more actively and informed part in this course.

To pass this course, students are required to write an essay on a topic related to this course, approved beforehand by the lecturers. The essay will be assessed based on, *inter alia*, the following criteria: innovativeness of the research problem chosen, research methodology applied, literature used, and coherent and solid argumentation in relation to the research question posed. In addition, the students will have an oral exam, in which the lecturers will question the students on the essay as well as on other course related topics more broadly.

### *Lecturers*

- Prof.dr. A.C.M. Spapens (Criminologist, Department of Criminal Law of Tilburg University)
- (Vacancy: assistant professor of the Department of Criminal Law of Tilburg University) (coordinator)

## **Corporate / Business Law**

### *Aims and objectives*

At the end of this course, students should be able:

1. To develop an understanding of risks in non-listed companies, such as adverse selection, moral hazard, exogenous risk, and institutional and regulatory risks;
2. To develop an understanding of how to identify, assess and mitigate risks in non-listed companies;
3. To understand the role of lawmakers, lawyers and courts in the development of company law;
4. To understand the role of courts in a variety of legal systems;
5. To solve complex legal problems in the field of company law and international business law;
6. To provide accurate and independent advice to international clients, including lawmakers, regulators, governments and companies;
7. To analyze organizational and governance structures, assess legal developments in the broad area of economic and business law, and spot and develop trends;
8. To analyze transactional documents, such as term sheets and joint venture agreements;
9. To draft contractual concepts; and
10. To perform a literature search.

### *Content*

Studies of corporate law traditionally focus on the governance problems of large listed companies. However, most small firms – and in many countries, even many large companies – are non-listed. This course provides a comprehensive account of both listed and non-listed businesses and their particular governance problems. It explores current discussions and reforms in Europe, the United States, and Asia; providing a state of the art account of the law and economics.

### **Course Outline**

#### ***Module 1: Company Law***

Class 1: Introduction - Economic Problems and Legal Solutions

Chapter 1 of the Textbook

Chapter 9 of the Textbook

The Economist - The eclipse of the public company

The Financial Times - Building foundations for a durable deal

CASE - Tokyo Disney Resort

Class 2: Company Law

Chapter 2 of the Textbook

CASE - Starbucks a Global Work-in-Progress

Class 3: Company Law Developments - Europe

Chapter 3 of the Textbook

CASE - For Optional Federal Incorporation

Class 4: Company Law Developments - US and Asia

Chapter 4 of the Textbook

CASE - LLP India

#### ***Module 2: Contractual Arrangements***

Class 5: Joint Ventures

Chapter 5 of the Textbook

CASE - The Optimal Joint Venture

Class 6: Venture Capital

Chapter 5 of the Textbook

Class 7: Venture Capital Funds

Chapter 6 of the Textbook

Philips - Gilde Healthcare III

#### ***Module 3: Optional guidelines, best-practices, and Enforcement***

Class 8: Optional Guidelines

Chapter 7 of the Textbook  
CASE - Corporate Governance Guidance and Principles for Unlisted Companies in Europe  
Class 9: Courts and Enforcement  
Vermeulen & Zetsche, The Use and Abuse of Investor Suits: An Inquiry into the dark Side of Shareholder Activism  
([http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1428901](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1428901))  
McCahery & Vermeulen, Conflict Resolution and the Role of Corporate Law Courts: An Empirical Study ([http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1448192](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1448192))  
CASE - The Development of a Specialized Business Court

*Compulsory reading*

The required text for the course will be J.A. McCahery and E.P.M. Vermeulen, Corporate Governance of Non-Listed Companies, Oxford University Press 2010 (paperback), supplemented with materials that can be downloaded from the *Social Science Research Network (SSRN)*.

*Teaching and assessment methods*

Grades for this course will be assigned on the basis of two items:

1. **Case preparation and class participation (30%)**. The preparation for the cases can be done in groups of 3 - 4 students per group.
2. **Final Exam (70%)**. This will be a take-home exam. The examination is divided into three parts, with each part being further divided into subparts:
  - Identification and Significance
  - Discuss the Quote
  - Cases

*Lecturers*

Prof. Dr. Erik P.M. Vermeulen (coordinator)  
Ms. Jing Li LLM  
Ms. Priyanka Priydershini  
Mr. Diogo Pereira Dias Nunes

## Property Law

### *Aims and learning outcomes*

After successfully completing this course the student should:

- Have a solid knowledge of (the concept of) property and proprietary rights;
- Have an understanding of important property law principles, especially, the transfer of goods, transferability of non-tangible goods, and the transfer of real property;
- Have an understanding of the importance of proprietary security for finance practice;
- Have a profound knowledge and understanding of the differences between common law principles of property law and continental systems of property law;
- Have a profound understanding of the common law principle of trusts and the difficulties of non-common law jurisdictions with this principle of trusts.

### *Content*

The course consists of four parts:

#### Part 1 (two lectures)

What is property law, and what constitutes a proprietary right? We will discuss how proprietary rights differ from contractual rights, and why this is important in case of insolvency.

#### Part 2 (two lectures)

How can property be transferred? What goods are transferable (moveables, immoveables, intangible property) what are requirements for transfer in various jurisdictions, in what way can proprietary rights other than ownership be created?

#### Part 3 (four lectures)

In what way does the common law approach to property law differ from the civil law approach. This part of the course will concentrate on the common law concept of trusts and the difficulty of civil law jurisdictions to incorporate this concept.

#### Part 4 (four lectures)

The importance of proprietary security in finance practice and various aspects of security (creation of security, reasons for requiring security, financial transactions and the crisis of credit, economic background of security, regulatory aspects). This part of the course will have a very practical approach and will look at all kind of finance transactions where property law is at its most international.

Throughout the course and especially during part 4 of the course there will be a both practical and economic perspective on property law. Students are required to understand the economic background of various legal transactions. The course thus seeks to connect the black letter law with the practical use of the law in financial transactions.

### *Compulsory reading:*

- Sarah Worthington, *Equity*, Oxford University Press, most recent edition;
- DCFR chapters relating to property law;
- Philip R. Wood, *The Law and Practice of International Finance*, most recent edition;
- Roy Goode, *Goode on legal problems of credit and security*, most recent edition
- Steven L. Schwarcz, 'Systemic Risk', *Duke Law School Legal Studies Paper No. 163*; *Georgetown Law Journal*, Vol. 97, No. 1, 2008,
- Steven L. Schwarcz, 'Markets, Systemic Risk, and the Subprime Mortgage Crisis', *Duke Law School Legal Studies Paper No. 190*, *Southern Methodist University Law Review*, Vol. 61, No. 2, 2008
- 'Complexity in Financial Markets' (February 25, 2010), *Duke Law School Public Law & Legal Theory Paper No. 217*, *Washington University Law Review*, Vol. 87, No. 2, p. 211, 2009,
- Steven L. Schwarcz, *Keynote Address – Identifying and Managing Systemic Risk: An Assessment of Our Progress* (March 16, 2011)
- Wibier, R.M. (2010). *Financial collateral arrangements and party autonomy*. (TISCO Working Paper Series on Banking, Finance & Services, 02/2010)
- Wibier, R.M. (2010). *Can a modern legal system do without the trust?* (TISCO Working Paper Series on Banking, Finance & Services, 06/2010)

### *Recommended reading*

An extensive list of recommended literature will be available.

### *Teaching and assessment methods*

The courses will consist of 12 lectures, four of which will be taught by a common law expert guest professor (to be determined). During each course there will be a short introduction of the subject by the professor followed by a discussion based on the written materials that students will have prepared. The part dealing with international finance practice will include one or more guest lecturers from Dutch and international law firms.

The exam will consist of a paper where the student needs to show her understanding of the subject matter by answering an essay-type question. A number of possible subjects will be provided to the students. These could include one of the following:

- Explain the main differences between the common law approach to property and the civil law approach the property.
- Explain the legal, regulatory and economic aspects of securitization transactions and explain how these transactions have contributed to the crisis of credit.
- Explain what a trust is and whether the interest of the beneficiaries to a trust are of a proprietary or of a contractual nature.

### *Lecturers*

Prof. Reinout Wibier (parts 1 and 4 and coordinator)

Prof. Eric Tjong Tjin Tai (part 2 and 3)

Guest lecturers (part 3 and 4)

## Legal Philosophy II

### *Aims and learning outcomes*

- Students learn to appreciate the different perspectives involved in 'thinking of law' (i.e. legal practice) and 'thinking about law' (i.e. philosophy of law), and their respective value for working with law.
- Students become cognizant of a number of important traditions of legal philosophy (natural law, legal positivism, legal realism & instrumentalism).
- Students learn to apply philosophical insights to practical legal argumentation and practical legal cases.
- Students learn to bring philosophical knowledge to bear on topical societal discussions involving legal issues.

### *Content*

This course combines philosophical and legal doctrinal analysis to introduce students to some of the most prominent philosophical problems in the intersections of positive law, politics and morality. Thematically, the course focuses on the discussion of topical human rights issues from a legal philosophical perspective, including religion & equality, threats to human rights arising from the 'fight against terror' (e.g., torture & incommunicado/indefinite detention), and socio-economic rights.

Module A takes its cue from Lon Fuller's famous 'Case of the Speluncean Explorers', a fictional legal case involving cannibalism in which four judges explore their deepest convictions about the relationship between law, politics, and morality. Students will become familiar with the legal philosophical traditions of natural law, legal positivism, and legal realism/instrumentalism.

Building upon this introduction, Modules B, C and D inquire in more detail into one of these legal philosophical traditions, combining legal doctrinal with philosophical analysis. Each module follows the same structure:

- Discussion of a legal philosophical tradition with reference to one of the judges in Fuller's Case of the Speluncean Explorers
- Illustration of the doctrinal significance of the legal philosophical tradition on the basis of selected case-law
- Deepening of the understanding of the legal philosophical tradition through the study of contemporary legal philosophers.

Module E concludes the course with an inquiry into the nature of legal judgment, and places the discussed legal philosophical traditions in relation to each other.

### *Compulsory Reading*

D.H. Augenstein, *Reader Philosophy of Law A*, 2010.

Suri Ratnapala, *Jurisprudence*, Cambridge University Press, 2009, ISBN-13:9780521614832

### Module A

- Suri Ratnapala, *Jurisprudence*: Introduction
- Lon L. Fuller, 'The Case of the Speluncean Explorers', 62(4) *Harvard Law Review* (1949)

### Module B

- Suri Ratnapala, *Jurisprudence*: chapter 5
- *Berlin Wall Shootings Case*, Judgement of the Federal Court of Justice of 3 November 1992, case no. 5 StR 370/92, BGHSt 39, 1
- Gustav Radbruch, *Rechtsphilosophie* (1932) – Selected and Rearranged Excerpts in English Translation from Gustav Radbruch, *Rechtsphilosophie*, edited by R. Dreier & Stanley L. Paulson, Heidelberg: C.F. Mueller 1999 (ISBN: 3-8252-2043-5), §§ 7-11
- Gustav Radbruch, 'Statutory Lawlessness and Supra-Statutory Law', 26 (1) *Oxford Journal of Legal Studies* (2006), 1-11

### Module C

- Suri Ratnapala, *Jurisprudence*: chapters 2 & 6
- German Federal Constitutional Court, *Kontaktsperregesetz* Decision of 1 August 1978, 2 BvR 1013, 1019, 1034/77, BVerfGE 49, 24 – Summary and Selected Excerpts in English Translation
- UK House of Lords, *A and Others v Secretary of State for the Home Department*, Judgement of 16 December 2004, [2004] UKHL 56 (excerpts)
- H.L.A. Hart, 'Positivism and the Separation of Law and Morals', 71 (4) *Harvard Law Review* (1958) 593-629

- Juergen Habermas, 'On the Internal Relation between the Rule of Law and Democracy', in J. Habermas, *The Inclusion of the Other*, edited by C. Cronin & P. De Greiff, Cambridge MA: MIT Press 1998 (ISBN: 0-262-08267-5), 253-264

#### Module D

- Suri Ratnapala, *Jurisprudence*: chapters 4 & 9
- US Supreme Court, *Lochner v New York*, Judgement of 17 April 1906, 198 U.S. 45
- European Court of Justice, Case C-438/05, *Finnish Seamen's Union v Viking Line ABP & OÜ Viking Line Eesti*, Judgment of 11 December 2007
- Oliver Wendell Holmes, 'The Path of the Law' (1897), first published 1897, 110 *Harvard Law Review* (1997)
- Richard A. Posner, 'Torture, Terrorism, and Interrogation', in *Torture. A Collection*, edited by S. Levinson, Oxford: Oxford University Press 2004 (ISBN: 978-00195306460), 291-298

#### Module E

- Suri Ratnapala, *Jurisprudence*: chapter 12
- Gustav Radbruch, 'Five Minutes of Legal Philosophy' 26 (1) *Oxford Journal of Legal Studies* (2006) 13-15
- Dutch *Hoge Raad*, *Wrongful Birth Case*, Decision of 21 February 1997, English translation of RvdW 1997, 54
- Paul Scholten, *Mr. C. Asser's Handleiding tot de beoefening van het Nederlands Burgerlijk Recht. Algemeen Deel*, Zwolle: Tjeenk Willink 1974, § 28 [in English translation]

#### *Teaching Methods and Examination*

The course is taught in form of lectures, supported by peer reviewed learning assignments. Active student participation is strongly encouraged throughout the course. The examination consists of a written exam at the end of the course.

#### *Lecturer*

Dr. D.H. Augenstein

## Obligations and Contract Law II

### *Aims and objectives*

After successfully completing this course the student should:

- Understand the function of regulation and its relation to contract law in a national and international context;
- Have insight into the imperatives for regulation and the policy issues at stake;
- Have insight into the alternatives for legal intervention that can be used to influence the behaviour of private parties and to achieve policy goals, e.g. 'choice architecture';
- Have a solid knowledge of regulatory contract law in specific areas, including consumer law; franchising; and labour law.
- Be able to reflect on the acquired knowledge by writing a paper on a specific topic.

### *Content*

This course builds on the introduction to contract law given in Obligations and Contract Law I. Recognizing that contract law does not only have a facilitative function, but that it can also be used as an instrument of regulation, this course explores why and how regulatory contract law has appeared (and continues to appear) in European and international law. Two perspectives are important in this context. First, that of legislators, regulators and judges: when do they need to interfere in order to reach (socially or economically desirable) goals that private parties would not reach otherwise, and which alternatives besides legal intervention exist for safeguarding the rights of weaker parties? Second, the perspective of private parties: how are private law relationships – such as business-to-consumer or employment relationships – affected by legal regulation?

The course approaches these questions from a transnational perspective. This means that the starting point will be a general study of contract law and regulation that is not tied to one particular legal system. Students will familiarize themselves with the policy issues at stake, with the reasons for legal intervention, and the alternative ways to influence the behaviour of private parties. The second part of the course allows for an in-depth study of specific contracts, in which also a more detailed examination is envisaged of the ways in which existing national and international laws have dealt with regulatory contract law.

The course is also interdisciplinary. In determining the reasons for legal intervention, insights from economic literature are studied, with particular attention for behavioural economics and consumer contracts. Further, the study of alternative ways to influence the behaviour of private parties – besides legal intervention – focuses on law and economics literature concerning 'choice architecture' and libertarian paternalism.

### *Structure:*

The first part of the course (lectures 1 and 2) sketches the general themes of contract law in the context of regulation. In the second part of the course, those themes are explored in relation to specific contracts, including:

- consumer sales contracts (lectures 3 and 4);
- consumer financial services (lecture 5);
- franchising, agency and distribution contracts (lectures 6 and 7);
- employment contracts (lectures 8-10).

### *Compulsory reading*

The reading list includes the following items:

- Hugh Collins, *Regulating Contracts* (OUP 2003), selected chapters
- Vanessa Mak, 'Policy Choices in European Consumer Law: Regulation through "Targeted Differentiation"' (2011) 7 *European Review of Contract Law* 257-74
- Oren Bar-Gill, 'The Behavioral Economics of Consumer Contracts' (2008) 92 *Minnesota Law Review* 749-802
- Richard A. Epstein, 'The Neoclassical Economics of Consumer Contracts' (2008) 92 *Minnesota Law Review* 803-35
- Cass R. Sunstein and Richard H. Thaler, 'Libertarian Paternalism Is Not an Oxymoron' (2003) 70 *University of Chicago Law Review* 1159-1202

- Niklas Bruun and Bob Hepple, 'Economic Policy and Labour Law', in: Bob Hepple and Bruno Veneziani (eds.), *The Transformation of Labour Law in Europe. A Comparative study of 15 countries 1945-2004* (Hart Publishing 2009: 31-57)
- Bruno Veneziani, 'The Employment Relationship', in: Bob Hepple and Bruno Veneziani (eds.), *The Transformation of Labour Law in Europe. A Comparative study of 15 countries 1945-2004* (Hart Publishing 2009: 99-128)
- Antoine Jacobs, 'Collective Labour Relations', in: Bob Hepple and Bruno Veneziani (eds.), *The Transformation of Labour Law in Europe. A Comparative study of 15 countries 1945-2004* (Hart Publishing 2009: 201-231)

Additional materials are to be determined.

#### *Recommended reading*

- Machteld de Hoon and Vanessa Mak, 'Consumer Empowerment Strategies – A Rights-Oriented Approach versus a Needs-Oriented Approach' (2011) 19 *Zeitschrift für Europäisches Privatrecht* 518-34
- Cass R. Sunstein and Richard H. Thaler, *Nudge: Improving Decisions about Health, Wealth, and Happiness* (Yale University Press 2008)
- Georges Cavalier and Robert Upex, 'The Concept of Employment Contract in European Union Private Law' (2006) 55 *International and Comparative Law Quarterly* 587-608
- Simon Honeyball and David Pearce, 'Contract, Employment and the Contract of Employment' (2006) 35 *Industrial Law Journal* 30-55

#### *Teaching and assessment methods*

The course will consist of ten two-hour lectures. Students are required to read the prescribed materials before each lecture and should be able to discuss those in class.

To complete the course, students will be required to write a paper on a chosen topic in the area of contract law and regulation. Students will need to submit a research question and a rough plan for the paper to their teacher for approval. The final paper will be assessed on the basis of structure, coherence of argumentation, profoundness, presentation, and originality.

#### *Lecturers*

Dr. Vanessa Mak (coordinator)  
 Dr. Machteld de Hoon  
 Prof. Mijke Houwerzijl  
 Ms Nuna Zekic, LL.M

## Accounting and Finance for Lawyers

### *Aims and objectives*

At the end of this course, students are expected to:

1. Acquire knowledge on how to read and interpret the financial statements (namely, balance sheets, income statements, cash flow statements) of a company, and be able to make a judgment on the financial situation of a company;
2. Possess basic knowledge on the essentials of corporate finance; in particular, the ability to employ valuation methods to determine the value of a company, to understand the main methods of raising capital for a company (e.g., debt and equity), to assess what are the main advantages and disadvantages of using each of these methods, and to understand how corporations raise capital and acquire external finance in a transnational context;
3. Predict and calculate the expected returns/value of different investment options and be familiar with financial decision-making criteria, such as the Net Present Value (NPV);
4. Be able to communicate with people in other disciplines, such as accounting and finance;
5. Be able to provide an informed, multidisciplinary advice/opinion to clients/corporate treasurers when presented with a real-life capital raising situation; and
6. Integrate the subject matters with the analytical and practical skills necessary to the practice of law.

### *Content*

Lawyers are increasingly faced with the challenges from the financial world. The conventional way of legal counsel team working on a business transaction, i.e., sitting aside and waiting for the financial and accounting people to first finish with the numbers and then stepping in for the “legal part”, is no longer appreciated by clients. Given the increasing magnitude and complexity of current business transactions, students must be ready to respond to the strong market demands for new type of lawyers, who are not only able to understand key finance and accounting issues, but can also add value to real life transactions by designing the best tailored legal solutions to suit concrete business needs.

This course aims to familiarize students with the essential background knowledge that business law attorneys need for the purpose of handling the financial aspects of transactions. It will realistically explain the fundamentals of business firms, focusing on the essentials of the corporate finance and accounting instruments that they often use. Students will be trained to, e.g., make sense of primary financial statements and valuations, and capture key issues in choosing between equity or debt financings. In addition, the course will also guide students through the core financial and accounting issues involved in a number of important business transactions that they will be likely to encounter in their potential legal practice, such as venture capital financings, mergers and acquisitions, and initial public offerings. It is the goal of this course to not only help students broaden their knowledge now, but also serve them throughout their legal careers in the future.

### **Course Outline**

#### ***Module 1: Accounting Basics***

Class 1: Introduction to the Course: its purpose and scope.

Why do lawyers need to know (some) finance and accounting?  
Who uses accounting information?  
What is Accounting? What is Finance? How are they different?  
Introduce to basic business concepts and terminology.

Class 2 & 3: The Basic Financial Statements

The Fundamental Equation.  
Assets; Liabilities; Owner's Equity.  
Debits/Credits (Left side/Right side).  
Journal entries & T accounts.  
Work with entries and T account examples.

Relation of Income Statement to Balance Sheet.  
Work with Revenue and Expense entries and T accounts.  
Recap Balance Sheet and Income Statement.

The Statement of Cash Flows.  
Cash flow – critical concepts.  
Relation to Income Statement – What Net Income does not show.

Class 4 & 5: Financial statement analysis.

Ratio analysis: the common ratios; who uses them and why.  
What is “profit”? Introduction to the Cost of Capital.  
Common size analysis and industry standards.  
“Leverage” – the double-edged sword.  
Introduction to different accounting standards, e.g., GAAS and IFRS

Auditor Liability.  
Sarbanes-Oxley and auditors, Board, corporate officers, attorneys.  
The Lawyer’s Role.

Common red flags.  
Introduction to reading annual report of listed companies.

### **Module 2: Finance Basics**

Class 6: Introduction to Finance – basic principles.

Time value of money.  
Discount rates.  
Introduction to basic calculations and valuations.

Class 7: Common financial instruments and valuation techniques

The banking system and credit.  
Interest rates.  
Valuation of Securities.  
Use of earn-outs and hold-backs in practice.

Class 8: Financial Markets

Financial Markets – overview and discussion of the major markets.  
Market Regulation.  
Efficient markets theory, the CAPM.

Class 9: Risk and Investment Portfolio

Shifting and spreading risk: old and new techniques  
Portfolio theory.  
Derivatives: concepts and uses.  
Common derivatives.  
Regulation of derivatives.

Class 10: Revision, Q&A, and/or class presentations.

#### **Compulsory reading**

Case studies and presentation handouts will be made available. A variety of other information, drawn from many sources, will also be available in the package. It is not necessary to purchase any book for the module. One objective of the course is to make use of live events as they happen. Various

aspects of venture capital and innovative contracting are always in the news, and we will often refer to, and make use of, current events in class.

*Teaching and assessment methods*

Students will be required to make several case study assignments where they will need to issue an opinion/advice on what are the most efficient, available options for their client (a company willing to raise external finance) to raise capital from outside financiers; and which investment options should their clients follow that produce the highest return. The solution to each of these case study assignments will consist part of the students' final grade. For these purposes, students will have to analyse their client's financial statements, assess the pros and cons of different financing methods, and predict the net present value of the available investment options.

*Lecturers*

Prof. Dr. Erik P.M. Vermeulen (coordinator)

Ms. Jing Li LL.M

Ms. Priyanka Priydershini

Mr. Diogo Pereira Dias Nunes

## Civil Procedure and Dispute Resolution

### *Aims and learning outcomes*

After successfully completing this course the students have gained profound and thorough knowledge of:

- The emergence, psychology and dynamics of justiciable problems and conflicts;
- The incidence of conflicts, the objectives citizens and businesses have with regard to conflict resolution, and the strategies employed to reach solutions;
- The role of the law in the ordering of commercial, private and public sector relationships;
- The role and functioning of third party dispute resolution by courts and adjudicators;
- The role and functioning of conflict resolution in the shadow of a neutral intervention (negotiation, mediation, settlement);
- Quality indicators to measure user satisfaction with justice procedures and outcomes.

In addition, the students have gained basic communication, negotiation and mediation skills and techniques.

### *Content*

The course consists of three segments:

1. During the plenary opening session, the students will be introduced to the ordering role of the law in building, maintaining and terminating relationships between private persons, businesses and authorities. In particular, the concept of *trilateral governance* will be discussed, which essentially refers to a neutral third party who assists parties to reach a solution or, in case of a judge, coerces parties to accept a judicial decision. Students will learn that courts do not only decide individual cases but also provide *the shadow of a neutral intervention*, which has a tremendous impact on pre-trial (out-of-court) settlement of conflicts. However, courts are the most difficult branch of government to establish and to run effectively. Why is that? In addition, the students will be presented with data showing the most frequent and urgent justiciable problems of citizens and companies in developing and developed countries. What do these justice users seek to achieve when taking action to solve their legal problems? And which strategies do they employ when bringing these problems to the legal system?

2. The second segment consists of an one-week intensive workshop during which the students will concentrate on the main types of interventions and conflict resolution processes that take place in the shadow of the law. Lawyers, mediators and, increasingly, paralegals provide these mechanisms to parties who obtained their services. These professionals often need to assist their clients when they interact with the other party in order to find workable and legally sound solutions. Communication, negotiation and mediation techniques are important 'tools' in the toolbox of legal professionals, next to law books and legal argumentation and analysis skills. The students will be introduced to modern communication, negotiation and conflict theories, and will extensively practice in role plays and discussions with these techniques in order to acquire a practical working knowledge on communication, negotiation and mediation.

3. The last segment is a plenary end session, which deals with the global themes of access to justice and justice innovation. Access to justice is highly relevant to the daily lives of people and businesses. Yet achieving access to justice is not without problems. Justice users all over the world seeking solutions to everyday problems seem to face similar barriers, although the extent to which barriers are encountered will depend on the local context. High costs, time-consuming procedures and unpredictable outcomes are just a few examples frequently reported on. This raises the question how the quality of conflict resolution procedures, outcomes and costs can be measured, benchmarked and improved? The students will examine what justice users value when they try to solve problems with legal means. Subsequently they will explore the topic of justice innovation; where is room for improving informal, semi-formal and formal legal systems, and how could these innovations be developed, tested and implemented in justice contexts?

### *Compulsory reading*

- R.J. Lewicky, B. Barry, D.M. Saunders & J.W. Minton, *Negotiation* (4<sup>th</sup> ed), McGraw-Hill 2003, p. 74-146.
- M.A. Gramatikov, J.M. Barendrecht & J.H. Verdonschot, *Measuring the Costs and Quality of Paths to Justice: Contours of a Methodology*, *Hague Journal on the Rule of Law* September 2011 3 : pp 349-379.

- J.M. Barendrecht, (2009). In search of microjustice: Five basic elements of a dispute system. (TISCO Working Paper Series, 002/2009).

*Note: we are currently working on research that could replace or supplement the list of compulsory reading.*

#### *Recommended reading*

A rich list of recommended literature will be available.

#### *Teaching and assessment methods*

The course will consist of two plenary sessions and a one-week intensive workshop during which the students will follow short introductions, do group assignments and write three journals. Attendance and active participation is mandatory. The students will be assessed by means of (1) journal writing after each workshop block; (2). a paper in which they focus on a research question to be provided by the lecturers. The paper will be assessed based on criteria of coherence, application of the acquired knowledge, use of additional literature and formulation of a coherent argument to the position they take on in relation to the research question.

#### *Lecturers*

Prof. J.M Barendrecht

C.M.C. van Zeeland (coordinator)

## Administrative Law

### *Aims and objectives*

After successfully completing this course the student should:

- Have a solid understanding of various approaches to core problems of administrative law, including the public-private divide, administrative law principles and values, delegation, discretion, legal policy implementation, judicial review and control and accountability of regulators;  
(transnational through a transsystemic approach);
- Have a good understanding of the practice of transnational borrowing of legal solutions in administrative law and how this is shaped and constrained by local political and legal cultures and constitutional systems;  
(transnational through a focus on transnational process; interdisciplinary through insights from regulatory scholarship);
- Have insight into the applicability of administrative law values and solutions to transnational and private regulatory regimes;  
(transnational through the object of study; interdisciplinary through the use of case studies from regulatory scholarship);
- Be able to come up with pragmatic solutions that contribute to the accommodation of different values by administrative organizations and understand their wider implications;  
(leadership training).

### *Content*

Administrative law deals with the state's relationship with its citizens. As statehood and citizenship evolves and administrative institutions are more and more under pressure to live up to multiple and conflicting values, this field of law is becoming increasingly complex. This course is designed to help students find their way in various administrative law systems by starting from the tension "between controlling government through law and the use of law by government to get things done" that lies at the heart of administrative law. The "de-territorialization" of public law through the emergence of agency-networks, governance and privatization (e.g. in sectors such as banking, media, and risk regulation) adds a layer of complexity but also an opportunity for learning. Especially in the context of globalization, in which there is increasing competition between different values, the development of administrative law is turning into a compelling global project. The starting point of this course is that lawyers, and certainly not only academically-oriented ones, are active stakeholders in this project.

We will thus examine how law contributes to the practice *and* control of government and administration whilst paying attention to the organizational and political environment in which administrative bodies – local, national, supranational or transnational – operate. This course familiarizes students with classical administrative law concepts such as delegation and judicial review but also confronts them with newer topics such as non-judicial remedies (e.g. complaint processes and non-legal forms of accountability such as audit) and issues of institutional design. The practice of transnational borrowing of legal solutions in administrative law, which is shaped and constrained by local political and legal cultures and constitutional systems in this field more than in others, will be a recurrent theme. The extent to which (transnational) private organizations can become subject to public law controls will also be a matter of attention. Essentially, this course considers the field of administrative law not only as *law* but also as *regulation*, which means that sociological and economic insights from regulation literature are taken on board.

The course will consist of eight lectures and four tutorials.

The eight lectures will be on the following topics:

1. Public-private divide and beyond
2. Principles and values of administrative law
3. Rules, delegation and discretion
4. Legal techniques for implementing policy
5. Judicial review of administrative action - basis
6. Judicial review of administrative action - developments
7. Control and accountability of regulators
8. Administrative law in transnational regimes

The approach is transsystemic: starting from a general problem in administrative law we will work towards an overview of possible and actual legal solutions – from various legal systems but often including the US, the UK, France and the EU – and finish by an evaluation.

The four tutorials will deal with topical problems with a transnational dimension. Students are expected to prepare essays which deal with the chosen problem from the angle of one of the above topics at least twice.

#### *Compulsory reading*

The students will be asked to buy the following handbook which contains state of the art insights on how administrative law works from a global perspective:

Rose-Ackerman, S. & Lindseth, P.L. (eds.), *Comparative Administrative Law*, Edward Elgar 2010.

Furthermore there will be a reading list consisting of cases, chapters and articles for example:

Strauss, P. (2006). Rulemaking in the Ages of Globalization and Information: What America Can Learn from Europe and Vice Versa. *Columbia Journal of European Law*, 12, 645-694.

Chapters will be taken from, among other volumes:

Dyzenhaus, D. (2004). *The Unity of Public Law*. Oxford: Hart Publishing.

Harlow, C. & Rawlings, R. (2009). *Law and Administration*, Cambridge University Press.

#### *Recommended reading*

A list of recommended literature, consisting of recent literature mainly, will be made available to students. There will be special attention for materials on national systems of administrative law in case students want to delve deeper into a specific system, which they will be invited to do in the assignments.

#### *Teaching and assessment methods*

As stated above, the course will consist of eight lectures and four tutorials. Each lecture will deal with a universal problem that administrative law is trying to solve. Students will prepare assignments for which they will need to research possible and actual administrative law solutions. During the tutorials the 2000-5000 word essays prepared by the students will be discussed.

The students will be assessed by means of a written exam consisting of a few questions of a practical nature as well as an essay question (chosen by the student from a list of 3-4 options). The more practical questions will test students' knowledge and understanding of various approaches to core problems of administrative law as well as their problem-solving skills; the essay questions will test students' understanding of how 'transnational administrative law' is shaped and constrained by local political and legal cultures and constitutional systems and of how and to what extent administrative law applies in transnational and private regulatory regimes.

#### *Lecturers*

Dr. Anne Meuwese (coordinator)

vacancy

**Moot Court and Final Essay**

FORTHCOMING

## Private International Law and Transnational Litigation

### *Aims and objectives*

After successfully completing this course the student should:

- Be familiar with the general principles of civil procedure of common law and civil law jurisdictions;
- Have an understanding and basic knowledge of the basic rules governing the three core areas of private international law in national and international laws: jurisdiction, applicable law, and recognition/enforcement (incl. the Brussels I Regulation and the Rome I and Rome II Regulations);
- Have a basic understanding of sources and rules of private international law in the major jurisdictions (incl. the US and English common law);
- Understand the dynamics of transnational litigation not only in terms of the classical private international law themes like allocation of jurisdiction and the rules on choice of law (e.g. forum shopping), but also how differences in procedure, judicial management styles and financing rules among jurisdictions shape lawyers' strategies and litigation options and choices;
- Be able to analyse, discuss and explain the choices that private parties may make in light of existing rules of private international law and differing civil procedural regimes and legal infrastructures (rules on cost shifting and funding, judicial management styles etc.).

### *Content*

Traditionally, we thought of trans-national litigation as single lawsuits that happened to involve parties domiciled in different national jurisdictions. The challenges presented by this litigation included the private international law issues or how to achieve service, how to gather evidence, choice of law, and enforcement. Now the term trans-national litigation conjures up images of a "family" of related lawsuits proceeding in parallel in multiple jurisdictions and multi-party litigation involving plaintiffs from multiple national jurisdictions, and litigators choosing for procedural benefits, such as the potential to proceed in class form. Understanding the dynamics of transnational litigation requires not only understanding the formal rules with regard to jurisdiction, choice of law and enforcement but also how differences in procedure, judicial management styles, and financing rules among jurisdictions shape lawyers' strategies.

The course Private International Law and Transnational Litigation will be the European counterpart of the Stanford course on Transnational Litigation that professors Deborah Hensler (Stanford) and Ianika Tzankova (Tilburg University) will co-teach for the first time together in 2012 using (for the European law education novel) a case study approach, where students are required to follow from the beginning of the course selected cases. As the course emerges and various topics has been discussed in the course, the student's understanding of the case, the legal rules and dynamics develops accordingly.

The sequence of the topics that will be discussed will follow the chronology of the decisions that parties take once faced with the option of litigating a transnational law suit. For example: the course will start with an overview of the general principles of civil procedure in common law and civil law jurisdictions and evidence gathering (how do parties "build" a case), to proceed with funding and costs (once there is a case, how and where do parties get funding from; what are the challenges they face in terms of regulation and ethics), jurisdiction (once there is a case and funding, where is the law suit going to be initiated), choice of law and enforcement. The role of Alternative Dispute Resolution (arbitration) in a Global World will be the last part of the course.

The course therefore chooses a commercial perspective, which fits with the aims of the Global Law bachelor to prepare students for work in large, international organisations.

### *Compulsory reading*

The reading list on private international law could include the following items:

- Michael Bogdan, *Concise Introduction to EU Private International Law* (Europa Publishing 2006)
- Adrian Briggs, *The Conflict of Laws* (Oxford 2008)

Additional materials are still to be determined and are also dependant on the output of the joint initiative of Ianika Tzankova and Deborah Hensler to co-author a book on *Civil Procedure in a Global World* and to co-edit a book on Transnational Case Studies which is part of another international collaborative academic research project.

### *Recommended reading*

A list of additional reading will be made available and will take into account the experiences with the Stanford course on transnational litigation mentioned in 2.

### *Teaching and assessment methods*

The course will be taught in a series of ten two-hour seminars. Students will be required to read prescribed materials and study a case the students choose from a list with pre-selected actual transnational cases at the beginning of the course. In the seminars, approximately one hour will be spent on discussing the topic for that week in its theoretical context, and one hour on the application of the topic on the selected cases. The differences between the cases will be highlighted and analysed, explained. The idea is that as the course emerges the students get a better understanding of the case they choose to follow.

It is the intention of the lecturers to invite guest speakers/practitioners for about 3-5 of the sessions.

The students should write a paper on a selected case, analysing the application of the legal rules, discussing the options of the litigating parties, explaining the choices that the litigating parties had made and the outcome of the case in terms of civil procedure and legal infrastructure. The mark they get for the paper will be the mark they will get for the course.

### *Lecturers*

Prof. Ianika N. Tzankova  
vacancy (coordinator)

## Public International Law

### *Aims and objectives*

After having successfully completed this course the students should:

- Have a thorough knowledge of the general principles of international law and of positive international law as it has developed in several fields since WW-II
- Have a good understanding of different national approaches to international law
- Have the ability to look at issues from a contextual perspective, thus transcending the level of 'black letter law'
- Have a nuanced understanding of law-enforcement mechanisms in the domain of international law
- Be familiar with problems and chances in the field of global lawmaking, looking at commonalities as well as structural differences
- Have the skills to give a basic ethical and political reflection upon global legal developments and challenges

### *Content*

The field of Public International Law is in many ways already 'global' and 'transnational' by its very nature. Apart from bilateral treaties, large parts of international law draw upon notions which are shared by a variety of States worldwide. However, the latter is a strength and a weakness at the same time. On the strong side one could speak of the wish to build bridges between States, often necessarily and surprisingly leading to legal innovations and new concepts, on the weak side one can refer to the fact that global decision-making often leads to the 'common lowest denominator'.

The course will consist of two blocks. First, the focus will be on what fields are covered by international law, what the differences are between international law and supranational law, and to what extent international law also contains supranational characteristics. In this block, the course will also deal with a range of classical legal issues, such as the subjects and sources of international law. That will be done, however, from two perspectives: a) a handbook-like, more traditional approach, and b) a confrontation between the traditional descriptions and a transnational perspective. For instance, the 'general principles of international law', being one of the sources of international law, will be dealt with in detail, discussing the way they are used in existing case-law and addressing them from a more philosophical as well as a more empirical perspective, the focus then again being on the search for 'transnationality'.

The second block will consist of international lawmaking and law-enforcement, from a State and a non-State perspective. The focus will, *inter alia*, be on the 'universalisation of human rights', on the interaction between traditional legal systems and modern international law – with a focus on South Africa the USA and China –, and on, for instance, the role non-State actors could play in law-enforcement. In all cases, the focus will not be on *black letter law*, but on the *law in context*, with an emphasis on understanding its worldwide conceptual roots, and on implementation, execution, compliance and enforcement mechanisms, all that within reasonable 'margins of appreciation' and with an open eye for historical developments and for economic and political aspects.

### *Teaching and assessment methods*

The course will consist of 12 sessions of two hours, the focus being on short introductions by the core lecturers, followed by extensive debates with and amongst the students. The students will be required to be prepared and take part actively.

The assessment will be a combination of a written exam and a small research paper.

### *Literature*

Materials for both blocks will include (compulsory reading):

- R. Wallace, *International Law*, 6th ed, May 2009, Sweet & Maxwell.
- Jan Klabbers, 'The Idea(s) of international law', in: S. Muller, S. Zouridis, M. Frishman and L. Kistemaker, *The Law of the Future and the Future of the Law*, Oslo: TOAP, 2011, p. 69-80.
- Michel Rosenfeld, 'The Challenges of Constitutional Ordering in a Multilevel Legally Pluralistic and Ideologically Divided Globalised Polity', *Ibid*, p. 109-123.
- Joost Pauwelyn, 'The Rise and Challenges of 'Informal' International Law-Making', *Ibid*, p. 125-140.
- Willem van Genugten, "'Avena' as a Challenge to The Federal American Legal System", the *Hague Justice Journal*, 2008, p. 51-57.
- Peer Zumbansen, 'Transnational Law', [CLPE Research Paper No. 09/2008](#).

- Willem van Genugten, "Protection of Indigenous Peoples on the African Continent: Concepts, Position Seeking, and the Interaction of Legal Systems", *American Journal of International Law*, Jan. 2010, Vol. 104, No 1, p. 29-65.
- Advisory Council on International Affairs, *Universality of Human Rights*, The Hague 2008.
- Thaddeus Metz, "Ubuntu as a Moral Theory: Reply to Four Critics", *African Journal of Philosophy*, 2007, 26(4), p. 369-387.
- Willem van Genugten, Rob van Gestel, Marc Groenhuijsen and Rianne Letschert, "Loopholes, risks and ambivalences in international lawmaking: the case of a framework convention on victims' rights", *Netherlands Yearbook of International Law 2006*, The Hague, 2007, p. 109-154.

Core lecturers: Prof. dr. Willem van Genugten and dr. Nicola Jägers

## Tax Law

### *Aims and learning outcomes*

After successfully completing this course the student should:

- Have a solid knowledge of the position of entrepreneurs in national and international tax systems;
- Have a solid knowledge and understanding of different areas of tax law regulating the position of entrepreneurs, i.e. national and international tax law, European tax law, Tax treaties;
- Have an understanding of the importance of taxation for public finance;
- Have an understanding of the respective aims, coherence and interrelatedness relevant areas of international tax law as well as the correlations between national and international tax law;
- Have a solid knowledge and understanding of the differences between the various systems of taxation and its impact on entrepreneurs.

### *Content*

The emphasis of this course lays on fundamentals of the taxation of business profits.

The following specific topics will be addressed:

1. General principles of taxation;
  - a. Why taxation (public finance) / policy aims;
  - b. Various forms of taxes;
  - c. Resident and non-resident taxpayers;
  - d. Organization of the tax administration;
  - e. Assessment or self-assessment;
  - f. Objections and appeals.
2. Taxation of business profits:
  - a. Private persons;
  - b. Legal entities;
  - c. Profit calculation;
    - i. Accounting principles;
    - ii. Transfer pricing;
    - iii. Participation exemption;
  - d. Taxation of profits from a permanent establishment;
3. Withholding taxes
  - a. Salaries withholding tax
    - i. Resident employees;
    - ii. Non-resident employees
  - b. Dividend withholding tax
4. Competition with foreign tax jurisdictions
  - a. Tax Treaties;
  - b. EU tax law.

### *Compulsory reading*

1. Hugh Ault, Brian Arnold, Comparative Income Taxation, Aspen Publishers
2. Reader European and international tax law

### *Recommended reading*

A rich list of recommended literature will be available.

### *Teaching and assessment methods*

The course will consist of 10 lectures and two sessions during which the students will present their papers. During the 10 lectures students will be motivated to actively participate in discussions. They will, for example, be asked to react to a (controversial) problem statement or they will be asked to prepare before some of the lectures a (brief) discussion statement themselves.

The students will be assessed by means of a written paper in which they focus on a research question related to national and/or international tax law. The research question and subject matter is left up to the students to decide, but proposals have to be approved of by the lecturers beforehand. The paper will be assessed based on criteria of coherence, application of the acquired knowledge, use of additional literature and formulation of a coherent argument to the position they take on in relation to the research question. Bonus points can be obtained by actively participating in the discussions during the lectures, for instance by preparing problem statements.

*Lecturers*  
Mr. E. Alink

**European Union Law**

FORTHCOMING

## Labour Law

### *Aims and objectives*

After successfully completing this course the student should:

- Have a thorough understanding of the contents of the international labour standards and their binding power. The main sources of law covered in this course originate from the International Labour Organisation (ILO), the UN, the OECD and NAFTA.
- Have an insight in the historical development of the international labour standards.
- Have an insight into the challenges to labour law posed by globalisation. The challenges lie in the area of child labour and forced labour, freedom of association and collective bargaining, trade liberalization and labour law, and equal treatment.
- Have a profound knowledge and understanding of the differences between legal systems and the subsequent impact on the position of workers.
- Have an insight in the ways different systems deal with legal consequences, especially regarding labour standards, of movement of workers from one country to another, like in the case of posting of workers within the EU.

### *Content*

This course is an optional course, whose aim is to acquaint the students with the consequences of globalisation on the employment working conditions and the ways various institutions have reacted with legislation. The course consists of three parts. In order to understand the content and the mechanism of the various international labour standards, it is necessary to first outline the historical background of these legal norms, including the social and economic conditions that were present when the labour standards were enacted. The question why international action was considered indispensable in this matter, will receive special attention in this part of the course. This means that social policy issues will be dealt with as well.

The focus will then move to the current situation. In the second part of the course, the impact of liberalisation of trade and capital flows on working conditions will be discussed briefly. Then the content of the labour standards will be analysed, while concentrating on their juridical character and consequences, and the enforcement issues. The main sources that will be discussed are the Conventions and Recommendations of the ILO, the UN treaties, the Conventions and other instruments of the Council of Europe, the EU legislation, the instruments of the OECD, and the NAFTA. The initiatives of private enterprises, like Codes of Conduct, will be touched upon as well, as will be some bilateral treaties. Special attention will be given to the relation between the different sources of labour norms. Legal questions that will be dealt with concern among others the obligations for the national states and private parties that follow from these standards, and the supervision and enforcement procedures. Finally, the question how labour rights relate to other human rights will be discussed.

The third and last part will concentrate on the increased cross-border labour mobility of workers. Regional labour mobility arrangements do exist (such as NAFTA), though their scope is usually limited. The exception is the freedom of movement of workers in the European Union, including temporary posting of workers in the framework of the free provision of services. The legal norms and case-law on this matter will be discussed, including the debate it provoked on the tension between economic fundamental freedoms and the territorial application of national labour law.

### *Compulsory reading*

A reader will be prepared including, among others, the following articles:

- Jean-Michel Servais, 'Working conditions and globalization' in: R. Blanpain (ed.) *Comparative Labour Law and Industrial Relations in Industrialized Market Economies* (Kluwer Law International: 2010) 361-391
- Piyasiri Wickramasekara, 'Protection of Migrant Workers in an Era of Globalization: The Role of International Instruments' in: R. Blanpain (ed.) *Comparative Labour Law and Industrial Relations in Industrialized Market Economies* (Kluwer Law International: 2010) 245-284
- Roger Blanpain, 'Multinational Enterprises and Codes of Conduct: The OECD Guidelines for MNEs in Perspective' in: R. Blanpain (ed.) *Comparative Labour Law and Industrial Relations in Industrialized Market Economies* (Kluwer Law International: 2010) 195-220
- Susan Hayter, 'The social dimension of globalization: striking the balance' (2005) 55 *Bulletin of comparative labour relations: Confronting globalization : the quest for a social agenda*

- Judy Fudge, 'The New Discourse of Labour Rights: From Social to Fundamental Rights?' (2007) 29 *Comparative Labor Law and Policy Journal* 29-66
- B.A. Langille, 'Core Labour Rights – The True Story' (2005) 16 *European Journal of International Law* 409-437
- Stijn Smismans, 'How to be Fundamental with Soft Procedures? The Open Method of Coordination and Fundamental Social Rights', in: de Búrca, Gráinne and Bruno de Witte (eds.), *The Protection of Social Rights in Europe: Changes and Challenges* (Oxford: Oxford University Press 2005)
- Claire Kilpatrick, 'Laval's Regulatory Conundrum: collective standard-setting and the Court's new approach to posted workers' (2009) *European Law Review*, 34, 844-865.

*Recommended reading*

- Philip Alston, *Labour Rights as Human Rights* (Oxford University Press 2005)
- V. Mantouvaloun, 'Human Rights and Unfair Dismissal: Private Acts in Public Spaces' (2008) 71(6) *The modern law review* 912-939
- Kevin Kolben, 'Labor Rights as Human Rights?' (2010) 50 *Virginia Journal of International Law* 449-484
- Jonas Malmberg, Industrial Actions and EU Economic Freedoms - The Autonomous Collective Bargaining Model Curtailed by the European Court of Justice, *Common Market Law Review* 2008, p. 1115–1146

*Teaching and assessment methods*

The course will consist of ten lectures. To complete the course, students are required to attend all the lectures and to write a paper on a chosen topic in the area of labour norms. The final grade for the course will be based on the grade for the written exam (50%) and the grade for the paper (50%).

There will also be a possibility for students to participate in a special visit to the International Labour Organisation (ILO) in Geneva, which is organised by the Department of Labour Law every year.

*Lecturers*

Prof. R. Blanpain  
 Prof. Mijke Houwerzijl  
 Nuna Zekic LLM

## Environmental Law

### *Aims and objectives*

The aims and objectives of the course are:

- to provide the student an introduction to the role of law in protecting the world's environment;
- to make the student familiar with important goals and principles of environmental policy and law (sustainable development, precautionary principle, etc.);
- to make the student familiar with the typical characteristics of environmental policy and law, especially the transboundary nature of problems and solutions, the importance of international cooperation and development of technology in finding solutions, and the strong interrelationship between ecological, economic and social interests.
- to provide basic knowledge on a number of selected issues of environmental law, including the loss of biological diversity (species of plants and animals, types of habitats) and climate change.

The transnational approach is taken throughout the entire course as it is a basic feature of today's biggest environmental problems, such as the global loss of biodiversity, global climate change, transboundary water and air pollution, etc.

The same is true for the interdisciplinary approach. First, students must be aware of the physical, biological, ecological background of environmental problems. Then, students will be taught that a purely legal approach cannot be successful, and that, as a consequence, usually a wide variety of instruments are used. These instruments include economic instruments, such as emissions trading, and financial, psychological and sociological instruments aimed at influencing consumers. Hence, an interdisciplinary approach is a prerequisite.

### *Content*

Particularly the last 30-40 years the awareness has grown worldwide that industrial and other human activities may cause severe negative effects on the quality of the land, air and water, landscape and other components of the environment. Legislation to prevent or limit such effects has been adopted at the international, regional (e.g. European) and domestic level. Recently, the importance of environmental policy and law as well as the need to develop transboundary solutions for environmental problems have been emphasized by the discussions on the causes and consequences of climate change. The course Environmental Law will provide the student an introduction to the role of law in protecting the world's environment. Based on an introduction to the central goals and principles of environmental policy and law (e.g., sustainable development, precautionary principle), a number of selected key issues will be discussed:

- principles of environmental law;
- implementation and enforcement of environmental law;
- climate change and the role of law;
- legal protection of species of plants and animals, landscape and wilderness.

In discussing these global issues, international, European and domestic law will receive attention with a focus on the interrelations between these levels. Furthermore, the discussions enable the student to get familiar with the typical characteristics of environmental policy and law, including the transboundary nature of problems and solutions, the importance of international cooperation and development of technology in developing solutions, and the strong interrelationship between ecological, economic and social interests.

The course will consist of 12 lectures: 8 lectures on featured topics and 4 lectures in which students present and discuss their own research, structured as follows:

Session 1: Introduction into global nature of today's environmental problems and transnational legal responses, sustainable development, principles of environmental law

Session 2: Legal instruments in an interdisciplinary context, problems of governance and compliance

Session 3: Human rights and the environment

Session 4: Climate Change

Session 5: Short presentations of students (in phase of preparing paper: presenting research questions and first results)

Session 6: Protection of natural habitats

Session 7: Protection of species of wild flora and fauna

Session 8: Marine environment

Session 9: Dangerous chemicals

Session 10: Presentations of student papers

Session 11: Presentations of student papers

Session 12: Presentations of student papers

### *Compulsory reading*

A reader meeting the aims of this course will be compiled based on, but not limited to, the following sources:

- U. Beyerlin, Th. Marauhn, International Environmental Law, Beck/Hart 2011
- J. Holder, M. Lee, Environmental Protection, Law and Policy, 2<sup>nd</sup> ed., CUP 2007
- J. Scott (ed.), Environmental Protection. European Law and Governance, OUP 2009
- F. Wijen et al, A Handbook of Globalisation and Environmental Policy, 2<sup>nd</sup> ed., Edward Elgar Publishers, 2012

### *Recommended reading*

The lecturers will make recommendations to students on the topics on which they write a paper or prepare a problem statement.

### *Teaching and assessment methods*

Teaching methods:

- 8 lectures on featured topics (including 2 introductory lectures and 6 lectures on specific environmental problems);
- a short presentation in English in the phase of preparing the paper (presentation on research question and first findings, 1 session);
- preparation of a paper of 3000 to 4500 words on a selected issue and presentation and discussion of the findings in class (3 sessions).

The course will consist of 8 lectures and 3 sessions during which the students will present their own work. During the 8 lectures students will be motivated to actively participate in discussions. The students will be assessed by means of a written paper in which they focus on a research question related to a transnational environmental law issue. The research question and subject matter is left up to the students to decide, but proposals have to be approved of by the lecturers beforehand. The paper will be assessed based on criteria of coherence, application of the acquired knowledge, use of additional literature and formulation of a coherent argument to the position they take on in relation to the research question.

### *Lecturers*

Prof.dr. J.M. Verschuuren (coordinator)

Dr. Arie Trouwborst

Dr. F.M. Fleurke

## Intellectual Property Law

### *Aims and learning outcomes*

After successfully completing this course the student should:

- Have a thorough and profound knowledge of the philosophical, economical and legal foundations of intellectual property (IP) law;
- Have a thorough and profound knowledge of the objectives and functions of the different areas regulating intangible property i.e. patent law, trademark law and copyright law;
- Have an understanding of the respective conditions, rights and procedures governing IP law from an international and European perspective, as well as the correlations between the international, European and national level;
- Have a profound knowledge and understanding of the various legal regimes and their economic impact.

### *Content*

The course consists of three segments:

1. During the first segment, the students will be introduced to the philosophical and economic theories founding IP law.

2. The second segment will focus on the different, specific IP regimes, i.e. patent law, trademark law, copyright law.

- What is the subject matter of the various IP rights? What are the conditions to obtain IP rights? What is the scope of IP rights? What are the limitations to IP rights in view of the private and the public interest?
- What is the relationship between international, European and national obligations? What differences can be discerned in international, European and national legal systems? How do these differences influence the legal position of the IP rights holder?

The dominating perspective of analysis in the second segment will be the international and the European level. In addition questions will be answered through a comparative look at exemplary national legal systems (countries such as the Netherlands, Belgium, Germany, US, China, etc.).

3. The third segment will provide a constitutional perspective on IP law. To what extent does the fundamental principle of freedom of trade and enterprise, conflict with IP rights? And to what extent do IP rights conflict/co-exist with (fundamental) human rights such as the right to knowledge, the right to access, the right to food, the right to health? The different perspectives (competition law, IP law, human rights law) and the different ways in which international obligations and recommendations have been implemented will be examined.

4. The fourth segment will look into some new trends in the IP arena, experimenting with the property regime underlying the current IP paradigm. Students will be exposed to new lines of thinking revolving around open access, open source, open innovation, open patents, commons, etc.

### *Compulsory reading*

Books:

- Chesbrough, H.W., (2003), The Era Of Open Innovation, *MIT Sloan Management Review*, Vol. 44, No. 3 ,pp. 35-41.
- Drahos, P., *A theory of intellectual property law*, Dartmouth, 1996
- World Intellectual Property Organization, *Introduction to Intellectual Property, Theory and Practice*, Kluwer Law International.
- ...other publications will be added in due course

The reader will consist of articles including:

- Gervais, D. (2009), (Re)implementing the Agreement on Trade-Related Aspects of Intellectual Property Rights to Foster Innovation, *The Journal of World Intellectual Property* Vol. 12, no. 5, pp. 348–370, doi: 10.1111/j.1747-1796.2009.00379.x
- Van Overwalle, G. (2011), Policy Levers Tailoring Patent Law to Biotechnology: Comparing US and European Approaches, *UC Irvine Law Review* Vol.1 No. 2 June 2011, p.435-517.

- Van Overwalle, G., 'Human Rights' Limitations in Patent Law', in *Intellectual Property and Human Rights. A Paradox*, GROSHEIDE, W. (ed.), Cheltenham, Edward Elgar Publishing Ltd, 2010, 236-271
- Van Overwalle, G. and van Zimmeren, E., 'Functions and Limits of Patent Law', in *Facing the Limits of the Law*, CLAES, E., DEVROE, W. and KEIRSBILCK, B. (eds.), Berlin-Heidelberg, Springer, 2009, 415-442 [full paper available at <http://ssrn.com/abstract=1720047>]
- ...other publications will be added in due course

*Recommended reading*

A rich list of recommended literature will be available.

*Teaching and assessment methods*

The course will consist of

- 5 basic sessions (5 modules of 4 hours). During the basic sessions students will be stimulated to actively participate in class; they will have to read seminal papers and/or relevant cases and will be invited to discuss those in class.
- 1 extra session (1 module of 4 hours). During the extra session students will present their papers.

The students will be assessed

- on the basis of a written paper in which they focus on a research question related to IP law from a national, European and international perspective. Each year, the topic will be set in advance and will revolve around a specific theme. The related research question will be left up to the students to decide, but proposals have to be approved of by the lecturers beforehand. The paper will be assessed based on criteria of coherence, application of the acquired knowledge, use of additional literature and formulation of a coherent argument to the position they take on in relation to the research question.
- on the basis of their class participation

*Lecturers*

Prof. dr. Geertrui Van Overwalle (coordinator)

Dr. Maurice Schellekens

Some lectures may be taught by guest lecturers.