

Faculty of Law



DROI2391 Law and Migration

[30h] 4.5 credits

This course is taught in the 1st semester

Teacher(s): Jean-Yves Carlier
Language: French
Level: Second cycle

Aims

1. Objectives common to all legal courses (final level)

- To acquire knowledge linked to the subject taught
- Understanding of the meaning of the concepts used in the field.
- To use the texts governing the subject
- To acquire more systematic approaches, in terms of contextualisation, modelling, etc.

2. Objectives specific to active teaching

- Better awareness of the relativity of the solutions given by law
- Better awareness of the need for dialogue in all judicial production.

3. Objectives specific to this course

- To arrive at a certain level of multi-disciplinarity by placing law in the context of the general migration question, thus allowing a general theory to emerge.
- Broad use of international law, European law and comparative law in order to reflect on law linked to migration.

The objective is thus more a question of learning to analyse and consider critically rather than of acquiring purely technical knowledge.

Main themes

To do this, the course deals first with the way movements of persons as such are managed by law (for example, departure, access, residence, establishment), and secondly with the specific elements involving migration in the various branches of law (for example, in international law, the concepts of national sovereignty, of human rights and of asylum law; in European law, the concepts of European space, borders and integration; in private international law, conflict of laws and personal status; in civil law, concepts of family law, privacy and gender equality; in administrative law, the concepts of nationality, citizenship and refugee law; in judicial law, competence and hierarchy of judicial authorities; in penal law, extradition, crossborder repression and terrorism). The course takes into account the contemporary evolution of international migration and the answers provided by law, particularly in the European area (for example, at the present time: the Schengen and Dublin Conventions) and between Europe and third countries (for example: EFTA multilateral agreements, bilateral Belgian-Moroccan agreements). In other words, the course covers the right to movement of persons. The method calls for two types of interdisciplinarity. In a first step, the course focuses on a new element: the concept of migration. This concept is viewed from the standpoint of non-judicial disciplines: history, demography and sociology. In a second step, based on subjects taught the previous years, the course establishes relationships between different branches of law and summarise the question of free movement of persons.

Content and teaching methods

The course examines law from the point of view of the migration phenomenon.

Themes of the sessions

The course approaches the concept of migration from two standpoints:

- migrants and movement (flow). Is there a right to freedom of movement? A central contemporary theme is refugees.
- foreigners and settlement (): what are the rights of foreigners ? A central contemporary theme is that of the law applicable to the private status of Muslim foreigners. Another theme is that of regularisation of illegal immigrants.

These themes are looked at from the point of view of international law, European law (European Union, European Council, Schengen#) and the national law of the different states. As seen before, these themes are also looked at from the point of view of multi-disciplinary aspects not related to law. Several themes can be chosen and developed according to current events.

Method

Various active teaching methods are used, including debates, as much as possible with guest theorists or practitioners.

Three main methods are used :

- analysis of texts previously read by the students: legislative texts and case law. The documents and references are given to the students at the beginning of the course
- .- Comparison between texts of international and internal law, and between case law from different judicial systems.

In order to structure the subject, an outline of the course is also given in the documents.

- preparation of subjects by the students, to be presented orally or in writing, preferably in small groups.