

Faculty of Law



DROI2392 Jurisprudence of the Court of Arbitration in the Different Branches of Law

[30h] 4.5 credits

This course is taught in the 1st semester

Teacher(s): Anne Roland
Language: French
Level: Second cycle

Aims

1. Aims specific to a programme in law: acquisition of essential knowledge (e.g. reasoning schemas); handling of texts (Constitution, treaties, laws) and the intelligent use of documentation; strict and precise analysis of judgements; written and oral expression.
2. Aims specific to an interdisciplinary programme in law: transverse approach to law and finding levels of parity and values which underpin the production of standards and jurisprudence; awareness of the relativity of legal solutions and their production as part of a creative process based on exchange and confrontation; a "non-specialised" approach to law; openness to interdisciplinarity; development of an "extra-disciplinary eye".
3. Aims specific to a course based on active teaching: active participation, involving students in the course; solidarity, listening skills, and mutual respect in a process based on exchange and confrontation as well as group work; creativity, critical and independent thinking; curiosity, a taste for research and investigation (learning to learn); personal growth, independence and gaining a sense of responsibility.

Main themes

The Court of Arbitration has delivered around a hundred judgements. Some of these centre on the issue of relations between the State, the Communities and the Regions. Others deal with essential legal issues where the aspects of constitutional law are secondary: private law, criminal law, judicial law, international law, economic law and social law. The course illustrates the most characteristic aspects of this jurisprudence and demonstrate how the Court's judgements improve on acquaintance with all branches of the law. The lectures are illustrated by the analysis of judgements.

Content and teaching methods

The Court of Arbitration is a constitutional court with specialised competences. It verifies whether laws, decrees and rulings comply with the regulations stipulated in the Constitution or in the laws taken in pursuance of it. The Court was responsible in 1983 for the dispute relating to the division of competences between the State, the Communities and the Regions. It had its remit widened, particularly in 1989, and now checks that the various legislators respect the principles of equality and non-discrimination and the basic rules in the field of education. Several important judgements relate to human rights. During the course of its judgements (1400), the Court has pronounced on a number of areas of law. The different branches of law (private law, criminal law, judicial law, foreigners law, economic law, social law etc.) all have to be reviewed through the prism of constitutional law.

The aim of the course is to illustrate the most characteristic aspects of this jurisprudence. The following topics are discussed: the family; education; aid and social solidarity; the economy; justice; and the environment. These topics are covered while - where at all possible - taking account of students' wishes, but without upsetting the overall balance. Several classes involve the participation of experts on particular subjects (teachers, assistants, judges or public auditors). The course also involves preparing for and attending a hearing at the Court of Arbitration.

A legislative reform is currently underway. This aims, in particular, at extending the competences of the Court of Arbitration. The course examines where matters stand on this issue.

Method

The student is considered to be the central character in his/her education. The course combines group study with individual learning. Using a "constructivist learning approach", the teacher builds on the knowledge acquired during four years of legal training with the aim of developing, expanding, integrating and consolidating it. Students' wishes are taken into consideration for each of the topics raised in class. Learning is progressive. The students are required to take an increasingly active role in the choice of subjects and in the methods used to analyse judgements. The teaching methods are varied: problem-solving in large or small groups, oral presentations, hearings at the Court of Arbitration with preparation and follow-up, simulated trials or debates, work based on concrete cases or jurisprudential or doctrinal documentation, prepared meetings with teachers, judges or practitioners and cooperation between teachers. Students are sometimes required or invited to look at short readings in advance. Students are encouraged to take the floor (contributions, questions, short presentations). Method-based teaching of written and oral expression are not neglected. Furthermore students will be encouraged to discuss current events.

A course book (syllabus) is made available to students. Each topic contains excerpts from judgements, a few doctrine articles and bibliographical references. Depending on the topics studied and the students' wishes, other documents are placed on the course internet site during the year. Students may also obtain literature on the Court of Arbitration from the department

Other information (prerequisite, evaluation (assessment methods), course materials recommended readings, ...)

Teachers may also be asked to teach this course as a third year option on a staggered hour basis over at least one academic year, giving a time credit of thirty hours.