

# European private and comparative law

## Titulaire

Erik VAN DEN HAUTE (Coordonnateur)

## Mnémonique du cours

DROI-C5109

## Crédits ECTS

5 crédits

## Langue(s) d'enseignement

Anglais

## Période du cours

Premier quadrimestre

## Campus

Solbosch

## Contenu du cours

The content of the course is subject to changes from one year to the other as the content of European law or private law itself can change and the course aims to follow those changes as to be up to date. As an example, the following topics might be addressed:

- 1 Short historical introduction (*ex cathedra*) explaining the origins of the most influential civil codes as well as a special focus on the historical development of the English legal system;
- 2 Formation of contracts(*based on case law and student papers*) - What are the conditions to form a contract, with a special focus on the French theory of the *causa* and the English doctrine of consideration. Notion of offer and acceptance and the question of the offer addressed to the public.
- 3 Non performance of contracts (*based on case law and student papers*) - Specific performance or breach of contract ? Performance of a judgment. Liquidated damages clause.
- 4 Proposal of a european regulation on sales law - (I) formal approach Private law and consumer protection: how should european law deal with consumer protection ? How to deal with the technical aspects of european harmonization ? Analysis of the topic through the experience of the Vienna Convention and through the principles of Unidroit.
- 5 Proposal of a european regulation on sales law - (II) content based approach(*based on case law and student papers*) - Choice of topics regarding sales law : how will the rules of the proposed regulation affect national laws - Comparison with the Vienna Convention and with the principles of Unidroit.
- 6 Transfer of title(*based on case law and student papers*) - Comparison of the main legal systems in the field of movables and immovables.
- 7 European principles of tort law(*based on case law and student papers*) - Analysis of French, German and English tort law. Confrontation of those legal systems with the european principles of tort law. Main difficulties in harmonizing tort law.

<sup>8</sup> Trust and fiduciary agreements(*based on case law and student papers*) - Comparison of the English trust with continental fiduciary agreements. Influence of the english trust on continental fiduciary agreements. International recognition of trust.

<sup>9</sup> Conference of a foreign professor

<sup>10</sup>Concluding discussions

## Objectifs (et/ou acquis d'apprentissages spécifiques)

The course tends to familiarize students with different legal systems in the field of private law as well as with the increasing interactions between national private law and european law. This goal will be achieved by 3 different methods :

(1) the students will get a short historical introduction about the main european legal systems in the field of private law and the main interactions between the different national sources of private law. This introduction does not only aim to explain the origins of the different legal systems, but also to familiarize the students with the legal terminology

(2) the study of case law whereby cases will be analyzed through different legal systems so as to determine to what extent they produce similar results or not

(3) the study of several european initiatives in the field of private law and the question what can be expected from european harmonization of private law.

## Méthodes d'enseignement et activités d'apprentissages

Subject to changes due to covid, the course will be given as a seminar. Attending the lectures is therefore compulsory as the students will be assessed on the basis of their participation and preparation of each lecture. There is therefore no exam attached to this course. The number of participants is therefore limited and may even be more limited due to covid health protocols.

## Support(s) de cours

Université virtuelle

## Autres renseignements

## Lieu(x) d'enseignement

Solbosch

## Contact(s)

Please read the above informations carefully before sending any questions. If needed, the professor can be contacted on the Université virtuelle.

## Méthode(s) d'évaluation

Autre, Travail de groupe et Travail personnel

### Méthode(s) d'évaluation (complément)

There is no exam for this course. Students will be assessed throughout the course (attendance is compulsory) on the following basis :

- > Participation (preparing and discussing the reading materials as well as the topics raised by the professor or by other students);
- > Short written paper of maximum 15 pages to be written by small groups of students (2 or 3 students);

### Construction de la note (en ce compris, la pondération des notes partielles)

**Students will not be assessed on their level of English. They should however have at least a B1+ level (CEFR scales) meaning**

that they should feel comfortable in taking part in discussions, be able to give a prepared presentation and to give reasons in support of or against a particular point of view. Students can take follow up questions, but may have to ask for repetition if the speech was rapid.

### Langue(s) d'évaluation principale(s)

Anglais

## Programmes

### Programmes proposant ce cours à la faculté de Droit et de Criminologie

MA-DROI | **Master en droit** | finalité Droit public et international/bloc 2, finalité Droit économique et social/bloc 2 et finalité Droit civil et pénal/bloc 2

