Introduction to Comparative Law (Bachelor Year 3 / Fall)

Bachelor of Law / Faculty of Social Sciences, Economic and Law.

Introduction

The course offers an introduction to comparative law, aimed at familiarizing students with the distinctive features of comparative legal analysis — namely, the study of national legal systems from a comparative perspective.
Although interest in the comparison of laws is as old as legal science itself, the development of comparative law as an autonomous academic discipline is a relatively recent phenomenon. Its growth can be attributed in particular to the intensification of exchanges between States and the gradual convergence of legal systems within integrated geographical areas.
Comparative law aims at studying and confronting the various legal systems of the world, highlighting their similarities and differences. The comparative approach seeks to investigate the underlying reasons for these convergences and divergences. Beyond merely describing the positive law in force in other countries, it strives to understand the logics, structures, representations, and principles that shape legal systems.
Comparative law thus serves several purposes: enriching legal science; improving domestic law; enhancing understanding of foreign legal systems; strengthening international relations; and contributing to the unification and harmonization of national laws. Moreover, comparative legal analysis encourages critical thinking about law, by revealing the influence of cultural, historical, and institutional factors on the way each society conceives and structures its legal system.
This course aims to explore the main theoretical issues and the practical questions raised by comparative law, emphasizing that law is fundamentally a social and cultural phenomenon, rooted in wider traditions. Comparative law provides an opportunity for meaningful dialogue between legal cultures. By focusing on “the Other’s law”, it invites viewing one’s own legal system from a different perspective, and promotes a new way of thinking about law, which embraces the diversity of possible responses to a given legal problem.

Objectives

This course intends to introduce students to the comparative law approach by providing them with the tools to understand its purposes, methodology and limits. Through this introduction, the course also seeks to raise students’ awareness of the importance of legal culture, a fundamental component of general culture, as well as the variety of legal thinking across the world.

More precisely, this course pursues several complementary objectives:
• To reflect on theoretical and practical issues of comparative law, that is, to understand the purposes of comparative legal analysis, the principles guiding the comparison of legal systems, and the specific methodological challenges involved. Students should therefore be
able to identify the key issues, objectives, and methodological constraints of comparative legal analysis.
• To identify the major legal traditions (or "legal families") and to understand the origin

Duration

1 semester

Teaching languages

- English

Conditions of submission

If you need more information about this course, kindly send an email to: incomingdri@icp.fr

and development of different legal systems. Students should be familiar with the essential features of the main legal traditions (civil law, common law, customary law, mixed legal systems, etc.) and understand the underlying logics that shape them.
• To analyze and compare the responses provided by different legal systems to the same legal issue, identifying the underlying factors of convergence or divergence. Students should be able, given a specific legal problem, to compare several solutions from distinct systems and understand their justifications.
• To develop critical thinking about law through comparative analysis, by transcending a compartmentalized view of legal disciplines to apprehend the overall coherence of normative systems within their social, historical, cultural, and institutional contexts. Students should be
able to perceive law as a cultural phenomenon and to situate a rule or institution within a broader framework of references specific to each legal tradition.

Course Outline
Introduction: What is Comparative Law?
I. The History of Comparative Law
II. The Functions of Comparative Law
III. The Use of Comparative Law Arguments
Part 1. Comparative Legal Method
Part 2. Major Legal Traditions
Title 1. The Romano-Germanic Tradition
Title 2. Common Law
Chapter 1. The United Kingdom
Chapter 2. The United States of America
Title 3. Other Legal Traditions
Part 3. Applied Comparative Study: Statutory Law Across Legal Traditions

Admission

Prerequisite

Prerequisites training

None.

Level B2.

Program

Methods of Instruction

Lecture course.

Assessment and Final Grade

The written assessment, lasting one hour, will take the form of a multiple-choice questionnaire (MCQ) covering the key concepts addressed during the course.

Course Requirements

Regular attendance.

Bibliography

Books
BOUDON Julien, RIALS Stéphane, Textes constitutionnels étrangers, Paris : PUF, coll. Que sais-je ?, n° 2060, 17e ed., 2022, 128 p.
DAVID René, JAUFFRET-SPINOSI Camille, GORE Marie, Les grands systèmes de droit contemporains, Paris : Dalloz, coll. Précis, 2016, 12e ed., 539 p.
DUFFY-MEUNIER Aurélie, FASSASSI Idris, GUGLIELMI Gilles, ZOLLER Élisabeth, Introduction au droit public, Paris : Dalloz, coll. Précis, 3e ed., 2022, 300 p.
FROMONT Michel, PERROUD Thomas, Grands systèmes de droit étrangers, Paris : Dalloz, coll. Mémentos, 9e ed., 2023, 510 p.
GAMBARO Antonio, SACCO Rodolfo, VOGEL Louis, Traité de droit comparé : Le droit de l'Occident et d'ailleurs, Paris : LGDJ, coll. Traités, 2011, 480 p.
GOLTZBERG Stefan, Le droit comparé, Paris : PUF, coll. Que sais-je ?, n° 4117, 2e ed., 2024, 128 p.
HAGUENAU-MOIZARD Catherine, Introduction au droit comparé : en 10 thèmes avec exemples détaillés, Paris : Dalloz, coll. Séquences, 2018, 316 p.
HUSA Jaakko, A New Introduction to Comparative Law, Oxford: Hart Publishing, 2015, 298 p.
JACKSON Vicki C., TUSHNET Mark V., Comparative Constitutional Law, New York; St. Paul, Minn. Foundation Press, coll. University Casebook Series, 3e ed., 2014, 1908 p.
LAITHIER Yves-Marie, Droit comparé, Paris-La Défense : LGDJ, coll. Précis Domat, 2024, 642 p.
LAUVAUX Philippe, LE DIVELLEC Armel, Les grandes démocraties contemporaines, Paris : PUF, 4e ed., 2015, 1072 p.
LEGRAND Pierre, Le droit comparé, Paris : PUF, coll. Que-sais-je ?, n° 3478, 5e ed., 2016, 128 p.
RAMBAUD Thierry, Introduction au droit comparé. Les grandes traditions juridiques dans le monde, Paris : PUF, coll. Quadrige, 2e ed., 2017, 344 p.
REIMANN Mathias, ZIMMERMANN Reinhard, The Oxford Handbook of Comparative Law, Oxford University Press, coll. Oxford Handbooks, 2e ed., 2019, 1403 p.
ZOLLER Élisabeth, Le droit des États-Unis, 2014, 97 p. disponible sur le site du CDPC [en ligne] : https://centre-droit-public-compare.assas-universite.fr/fr/le-droit-des-etats-unis (Version actualisée de l'ouvrage Le droit des États-Unis, Paris : PUF, coll. Que Sais-Je ?, n° 1159, 2001).

Articles
JALUZOT Béatrice, « Méthodologie du droit comparé : bilan et prospective », Revue internationale de droit comparé, vol. 57, no 1, 2005, p. 29-48.
PICARD Etienne, « L'état du droit comparé en France, en 1999 », Revue internationale de droit ICP –Faculté de Sciences sociales d' économie et de Droit comparé, vol. 51, no 4, 1999, pp. 885-915.
PONTHOREAU Marie-Claire, « Droits étrangers et droit comparé : des champs scientifiques autonomes ? », Revue internationale de droit comparé, vol. 67, no 2, 2015, pp. 299-315.
SADURSKI Wojciech, « Constitutional Review in Europe and in the United States: Influences, Paradoxes, and Convergence », Sydney Law School Research Paper, n° 11/15, 2011, 20 p.
ZOLLER Élisabeth, « Qu'est-ce-que faire du droit constitutionnel comparé ? », Droits, n° 32, 2000, pp. 121-134

Audiovisual Materials
CRAWFORD-LACKEY Katie, VERSTEEG Mila, "Comparative Constitutional Law", Consider the Constitution Podcast, S1E22, June 5, 2024, 21 min.
« Dynamique du droit comparé : droit civil et Common Law à l'heure de la mondialisation », Colloque organisé par la Cour de cassation le 29 novembre 2024, vidéo disponible sur YouTube [en ligne] : 1e partie : https://www.youtube.com/watch?v=S5-d6YQ6VI0 ; 2e partie :
https://www.youtube.com/watch?v=6Pdf6d_rOrk