

CABINET D'AVOCATS

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Paris, March 29h, 2011

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UNIVERSITY OF IOWA

College of Law

INTRODUCTION TO FRENCH & EUROPEAN UNION LAW

Professor Michaël Amado
Arcachon, France
Summer 2011

The two unit course will introduce the students both to the laws of France and the development of the law of the European Union, its characteristic features, and the role of its main institutions. This will be followed by an analysis of the European Union laws concerning the free movement of workers, the free movement of goods, competition policy, concerted practices, abuse of a dominant position, the status of trade unions, workers' representation at plant level, collective bargaining, layoffs, and procedures for informing and consulting employees in transnational undertakings.

As part of the course, we will make a visit to the Bordeaux-based Ecole of Magistrature National (ENM), the National Judge School, trial court, and Court of Appeal.

TEXTS

French Law: duplicated course material: "French legal system and French Law", Michaël Amado.
European Law: "European Union Law", by Ralph H. Folsom, Thomson, West Law School, 7th edition, In a Nutshell
"Main E.U. Institutions", Michaël Amado
"How the EU works", European Union, http://ec.europa.eu/publications/booklets/eu_glance/53/2006-en.pdf

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COURSE EVALUATION

There will be an open book final exam distributed at the end of the course. Oral participation in class can also be evaluated.

ASSIGNMENT

The first assignment will be pages 1 to 19 on the duplicated course material: "French legal system and French Law". Subsequent assignments will be given in class. It is highly recommended to read the two books before the beginning of the course.

CONTENT OF THE COURSE (Subject to change)

PRINCIPLES OF FRENCH LAW

1 - SOURCES OF LAW

- 1.1. Written sources of Law:
 - . Constitutional norms,
 - . Treaties and E.U. Law,
 - . The domain of Statutes and the domain of Decrees and regulations
 - . Codification
 - . Custom
- 1.2. Unwritten sources of Law :
 - . Case law ("jurisprudence")
 - . General principles of law
 - . Legal writing ("Doctrine")

2. COURT INSTITUTIONS AND PROCEDURE

- 2.1. Civil Court system
- 2.2. Criminal Court system
- 2.3. Administrative Court system
- 2.4. The right of Appeal - Court of Appeal
- 2.5. The "Cour de Cassation" and the "Conseil d'Etat"
- 2.6. Evidence (civil & criminal law)

3. PEOPLE ADMINISTERING JUSTICE

- 3.1. Professional & non professional Judges
- 3.2. Attorneys ("Avocats")
- 3.3. Other Professions :
 - .. Sheriffs : "Huissiers"
 - . "Notaires"
 - . "Avoués à la Cour"
 - . "Avocats aux Conseils"
 - . Clerks : "Greffiers"
- 3.4. Legal Aid

4. THE LAW OF CONTRACT

- 4.1. The creation & effects of Contracts (between and beyond the parties)
- 4.2. Contractual fault, non performance, excuses and remedies :
 - . Latent defects ("vices du consentement")
 - . Conformity / Compliance with plans/estimate (Non-conformité)
 - . Hidden defects ("vices cachés")
 - . "force majeure"

5. TORT LAW

- 5.1. Liability for Personal Fault (negligence, breach of duty, ...)
- 5.2. Liability for the "Deeds of Things" and special reform for motor vehicle accidents
- 5.3. Liability for another Person's Action
- 5.4. Causation & harm

6. COMMERCIAL LAW

- 6.1. Commercial persons:
 - . Individuals (French, European, Foreigner)
 - . Organizations. Companies. Limited liability
- 6.2. Commercial property:
 - . The components of the "fonds de commerce"
 - . The lease
- 6.3. Businesses in difficulty:
 - . Prevention of insolvency
 - . Insolvency proceedings ("Redressement et liquidation judiciaire")

7. EMPLOYMENT LAW

- 7.1. The special sources of norms:
 - . Norm-making powers of the social partners
 - . Collective bargaining : "Conventions collectives", "Accords collectifs"
 - . Unilateral decisions : "Usages et accords unilatéraux", "Règlement intérieur"
- 7.2. The creation and termination of the Employment relationship:
 - . Contract of employment
 - . Minimum wages and working conditions
 - . Economic and non-economic dismissals
 - . Unfair dismissal. Discrimination & harassment in employment.
- 7.3. Industrial relations:
 - . Trade unionism in France
 - . Rights to collective bargaining & to workplace representation.
 - . "Délégués du personnel"
 - . "Comité d'entreprise", "CHSCT"
- 7.4. Disputes and settlements

8. FAMILY LAW

- 8.1. Marriage, matrimonial property, PACS, cohabitantes
- 8.2. Divorce (grounds & effects)

9. CRIMINAL LAW

- 10.1 Individual responsibility. Actus reus ("Elément matériel"), mental element. Corporations
- 10.2. Categories of offences ("crimes", "délits", "contraventions")

PRINCIPLES OF EUROPEAN UNION LAW

1. The European Community. Institutions:
 - European Parliament
 - Council of the European Union
 - European Council
 - European Commission
 - Court of Justice and other institutions.
2. Sources of Community Law.
3. General principles of Community Law. Judicial Remedies and Review.
4. E.C. and National Law. Preliminary References.
5. Free Movement of Goods (Articles 23, 24, 90 E.C. Treaty).
6. Competition Policy:
 - Concerted Practices.
 - Abuse of a Dominant Position.
7. Capital movements.
8. Free Movement of Workers. (*"A common market in manpower"*).
9. The Freedom of Establishment and the Freedom to Provide Services.
10. Rights of Residence.