



NEWSLETTER

IRJI

FRANÇOIS-RABELAIS

(EA-7496)



No. 1 - June 2018

FOREWORD FROM THE EDITORS

For a long time, law research in Tours was split into three different research centres within the Law Faculty; i.e. the CRDP (Research Centre for Private Law), the GERCIE (Study and Research Group on International and European Cooperation) and the LERAP (Study and Research Group on Public Affairs). Today, however, all the law researchers, be they specialists in private law, public law or the history of law, alongside political scientists and economists from Tours University have been brought together in one research centre: the Institute of Interdisciplinary Law Research, François-Rabelais (Institut de Recherche Juridique Interdisciplinaire François-Rabelais (IRJI François-Rabelais). The IRJI François-Rabelais has been a Research Team (Equipe d'accueil/EA 7496) since 1st January 2018.

The IRJI brings together 64 lecturers-researchers, six associate lecturers-researchers and 58 PhD students, alongside 10 junior researchers (2017-June 2018).

With this first Newsletter, IRJI Directors are pleased to report on the richness and diversity of the research carried out within this institution, and on the joint events organized under its banner.

François FOURMENT & Pierre-Yves MONJAL,
IRJI directors

NEWS

CEDECE annual colloquium
Tours, 14-15 June 2018

The conceptual bases of European Union Law

Pour une théorie générale de l'intégration

* RAPPORT INTRODUCTIF GENERAL : « FONDATION
ET REFONDATION DES ÉTUDES EUROPÉENNES »

* MOMENT RETROSPECTIF : FONDATION(S)

* MOMENT COMPARATISTE : DELIMITATION(S)

* MOMENT PROSPECTIF : REFONDATION.
VERS UNE THEORIE GENERALE DE L'INTEGRATION

* CONCLUSIONS DU COLLOQUE :
ATELIER « JEUNE DOCTRINE ». QUEL VISAGE POUR
LES ÉTUDES EUROPÉENNES DEMAIN ?

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COLLOQUE ANNUEL DE LA CEDECE

Université de Tours, 14-15 juin 2018

Les bases conceptuelles du droit de l'Union européenne

Pour une théorie générale de l'intégration

Sous la direction scientifique de Sébastien ROLAND - Professeur de droit public - Université de Tours



Inscription jusqu'au 5 juin 2018 auprès de veronique.picard@univ-tours.fr

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The IRJI François-Rabelais and its six research areas

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The Institute of Interdisciplinary Law Research, François-Rabelais (IRJI François-Rabelais) organizes and promotes any research in the fields of private law and criminal science, public law, history of law and judicial institutions, political science and economics. It brings together lecturers-researchers, PhD students, junior researchers and researchers on these subjects, from the University of Tours.

The IRJI has six areas of Research:

“Democracy, Freedom and Public Policies”;

“Markets and Business”;

“Norms and Institutions in Europe”;

“Procedures”;

“Liabilities”;

“Territory, Town Planning, Real Estate”.

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Upcoming Colloquia

14-15 June, 2018 2018 CEDECE Conference on “The conceptual foundations of European Union Law”, organized by Sébastien ROLAND (Prof.); Research Focus: Norms and Institutions in Europe.

5 October, 2018 “Appeal Procedures: Cross Perspectives on Civil and Administrative Procedures”, organized by Benjamin DEFOORT (Prof.); Research Focus: Procedures.

18-19 October, 2018 “Administrative Police and Judicial Police”, organized by Benjamin LAVERGNE (Senior Lecturer), Delphine THOMAS-TAILLANDIER (Senior Lecturer); Research Focus: Procedures.

12-14 November, 2018 Bochum Conference: “Re-launching the European Union? Integration, Disintegration, Recomposition - Franco-German Cross Perspectives”, organized by Anne JEANNOT (Associate Prof.); Research Focus: Norms and Institutions in Europe.

15-16 November, 2018 “The New European System for Settling Investment Disputes”, organized by Michel TROCHU (Prof.), Abdelkhaleq BERRAMDANE (Prof.); Research Focus: Norms and Institutions in Europe.

23 November, 2018 “Number and Law”, organized by Hémisphère Droit/Legal Hemisphere PhD Students Association in Law, Tours Law Faculty)

30 November, 2018 “Mediation in different fields of activity (Business; Labor; Health; Construction, etc...)”, organized by Federica OUDIN (Senior Lecturer); Research Focus: Procedures.

25 January, 2019 “Update on medical liability”, organized par Farida ARHAB-GIRARDIN (Associate Prof.); Research Focus: Liabilities.



From 1-4 June 2017, the "History of Law Society", an international scientific body founded over a hundred years ago, celebrated its International Study Days within our walls (also at the "Tanner's Site" of Tours University). Organized by Alexandre DEROCHE and Stéphane MOURÉ, the Study Days were centred on the theme put forward by our Faculty; i.e. "Liability". The event was mainly financed by those taking part - who, in addition to paying for their transport and accommodation, also paid a participation fee - and by the academic institutions and local authorities. The event was a great success. Close to 180 participants listened to 63 speakers from around 10 countries (France, Spain, Italy, Holland, Belgium, Germany, Switzerland, Austria, Portugal, Hungary, Bulgaria). These International Days, organized around 3 parallel forums spread over 4 half-day sessions, presented a variety of high quality scientific perspectives on the history of Liability law (Roman law, Foreign and Comparative laws, Public law, Private law, Criminal law...). In addition to this, thanks to the Association of Young Legal Historians, four PhD students presented the state of their work during a Doctoral Workshop on Saturday morning.

The conference sessions are available on Canal U https://www.canal-u.tv/producteurs/irji/societe_d_histoire_du_droit and a publication of the proceedings is planned with a view to giving participants room to further develop their remarks

In keeping with the tradition of History of Law Society Conferences, the academic programme was accompanied by a rich cultural one. The conference delegates were given a sunset view of Tours from the Town Hall terraces on Thursday evening. They had dinner in the Ceremonial Halls of the Royal Castle of Amboise, whose director kindly agreed to open them up to us. On Saturday afternoon and Sunday, they followed in the footsteps of Saint Martin and Balzac, on a visit to the Marmoutier Monastery site (under the guidance of our archaeologist colleague Elisabeth LORANS), to the Saint-Martin Basilica, on a walk through the streets of Tours and during a visit to the castle of Saché. The weekend ended with a lunch and a walk in the gardens of the castle of Villandry. The International Days Conference of Tours has become a landmark for the History of Law Society and will undoubtedly remain so for all those who took part.



The conference on "What Strategies for Commercial Real Estate?" (December 1st 2017)



On 1 December, 2017, a conference was held in Blois organized by Sabrina LE NORMAND (Senior Lecturer, Orleans) and Fabienne LABELLE (Senior Lecturer, Tours) on the theme "What strategies for commercial real estate?".

The multidisciplinary papers and the round table enabled the Law students of Blois, along with the students from Tours in Master 1 Heritage Law and Master 2 Promotion and Management of Real Estate, to exchange with numerous professionals and lecturers-researchers.

Commercial real estate does not constitute a legal category as such. However, it is part of the company's assets, or those of the company director, and managing it can be problematic, given the specific risks attached to this question. The conference debates highlighted both the constraints and the opportunities involved.

On this occasion, the first New Te@ch project developed by the third-year law students of Blois was presented on the theme "Is it useful to acquire commercial real estate through a simplified limited company (société par actions simplifiée)?"

Looking back (continued)

The conference of the French Association of Administrative Law AFDA (1 December, 2017)

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Journal d'études
de l'Association Française pour la recherche en Droit Administratif
(AFDA)
LE PRÉJUDICE EN DROIT ADMINISTRATIF
Vendredi 1^{er} décembre 2017
Université François-Rabelais de Tours



On 1 December, 2017, the Law Faculty of Tours had the honor of hosting the traditional December study day of the AFDA (French Administrative Law Association). It was perfectly in line with the research topics at the heart of our Research Laboratory - the LERAP-IRJI - since this day was devoted to "personal injury", and allowed many specialists of the law of administrative liability to exchange views in an atmosphere that was as constructive as it was congenial. This study day was co-organized by the President of the AFDA, Professor Benoit PLESSIX, and Professors Nathalie ALBERT and Benjamin DEFOORT. It was designed with the aim of studying recent developments in the notion of damage, from the diversification of reparable damages (environmental damage, collective damage, etc.), to the movement towards convergence with private law on fundamental questions relating to the nature, extent or proof of damage.

This was a fertile moment of research...

The conference of the Nihon-Europa program (26-27th March, 2018)



This international conference was organized by Professor Pierre-Yves MONJAL, director of the Nihon-Europa network <http://nihoneuropa.univ-tours.fr/> and co-director of the IRJI François-Rabelais. Sixteen speakers, including nine Japanese colleagues, addressed several comparative law issues of interest to Japan and certain States of the European Union (Germany, France...). Above all, there was discussion on the important economic partnership agreement concluded between the European Union and Japan on December 8th 2017. During the conference, this agreement was the subject of some very comprehensive and technical presentations facilitating greater understanding of its content and scope.

The Japanese Ambassador to France, Mr Masato KITERA (a graduate of the Law Faculty at Tokyo University and an alumnus of the French National School of Administration), sent us a message which was read out, in which he congratulated the organizers of the conference and insisted on the strategic importance of the partnership between our Law Faculty in Tours and the Japanese Universities which belong to the Nihon-Europa network.



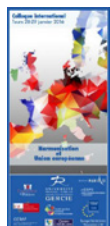
We also had the honour of welcoming the Japanese Ambassador to the European Union, Mr Takanori UEHARA, who joined us for Monday evening and part of Tuesday. In his speech, he also emphasized this academic cooperation, which in his view is decisive and valuable, and indicated how the agreement between the European Union and Japan is decisive for the future.



The conference ended with the scheduling of another conference for October 2020 that will address the issue of the environment and sustainable development within the framework of the EU-Japan Agreement.

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All these videos were produced by the MSH digital workshop.



"Harmonization and the European Union", International Conference, 28-29 January, 2016

https://www.canal-u.tv/producteurs/irji/harmonisation_et_union_europeenne



"Cross perspectives on Franco-Japanese legal research", First Franco-Japanese meetings of the Nihon-Europa program, 4-5 October, 2016

https://www.canal-u.tv/producteurs/irji/nihon_europa/nihon_europa_4_et_5_octobre_2016



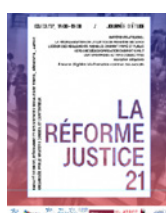
Conference on "Neutrality", organized by the 2014 class of the Public Law Agrégation, 13-14 October, 2016

https://www.canal-u.tv/producteurs/irji/la_neutralite



"Law on Polluted Sites and Soil - Assessment and Prospects", 24-25 November, 2016

https://www.canal-u.tv/producteurs/irji/droit_des



"The Justice21 Reform", 3 March, 2017

https://www.canal-u.tv/producteurs/irji/justice_21



"Civil liability and other disciplines of Private Law", 17 March, 2017

https://www.canal-u.tv/producteurs/irji/la_responsabilite_civile_et_les_autres_disciplines_du_droit_privé



"Liability", International Days of the History of Law Society, 1-4 June, 2017

https://www.canal-u.tv/producteurs/irji/societe_d_histoire_du_droit

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All these videos were produced by the MSH digital workshop.



"Personal Injury in administrative law", Study Day of the French Association for Research in Administrative Law (AFDA), 1 December, 2017
https://www.canal-u.tv/producteurs/irji/le_prejudice_en_droit_administratif



"The civil liability of legal professionals - Current issues", 8 December, 2017
https://www.canal-u.tv/producteurs/irji/la_responsabilite_civile_des_professionnels_du_droit_questions_d_actualite



"Compulsory vaccinations - Between collective obligation and individual freedom", 25 January, 2018
https://www.canal-u.tv/producteurs/irji/vaccinations_obligatoires_entre_devoir_collectif_et_liberte_individuelle



"Intergenerational Cohabitation as a Mode of Family Solidarity", 2 February, 2018
https://www.canal-u.tv/recherche/?q=cohabitation+interg%C3%A9n%C3%A9rationnelle&submitProgramSearch=Ok&simpleform_submitted=searchbar-form&fromSimpleForm=1



"The moralization of public life", 22 March, 2018
https://www.canal-u.tv/producteurs/irji/la_moralisation_de_la_vie_publique



"European Union and Japan: Cross Perspectives on our Mutual Influences and Common Interests", 26-27 March, 2018
https://www.canal-u.tv/producteurs/irji/nihon_europa/union_europeenne_et_japon_regards_croises_sur_nos_influences_reciproques_et_interets_communs



"CIFRE, come on, you can't say that! Or at least not that much! The CIFRE set up: definitions, instructions for use and challenges", 29 March, 2018
<https://www.canal-u.tv/producteurs/irji/cifre>

Visiting Professors, Post-Doctoral and PHD students

Coming soon

2018-2019

Tadashi SHIRAIISHI (Professor at the Imperial University of Tokyo, Japan)

<http://shiraishitadashi.jp/english/index-e.html>

Lin XU (Professor at Hunan University, China)

Looking back

Mid-March/Mid-April 2018

Manoel JORGE E SILVA NETO (Professor at the University of Salvador de Bahia, Brazil)

September 2017-June 2018

Maria Zenaide BRITO et Fábio Leite BRITO (Brazilian PhD students at the University of Coimbra, Portugal)

September 2017-February 2019

Gulsah KURT (Turkish post-doctoral researcher)

January-May 2018

Masako TAGASAKI (PhD student at Chuo University, Japan)

January-May 2018

Neftali Efraim Herbert MILANDOU (PhD student at the Università degli studi Roma Tre)

International Quality Bonus (BQI)

Our International Research Database (LaBRI: <http://labri.univ-tours.fr/>) has received data from almost all of the University's research units.

So, the data provided is a valuable source of information and, along with the short assessment and prospective reports requested from each research unit, is an encouragement to adopt an international outlook.

On the basis of the 2017 actions identified by LaBRI, the Research Commission has awarded International Quality Bonuses, following the same procedures as the previous year. This is not an overall evaluation of the research unit, but rather an examination of a limited number of well-identified actions, reflecting the unit's activity and its international influence.

The IRJI grant amounts to a maximum of 6,879 euros. The dossier was prepared by Anne JEANNOT and Colombine MADELAINE.

Current Research Programs

Chair of Excellence Jean Monnet

Chairholder: Professor Pierre-Yves MONJAL 2015-2018

CHAMBORD (Touristic Promotion of heritage and landscape)

Funding: Central Region, APR 2014-2019

Responsible for the IRJI: Véronique TELLIER-CAYROL. Project leader: Professor Stéphane ONNÉE (Vallorem Laboratory). Partners : University of Orleans (CRJ Pothier, Pollen, Fédération Gaston Berger), + CESR of Tours.

MUT-MONDIALIZATION (Future of Globalization)

Funding: Central Region, APR 2015-2019

IRJI person in charge: Professor Pierre-Yves MONJAL. LEO d'Orléans (Professor Daniel MIRZA - Supporting laboratory).

SEPage (Strategies for the transmission of Farms and Professional Practices in Viticulture)

Funding: Central Region, APR 2016- 2020

IRJI person in charge: Professor Abdelkhaleq BERRAMDANE, Professor Alexandre DEROCHÉ and Fabienne LABELLE. Coordinator: Françoise SITNIKOFF.

VITI-TERROIR (Simulation of the spatial dynamics of the Loire wine-growing areas)

Funding: Central Region, RPA 2013- 2019

IRJI person in charge: Professor Abdelkhaleq BERRAMDANE. Project leader: Samuel LETURCQ.

WATER-PONDI (Water Risk Assessment in Pondichéry)

Funding: Central Region, APR 2017-2022

IRJI person in charge: Christine FAUVELLE-AYMAR. Project leader: University of Tours GEHCO. Partners: LEO, CITERES and BRGM Orléans.



* On 11 December, 2017, **Marion TRAVERS** defended her thesis on **"Self-harm in Public law"** (Supervisor: Professor Nathalie ALBERT).

Jury:

Nathalie ALBERT, Professor, University of Tours François-Rabelais

Florent BLANCO, Professor, University of Orléans

Marguerite CANEDO-PARIS, Professor, University of Poitiers (Reporting Examiner)

Jean-Manuel LARRALDE, Professor, University of Caen Basse-Normandie (Reporting Examiner)

Diane ROMAN, Professor, Université de Tours François-Rabelais

Summary: Self-harm has long been a subject outside the law, synonymous with moral stigmatization or fatality. Since the end of the 20th century, it has been an essential issue of public policy and is still today the subject of ethical and legal debate. On the one hand, the desire to cause harm to oneself expresses the wish of contemporary man to gain control over his body, be it the question of choosing the time and conditions of his death, of practicing acts of masochism or of donating his organs. On the other hand, risking self-harm very often highlights a strong opposition of the State and of society in general, because of the potential impact on social values and budgetary balances. As a growing source of concern, the manifestations and limits of self-harm need to be studied within their historical, social and legal contexts.

Keywords: harm - personal autonomy - personal freedom - freedom of self-determination - right - paternalism - responsibility - accountability- self-protection - human dignity - risk-taking - social values - legal order - public order - police

* On 8 December, 2017, **Pauline PARINET** defended her thesis on **"The shortcomings of the administration"** (Supervisor: Professor Nathalie ALBERT).

Jury:

Nathalie ALBERT, Professor of Public Law, University François-Rabelais of Tours

Hafida BELRHALLI, Professor of Public Law, University Grenoble Alpes (Reporting Examiner)

Bénédicte DELAUNAY, Emeritus Professor of Public Law, University François-Rabelais of Tours

Benoît DELAUNAY, Professor of Public Law, University Panthéon-Assas (Paris II) (Reporting Examiner)

Charles-André DUBREUIL, Professor of Public Law, University Clermont Auvergne (President of the Jury)

Summary: The shortcomings of the administration are both evocative and ambiguous. Evocative for the individual person because they recall painful memories encountered by each of us in dealings with administrative officials. Ambiguous, however, for jurists, because the word shortcomings immediately conjures up various other terms that are close to it, such as inertia or abstention. These shortcomings must, nevertheless, be distinguished from other terms and can be defined as the result of certain inactions which should not have taken place. So, the recognition of administrative shortcomings fulfils a function which is to draw attention to an unacceptable, passive behaviour. It reveals both an insufficient use of the means at the administration's disposal to carry out its tasks, as well as being an offensive example of administrative inaction. The abnormal nature of such inaction highlighted by this recognition calls for a reaction from the legal system, so that such shortcomings cannot escape sanction, be it jurisdictional or not.

Keywords: failure - administration - inaction - abstention - omission - shortcoming - default - deficiency - means - delay - obligation - duty - diligence - effectiveness - implied decision - remedy for failure to act - Ombudsman - injunction - penalty - referred - substitution of action - leave to plead - liability.

* On 21 November, 2017, **Camille GIRAUD** defended her thesis on **"Luck in Administrative Law"** (Supervisor: Professor Nathalie ALBERT)

Jury:

Nathalie ALBERT, Professor of Public Law, University François-Rabelais of Tours
Sabine BOUSSARD, Professor of Public Law, University of Paris Ouest Nanterre La Défense (Reporter Examiner)
François BRUNET, Professor of Public Law, University of Tours François-Rabelais
Maryse DEGUERGUE, Professor of Public Law, University Panthéon Sorbonne (Paris 1) (President of the Jury)
M. Jean-Marie PONTIER, Professor Emeritus of Public Law, University of Aix-Marseille (Reporter Examiner)

Summary: "Luck" is a heterogeneous notion in administrative law. Indeed, it can be interpreted in several different ways such as chance, probability or risk, each of which can have different practical applications as well as, unsurprisingly, different consequences. However, this lexical diversity does not mean luck is invisible, given that the emergence and reactions of luck can be systematized by those who oversee the daily functioning of the administration and its relations with its citizens. For the administrative judge and the legislator, probabilities are always an illustration of the fact that luck can be a useful tool in establishing judicial truth in a situation of uncertainty. For the administrative judge and the legislator, chance and risk systematically refer to the occurrence of unforeseeable events or phenomena that must be avoided. There is therefore a "good" form of luck that they use, and a "bad" form of luck that they reject. Despite all the subtleties deployed by luck in administrative law, it nevertheless reveals itself as a notion whose unity appears at the stage of the study of the function common to all its appearances. While probabilities help the administrative judge to determine more precisely the amount of compensation for a loss of health chances and to increase the reparable damages, chance and risk are rejected by the administrative judge and the legislator in such a way that their repercussions on the individuals concerned are compensated by an indemnity. Luck is therefore a functional concept and it is likely it will be increasingly used to improve the compensation provided to citizens, both from a qualitative and quantitative point of view.

Keywords: luck, chance, hazard, probabilities, risk, uncertainty, certainty, unpredictability, irresistibility, equality, administrative liability, assistance, foresight, prevention, precaution, quality of compensation, loss of chance, proportionate compensation, quantity of compensation, extension of administrative liability.

* On 20 October, 2017, **Adrien PESNEAU** defended his thesis on **"The security agent in the context of financing considered in English and French law: a comparative approach"** (Supervisor: Professor Bénédicte FRANÇOIS)

Jury:

François BARRIÈRE, Professor of Private Law, Université Lumière Lyon 2 (Reporter Examiner)
Philippe DUPICHOT, Professor of Private Law, University Panthéon-Sorbonne (Paris 1) (Reporter Examiner)
Bénédicte FRANÇOIS, Professor of Private Law, University of Paris Est-Créteil
Dominique LEGEMS, Professor of Private Law, University of Paris V Descartes
Hadi SLIM, Professor of Private Law, University of Tours, François-Rabelais

Summary: Credit is essential for a well-functioning economy. It takes various forms (crowdfunding, bond issues, etc.). One of the most widespread is a bank credit, and when this credit is provided by at least two financial institutions, it is a "syndicated credit" that refers to some form of collective organization. It is in this situation that a "credit officer" administers the credit. Depending on the law of the land, it may be an "agent" (English law) or a "representative" (French law). Moreover, as this type of financing is generally provided with securities and guarantees, it is common for a "security agent" to be involved. The latter acts as a true "custodian" of the securities and guarantees enjoyed by the financial parties and as a warranty for the proper performance of the borrowers' obligations under the financing documents. His role is therefore crucial. A little more than ten years after the promulgation of Act 2007-211 of 19 February 2007, which brought the security agent into the Civil Code, the Order 2017-748 of 4 May 2017 finally provides French law with an effective security agent. Prior to this reform, the solutions offered by French law, in particular by Article 2328-I of the Civil Code, remained insufficient with regard to users' expectations (absence of fiduciary assets, need for a mandate ad litem for legal actions, etc.). In the context of international syndicated credit transactions, French law security agents often came up against the efficiency of English law security trustees, highly prized by users. Since 1 October 2017 (the date of entry into force of the above-mentioned Order), the French law security agent has changed from the status of agent - generally retained in practice - to that of special trustee. Some say that he has even become the equivalent of the English law security agent, the preferred system in most international syndicated credit transactions. As the new French security agent scheme is very recent, it is still difficult to judge its success. Nevertheless, the special trust security agent system seems robust and has received only minor editorial remarks. Studying the security agent in English law and French law leads us to broader considerations of the differences and similarities that exist between common law and civil law legal systems to which these two rights belong and, in particular, to the concepts of representation and trust. Moreover, the subject of the security agent cannot be properly addressed without considering the contractual practice that gave rise to it. This is the reason why the study of the concept of security agent and its regime, in both English and French law, has been guided by a strong practical angle.

Keywords: security agent, mandate, representative, trust, special trust, trustee, special trustee, syndicated loan, securities, guarantees, financing.

* On 30 June, 2017, **Mariele GANSOU** Mariele GANSOU defended her thesis on **"Financing by the market: an essay on OHADA law in the light of French law"** (Supervisor: Professor Bénédicte FRANÇOIS).

Jury:

Bénédicte FRANÇOIS, Professor, University Paris Est-Créteil

Anne-Catherine MULLER, Professor, University Panthéon-Sorbonne (Paris 1) (Reporting Examiner)

Alain COURET, Professor, Panthéon-Sorbonne University (Paris 1)

Jacques MOURY, Professor, University of Reims - Champagne - Ardennes

Dorothee Cossi SOSSA, Full Professor of Universities, Honorary Dean of the Faculty of Law of University of Abomey Calavi (Benin), Permanent Secretary of IO-IADA (Reporting Examiner)

François-Xavier TESTU, Professor, University of Tours François-Rabelais.

Summary: Within the comparative context of rules in force in France and in Africa, the purpose of this thesis is to study the law applicable to stock market financing within the OHADA space. In this respect, the Organization for the Harmonization of African Business Law (OHADA) provides us, more than we could have imagined, with new conceptual legal markers. In light of the legal systems that influenced its creation, OHADA has shown that, contrary to a static vision of the law in sub-Saharan Africa, the financial markets have been functioning consistently on a new legal basis since their inception and one which is dedicated to promoting the attractiveness and development of local businesses. The three stock exchanges (BRVM, Douala Stock Exchange, BVMAC) have closely followed the model of international market infrastructures. Moreover, ipso jure, the law is economically objective due to regulatory authorities and operators whose purpose is to supervise the stock exchanges, but also, more recently, the advent of many financial products. Within the space of twenty years or so, African law in the OHADA area, has brought African company law into line with international standards, which is not limited to French law or to Africa and which makes it possible for it to become a tool for globalized trade, with its advantages and disadvantages. The legal parameters that have affected OHADA since its creation are therefore much more varied than the mere mention of French law. Like crowdfunding, OHADA also seems to have the capacity to handle new forms of financing, for both small and large issuers in formal and informal financial brokerage. Similarly, OHADA's deserved success in its reactions to regulatory and codification issues that could inspire French law are also highlighted. We maintain that there is no form of exotic or purely aesthetic system of law here but, quite simply, there is law. No need to look either for the philosopher's stone. Although OHADA is not omnipotent, as our rough sketches indicate, it can be likened to a compass that shows the way forward. In order to complete the normative edifice, and without necessarily passing new legislation on financial markets, OHADA, in consultation with the financial regulatory authorities and central banks, could, by other means, increase legal and judicial security, which are, it will be recalled, in its genes, while at the same time helping the development of the African continent.

Keywords: Stock Exchange, Financing, Market, Governance, Securities, Financial Instruments, Participatory Financing, Market Abuse, OHADA, MIFID, Prospectus, IPO, Public Offering of Financial Securities, PRIIPS, Regulation, Small and Medium Sized Enterprises (SMEs).

* On 29 June, 2017, **Amna EL JADIE AMNA** defended her thesis on **"Nuclear Energy and Public International Law"** (Supervisor: Isabelle HANNEQUART).

Jury:

Abdelkhaleq BERRAMDANE, Professor, François-Rabelais University of Tours

Abdehvahab BIAD, Associate Professor, University of Rouen (Reporting Examiner)

Isabelle HANNEQUART, Associate Professor, University of Tours François-Rabelais

Anne MILLET-DEVALLE, Associate Professor, University of Nice Sophia Antipolis (Reporting Examiner)

Maki NISHIUMI, Professor at Chuo University in Tokyo (Japan)

Jean ROSSETTO, Professor Emeritus, University of Tours François-Rabelais

Summary: All States without exception, have the inalienable right to develop civil uses of nuclear energy, provided that such peaceful uses are not diverted to nuclear weapons. However, five countries are granted the right to possess such weapons: the United States, France, Russia, China and the United Kingdom. This situation has given rise to a lively legal and ethical debate. For its opponents, nuclear power represents a lasting risk that cannot be controlled by science. Major nuclear accidents, radioactive waste and the diversion of nuclear energy for military purposes are unmanageable risks of exceptional gravity. On the other hand, the defenders of this energy present it as safe, or even as part of sustainable development. In their view, nuclear power is a reliable means of combating global warming and a solution to the energy shortage facing the world. By examining and analysing the reliability and credibility of all the arguments against and in favour of this industry, it is clear that the legality and legitimacy of the use of nuclear energy is ill-founded. Therefore, we believe that it is necessary to move beyond nuclear power through the conclusion of an international convention on the gradual but complete ban of nuclear power.

Keywords: Keywords: Nuclear energy, lawfulness, legitimacy, international peace and security, civil and military uses of nuclear energy, proliferation and non-proliferation of nuclear weapons, diversion of nuclear energy, major nuclear accident, radioactive waste, risk management, nuclear safety, international liability, International Atomic Energy Agency IAEA, Treaty on the Non-Proliferation of Nuclear Weapons NPT, right of self-defence, human rights, humanitarian law, international environmental law, rights of future generations, sustainable development, crime against humanity, renewable energies, nuclear secrecy, total nuclear ban convention.

* On 23 June, 2017, **Anne RIVIERE** defended her thesis on **"The Regulation of Hedge Fund Managers under European and US Law: Issues and Perspectives. A comparative study of the legal regimes stemming from the AIFM Directive and the Dodd Franck Act"** (Supervisor: Professor Bénédicte FRANÇOIS).

Jury:

Bénédicte FRANÇOIS, Professor, Université Paris Est - Créteil
France DRUMMOND, Professor, Panthéon-Assas University (Paris II)
Isabelle RIASSETTO, Professor, University of Luxembourg, Luxembourg (Reporting Examiner)
Filippo ANNUNZIATA, Professor, Università Luigi Bocconi, Milan, Italy (Reporting Examiner)
Main PIETRANCOSTA, Professor, University Panthéon-Sorbonne (Paris I)
Hadi SLIM, Professeur, University of Tours François-Rabelais

Summary: Several trillion dollars in assets under management; this is how much the hedge funds industry weighs in the financial system. Although they are essential market players, hedge funds are relatively unknown creatures. They are principally used by professional or qualified investors and have long taken advantage of exemptions and escaped excessive regulatory constraints. The financial crisis of 2008 changed this and gave rise, in Europe and the United States, to a common desire to monitor more closely these structures, by means of their managers. Our study provides a comparative analysis of the provisions introduced in this area by the AIFM Directive and the Dodd Frank Act. After shedding some light on this shadowy industry, it examines the contributions of the two texts, firstly by comparing them before highlighting their strengths and weaknesses. The trauma of the crisis has brought to the fore a twofold imperative: to better protect investors and to prevent systemic risk. It is in the light of these two objectives that the second part focuses on the merits of the reforms, their real scope and their limits. This overview of the regulation applicable to hedge fund managers is also designed to engage in wider considerations on financial regulation in terms of its aims, its limits and its challenges. We conclude with a roadmap for an Act II of the AIFM Directive and make several proposals, in particular a total ban on marketing to retail investors and the creation of a global systemic risk database.

Keywords: Hedge fund, AIF manager, AIFM, Dodd Frank Act, financial regulation, private fund adviser, systemic risk, investor protection, harmonisation, convergence, financial crisis, leverage, authorisation, European passport, depositary, compliance, reporting, supervision, database, SEC, ESMA, France, Italy, USA.

* On 14 June, 2017, **Aleksandr VOLKOV** defended his thesis on **"The Legal Regime of Gas Relations between Russia, the European Union and the European Union Member States"** (Supervisor: Professor Hadi SLIM)

Jury:

Monsieur Pascal LEHUEDE, Associate Professor, University of Angers (Reporting Examiner)
Monsieur François LEVEQUE, Professor, Mines-ParisTech
Madame Anne-Marie LUCIANI, Professor, University of Picardy-Jules Verne (Reporting Examiner)
Monsieur Jean ROSSETTO, Professor Emeritus at the University of Tours François-Rabelais
Monsieur Hadi SLIM, Professor, University of Tours François-Rabelais

Summary: In the current agreements on gas between Russia and the EU, two groups of relationships can be distinguished. The first, dominant one deals with gas purchase and sale operations & includes traditional contractual relations between Gazprom and companies from EU countries. This type of relationship is based on long-term contracts. The second group of relationships refers to direct market activities, in other words to Gazprom's participation in the markets of transmission, distribution, marketing and supply in EU countries and to the participation of European companies in gas production and transportation in Russia. The regulation of these relations is carried out on two levels. The first is the level of agreements between the governments of the various states. The second is represented by the national legislation of the countries of the EU and the agreements between the companies adopted under this legislation. The analysis of the law applicable to relations on Russian gas supply has revealed the impotence of international energy law, as well as the inadequacies of Russian local law and EU law. The only model for relations between Russia, the EU and its member countries is based on long-term contracts but, given European reforms, it is also being called into question. The overall solution to all these problems could be the provision of guarantees in support of the first group of relations between the EU and Russia alongside development of the second type of relations. The basis for the regulation of these relations could be laid down in the new International Agreement between Russia and the EU, which will contain standards on the principles of cooperation, investment, competition and provisions on institutions and bodies. Natural gas relations between Russia and the EU require not only the further development of regulation at the international level, but also at the national level.

* On 5 April, 2017, **Juliette BRUNIE** defended her thesis on **"The Symbolic Sentence"** (Supervisor: Professor Fabrice LEDUC)

Jury:

Philippe BRUN, Professor, Advocate General in extraordinary service at the Court of Cassation (Reporting Examiner)

Suzanne CARVAL, Professor, University of Rouen Normandy (Reporting Examiner)

Fabrice LEDUC, Professor, University of Tours François-Rabelais

Denis MAZEAUD, Professor, Panthéon-Assas University (Paris II)

Olivia SABARD, Professor, University of Tours François-Rabelais

Summary: Despite an explicit reference to symbolic sentences by the legislator, this notion remains unknown in French law. It can be defined as a decision rendered by an authority having the power of jurisdiction, pronouncing, with respect to an individual or an act, a moral sanction without real material consequences expressing recognition of the violation of a right or of the law attributed to this individual or this act. In French law, symbolic sentences exist, albeit in a diffuse manner, as in Civil law, administrative law and criminal law. While symbolic damages are the most obvious illustration of this, they are not the only one. Cancellations in the interest of the law, legal and judicial exemptions from punishment, reprimands...are also symbolic sentences. A study of all these examples has shown that not all symbolic sentences are guided by the same reasoning. While some can be described as normative, others are based on recognition or mitigation.

Keywords: Symbolic condemnation - Violation of rights - Sanction - Acknowledgement of the violation.

*On 18 March, 2017, **Mehdi KEBIR** defended his thesis on "The judge's free will" (Supervisor: Professor Nicolas CAYROL). He was qualified by section 01 of the CNU (March 2018).

Jury:

Georges BOLARD, Professor Emeritus, University of Burgundy

Nicolas CAYROL, Professor, University of Tours François-Rabelais

Cécile CHAINAIS, Professor, Panthéon-Assas University (Paris II) (Reporting Examiner)

Christian CHARRUAULT, Judge, President of Chamber at the Court of Cassation

Christophe JAMIN, Professor, Director of Sciences Po Law School (Reporting Examiner)

Summary: The free will of the judge is an ambivalent expression. It is understood as the power the judge has to impose his or her choices in the resolution of the dispute before the Court. On the one hand, it gives rise to a feeling of rejection because it revives a longstanding fear of "government by judges", inherited from Parliaments of the Ancient Regime. On the other hand, no one believes that the judge's implementation of the law is a purely mechanical act leaving no room for his or her will. The consequence of this contradictory understanding of the judge's free will is a problem relating to the value that should be accorded to it. Free will has its advantages in that it is a component of the art of judging which is exercised in the way facts are understood and in the way the law is applied. But the judge's free will also has a darker side as it may drift into arbitrariness. The arbitrary nature of some judgements has given rise to struggles against this threat but none have succeeded in eliminating it. Free will is thus at the heart of a delicate balancing act which reflects the deep complexity of the issue.





"Competition between judges in Europe: the dialogue of judges in question(s): Proceedings of the international conference in Tours, 25-27 November 2015",

Eds. Pierre-Yves MONJAL, Pascal JAN, Christophe GESLOT

Publisher: Clément Juglar

Collection: Proceedings of the European Union Law Review

ISBN: 978-2-908735-28-4

Release date: 06/2018

Summary: For several decades, the dialogue of judges has been the term used by jurists to understand and enable understanding of inter-jurisdictional and inter-systemic relationships, both at national and European level. Several studies have been produced on this topic, including recent ones. The question of competition between judges is an attempt to mobilise jurists by going beyond or at least reorienting this reading of inter-jurisdictional relations. The concept of competition, no doubt more exploitable in a normative & positive sense than that of dialogue, is also a reminder that the courts are instituted powers. [...]



Law of polluted sites and soils.

Balance sheets and outlook,

Eds. Fabienne LABELLE and Damien THIERRY

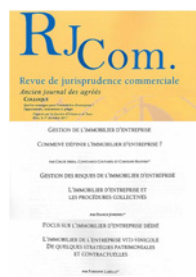
Publisher: L'Harmattan

Collection: Law Today

ISBN: 978-2-343-14490-0

Release date: 05/2018

Summary: There is one observation on which there is little disagreement; soil is our heritage - an essential heritage, both common and private - and this heritage is threatened by pollution. The legal issues raised by polluted sites and soils are innumerable. What are the definitions? What administrative regulations and contractual frameworks exist? Who is accountable and what reparations are there? What kinds of prevention are there? Finding answers to these questions involves grappling with ambivalence, hesitations and the evolution of environmental law. [...]



"Conference - What strategy for commercial real estate? Opportunities, constraints and pitfalls",

Eds. Fabienne LABELLE and Franck JUREDIEU

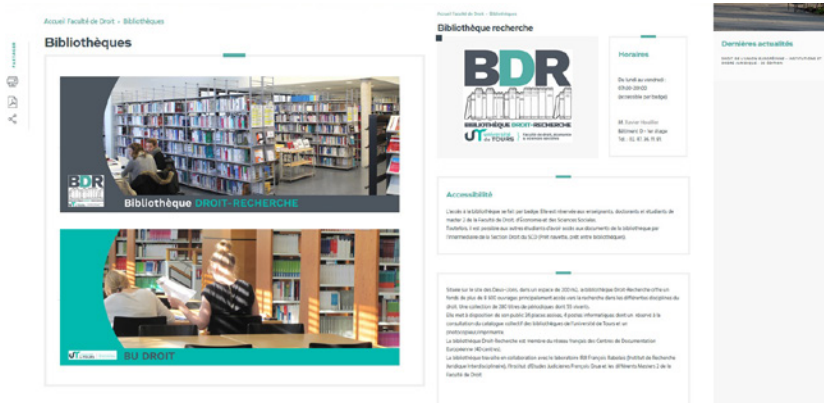
RJCom. March-April 2018 – n° 2

Publisher: Thomson Transactive

Summary: At a time of dematerialization of exchanges and telework, it may seem strange to devote a conference to company real estate, the concrete showcase of economic activity. There is little doubt that contemporary commercial real estate is rarely valued architecturally. Its usefulness is often characterized by its location and functionality. It is precisely when it becomes critical to the development of an economic activity that it represents an essential value for the company. So, commercial real estate is at the heart of legal and fiscal strategies. Without constituting a legal category as such, it represents an asset and managing it can be problematic. Moreover, it is exposed to specific risks. [...]

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