



NEWSLETTER

IRJI

FRANÇOIS-RABELAIS

(EA-7496)



No. 2 - June 2019

LA FORMATION DES RÉGIMES AUTORITAIRES : ANALYSE COMPARÉE DE RÉCENTS DÉVELOPPEMENTS EUROPÉENS

Sous la direction de
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FACULTÉ DE DROIT, ÉCONOMIE & SCIENCES SOCIALES DE TOURS
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1er février 2019
COLLOQUE



Inscription jusqu'au 25 janvier 2019 auprès de irji.secretariat@univ-tours.fr
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RESPONSABILITÉ MÉDICALE ET INDEMNISATION DES ACCIDENTS MÉDICAUX. BILAN ET PERSPECTIVES

COLLOQUE
VENDREDI 15 MARS 2019



Sous la direction de
Farida ARHAB-GIRARDIN, Maître de Conférences HDR en droit privé à l'Université de Tours

FACULTÉ DE DROIT, ÉCONOMIE & SCIENCES SOCIALES DE TOURS
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Inscription jusqu'au 8 mars sur <https://framadata.org/colloque15mars2019>



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IN THE HEADLINES

NEWS

GENERAL ASSEMBLY OF IRJI FRANÇOIS-RABELAIS

12 September, 2019 - 5:00 p.m. - Faculty Council Hall

CONVENTIONS

Signing of a convention for the diffusion of the IRJI François-Rabelais colloquiums on the France Culture website in partnership with Canal U France.



Signing of « Research and Mobility » agreements with the Universities of Chuo, Hiroshima, Kobe and Aoyama Gakuin.



This new IRJI François-Rabelais newsletter offers an opportunity to review our research group activities over a full academic year. This assessment is positive and satisfactory for several reasons. First of all, fifteen colloquia have been held during this year, some of which had an international dimension. Secondly, in budgetary terms, all credits allowed last year were used up in time, and the University has renewed the same endowment for 2019, i.e. €64,559. Still on finances, the international activity of the IRJI François-Rabelais has enabled it to obtain €8,666 under the BQI (International Quality Bonus) making the IRJI François-Rabelais, in the field of international activity, the 5th best research group out of the thirty-six units that make up the University of Tours and the first in the humanities. In addition, three calls for projects were obtained by our colleagues.

In addition, €24,000 were obtained over three years within the framework of a CIFRE convention, concluded with the BNP Bank. Furthermore, as the University requires a major effort in terms of communication, the IRJI François-Rabelais' website will soon be available for consultation. Furthermore, as the University requires a major effort in terms of communication, the IRJI François-Rabelais' website will soon be available for consultation. Moreover, many of the events were captured on video and have been edited by the audiovisual department of the Faculty. They are broadcast on different channels, not only Canal-U, but also soon on the IRJI François-Rabelais' YouTube channel, which will provide greater visibility in terms of consultation figures.

So, for example, having tested Facebook Live with a screening of the jurist, Maître Ayano Kanézuka's lecture on the Ghosn case (600 viewers), the IRJI François-Rabelais has over 3,800 views of this conference. The IRJI François-Rabelais has also got Facebook and Twitter accounts.

Finally, we are delighted by the increasing interest shown by legal practitioners in our services and who are participating and attending our events in larger numbers. Readers of this newsletter will find the "usual" headings or those, at least, which are likely to become "usual" in the following pages.

François FOURMENT & Pierre-Yves MONJAL,
Co-Directors of IRJI François-Rabelais

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Legal Notice:

In charge of edition: MM. Pierre-Yves Monjal and François Fourment, co-directors of IRJI François-Rabelais (EA 7496)

Website host : University of Tours

Writing : Véronique Picard (Research engineer)

Composition : Xavier Houiller (Documentary Information and Heritage Collections Technician)

Printing : PICSEL, central printing house of the University of Tours

The IRJI François-Rabelais and its 6 research areas ■ ■ ■ ■

The Institute of Interdisciplinary Law Research, François-Rabelais (IRJI François-Rabelais) organizes and promotes 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 lecturer-researchers, PhD students, junior researchers and researchers on these subjects, from the University of Tours.

IRJI members work by research focus, adopted at the meeting of 4 November 2015,

- Democracies, Freedoms, Public Policies

This research group brings together specialists from the main branches of law - domestic, international, European - and political science, to analyse contemporary transformations of democratic institutions, practices and citizenship from a dual, complementary and interdisciplinary, perspective. Research is carried out over a wide range of subjects and fields, with the aim of contributing to the critical analysis of current changes in power and law, and, in particular, to determine the state of democratic imperatives and the protection of individual rights.

First of all, this raises issues around the redefinition of citizenship not only in contexts of crisis, of social movements or revolutions, but also in terms of traditional political categories - citizenship, power, norms, the State - as a result of globalization and social, economic or political dynamics beyond State borders. These dynamics in turn produce retreats into identity, such as the resurgence of nationalism, which this research group also studies, relying in particular, on exchanges between lawyers and politicians.

More generally, the goal is also to analyse changes in power relationships and fundamental rights, in particular by examining the strengths and limitations of the law within the framework of various public policies, such as those related to equality and non-discrimination, the fight against social exclusion or vulnerability, access to health care and health protection. This applies not only to issues relating to the status of social rights in the context of welfare state crisis, but also to the question of gender in the field of law and public policies. Within this perspective, particular attention is given to the transformation of the State, be it in terms of exploring reforms to State intervention, by means of participation and citizen information, or by highlighting tensions within public policies, as illustrated by contemporary debates on secularism, integration and social cohesion. Researchers working in this area combine analysis of specific questions with those of a more theoretical nature and, where appropriate, with comparative studies. To varying degrees, the theoretical dimension irrigates all research in this research group. In particular, the aim will be to develop an in-depth analysis of democracy and citizenship, by focusing on institutions, law, social and cultural norms, but also on the actors and different modes of action in contemporary societies, including the press, the "watchdog" of democracy.

- Markets and Business

Broadly speaking, a market can be understood as a space without internal borders. Once its existence has been established and its influence defined, attention is focused on the types of exchange that it accepts (commercial, financial, national, European, international), their instruments and their regulation. This leads to an interest in everything that circulates freely: goods, services, capital, but also people (employees or ordinary citizens). It also invites study into the companies, which are its actors, into competition law (internal, European, international) and distribution, into companies in difficulty, contracts, public procurement, labour, etc. The globalization of law and the economy, and the economic and financial crisis, calls for a rethink, not only of economic and legal relationships between business and markets, but also of the impact of this development on law and the institutions of national, private, public, European and international law. This research area, therefore, opens up perspectives for legal, economic, sociological and historical work of a transversal and multidisciplinary nature.

This research group is an extension of several Masters degrees: Master's in business law (MAJE), international business law, European law, as well as, in part, the Masters in counselling and litigation (counselling in private and public business law, economic litigation).

- Norms and Institutions in Europe

The aim of this research area is to focus on issues relevant to relationships between European and national standards and systems. The normative production of the conventional order (ECHR and Council of Europe) and of the integrated order (European Union) leads to incessant adaptations of legal categories and case law, which requires lawyers to closely monitor these developments. Both the standards in the broad sense and their lawmakers (ECHR/Union/States), i.e. the European institutions, are at the heart of this activity, which invites analysis into all aspects of these changes, particularly those affecting domestic law. Clearly, the institutional, political and economic issues involved in this vast movement reshaping the legal orders are tied to this theme, since the interactions involved are not exclusively normative. The institutional and political dynamics within Europe, be it the Union or the Council of Europe, require specific expertise on the part of researchers. Finally, since Europe cannot be isolated from the vast process of globalization of law(s), the international dimension of our research demands that many aspects of private and public international law be included. This research group is open not only to technical or practical analyses, but also ones which are prospective and theoretical. Private and public lawyers, politicians, historians and economists are all challenged by these new issues which, beyond the specificities of our disciplines, are redefining the nature and the very function of legal instruments.

This research group must be seen as being anchored to the various Masters of the Faculty of Law of Tours, i.e. directly attached to their curriculum & teaching which is designed specifically to prepare young researchers for post-graduate, doctoral studies.

- Procedures

The Procedures research group brings together research on civil, criminal and administrative procedures. In addition to the analysis of each of their specificities, an interdisciplinary approach is made possible by the emergence of common principles brought together in what is more commonly known as procedural law. The enshrinement of the right to a fair trial runs through all civil (and civil enforcement), criminal, administrative, constitutional and conventional procedures.

This area also makes it possible to compare the respective evolutions of the different procedures concerning, among others, the office of the judge.

The area is not limited to litigation, it also aims at analysing the different ways of avoiding going to court, e.g. alternative methods of dispute settlement, non-litigation administrative procedure. It is intended to focus on non-judicial procedures, such as those that take place before regulatory authorities.

- Liabilities

Its purpose is to study civil, administrative, criminal and political liability with an interdisciplinary approach. Alongside numerous individual publications in this field, several collective works have been published:

- a book on damages;

- a work on public and private liability.

The «Liabilities» research group is based on:

- a large number of colleagues and PhD students interested in this topic;

- on the network of the European Research Group on Civil Liability and Insurance (GRERCA), to which several members of the laboratory belong.

- Territory, Town Planning, Real Estate

This theme is centered on the notion of territory and all the questions related to the occupation of space: town planning, development, housing, land, environment, construction and building management... It looks into issues such as the identification of the actors involved and the tools they use, as well as analyzing the various national, European and international legal instruments likely to be implemented in this framework, such as easements, and other planning documents and responsibilities....

This theme also includes study into the life, organization and administration of these territories in terms of local action. The aim here is to analyse decentralization and more particularly the administrative and financial management of local and inter-communal authorities, local policies, local public services, etc., which support local public action.

The aim of this research group is not only to bring together researchers in private and public law, but also to encourage cooperation with other groups, in particular with geographers and planners who already cooperate within four Masters programs: Building Promotion and Management (PGI), Land Management and Urban Planning (MTU), Environment, Territory and Landscape (ETP) and Local Authority Administration (ACL). Applied research through contacts with public and private players in the construction, development and environmental sectors (local authorities, social landlords, town planning agencies, consultancy firms, etc.) will be developed.

Presentation of the IRJI François-Rabelais Board

It is made up of:

The members of the IRJI work within a research group (each headed by two group leaders elected by the members sitting on the IRJI Council).

- « Norms and Institutions in Europe » (co-chairs elected on 29 February and 30 June 2016)

Karine Abderemane, karine.abderemane@univ-tours.fr

Veronique Tellier-Cayrol, veronique.tellier@univ-tours.fr

- « Markets and Business » (co-chairs elected on March 1st 2016)

Fabienne Labelle, fabienne.labelle-picchevin@univ-tours.fr

Franck Juredieu, franck.juredieu@univ-tours.fr

- « Procedures » (co-chairs elected on 7 March 2016)

Federica Oudin, federica.oudin@univ-tours.fr

Benjamin Lavergne, benjamin.lavergne@univ-tours.fr

- « Liabilities » (co-chairs elected March 1st, 2016)

Nathalie Albert, nathalie.albert-moretti@univ-tours.fr

Olivia Sabard, olivia.sabard@univ-tours.fr

- « Territory, Town Planning, Real Estate » (co-chairs elected in February 2016)

Nathalie Ros, nathalie.ros@univ-tours.fr elected on 31 January 2017

Alexandre Deroche, alexandre.deroche@univ-tours.fr

Presentation of the IRJI François-Rabelais Board ■ ■ ■ ■

- « Democracies, Freedoms and Public Policies » awaiting new co-chairs

- one representative of each academic discipline (CNU) which is not represented among the directors and research group leaders;

Assia Boutaleb, assia.boutaleb@univ-tours.fr

- of two representatives of the PhD students;

Sofian Goudjil, sofian.goudjil@etu.univ-tours.fr

Melanie Cosso, melanie.cosso@univ-tours.fr

- of the associate researchers ;

* documentary resources:

Nicolas Cayrol, nicolas.cayrol@univ-tours.fr

Sébastien Roland, sebastien.roland@univ-tours.fr

* European and international cooperation:

Colombine Madelaine, colombine.madelaine@univ-tours.fr

Véronique Picard, veronique.picard@univ-tours.fr

* PhD supervision and young post-doctoral researchers:

Julie Traullé, julie.traulle@univ-tours.fr

Pierre Mouzet, pierre.mouzet@univ-tours.fr

- administrative staff assigned to the IRJI François-Rabelais:

Véronique Picard, veronique.picard@univ-tours.fr

Claire Gaumé, claire.gaume-dequeant@univ-tours.fr

Master's degrees attached to the IRJI François-Rabelais leading to a PhD

Degree Course	Master's 2 : Course Options	Master's 2 : Persons in charge	Emails
Justice, Trial and Procedure	M2 Counselling & litigation	Federica OUDIN Olivia SABARD	federica.oudin@univ-tours.fr olivia.sabard@univ-tours.fr
	Advanced Legal Studies	Delphine THOMAS-TAILLANDIER (CourseHead) Véronique TELLIER-CAYROL (Deputy Course Head)	delphine.taillandier@univ-tours.fr veronique.tellier@univ-tours.fr
Heritage Law	M2 Heritage engineering	Camille DREVEAU Fabienne Lavelle Franck JURÉDIEU	camille.dreveau@univ-tours.fr fabienne.lavelle@univ-tours.fr franck.juredieu@univ-tours.fr
	M2 Property Promotion and Management	Camille DREVEAU Fabienne LABELLE	camille.dreveau@univ-tours.fr fabienne.lavelle@univ-tours.fr
Public Law	M2 Law and Local Public Management	Corinne TOURET	corinne.touret@univ-tours.fr
	Jurist in Public Law	Nathalie ALBERT-MORETTI Marie-Laure GELY	nathalie.albert@univ-tours.fr marie-laure.gely@univ-tours.fr
European Law	M2 Law and Languages	Claude OPHELE	claire.ophele@univ-tours.fr
	M2 European Jurist	Sébastien ROLAND Christine GUILLARD	sebastien.roland@univ-tours.fr christine.guillard@univ-tours.fr
Health Law	Health Law	Farida AHRAB-GIRARDIN	farida.ahrab-girardin@univ-tours.fr
Environmental and Town Planning law	M2 Law and Research	Patrick MOZOL	patrick.mozol@univ-tours.fr
Business and Market Economics	M2 Business Economist	Alain BOUSQUET	alain.bousquet@univ-tours.fr

Current Research Programs ■ ■ ■ ■

CHAMBORD (Tourist Promotion of Heritage and Landscape)

Funding: Central Region, APR 2014-2019

In charge for IRJI François-Rabelais: Véronique TELLIER-CAYROL (Associate Prof.), Project leader: Stéphane ONNÉE (Prof.) (Vallorem Laboratory). Partners: University of Orleans (CRJ Pothier, Pollen, Fédération Gaston Berger), + CESR of Tours.

MUT-MONDIALIZATION (Future of Globalisation)

Funding: Central Region, APR 2015-2019

In charge for IRJI François-Rabelais: Pierre-Yves MONJAL (Prof.), LEO of Orleans (Daniel MIRZA (Prof.) - Lead laboratory).

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

Funding: Central Region, APR 2016- 2020

Responsible for the IRJI François-Rabelais: Abdelkhaleq BERRAMDANE (PR Emeritus), Alexandre DEROUCHE (Prof.) and Fabienne LABELLE (Senior Lecturer). Coordinator: Françoise SITNIKOFF (Senior Lecturer).

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

Funding: Central Region, RPA 2013- 2019

In charge for IRJI François-Rabelais: Abdelkhaleq BERRAMDANE (PR Emeritus). Project leader: Samuel LETURCQ (Senior Lecturer).

WATER-PONDI (Water Risk Assessment in Pondichéry)

Funding: Central Region, APR 2017-2022

In charge for IRJI François-Rabelais: Christine FAUVELLE-AYMAR (Associate Prof.). Project leader: University of Tours GEHCO, partners LEO, CITERES, and BRGM Orléans.

EUROPA-ASIA-PAC

Funding: AP MSH Val de Loire AP 2019-2020

In charge for IRJI François-Rabelais: Pierre-Yves MONJAL (Prof.) Abdelkhaleq BERRAMDANE (Prof. Emeritus).

The treatment of juvenile offenders and its effectiveness on the reoffending rate. Orléans-Tours regional study.

Funding: Région Centre APR IA 2019, DOREMI

In charge for IRJI François-Rabelais: Delphine THOMAS-TAILLANDIER (Senior Lecturer) and Véronique TELLIER-CAYROL (Associate Prof.).

Research project QPC 2020

Funding: Constitutional Council

In charge for IRJI François-Rabelais: Véronique TELLIER-CAYROL (Associate Prof.).

Anglo-American Neoliberalism in the 1980s: Construction, Evolution and Transmission of a Paradigm/Model

Funding: Transversal research actions, PA 2019

In charge for IRJI François-Rabelais: Nathalie LEVY (Senior Lecturer)

International Quality Bonus (IQB)

Our International Research Database (LaBRI: <http://labri.univ-tours.fr/>) has received data from almost all of the University's research units. 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 2018 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 grant for the IRJI François-Rabelais amounts to €8,666. Out of the 34 laboratories of the University of Tours, the IRJI François-François ranks 5th in the BQI, the first human sciences laboratory to obtain such a score.

The dossier was prepared by Véronique PICARD.

Visiting Professors, Post-Doctoral and PhD students from abroad Coming soon

2019-2020

Mohamed CHOURAK (Professor at Hiroshima University)

<https://www.hiroshima-u.ac.jp/en>

Looking back

Mid-February - Mid-March 2019

Tadashi SHIRAIISHI

(Professor at the Imperial University of Tokyo, Japan)

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



Tadashi SHIRAIISHI and Marc DESMET, Vice-Chairman of the University of Tours, in charge of international relations at the University of Tours

Mid-January - Md-February 2019

Lin XU

(Professor at Hunan University, China)

<http://www-en.hnu.edu.cn/>



Pierre-Yves MONJAL, co-director of IRJI François-Rabelais and Lin XU

The new logo is available in three versions. In "IRJI blue", you will find the main information, the name of the laboratory and its research team number.

The shape chosen is that of building D of the Faculty of Law, Economics & Social Sciences. Similarly, the colors used are those of the graphic charter of the logo of the University of Tours. All these elements increase the public visibility of the laboratory while reaffirming its place within the University of Tours.



Upcoming colloquia

14-15 November, 2019 [Transmission of wineries](#), Colloquium of the Sepage program organized by Alexandre Derroche (Prof.) and Fabienne Labelle (Senior Lecturer).

21-22 November, 2019 [Damage to the Environment: legal approaches and transdisciplinary issues](#), Colloquium in collaboration with the University of Paris 13 organized by Damien Thierry (Associate Prof.), Farida Arhab-Girardin (Associate Prof.) and Fabienne Labelle (Senior Lecturer).

November, 2019 [Partnerships of Economic Powers in Asia-Pacific region](#), Colloquium organized by Pierre-Yves Monjal (Prof.), Abdelkhaleq Berramdane (Prof. Emeritus), Michel Trochu (Prof. Emeritus).

- 25-26 November, 2019 Chiang Mai Colloquium, Chiang Mai University, Thailand.
- 28-29 November, 2019 Ho Chi Minh Colloquium, Ho Chi Minh Law University, Vietnam.

Under the aegis of the Network of French and Japanese Lawyers of Tours (Nihon-EuropA) and the Multidisciplinary Network "New EU External Partnership Dynamics in Asia-Pacific" (NODYPEX) in Rennes. This event extends the work already underway of the two networks in Hanoi, Tours and Rennes. The partners are the Institut de l'Ouest: Droit et Europe (IODE), GIS Europe of Rennes, IRJI François-Rabelais (EA 7496), Chiang Mai University (Thailand), Hanoi Foreign Trade School (ESCE Vietnam), Hô-Chi-Minh National University (Vietnam), Maison des Sciences de l'Homme Val de Loire and Rennes 2 University.

28-29 November, 2019 [How should public officials be held accountable for their actions?](#), Colloquium organised by Christian Garbar (Prof. Emeritus), Mathilde Collin (Associate Prof.), Pierre Mouzet (Associate Prof.), Véronique Tellier-Cayrol (Associate Prof.) and Corinne Touret (Associate Prof.), Anne Jeannot (Senior Lecturer).



11-12 May, 2020 [From seduction to aggression](#), International colloquium organized with the Resource Centre for Professionals working with the Perpetrators of Sexual Violence of the CHU of Tours (<https://www.fcrciavs.org/les-criavs/criavs-centre/>) and the research team E.E. 1901 Quality of Life and Psychological Health (QualiPsy).

Looking back at the colloquia ■ ■ ■ ■

14-15 June, 2018 - CEDECE Colloquium on **The conceptual bases of European Union law**, organized by Sébastien Roland (Prof.). Research Focus: Norms and Institutions in Europe. The publication of the proceedings is forthcoming.

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What constitutes Community Law/European Union Law as a “scientific discipline”? Beyond the decades-long development of a specialised body of knowledge on the process of European integration; beyond the simultaneous training of a community of lecturers-researchers dedicated to this subject; beyond the progressive structuring of specific academic fields; beyond this triple movement, what are the foundations of European Union Law as an autonomous discipline, particularly but not solely, in relation to other branches of law? Is it possible to go back to an original belief, a form of meta-principle or a founding concept? In whatever guise it is studied, - institutional, normative, contentious or material - does European Union law invariably lead back to a kind of common source, a pivot or a foundation which, in the strongest sense of the term, would underpin its unity while at the same time making it possible to grasp its uniqueness? In short, what are the conceptual bases of European Union law?

The purpose of the colloquium is to mark a pause in European studies, which is now some sixty years old, not only in order to take stock of the discipline, a “state of the art” as the expression goes, but also to anticipate future developments in this particular field of study. This colloquium is thus intended to be both retrospective and prospective: on the one hand, it is a question of identifying what achievements research on the process of European integration has made, how this research has gradually been structured into different themes and what mistakes and blind spots are apparent; on the other hand, it is a question of reflecting on how these achievements could be systematised, i.e. inscribed in a general theory which, for the time being, does not exist.

It follows that the colloquium, by the *mise en abyme* that it implies, also intends to question the process of European construction itself. At a time when Europe is confronted with Brexit, has to deal with the migration crisis, sees the common basis of its values eroded by the attitude of some of its members and wonders how it could renew itself, a collective re-think on the best way to build up academic knowledge on the European Union is also a way of questioning the very identity of the European project. As such, it is of interest not only to researchers, but also to those involved in the construction of Europe, including ordinary citizens.

This colloquium is innovative in several respects. Firstly, it is the first academic event to address these questions which, as we know, were at the heart of the ECSC's International Study Congress held in Milan and Stresa at the inaugural moment of European integration in May and June 1957.

5 October, 2018 - **The appeal – Cross Perspectives in Civil and Administrative Proceedings**, Colloquium organized by Benjamin Defoort (Prof.). Research Focus: Procedures. Proceedings to be published by Editions AKILAFOTE.

The appeal system is seen as a means of recourse which, in principle, is open to litigants in any legal system, in order to challenge a court decision. Today, however, it stands at a crossroads.

In administrative litigation, the originality of the Judge of Appeal lies in the fact that s/he was only very belatedly attributed to courts specifically entrusted with this task (i.e. Administrative Courts of Appeal), the thirtieth anniversary of which was recently celebrated. Some of its characteristics can thus be sought between the model that traditionally constitutes the civil appeal, and that inherited from the historical role of the Council of State as the judge of last resort.

But it is precisely during this same period that the regulatory authorities, in a series of decrees in May 2017, modified the system of appeal in civil matters, following on from the deeper reform of 2011. In so doing, both the office of the appeal judge and access to it have been adversely affected.

These texts herald other reforms; in which directions will they go? Will they also concern the administrative court system? Will they be anticipated, accompanied or qualified by the case law of the civil and administrative courts? Will the latter be inspired by the new directions of civil appeal? These are all questions that were usefully submitted to the civil law and public law specialists present during this study day.



Looking back at the colloquia ■ ■ ■ ■

18-19 October, 2018 - **Does the distinction between the administrative and judicial police still have a meaning?**, Colloquium organized by Benjamin Lavergne (Semior Lecturer) and Delphine Thomas-Taillandier (Senior Lecturer). Research Focus: Procedures. The publication of the proceedings is forthcoming.



The distinction between administrative police and judicial police remains a structural one, particularly in second year teaching of administrative law. This is because it illustrates the principle of separation between administrative and judicial authorities and the French jurisdictional dualism. However, the dividing line between these two notions has never been perfectly clear. The division between prevention and repression, still often put forward by various authors, does not help full understanding of the complexity. The finalistic criterion, based on committing an offence, seems to be somewhat outdated, particularly in the light of recent legislative developments which grant considerable resources to the public order police, similar to those used by the Judicial police. Does not the use of similar legal techniques, in an opposing or complementary manner, and sometimes in the same situation of an offence, suggest a certain degree of confusion between the two police forces? The question is: what was the point of this coming together? If the police in charge of public order are equipped with tools similar to those of the police charged with the repression of offences, the conceptual autonomy of these two notions is open to question. Beyond the formal similarity in the means at the disposal of the two police forces, the more important question of the respective levels of procedural guarantees offered to the person concerned by these measures - and thus that of the office of the judge - then becomes central. During this colloquium,

academics, magistrates of both levels of court, lawyers, police officers and State representatives compared the forthcoming measures in both the Code of Criminal Procedure and the Code of Internal Security, with a view to discussing their practices and questioning the meaning of their use.

25 October, 2018 - Colloquium **The image of Chambord** organized by Véronique Tellier-Cayrol (Associate Prof.).

The Chambord estate is an exceptional site: a castle classified as an “historic monument” since 1840 and listed as a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (UNESCO), a state-owned forest of 5,315 hectares, a national hunting reserve, etc.

Although the Château of Chambord is universally famous, the legal regime of the National Estate of Chambord, a “public industrial and commercial establishment”, raises a number of legal questions, some of them very recent.

This symposium on “The Image of Chambord” provided an opportunity to address these topical issues raised in particular by a judgment of the Council of State rendered on 13 April 2018 or by the Statute of 7 July 2016 relating to the freedom of creation, architecture and heritage (and the decree of 1st June 2018 relating to the National Estate of Chambord), without neglecting the historical dimension.



12-14 November, 2018 - Colloquium Bochum. **Colloquium Bochum. “A relaunch of the European Union? Integration, disintegration, recomposition. Franco-German perspectives”.** Colloquium organized by Anne Jeannot (Senior Lecturer). Research Focs: Norms and Institutions in Europe .



Created in 1997, the Franco-German University (UFA) in Saarbrücken promotes Franco-German cooperation in higher education and research. Consisting of a network of 194 French and German higher education institutions, the UFA is financed equally by France and Germany. The UFA financially supports the establishment of integrated bi- and tri-national courses and dual degrees in all disciplines and at all levels of the Bachelor's and Master's degrees (180 integrated courses). The UFA encourages research through the creation of Franco-German PhD colleges (23 PhD colleges) and the financial support of these carried out under joint supervision as well as scientific events of young researchers. The UFA facilitates the professional integration of graduates (6,400 students and 300 PhD students). The Universities of Tours and Bochum thank the UFA for the financial support it has provided from the outset for their Bachelor's degree courses in French/German law and Master's degree courses in European law, a Franco-German course, as well as for the events held by young researchers in the past.

Looking back at the colloquia ■ ■ ■ ■

15-16 November, 2018 - **The New European System for Settling Investment Disputes**. Colloquium organized by Abdelkhaléq BERRAMDANE (Prof. Emeritus) and Michel TROCHU (Prof. Emeritus). Research Focus: Norms and Institutions in Europe.

10



Colloquium organized in coordination with the organizers of the “Rennes workshop” on 12-13 November 2018 on “Sustainable development and Human rights in the European Union’s partnership agreements with Asian-Pacific countries”.

Faced with an International Arbitration Procedure (IARP) that allowed multinationals to directly bring an action against a State receiving investment as soon as the State in question passed laws on health, climate and environmental matters, the European Commission reacted by proposing a new method of dispute settlement, called the Investment Court System (ICS).

This new procedure was very quickly challenged. The case is already before the Court of Justice of the European Union and is expected to be decided at the time of the colloquium. The theme of the Tours colloquium was therefore highly topical.

30 November, 2018 - **Mediation. Around Thierry Bériault**. Study Day organized by Federica Oudin (Associate Prof.).

A Study Day devoted to mediation with a conference for the general public in the morning and an exchange of practices between professionals in the afternoon... Thierry Bériault is a chartered mediator and lawyer in Quebec. He is President of the ADR Institute of Canada (ADRIC)/Institut d'arbitrage et de médiation du Canada (IAMC).

He has chaired the Quebec Institute for Mediation and Arbitrage (QIMA) and co-chairs the “Institut de médiation dans l'espace francophone” (IMEF)/“Institute of Mediation in the French-speaking world”. He is also an associate lecturer at the University of Sherbrooke in the Dispute Prevention and Resolution Program.



1 February, 2019 - **The formation of authoritarian regimes: a comparative analysis of recent European developments**, Colloquium organized by Karine ABDEREMANE (Senior Lecturer), Gülsah KURT (Post-doc) and Colombine MADELAINE (Senior Lecturer). Research Focus: Norms and Institutions in Europe. The publication of the proceedings is forthcoming in the *Revue du droit de l'Union européenne*, published by Clément Juglar.



The colloquium was a success in several respects.

First of all, it was a success in terms of the audience. More than one hundred and fifty people (numerous students, university colleagues, lawyers, NGO representatives, etc.) came to listen with great interest to the twenty speakers who took turns in the chair.

It was also a success in terms of method. The organizers of the colloquium had set themselves the task of proposing a comparative analysis of the ways in which authoritarianism, as currently manifested in Europe, particularly in Hungary, Poland, Italy, also in Turkey and, to some extent, in France, has been established. The public was able to appreciate the expertise of the various speakers, academics and/or members of prestigious organizations (Venice Commission of the Council of Europe, UN, CNCDH, etc.), all of whom had come to take part in these exchanges between specialists in constitutional, European or penal issues raised by authoritarianism. Each panel recalled the specific nature of national contexts, while underlining the persistence in the ways that the rule of law and democracy was being eroded in each of these countries. These analyses were also able to provide an insight into the “blind spots” of the controls exercised by national and European institutions. Apart from comparing the different countries involved, the colloquium benefited from the dialogue between legal and political knowledge which highlighted both the relevance but also the pitfalls of an incremental approach to authoritarianism.

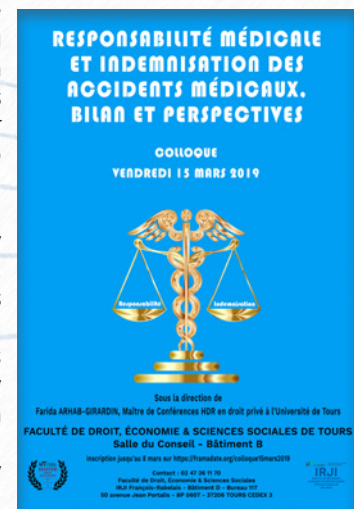
Finally, the colloquium was also a “milestone” success. Having confirmed the importance of analyzing the legal processes which characterize the appearance of these regimes inside democratic frameworks and having clarified the forms of resistance and resilience of the said democratic frameworks (at a national and European level), the colloquium also confirmed the need to pursue within the IRJI, collective, international research to promote improved knowledge of authoritarianism and the contemporary transformations of democracy and the rule of law in Europe.

Looking back at the colloquia ■ ■ ■ ■

15 March, 2019 - **Medical Liability and Medical Accident Compensation Review and outlook.** Colloquium organised by Farida ARHAB-GIRARDIN (Associate Prof.). Publication of the proceedings is forthcoming.

The Kouchner Act of 4 March 2002 on patients' rights and the quality of the health system represents an undeniable step forward in the compensation of bodily injury. Indeed, it creates an innovative compensation scheme for medical damage in various ways. First of all, it redefines and unifies the rules of medical liability by giving fault a major role. Secondly, for reasons of national solidarity, it enshrines a right to compensation for medical accidents that are not seen as faults ("the therapeutic hazard"), although this is subject to a condition of seriousness. Finally, it sets up a system of conciliation and compensation commissions for the amicable settlement of culpable and non-culpable medical damage in order, in particular, to divert disputes in this area but also to simplify and speed up the procedure. More than fifteen years after coming into force, have the aims pursued by the legislator been achieved? Are the rights of victims better preserved? In order to answer these questions, the speakers first looked at the latest developments in medical liability. The introduction of a unitary system of administrative and civil liability presupposed an identical interpretation of the legislative provisions. Has such harmonization and stabilization of the rules been achieved? What about the criminal liability of health professionals? The focus of the debates, for many years, on compensation of damages cannot hide the existence of criminal litigation. Secondly, it was a question of assessing the system of compensation for non-culpable medical accidents through national solidarity and of the various compensation procedures. The speakers wondered about the interpretation of the conditions of compensation for therapeutic risks. Is it really favorable to the victims or on the contrary too restrictive?

The discussion then moved on to the choice of compensation procedure. By introducing a procedure for the amicable settlement of medical damages, the legislator intended to improve the situation of victims. Yet, its attractiveness has been called into question. However, the system introduced in 2002 was a considerable step forward that has inspired other European legislation. In this context, and with reference to the Franco-Polish program on medical liability of the Universities of Tours and Łódź, a Polish perspective was presented on the compensation of medical accidents. Finally, the discussions focused on compensation for personal injury as well as the impact of the civil liability reform project on this issue.



4 April, 2019 - **Media, discourse and transparency,** Interdisciplinary Study, Study Day organized by Audrey DAMIENS (Senior Lecturer), Nathalie LEVY (Senior Lecturer) and Jimmy BORDARIE (Senior Lecturer). The publication of the proceedings is forthcoming in a special issue of the journal *SociologieS*.



The discourses on transparency refer, by chiaroscuro contrast, to the notion of opacity. To speak of transparency is to claim or demand clarity, that nothing is concealed. And yet if we speak of transparency, it is a priori because something is unclear. Transparency exists alongside opacity and discourses on transparency can reduce, suppress, conceal, or sometimes make opacity more obscure than it already is. Thus, these discourses speak to us in half-words about the intentions of those who produce them. These actors, whether in the public or private sector, have a target when they talk about transparency. From an interdisciplinary perspective, participants told us about these discourses related to transparency and offered us an analysis of both their construction and their meaning. Any discourse raises the question of the role of the media, understood here in the broad sense, i.e. in the sense of communication media. For example, for lawyers, it may focus on court orders and decisions; for economists, balance sheets and activity reports; for psychologists and sociologists, it may refer to interviews or data from questionnaires. All these communication vehicles constitute media in the same way as media in the more traditional sense - such as institutional communication, mass media, or social networks. Through all this, we wanted to understand the intentions of the actors when they talk about transparency.

We then sought to understand on the one hand, the issues related to the process of argument in speeches dealing with the notion of transparency of different public and/or private social actors. On the other hand, we were interested in the media used to disseminate these speeches, reports, decrees, interviews, etc. This was, for example, the case of legal news related to the European regulation on the protection of personal data, which was the subject of an important presentation. This study day was an opportunity to question these elements thanks to disciplinary approaches as diverse as linguistics, law, information-communication sciences, economics, sociology or psychology.



4 October, 2018
The Night of Law - Seeing Law in a New Light "Law and literature" by Maître Corinne BAYLAC, Maître Jean-Michel SIEKLUCK, Mehdi KEBIR and Hélène MAUREL-INDART.



16 October, 2018
"The presence of France before the Courts of the European Union" by Mr Raphaël COESME and Mr Daniel SEGOIN, Agents of France at the CJEU. Lecture presented by Christine Guillard, Associate Prof. in Public Law at the University of Tours.



26 October, 2018
"The influence of case-law of the European Court of Human Rights on the case-law of the German Federal Constitutional Court" by Prof. Dr. Birgit DAIBER, LL.M.Eur. Doctor of Law from the Ludwig-Maximilian University of Munich, Associate Professor at the Faculty of Law of the National University of Seoul.



9 November, 2018
"The fight against torture within the United Nations" by Sébastien TOUZÉ, Professor of Public Law at the University Panthéon-Assas, Member of the United Nations Committee against Torture, Director of the René Cassin Foundation, International Institute for Human Rights.

Looking back at conferences ■ ■ ■ ■



31 JANVIER 2019 À 17H00
Faculté de Droit, Économie & Sciences Sociales de Tours
Salle du Conseil - Bâtiment B

Alain WIJFFELS
Professeur d'histoire du droit à l'Université de Louvain
Chaire européenne du Collège de France (2016-2017)

CONFÉRENCE

Les juristes ont-ils délaissé le champ de la gouvernance publique ?
Une histoire du second millénaire

IRJI UT

31 January, 2019

"Have lawyers left the field of public governance? A history of the second millennium" by Alain WIJFFELS Professor of History of Law at the University of Louvain, European Chair of the Collège de France (2016-2017).



LE CLIMAT AU PRÉTOIRE

Une conférence de Mme Marta Torre-Schaub, Chargée de recherches HDR au CNRS Paris 1 Panthéon-Sorbonne et Mr. Christian Huglo, Avocat au barreau de Paris

MARDI 5 FÉVRIER 2019
18H00 - 20H00
FACULTÉ DE DROIT, ÉCONOMIE & SCIENCES SOCIALES DE TOURS
BÂTIMENT B - AMPHI E

IRJI UT

5 February, 2019

"Climate at Court" by Mrs. Marta Torre-Schaub, Associate prof.-researcher at the CNRS Paris 1 Panthéon-Sorbonne and Mr. Christian Huglo, lawyer at the Paris Bar.



CONFÉRENCE - DÉBAT

organisée par Sylvain CRÉPON, Maître de conférences en Science Politique et Audric VITTELLO, Maître de conférences en Science Politique

ENQUÊTER SUR/DANS LES PARTIS POLITIQUES

28 MARS 2019 - 15H30/18H00
BÂTIMENT B - AMPHI D

Faculté de Droit, Économie & Sciences Sociales de Tours
80 avenue Jean Perrin - 37200 TOURS

INTERVENANTS
Daniel BIZEUL,
Abel MESTRE,
Sylvain CRÉPON,
Audric VITTELLO.

Association de la Conférence

IRJI UT

28 March, 2019

"Investigating on/in political parties" by Daniel BIZEUL, professor of sociology at the University of Angers, Abel MESTRE, political journalist at Le Monde and Sylvain CRÉPON, Senior Lecturer in political science at the University of Tours.



AFFAIRE GHOSN ET «JUSTICE D'OTAGE» : APPROCHE COMPARATIVE DU SYSTÈME PÉNAL FRANÇAIS ET JAPONAIS

Conférence organisée par l'Institut de Recherche Juridique Interdisciplinaire François-Rabelais (EA 7496)

6 mai 2019
18H00 - 20H00

Faculté de Droit, Économie & Sciences Sociales de Tours
Amphi E - Bâtiment B

AYANO KANEZUKA
Avocate associée aux barreaux de Paris et de Tokyo-Daini, LPA (Lefèvre Pelletier & associés)
Chargée de cours à l'Université Keio et membre de la Société franco-japonaise des Sciences juridiques

IRJI UT

6 May, 2019

"The Ghosn case and 'Hostage Justice': comparative approach to the French and Japanese criminal justice systems" by Ayano KANEZUKA, Lawyer admitted to the Paris and Tokyo Daini, LPA (Lefèvre Pelletier & associés) Bars, Associate Lecturer at Keio University and member of the Société franco-japonaise des Sciences juridiques, Link to the conference.

[Link to the conference](#)

Upcoming conference

Friday 25 October, 2019, annual conference by Thomas VON DANWITZ, Judge and President of the Fourth Chamber of the Court of Justice of the European Union.

Colloquiums and conferences of the IRJI François-Rabelais posted online on Canal U



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These videos were made with the help of Philippe DUMAS, head of the audiovisual department of the Faculty of Law, Economics & Social Sciences and the digital workshop of the MSH Val de Loire.



"Appeal Proceedings: Cross Perspectives in Civil and Administrative Proceedings", Colloquium of 5 October, 2018.
https://www.canal-u.tv/producteurs/irji/l_appeel_regards_croises_en_procedures_civile_et_administrative



"Does the distinction between Administrative police and Judicial police still make sense?" Colloquium of 18-19 October, 2018.
https://www.canal-u.tv/producteurs/irji/la_distinction_entre_les_polices_administrative_et_judiciaire_a_t_elle_encore_un_sens



"The New European System for Settling Investment Disputes", Colloquium of 15-16 November, 2018.
https://www.canal-u.tv/producteurs/irji/le_nouveau_systeme_europeen_de_reglement_des



"Number and Law", Colloquium of 23 November, 2018 organized by Hémisphère Droit (Association of PhD students in law at the Faculty of Law of Tours).
https://www.canal-u.tv/producteurs/irji/le_nombre_et_le_droit



"Mediation. Around Thierry Bériault", Colloquium of 30 November, 2018.
https://www.canal-u.tv/producteurs/irji/journee_sur_la_mediation



"Health Law Proofed against New Technologies", Study day on 24 January, 2019 organized by the Master 2 Health Law and the IRJI François-Rabelais.
https://www.canal-u.tv/producteurs/irji/le_droit_de_la_sante_a_l_epreuve_des_nouvelles_technologies



"The formation of authoritarian regimes: comparative analysis of recent European developments", Colloquium of 1 February, 2019.
https://www.canal-u.tv/producteurs/irji/la_formation_des_regimes_autoritaires

Colloquiums and conferences of the IRJI François-Rabelais posted online on Canal U



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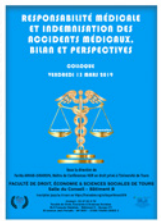
"Climate at Court", Conference of 5 February, 2019.
https://www.canal-u.tv/producteurs/irji/le_climat_au_pretoire



"Does environmental law provide a way to deal with environmental emergencies?", Colloquium of 7 March, 2019 organized by the Master 2 Lawyer of Public Law.
https://www.canal-u.tv/producteurs/irji/le_droit_de_l_environnement_permet_il_de_faire_face_a_l_urgence_environmentale



"Programming Act 2018-2022: 'Restore the sense of punishment'?", Colloquium of 8 March, 2019 organized by the Master 2 Justice, Trials and Procedures.
https://www.canal-u.tv/producteurs/irji/redonner_du_sens_a_la_peine



"Medical liability and compensation for medical accidents. Taking stock and prospects", Colloquium of 15 March, 2019.
https://www.canal-u.tv/producteurs/irji/la_responsabilite



"The tax on real estate wealth" Colloquium of 22 March, 2019 organized by the Master 2 Heritage law-Heritage engineering and the IRJI François-Rabelais.
https://www.canal-u.tv/producteurs/irji/l_impot_sur_la_fortune_immobiliere



"Secrecy in business. Of the law of 30 July, 2018 relating to the protection of business secrets and business secrets ", Colloquium of 22 march, 2019 organized by the Master 2 Company lawyer and the IRJI François-Rabelais.
https://www.canal-u.tv/producteurs/irji/le_secret_en_affaires



"What legal status for effective animal protection?", Colloquium of 4 April 2019 organized by Hémisphère Droit and the IRJI François-Rabelais.
https://www.canal-u.tv/producteurs/irji/quel_statut

Focus on the CJDE



The Legal Clinic in European Law (CJDE) opened in September 2015 within the Master II European Lawyer. Legal Clinics are an essential element of North-American legal education and have been gaining ground in France in recent years.

But what is a clinic?

A clinic is an educational innovation fulfilling a social objective. It is an educational innovation, first of all, because it is the privileged place for a "clinical" teaching of law. In a similar way to "clinics" in medical studies, where students are rapidly confronted with real patients diagnosed with certain pathologies, a legal clinic would allow students to resolve legal difficulties encountered by individuals, companies or non-profit organizations. Secondly, there is a social objective, as part of the vocation of a clinic, is to facilitate access to law(s).

Our Faculty of Law stands out for its avant-gardism; not only was it one of the first (if not the first) to host a clinic (that of the Master II Justice, Trials and Procedures), but, counting the CJDE and the clinic of the Master II Public Lawyer, it is also the first to host three clinics!

This year, the third year class of the CJDE worked in collaboration with the patron of Master II European Lawyer; Mrs Sabine Thillaye, Member of Parliament, President of the European Affairs Committee of the National Assembly. What was her aim? To identify a project leader capable of helping the territorial structures of the 5th district of Indre-et-Loire to develop at the European and international level. On May 29th, after three months of intense collaboration with her team, the four students of the CJDE were lucky enough to visit the National Assembly and to attend the session of Parliament devoted to questions for the Government. Above all, they brilliantly presented their report to the European Affairs Committee of the National Assembly, in front of Ms. Thillaye, her collaborators, and the Assembly administrators in charge of this issue. Their performance was so convincing that Mrs. Thillaye decided to recruit one of the students



Sabine Thillaye, Member of Parliament and President of the European Affairs Committee of the National Assembly, Selma Josso (Senior Lecturer) and the students of the legal clinic.

as a parliamentary assistant. Recruitment is underway.

Thank you to the Hon. Member for Parliament for her confidence.

Congratulations to our students for the quality of their work!



* On 7 March, 2019, **Fatma ZUWAM** defended her PhD on **Islamic finance, an alternative to classical finance** (Supervisor: Isabelle HANNEQUART, Associate Professor).

Jury :

Isabelle HANNEQUART, Associate Professor in Public Law, University of Tours, France
Hadi SLIM, Professor of Private Law, University of Tours (President of the Jury)
Fleur LARONZE, Associate Professor in Private Law and Criminal Sciences, University of Upper Alsace (Reporting Examiner)
Eloi DIARRA, Professor of Public Law, University of Rouen (Reporting Examiner)

Summary:

The financial crisis of 2008, known as the subprime crisis, highlighted the growing disconnection between the financial economy and the real economy. The question then arose of reorienting international finance towards moral values. This context explains the interest shown in Islamic finance which was relatively spared by the crisis, in particular because of the ban on speculation (maṣīr), which is illegal under Islamic law. It is also in this context that studies have presented this finance as a competitor, or even an alternative to conventional finance. This position can point to the extension of Islamic finance to Western countries. It can also lean on certain arguments revolving around ethical imperatives, advocated by Islam and adopted, in theory, by Islamic finance: the prohibition of usurious interest (ribā) and of uncertainty (gharār) in the terms of contractual transactions; sharing of profits and losses between the contracting parties and backing up any financial transaction with a tangible asset; the granting of free loans (kard al-hassān) and distribution of zakāt (alms) to the most destitute, setting up an Islamic solidarity insurance (takāfūl), made up of voluntary contributions, and where the insured are also insurers.

Keywords:

Tangible asset backing - Islamic finance - Islamic bank - Islamic development bank - Usurious interest (ribā) - Speculation (maṣīr) - Uncertainty and chance (gharār) - Sharing of profits and losses - Free loans (kard al-hassān) - Islamic insurance (takāfūl) - Mūdaraba - Mūsharaka - Mūrabaha - Contract salām - Contract istisnā' - Products sūkūk

* On 29 March, 2019, **Makram ETTERD** defended his PhD on **The limits of the fight against terrorism in international law** (under the co-supervision of Professor Emeritus Abdelkhaleq BERRAMDANE and Professor Jamel DIMASSI).

Jury :

Abdelkhaleq BERRAMDANE, Emeritus Professor, University of Tours
Jamel DIMASSI, Professeur, Faculty of Law and Political Science of Sousse
Abdelmajid ABDELLI, Professor, Faculty of Law and Political Sciences of Sousse (Chairman and Reporting Examiner)
Montassar CHERIF, Associate Professor HDR, Faculty of Law and Political Sciences of Sousse
Nicolas CLINCHAMPS, Associate Professor HDR, University of Paris 13-Paris Nord (Reporting Examiner)
Pierre-Yves MONJAL, Professor of Public Law, University of Tours

Summary:

An analysis of the current international situation highlights the existence of many limitations and obstacles that constitute real impediments to an effective and efficient fight against terrorism. Indeed, the fight against terrorism is necessary but not at any price. This is not the place to discuss terrorism more widely, a subject which, although general and controversial, has been much studied in legal doctrine and political science.

It is not a question of dwelling too much on the fight itself but rather, of considering, on the basis of that same fight, (in particular the methods and means used to that end in domestic and international law, the shortcomings, the excesses, especially in the judicial sphere: applicable law, right to a fair trial, human rights in general) what limits there may be to it. The idea behind this work, with its emphasis on practice and comparative rights (French and Tunisian, for example), is to say: if this fight against terrorism is necessary, can it take place at any price? The aim of this research is to study how States try to reconcile two imperatives; the fight against this scourge, which is increasingly threatening international peace and security and which goes beyond the borders of a single State willingly or unwillingly, and the protection of fundamental rights, most of which are provided for in international texts, human rights in particular, but whose combination or conjunction with domestic regulations poses real problems. For this reason, this work is based on an approach which must, above all, be of a comparative nature, whether it is a question of legislation introduced here and there or, more importantly, of its application by both domestic and international courts.

The legal promiscuity that exists between Tunisian counter-terrorism law, which is in fact still under construction, and the French experience applied in this area, as well as the doctrine, will be of great help in developing this research.

Keywords:

Limits - fight - terrorism - international law - the international community - methods and means - domestic law and international law - inadequacies, excesses - terrorist threat - preventive war - self-defense - applicable law - human rights - practice - conciliation between two imperatives: freedom and international security.

* On 3rd April, 2019, **Audrey BOURGOIN** defended her PhD on **The not-yet occurred damage** (Supervisor: Professor Fabrice LEDUC).

Jury :

Fabrice LEDUC, Professor of Private Law, University of Tours
Aline VIGNON, Professor of Private Law,, University of Angers (Chairman)
Patrice JOURDAIN, Professor of Private Law, University Paris 1 Panthéon-Sorbonne (Reporting Examiner)
Sophie HOCQUET-BERG, Professor of Private Law, University of Lorraine (Reporting Examiner)
Marie DUGUÉ, Professor of Private Law, University of Tours

Summary:

The core function of civil liability is to compensate for damage. To be implemented, it requires, a generating fact, a damage and a causal link between the first two elements. The damage must, in this respect, be definite and it is up to the plaintiff to prove it. It follows that a purely hypothetical or possible damage is not sufficient to engage the responsibility of its author. However, another function of civil liability seems to be gradually emerging, that of prevention. Based on the precautionary principle, it allows case law to grant measures of reparation even though the damage has not yet occurred. It thus takes into account the major risks that may result from the development of new technologies over which mankind has little control and which scientists have found it difficult to assess. Here are two examples. The first is in the spotlight, since it concerns the case of the relay antennas placed near a primary school (Aix-en-Provence, 8 June 2004, RTD civ 2005.146). Although no damage has yet occurred, the commune had requested the removal of the relay antennas, invoking among other things the precautionary principle, which the court of first instance, confirmed by the Court of appeal, ordered. In a different register, a person complained about the projections of golf balls on his property adjoining a golf course. No damage had yet occurred but the threat was serious given the weight of the balls. The court of cassation condemned the company operating the golf course even though the consequences of the projections were only potential and the damage was still hypothetical (civ 2e, 10 June 2004, RTD civ 2004. 738). The law thus seems to increasingly accept that a mere threat of the occurrence of damage is sufficient to engage civil liability. This new consideration of damage which hasn't yet happened, leads to issues about how long the requirement of certainty in the estimation of damage will be needed and, a fortiori, about the relationship between the two functions of civil liability, restorative and preventive. Behind this problem lies the whole question of whether the traditional tryptic necessary for any implementation of civil liability is still required or whether there is a gradual tendency towards the disappearance of the requirement of damage in the strict sense of the term in favour of mere threats, of a risk of future damage. The theoretical challenge of this change is nothing less than the birth of a new concept of civil liability, based on the principles of precaution and prevention, and thus more oriented towards the future than towards the past.

Keywords:

Damage not yet incurred - future damage - possible damage - hypothetical damage - preventive measures - cessation of unlawfulness - imminent damage - manifestly unlawful disturbance - reparation measure - full reparation - provisional reparation - possible reparation

PhD Award

Mehdi KEBIR, 2018 winner of the National School of Magistracy's Research Prize.



Crédit photo : École Nationale de la Magistrature

Last 20 December, Olivier LEURENT, Director of the National School of Magistracy, awarded the ENM Research Prize to Mehdi KEBIR, Doctor of Law from the University of Tours, for his PhD entitled "The free will of the judge" defended on 18 March 2017 at the PhD School of Human and Social Sciences in Tours. An interview of Mehdi Kebir is online on the website of [the National School of Magistracy](#).

The winners of the Research Prize are rewarded for their research work in the field of judicial practices and are awarded € 5,000 as well as a proposal for the publication of their work in the collection "Library of Justice" of the publisher Dalloz.

A CIFRE agreement was signed between the University of Tours represented by IRJI François-Rabelais and BNP Paribas in favour of Matija VODOPLAV whose PhD topic is:

“Facilitating international trade in financial services: a study on credit risk insurance in the banking sector”.

On the one hand, the research should answer practical questions concerning the implementation of credit insurance regulations in the banking sector. The analysis and interpretation of both European and international rules must identify the impact on the legal documentation related to bank credit insurance. On the other hand, based on practical experience, the final objective is to innovate, to try and find ways of overcoming the different legal approaches between the major economic powers and to propose instruments and means to facilitate international activities in the field of bank credit insurance.



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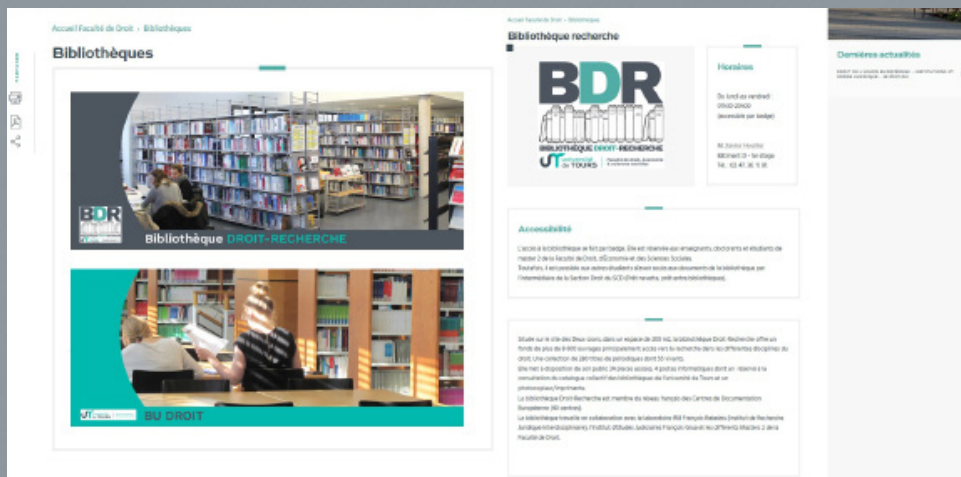


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 - Instruction des dossiers tout au long de l'année
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Publications



Environmental responsibility
Compendium of the work of the European Research Group on Civil Liability and Insurance (GRECA)
 Edited by Patrice Jourdain
 Publisher: Bruylant
 ISBN: 978-2-8027-6138-9
 Release date: 10/2018

Summary: Environmental protection is one of the major challenges of the 21st century. Everyone is already adversely affected by air pollution and global warming.

More seriously, the multiplication, over the last few decades of natural disasters due to climate disorder is evidence of the need to take action to ensure the survival of populations in the long term. Despite certain obstacles, international awareness has emerged which has led States to make various international commitments to protect the planet. In addition to such preventive action, it is important to consider repairing the damage caused to the environment. In the European Union, a directive of 21 April 2004 on environmental liability, with regard to the prevention and reparation of environmental damage, has been transposed into the domestic laws of the various member States. Moreover, national laws have, for some time now, implemented their own legislative resources and case law to prevent and repair environmental damage.



The Responsibility of Public Authorities in Europe - Comparative Views from French, Polish and European Law, Polonium 2016-2017 CHP Programme
 Edited by Patrick Baleynaud, Christine Guillard and Wojciech Robaczyński
 Publisher: Éditions Clément Juglar
 ISBN: 978-2-908735-32-1
 Release date: 05/2019

Summary: Originating both in the Constitution of the Republic of Poland of 2 April 1997 and in the reform of the Civil Code enacted 17 June 2004, the responsibility of public authorities is a relatively new and sensitive topic for Polish lawyers. Without being directly tied to European law, the reform coincided with the country's accession to the European Union and found itself in confrontation with both European Union law and with that of other Member States, which are more familiar with liability regimes specific to public authorities. This is what prompted researchers from Tours and Łódź to undertake collective research project, selected as part of a Polonium program, a Franco-Polish Hubert Curien Partnership (HCP), piloted in Poland by the National Agency for Academic

Exchange (Narodowa Agencja Wymiany Akademickiej) and in France by the Ministries of Europe and Foreign Affairs and Higher Education, Research and Innovation.

The proceedings show that the French and Polish liability regimes, although very different, are faced with similar issues and are gradually moving closer together, under the more or less visible influence of European law.

CNU section 01 - Private Law and Criminal Sciences
(27 Lecturers-Researchers, 4 Contract Lecturers and 2 emeriti)

ARHAB-GIRARDIN Farida, Associate Professor
BARGAIN Gwenola, Senior Lecturer
BERCHON Pierre, Associate Professor
BOURDOISEAU Julien, Associate Professor
CAHN Olivier, University Professor
CHENOT Fanny, Contract Lecturer
CAYROL Nicolas, University Professor
COTTEREAU Vincent, Senior Lecturer
DAMIENS Audrey, Senior Lecturer
DANOS Frédéric, University Professor
DREVEAU Camille, Senior Lecturer
DUGUÉ Marie, University Professor
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LABELLE Fabienne, Senior Lecturer
LANGÉ Daniel, University Professor Emeritus
LEDUC Fabrice, University Professor
MERINO Steven, Contract Lecturer
OPHELE-ROSSETTO Claude, University Professor
OUDIN Federica, Associate Professor
OUDIN Martin, Associate Professor
PEYRONNET Marie, Senior Lecturer (arrival on 01/09/2019)
RAVENNE Sylvain, Senior Lecturer
ROULET Vincent, Associate Professor
SABARD Olivia, University Professor
SLIM Hadi, University Professor
SOTOMAYOR Raoul, Contract Lecturer
TELLIER-CAYROL Véronique, Associate Professor
TESTU François-Xavier, University Professor
THOMAS-TAILLANDIER Delphine, Associate Professor
TRAULLE Julie, University Professor
TRÉMORIN Yannick, University Professor Emeritus

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ALBERT Nathalie, University Professor
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LEROUSSEAU Nicole, University Professor Emeritus
MADELAINE Colombine, Senior Lecturer
MANSON Corinne, Associate Professor
MONJAL Pierre-Yves, University Professor
MOUZET Pierre, Associate Professor
MOZOL Patrick, Associate Professor
PELLISSIER Gilles, Contract Lecturer
ROLAND Sébastien, University Professor
ROMAN Diane, University Professor (departure on 01/09/2019)
ROS Nathalie, University Professor
THIERRY Damien, Associate Professor
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CRÉPON Sylvain, Senior Lecturer
PARTHENAY Kevin, University Professor (arrival on 01/09/2019)
VITIELLO Audric, Associate Professor

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FAUELLE-AYMAR Christine, Associate Professor
FAVARD Pascal, University Professor
KOSSI Yann, Senior Lecturer
LÉVY Nathalie, Senior Lecturer

Visitor

LE GLASS Louis-François, Public Financial Institution

List of PhD students IRJI François-Rabelais ■ ■ ■ ■

Surname, first name, PhD title, PhD supervisor, (date of first registration)

- ABU SEIF Yuzar, *Migrants and asylum seekers at the European Court of Human Rights*, Supervisor: Professor Emeritus Abdelkhaleq BERRAMDANE (18/11/14)
- ADEOSSI Adechinan, *The organization of time in comparative French and Beninese criminal proceedings*, PhD co-supervised by Professors François FOURMENT and Eric Codjo MONTCHOAGBASSA (11/10/17)
- ALMUTAIRI Abdulrahman Ghazi, *Monetary uncertainty – A French-Saudi Arabian comparative law study*, Supervisor: Professor Nicolas CAYROL (20/01/15)
- ALSGHAYIR Ala Abulkasim, *The European Union and the Libyan crisis*, Supervisor: Professor Emeritus Abdelkhaleq BERRAMDANE (11/12/17)
- ANDAGUI OLENDE Dastern, *Obtaining confessions through ill-treatment: A comparative study of French and Gabonese law*, PhD co-supervised by Professors François FOURMENT and Charles MBA OWONO (28/11/18)
- ANIAMBOSOU Cossi Dorothé, *The civil liability of the veterinarian*, Supervisor: Professor Aline VIGNON-BARRAULT (15/12/12)
- APPERT Clémence, *The Office of the Judge of Appeal for Administrative Disputes*, Supervisor: Professor Benjamin DEFOORT (20/09/18)
- AUBELLE Vincent, *Does the new commune form the basis of a new territorial architecture?*, Supervisor: Professor Pierre-Yves MONJAL (03/01/17)
- AYASSOU Madji, *Local authorities and innovations*, Supervisor: Patrick MOZOL, Associate Professor (09/01/17)
- BALTZINGER Cyrielle, *Real estate sales and soil pollution*, Supervisor: Damien THIERRY, Associate Professor (04/12/17)
- BENOIT ISART Pauline, *Artificial Intelligence and Robotics in Health*, Supervisor: Farida ARHAB-GIRARDIN, Associate Professor (30/10/18)
- BRAIK Yani, *The legal security of the contributor*, Supervisor: Julien BOURDOISEAU, Associate Professor (07/12/15)
- BROSSET BRIAND Marion, *Public order and competition*, Supervisor: Professor François BRUNET (03/10/16)
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- BRUNIE Juliette, *Comparative study of compensation for damages suffered in public hospitals and private clinics*, Supervisor: Professor Nathalie ALBERT (19/09/17)
- BUI Huong Giang, *The conflicts in the South China Sea. The case of Vietnam in relation to the claims of other states in the region*, Supervisor: Professor Nathalie ROS (21/11/17)
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- CORBY Xavier, *Obligation established by judgment*, Supervisor: Professor Nicolas CAYROL (03/10/16)
- COSSO Mélanie, *The evolution of financial risk sharing in administrative contracts*, Supervisor: Professor Bénédicte DELAUNAY (15/11/12)
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- DELACOURE Elodie, *Reflections on the separation of judicial functions in criminal proceedings*, Supervisor: Professor François FOURMENT (20/09/16)
- DELCHER Emilie, *Integration without EU membership: the case of the European Economic Area*, PhD co-supervised by Professors Pierre-Yves MONJAL and Sébastien ROLAND (02/04/13)
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- FONTAINE François, *Civil liability in triangular labour relationships*, Supervisor: Professor Olivia SABARD (24/10/18)
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- HACENE Anaïs, *The plurality of accountability in private and public liability law*, Supervisor: Professor Claude OPHÈLE (22/10/12)
- HEMA Maïghin Gwladys, *Exploitation of natural resources and the right to an adequate standard of living in French-speaking West Africa*, Supervisor: Isabelle HANNEQUART, Associate Professor (09/10/15)
- HERMAND Thomas, *Assizes Court: between oral debates and judicial writings*, Supervisor: Professor François FOURMENT (26/11/15)

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Surname, first name, PhD title, PhD supervisor, (date of first registration)

- HIOL Stéphanie, Court of Justice and Council of State: a dialogue between judges?, Supervisor: Professor Pierre-Yves MONJAL (06/01/17)
- HORLAVILLE Clotilde, Value in public law, Supervisor: Professor François Brunet (04/10/18)
- HUNAULT Nicolas, Personal injury, Supervisor: Julien BOURDOISEAU, Associate Professor HDR (23/11/17)
- KADJIKI Essouham, The Local Finance Committee, Supervisor: Pierre MOUZET, Associate Professor (29/09/17)
- KEKE Sakre, Strengthening participatory democracy through the protection of digital personal data. Comparative study France - Côte d'Ivoire, Supervisor: Patrick MOZOL, Associate Professor (09/11/17)
- KERROUMI Nezha, Consumer protection of banking and financial services under French and Moroccan law, Supervisor: Professor Nicolas CAYROL (05/12/14)
- KHAFIF Anass, The law of economic regulation (comparative research on the relationship between the state and the economy - cases of Morocco and France), PhD co-supervised by Professors Pierre-Yves MONJAL and David MELLONI (28/09/15)
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- MASQUILLIER Ariane, Public Service and the Principle of Non-Discrimination (Franco-Canadian Comparative Law Research), Supervisor: Professor Diane ROMAN (29/10/18)
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- NAZZAL Sam, Geopolitics of Blackmail or the Impact of Regional and International Political and Economic Blackmail on the Palestinian Problem, Supervisor: Professor Pierre-Yves MONJAL (30/10/2018)
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- SILBERMAN Eric, Cannibalism in criminal law, PhD co-supervised by Professor Claude OPHELE and Véronique TELLIER-CAYROL, Associate Professor (06/01/15)
- STIEN Arnaud, Financial Intelligence Units, Supervisor: Professor Olivier CAHN (10/10/16)
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- THIBAudeau Benjamin, Forensic evidence, Supervisor: Professor Olivier CAHN (10/10/16)
- THUILLIER THOMAS, Public law on natural disasters, PhD co-supervised by Professor Nathalie ALBERT and Corinne MANSON, Associate Professor HDR (29/09/14)
- VODOPLAV Matija, Investment facilitation in the area of financial markets: a study on the new generation of free trade agreements, Supervisor: Professor Pierre-Yves MONJAL (08/12/16)
- YALCIN Levent, Freedom of expression of minorities in Turkey and the Convention for the Protection of Human Rights and Fundamental Freedoms, Supervisor: Professor Olivier CAHN (10/11/15)
- YAMBA TAMBIKISSA Inès, The authority of res judicata in criminal proceedings over the labour court, Supervisor: Véronique TELLIER-CAYROL, Associate Professor (21/11/17)





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