



# Vesalius College Brussels

**Fall 2017**  
**Course Syllabus LAW 271G**  
**Methods: Legal Analysis, Research and Writing**

**Professor Liliana Lizarazo Rodríguez**

**Number of ECTS credits: 6**

**Contact**

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**Office hours:** Mondays (14:00 – 15:00) or by appointment

**Course schedule:** Monday 15:00 - 18:00, VeCo1

**Course Description** This course is designed to develop the student's ability to identify and analyze relevant legal sources and to develop writing and methodological skills. The course introduces students to a variety of theoretical approaches to legal research and to the methods and methodologies used in academic legal research, with a focus on international and European law. In addition, the theoretical approach to legal disciplinary and interdisciplinary research methods is complemented with a practice-oriented approach, with the aim to improve academic writing and research skills.

**Course Prerequisites**

LAW 102G or with written permission of the professor

**COURSE LEARNING OBJECTIVES**

Upon successful completion of this course, students should be able to:

**1. In terms of knowledge:**

- 1.1.** Explain the main approaches in legal methodology,
- 1.2.** Explain the key issues of disciplinary and interdisciplinary legal research,

**2. In terms of skills:**

- 2.1.** Undertake a research project in Law: identification of a research problem, selection of data, formulation of a research question, identification and justification of the relevance of the research topic, selection of a research method that best fits with the research topic.
- 2.2** Develop an adequate literature review and identify relevant references to formulate a theoretical framework in accordance with the research topic.

- 2.3 Choose key primary and secondary legal sources (databases, official websites on international law, European law, and other international organizations).
- 2.4 Select the pertinent research methodology (disciplinary, interdisciplinary, empirical methods, etc.) to tackle the selected research problem.
- 2.5 Draft academic papers and policy documents, and apply key citation guides.

**3. In terms of attitudes:**

- 3.1. Develop, besides the conceptual basis of legal research methodology, a critical approach to international and European law through the analysis of academic articles, and concrete cases.

**LINK BETWEEN MAJOR OBJECTIVES, COURSE OBJECTIVES, TEACHING METHODS, ASSIGNMENTS AND FEEDBACK**

(BA International and European Law)

**Summary:**

- Number of assignments used in this course: 5
- Number of Feedback occasions in this course (either written or oral): Orally: In each session and during the final session (for the final paper). Written: 2, one for the midterm evaluation and one for the final paper.
- Number and Types of Teaching Methods: 3. Lectures, skills training, peer assessment and discussions.

<b>Major Learning Objectives</b>	<b>Course Learning objectives addressing the Major Objectives (testable learning objectives)</b>	<b>Methods used to Teach Course Objectives</b>	<b>Methods (and numbers/types of assignments) used to test these learning objectives</b>	<b>Type, Timing and Instances of Feedback given to Student</b>
acquire knowledge of terminology and concepts of international and European Law.	1.1. 1.2 2.1 2.2. 3.1;	Lectures, skills training and discussions	5	In each session, complete last session and evaluation of written assignments
gain an understanding of the international system and the European integration process	1.1. 1.2 3.1	Lectures, skills training and discussions	5	In each session, complete last session and evaluation of written assignments
develop a working knowledge of international law-making by means of treaties, state practice and decisions of international organizations and conferences	1 2 3	Lectures, skills training and discussions	5	In each session, complete last session and evaluation of written assignments
become familiar with the European institutions and the decision-making processes	1 2 3	Lectures, skills training and discussions	5	In each session, complete last session and evaluation of written assignments
develop the ability for independent analysis of the interplay between international and European Law	1 2.2 and 3	Lectures, skills training and discussions	5	In each session, complete last session and evaluation of written assignments
develop the ability to transpose the analysis of rules and events into a scientifically sound and feasible research project	1 2 3	Lectures, skills training and discussions	5	In each session, complete last session and evaluation of written assignments
enhance the student's ability to use the appropriate research methods and tools in the framework of independent research projects	2	Lectures, skills training and discussions	5	In each session, complete last session and evaluation of written assignments

provide students with the knowledge of and practice with electronic information sources on international and European law	2	Skills training	2	In each session, complete last session and evaluation of written assignments
develop the ability to communicate in an effective way the acquired knowledge and the outcome of research projects, both in written and oral form	2 3	skills training and discussions	5	In each session, complete last session and evaluation of written assignments
develop English language skills, both written and oral	1 2 3	skills training and discussions	5	In each session, complete last session and evaluation of written assignments
stimulate critical attitudes, which are necessary for "life-long learning" and sensitivity to the importance of legal and ethical considerations and the ability to confront dominant, popular opinions with constructive criticism	3	Lectures, skills training and discussions	3	In each session, complete last session and evaluation of written assignments

**Course Materials:** Mandatory and complementary (non-mandatory) readings are announced for each session. The references included for skills training will be made available during the corresponding sessions for use in class.

**Teaching method and planned learning activities:** the main legal research approaches are presented by combining (a) lectures on the main characteristics of these approaches and their methods, and (b) skills training.

**Grading Scale of Vesalius College:** Vesalius College grading policy, in line with the Flemish Educational norms, is as follows:

Letter grade	Scale of 20	Scale of 100
A	17.0-20.0	85-100
A-	16.1-16.9	81-84
B+	15.3-16.0	77-80
B	14.5-15.2	73-76
B-	13.7-14.4	69-72
C+	13.1-13.6	66-68
C	12.3-13.0	62-65
C-	11.5-12.2	58-61
D+	10.7-11.4	54-57
D	10.0-10.6	50-53
F	0-9.9	0-49

### ASSIGNMENTS AND GRADING CRITERIA:

#### 1. Analysis of academic papers

**Deadline:** schedule will be published after the first session.

**Description:** In the first session, a brief explanation will be given on how to prepare a research paper (what? research question (RQ); how? methodology; why? justification; and where? literature review). It will also be explained why empirical research methods are more and more being used in legal research, and which are the main sources and empirical

methods (qualitative and quantitative) that are used in law. This will be further developed in the corresponding sessions. For the subsequent sessions, the second part of each of these sessions will consist of: (a) a critical presentation (and discussion) of the mandatory papers (identification of the RQ, method defended or used, justification and sources) (b) a short critical assessment of RQ, method, justification and literature review. **The objective** is to become familiar with the main approaches in legal methodology, and to learn to critically evaluate legal research documents.

**Concrete assessments:**

**1.1. 10 minutes critical presentation** of one of the mandatory readings by the students (as mentioned above) - identification of the RQ, method defended/used (quantitative, qualitative), justification and sources (primary, secondary): **15%**

**1.2. 5 minutes as discussant:** Each student (who is not presenting a paper during the sessions 4-6) should also select a mandatory reading **to act as discussant** of the presentation of the paper (during sessions 4-6)<sup>1</sup>. Discussants should explain whether and why they agree on the identification of the RQ, justification and method? **10%**

<b>Evaluation as paper presenter</b>			
<b>Descriptor</b>	<b>Excellent: A</b>	<b>Satisfactory: B/C</b>	<b>Unsatisfactory: D/F</b>
Presentation skills (5 points)	Very well structured; focused and clear presentation	Well-structured, mostly focused presentation.	Disorganized and unclear presentation.
Methodological skills (6 points)	The identification of the RP, RQ, method defended/used, and justification are clearly presented and explained in the given time	The explanation of the RP, RQ, method defended/used, and justification are satisfactory in the given time, with some minor gaps	No (or poor) identification of the RP, RQ, method defended/used, and justification or well identified but could not be explained in the time given
Identification of sources (4 points)	The identification of the sources (primary, secondary) is clearly presented and very well explained in the given time	The identification of the sources (primary, secondary) is presented and explained in the given time, with some minor gaps	Partial or no identification of the sources (primary, secondary) and/or could not be explained in the time given
<b>Evaluation as discussant</b>			
<b>Descriptor</b>	<b>Excellent: A</b>	<b>Satisfactory: B/C</b>	<b>Unsatisfactory: D/F</b>
Discussion (5 points)	Very good discussion of the key concerns of the presentation from a methodological perspective	Identifies the main concerns of the presentation from a methodological perspective	Fails to identify the main concerns of the presentation from a methodological perspective and cannot refer to the main points of discussion.
Methodological skills (5 points)	Explains the key methodological aspects of the paper in the given time	Explains the key methodological aspects of the paper in the given time with some gaps.	Fails to explain the key methodological aspects of the paper in the given time

**2. Draft of a disciplinary research proposal (instead of midterm exam): 20%:**

- **Deadline:** The proposal should be drafted and sent to my email ([clizaraz@vub.ac.be](mailto:clizaraz@vub.ac.be)) in Word format, with the subject "LAW 271G – Full name". by **Session 7: 9.10.2017 before 17:00 pm.**
- **Word count: 1000 words.**
- **Description:** the student should prepare a research proposal (research topic, research question, and relevance of the research) related to the topic referred below. The proposal could e.g. consist of a comparative analysis of both decisions (see below), an

<sup>1</sup> Paper presenters will act as discussants in sessions 8-12.

analysis of the complexity of regulating business activities that affect human rights, on the impact of international decisions on national law, a comparative analysis involving another country, etc. Mandatory readings and the readings of the skills course (already analyzed in previous sessions) should be considered as preliminary basis of the proposal.

- **Topic: Fragmentation in International Economic Law: Business & Human Rights case law: The case of Asbestos.** Each student should work on these two rulings referring to problems with the use of asbestos:
  - ✓ WTO Appellate Body Canada/European Communities - Measures Affecting Asbestos and Asbestos-Containing Products - Appellate Body Report. DS135 of 12.3.2001.
  - ✓ European Court of Human Rights (ECtHR) Brincat and Others V. Malta (60908/11, 62110/11, 62129/11, 62312/11 and 62338/11).

<b>Criteria for the assessment of the disciplinary research proposal</b>			
<b>Descriptor</b>	<b>Excellent: A</b>	<b>Satisfactory: B/C</b>	<b>Unsatisfactory: D/F</b>
Formulation of the research problem (7 points)	The research problem is clearly presented and refers to the proposed topic.	The research problem is understandable but can be improved. The relation with the proposed topic is identifiable but not completely explained	The research problem is not clearly identified and presented. No (or poor) connexion with the proposed topic
Research question and justification (7 points)	The research question is well formulated and relevant for the research problem (the proposed topic). The justification as well.	The research question and justification are satisfactorily formulated but can be improved.	The research question and/or justification are not clear or no relevant with respect to the research problem and the proposed topic.
Literature overview (7 points)	References to the relevant mandatory readings are very well presented and the selected articles support the research proposal.	References to the relevant mandatory readings are present but can be improved. The selected articles are not necessarily the most relevant to the research proposal.	No (or poor) reference to the relevant mandatory readings. The selected articles are not relevant for the research proposal.
Language (4 points)	A minimal amount of grammar and spelling errors. Very good wording of the proposal and well-structured.	Some grammar and spelling errors. Satisfactory wording and structure of the proposal.	Many grammar and spelling errors. The text is hard to understand due to bad wording or weak structure.

**3. Final Paper (instead of the final exam):** Legal (case law) analysis and ((inter)disciplinary) research proposal on the **Fragmentation of International Law: Business & Human Rights case law: The case of Asbestos.**

**3.1. Discussion and feedback session: session 15 on 4.12.2017: 15%**

During the last session, each student will present his/her draft project (5 min.) by referring (a) to the relevance of the case, (b) which legal method (disciplinary or interdisciplinary) is considered as adequate/optimal to tackle the problem of fragmentation of international law and why. (c) explain the selection of the key mandatory and optional readings of the course to better understand the problematic and to design the research proposal. **The objective of this session** is to develop an ability to synthesize, to briefly present a work in progress, and to give/receive feedback on the work which is being conducted. It is also an opportunity to ask for specific clarifications from the lecturer or from the fellow students in order to complete the final paper.

<b>Evaluation as paper presenter</b>			
<b>Descriptor</b>	<b>Excellent: A</b>	<b>Satisfactory: B/C</b>	<b>Unsatisfactory: D/F</b>
Presentation skills (coherence) (3 points)	Very well structured; focused and clear presentation, seeking	Well-structured, mostly focused presentation. Satisfactory explanation of	Disorganized and unclear presentation. No understandable explanation

	to explain how she/he is drafting her/his paper	the way he/she is drafting the paper, but some gaps should be further improved	of how she/he is drafting her/his paper
Methodology skills (4 points)	The identification of the RQ, method defended/used, and justification are clearly presented and very well explained in the given time	Most of the RQ, method defended/used, and justification are satisfactorily presented and explained in the given time, with some minor gaps	No identification of the RQ, method defended/used, and justification or well identified but could not be explained in the given time
Ability to synthesize (3 points)	The key elements to be discussed are presented in the given time	Most of the elements to be discussed are presented in the given time, with some minor gaps	No time management and no identification of the key elements to be discussed
<b>Evaluation of the feedback</b>			
<b>Descriptor</b>	<b>Excellent: A</b>	<b>Satisfactory: B/C</b>	<b>Unsatisfactory: D/F</b>
Feedback given to colleagues (5 points)	Very good intervention on the key points to be improved by the presenter. Constructive opinions formulated with due respect.	Identifies some of the main concerns about the presentation and provides relevant feedback. Constructive opinions formulated with due respect.	Fails to identify the main concerns of the presentation. No constructive or respectful intervention.

### 3.2. Final Paper 40%

- **Deadline: On 15.12.2017 at 18:00**
- **Submission:** The papers should be submitted electronically, in Word format by email ([clizaraz@vub.ac.be](mailto:clizaraz@vub.ac.be)) to with the subject "LAW 271G – Full name".
- **Wordcount: Max 4000 words, with a tolerance margin of 10%, i.e. between 3,600 and 4,400 words.** The word limit per subpart (see below) is indicative, but there should not be a major imbalance among them. Do not forget to use the selected citation Guide.
- **Description:** The final paper consists of two parts: (i) **a comparative case law analysis**, and (ii) **a research proposal**. It should contain the following points:

#### ➤ **Part 1: Case law analysis**

- A critical (legal/disciplinary) analysis of the judicial reasoning of the decisions/judgements; (1500 words approximately). The emphasis is on **the judicial reasoning** (method used by the adjudicator), rather than on the topic which is treated.
- An assessment of the reasons of these courts/dispute settlement bodies according to which they have **jurisdiction** to hear these claims, and of **the suitability of these fora to decide the dispute**; (500 words)

#### • **Part 2: (Inter)Disciplinary Research proposal (on the Fragmentation of International Law)**

- The proposal should contain **a research topic and research question(s)** that can be developed on the basis of the two selected decisions. This proposal should also contain: **the relevance** of the research question(s); **a short literature review**: a selection of 7 references (from all the mandatory readings and additional readings) that are useful for the formulation of the research proposal, taking into account the feedback provided to the research proposal (Additional secondary sources can be used but they are not necessary); **primary sources** that should be considered; (1500 words). **This proposal can be a revised version of the one submitted in session 7, or it can be a new one.**

- A final reflection on whether the legal (disciplinary) analysis is sufficient to tackle the problem or whether any **interdisciplinary approach would be suitable** to further study the problem and why; (500 Words).
- **Topic: Fragmentation of International Law: Business & Human Rights case law: The case of Asbestos.** Each student should continue working on the two rulings used for the proposal:
  - ✓ WTO Appellate Body Canada/European Communities - Measures Affecting Asbestos and Asbestos-Containing Products - Appellate Body Report. DS135 of 12.3.2001.
  - ✓ European Court of Human Rights (ECtHR) Brincat and Others V. Malta (60908/11, 62110/11, 62129/11, 62312/11 and 62338/11).

• **General rules:**

- ↻ Papers should be submitted through the anti-plagiarism software Turnitin.
- ↻ Papers should have a header with your name, course title, paper title, and pages should be numbered (page x of y).
- ↻ The reference system can be chosen from the two systems which will be seen in class (see below). The chosen system should be applied consistently.
- ↻ **Each essay is an individual and independent piece of work. Collusion will be sanctioned.**
- ↻ Late submission is penalized with 5 points out of 100 points (5%) for each day of delay. This penalty does not apply when there are exceptional circumstances that impede the delivery of the paper by the due date. In these cases, a medical certificate or other proof should be submitted as soon as possible. I will assess whether the exceptional circumstances exist or not and whether the penalty applies. 'Exceptional circumstances' must be significant, unpredictable and serious. These include medical treatment or distress due to a family crisis or loss. These do not include, amongst others, time management problems, technical problems with the computer, inability to find sources, attending a wedding or going on holiday. In all these cases, late submission penalties will systematically be applied.

**Detailed grading criteria for final papers:**

Descriptor	Excellent: A	Satisfactory: B/C	Unsatisfactory: D/F
<b>Paper structure:</b> Wording, with good introduction and conclusion. Respect for the suggested wordcount for each topic (4 points)	The paper is well-structured, with a clear introduction and conclusion, correct wording, respect for the wordcount and the research topic.	The paper is well-structured with some weaknesses in its coherence, or in the clarity of the introduction and conclusion. Clear wording with respect for the topic and wordcount.	The structure of the paper is not coherent. No (or poor) introduction and conclusions No correct wording and no respect for wordcount and/or topic.
<b>Capacity to perform a critical (legal/disciplinary) analysis of the judicial reasoning of the decisions/judgements:</b> (10 points)	Excellent critical understanding of case law. Very good analysis of the key aspects of the method employed in the legal reasoning (legal positivism/ balancing etc.)	Good understanding of case law, but omits some relevant points; satisfactory analysis of the key aspects of the method employed in the legal reasoning (legal positivism/ balancing etc.)	No adequate understanding of the cases, omits several significant points of judicial reasoning
<b>Jurisdiction:</b> Understanding of key concepts and correct application to the concrete cases (3 points)	Provides excellent critical understanding of concepts, relates them in a meaningful and pertinent way to the case(s)	Provides overall good critical understanding of concepts, with some weaknesses in argumentation; relation with case is good with some weaknesses.	Confused understanding of concepts; weak and incoherent argumentation; No (or poor) relation with case.

<b>Capacity to improve a research proposal:</b> research problem (RP), research question (RQ) and the relevance of the research topic (10 points)	The elements of the research proposal are clear and complete. Improvement after feedback is remarkable	The elements of the research proposal are clear but not complete. Improvement after feedback is visible but can improve	The elements of the research proposal are clear and complete. Improvement after feedback is not visible.
<b>Use of relevant primary and secondary sources (literature review)</b> (5 points)	A very good selection of relevant, primary and secondary sources. Clear identification of each category	A good selection of predominantly relevant, primary and secondary sources. Identification of each category, with some weaknesses	A poor identification of primary and secondary sources (and not all relevant). Difficulty in identifying each category.
<b>Capacity to identify the need and convenience to realize interdisciplinary research</b> (5 points)	A very good understanding of the objectives of interdisciplinary research methods and their application to the case.	A satisfactory understanding of the objectives of interdisciplinary research methods and satisfactory application to the case, with minor gaps.	Poor understanding of the objectives of interdisciplinary research methods and no application to the case.
<b>Language</b> (3 points)	A minimal amount of grammar and spelling errors. Very good capacity to express complex ideas.	Some grammar and spelling errors, Good capacity to express complex ideas.	Many grammar and spelling errors. The text is hard to understand.

### Summary of assignments and grades:

Description	Percentage
<b>Analysis of academic papers</b>	
critical presentation of one of the mandatory readings	15
Discussant	10
<b>Research proposal (disciplinary)</b>	20
<b>Paper: legal analysis and research proposal</b>	
Presentation of the draft design of the final paper	10
Feedback to their colleagues	5
Final Paper	40
<b>Total</b>	<b>100</b>

### CLASS SCHEDULE

#### 1. 28 August – Introduction to the course:

- General introduction: presentation of the program, work method and assignments
- Introduction to disciplinary legal research methods vs. interdisciplinary research methods
- Presentation and distribution of assignments.

#### **Mandatory reading:**

✓ Van Gestel, R., H.-W. Micklitz and M. Poiares Maduro (2012) "**Methodology in the New Legal World**", *EUI Working Papers*, (LAW/13).

#### **Reading questions:**

- How is Law evolving from a methodological perspective?
- Which are the main goals of Legal Methodology?

#### 2. 04 September - Crash Introductory Law Course

- The concept of law: legal families, their diffusion and sources
- Levels of regulation (federal and unitary states): local, national, regional, international

- Supranational and intergovernmental legal systems

**Mandatory reading:**

✓ Husa, J. (2016) "**The Future of Legal Families**", in: Oxford Handbooks Online, pp. 1–25 [available at: [http://works.bepress.com/jaakko\\_husa/33/](http://works.bepress.com/jaakko_husa/33/)].

**Reading questions:**

- Which is the scope of the concept 'legal family'?
- Which are the main differences between macro-comparative law and micro-comparative law?

**3. 11 September - Legal sources**

- Key legal documents: statutes, contracts and general conditions, judgments, policy papers
- Databases for International and European law and Case law
- Secondary sources

**Skills training:**

**Primary sources:** databases and statutory interpretation

**Citation guides:** Oscola and Harvard style.

✓ Clark K. and M. Connolly (2006) **A Guide to Reading, Interpreting and Applying Statutes**, The Writing Center at GULC [available at: <https://www.law.georgetown.edu/academics/academic-programs/legal-writing-scholarship/writing-center/upload/statutoryinterpretation.pdf>]

**4. 18 September - Introduction: Disciplinary Legal Research Methodology**

- Legal Doctrine
- Limits of this approach

**Mandatory reading:**

✓ Van Hoecke, M. (2011) "**Legal doctrine. Which method(s) for what kind of discipline**", in: M. Van Hoecke (ed.), *Legal doctrine: which method(s) for what kind of discipline?* European Academy of Legal Theory Series, Hart Publishing pp. 1-18.

**Reading questions:**

- Should legal doctrine become an empirical social science?
- Which is the main goal of legal doctrine?

**Skills training:** Legal Research: how to prepare a research paper (what? research question (RQ); how? methodology; why? justification; and where? literature review).

✓ Dawson C. (2009) **Introduction to Research Methods, a Practical Guide for Anyone**, London: How to Books.

**5. 25 September - Law and humanities: Legal Philosophy: legal positivism**

- The concept of law and legal interpretation: hermeneutics
- Principles
- Subsumption method (sources, legal analysis)

**Mandatory reading**

✓ T. Spaak (2005) "**Kelsen and Hart on the Normativity of Law**", in: P. Wahlgren (ed.), *Perspectives on Jurisprudence: Essays In Honour Of Jes Bjarup*, pp. 397-414.

**Reading questions**

- What is the meaning of normativity of the law, and how is this linked with the main thesis of legal positivism?
- How do you understand Kelsen's and Hart's approaches to the normativity of the law?

**Skills training:** Case law analysis

✓ Hsieh, A. (2012) *Using Cases in Legal Analysis*, The Writing Center at GULC  
[<https://www.law.georgetown.edu/academics/academic-programs/legal-writing-scholarship/writing-center/upload/Using-Cases-in-Legal-Analysis-Revised.pdf>]

## 6. 02 October – Legal Theory: Theories of legal argumentation

- Rules and principles;
- Judicial reasoning: Proportionality test;
- Typology of legal arguments;

### **Mandatory reading:**

✓ Alexy, R. (2014) "Constitutional Rights and Proportionality", *Revus - Journal for Constitutional Theory and Philosophy of Law*, 22: 51-65.

### **Additional reading:**

✓ Dworkin, R. (1975) "Hard Cases", *Harvard Law Review*, 88(6): 1057-1109.

### **Reading questions:**

- Which are the main differences between rules and principles?
- How can the principle of proportionality be defined and why is it relevant in constitutional adjudication?

**Skills training:** Legal argumentation

✓ Trachtman, J.P. (2013) *The Tools of Argument: How the Best Lawyers Think, Argue, and Win*. CreateSpace Independent Publishing Platform.

## 7. 09 October - Mid-term exam

### 8. 16 October - Law and humanities: Legal history.

- Evolution of the law
- Historical analysis of law
- legislative history in statutory interpretation

### **Mandatory reading:**

✓ Leonhard, R. (1907) "Methods Followed in Germany by the Historical School of Law", *Columbia Law Review*, 7(8): 573-581.

✓ Cohen, M. (2007) "Researching Legal History in the Digital Age", *Law Library Journal*, 99(377).

### **Reading questions:**

- How can the method of the German Historical School of Law be understood?
- How do digital sources play a role in research methods in legal history?

**Skills training: Sources:** Databases

### 9. 16 October - Regional and International Courts

- Taxonomy of international and regional courts (regional integration and human rights)
- Forum shopping

### **Mandatory reading:**

✓ Alter, K. J. (2006) *Private Litigants and the New International Courts*. *Comparative Political Studies*, 39(1), pp. 22-49.

### **Additional reading:**

✓ Pauwelyn, J. and L.E. Salles (2009) "**Forum Shopping before International Tribunals: (Real) Concerns, (Im)Possible Solutions,**" *Cornell International Law Journal*, 42(1): art. 4.

**Reading questions:**

- Which is the meaning of compulsory jurisdiction?
- Which is the difference between old and new style international courts?

**Skills training:** Case law as primary source: databases

✓ icourts database <http://jura.ku.dk/icourts/research-resources/database/>

✓ The International Justice Resource Center (IJRC)

<http://www.ijrcer.org/about/>

✓ EU Curia <https://curia.europa.eu/>

✓ CoE Hudoc database

[http://www.echr.coe.int/Pages/home.aspx?p=caselaw&c=#n14597620384884950241259\\_pointer](http://www.echr.coe.int/Pages/home.aspx?p=caselaw&c=#n14597620384884950241259_pointer)

✓ OAS Information Center [http://www.oas.org/en/information\\_center/default.asp](http://www.oas.org/en/information_center/default.asp)

**10. 23 October - Comparative legal methods**

- Comparative law and comparative arguments
- Comparative legal systems

**Mandatory reading:**

✓ Adams, M. and J. Bomhoff (2012) "**Comparing law: practice and theory**", in: M. Adams and J. Bomhoff (eds.), *Practice and Theory in Comparative Law*, Cambridge University Press, pp 1-21.

**Additional reading:**

✓ Lemmens, K. (2012) "**Comparative law as an act of modesty: a pragmatic and realistic approach to comparative legal scholarship**", in: M. Adams and J. Bomhoff (eds.), *Practice and Theory in Comparative Law*, Cambridge University Press, pp. 302-326.

**Reading questions:**

- Why is difficult to have one method for comparative law?
- How is the situation in Europe?

**Skills training:** Legal transplants and comparative Law

✓ Peerenboom R. (2013) "**Toward a methodology for successful legal transplants**", *Chinese Journal of Comparative Law*, 1(1): 4-20.

**11. 27 October - Transnational and Globalization of the Law: Methodological challenges**

- Globalization of the Law (waves)
- Transnational Law: concept and challenges
- Legal pluralism and inter-legality

**Mandatory reading:**

✓ Zumbansen, P.C. (2014) "**Transnational Law, Evolving**", in: J. Smits (ed.), *Encyclopedia of Comparative Law*, Edward Elgar, 2nd ed., pp. 899-925 [also available as: *Osgoode CLPE Research Paper*, (27), 2011; *King's College London Law School Research Paper*, (29)].

**Reading questions:**

- What is the scope of transnational law and what is its relevance?
- In which legal areas is transnational law more visible and why?

**Skills training:** Introduction to Empirical methods in Law

- Dawson C. (2009) **Introduction to Research Methods, a Practical Guide for Anyone**, London: How to Books.

### **12. 06 November - New legal realism - Law in context: Law and economics, politics, society.**

- Origin: Legal Realism and Critical Legal Studies
- Law in context
- Law and ... (social sciences)

#### **Mandatory reading:**

✓ Shaffer, G. (2015) "**The New Legal Realist Approach to International Law**", *Leiden Journal of International Law*, 28(2): 189-210 [also available as: *UC Irvine School of Law Research Paper*, (54), 2015].

#### **Reading questions:**

- Why is it relevant to analyze how actors use and apply the law?
- Why are empirical methods in law necessary to tackle transnational legal problems?

**Skills training:** Case studies in Law

Webley L. (2016) "**Stumbling Blocks in Empirical Legal Research: Case Study Research**", *Law and Method*, (10) [available at: <https://www.bjutijdschriften.nl/tijdschrift/lawandmethod/2016/10/lawandmethod-D-15-00007.pdf>]

### **13. 13 November - Law and economics and Institutional approach to the law (Law and politics)**

- Concept and approaches
- Neo institutionalism
- Law and Politics

#### **Mandatory reading:**

✓ Paccos, A.M. and L.T. Visscher (2011) "**Methodology of Law and Economics**", in: B. van Klink and S. Taekema (eds.), *Law and Method. Interdisciplinary Research into Law*, Series Politika, (4), Tübingen: Mohr Siebeck, pp. 85-107.

#### **Reading questions:**

- How do you explain the distinction between positive and normative Law and Economics?
- What is regulatory intervention and what is the role of transaction costs?
- How can Law and Economics support legal research?

### **14. 27 November December - Methodological challenges of the fragmentation of International Law**

- Fragmentation of International Law
- Extraterritorial jurisdiction

✓ Michaels R. and J. Pauwelyn (2012) "**Conflict of Norms or Conflict of Laws? Different Techniques in the Fragmentation of Public International Law**", *Duke Journal of Comparative & International Law*, 22: 349-376.

#### **Reading questions:**

- Why do we talk about the fragmentation of international law?
- What is the difference between 'conflict-of-norms' rules and 'conflict-of-laws' rules?

**Skills training:** Identification of soft and hard law – State and Non-State Law: Concrete cases

### **15. 04 December - Plural Legal Orders and Inter-legality**

- Multilevel economic regulation
- *Lex mercatoria* and arbitration
- Economic relations and human rights

#### **Mandatory reading:**

- ✓ Turner B. (2016) **Supply-chain legal pluralism: normativity as constitutive of chain infrastructure in the Moroccan argan oil supply chain**, *The Journal of Legal Pluralism and Unofficial Law*, 48:3, 378-414

#### **Additional reading:**

- ✓ Petersmann, E.-U. (2016) "**Methodology problems in international economic law and adjudication**", *EUI Working Papers (LAW/12)* [available at: <http://hdl.handle.net/1814/40467>]

#### **Reading questions:**

- Which are the methodological challenges of the fragmented multilevel, public and private regulation of transnational phenomena?
- Which is the scope of International Economic Law and what is its relationship with local plural legal orders?

**Skills training:** Databases of IEL and International Organizations databases International Arbitration.

### **16. 11 December : Discussion of papers**

#### **ADDITIONAL REGULATIONS**

**Vesalius College Attendance Policy:** As the College is committed to providing students with high-quality classes and ample opportunity for teacher-student interaction, it is imperative that students regularly attend class. As such, Vesalius College has a strict attendance policy. Participation in class meetings is mandatory, except in case of a medical emergency (e.g. sickness). Students will need to provide evidence for missing class (doctor's note). If evidence is provided, the missed class is considered as an excused class. If no evidence is provided immediately before or after the class, the missed class is counted as an absence. Participation implies that students are on time: as a general rule, the College advises that students should be punctual in this regard, but it is up to the professor to decide whether to count late arrivals as absences, or not.

**If students are absent for too many classes for a single course**, they receive a penalty on their overall grade for that course.

- If students are absent for five 1,5 hour class sessions of a course, they receive a penalty of 5 points on their overall grade (out of 100) for that course.

- For each additional absence (over five) for a 1,5 hour class session, an additional penalty of 1 point is applied to the reduced course grade.

Example 1: at the end of the semester, a student has a course grade of 75/100. Over the course of the semester, s/he missed 4 unexcused sessions of 1,5 hours for the course. No penalty is applied.

Example 2: at the end of the semester, a student has an overall grade of 75/100. Over the course of the semester, s/he missed 5 unexcused sessions of 1,5 hours for the course.

S/he receives a penalty of 5 points (out of a hundred), and his/her final course grade is 70/100.

Example 3: at the end of the semester, a student has an overall grade of 75/100. Over the course of the semester, s/he missed 7 sessions of 1,5 hours for the course. S/He receives a penalty of 7 points, and his/her final course grade is 68/100.

**Behavior:** Please be punctual and refrain from leaving the classroom once class has started.

**Use of electronic devices in the classroom:** Students can use Laptops during class only if those support and enhance learning. Appropriate use of technology in the classroom includes: note-taking on laptops or Ipads. Inappropriate use of technology in the classroom includes: texting your friends or reading texts while in class; sending or reading personal emails; surfing the Internet for non-class purposes, such as checking in with Facebook or other social media platforms, shopping online, reading online information not connected to the class materials and topics, and so forth. If students engage in the inappropriate use of electronics in the classroom, then their right to use these devices in the future will be removed. Mobile phones are not allowed in the classroom. If there is an exceptional and urgent need to check for messages or make/receive a call, the student concerned must inform the instructor in advance.

#### **Academic Honesty Statement**

Academic dishonesty is **NOT** tolerated in this course. Academic honesty is not only an ethical issue, but also the foundation of scholarship. "Cheating and plagiarism (**including self-plagiarism**) are therefore serious breaches of academic integrity. Following the College policy, cheating and plagiarism cases will be communicated in writing to the Head of the Student Conduct Committee for disciplinary action. Appropriate references and citations must be provided to any work, **including your own previous writing**."