

LLM IN INTERNATIONAL AND EUROPEAN LAW  
Academic year 2024-2025

**Course: EU Migration and Human Rights Law**

- Number of ECTS credits: 6
- Semester: 1st
- Teaching staff: Kristin Henrard (course titular), Ilke Adam and Florian Trauner (course co-titulars)
- Content:

The course will zoom in on human rights and migration law and policy.

At the beginning, the students' knowledge of the human rights paradigm is refreshed. Linking back to the historical overview, the importance of human rights is highlighted as rights for everyone, irrespective of any characteristics, including legal status.

Human rights may be fundamental, they are seldom absolute. This in turn colours the obligations of states, both negative and positive state obligations. Regard is also had to enforcement possibilities through international courts, with the special position of the CJEU in this respect. This part will not be too technical but will clarify and explain the constraints of international courts, also in terms of admissibility requirements. The special position of the CJEU in this regard is discussed as well: difficult direct access to CJEU, the potential of preliminary rulings, and NGO activating EU member states to start infringement procedure.

The next classes will discuss some recurring human rights issues faced by migrants:

expulsion and non-refoulement, living conditions of asylum seekers, family reunification; and migrants as minorities? This discussion will happen at the hand of actual cases, the factual settings, discussing possible options with the students and then comparing that to the actual judgement. Subsequently, the course will zoom in on non-discrimination law, and the extent to which this can contribute to the accommodation of ethnic, religious and linguistic population diversity, including persons with migrant background. In addition to general, international law perspectives, special regard will be had to EU law perspectives, more particularly to the EU's Race Directive and Employment Equality Directive, and related cases before the CJEU (similar strategy of discussing at the hand of actual cases). The course can then turn to the importance of human rights for migrants as (ethnic, religious and linguistic) minorities. Following a brief overview of the extent to which general human rights contribute to the protection of the separate minority identity, several cases of both ECtHR and CJEU invite critical reflections on migrants' separate identity, integration concerns and (business) neutrality.

After an in-depth knowledge of legal dynamics, the course will turn its attention to more political dynamics in the field of asylum and migration. The EU policy field of migration is highly salient and sovereignty sensitive. EU member states created the general Area of Freedom, Security and Justice with the Schengen area as an integral part of this new concept, as well as establishing the Dublin system at the heart of the Common European Asylum System. However, the 'refugee reception crisis' of 2015 and 2016 has shown that the implementation of the Schengen and Dublin agreements, the Common European Asylum System, and the common immigration policies is far from consolidated. The influx of Ukrainians has constituted another challenge for the field. Policy debates on EU cooperation on migration and asylum policies have become increasingly salient. The course will focus on the why and how of EU

policies and cooperation in this policy area, and its effects, cover essential questions of European studies. Students will learn how and why the EU started to cooperate on migration and asylum, what the main EU policy instruments are in this policy field and why the policies are as they are. They will also critically reflect upon the impacts of current EU migration and asylum policies, and on possible alternatives. The policy field will be approached from different angles, looking at institutional dynamics of decision making, the legal and policy implications and the impact of EU policies on national policies and politics.

- Learning outcomes:
  - Categorise the various situations that can be considered as migration.
  - Explain the difference between migration, forced displacement and asylum.
  - Illustrate the international and European regulatory framework applicable to migration (legal and illegal), forced displacement, trafficking human beings and asylum.
  - acquire in-depth knowledge on the main policy actors in the field of EU migration, their interests and ideas;
  - acquire in-depth knowledge on the main EU policy instruments on migration and asylum;
  - Evaluate the existing international and European legal regimes from a critical perspective, considering the situation of vulnerable persons in a situation of migration or displacement.
  - Assess whether critical approaches to migration can feed current International and Legal regimes on migration in a way that vulnerable migrants can be better protected.
  - Identify the rightsholders and stakeholders involved in disputes related to human rights violations;
  - Explain which national, regional and international judicial, non-judicial and non-state mechanisms exist to resolve disputes related to the violation of human rights;
  - Actively participate in judicial or extrajudicial human rights dispute resolution processes as a party, as third party or as adjudicator;
  - To formulate written claims or replies in the context of proceedings relating to human rights violations; and,
  - Participate in oral hearings as a representative of the parties, of third parties, in the general interest, or as an adjudicator or mediator.