



**Academic Year 2024-2025**

**Syllabus**

**Global Law**

**CFU 12**

**1<sup>st</sup> Module: Proff. Fiammetta Borgia, Federica Mucci, Pierluigi Simone**

**2<sup>nd</sup> Module: Jean-Bernard Auby and Prof Martina Conticelli**

### **Course Description**

The Course is divided into two Modules (International Law and Contemporary Challenges and Global Administrative Law).

The 1<sup>st</sup> Module aims at providing students with the knowledge of the basic elements of modern international law, with particular reference to subjects and legal sources, the United Nations collective security system, the State responsibility and disputes resolution.

It focuses on the nature of "public" international law as a legal order that was born historically - and still operates - to regulate relations between sovereign states in the international community. The role of international organizations and individuals in the international order is also introduced and analyzed, as well as the other "actors" that in recent times have become increasingly important in international practice, such as international non-governmental organizations.

The 2<sup>nd</sup> module focuses on the rise of global administration, on the emergence of administrative law mechanisms beyond the State and on transnational regulation.

It focuses on the logics, dynamics and challenges of what can be called "global administrative law". "Global administrative law" refers to a situation in which: (1) relationships between the interests of individuals and public authorities are influenced or governed by multiple normative systems (from informal social norms to law, from specific rules to the general principles of law), with the consequence that such systems co-exist and compete with one another within the same territory or domain of activity; or (2) two or more systems of governance – such as the courts of different legal orders – claim authority over the same domain of activity.

Topics include: the criteria governing the expropriation of aliens; due process of law in regulatory and adjudicatory procedures; the tensions between custom, state law, and human rights in developing countries; and the ways in which the pluralist structure of international treaty law and organization are transforming law and courts at the national level.

## International Law and Contemporary Challenges (1<sup>st</sup> Module)

<b>Topic 1</b>  <b>The Law of the International Community: Subjects and Sources of</b>	SUBJECTS OF INTERNATIONAL LAW
	a) The main features of the International Community and its historical Evolution
	b) The subjects of international law
	- States
	- International intergovernmental organizations
	- Other subjects?
<b>International Law</b> (Prof. Mucci)	Individuals
	SOURCES OF INTERNATIONAL LAW - Custom - Treaties - Binding acts of international intergovernmental organizations - General principles of law - Hierarchy of sources and <i>jus cogens</i> - <i>Soft law</i>
<b>Topic 2</b> <b>United Nations and Collective Security System</b> (Prof. Borgia)	Part 1 THE UNITED NATIONS UN ILP UN Charter UN Structure
	Part 2 THE UN CHARTER'S SYSTEM OF COLLECTIVE SECURITY Powers of general assembly, general secretary and security council The contribution of regional, defense and security organizations to peace and security Economic and military sanctions
	Part 3 THE COLLECTIVE SECURITY AND THE PROTECTION OF HUMAN RIGHTS Humanitarian intervention Responsibility to Protect doctrine Fight against Terrorism
	STATE RESPONSIBILITY IN INTERNATIONAL LAW The International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts The rules of attribution Circumstances precluding wrongfulness Consequences of breach Invocation of State responsibility International liability for injurious consequences arising out of acts non prohibited by international law
<b>Topic 3</b> <b>State Responsibility and Disputes Resolution in International Law</b> (Prof. Simone)	DISPUTES RESOLUTION IN INTERNATIONAL LAW The international judicial function: Arbitration; the International Court of Justice Regional and sectorial international courts: The General Court and the Court of Justice of the European Union; the International Tribunal of the Law of the Sea; the WTO Dispute Settlement Body; the European Court of Human Rights; the Inter-American Commission and Court of Human Rights; the African Commission and Court of Human Rights; the Committee for Human Rights of the United Nations Covenant on Civil and Political Rights; the International Criminal Court and the <i>ad hoc</i> International Criminal Tribunals.
	The pacific resolution of international disputes and the non-judicial settlement procedures.

### Teaching Method

Lectures will focus on the different topics. The active participation of students will be stimulated through the analysis of cases and materials. Group work will be requested in order to stimulate the mutual interaction and the focus on specific and relevant matters.

### Textbook and Materials

A. CASSESE, International Law, 2nd edition, Oxford University Press, 2004 Selected materials and/or slides will be provided to the students during the course

## Global Administrative Law (2<sup>nd</sup> Module)

<b>First Part</b> <b>Prof. J.B. Auby</b>	Introduction: Globalization and Law General Interest and Public Goods under Legal Globalization Non-State Actors in Legal Globalization Climate Change, Biodiversity and Legal Globalization Commerce in Legal Globalization Internet, Digitalization and Legal Globalization
<b>Second Part Prof.</b> <b>MartinaConticelli</b>	The Globalization of Law Areas of legal globalization Governance without Government: power and legitimacy in the global sphere Does a global Constitution exist? An Administrative Law without the State Is there a Global Administrative Law? Origins and features of GAL Regulators: between private and public Global standards for national proceedings Global proceedings Due Process of Law

### Teaching Method

The class will survey approaches to understanding global law in a range of settings, focusing on “inter-normativity”: the various ways in which autonomous normative orders, including systems of law with fully-fledged courts, interact with one another. A variety of issues concerning legal principles and rules, as well as their underlying values, will thus be considered.

### Textbook:

**Students attending classes may study on the following textbook:**

J.B. Auby, Globalization, Law and the State, Bloomsbury, 2017

Selected materials and/or slides will be provided to the students during the course (a detailed list will be uploaded on the course website at the beginning of each module)

## *Part I (Jean-Bernard Auby)*

### **Readings and Materials**

#### **General Interest and Public Goods under Legal Globalization**

##### Materials

What's in a Concept? Global Public Goods, International Law, and Legitimacy Daniel Bodansky, The European Journal of International Law Vol. 23, 2012, no. 3

##### Readings

Inge Kaul, Global Public Goods. A Concept for Framing the Post-2015 Agenda?, Discussion Paper, Deutsches Institut für Entwicklungspolitik, 2013,

<http://www.muji.esporafrica.es/sites/default/files/Inge%20Kaul.pdf>

Jean-Bernard Auby, Globalisation, Law and the State, Hart Publishing, 2016, pp.129-136

#### **Non-State Actors in Legal Globalization**

##### Materials

Michael Barr and Geoffrey Miller, Global Administrative Law: The View from Basel The European Journal of International Law Vol. 17 no.1, 2006\_

##### Readings

David Bederman, Diversity and Permeability in Transnational Governance, Emory Law Journal, 2007-2008, p.201

-A.Peters, L.Förster and T. Zinkernagel (eds), Non-State Actors as Standard Setters, Cambridge University Press, 2009

#### **Climate Change, Biodiversity and Legal Globalization**

##### Materials

Convention on Biological Diversity, 1992

##### Readings

Dossier "Climate Change and Public Law", French Yearbook of Public Law, Issue 1, 2023

Developments in the law: climate change, The Harvard Law Review, Volume 135, April 2022 Number 6

#### **Commerce in Legal Globalization**

##### Materials

Ralf Michaels, The True Lex Mercatoria: Law Beyond the State, Indiana Journal of Global Legal Studies, August 2008

##### Readings

Michael Joachim Bonell, The law governing international commercial contracts and the actual role of the UNIDROIT Principles, Uniform Law Review, Vol. 23, 2018, 15–41

Jean-Bernard Auby, Globalisation, Law and the State, Hart Publishing, 2016, pp.129-136

#### **Internet, Digitalization and Legal Globalization**

##### Materials

Data Protection General Regulation, 2016

##### Readings

- Council of Europe Commissioner for Human Rights, The rule of law on the Internet and in the wider digital world Issue paper, 2014

Dana Burchardt, Does Digitalization Change International Law Structurally? German Law Journal (2023), 24, pp. 438–460

## Part II (Martina Conticelli)

Lesson 1, A course on GAL;  
Lesson 2, The Globalization of Law November 24, 2023 Areas of legal globalization;  
Lesson 3, Governance without Government: power and legitimacy in the global sphere;  
Lesson 4, Does a global Constitution exist?  
Lesson 5, An Administrative Law without the State;  
Lesson 6, Is there a Global Administrative Law?  
Lesson 7, Origins and features of GAL;  
Lesson 8, Regulators: between private and public;  
Lesson 9, Global standards for national proceedings;  
Lesson 10, Global proceedings;  
Lesson 11, Class Presentations;  
Lesson 12, Due Process of Law;  
Lesson 13, Class debate;  
Lesson 14, Class debate

### General bibliography

Gordon Anthony, Jean-Bernard Auby, John Morison, Tom Zwart (eds.), *Values in Global Administrative Law*, Oxford, Hart, 2011  
S. Cassese, *The Global Polity. Global Dimensions of Democracy and the Rule of Law*, Sevilla, Global Law Press, 2012  
P. Craig, UK, *EU and Global Administrative Law*, Cambridge, Cambridge University Press, 2015  
G. della Cananea, *Due Process of Law Beyond the State: Requirements of Administrative Procedure*, Oxford, OUP, 2016

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### Assessment of the Global Law exam

\*GG3 students or above must follow the assessment rules of the syllabus of their year. The changes presented in the 2024-25 version of this syllabus only apply to the GG2 class of 2024-25\*

The attendance status of the student is evaluated separately for module 1 and module 2. In order to be considered attending, a student needs to attend at least 80% of the classes (>34 h per module). Being non-attending to one of the modules does not affect the student's attendance status in the other.

#### Module 1: International Law and contemporary challenges

The first round of exams for module 1 takes place in the midterm week. This round is open to all GG2 students (both attending and non-attending students).

The exam will cover all topics examined in Module 1, although reading materials differ between attending and non-attending students.

Exam are structured as follows:

*Prof. F. Mucci*

Attending = oral exam on **reading material for attending** students

Non attending = oral exam on **reading material for non- attending** students

*Prof. P. Simone*

Attending = oral exam on **reading material for attending** students

Non attending = oral exam on **reading material for non- attending** students

*Prof. F. Borgia*

Attending = group presentation + written exam on **reading material for attending** students (27 multiple choice questions + 1 open – ended question)

Non attending = written exam on **reading material for non- attending** students

## Reading materials for attending students

*Prof F. Mucci*

The relevant parts of the textbook and the slides provided to students during the course and uploaded online

*Prof P. Simone*

The relevant parts of the textbook and the slides that will be provided to students during the course

*Prof. F. Borgia*

The relevant parts of the textbook and the slides that will be provided to students during the course

## Reading materials for non-attending students

*Prof F. Mucci*

The relevant parts of the textbook and the slides provided to students during the course and uploaded online, and the comment on the case *Loizidou v. Turkey* uploaded online.

*Prof P. Simone*

The relevant parts of the textbook and the slides that will be provided to students during the course, and a case study that will be uploaded online

*Prof. F. Borgia*

The relevant material (pdf. or ppt.) and a case study that will be uploaded online during the course.

The student's final evaluation for module 1 will consist in the average grade of the 3 grades from the three professors.

## Module 2: Global Administrative Law

The first round of exams for module 1 takes place in the regular winter exam session. This round is open to all GG2 students (both attending and non-attending students).

The exam will cover all topics examined in Module 2, although reading materials differ between attending and non-attending students.

Exams are structured as follows:

**Attending students** (>34 h of attendance in module 2) will be evaluated on the basis of (A) one short (2-3 page) "response paper" on the weekly readings (40%), (B) attendance and participation (20%), and (C) a final oral exam (40%). Attendance to the final oral exam is compulsory in order to pass the exam. The oral exam will cover all mandatory **readings for attending students**

**Non-attending students** will take an oral exam on ALL the mandatory **reading materials for non-attending students**.

## Mandatory reading materials for attending students

J.B. Auby, *Globalization, Law and the State*, Bloomsbury, 2017

## Introduction: The Globalization of Law

M. Shapiro, *The Globalization of Law*, 1 *Indiana Journal of Global Legal Studies* 37 (2000)

Background reading in the Textbook: S. Cassese p. 47-67

U. Mattei, *A Theory of Imperial Law: A Study on U.S. Hegemony and the Latin Resistance*, 17 *Indiana Journal of Global Legal Studies* (2005)

Background reading in the Textbook: S. Cassese p. 67-87

## The Emergence of Global Administrative Law

Kingsbury et al., *The Emergence of Global Administrative Law*, 68 *Law and Contemporary Problems*, p.15-62 (Summer 2005)

## Public Law in a Globalized Perspective

B. Kingsbury, *The Concept of "Law" in Global Administrative Law*, 20 *European J.L. Int'l Law* 23 (2009)

M. De Bellis, *Public law and private regulators in the global legal space*

### **The rule of Law, due process of Law and the forms of Global Regulation**

G. della Cananea, *Beyond the State: the Europeanization and globalization of procedural administrative law*, (2003) 9 *European Public Law*, p. 563 ff.

Conticelli, *Global administrative procedures: distinguishing features*

G. della Cananea, *Administrative Due Process in Liberal Democracies: a Post-9/11 World*, *Italian Journal of Public Law*, n. 3, 1/2011, pp. 195-223.

### **Mandatory reading materials for non-attending students.**

TEXTBOOK 1 = J.B. Auby, *Globalization, Law and the State*, Bloomsbury, 2017

TEXTBOOK 2 = S. Cassese, *A world government*, Global Law Press, Sevilla 2018 pp. 47-85/ 109-175/ 191-213

### **Introduction: The Globalization of Law**

M. Shapiro, *The Globalization of Law*, 1 *Indiana Journal of Global Legal Studies* 37 (2000)

Background reading in the Textbook: S. Cassese p. 47-67

U. Mattei, *A Theory of Imperial Law: A Study on U.S. Hegemony and the Latin Resistance*, 17 *Indiana Journal of Global Legal Studies* (2005)

Background reading in the Textbook: S. Cassese p. 67-87

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Each response paper will have to pass an antiplagiarism check. Should a paper be tested positive to plagiarism, the outcome of the exam will be withdrawn (both the 1st module and the 2nd one).

### **1st and 2nd Module: final grade**

If a student fails/ does not show up to / rejects at least one of the two modules in the first round (midterm week for module 1, finals week for module 2), he/she will have to retake both modules in the second round, losing any results obtained in the first call, but keeping his/her attendance status unchanged, and will prepare the exam accordingly. As a matter of fact, both modules must be completed in the same call.

\*For module 2: Attending students who do not attend the first round final oral exam and therefore retake it in the second round, will not lose the response papers' results in the second round.

The final grade given to the students for the Course of Global Law will be equivalent to the point average obtained between the final grade attributed at the end of the 1st Module (a minimum of 18 for each one of the three parts) and the final grade attributed at the end of the 2nd Module, rounded up for averages with 5 decimals. The exam will be passed if the average of the grades of the two modules is higher than 18 (each grade being higher or equal to 18).

Students who reject the final grade or fail in the Winter session, will lose all grades from the winter session and will be considered afterwards as non-attending students.

## Office hours

Prof. **Fiammetta Borgia**: before and after classes/or upon request by email [fiammetta.borgia@uniroma2.it](mailto:fiammetta.borgia@uniroma2.it)

Prof. **Federica Mucci**: before and after classes/or upon request by email [federica.mucci@uniroma2.it](mailto:federica.mucci@uniroma2.it)

Prof. **Pierluigi Simone**: [pierluigi.simone@uniroma2.it](mailto:pierluigi.simone@uniroma2.it), Wednesday 15.00-18.00

Prof. **Martina Conticelli**: before and after classes/or upon request by email [martina.conticelli@uniroma2.it](mailto:martina.conticelli@uniroma2.it)

Prof. **J.B. Auby**: before and after classes/or upon request by email [jeanbernard.auby@sciencespo.fr](mailto:jeanbernard.auby@sciencespo.fr)

**NOTE:** If you are an Erasmus or a non Global Governance student who would like to attend one or more courses in the Global Governance programme, please be aware that, **before enrolling in the course**, you should have read the code of conduct and the procedural rules characterizing our programme. We assume that, if you enroll in the course, **you have read and accepted all Global Governance values and rules**. Notice that attendance is expected from the very first lesson and you need to attend at least 80% of the course to be considered an attending student.

## Description of the methods and criteria for testing learning

The examination assesses the student's overall preparation, ability to integrate the knowledge of the different parts of the programme, consequentiality of reasoning, analytical ability and autonomy of judgement. In addition, language property and clarity of presentation are assessed, in accordance with the Dublin descriptors (1. knowledge and understanding; 2. applying knowledge and understanding; 3. making judgements; 4. learning skills; 5. communication skills).

The final grade will be related 70% to the degree of knowledge and 30% to the expressive capacity (written and oral) and autonomous critical judgement demonstrated by the student.

The examination will be graded according to the following criteria:

Unsuitable: important deficiencies and/or inaccuracies in the knowledge and understanding of the topics; limited capacity for analysis and synthesis, frequent generalizations and limited critical and judgement skills; the topics are exposed in an incoherent manner and with inappropriate language.

18-20: barely sufficient knowledge and understanding of the topics, with possible generalizations and imperfections; sufficient capacity for analysis, synthesis and autonomy of judgement; the topics are frequently exposed in an inconsistent manner and with inappropriate/technical language;

21-23: surface knowledge and understanding of the topics; ability to analyse and synthesise correctly with sufficiently coherent logical argumentation and appropriate/technical language.

24-26: fair knowledge and understanding of the topics; good analytical and synthetic skills with rigorously expressed arguments but not always appropriate/technical language.

27-29: complete knowledge and understanding of the topics; considerable capacity for analysis and synthesis. Good autonomy of judgement. Arguments presented in a rigorous manner and with appropriate/technical language.

30-30L: very good level of knowledge and thorough understanding of topics. Excellent analytical and synthetic skills and independent judgement. Arguments expressed in an original manner and in appropriate technical language.

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