



Title of the course: International and European Migration Law

Name of the Chair of the course: MARCELLO DI FILIPPO

Compulsory/optional course: COMPULSORY

Year of the course and semester: Second Term

ECTS credit: 6

Number of hours: 42

General information and objective of the course

Migration flows to Europe and within the European borders are a stable but continuously evolving phenomenon, raising new questions and challenges for Member States and EU policymakers. Since the entry into force of the Schengen Agreements and of the Amsterdam Treaty, a particularly evident European-wide dimension of Migration Law began to develop. The Lisbon Treaty reinforced this trend.

The course unit aims at stimulating a comprehensive knowledge and assessment of the legal regime on free movement of EU nationals and their families as well as that for third countries nationals (TCN)' admission and their residence and free movement rights. Moreover, the whole EU Law will be analysed or critically commented, from a double point of view:

1) both the regime of free circulation for EU nationals and the regime of immigration of TCNs from outside the EU and of circulation inside the EU will be investigated. The purpose is to examine whether the striking differences between the two legal regimes are still tenable or not considering they are a source of distortion detrimental not only to the migrants, but also to the EU itself and its objectives (inter alia protection of human rights, fostering of the internal market and of the growth of its economy, protection of the weaker party in labour relationships, fight of organized crime).

2) rules contained in the treaties and in secondary acts (regulations, directives, decisions) will be carefully examined, but also international agreements and informal arrangements entered into by EU (or by MS, with EU's endorsement) with third countries, covering issues such as readmission, fight against irregular migration and human trafficking, partnership for migration and mobility. The aim is to assess whether the external dimension of EU activities and policies is as comprehensive as stated in official policy documents (or genuinely inspired by a "global approach"), or whether the concrete initiatives carried out (and adequately financed) are mainly devoted to increase techniques of remote control, apt to stop at the source migratory movements (no matter if caused by economic reasons, or genuine need for international protection). With special regard to the asylum policy, peculiar attention

will be devoted to the participation of the EU to resettlement programs, to regional protection schemes, to the need to establish “protected entry procedures” for genuine asylum seekers.

Material and structure of the course

PART ONE (8 hours)

Sovereign States and their relationship with individuals.

The classical view of the host State’s discretionary power (and of the very few limits on it) on admission, treatment and expulsion of foreigners.

The emergence of new legal paradigm arising out of human rights law.

The growing role of international entities.

PART TWO (6 hours)

The “European laboratory”: the emphasis on the creation of a regime of preferential free circulation for Member States’ nationals and the “indifference” towards immigration policies from third countries.

A first step forward: the “external” laboratories of the Schengen Agreements and of the Dublin Convention.

The evolution from the Maastricht Treaty to the Lisbon Treaty.

PART THREE (28 hours)

Thematic focus No. 1: the free circulation regime for EU nationals and their families.

Thematic focus No. 2: the borders regime.

Thematic focus No. 3: the EU visa policy.

Thematic focus No. 4: the EU action on regular migration.

Thematic focus No. 5: the EU action on irregular migration.

Thematic focus No. 6: the EU in the international arena. The EU and the UN Global Compacts.

Thematic focus No. 7: the EU and asylum, with a special focus on the Dublin system, the safe third country concept, the protected entry procedures.

Thematic focus No. 8: final reflections on the coherence of EU Law and policy with international standards, with European democratic standards and with some EU principles.

Main text books

- B. Opeskin *et al.* (eds.), *Foundations of International Migration Law*, Cambridge University Press, 2012, paperback, Chapters 1, 2, 3, 5, 6, 7, 13, 14, 15;
- P. Boeles *et al.* (eds.), *EU Migration Law*, 2nd edition, Intersentia, 2014, parts I, II, III;
- selected electronic resources indicated in the website <http://migration.jus.unipi.it>.

For students willing to study on Italian material:

- A.M. Calamia, M. Di Filippo, M. Gestri (a cura di), *Introduzione al diritto internazionale ed europeo delle migrazioni*, 2018, CEDAM, Padova;
- additional readings indicated in the website <http://immigrazione.jus.unipi.it>.

Pre-requisites, exams and assessment

- It is recommended that students have a basic knowledge of Public International Law and of European Union Law;
- during the course, guest lecturers coming from foreign universities, NGOs and Institutions will discuss current issues of the international debate;
- active participation from the students is encouraged and will be an element for the final mark;
- upon Italian student's request, the exam can be sit in Italian.

Office hours

Prof. Marcello Di Filippo regularly receives the students on a weekly basis. It is preferable to set an appointment via email (email: marcello.difilippo@unipi.it).