**SYLLABUS DE COURS / ACADEMIC SYLLABUS**

|  |
| --- |
| The Use of Force in International Law – Old Problems and Contemporary Practice |
| Intitulé du cours / *Course title* |
| Discipline*Academic field* | International Law |
| Enseignant*Teacher*  | Pr. Carlo Santulli |
| Contact *E-mail address* |  |
| Niveau de formation*Academic level* | 4th Year |
| Volume horaire*Hours* | 20 |
| Langue*Language* | English |

|  |
| --- |
| Description du cours / *Course outline* |
| The course will consider the rules applicable to the use of force in international law and the practice of contemporary international relations.The doctrine of the *bellum iustum* (just war theory) will be considered in its historical perspective (Vitoria a. Suarez, Grotius) and from the point of view of the United Nations Charter, and its contemporary interpretation. The effective practice of the Security Council (including the “negative” practice in situations of non-decision) will be studied through salient cases (the intervention in Libya in particular, with possible discussion of ongoing conflicts). |

|  |
| --- |
| Objectifs pédagogiques du cours / *Course objectives* |
| The understanding of the function of international law, and of the law of war in particular, in situations of armed conflicts is the principal objective of the course. This includes the possibility to evaluate the effectivity of international law, as compared to municipal systems. |

|  |
| --- |
| Compétences acquises / *Learning outcomes* |
| Knowledge of the principles governing the use of force in international law and capacity to appreciate the effective functioning of the security Council, as well as the contemporary practice of the main actors of international relations. |

|  |
| --- |
| Plan de cours par séance / *Course content for each session* |
| 10 lessons (2H/lesson). General elements (subject to change):I. Introduction. The use of force and the doctrine of the *bellum iustum* (just war): The canonists (Vitoria/Suarez), H. Grotius, and selected old applications of that doctrine (Latin America, opium wars).II. The 20th century and the United Nations Charter. Genesis, general rules (compared to G. Scelle doctrines in France), Nicaragua case.III. The institutional rules of the Security Council: veto power, Corean war. Contemporary doctrinal issues: abuse of veto? Eventual reforms (European veto?).IV. Self-defence. Collective self-defence. The Charter. R. Quadri’s doctrine. NATO practice after WW2 (general elements, Former Yugoslavia). Preemptive (anticipatory) self-defence. Self-defense a. non-State actors. V. The use of force a. secessions: Decolonisation, Kosovo (ICJ adv. Op.), Gibraltar a. Malvinas (Falkland), Crimea, Catalonia, etc. The *uti possidetis iuris* rule in question.VI. The practice of the Security Council (selected cases/legal issues): Iraq, Libya, Sudan. “Humanitarian Wars”? The responsibility to protect, the democratic argument (arab spring?), the human rights argument (cf. EU law).VII. The new criminal legal challenge: the ICC a. ongoing conflicts (Sudan, Libya, Ukraine, Israel, Ivory Coast?). Immunities and prosecutions.VIII. The “myth” of the peaceful legal order. H. Lauterpacht a. R. Aron *vs* H. Kelsen. The efficiency and “morals” of international law as compared to municipal legal systems (internal *vs* international, or external, use of force).IX. Applications to ongoing conflicts. Open discussion on pending situations (based on the international situation at the day of the course).X. Conclusions: war, peace and international law – what is the function of international rules in international military crisis? |

|  |
| --- |
| Références bibliographiques / *Bibliography* |
| O. Corten, T. Ruys a. A. Hofer (ed.), *The Use of Force in International Law. A Case-Based Approach*, Oxford, Oxford Univ. Press, 2018.C. Santulli, *“*Relative sovereignty – Expansion and limitation of State sovereignty*”*; M. Filatova, *“*Friendly settlement of international disputes: a new paradigm of international dispute resolution*”*; O. Corten, « La lutte contre le terrorisme : une « cause » de guerre ? »; H. Azari, « Les changements conflictuels de gouvernement en droit international », in C. Santulli, P. Martin-Bidou (ed.), *Le droit international pour un monde nouveau / International Law for a New World*, Paris, Pedone, 2023. |

|  |
| --- |
| Mini CV de l’enseignant / *Mini CV of the teacher* |
| *Agrégé des Facultés de droit* (2000), professor at the Institut d’Etudes Politiques d’Aix-en-Provence (2024-), at the Univ. Paris-Panthéon-Assas (2006-2024) a. at the Univ. of Bordeaux (2000-2004). Former director of the Institut des Hautes Etudes Internationales at Panthéon-Assas (2012-2024).Director of the *Revue générale de droit international public* (since 2009) ; Member of the editorial board and/or of the scientific council of different other reviews and series, including the *Revue Française de Droit Administratif*, the Review *Diritti umani e diritto internazionale*, the electronic Review of the Italian Society for International Law (SIDI) *Quaderni di SIDIblog*, etc. 2017 : *Officier* in the Ordre des Palmes académiques, France : 2014 : Prix *Charles Dupin* of the Institut de France, Académie des sciences morales et politiques, for the book *Introduction au droit international. Formation, Application, Exécution*.Selected works :*Introduction au droit européen. Organisations et principes*, Paris LGDJ, 2020, 286 p., 2d ed. 2022 ; *Introduction au droit international. Formation – Application – Exécution*, Paris, Pedone, 2013, 276 p. ; *Droit du contentieux international*, Paris, Montchrestien (coll. Précis Domat), 2005, xi + 584 p. [sold out], 2d éd. 2015, 621 p. ; *Le statut international de l’ordre juridique étatique — Etude du traitement du droit interne par le droit international*, Paris, Pedone, 2001, xiv + 540 p. [thesis prize of the University Panthéon-Assas ; *Suzanne Bastid* prize of the Société française pour le droit international ; *Georges Scelle* prize of the Chancellerie des Universités de Paris] ; *Irrégularités internes et efficacité internationale de la nationalité*, Paris, L.G.D.J., 1996, ix + 97 p. |