



ESCLH 5th Biennial Conference, Paris, 28-30 June, 2018

Laws Across Codes and Laws Decoded

Ecole normale supérieure - Institut Universitaire de France

Welcome to the ESCLH 5th Biennial Conference

The 5th Biennial Conference of the European Society for Comparative Legal History is devoted to **Laws Across Codes and Laws Decoded**. In the country of the Napoleonic Codes it is not the matter to eulogize codification, but to propose plural analysis in legal history about the processes of codifying laws and the choices not to codify or to decode laws. Beginning with the presentation of PhD projects about this theme and an inaugural afternoon (with key notes by Catharin MacMillan and Pedro Barbas Homem) three series of panels will deal with Middle Ages, Early Modern Times, Modern Times, 19th and 20th centuries, civil law, penal law, commercial law, public law, international law, Asia, America, Overseas, Legal professions.

The Ecole normale supérieure (ENS) and its small legal team directed by Jean-Louis Halpérin (senior member of the Institut Universitaire de France) is happy to welcome this event. Founded in 1794 the ENS has for mission to educate future teachers, professors and researchers in natural sciences, humanities and social sciences. Among the ENS well known alumni were Taine, Bergson, Durkheim, Jaurès, Péguy, Giraudoux, Bloch, Aron, Sartre, Foucault, Derrida, 13 Nobel Prizes and 11 Fields Medals. The Conference will be supported by the International City Campus of Paris (Cité internationale universitaire de Paris), which offers kindly its hospitality in two venues in front of the ENS Campus Jourdan. Thank you for participating in this Conference and following the detailed schedule. Enjoy your staying in Paris!

La cinquième conférence biennale de l'European Society for Comparative Legal History est consacrée aux lois codifiées et décodées. Dans le pays de Codes Napoléoniens, il ne s'agit pas de faire le panégyrique de la codification, mais de proposer des analyses plurielles des différentes procédures de codification et des choix de ne pas codifier ou de « décodifier ». Débutant avec la présentation des projets de doctorat sur ce thème, puis une séance inaugurale la première après-midi (avec les keynotes de Catharin MacMillan et de Pedro Barbas Homem), la conférence s'articulera en trois sessions parallèles sur le Moyen Âge, les Temps modernes, l'époque contemporaine, le droit civil, pénal, commercial, international, l'Asie, l'Amérique, l'Outre-mer, les professions juridiques.

L'Ecole normale supérieure (ENS) et sa petite équipe de droit dirigée par Jean-Louis Halpérin (membre senior de l'Institut Universitaire de France) est heureuse d'accueillir cet événement. Fondée en 1794, l'ENS a pour mission de former de futurs enseignants, professeurs et chercheurs. Parmi ses anciens élèves, on compte Taine, Bergson, Durkheim, Jaurès, Péguy, Giraudoux, Bloch, Aron, Sartre, Foucault, Derrida, 13 Prix Nobel and 11 Médailles Fields. La Conférence reçoit l'aide généreuse de la Cité internationale universitaire de Paris qui met à sa disposition deux de ses salles prestigieuses en face du campus Jourdan de l'ENS. Merci pour votre participation à cette Conférence, pour respecter les horaires : excellent séjour à Paris !

Thursday, the 28th of June

1) PhD reports:

Ecole normale supérieure, 48 Boulevard Jourdan, PhD reports in two rooms (R1 07, R2 02), 9h00-12h30

1) panel (*Matt Dyson chairing*)

- Tina Miletić (Split), *Concept of testamentum in Medieval Dalmatia*
- Łukasz Gołaszewski (Warsaw), *Meandering way of the change of the civil and canon laws in 16th – 17th century Poland – a case of tithes and significance of legal practice*
- Kaat Cappelle (Brussels), *Married Women as legal agents in sixteenth-century Antwerp and Leuven*
- Przemysław Gawron (Warsaw) and Jan Jerzy Sowa (Warsaw), *Military Law between Codes and Realities of Early Modern Warfare. Codification and Decodification of Military Law in 17th Century England, Poland-Lithuania and Sweden*
- Juan Manuel Hernandez-Velez (Paris), *Emilien Petit (1713-1780) : a comparatist of codification avant la lettre*
- Rafal Kaczmarczyk (Warsaw), *The diverse model of codification, establishment or recognition of criminal law in Muslim countries*
- Piotr Alexandrowicz (Poznan), *The Code as an Instrument: the History of Canon Law and the Codification in the Church*
- Naveen Kanalu Ramamurthy (Los Angeles), *The “Sublime” Jurisprudence of Roman Law: British Jurists and the Codification of Islamic Law in Eighteenth-Century Colonial India*

2) panel (*Aniceto Masferrer chairing*)

- Payam Ahmadi-Rouzbahani (Paris), *Between Islamic Law and Civilian Tradition: The Particular Role of Codification in Making Iranian Civil Law through French Transplants*
- Omer Aloni (Tel Aviv), *Whales, high seas and the codification of international law: the League of Nations and the whaling dilemma, a case study in comparative legal history – 1919-1939*
- Evlampia Tsolaki (Thessaloniki), *The Paradigm of the Hellenic Civil Code*
- Elisabeth Bruyère (Ghent), *Civil Code and Nature Law*
- Kellen Funk (Princeton), *An Empire in itself: the Migration of New York’s Remedial Code*
- Julie Rocheton (Paris), *The 19th century American Definition of Civil Code*
- Airton Ribeiro da Silva Junior (Firenze), *Brazilian efforts on the codification of international law in the early twentieth century: the trajectory of the Epiácio Pessoa's draft code on public international law*
- Sebastian L. Spitra (Vienna), *Codifying World Cultural Heritage: The Quest for New Narratives of a Global Legal History*

Thursday 28th of June 14:00 – 19:00 PLENARY SESSION

Ecole normale supérieure, 45, rue d'Ulm, 75005 Paris, Dussane Room (Enter the main building, take the corridor to the left. The Dussane room is at the end on the left).

14h- 15h Registration and Greetings by the ESCLH President Aniceto Masferrer

15H 16h 30 **Key Notes:**

Catharine MacMillan (King's College, London):

Why English law is not codified: the unsuccessful efforts of Victorian jurists

Pedro Barbas Homem (University of Lisbon):

Science of legislation and codification. The preparation of codification by legal literature in Portugal and Brazil

16h30 coffee break

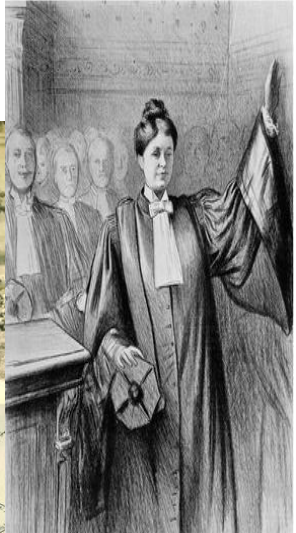
17h-18h 30 First panel (*Jean-Louis Halpérin chairing*)

- Luigi Lacché (Macerata), *An impossible codification? Drafting Principles of Administrative Law: the Italian Experience in a Comparative perspective (19th-20th centuries)*

- Matt Dyson (Oxford), *Legal Change in Tort in the shadow of codification*

- Dirk Heirbaut (Ghent), *Past failures are no guarantee of a future flop: why Belgium's dismal codification record may enable radical change today*

18h30- 19h Legal education in Paris, Jean-Louis Halpérin



Friday 29th of June, Beginning at 9h00 am, coffee break 10h30-11h, lunch buffet 12h30-13h30, concert and dinner 19h00

I) Amphitheater Jourdan, 48 boulevard Jourdan 75014 Paris

9h-10h30 Panel: Criminal Law and the Limits of the State Power in the Era of Codification

(Luigi Lacché chairing)

Karl Härter (Darmstadt), *Criminal Codes and its Alternatives in Juridical-Political and Popular Discourses in the Age of Enlightenment and Revolution*

Aniceto Masferrer (Valencia), *The Relationship between criminal law and morals in the 19th-century criminal law discourse*

Isabel Ramos-Vázquez (Jaén), *Forbidden associations at the beginning of the criminal codification: A comparative approach*

Juan B. Cañizares-Navarro (Murcia), *The crimes of political corruption and the limits of Spanish State Power in the Era of Codification: a Comparative analysis*

11h-12h30 Why a Civil Code? (Dirk Heirbaut chairing)

Hans Schulte-Nölke (Osnabrück), *On the purposes of Civil Law Codification*

Nir Kedar (Bar-Ilan), *The Symbolic Aspect of Civil Code*

Constantin Willems (Marburg), *Advocating Codes – from Thibaut to European Contract Law*

13h30 – 15h00 Panel Legal Practices and Legal Professions in the 19th Century Japan, China, the Ottoman Empire, and England (Michal Galedek chairing)

(Michal Galedek chairing)

Murat Burak Aydin (Frankfurt), Lena Foljanty (Frankfurt), Yu Wang (Frankfurt), Zeynep

Yazici Caglar (Frankfurt)

15h15-16h45 Panel Hungary Codification (Manuel Gutan chairing)

Judit Beke-Martos (Bochum), Zsuzsanna Peres (Budapest), Imre Képešy (Budapest), *Modernization through Codification? External and Internal Comparison of the Hungarian Codification History*

17h00-18h30 Panel The Codification of Unjustified Enrichment in French Law (Matt Dyson chairing)

Eric Descheemaeker (Melbourne), Jan Hallebeek (Amsterdam), Matthew Campbell (Glasgow) and Pablo Letelier (Universidad de Chile)

II) International University City of Paris (Cité Internationale Universitaire de Paris, Maison des Provinces de France, 59 boulevard Jourdan, salon Abreu)

9h-10h30 Medieval Law (Nir Kedar chairing)

Valerio Massimo Minale (Milano), *Dušan's Zakonik: Codification in Medieval Serbia and Byzantine Heritage*

Andreja Katančević (Belgrade), *The Mining Code of Despot Stefan*

Helen F. Leslie-Jacobsen (Bergen), *How Innovative is Innovative? Adaptations of Norwegian Law in New Law Codes in Iceland and Norway from the Tenth to Thirteenth Centuries*

Marek Stary (Prague), *The Role of the Monarch on the Codifications of Land Law in the Estates' State*

11h-12h30 Criminal Law (Aniceto Masferrer chairing)

Stefano Vinci (Bari), *Criminal law and Naples Supreme Court case law in the French decade*
Francesco Mastroberti (Bari), *The Part II of the Code for the Kingdom of the Two Sicilies: an "excellent" criminal code in a despotic state*

Emmanuel Berger (Paraíba), *Le Code des délits et des peines du 3 brumaire an IV. Enquête sur les origines et les principes du code de procédure pénale de la Révolution*

13h30-15h00 16th/17th centuries (Mia Korpiola chairing)

Adam Moniuszko (Warsaw), *'Codification' of Polish and Lithuanian law in the 16th-17th centuries: successes, failures and impact on legal systems.*

Adolfo Giuliani (Helsinki), *Codes without natural law. The case of Jacopo Menochio's De praesumptionibus (1587)*

Tomislav Karlovic (Zagreb), *et en fist assises et usages que l'on deust tenir et maintenir et user el royaume de Jerusalem* « Decoding the Laws of the Kingdom of Jerusalem »

15h15-16h45 Asia (Jan Hallebeek chairing)

Naoki Kanayama (Tokyo), *Japan's "Success" in Codification in the Late 19th Century: By Code, with Code and beyond Code*

Khohchahar E. Chuluu (Tokyo), *Laws of Different Levels:*

Central and Regional Codification in Early Modern Mongolia and Japan

Hiromi Sasamoto-Collins (Edinburgh), *The Japanese Criminal Code of 1880: Convergence and Resistance in Cultural Exchange*

Guliyev Emin (Baku), *Jar-Tala Code of law (decree of the Agdam Majlis) as an act of systematization of the Islamic law and adats*

17h00-18h30 Panel Criminal Codification Italy, Federico Roggero (Roma - La Sapienza) chairing

Emilia Musumeci (Teramo), *Crime or Sin? Codification and secularisation of penal law*

Monica Stronati (Macerata), *The ambiguous legacy of Cesare Beccaria in Italian penal codification*

Paolo Marchetti (Teramo), *The Positivist School and the new horizons of criminal law*

Riccardo Cavallo (Firenze), *The Italian legal socialism and the penal question*

III) International University City of Paris, Maison de étudiants de l'Asie du Sud-Est (59 boulevard Jourdan), Salon Asie du Sud-Est

9h-10h30 Rights (Agustin Parise chairing)

Ivan Kosnica (Zagreb), *Yugoslav Citizenship Law (1918 – 1941): Between Diversity and Unification*

Marju Luts-Sootak, Hesi Siimets-Gross, Marelle Leppik (Tartu), *Codification of basic rights in Estonian Constitution (1920) compared with imperial Russian and German republican models*

Thomas Mohr (Dublin), *Codes of Rights in the British Empire, 1865-1939*

11h-12h30 19th/20th centuries (Eric Descheemaeker chairing)

Filippo Rossi (Milan), *Dismissal across codes and laws decodes. Italian and European legal science dealing with the termination of the employment relationship (latter half of the 19 century-first years of the 20 century)*
Frederik Dhondt (Brussel), *Permanent Neutrality, Stepping-Stone for a Code of Nations*
Michal Galedek (Gdansk), *Comparative analysis as the method of building the Polish civil law from scratch in the interwar period*
Dolores Freda (Napoli), *The Italian “emigration code” of 1919*

13h30-15h00 20th century (Dolores Freda chairing)

Martin Sunnqvist (Lund), *The “Rule of Life”. The Functions of Legislation and Adjudication according to Wilhelm Sjögren in a Comparative Historical Context*
Fernando Gil González (London), *The theory of Cappelletti in the review of comparative legal history systems in Europe*
Hesi Siimets-Gross and Katrin Kiirend-Pruuli (Tartu), *Changes of Estonian and Latvian Divorce Law after WWI: in Draft, in Civil Code and outside of them*

15h15-16h45 America (Pedro Barbas Homem chairing)

Agustin Parise (Maastricht), *Stepping Stones for Law and Society: An Exploration of the Generations of Civil Codes in Latin America (19-21 Centuries)*
Joshua Tate (Dallas), *Codification of Texas Trust Law, 1943-2017*
Diego Nunes (Santa Catarina), *Codification, Recodification and Decodification of Law: a History of Legal Dimensions of Justice in the Imperial Brazil by the “Codigo de Processo Criminal” of 1832*

17h00-18h30 Civil Law (Martin Sunnqvist chairing)

Piotr Pomianowski (Warsaw), *The national codification of civil law in Poland at the beginning of the 19th century. Sources and inspirations*
Manuel Gutan (Sibiu), *Codification as a Tool of Social Engineering in Modern Romania (!?) The Case of Civil Code Alexandru Ioan*
Emőd Veress (Cluj-Napoca), *Abrogation of the 1887 Romanian commercial code and the survival of its institutions and concepts, in the context of the new civil Code*

Around 19h00/19h30 Piano Concert by Fériel Kaddour, lecturer at the Ecole Normale Supérieure

Couperin, Debussy, Liszt, Chopin

Buffet in salon Abreu, Maison des Provinces de France

Saturday the 30th of June, light buffet 12:30 to 13:30

I) Amphitheater Jourdan, 48 boulevard Jourdan 75014 Paris

9h-10h30 Codification Movement (*Dirk Heirbaut chairing*)

Mingzhe Zhu (Pekin), *Notions of Law in the Era of Codification*

Dmitry Poldnikov (Moscow), *Codifying the Laws of the Late Russian Empire: Legal Unification through Contested Western Legal Tradition?*

Valdis Blūzma (Turība), *History of the Codification of Civil Law in Latvia (19th-20th centuries): Overcoming the Territorial and Estate Particularism of Law*

11h00-12h30 Legal Periodicals Panel (*Dave de Ruyscher chairing*)

Marju Luts-Sootak, Merike Ristikivi (Tartu), Sebastiaan Vandenberghe (Ghent), *Legal Periodicals as Alternative to Codes?*

13h30-15h00 Commercial Law (*Frederik Dhondt chairing*)

Dave de Ruyscher (Tilburg), *Pre-Insolvency Proceedings (France, Belgium and the Netherlands, 1807-c 1910)*

Annamaria Monti (Milano), *Commercial Codes: the Italian Example in a comparative perspective*

Efe Antalyali (Istanbul), *Ottoman Jurisprudential Shift: Reception of French Commercial Law (1807)*

15h 15-16h45 Final Plenary Session (for all participants)

ESCLH Election results

ESCLH Annual General Assembly

ESCLH Annual Report

Van Caenegem Award

II) International University City of Paris (Cité Internationale Universitaire de Paris, Maison des Provinces de France, 59 boulevard Jourdan, salon Abreu)

9h-10h30 20th century (*Phillip Hellwege chairing*)

Raffaella Bianchi Riva (Milano), *Legal Ethics in the 19th and 20th centuries: A code of conduct for Italian and European lawyers?*

Dalibor Cepulo (Zagreb), *Local court in Croatia: transplant and challenges of modernity*

Marcin Lysko (Białystok), *Main problems of the codification works on substantive misdemeanour law in People's Poland*

11h00-12h30 Overseas (*Catharine MacMillan chairing*)

Anna Taitlin and Murray Raff (Canberra), *Codification or Transplantation? The Case of Absolute Ownership*

Ricardo Sontag (Minas Gerais), *Models, examples and antimodels: representations of foreign penal codes within the Brazilian codification process (1928-1940)*

Paul Swanepoel (KwaZulu-Natal), *Codifying Criminal Law in East Africa, 1920-1945*

13h30-15h 00 20th century (*Jean-Louis Halpérin chairing*)

Coding Authoritarianism: Law, State, Ideology and World War 2

Cosmin Sebastian Cercel (Nottingham), *Discontinued Dictatorships: (Re)Coding Authoritarianism in Antonescu's Romania*; David Fraser (Nottingham), *Decoding the Jew: Vichy's National Legal Revolution*; Simon Lavis (Open University), *Codes, Codification and Encoding Nazism in the Legal System of the Third Reich*; Stephen Skinner (Exeter), *Central Authority in Codified and Non-Codified Legal Systems: Law in the Shadow of the State, or the State in the Shadow of the Law?*

III) Ecole normale supérieure, 48 boulevard Jourdan, R 3-46.

ESCLH Elections

POLLING STATION OPENING FROM 9:00 TO 12:00 AT CONFERENCE DESK

9h-10h30, 19th and 20th centuries (Adolfo Giuliani chairing)

Arthur Barrêto de Almeida Costa and Ricardo Sontag (Minais Gerais), *Change Through Mercy. Royal Pardon and Criminal Law Reforms in Late 19th Century in Brazil and France*
Anna Klimaszewska (Gdansk), *Code de commerce of 1807 as an instrument of transforming legal reality - the Polish point of view*

Sara Pilloni (Trieste), "Roman Legal Heritage and Codification Processes: the Role of Italian Roman Law Scholars in the Codification of Civil Law"

11h00-12h30 Civil Law (Pim Oosterhuis chairing)

Asya Ostroukh (West Indies), *An Unlimited Number of Limited Real Rights: A Story of an Adaptation of French Property Law in Francophone Switzerland, Quebec, and Louisiana in the Nineteenth Century*

Katharina Kaesling (Bonn), *Codified Conditions vs. Judicial Discretion in Family Law: What codification means for the adaptation of maintenance law to social change*

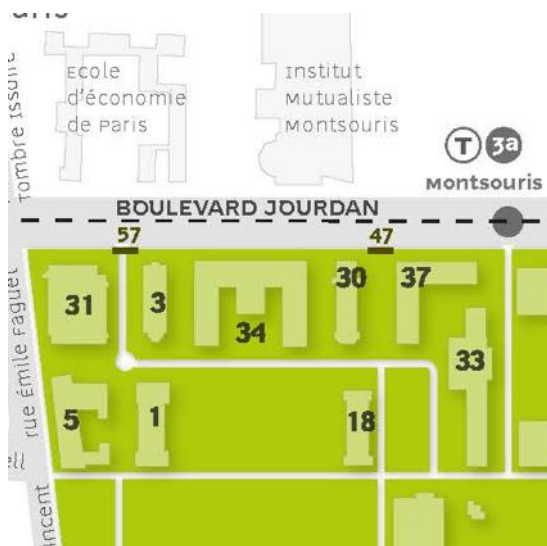
Maria Lewandowicz (Gdansk), *How to make impossible possible? On the unification of inheritance law in Switzerland in the 19th century*

13h30-15h00 Comparisons (Anna Klimaszewska chairing)

Marianna Muravyeva (Tampere), *Gendering the Law or Codifying Gender: Family Law in Early Modern Europe*

Raphaël Cahen (Brussels), *Joseph Marie Portalis (1778-1858): from comparatism to the idea of a European code of Citizenship*

Pim Oosterhuis (Maastricht), *Is there something like the 'Great Litigation Increase'?*



Map of Boulevard Jourdan

Above: ENS (= Ecole d'économie de Paris), 48 boulevard Jourdan

Below : Cité Internationale Universitaire de Paris, 57-59 boulevard Jourdan

1. *Salon Abreu de Grancher*
5. *Maison des Etudiants de l'Asie du Sud-Est*

VENUES

Ecole Normale Supérieure

Campus « Quartier latin », 45 rue d'Ulm, 75000 Paris (on the 28th of June, afternoon)

Campus Jourdan 48 boulevard Jourdan 75014 Paris

On the other side of Boulevard Jourdan (number 59), Cité Internationale Universitaire de Paris

The two campus are linked through Underground RER B (stations Luxembourg and Cité Universitaire)

Arrival from Paris airports: Stations Charles de Gaulle Etoile (RER A), Montparnasse (Underground)

Plan of Paris Underground : <https://www.ratp.fr/plan-metro>

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45, rue d'Ulm / 29 rue d'Ulm / 24 rue Lhomond

F-75230 Paris cedex 05

Tél. +33 (0)1 44 32 30 00 (standard)

Campus Jourdan

48, boulevard Jourdan

75014 Paris

Tél. +33 (0)1 43 13 61 00 (standard)

Campus Montrouge (with some possible rooms for PhD candidates)

1, rue Maurice Arnoux

92120 Montrouge

Tél. +33 (0)1 58 07 65 00 (standard)

