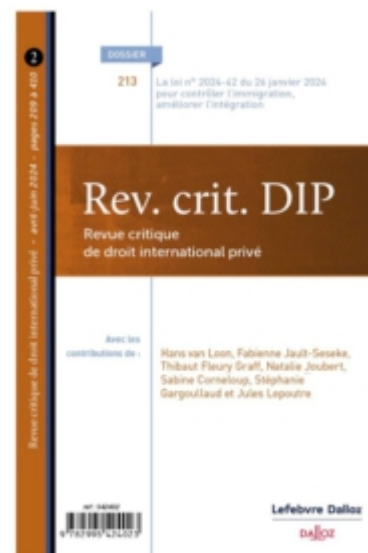


# New Issue of Revue Critique de droit international privé (2024/2)

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The second issue of the Revue Critique de droit international privé of 2024 was released a few weeks back. It contains a rich thematic dossier of seven articles and several case notes.

Under the direction of Prof. Sabine Corneloup (Université Paris-Panthéon-Assas), the doctrinal section of this issue is entirely devoted to an in-depth study of the latest French immigration law (Loi n° 2024-42 du 26 janvier 2024 pour contrôler l'immigration, améliorer l'intégration). In line with the Revue Critique's recent policy, this doctrinal part has been made available in English on the editor's website (for registered users and institutions). Against the backdrop of tightening migration controls at the global scale, this Act radically shifts administrative, procedural, and substantial aspects of the status of aliens in France.

The dossier opens up with Prof. Hans van Loon's (University of Edinburgh, former Secretary General of the HCCH) call for *La nécessité d'un cadre mondial de coopération pour une réglementation durable de la migration de travailleurs* (The need for a cooperative global framework for a sustainable regulation of labor migration). Its abstract reads as follows:

*“Sustainable regulation of labor migration cannot be based exclusively on unilateral initiatives by a given country individually, but requires the development of a worldwide framework for cooperation between states, which is sorely lacking at present. Both realistic and highly ambitious, the author proposes a - fully drafted - framework convention aimed at strengthening practical cooperation at global level for a particular type of crossborder displacement of persons for work: temporary and circular migration. This framework could subsequently be extended to other types of migration.”*

Adopting the same critical ambition, the subsequent articles further engage with the French bill by following the order of its chapters.

In this vein, Prof. Fabienne Jault-Seseke (Université Paris-Saclay, UVSQ) first assesses the law’s provisions relating to *L’accès au séjour : l’objectif d’intégration au service d’un discours brouillé* (Access to residency: the objective of integration serving a blurred discourse). It is introduced as follows:

*“Fabienne Jault-Seseke highlights the restriction of the conditions for obtaining residence permits, both for new arrivals and for foreign citizens applying for long-term permits. With regard to one of the Act’s flagship measures - the regularization of undocumented workers in short-staffed occupations - the author regrets that the reform’s contribution is ultimately very limited, and that its scope has been further reduced by an administrative order, casting doubt on the legislator’s real desire to promote work as a factor of integration.”*

Then, Prof. Thibaut Fleury Graff (Université Paris-Panthéon-Assas) severely judges *L’éloignement des étrangers dans la loi du 26 janvier 2024 : régression des protections, extension des rétentions* (The expulsion of foreign nationals under the January 26, 2024 law: regression of protections, extension of detentions). His contribution’s abstract reads as follows:

*“The author shows the regression in protection resulting from the removal of legislative obstacles to expulsion. In place of the general, objective protection against expulsion enjoyed by certain categories of foreign nationals under the law, the reform substitutes a case-by-case review, by the administrative authority and the administrative judge, of the rights and freedoms constitutionally and conventionally recognized for foreign nationals. This*

*casuistic approach to deportation is accompanied by new provisions facilitating measures that deprive or restrict freedom (administrative detention, house arrest, bans), the duration of which has also been extended.”*

In the fourth article, Prof. Natalie Joubert (Université de Bourgogne) takes a hard look on *La loi Immigration du 26 janvier 2024 et les droits sociaux* (The immigration law of January 26, 2024 and social rights). Her analysis is presented as follows:

*“Natalie Joubert highlights the issue of ‘disguised national preference’, which was to have taken the form of a condition of length of legal residence in France – ultimately censured by the Constitutional Council – in historical context, before showing that this condition was not actually censured in itself, but only for its excessive duration. In terms of taking into account the vulnerability of foreign nationals, the author contrasts an advance in protection of access to housing, with a regression in the protection of young adults and asylum seekers.”*

The Act also implements *Une réforme structurelle du droit d’asile* (A structural reform of asylum law), which is precisely the subject of Prof. Sabine Corneloup’s study. Its abstract reads as follows:

*“In the field of asylum law, the most noteworthy contribution has been the structural reform of both the administrative and judicial phases of the asylum procedure. Sabine Corneloup analyzes the territorialization of the two phases, which raises considerable material and human stakes, and shows that the introduction of the principle of a single judge before the National Asylum Court, which removes the United Nations High Commissioner from the procedure, can only give rise to the most serious reservations. Whether or not the collegiate system is maintained in the future will depend exclusively on the policy of the President of the Court. With regard to the status of individuals, the author shows that, through the new cases of administrative detention and house arrest of asylum seekers, the Act affects the very legal grounds for such measures.”*

The sixth contribution is authored by Stéphanie Gargoullaud (Cour d’appel de Paris) and tackles the procedural aspects of *La loi Immigration du 26 janvier 2024*

*et les règles du contentieux administratif et judiciaire* (The Immigration Act of January 26, 2024 and the rules of administrative and judicial litigation). The following abstract was provided:

*“Stéphanie Gargoullaud analyzes the law’s main contributions to both judicial and administrative processes. The legislator’s stated aim of simplifying the rules 4 meets a strong expectation on the part of those concerned, given that the French system had become too complex. While simplification is perceptible in the case of administrative recourse, where the number of procedures has been reduced to three, it is hardly visible in the numerous provisions reforming court process concerning administrative detention and waiting zones.”*

Last but not least, Prof. Jules Lepoutre (Université Côte d’Azur) discusses *La nationalité dans la loi du 26 janvier 2024 : une apparition éphémère, des questions persistantes* (*Nationality in the law of January 26, 2024: a fleeting appearance, some enduring interrogations*). The abstract reads as follows:

*“Nationality and citizenship law was at the heart of parliamentary debates, even though it did not feature in the initial bill and occupies a rather anecdotal place in the enacted text. The provisions introduced by the Senators concerning the restriction of ‘droit du sol’, the extension of forfeiture of nationality, the raising of language requirements for naturalization, etc. did not pass constitutional scrutiny. Jules Lepoutre shows that both the policy pursued by the legislator and the control exercised by the constitutional court reveal much about contemporary issues relating to belonging: the presence of reiterative ideologies, and the strong interconnexion between nationality and citizenship on the one hand and immigration and integration on the other.”*

What’s more, the international audience will undoubtedly be interested in the Bibliographic section of the issue, which has always been a remarkable feature of the *Revue critique*. Under the direction of Dr. Elie Lengart (Université Université de Lille) and Dr. Sandrine Brachotte (UC Louvain), this section has diversified to include major French-language and non-French-language publications in both private international law and international arbitration, as well as contemporary works in global law. Notably, some reviews are authored in English and will therefore benefit readers beyond the borders of the *francophonie*.

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Previous issues of the Revue Critique (from 2010 to 2022) are available on Cairn.