

COURSE DESCRIPTION

COURSE/SUBJECT: PRIVATE INTERNATIONAL LAW

YEAR: 4º

COURSE SEMESTER: 2º

***DEGREE (S): INTERNATIONAL RELATIONS AND
EUROPEAN UNION***

MODALITY: ON CAMPUS

ACADEMIC YEAR: 2021/2022

FACULTY OF LAW

1. COURSE/SUBJECT IDENTIFICATION

1.- COURSE/SUBJECT:

Name: Private international law		
Code: I401 - 12456		
Year(s) course is taught: 4º	Semester(s) when the course is taught: 2º	
Type: Core Subject	ECTS of the course: 6	Hours ECTS: (30)
Language: English	Modality: On Campus	
Degree(s) in which the course is taught: <i>International Relations and European Union Degree</i>		
School which the course is taught: Law		

2.- ORGANIZATION OF THE COURSE:

Department: Basic legal disciplines & Private Law
Area of knowledge: Private International law

2. LECTURERS OF THE COURSE/SUBJECT

1.-LECTURER(S):

Lecturer(s)	CONTACT
Name:	Miguel Unceta Laborda
Phone (ext):	+34 91 456 63 00 ext. 5759
Email:	unceta@ceu.es
Office:	2.01 (Faculty of Law)
Academic profile:	Adjunct Professor
Research field:	International contracts and corporate governance

Lecturer(s)	CONTACT
Name:	Pascual Barberán Molina
Phone (ext):	+34 91 456 63 00 ext. 5759
Email:	pascual.barberanmolina@ceu.es
Office:	2.01 (Faculty of Law)
Academic profile:	Associate professor
Research field:	International contracts and intellectual property

2.- TUTORIALS:

For any queries students can contact lecturers by e-mail, phone or visiting their office during the teacher's tutorial times published on the students' Virtual Campus.

3. COURSE DESCRIPTION

Private international law is a compulsory subject in the Degree in International Relations and the EU, which responds to the growing importance of international private relations in a world, like the present one, which is legally divided, but in which human relations that cross legal borders are multiplying. In this context, Private International Law is an instrument for managing this legislative diversity, and is one of the most dynamic, changing and potential sectors of legal science in Spain.

The syllabus of the course comprises a general part - in which the basic concepts of the discipline, the international jurisdiction, the extraterritorial effectiveness of decisions and the methods of regulating conflicts of law are studied - and a special part focused on the legal and technical dimension of the Spanish system of Private international law, giving special attention to the International civil law sector.

4. COMPETENCIES

1.- COMPETENCIES

Code	Basic and General Competencies
BC1	Continuous learning: To enhance the student's ability to learn, having assimilated the concepts previously learnt in the secondary education, through advanced texts related to their area of knowledge.
BC 2	Work in a professional way: To allow the students to apply their knowledge in a professional way. To use arguments and solve problems in their area of knowledge.
BC 3	Understand data: To allow students to look up information and understand it, in order to make statements and judgements, about important topics such as social, scientific or ethical issues.
BC 4	Transmission of information: To transmit information, ideas, problems and solutions to a specialized and non-specialized audience.
BC 5	Learning skills: To developed those learning skills necessary to undertake further study with a high degree of autonomy.

CODE	SPECIFIC COMPETENCES
SC 2	To know how to relate international events to the theories formulated by the main authors of the international relations and other social and legal sciences.
SC 13	To know the main actors and relations of the different regional areas of the international system, as well as to explain the origins, evolution and consequences of the various international regional integration processes.
SC 14	To be familiar with the principles and rules of public law, both State and international, and with international procedures for the peaceful settlement of disputes.

SC 15	To understand the institutions, rules and decision-making procedures in the European Union in order to be able to analyse its activities in the social field and in its foreign, security and defence relations.
SC 16	To acquire specific knowledge about global economic and financial globalization and the challenges posed by globalization.
SC 17	To be able to carry out a critical analysis, evaluation and synthesis of new and complex ideas within the framework of international relations.

5. LEARNING ACTIVITIES

1.- DISTRIBUTION OF STUDENTS' ASSIGNMENT:

Total hours of the course	180
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Code	Name	On-campus hours
AF1	Lectures	6
AF2	Seminars	50
AF3	Working groups	4
TOTAL Presence Hours		60

Code	Name	Not on-campus hours
AF5	Self student work	120

2.- DESCRIPTION OF LEARNING ACTIVITIES:

Activity	Definition
Lecture (AF1)	Learning activity that takes place in the classroom and focuses on the transmission of knowledge by the professor, requiring the student to prepare and / or study afterwards.
Seminar (AF2)	Learning activity that takes place in the classroom and, under the guidance of the professor, encourages cooperative learning among the students. Its objective is the study and understanding the subject.
Working group (AF3)	Learning activity that takes place in the classroom and, under the guidance of the professor, aims to resolve practical cases or to deepen the students' knowledge in a concrete area of special interest.
Self student work (AF5)	Autonomous work by the student, in order to acquire the skills required to pass the course.

6. ASSESSMENT OF LEARNING

1.- CLASS ATTENDANCE:

- In order to be eligible for examination by continuous assessment **students must attend at least 75% of scheduled class time** (attendance sheets will be used). As students may be absent 25% of the classes, no attenuating circumstances will be accepted for absences.
- 75% attendance at practical classes is required.

2.- ASSESSMENT SYSTEM AND CRITERIA:

ORDINARY EXAMINATION (continuous assessment)		
Code	Name	Percentage
	Final exam	60
	Midterm exam	20
	Practical exercises/ dissertations	10
	Class participation	10
	Total	100

RE-TAKE EXAM/EXTRAORDINARY EXAMINATION		
Code	Name	Percentage
	Final exam	100

3.- DESCRIPTION OF ASSESSMENT CRITERIA:

Assesment criteria	Definition
SE1 Dissertation	Presentation of lectures in seminars or work groups.
SE2 Written Exam	Tests, short questions, essay questions, exercises, practical cases or legal questions.
SE4 Assessment of Practices or Simulations	Practices and Simulations
SE5	Class participation

7. COURSE PROGRAMME

1.- COURSE PROGRAMME:

I. INTRODUCTION

Lesson 1. Private international law.

1. Concept and purpose of Private international law.
2. Object and content.
3. Legal sources.

II. INTERNATIONAL CIVIL PROCEDURAL LAW

Lesson 2. International jurisdiction. Regulation by international law.

1. Concept, characters and limits of international jurisdiction.
2. Forum classification.
3. Regulation Brussels I-bis (Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.)
4. Other international instruments on international jurisdiction.

Lesson 3. Regulation of international jurisdiction by internal rules.

1. Regulation of international jurisdiction in the LOPJ.
2. The forums of international jurisdiction in civil matters.
3. Application rules.
4. Protective and provisional measures.

Lesson 4. The civil process with a foreign element and international judicial assistance.

1. Law applicable to the process: The *lex fori regit processum* rule.
2. Free legal assistance.
3. The proof.
4. International judicial assistance.

Lesson 5. Extraterritorial effectiveness of decisions issued in contentious proceedings.

1. General aspects: Recognition and *exequatur*.
2. EU general regime: Regulation Brussels I-bis (Regulation (EU) No 1215/2012).
3. EU special regime.
4. International conventions: The Lugano Convention (2007) and bilateral conventions.
5. Internal source regime: Law 29/2015, of July 30, on international legal cooperation in civil matters.

Lesson 6. International commercial arbitration.

1. Alternative dispute resolution (ADR) mechanisms.
2. The international commercial arbitration developed in Spain.
3. Recognition and enforcement in Spain of foreign arbitral awards.

III. DETERMINATION OF APPLICABLE LAW TO PRIVATE INTERNATIONAL RELATIONS

Lesson 7. Regulatory methods and techniques of Private international law.

1. Plurality and coexistence of normative techniques.
2. The rule of conflict.
3. Doctrinal solutions to the "crisis" of the rule of conflict.

Lesson 8. Problems of application of the rule of conflict (I).

1. Succession in time of the rule of conflict.
2. The characterization for determining the applicable rule of conflict.
3. The incidental question.
4. The occasional alteration of the connecting factor: the mobile conflict.
5. Fraudulent alteration of the connecting factor: evasion of the law.
6. Renvoi.
7. Remission to multi-legislative systems "ad extra" and "ad intra".

Lesson 9. Problems of application of the rule of conflict (II).

1. Judicial application of foreign law.
2. Allegation of foreign law.
3. Proof of foreign law.
4. Exclusion of foreign law: Public policy.
5. Extrajudicial application of foreign law.

IV. INTERNATIONAL CIVIL LAW

Lesson 10. Natural person.

- I. The personal status.
- II. The connecting factors in determining personal law.
- III. Capacity of the natural person.
- IV. Declaration of absence and death.
- V. The age of majority and the age of minority.
- VI. Emancipation.
- VII. Personality rights.
- VIII. Noble titles.

Lesson 11. Marriage regime.

- I. Introduction.
- II. Law applicable to the requirements of marriage.
- III. Registration of marriage in the Civil Registry.
- IV. Register partnership.
- V. Effects of marriage.
- VI. Marriage crises: International jurisdiction (Regulation Brussels II) and applicable law (Regulation Rome II).
- VII. Recognition and enforcement of foreign judgments of separation, nullity and divorce.

Lesson 12. Filiation and international adoption.

- I. Filiation: international jurisdiction and applicable law.
- II. International adoption: constitution, applicable law and effects in Spain of adoptions abroad.
- III. The Hague Convention of 29 May 1993 on protection of children and co-operation in respect of intercountry adoption.

Lesson 13. Protection of minors and legal kidnapping.

- I. Protection of minors: International jurisdiction (Regulation Brussels II; The Hague Convention of 19 October 1996 in respect of parental responsibility and measures for the protection of children. Applicable law (The Hague Convention of 19 October 1996). Recognition and enforcement of foreign judgments (Regulation Brussels II, The Hague Convention of 19 October 1996.)
- II. Legal kidnapping: Notion and regulation (Regulation Brussels II; The Convention on recognition and enforcement of foreign judgements, Luxembourg, 20 May 1980; The Hague Convention of 25 October 1980 on the civil aspects of international child abduction.)

Lesson 14. Maintenance obligations.

- I. Introduction.
- II. Regulation 4/2009 (18 December 2008) on jurisdiction, applicable law and recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.
- III. The Hague Protocol of 23 November 2007 on the law applicable to maintenance obligations.
- IV. Cooperation of authorities in matters relating to maintenance obligations (Convention on the recovery abroad of maintenance, New York, 20 June 1956.)

Lesson 15. Succession.

- I. Introduction.
- II. Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.
- III. International jurisdiction.
- IV. Applicable law.
- V. Recognition and enforcement of foreign decisions.
- VI. The European Certificate of Succession.

Lesson 16. International contracts. General regime.

- I. Introduction.
- II. International jurisdiction (Regulation Brussels I, Lugano Convention, LOPJ).
- III. Legal regulation of international contracts and new *Lex mercatoria*.
- IV. Regulation Rome I (Regulation (EC) No. 593/2008, of the European Parliament and of the Council, on the Law applicable to contractual obligations.)
- V. Arbitration and applicable law to the international contract.

Lesson 17. Specific international contracts.

- I. Individual employment contracts.
- II. Consumer contracts.
- III. Insurance contracts.
- IV. Donations.
- V. International contracts through the internet.

Lesson 18. International non-contractual obligations.

- I. Introduction.
- II. International jurisdiction (Regulation Brussels I-bis; LOPJ).
- III. Applicable law: Regulation Rome II (Regulation EC No. 864/2007 of the European Parliament and of the Council, 11 July 2007, on the law applicable to non-contractual obligations.)
- IV. Recognition and enforcement of foreign decisions.

8. RECOMMENDED READING

1.- ESSENTIAL BIBLIOGRAPHY:

- BOGDAN, MICHAEL & PERTEGÁS SENDER, MARTA, *Concise Introduction to EU Private International Law*, Europa Law Publishing, Amsterdam, 2019.

CHESHIRE, NORTH & FAWCETT, *Private International Law*, Oxford University Press, 2017.

CALVO CARAVACA, A.L. y J. CARRASCOSA GONZÁLEZ, *Derecho Internacional Privado*, 2 volúmenes, Ed. Comares, Granada, última edición.

ESPLUGUES MOTA, C. e IGLESIAS BUHIGUES, J.L., *Derecho Internacional Privado*, Tirant lo Blanch, última edición

FERNANDEZ ROZAS, J.C. y SANCHEZ LORENZO, S.: *Derecho internacional privado*, Madrid, Civitas, última edición.

PEREZ VERA, E. y otros: *Derecho internacional privado*, Madrid, UNED, última edición.

PARRA RODRÍGUEZ, C. (Dir.), *Derecho Internacional Privado*, HUYGENS Editorial, última edición.

RODRÍGUEZ BENOT, A., *Manual de Derecho internacional privado*, Tecnos, última edición.

AGUILAR BENITEZ DE LUGO, M. y otros, *Lecciones de Derecho civil internacional*, Madrid, Tecnos, última edición.

AREAS DE DERECHO INTERNACIONAL DE GRANADA Y JAEN, *Derecho internacional privado. Casos prácticos*, Granada, edit. Comares, última edición.

Legal texts

A. BORRAS, N. BOUZA VIDAL, J.D. GONZALEZ CAMPOS y M. VIRGOS SORIANO, *Legislación básica de Derecho internacional privado*, Madrid, Tecnos, última edición.

2.- ADDITIONAL BIBLIOGRAPHY:

BATIFFOL, H., *Aspects philosophiques du droit international privé*, 1956

COURBE, P., *Droit International privé*, Hachette, última edición.

GOLDSCHMIDT, W., *Suma del Derecho internacional privado*, Ed. Ejea, Buenos Aires, 1958.

JITTA, J. *Método de Derecho Internacional Privado*, 1900.

3.- WEB RESOURCES :

- European e-Justice Portal:
<https://e-justice.europa.eu/home.do?plang=en&action=home>
- The Hague Academy of International Law: <http://www.hagueacademy.nl/>
- Hague Conference on Private International Law: <http://www.hcch.net/>
- Cuadernos de Derecho Transnacional: <http://www.uc3m.es/cdt>
- Legal texts and general information on Private international law:
<http://www.accursio.com>
- UNCITRAL: <http://www.uncitral.org>
- UNIDROIT: <http://www.unidroit.org>
- Westlaw internacional

9. ATTITUDE IN THE CLASSROOM

- REGULATIONS

Any irregular act of academic integrity (no reference to cited sources, plagiarism of work or inappropriate use of prohibited information during examinations) or signing the attendance sheet for fellow students not present in class will result in the student not being eligible for continuous assessment and possibly being penalized according to the University regulations.

10. EXCEPTIONAL MEASURES

Should an exceptional situation occur which prevents continuing with face-to-face teaching under the conditions previously established to this end, the University will take appropriate decisions and adopt the necessary measures to guarantee the acquisition of skills and attainment of learning outcomes as established in this Course Unit Guide. This will be done in accordance with the teaching coordination mechanisms included in the Internal Quality Assurance System of each degree.