

Private International Law

Code: 102259
ECTS Credits: 9

Degree	Type	Year	Semester
2500786 Law	OB	4	1

Contact

Name: Rafael Arenas García
Email: Rafael.Arenas@uab.cat

Use of languages

Principal working language: catalan (cat)
Some groups entirely in English: No
Some groups entirely in Catalan: Yes
Some groups entirely in Spanish: Yes

Teachers

Miquel Gardeñes Santiago
Blanca Vilà Costa
José Gracia Casamitjana
Rafael Arenas García
José María de Dios Marcer
Milagros Orozco Hermoso

Prerequisites

There is no previous requirements

Objectives and Contextualisation

- To understand the problems related with the international private relations, taking into consideration the procedural and the substantial aspects.
- To identify in a given complex case the issues that are regulated by Private International Law and to understand their relationships with other branches of the legal system.
- To Know the basic elements of the Spanish system of Private International Law taking into consideration the international law, the European law and the domestic law.

Content

PROGRAM OF PRIVATE INTERNATIONAL LAW

Lesson 1

Object, concept and content of PIL. Presuppositions: plurality of legal systems and international private relationships. Evolution of the object of PIL. Accuracy of the concept of PIL. Delimitation of its content:

conceptions in presence and issues included. The internal dimension of the PIL system: plurilegisative states. The Spain as a plurilegisative State.

Lesson 2

Sources of rules for PIL. Internal sources: importance of the 1978 Constitution. International sources: the different kinds of international treaties. The work of the Hague Conference on Private International Law. *Lex mercatoria*. Private international law and European Union law: primary legislation. Secondary legislation.

Lesson 3

International jurisdiction (I). Sources of rules for international jurisdiction: domestic law, international treaties and European Union law. Regulation 1215/2012: Matters includes. Application in time. The role of the defendant's domicile. The special grounds of jurisdiction. The exclusive grounds of jurisdiction. Autonomy of the parties. Tacit submission Grounds of jurisdiction in favour of weak parties. Interim measures. *Lis pendens* and connected actions. Examination of the jurisdiction *ex officio*. Examination of the jurisdiction *ex parte*. Regulation 2201/2003: rules of jurisdiction regarding nullity of marriage, separation and divorce. Rules of jurisdiction in matters related to parental responsibility. Other issues related with jurisdiction.

Lesson 4

International jurisdiction (II). Spanish domestic law: Organic Law on the Judiciary: structure and content. State immunities from jurisdiction and from measures of constraint. International Jurisdiction: structure and grounds of jurisdiction. *Derogatio fori*.- *Ex officio* verification of international jurisdiction. *Ex parte* verification of international jurisdiction: the declinatory plea. International *lis pendens* and connected actions. Law 29/2015, of July 30, on International Legal Cooperation.

Lesson 5

Regulatory techniques in the field of applicable law. - The fundamental distinction between direct and indirect techniques. Indirect techniques: conflicts rules: object, structure and function. Unilateral and bilateral conflicts rules. Evolution of the conflictual technique. Direct techniques: substantial rules and mandatory rules (*lois de police*).

Lesson 6

Application of conflicts rules. Characterisation and the conflict of characterizations. *Renvoi*. Preliminary question. Conflicts rules and plurilegisative States: conventional and domestic regulations. Mobile conflict. Exceptions to the application of foreign law: Public policy exception. Law evasion.

Lesson 7

The rules of conflict of laws regarding contractual and non-contractual obligations. The rules of conflict of laws regarding contracts: Regulation 593/2008, of June 17, 2008, on the law applicable to contractual obligations. Its scope. Choice of law. Applicable law in the absence of choice. Legal capacity and regulation of the form of the contract. Specific contracts: special consideration of the consumer contract and the employment contracts. Mandatory rules. The rules of conflict of laws regarding non-contractual obligations: Regulation 864/2007, of July 11, 2007. Domestic Law. International conventions.

Lesson 8

Application of foreign law by the courts.- Mandatory nature of the conflicts rules and procedural treatment of foreign law. Allegation of foreign law. The proof of foreign law. The participation of the judge in the allegation and proof of foreign law. International conventions aimed to facilitate information on foreign law. Application of foreign law by non-judicial authorities.

Lesson 9

Recognition and enforcement of foreign decisions (I). Scope of the regulation of the recognition and execution of decisions: decisions susceptible of execution. Effects of recognition. Conditions of recognition.

Procedures for recognition and declaration of enforceability (exequatur). Recognition and declaration of enforceability in Regulation 1215/2012: recognition conditions. Automatic recognition and incidental recognition. Declaration of recognition. The procedure for declaring the enforceability of foreign decisions in Regulation 1215/2012. Recognition and declaration of enforceability in Regulation 2201/2003. The recognition and execution of decisions regarding maintenance obligations: Regulation 4/2009. Suppression of exequatur procedures in the European Union: the European enforcement order for uncontested claims (Regulation 805/2004). Decisions on rights to access and return of children (Regulation 2201/2003). The European order for payment procedure (Regulation 1896/2006). The European Small Claims Procedure (Regulation 861/2007).

Lesson 10

Recognition and execution of foreign decisions(II). The domestic Spanish law on recognition and enforcement of foreign decisions. Recognition conditions: reciprocity and system of conditions. Recognition procedure: the exequatur. Recognition and enforcement in international conventions: scope of application of the conventions. Relationship between the conventions and the domestic law and between the different conventions.

Lesson 11

International judicial cooperation in civil matters. International notification: notification procedures. The Hague Conventions of 1954 and 1965. Regulation 1397/2007, of November 13, 2007. The Spanish domestic law, Act 29/2015 of July 30. Cooperation in the taking of evidence abroad: the Hague Conventions of 1954 and 1970. Regulation 1206/2001, of May 28, 2001. Free legal aid in cross-border litigation: special reference to Act 6/2005, of 18 of July.