

Civil Law and International Private Law

Code: 42996
ECTS Credits: 6

Degree	Type	Year	Semester
4313781 Enterprise Law	OT	0	2

The proposed teaching and assessment methodology that appear in the guide may be subject to changes as a result of the restrictions to face-to-face class attendance imposed by the health authorities.

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Use of Languages

Principal working language: spanish (spa)

Teachers

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Prerequisites

There are not previous requirements.

Objectives and Contextualisation

To reach a specialized knowledge in some specific subjects of civil and international private law linked to business.

Competences

- Communicate and justify conclusions clearly and unambiguously to both specialised and non-specialised audiences.
- Integrate knowledge and use it to make judgements in complex situations, with incomplete information, while keeping in mind social and ethical responsibilities.
- Integrate knowledge of the law and of negotiation to make judgments in the business context.
- Seek out information in the scientific literature using appropriate channels, and use this information to formulate and contextualise a research topic in business law.
- Seek out, interpret and apply legal provisions related to tax, employment or penal matters within corporate activity, and any others in which a legal solution is needed for situations arising in the business context.
- Use acquired knowledge as a basis for originality in the application of ideas, often in a research context.
- Work in a team to create synergies in the workplace, in a coordinated, cooperative fashion.

Learning Outcomes

1. Communicate and justify conclusions clearly and unambiguously to both specialised and non-specialised audiences.

2. Describe the liability of business-owners for acts committed by employees.
3. Differentiate and interpret the regulations on international judicial competence and applicable law regarding commercial contracts.
4. Explain the civil liability of commercial company administrators.
5. Explain the responsibility of service providers in the information society.
6. Identify the main principles of consumer protection.
7. Integrate knowledge and use it to make judgements in complex situations, with incomplete information, while keeping in mind social and ethical responsibilities.
8. Interpret corporate liability for damages caused by defective products and services.
9. Interpret the laws on employment of foreign workers.
10. Interrelate legal principles and negotiation techniques to assess business-related matters of civil law and international law
11. Seek out information in the scientific literature using appropriate channels, and use this information to formulate and contextualise a research topic in business law.
12. Use acquired knowledge as a basis for originality in the application of ideas, often in a research context.
13. Work in a team to create synergies in the workplace, in a coordinated, cooperative fashion.

Content

Civil law is focus on some specific issues related to business, such as the protection of consumers, the responsibility of service providers in the society of the information, the civil liability of the directors of commercial companies, the responsibility for defective products or services, as well as corporate responsibility for acts of their dependents.

LESSON 1. Business and consumer protection.

1. Concept of consumer
2. The Directive on consumer rights of 2011. Analysis and study of its content.
3. The Directive 2019/771/EU on the guarantees of the consumer sales.

LESSON 2. E-Commerce. Liability of information society service providers.

1. E-Commerce.

Value of the offer. Invitation to make offers and advertising.

3. Consumer's right to information in electronic contracting.
4. Service providers of the information society.
5. Liability of the information society service providers.

LESSON 3. Business liability for the production of defective goods.

1. Civil liability for damages caused by goods and services.
2. Liability for defective products.
3. Liability regimes.
4. Analysis of the evolution of case law.

LESSON 4. The liability of directors.

1. Introduction. Legislative antecedents. Subjective extension.
2. Joint liability. Causes of exoneration.

3. The social action of liability. Concept and standing.
4. The individual action of liability. Concept. Preconditions. Standing.
5. The joint and several liability of the directors. Enforceability requirements. Subjective scope of liability.

Regarding private international law, the aim of this course is to deal with some general aspects of international contracts, an introduction to dispute resolution and to the criteria for determining the law applicable to international contracts, and also concrete issues relating to specific international contracts (sale of goods, provision of services, employment contracts or consumer contracts). The detailed content of the part of the program corresponding to private international law (hereafter, PRIL) is as follows:

Lesson 1: international contracts: general aspects and dispute resolution

1.1. The international context and the responses of private international law to legal division and plurality of sources:

1.1.1. Some preliminary aspects: the distinction between the approaches of public international law and private international law to international trade. Public law and private law in international trade. Private-law approach adopted in this course.

1.1.2. Participants in international trade: individuals and legal entities; public law entities and private law entities. The foreign element in legal relationships.

1.1.3. Identification of the problems that PRIL deals with: international jurisdiction, conflicts of laws, recognition of foreign decisions and cooperation between authorities of different States.

1.1.4. The sources of PRIL: State norms, international conventions, norms of the European Union. Self-regulation by the merchants: trade usages (lex mercatoria).

1.1.5. The characterization problem: distinction between contractual and non-contractual liability cases. The general rule of characterization according to the law of the forum. Autonomous characterization. Examples.

1.2. Dispute resolution in international trade:

1.2.1. Means of dispute resolution alternative to the courts of a State: conciliation, mediation and arbitration. The clause of submission to arbitration. The recognition of foreign arbitration resolutions. The New York Convention of 1958. Relations between arbitration and State jurisdiction.

1.2.2. State courts (1): problems of international jurisdiction in the field of contracts. "International" jurisdiction versus "territorial" jurisdiction. The system provided for in EU Regulation 1215/2012: criteria for its applicability, general rule and exceptions to it (exclusive competences, forum choice agreements, special rules regarding contracts). The special regime envisaged for "weak party" contracts (employment, consumers and insurance): protective rules for the weak party and limitation of forum choice agreements.

1.2.3. State courts (2): the recognition of judicial decisions issued in other countries.

1.3. The law applicable to international contracts:

1.3.1. Approach from two possible scenarios: when the case has been submitted to arbitration or when it is decided by a State jurisdiction.

1.3.2. Types of rules governing international contracts: rules of uniform law. Rules of conflict of laws (bilateral or unilateral). The "Overriding mandatory provisions". Usages of international trade. Clauses agreed by the parties and "incorporation by reference".

1.3.3. Relations between the different types of rules.

1.3.4. The law applicable to international contracts according to EU Regulation 593/2008: choice of the applicable law by the parties. Types of clauses and effects. Ascertainment of the applicable law in the absence of choice by the parties.

Lesson 2: some specific contracts, from the perspective of private international law of the European Union

2.1. International sale of goods. Determination of international jurisdiction and applicable law. Interplay between EU Regulation 593/2008, on the law applicable to contractual obligations, and the Vienna Convention of 4-11-1980, on the international sale of goods.

2.2. International contracts for the provision of services. Ascertainment of international jurisdiction and applicable law. The example of air carriage contracts.

2.3. International employment contracts. International jurisdiction. Determination of the applicable law. International temporary posting of workers. Immigration law and employment contracts. Free movement of workers in the European Union.

2.4 Consumer contracts. International jurisdiction. Determination of the applicable law.

Main legal texts of private international law to be used during the course:

- EU Regulation 1215/2012, of 12 December 2012, on jurisdiction and recognition and enforcement of judgments in civil and commercial matters.
- Law 29/2015, of 30 July 2015, on international legal cooperation in civil matters.
- EU Regulation 593/2008, of 17 June 2008, on the law applicable to contractual obligations.
- Law 45/1999, of 29 November 1999, on the posting of workers in the context of a transnational provision of services (transposition in Spain of EU Directive 96/71).
- Vienna Convention of 11-4-1980 on the international sale of goods.

Any possible changes will be communicated when the classes of this module begin.

Methodology

As far as private international law is concerned, the teacher's explanations will combine with comments or questions by the students. The teacher will hand practical cases to the students, which they should resolve in writing, in the classroom or at home, depending on the indications of the teacher in each case. Afterwards these cases shall be discussed orally in class. Due to the limited time available, the aim of the classes will be to provide a general overview of the topics treated, so students are expected to complete these classes reading the relevant legal texts, case law and bibliography.

In relation to Civil law, it includes master classes, problem solving classes / cases / exercises, classroom practices, problem-based learning, debates and oral presentation / presentation of works, tutorials, work preparation, personal study, activities practices and reading of articles and reports of interest and others proposed by the teaching staff at the beginning of the course in order to guarantee that the student assumes the competences and expected learning results.

Annotation: Within the schedule set by the centre or degree programme, 15 minutes of one class will be reserved for students to evaluate their lecturers and their courses or modules through questionnaires.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Lecturing	36	1.44	11, 2, 3, 4, 5, 6, 9, 8, 10, 12, 13

Type: Supervised

Resolution of exercises	9	0.36	11, 3, 10, 13
Type: Autonomous			
Personal study	59	2.36	11, 2, 3, 4, 5, 6, 9, 8, 10, 7, 12, 13

Assessment

1. Evaluation

The final grade of the module of Private International Law and Civil Law will result from several activities:

1.1. Attendance and active participation in class: 20% of the final grade. 10% for the attendance and active participation in the Private International Law classes and the other 10% for the attendance and participation in the Civil Law classes. Attendance will be controlled by asking oral questions in class and the attendance control.

1.2. Theoretical/practical/synthesis tests: 50% of the final grade. Students will be examined in each subject of the module by tests, the format of which will be determined at the appropriate time. Therefore, the Private International Law exam will be valued at 25% of the final grade and the Civil Law exam at 25% of the final grade. Attendance at the exam is mandatory. Not attending the final exam means having to take the re-evaluation exam, as long as the student fulfills the conditions for the re-evaluation in section 2.1. If the student does not attend the re-evaluation exam, the grade of the subject will be "not evaluable".

1.3. Practice in the classroom: 30% of the final grade. During the presential classes, evaluable practical activities will be carried out. The practices of Private International Law will be valued at 15% of the final grade and the practices of Civil Law will be valued at 15% of the final grade.

The final grade of the module of Private International Law and Civil Law will be the average grade resulting from the computation of the grades obtained in all the evaluable activities.

The date of the exam of each subject will be determined at the appropriate time and will be communicated to students with sufficient notice, and may not be modified, unless there are objective reasons that justify it (art. 15 of the academic regulations of the UAB).

Once the final grade of the module has been communicated, students may request a review of the evaluable activities in accordance with the provisions of art. 114 of the academic regulations of the UAB, and without detriment to their right to challenge the grade.

2. Re-evaluation

2.1. The re-evaluation is intended for students who have obtained a final grade lower than 5 points adding up all the evaluable activities, but higher than 3 points.

2.2. The re-evaluation will consist of an exam with a similar format to the final exam of each subject of the module.

2.3. Students who have to be reevaluated will only keep the grade obtained for attendance and active participation in class, which will be averaged with the grade of the reevaluation exam.

The date of the re-evaluation exam will be set and communicated at the appropriate time. Within the framework of the re-evaluation, students may also request a review of their grades.

Without prejudice to the possibility of using other media by the faculty, in any case, the grades will be communicated to students through the virtual campus space of the subject of the UAB.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Assignments	30%	10	0.4	11, 2, 3, 4, 5, 6, 9, 8, 10, 7, 1, 12, 13
Attendance and active participation in class	20%	32	1.28	12, 13
Theory and practicas tests	50%	4	0.16	11, 2, 3, 4, 5, 6, 9, 8, 10, 7, 1, 12

Bibliography

Private International Law

A) Main recommended titles:

- J.C. Fernández Rozas, R. Arenas García and P.A. de Miguel Asensio. *Derecho de los negocios internacionales*, Iustel. Madrid. Last edition.
- C. Esplugues Mota (dir.), *Derecho del comercio internacional*, Tirant lo Blanch, Valencia. Last edition.

B) Other titles:

- J.C. Fernández Rozas and S. Sánchez Lorenzo, *Derecho internacional privado*, Civitas / Thomson Reuters, Madrid. Last edition.
- F.J. Garcimartín Alférez. *Derecho Internacional Privado*, Civitas / Thomson Reuters, Madrid. Last edition.
- A. Mazzoni and M.C. Malaguti, *Derecho del comercio internacional. Fundamentos y perspectivas*, Tirant lo Blanch, Valencia, 2021.
- Nichols, Paul, *Employment and Commercial Disputes: The International Aspects*, Bloomsbury, 2020.
- S. Sánchez Lorenzo (coord.). *Cláusulas en los contratos internacionales. Redacción y análisis*. Atelier. Barcelona, 2012.

Civil law

AÑOVEROS TERRADAS, B. Y LLEBARÍA SAMPER, S. (Coords.; El contrato: Apuntes para una revisión. Ed. Thomson Reuters-Aranzadi, Cizur Menor, 2016.

CÁMARA LAPUENTE, S (Dir.) Comentarios a las normas de protección de los consumidores, Ed, COLEX, Madrid, 2011.

DÍEZ-PICAZO PONCE DE LEÓN, L.; Fundamentos del Derecho civil patrimonial. T. I y T. II, Ed. Civitas. Madrid.

ILLESCAS ORTIZ, R.; Derecho de la Contratación Electrónica. Ed. Civitas, Madrid, 2009.

PARRA LUCÁN, M^a A. "La compatibilidad de la directiva de responsabilidad por productos defectuosos y los regimenes de responsabilidad especiales "existentes" en el momento de su notificación (Sentencia del Tribunal de Justicia, Sala 4^a, de 20 de noviembre de 2014)" Revista CESCO de Derecho de Consumo N^o 13/2015.

REBOLLO PUIG, M. (DIR.) E IZQUIERDO CARRASCO, M. (DIR.); La defensa de los consumidores y usuarios (comentario sistemático del Texto Refundido aprobado por Real Decreto Legislativo 1/2007) : adaptado a las reformas introducidas por las Leyes 25/2009 y 29/2009. Ed. Iustel. Madrid, 2011

REYES LÓPEZ, M^a J.; Manual de Derecho privado de consumo, Ed. Wolters Kluwer-La Ley. Madrid, 2012

Software

The subject does not require any specific subject.