

**Private International Law**

Code: 102259  
ECTS Credits: 9

Degree	Type	Year	Semester
2500786 Law	OB	4	1

**Contact**

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**Use of Languages**

Principal working language: catalan (cat)  
Some groups entirely in English: Yes  
Some groups entirely in Catalan: Yes  
Some groups entirely in Spanish: Yes

**Other comments on languages**

Groups 3, 51 and 70 will be taught in Catalan, group 1 in Spanish and group 2 in English.

**Teachers**

Miquel Gardeñes Santiago  
Josep Gracia Casamitjana  
Rafael Arenas Garcia  
José María Dios Marcer  
Roger Canals Vaquer  
Milagros Orozco Hermoso  
Josep Suquet Capdevila

**Prerequisites**

There are no previous requirements.

Important issues:

1) Teachers and teaching language in each of the groups:

Group 1: Rafael Arenas. Spanish.

Group 2: Josep Suquet / Roger Canals. English.

Group 3: Josep Maria de Dios / Milagros Orozco. Catalan.

Group 51: Josep Gràcia / Milagros Orozco. Catalan.

Group 70 (Law and Business Administration): Miquel Gardeñes. Catalan.

Notwithstanding the teaching language of the group, students may choose to answer the exams and other written exercises in any of the three working languages of the University: Catalan, Spanish or English.

2) Teachers will address communications or any news to the students through the moodle (campus virtual), notwithstanding the possibility of using, additionally, other means of communication. Therefore, it is necessary to consult the moodle regularly.

## Objectives and Contextualisation

- Ununderstanding the legal problems related to private international relations, taking into consideration the procedural and the substantive aspects.
- Identifying in a specific case the issues regulated by Private International Law and understanding their relationships with other branches of the legal system.
- Knowing the basic elements of the Spanish system of Private International Law, taking into account international law, European law and domestic law.

## Competences

- Apprehending the necessary mechanisms in order to know, assess, and apply the legislative reforms as well as to follow the changes produced in a concrete subject.
- Arguing and laying the foundation for the implementation of legal standards.
- Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
- Identifying and solving problems.
- Identifying the underlying conflicts of interest in disputes and real cases.
- Identifying, assessing and putting into practice changes in jurisprudence.
- Identifying, knowing and applying the basic and general principles of the legal system.
- Integrating the importance of Law as a regulatory system of social relations.
- Managing bibliographic and documentary resources: databases, browsing, etc.
- Memorising and utilising legal terminology.
- Present information in a way that is appropriate to the type of audience.
- Searching, interpreting and applying legal standards, arguing every case.
- Students must be capable of demonstrating the unitary nature of the legal system and of the necessary interdisciplinary view of legal problems.
- Students must be capable of learning autonomously and having an entrepreneurial spirit.
- Using the main constitutional principles and values as a working tool in the interpretation of the legal system.
- Working in multidisciplinary and interdisciplinary fields.

## Learning Outcomes

1. Applying an interdisciplinary and integrated vision of the legal problems in an international environment.
2. Assessing legislative changes and reforms in a context of plurality of systems.
3. Assessing the underlying conflicts of interest in the legal problems proposed in an international environment.
4. Building a legal reasoning or discourse in the field of Public International Law, Private International Law and European Union Law.
5. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
6. Identifying and assessing the changes and evolution of jurisprudence in a context of plurality of systems.
7. Identifying and knowing the basic contents of every stipulated speciality.
8. Identifying and solving problems.
9. Integrating the importance of Law as a regulatory system of social relations, and the contextualisation of the legal phenomenon in the international environment.
10. Managing bibliographic and documentary resources: databases, browsing, etc.

11. Memorising and using the specific terminology of Public International Law, Private International Law and European Union Law.
12. Present information in a way that is appropriate to the type of audience.
13. Seek out, interpret and apply legal provisions related to Public International Law, Private International Law and European Union Law.
14. Students must be capable of learning autonomously and having an entrepreneurial spirit.
15. Using the constitutional values as a criterion for interpretation and solution of conflicts, specially in case of a contradiction between the main fundamental principles of several legal systems.
16. Working in multidisciplinary and interdisciplinary fields.

## Content

### PROGRAMME OF PRIVATE INTERNATIONAL LAW (PIL)

#### Lesson 1

Object, concept and content of PIL. Preconditions: plurality of legal systems and international private relationships. Evolution of the object of PIL. The concept of PIL. Identification of its content: possible approaches and issues included. The internal dimension of the PIL system: states with more than one legal system (plurilegislative states). Spain as a plurilegislative State.

#### Lesson 2

Sources of 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 law. Secondary law.

#### Lesson 3

International jurisdiction (I). Sources of rules of international jurisdiction: domestic law, international treaties and European Union law. Regulation 1215/2012: Matters included. Application *ratione temporis*. The role of the defendant's domicile. Special grounds of jurisdiction. Exclusive grounds of jurisdiction. Choice of court by the parties. Tacit submission to a jurisdiction. Grounds of jurisdiction in favour of weak parties: special consideration of employment contracts and consumer contracts. Interim measures. *Lis pendens* and connected actions. Examination of the jurisdiction *ex officio*. Examination of the jurisdiction *ex parte*. Regulations 2201/2003 and 2019/1111: rules of jurisdiction regarding divorce, separation and marriage annulment. Rules of jurisdiction in matters related to responsibility over minors. Issues related to the application of jurisdiction rules.

#### Lesson 4

International jurisdiction (II). Spanish domestic law: the *Ley Orgánica del Poder Judicial* (organic law on the judiciary): structure and content. State immunities from jurisdiction and from measures of constraint: organic law 16/2015, of 27 October 2015. International jurisdiction: structure of the rules and grounds of jurisdiction. *Derogatio fori*.- *Ex officio* verification of international jurisdiction. *Ex parte* verification of international jurisdiction: the *declinatoria* (plea as to the jurisdiction). International *lis pendens* and connected actions in Law 29/2015, of July 30, on international legal cooperation in civil matters.

#### Lesson 5

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

#### Lesson 6

Issues related to the application of rules on conflict of laws. Characterisation and the conflict of characterizations. *Renvoi*. Incidental or preliminary question. Conflicts rules and plurilegislative States: solutions in Spanish domestic law, in international treaties and in EU regulations. Mobile conflict. Exceptions to the application of foreign law: public policy exception. Law evasion or *fraude à la loi*.

## Lesson 7

Rules of conflict of laws regarding contractual and non-contractual obligations. conflict rules relating to 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. Laws applicable to the capacity to contract and to the form of the contract. Specific contracts: special consideration of consumer contracts and employment contracts. Mandatory rules and overriding mandatory rules. Conflict of laws regarding non-contractual obligations: Regulation 864/2007, of July 11 2007. Domestic Law. International conventions: special consideration of The Hague conventions of 14 May 1971 (traffic accidents) and 2 October 1973 (responsibility for products).

## Lesson 8

Application of foreign law.- Mandatory nature of the conflict rules and procedural treatment of foreign law. Allegation of foreign law. The proof of foreign law. Participation of the judge in the application and proof of foreign law. International conventions aimed at facilitating 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 enforcement of decisions: decisions that may be recognised and/or enforced. Effects of recognition. Conditions for recognition. Procedures for recognition and declaration of enforceability (exequatur). Recognition and enforcement in Regulation 1215/2012: conditions. Automatic recognition and incidental recognition. Declaration of recognition. The procedure for challenging recognition and/or enforcement of decisions in Regulation 1215/2012. Recognition and enforcement in Regulations 2201/2003 and 2019/1111. The recognition and enforcement of decisions regarding maintenance obligations: Regulation 4/2009. Some examples of suppression of exequatur procedures in the European Union: the European enforcement order for uncontested claims (Regulation 805/2004). The European order for payment procedure (Regulation 1896/2006). The European small claims procedure (Regulation 861/2007).

## Lesson 10

Recognition and enforcement of foreign decisions (II). The domestic Spanish law on recognition and enforcement of foreign decisions: Title V of Law 29/2015. Conditions for recognition. The exequatur procedure. Recognition and enforcement in international conventions: scope of application of the conventions. Relationship between the conventions and domestic law and between the different conventions.

## Lesson 11

International judicial cooperation in civil matters. International service of documents: service procedures. The Hague Conventions of 1954 and 1965. Regulation 1397/2007, of November 13, 2007 and Regulation 2020/1784, of 25 November 2020. Cooperation in the taking of evidence abroad: The Hague Conventions of 1954 and 1970. Regulation 1206/2001, of May 28, 2001, and Regulation 2020/1783, of 25 November 2020. Judicial cooperation in civil matters in Spanish domestic law: Law 29/2015. Legal aid in cross-border litigation.

## Methodology

### METHODOLOGY

#### 1. ACTIVITIES DIRECTED BY THE TEACHER

Activities directed by the teacher are the activities developed in the classroom, under the direction of the teacher during the time scheduled for the class. They may consist in lectures. During class practical problems will be raised and analysed and students will be asked to participate, contribute with their own ideas or even they will be invited to advance solutions to the problems that will be posed. During lectures the different topics of the course will be explained. Although the teacher's presentation will be the axis of the class, participation of students is also necessary. It is advisable to read the recommended materials before the class. Students should take with them the relevant legal norms and judicial decisions that will be used during the class. The vast majority of those materials will be made available through the UAB Moodle. The students should bring to the class some compilation of private international law regulations.

Private International Law is not a messy set, but a system. Every issue is connected with the other issues. That implies that it is not possible to understand a part of the course without the knowledge of the other parts. So, it is not advisable to give up classes at some point. Most likely, the student who gives up the classes and comes back some weeks later would not be able to understand anything. The teachers are not going to verify the class attendance, but the course is designed in such a way that only with a continuous attendance will be possible a correct understanding of the topics we are going to deal with during the course.

There will be also activities in class under the supervision of the teacher. Judicial decisions, legal rules and practical problems will be analysed. The participation of the students -individually and in group- will be a key element during the classes. The reading of the materials before the class is also compulsory. In these classes, both written and oral exercises will be carried out. These exercises are aimed not only to strengthen their capacity for legal analysis but also their ability to work in groups, the capacity to elaborate legal documents and to improve techniques of argumentation and oral expression.

## 2. SUPERVISED ACTIVITIES

If necessary, individual or group tutorials will be available for students.

## 3. AUTONOMOUS ACTIVITIES

Autonomous activities are all those activities in which students organize their time and effort by themselves, individually or in a group. These autonomous activities are reading legal texts, textbooks and other recommended materials, as well as studying the different topics of the programme.

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			
Lectures	33.75	1.35	7, 6, 9, 15, 2
Work in class	33.75	1.35	4, 8, 14, 15, 3
Type: Autonomous			
Assessment	5	0.2	13, 4, 5, 10, 7, 8, 15, 3
Reading of handbooks and documents	47.5	1.9	7, 6, 9, 11, 14, 15, 3
Study	100	4	1, 4, 5, 7, 6, 9, 11, 8, 14, 15, 2, 3

## Assessment

## ORDINARY ASSESSMENT

A) During the course two practical cases must be solved in writing in the classroom. These exercises will be carried out on the dates that will be announced in class and through the moodle at the beginning of the course. Each of these exercises will represent 12.5% of the final mark (up to 1,25 points out of 10).

B) There will be a final theoretical exam including two questions that must be answered by the student without the help of any kind of material. The only support text allowed will be the programme of the course, in paper, as long as it does not contain annotations. The mark of the exam represents 50% of the final mark (up to 5 points out of 10).

C) A final practical exercise will be held at the end of the course. Its date will be announced at the beginning of the course through the moodle. This practical exercise represents 25% of the final mark (up to 2.5 points out of 10).

D) The final grade will result from considering those obtained in the tests described in previous letters A), B) and C). It is not mandatory to perform the practical cases of point A) to pass the course, as long as the marks obtained in the tests referred to in letters B) and C) are enough to achieve a minimum final mark of 5/10 (taking into consideration the ponderation already explained). In any case, to pass the course it is necessary that the marks of each of the questions of the final exam (point B) and of the practical exam (point C) achieve at least 2,5 out of 10. Any student with a mark under 2,5/10 in any of the questions of the final exam or in the final practical exercise will fail the course, regardless of the marks obtained in the other exercises.

## REVIEW OF THE MARKS

Students may ask for a review of the final grades obtained. The date of this review will be published together with the final marks. This review may include all the items used for the assessment (practical cases, final exam, final practical case).

During the course students may ask for interviews with the teachers in order to be informed about the marks obtained and the assessment criteria by the teachers. These interviews will not prevent the possibility of demanding the review of the final marks referred to in the previous paragraph, once they are published.

## RE-EVALUATION

Students who do not obtain at least 5 out of 10 as final mark in the ordinary assessment may try to pass the subject at the re-evaluation phase. Those students who pass the course at the ordinary evaluation phase may not apply for a re-evaluation in order to try to improve their marks.

In order to be able to participate in the re-evaluation, students must have participated in activities of evaluation that imply, at least, 66% of them. This means that only students that have undertaken the final practical exercise and the final theoretical exam or, alternatively, the first and second evaluated practical cases and the final theoretical exam may take part in the re-evaluation.

The re-evaluation exam will include solving a practical case and a theoretical exam equivalent to those referred in the previously indicated letters B) and "C)" of the ordinary evaluation section. It will not be possible to re-evaluate the two practical cases referred to in letter A) of the ordinary assessment section. Therefore, the mark obtained in these cases at the ordinary evaluation phase will be kept for re-evaluation purposes.

Students may choose to take the re-evaluation of both the final exam and the practical case, or only one of these two. In this last case, the mark of the part which is not re-evaluated will be the that obtained previously at the ordinary evaluation stage.

The criteria explained in letter D) of the ordinary evaluation section will also apply in the context of the re-evaluation. This means that any student with a mark under 2,5/10 in any of the questions of the final exam or in the practical case will not pass the course.

## BREACHES OF ACADEMIC INTEGRITY

Any activity contrary to academic integrity (cheating in exams, plagiarism, etc.) will be communicated to the academic authorities, who may take the appropriate disciplinary measures. Any exercise in which a breach of academic integrity is discovered will be graded with a zero mark.

## Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Final exam (theory)	50%	1	0.04	1, 4, 5, 10, 7, 6, 9, 11, 8, 14, 16, 15, 2, 3
Final practical exam	25%	1	0.04	13, 4, 5, 7, 6, 11, 8, 14, 16, 15, 3
First practical case	12,5%	1.5	0.06	13, 5, 7, 12, 8, 16, 15, 3
Second practical case	12,5%	1.5	0.06	13, 5, 7, 12, 8, 16, 15, 3

## Bibliography

Following the criteria recommended by the social sciences library, the references of this guide are divided into "basic" and "complementary" bibliography. Taking into account that group 2 will be taught in English, bibliographical references in this language are also included.

### 1. Basic bibliography:

1.1. Even though it is not "bibliography" in a strict sense, to follow the course it is absolutely necessary to have a compilation of the private international law rules that will be examined. Among others, the following collections of norms may be recommended (usually they are edited each year):

- *Legislación Básica de Derecho internacional privado*, Madrid, Tecnos (last edition).
- *Legislación de Derecho Internacional Privado*, Granada, Comares (last edition).
- *Derecho internacional privado*, Navarra, Thomson Reuyers / Aranzadi (last edition).
- "Kodex", to be found in the electronic institutional archives of the University of Murcia: [digitum.um.es/digitum/handle/10201/109821](http://digitum.um.es/digitum/handle/10201/109821)

### 1.2. Textbooks:

#### 1.2.1 In Spanish:

- Garcimartín Alférez, Francisco José, *Derecho internacional privado*, Cizur Menor, Civitas / Thomson Reuters (last edition), available in electronic version.

#### 1.2.2. In English:

- Van Calster, Geert, *European Private International Law. Commercial litigation in the EU*, Hart, 2021; available in electronic version.

### 2. Complementary bibliography:

#### 2.1. Textbooks and treaties in Spanish:

- Fernández Rozas, José Carlos / Sánchez Lorenzo, Sixto Alfonso, *Derecho internacional privado*, Navarra.Thomson/Reuters, last edition; available in electronic version.

- Esplugues Mota, Carlos Aurelio / Iglesias Buhigues, José Luis / Palao Moreno, Guillermo, *Derecho internacional privado*, València, Tirant lo Blanch, last edition; available in electronic version.
- Calvo Caravaca, Alfonso Luis / Carrascosa González, Javier, *Tratado de Derecho internacional privado* (3 volumes), Valencia, Tirant lo Blanch, 2020; available in electronic version.

## 2.2. Textbooks and other books in English:

- Bogdan, Michael / Pertegás Sender, Marta, *Introduction To Eu Private International Law*, Europa Law Publishing, 2019.
- Hay, Peter, *Advanced introduction to private international law and procedure*, Elgar, 2018.
- Wilke, Felix M., *A conceptual analysis of European Private International Law*, 2019.
- Cuniberti, Gilles, *Conflict of Laws: A Comparative Approach. Text and Cases*, Elgar, 2022.
- Requejo Isidro, Marta (ed.), *Brussels I Bis, A Commentary on Regulation (EU) No 1215/2012*, Elgar Commentaries in Private International Law series, 2022.
- Guinchard, Emmanuel, *Rome I and Rome II in Practice*, Intersentia, 2020.
- Hill, Jonathan / Shúilleabháin, Máire Ní, *Clarkson & Hill's conflict of laws*, Oxford University Press, 2016.
- Torremans, Paul et al. (eds) *Cheshire, North & Fawcett: private international law*, Oxford University Press, 2017.
- Beaumont, Paul / Holliday, Jane (eds.), *A Guide to Global Private International Law*, Bloomsbury, 2022.

## 2.3. Compilation of practical cases (with solutions):

- Arenas García, Rafael, *Casos básicos de Derecho internacional privado con sus soluciones*, Barcelona, Atelier, 2020.

Apart from the texts previously indicated, other materials may be made available to students through the moodle (campus virtual).

## Software

This course does not require any specific software.