

## Private International Law

UGRA\_007760

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Departments	Department of International, European Union and Comparative Law
Teaching Languages	English and Spanish
ECTS	5
Teacher responsible	Verona Tio Perez-Albert - verona.tio@esade.edu

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### Course Goals

Specific learning objectives for students are:

- Knowing how to identify, distinguish and describe the situations covered by PIL.
- Knowing how to identify and distinguish the different regulatory levels which coexist under the Spanish system of PIL: national, European and conventional.
- Knowing and understanding the relationship between the core three sectors of PIL: jurisdiction, applicable law and recognition and enforcement of foreign judgments.
- Understanding the European rules on international jurisdiction and recognition and enforcement of judgments in civil and commercial matters of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), or "Brussels I bis Regulation"; its relationship with other multilateral conventions such as the 2007 Lugano Convention which extends the material scope of the Brussels regime to three EFTA States (Iceland, Norway and Switzerland); as well as with the 2005 Hague Convention on Choice of Court Agreements or the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, both concluded by the EU as a Member of the Hague Conference on Private International Law;
- The student shall also understand when the Spanish national rules of international jurisdiction contained in the Ley Orgánica del Poder Judicial, as well as those concerning the recognition and enforcement of foreign judgments provided for under the Ley de Cooperación Jurídica Internacional en Materia Civil are applicable failing the application of the Brussels I bis Regulation or an International Convention.

- Identifying and understanding the different types of rules and legislative techniques applied by European judges to determine the law applicable to contractual and non-contractual obligations and contained in the following instruments: Rome I Regulation, No. 593/2008 (applicable law to contractual obligations) and Rome II Regulation, No. 864/2007 (applicable law to non-contractual obligations) as well as their relationship with other multilateral Conventions such as the the 1971 Hague Convention on the law applicable to traffic accidents and the 1973 Hague Convention on the law applicable to products liability.
- The student shall also understand when the Spanish national conflict of law rules contained in the Civil Code are applicable failing the application of the former instruments.
- Understanding the European Court of Justice rulings interpreting the above-mentioned EU Regulations and know its landmark cases.

## Recomended courses

EU Law, Public International Law, Civil Procedure, Contract and Tort Law.

## Teaching methodology

Teaching-learning methodology.

Each thematic section will be taught using lecture classes and participatory classes.

The participatory classes will be undertaken in small groups under the guidance of an assigned faculty member. The latter will also announce the set assignments on the course webpage.

Learning modalities.

1. Lecture classes in which the course content will be explained.
2. Practical classroom activities in which assignments will be completed in conjunction with discussions on the arguments explaining the solutions.

## Description

### Short description

Private International Law (PIL) is the branch of every legal system which has as its object private cross-border relationships, i.e., private relationships connected to more than one legal system. Due to the presence of an international element, three main questions arise: before which court may a party bring a claim (i.e., international jurisdiction), which is the applicable law to the merits of the dispute (i.e., applicable law) and whether a judgment given by the courts of a State may be recognized and enforced outside jurisdiction (i.e., recognition and enforcement of foreign judgments).

The Spanish system of PIL addresses these three main questions through rules which stem from different sources: national, conventional and European. On the one hand, and as a Member State of the European Union, Spanish courts are bound by European PIL the importance of which cannot be overstated. Since the Treaty of Amsterdam (1999), the European legislator has adopted 17 Regulations that deal with private cross-border relationships, and thus take precedence over the rules of PIL enacted by the Spanish legislator. On the other hand, Spain has concluded a considerable number of international conventions with third States, be it bilateral or multilateral, partially because of Spain being a member of the Hague Conference on Private International Law.

The course is focused on the Spanish system of PIL with special emphasis on contractual and non-contractual obligations.

## Bibliography

Bouza/Garcimartín/González Beilfuss/Virgós, Legislación básica de Derecho internacional privado, Tecnos (Book)

Fernández Rozas/Arenas/de Miguel, Derecho de los Negocios Internacionales, Iustel (Book)

Bodgan/Pertegás, Concise Introduction to EU PIL, Europa Law Publishing (Book)

Calvo-Caravaca/Carrascosa, European Private International Law, Comares (Book)

van Calster, G., European Private International Law. Commercial Litigation in the EU, Hart (Book)

Calvo-Caravaca/Carrascosa, Tratado de Derecho internacional privado, Tirant lo Blanch (Book)

Font/Fontanelles/Gardeñes/Garriga, Lliçons de Dret internacional privat (Book)

Garcimartín Alférez, F.J., Derecho internacional privado, Civitas (Book)

## Content

#	Topic
1	Introduction. What is PIL? Conditions for the existence of PIL. Object. Sectors: Jurisdiction, Applicable Law and Recognition and Enforcement of Foreign Judgments.
2	Sources of PIL. The relativity principle. Plurality of sources: national, conventional, European. The "communitarization" and "europeanization" of EU PIL. The EU: a member of The Hague Conference on Private International Law.
3	Jurisdiction. Concept. Limits. Different heads of jurisdiction. The Brussels system. Scope of application of Brussels I bis Regulation. Relationship with other conventions. The Lugano Convention II.
4	Applicable Law. The conflict of law rule: structure and function. EU PIL: Rome I and Rome II Regulations. Methodological problems: characterization, renvoi, public policy, reference to plurilegal systems. Evidence of foreign law.
5	Heads of Jurisdiction, Verification of Jurisdiction and Parallel Litigation. Exclusive jurisdiction in matters relating to rights in rem in immovable property and tenancy agreements of immovable property. Choice of court agreements and entering an appearance.

#	Topic
5	Verification of jurisdiction and Parallel litigation. Special jurisdiction in matters relating to a contract and in matters relating to tort, delict and quasi-delict.
6	Recognition and enforcement of foreign judgments. Recognition and enforcement under Brussels I bis Regulation, the Lugano Convention II and Ley de Cooperación Jurídica Internacional en Materia Civil. Principles. Giving effect to a foreign judgement. Exequatur. Grounds for refusal of recognition and enforcement.
7	The Choice of Law of Contracts. The Rome I Regulation on the law applicable to contractual obligations. Choice of Law and limits to party autonomy: overriding mandatory rules and public policy. Default conflict of law rules.

## Assessment

Tool	Assessment tool	Category	Weight %
Other	Active class participation	Retake and ordinary round	0.35%
Written and/or oral exams	Exam	Retake and ordinary round	0.65%

## PROGRAMS

GBD20-Double Degree in Business Administration and Law (Undergraduates: Law)

GBD20 Year 4 (Mandatory)

GDL20-Double Degree in Law and Global Governance, Economics and Legal Order (Undergraduates: Law)

GDL20 Year 4 (Mandatory)

GED20-Bachelor in Law (Undergraduates: Law)

GED20 Year 4 (Mandatory)