



## COURSE DATA

### Data Subject

<b>Code</b>	35226
<b>Name</b>	International private law
<b>Cycle</b>	Grade
<b>ECTS Credits</b>	7.5
<b>Academic year</b>	2017 - 2018

### Study (s)

Degree	Center	Acad. year	Period
1303 - Degree in Law	Faculty of Law	3	Annual
1921 - D.D. in Business Management Administration-Law	Doubles Studies Faculty of Law - Faculty of Economics	5	First term
1922 - D.D. in Law-Political and Public Administration Sciences	Faculty of Law	4	Annual
1923 - D.D. in Law-Criminology	Faculty of Law	5	First term

### Subject-matter

Degree	Subject-matter	Character
1303 - Degree in Law	19 - Private international law	Obligatory
1921 - D.D. in Business Management Administration-Law	6 - Year 5 compulsory subjects	Obligatory
1922 - D.D. in Law-Political and Public Administration Sciences	5 - Year 4 compulsory subjects	Obligatory
1923 - D.D. in Law-Criminology	7 - Year 5 compulsory subjects	Obligatory

### Coordination

Name	Department
REIG FABADO, ISABEL	65 - International Law 'Adolfo Miaja de la Muela'

## SUMMARY



Private International Law is a compulsory subject taught in 3<sup>rd</sup> year of the Degree in Law during all the school year (1<sup>st</sup> and 2<sup>nd</sup> semester). Its workload is 9 credits (total dedication of students, 225h).

In general terms, Private International Law is a field of the national legal system aimed at regulating private international relationships, i.e. those relationships containing a foreign element.

The Spanish legislator, being aware of the peculiarities of relationships with foreign elements, has designed a field of law specifically devoted to tackle and resolve this kind of issues. Thus, Private International Law shares with other areas of law the common national origin (although in the last years EU and other international sources have increasingly played a significant role in this field) but differs from them as to the object.

Through the study of this area of law students will be able to identify private international legal relationships and differentiate them from domestic private relationships, since this is the key requirement to apply this field. Students will reach a deep knowledge of the Spanish system of PIL (coming from any source, either domestic or international), in order to acquire the necessary tools to tackle and resolve cases with foreign elements that arose in daily life. This mainly means to resolve correctly the three main issues covered by this field of law: international jurisdiction of Spanish courts, the legal system to be applied to this kind of relationships –either Spanish law or foreign rules- and the recognition and enforcement of foreign decisions. Furthermore, the subject also deals with procedural issues concerning proceedings with foreign elements heard before Spanish courts.

## PREVIOUS KNOWLEDGE

### Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

### Other requirements

A special attitude of students is absolutely necessary because they will face new institutions unknown by other fields of law previously studied in the Degree in Law, taking into account its special features, mainly related with its object and its sources. It also requires an advanced knowledge of Civil Law, Commercial Law and Procedural Law.

## OUTCOMES

### 1303 - Degree in Law

- Be able to use legal sources (legal, jurisprudential and doctrinal).
- Be able to read and interpret legal texts.
- Be able to communicate correctly both orally and in writing in the field of law.
- Be able to analyse legal problems and synthesise their approach and resolution.



- Develop critical awareness for the analysis of the legal system and develop the legal dialectic.
- Acquire basic knowledge of legal arguments.

## LEARNING OUTCOMES

Private International Law must be oriented to obtain the following student learning outcomes:

1. To know and use correctly the proper terminology of PIL.
2. To understand the basic concepts of PIL.
3. In general terms, to know in depth the basic aspects regarding the *forum*, the *ius* and the recognition and enforcement.
4. Capacity to identify foreign elements in civil proceedings developed in Spain.
5. To understand the elements and functioning of the judicial and non-judicial application of foreign laws.
6. In specific terms, to identify the criteria concerning the *forum*, the *ius* and the recognition and enforcement to matters related with personal status and property rights.

## DESCRIPTION OF CONTENTS

### 1. Private International Law. Introduction.

- 1.- Justification of Private International Law.
- 2.- Meaning of "Private International Law".
- 3.- Issues covered by this field of law: international jurisdiction, applicable law and recognition and enforcement of foreign judicial and non-judicial decisions.
- 4.- The Spanish model of Private International Law.

### 2. International Jurisdiction (IJ): the Spanish system.

- 1.- Meaning of international jurisdiction.
- 2.- Premises of the Spanish model of international jurisdiction.
- 3.- The Spanish regime of IJ of European origin.
- 4.- The Spanish regime of IJ of conventional origin.
- 5.- The Spanish regime of IJ of domestic origin.



### **3. The Spanish civil procedure with foreign elements.**

- 1.- The Spanish civil procedure with foreign elements. Law applicable to the procedure.
- 2.- International judicial cooperation. Service of judicial and non-judicial documents and taking of evidence abroad.

### **4. Determination of the law applicable to private international relationships.**

- 1.- Introduction.
- 2.- Substantive rules. Special material rules and mandatory rules.
- 3.- Indirect regulation technique of choice-of-law rules.
- 4.- The practical functioning of choice-of-law rules: facts, connecting factor and legal consequence.
- 5.- Judicial and non-judicial application of foreign law.

### **5. Recognition and enforcement of foreign judicial decisions and public documents**

- 1.- Possible effects of foreign judgment and public documents.
- 2.- Recognition and enforcement. Introduction and meaning.
- 3.- The European regime of recognition and enforcement.
- 4.- The Treaty regime of recognition and enforcement.
- 5.- The domestic regimen of recognition and enforcement.
- 6.- Recognition and enforcement of enforceable public documents and court settlements.
- 7.- Formal validity of legal acts in Spanish Private International Law.
- 8.- Evidentiary effects of foreign public documents and efficacy before registries.

### **6. International commercial arbitration and cross-border mediation**

- 1.- Mechanisms of resolution of disputes alternative/complementary to state jurisdiction (ADR).
- 2.- Arbitral regime established in the Spanish Arbitration Act of 2003.
- 3.- Peculiarities of international commercial arbitration developed in Spain contemplated in the Arbitration Act of 2003.
- 4.- Recognition and enforcement of foreign arbitral awards in Spain.
- 5.- Cross-border mediation.

### **7. Family Law and Successions.**

#### **NATURAL PERSONS**

- 1.- Personal status.
- 2.- Birth and extinction of personality.
- 3.- Personal status and Civil registry.
- 4.- Rights of individuals.

#### **CAPACITY**

- 5.- Law applicable to capacity of individuals.
- 6.- Legal regim of legal capacity of individuals.



7.- Protection of incapable adults: declaration of incapacity.

8.- Protection of minors.

#### MARRIAGE

9.- Celebration of marriage.

10.- Effects of marriage.

11.- Marital breakdown.

#### FILIATION

12.- Legal regime of filiation.

13.- Adoptive filiation.

#### MAINTENANCE

14.- Legal regime of maintenance claims.

15.- Administrative cooperation.

#### SUCCESSIONS

16.- Legal regime of successions.

17.- The European Certificate of Succession.

### 8. Law of obligations.

1.- Contractual obligations: general regime.

2.- Contractual obligations: some contracts in particular.

3.- Non-contractual obligations.

### 9. Property rights.

1.- Legal regime of property rights: movable and immovable assets.

2.- International jurisdiction.

3.- Applicable law.

## WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	75,00	100
Attendance at events and external activities	5,00	0
Development of group work	9,00	0
Development of individual work	2,50	0
Study and independent work	40,00	0
Readings supplementary material	5,00	0
Preparation of evaluation activities	15,00	0
Preparing lectures	15,00	0
Preparation of practical classes and problem	15,00	0
Resolution of case studies	5,00	0





Resolution of online questionnaires	1,00	0
<b>TOTAL</b>	<b>187,50</b>	

## TEACHING METHODOLOGY

The special nature of this field of law and the significant volume of legal instruments involved require important effort by the Lecturer and students.

**Theoretical explanation.** The Lecturer will present and explain in a dynamic way the basic elements which must lead students to understand the subject, using practical cases, analysis of case law and doctrine. The student shall be engaged actively to participate in the learning process by reading the Lesson before the class and using the handbook and the legislation of Private International Law in an active environment of maximum attention, silence and respect.

**Applied activities.** They will consist of analysis of case law and experts' reports and, above all, resolution of practical cases. They will be developed as a supplement of the theoretical classes presented by the Lecturer notwithstanding the possibility of making them outside the classroom. They will require the participation of students and each Lecturer will establish the ones which will be subject to evaluation. They will help students to become familiar with the relevant materials and legislation of this field.

**Supplementary activities.** Each Lecturer responsible of this subject will participate at least in a workshop or seminar related with the subject alternatively when scheduled. They will be organised either focusing particularly on matters covered only by this subject or coordinating the activity with other colleagues of other departments in those cases where the topic is interdisciplinary. In any case, these activities will be taken into consideration in the continuous assessment.

**Supervised activities.** The Lecturer will suggest some supervised activities, i.e. the analysis of doctrine, search of case law, preparation of practical cases. He will also consider the possibility of scheduling some activities within the workload of students aimed at strengthening their knowledge.

**Office hours.** Any question or concern students may have related with this subject will be resolved during the office hours every Lecturer establishes to this end.

## EVALUATION

Evaluation system.

Oral or written test consisting of one or more exams, which may have an objective nature and include theoretical and practical questions and/or practical cases.

Continuous assessment of each student, based on regular attendance and active participation in activities developed in class, such as resolution of practical cases or participation in workshops, delivery of papers and/or reports and/or oral presentations about such activities, either individually or in group, taking into consideration the degree of involvement and the effort done by the student in the teaching-learning process and his/her skills and attitude shown during the development of such activities.



Continuous assessment of each student, based on attendance to seminars and visits to entities; and, if applicable, delivery of papers/reports and/or oral presentations about the organized activity, either individually or in group, taking into consideration the degree of involvement and the effort done by the student in the teaching-learning process and his/her skills and attitude shown during the development of such activity.

## REFERENCES

### Basic

#### - MANUALES:

Esplugues Mota, C. e Iglesias Buhigues, J.L., Palao Moreno, G.: Derecho internacional privado, Valencia, Tirant lo Blanch, 11ª ed., 2017.

Calvo Caravaca, A.L. y Carrascosa González, F.J., Derecho internacional privado, 2 vols., Granada, Comares, 16ª ed., 2017.

Fernández Rozas, J.C. y Sánchez Lorenzo, S., Derecho internacional privado, Madrid, Civitas, 10ª ed., 2017.

### Additional

#### - LEGISLACIÓN:

Alvarez González, S., Esplugues Mota, C. y otros, Legislación de Derecho internacional privado, Granada, Comares, 19ª ed., 2016.

Borrás Moreno, A., Bouza Vidal, N. y otros, Legislación básica de Derecho internacional privado, Madrid, Tecnos, 26ª ed., 2016.