

## SUBJECT DETAILS

Data on the subject	
Full Name	Recognition and enforcement of foreign documents in the European Union (judicial resolutions and arbitral awards).
Code	E000002220
Degree	Postgraduate in Master in International and European Business Law
Year	2020-21
Nature	Fall
ECTS Credits	2
Department	Law
Area	Law
Teaching staff	Javier González Guimaraes-da Silva

Data on the teaching staff	
<b>Teacher</b>	
Name	Javier González Guimaraes-da Silva
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Tutoring Schedule	Upon request from students

## SPECIFIC DATA ON THE SUBJECT

Framework of the subject
<b>Pre-requisites</b>
Knowledge of the EU legal order and EU principles of law; basic knowledge of the structure and functioning of EU institutions, its legal instruments and procedures. Basic knowledge of international private law.
<b>Contribution of the degree to the professional profile</b>
This course aims to provide an overview of the regime concerning the recognition and enforcement of foreign decisions in the EU and, also, the recognition and enforcement of EU public documents abroad. Special emphasis is given to the recognition and enforcement of arbitral awards under New York Convention (1958). This subject is also meant to provide the student with a thorough knowledge of the interaction between EU legal order, international treaties and national law in the field of private international law.

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## Competences - Goals

### Competences to be developed

#### Generic Competences

GC 2: Ability to communicate orally and in writing

GC 4: Problem-solving skills

GC 5: Decision-making skills

GC 6: Team work skills

GC 7: Ability to work in an international context

GC 9: Awareness of the importance of ethical commitment

GC 12: Ability to apply theoretical knowledge into practice

GC 13: Negotiating skills

#### Specific Competences

SC 4 Mastering the main rules of EU law and international law that are relevant to international business development

# COURSE SYLLABUS AND CONTENT

## Content

### Area 1. Overview of the EU legal system

#### Theme 1. Introduction to European Private International Law

1. Origin of European Private International Law. Treaty of Amsterdam
2. Prerequisites, object and main content of European Private International Law
3. Principal sources of European Private International Law
  - 3.1. EU Law (Brussels Convention, Regulation 44/2001 and Regulation 1215/2012)
  - 3.2. International treaties (Lugano Conventions)
  - 3.3. Domestic regulations (Spanish domestic law, among others)
  - 3.4. Case law. The role of the European Court of Justice (The Court of Luxemburg)

### AREA 2. Recognition and enforcement of judgments and other decisions in civil and commercial matters

#### Theme 2. The Brussels regime

1. Introduction. Special reference to exclusive jurisdiction and weak parties' disputes
2. Potential effects of foreign judgments (Common law, French legal system and EU law approach)
3. Recognition, declaration of enforceability and enforcement
4. Foreign decisions capable of being recognised and enforced
5. Refusal of recognition and enforcement
6. Proceedings to recognise and enforce judgments
7. Authentic documents and courts settlements

#### Theme 3. Lugano I & II Conventions

1. Scope, parties and content
2. Differences and similarities with the Brussels regime
3. Relationships with EU Regulation 1215/2012

### AREA 3. Recognition and enforcement of foreign arbitral awards

#### Theme 4. New York Convention (1958)

1. Summary of provisions
2. Parties to the Convention. States which are not party to the Convention
3. The rules on the enforcement of foreign arbitration awards
4. United States issues. Other significant issues
5. Special reference to the enforcement of awards set aside at the seat of the arbitration

#### AREA 4. Exequatur procedure

##### Theme 5. The Exequatur: Spanish legal system

1. Exequatur and sovereignty
2. Conditions and key issues
3. Exequatur of judgments and arbitral awards: legal proceedings

## TEACHING METHODOLOGY

### General methodology of the subject

#### Contact hours methodology: Activities

Socratic pragmatically-oriented method: the course is based on active methodologies and strongly rely on EU regulations, the case-law of European courts and international conventions. The format followed for this part of the programme shall not be a lecture, but a discussion and general participation by the students commenting on the regulations, judgments and articles suggested by the instructor.

Attendance at class is compulsory.

#### Outside class methodology: Activities

Every student is required to attend the teaching sessions and to do the preparatory work. The instructor will provide the students with a syllabus comprising the most relevant materials (regulations and case-law) and a concrete schedule of review for these materials. In order to follow the presentation it is necessary to have examined beforehand the relevant statutes and case-law, as well as relevant articles of doctrine to which the student is directed to for each session according to the bibliography provided

## SUMMARY OF STUDENT WORK HOURS

NUMBER OF CONTACT HOURS		
Master classes	Solving practical cases	Short papers
16	8	2
NUMBER OF INDEPENDENT WORK HOURS		
Study of master classes	Solving practical cases, shor paper and guide work	
10	14	
<b>ECTS CREDITS: 2 (50,00 hours)</b>		

## GRADE EVALUATION AND CRITERIA

Evaluation Activities	Indicators	Evaluation weighting
Solving practical exercises or case studies	<p>Solving small exercises and practical cases in class entails a suitable mean to their learning.</p> <p>They allow students to follow the development of the subject from a practical point of view in the learning process, rectify and insist in those aspects concurring more difficulties in such a process and include items to be debated in class that entail the development of critical judgement.</p> <p>These works will be evaluated by the teacher taking into consideration mainly the evolution of the student from the beginning of the semester to its finalisation, his or her analytical skills and capacity and his or her ability to synthesise the specific knowledge of the subject, clarity to express his or her ideas and communication skills to communicate his or her conclusions in class</p> <p>Case studies will have to be submitted using Moodle's platform (Turnitin)</p>	20%
Short paper	<p>One writing on a specific matter of the subject to be provided by the teacher at the beginning of the course. The paper must be submitted before the date of the final exam.</p> <p>5-10 pages length. A4-size paper, with 1.5 line spacing, and 11-point Times New Roman (on a Mac, Times)</p> <p>Short paper will have to be submitted using Moodle's platform (Turnitin)</p>	20 %
Evaluation: open-book exam (final)	<p>Proving that the questions, topics and materials included in the course have been properly understood.</p> <p>1. Analysis of case study (set of facts) in order to solve the questions included in the exam</p>	50%

	<p>applying the Regulation nº 1215/2012 and ECJ case law (30%)</p> <p>2. Analysis of case study (set of facts) in order to solve the questions included in the exam applying NY Convention 1958 (30%).</p>	
Attendance	Attendance in class	10 %

## BIBLIOGRAPHY AND RESOURCES

### Basic Bibliography and Resources

#### TEXT BOOKS

Hartley, T., *International Commercial Litigation – Text, Cases and Materials on Private International Law* (Cambridge, 2nd ed. 2015)

Bogdan, M., *Concise Introduction to EU Private International Law* (Europa Law Publishing, 3rd ed. 2016)

#### REQUIRED READINGS (PUBLISHED ON INTERNET SITES OR PROVIDED BY PROF.)

M. Requejo, "Recognition and Enforcement in the new Brussels I Regulation (Regulation 1215/2012, Brussels I recast): The Abolition of Exequatur" ([http://www.ejtn.eu/PageFiles/6333/Requejo\\_Doc.pdf](http://www.ejtn.eu/PageFiles/6333/Requejo_Doc.pdf))

Ven den Berg, A. J., "The New York Convention of 1958: An Overview" ([http://www.arbitration-icca.org/media/0/12125884227980/new\\_york\\_convention\\_of\\_1958\\_overview.pdf](http://www.arbitration-icca.org/media/0/12125884227980/new_york_convention_of_1958_overview.pdf))

O. Marsden, A. Jones, "Awards set aside at the seat of the arbitration: is enforcement still possible?", Freshfields Bruckhaus Deringer, LLP. (Practical Law UK)

J. Remón, A. López de Argumedo, among others, "The Guide to Challenging and Enforcing Arbitration Awards", *Global Arbitration Review* (<https://globalarbitrationreview.com/chapter/1190661/spain>)

#### SUGGESTED ARTICLES

Forejtová, M., "Recognition and enforcement of judgments within the EU: or is it really so easy to achieve them?", *The lawyer quarterly*. Vol. 5 (2015), p. 59-72

Conrad Hari, A., "New York Convention on Recognition and Enforcement of Foreign Arbitral Awards 1958", *Dispute resolution clauses in international contracts* (2013), p. 77-98

Amro, I., "Recognition and enforcement of foreign arbitral awards in theory and in practice: a comparative study in common law and civil law countries", Cambridge Scholars Publishing (2013).

Alfons, C., "Recognition and enforcement of annulled foreign arbitral awards: an analysis of the legal framework and its interpretation in case law and literature", *Völkerrecht, Europarecht und internationales Wirtschaftsrecht* (2010).

Oliveira, P., "Recognition and enforcement of foreign arbitral awards in Brazil: legal and practical requirements", *Rivista dell'arbitrato*. Anno XIX (2009), n. 3, p. 419-435.

#### WEBSITES

[www.ec.europa.eu](http://www.ec.europa.eu)

[www.eur-lex.europa.eu](http://www.eur-lex.europa.eu)

[www.coe.int/en/web/portal/home](http://www.coe.int/en/web/portal/home)

[www.curia.europa.eu](http://www.curia.europa.eu)

<http://epthinktank.eu/2014/02/02/freedom-of-movement-for-eu-public-documents/>

<http://ec.europa.eu/civiljustice/>

[www.hcch.net/index\\_en.php?act=home.splash](http://www.hcch.net/index_en.php?act=home.splash)

[http://ec.europa.eu/justice\\_home/judicialatlascivil/html/index\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/index_en.htm)