



# COMILLAS

UNIVERSIDAD PONTIFICIA

ICAI

ICADE

CIHS

GUÍA DOCENTE

2025 - 2026

## FICHA TÉCNICA DE LA ASIGNATURA

### Datos de la asignatura

|                 |                                                                                                                                                |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Nombre completo | Derecho comunitario de la insolvencia, protección del crédito y recobro en la UE / EU Insolvency Law, Credit Protection and Recovery in the EU |
| Código          | E900001224                                                                                                                                     |
| Créditos        | 2,0 ECTS                                                                                                                                       |
| Carácter        | Obligatoria                                                                                                                                    |
| Responsable     | José Carles                                                                                                                                    |
| Descriptor      | j.carles@carlescuesta.es                                                                                                                       |

### Datos del profesorado

#### Profesor

|                     |                                                |
|---------------------|------------------------------------------------|
| Nombre              | José Carles Delgado                            |
| Departamento / Área | Centro de Innovación del Derecho (CID - ICADE) |
| Correo electrónico  | jcarles@icade.comillas.edu                     |

## DATOS ESPECÍFICOS DE LA ASIGNATURA

### Contextualización de la asignatura

### Competencias - Objetivos

## BLOQUES TEMÁTICOS Y CONTENIDOS

### Contenidos – Bloques Temáticos

COURSE SYLLABUS AND CONTENT

#### Content

#### Area1. International and cross-border insolvency and credit protection and recovery

Theme 1. Introduction to cross-border insolvency and international best practices in international insolvency legislation

1.1 Introduction and basic concepts

1.1.1. General concepts and effects. Automatic stay / moratorium, local & foreign estate assets, executory contracts, personal liability & effects, avoidance actions, asset tracing & recovery



1.1.2. Cross-border insolvency rules and possible approaches: universalism, territorialism and modified universalism

1.1.3. Forum / jurisdiction, applicable law (lex concursus, lex loci rei sitae)

1.1.4. Harmonisation of national insolvency laws

1.2. Regional initiatives. Proposal of EU Directive harmonising certain aspects of insolvency law (2022)

1.3. UNCITRAL's Working Group V and Model Law on Cross-Border Insolvency (and other model laws)

1.4. International best practices in insolvency legislation. World Bank Principles for Effective Insolvency and Creditor and Debtor Regimes

## Theme 2. European cross-border insolvency. Basic principles of cross-border insolvency

2.1. Judgment opening the insolvency proceedings. Insolvency-related judgments

2.2. Center of main interests / COMI. Main proceedings (universal scope)

2.3. Concept of establishment. Territorial / secondary proceedings (limited effects)

2.4. Forum shopping in cross-border insolvency

2.5. Parmalat, Eurofood and other milestone cases

## Theme 3. European cross-border insolvency. Out-of-court restructurings across the EU

3.1. Insolvency test. Current insolvency, imminent insolvency, likelihood of insolvency

3.2. Out-of-court workouts and restructuring plans. Harmonization through the Restructuring Directive

3.2.1. Absolute priority rule vs. relative priority rule



3.2.2. Class composition

3.2.3. Court approval. Cram-down / cram-up. Concept of "in the money" class

3.2.4 DIP financing: interim and new financing

Shareholders' position in a restructuring plan.

3.2.5. Recognition and enforcement inside and outside of the EU. Potential need of parallel proceedings

3.4. Relevant case law

Theme 4. European cross-border insolvency. Formal Court proceedings within the EU

4.1. Composition vs. liquidation

4.2. Specific reference to prepacks / pre-packaged sales (2-step procedure of the proposal: preparation and liquidation).

4.3. Reference and relevance to the Federatie Nederlandse Vakbeweging v Heiploeg Seafood International BV and Heitrans International BV case

Theme 5. European cross-border insolvency. Coordination and cooperation in main and secondary insolvency proceedings

5.1. Main proceeding vs. secondary / territorial proceedings

5.2. Power distribution between courts and insolvency practitioners in charge of the main and secondary proceedings

5.3. Cooperation / Coordination



## Aspectos metodológicos generales de la asignatura

### TEACHING METHODOLOGY

#### General methodology of the subject

#### Contact hours methodology: Activities

Class will be a mix of lecture, discussion and activities. Students are expected to come to class prepared and actively take part in classroom activities.

#### Outside class methodology: Activities

Students must complete all readings prior to coming to class.

## RESUMEN HORAS DE TRABAJO DEL ALUMNO

### SUMMARY OF STUDENT WORK HOURS

| NUMBER OF CONTACT HOURS          |        |                       |                 |            |
|----------------------------------|--------|-----------------------|-----------------|------------|
| Lecture                          | Debate | In class presentation | Individual work | Evaluation |
| 6                                | 6      | 6                     |                 | 2          |
| NUMBER OF INDEPENDENT WORK HOURS |        |                       |                 |            |
| Lecture                          | Debate | In class presentation | Individual work | Evaluation |
|                                  |        | 6                     | 12              | 12         |
| ECTS CREDITS: 2 (50,00 hours)    |        |                       |                 |            |

## EVALUACIÓN Y CRITERIOS DE CALIFICACIÓN

### GRADE EVALUATION AND CRITERIA

| Evaluation Activities                                   | Indicators                                            | Evaluation weighting |
|---------------------------------------------------------|-------------------------------------------------------|----------------------|
| Written assignments, case studies and class discussions | Written assignment / case studies deliverables (35%). | 40%                  |
|                                                         | Engagement in class discussions (5%)                  |                      |
|                                                         |                                                       |                      |



|                  |                                                                       |     |
|------------------|-----------------------------------------------------------------------|-----|
| Evaluation: exam | Home essay                                                            | 50% |
| Attendance       | Regular attendance to classes – control by signature of a daily sheet | 10% |

## Calificaciones

The use of AI to produce entire assignments, or substantial parts of them, without citing the source or tool, or without explicit authorization in the assignment instructions, will be considered plagiarism under the University's General Regulations.

## BIBLIOGRAFÍA Y RECURSOS

### Bibliografía Básica

#### BIBLIOGRAPHY AND RESOURCES

#### Basic Bibliography and Resources

##### TEXT BOOKS

- Commentary on the European Insolvency Regulation / by Reinhard Bork and Kristin van Zwieten (Second Edition, 2022)
- European Union Regulation on Insolvency Proceedings : an introductory analysis / by Bob Wessels (4th Ed. 2018)
- European Preventive Restructuring: Directive (EU) 2019/1023. Article-by-Article Commentary / by [Christoph G. Paulus](#) and [Reinhard Dammann](#) (2021)

##### WEBSITES / OTHER MATERIAL

<https://documents.worldbank.org/en/publication/documents-reports/documentdetail/391341619072648570/principles-for-effective-insolvency-and-creditor-and-debtor-regimes>

[http://www.uncitral.org/uncitral/en/uncitral\\_texts/insolvency.html](http://www.uncitral.org/uncitral/en/uncitral_texts/insolvency.html)

<http://www.insol-europe.org/>



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