

SUBJECT DETAILS

Data on the subject	
Name	Recognition and Enforcement of Foreign Legal documents in the EU
Degree	Postgraduate in Master in International and European Business Law
Year	2017-18
Nature	Fall
ECTS Credits	2 ECTS
Department	Law
Area	Law
Teaching staff	Juan Ignacio Signes de Mesa & Damian Flores

Data on the teaching staff	
Teaching staff	Juan Ignacio Signes de Mesa
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Office	European Court of Justice
Tutoring Schedule	Upon request from students

SPECIFIC DATA ON THE SUBJECT

Pre-requisites
<p>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.</p>
Contribution of the degree to the professional profile
<p>This course aims to provide an overview of the regime concerning the recognition and enforcement of foreign documents in the EU and, also, the recognition and enforcement of EU documents abroad. Special emphasis is given to the recognition and enforcement of judicial and arbitral resolutions within the European Union. This subject is also meant to provide the student with a thorough knowledge of the interaction between EU legal order and national law in the field of international private law.</p>

COMPETENCES TO BE IMPROVED

Knowledge of the EU rules governing the recognition and enforcement of judgments in civil and commercial matters in all member states. Understanding of the interaction of the EU regulation 1215/2012, the Lugano convention and the Brussels convention. Knowledge of the main provisions concerning the recognition and enforcement of arbitral awards in the EU and abroad, including understanding the role of the New York Convention. Practical understanding of the exequatur procedure under Spanish law (analysed as an example of this procedure) and in the context of international private law. Use of relevant databases regarding EU law and case law of the EU courts.

THEMATIC AREA AND CONTENT

AREA 1 : Overview of the EU legal system

Theme 1 : Introduction to the European legal order

- 1.1 – Free movement and internal market
- 1.2 - European Union institutions
- 1.3 – Mechanism of enhanced cooperation

Theme 2 : European legal order

- 2.1 – Sources of EU Law
 - Primary sources (founding treaties, agreements with third countries, agreements between Member States and general principles of law).
 - Secondary sources (regulations, directives and others)
- 2.2 – Direct effect and primacy
- 2.3 – The role of the European Court of Justice

AREA 2 : Recognition and enforcement of judgments in civil and commercial matters

Theme 1 : EU Regulation 1215/2012

- 1.1 – Scope. The Stockholm programme
- 1.2 – Recognition
- 1.3 – Enforcement
- 1.4 – Refusal of recognition and enforcement
- 1.5 – Authentic documents and courts settlements
- 1.6 – Transitional provisions
- 1.7 – Relationship with other instruments
- 1.8 – Proposal of amendment

Theme 2 : Lugano convention

- 2.1 – Scope and parties to the convention
- 2.2 – Relationship with EU regulation 1215/2012

Theme 3: Brussels convention

3.1 – Scope and parties to the convention
3.2 – Relationship with EU regulation 1215/2012
AREA 3: Recognition and enforcement of foreign arbitral awards
Theme 1: New York Convention
1.1 – Summary of provisions
1.2 – Parties to the Convention
1.3 – States which are not party to the Convention
1.4 – United States issues
AREA 4: Exequatur procedure
Theme 1: The Exequatur Spanish system
1.1 – Exequatur and sovereignty
1.2 – Conditions
1.3 – Exequatur of judgments and arbitral awards
1.4 – Other examples: exequatur in other Member States of the EU and third countries
AREA 5: Free movement of public documents in the EU
Theme 1:
1.1 – Green Paper: Less bureaucracy for citizens: promoting free movement of public documents and recognition of the effects of civil status records.
1.2 – Recent developments: EU Regulation 615/2012 on on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession
1.3 – Proposal for a regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012

BIBLIOGRAPHY AND RESOURCES

Basic Bibliography
Text books
Hartley, T., International Commercial Litigation – Text, Cases and Materials on Private International Law (Cambridge, 2 nd ed. 2015)
Van de Geert, C., European Private International Law (Hart Publishing, 2013)
Stone, P., EU Private International Law (Elgar European Law Series, 2012)
Chapters of books
Von Mühlendahl, A., “The application of the Brussels Regulation on the jurisdiction and the recognition and enforcement of judgments to Community trade mark litigation”, Technology and competition: contributions in honour of Hanns Ullrich = Technologie et concurrence. 2009, p. 377-390
Martiny, D., “Jurisdiction, recognition and enforcement in cases of reimbursement claims by public bodies” in The recovery of maintenance in the EU and worldwide. 2014, p. 485-496

Palao Moreno, G., "Some private international law issues", European perspectives on the Common European Sales Law. 2015, p. 17-35

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.

Van der Grinten, P., "Recognition and enforcement in the European Union: are we on the right track?", Nederlands internationaal privaatrecht, Vol. 4 (2014), p. 529-531.

Μακρίδου, Καλλιόπη "Recognition and enforcement of foreign arbitral awards: the application of the New York Convention by national courts", Hellenic review of international law, Vol. 1 (2014), p. 121-174.

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.

Broderick, Norella, Recognition and enforcement of foreign judgments, Commercial law practitioner. Vol. 15 (2008), no. 8, p. 188-200.

Andenæs, M. T., "National paradigms of civil enforcement: mutual recognition or harmonization in Europe?", European business law review. Vol. 17 (2006), issue 3, p. 529-544.

Websites

- www.ec.europa.eu
- www.eur-lex.europa.eu
- <http://www.coe.int/en/web/portal/home>
- www.curia.europa.eu
- <http://epthinktank.eu/2014/02/02/freedom-of-movement-for-eu-public-documents/>
- <http://ec.europa.eu/civiljustice/>
- http://www.hcch.net/index_en.php?act=home.splash
- http://ec.europa.eu/justice_home/judicialatlascivil/html/index_en.htm

TEACHING METHODOLOGY

General methodological aspects 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.

Independent study 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

Activity	Number of class hours	Number of independent study hours	Total number of hours
Lecture	4		
Practical class	4		
Debate	4		
In class presentation	-		
Individual work	2		
Work in collaboration	2		
Evaluation: one minute paper	-		
Evaluation: class test	-		
Evaluation: exam	2,5		
Evaluation: exam review	1,5		
Others	-		
ECTS Credits:	20	45	65

GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work (CE)	Reading of materials	*	10%
Work in collaboration (CE)	Practical cases	*	20%
Debate (CE)	Analysis of statutes and judgements of the ECJ	*	10%
Evaluation: exam (final)	The final exam will consist of several theoretical and practical questions, based on the content of the course.	*	50%
Attendance	Compulsory	*	10%

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