



FICHA TÉCNICA DE LA ASIGNATURA

Datos de la asignatura	
Nombre completo	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

DATOS ESPECÍFICOS DE LA ASIGNATURA

Contextualización de la asignatura

Competencias - Objetivos

BLOQUES TEMÁTICOS Y CONTENIDOS

Contenidos – Bloques Temáticos

COURSE SYLLABUS AND CONTENT

Content

Area 1. 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

METODOLOGÍA DOCENTE

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%). Engagement in class discussions (5%)	40%
Evaluation: exam	Home essay	50%
Attendance	Regular attendance to classes – control by signature of a daily sheet	10%

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.insol-europe.org/>