



FICHA TÉCNICA DE LA ASIGNATURA

Datos de la asignatura	
Nombre completo	Reconocimiento y ejecución de documentos extranjeros en la UE /Recognition and Enforcement of Foreign Legal Documents in the EU
Código	E000001234
Título	Máster Universitario en Derecho Internacional y Europeo de los Negocios (International and European Business Law)
Impartido en	Máster Universitario en Derecho Internacional y Europeo de los Negocios [Primer Curso]
Créditos	2,0 ECTS
Carácter	Obligatoria
Departamento / Área	Máster Universitario en Derecho Internacional y Europeo de los Negocios

Datos del profesorado	
Profesor	
Nombre	Javier González Guimaraes Da Silva
Departamento / Área	Departamento de Derecho Privado
Correo electrónico	jgguimaraesdasilva@icade.comillas.edu
Profesor	
Nombre	Juan Ignacio Signes de Mesa
Departamento / Área	Centro de Innovación del Derecho (CID - ICADE)
Correo electrónico	jisignes@icade.comillas.edu

DATOS ESPECÍFICOS DE LA ASIGNATURA

Contextualización de la asignatura	
Competencias - Objetivos	
Competencias	
GENERALES	
CG02	Capacidad de comunicación oral y escrita
CG04	Capacidad de resolución de problemas
CG05	Capacidad de toma de decisiones
CG06	Capacidad de trabajo en equipo



CG07	Capacidad de trabajo en un contexto internacional
CG09	Conciencia de la relevancia del compromiso ético
CG12	Capacidad de aplicar los conocimientos teóricos a la práctica
CG13	Capacidad de negociación
ESPECÍFICAS	
CE04	Dominar las principales normas de derecho comunitario y de derecho internacional con relevancia para el desarrollo de negocios internacionales
CE09	Ser capaz de diseñar estrategias pre-contenciosas (o preventivas) adecuadas a la tutela del buen desarrollo de negocios internacionales en el ámbito de la UE
CE10	Ser capaz de diseñar estrategias contenciosas y procesales ante órganos jurisdiccionales nacionales, comunitarios y/o de resolución alternativa de disputas comerciales internacionales (así como su coordinación)
CE11	Conocer la estructura de las cuentas e informes financieros y ser capaz de extraer sus implicaciones jurídicas, tanto en el ámbito tributario como en el marco de cualquier litigio comercial o societario
CE12	Dominar las técnicas avanzadas de redacción de documentación jurídica en inglés, especialmente en el ámbito contractual y societario
CE13	Dominar las normas éticas y deontológicas aplicables en un entorno internacional, especialmente en materia de confidencialidad y secreto profesional

BLOQUES TEMÁTICOS Y CONTENIDOS

BIBLIOGRAFÍA Y RECURSOS

METODOLOGÍA DOCENTE

Aspectos metodológicos generales de la asignatura

RESUMEN HORAS DE TRABAJO DEL ALUMNO

HORAS PRESENCIALES

HORAS NO PRESENCIALES

CRÉDITOS ECTS: 2,0 (0 horas)



COMILLAS

UNIVERSIDAD PONTIFICIA

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CIHS

**GUÍA DOCENTE
2019 - 2020**

EVALUACIÓN Y CRITERIOS DE CALIFICACIÓN

En cumplimiento de la normativa vigente en materia de **protección de datos de carácter personal**, le informamos y recordamos que puede consultar los aspectos relativos a privacidad y protección de datos que ha aceptado en su matrícula entrando en esta web y pulsando "descargar"

[https://servicios.upcomillas.es/sedelectronica/inicio.aspx?csv=02E4557CAA66F4A81663AD10CED66792](https://servicios.upcomillas.es/sedeelectronica/inicio.aspx?csv=02E4557CAA66F4A81663AD10CED66792)

SUBJECT DETAILS

Data on the subject	
Full Name	Recognition and enforcement of foreign documents in the European Union (judicial resolutions and arbitral awards).
Code	E000001234
Degree	Postgraduate in Master in International and European Business Law
Year	2019-20
Nature	Fall
ECTS Credits	2
Department	Law
Area	Law
Teaching staff	Javier González Guimaraes-da Silva

Data on the teaching staff	
Teacher	
Name	Javier González Guimaraes-da Silva
Department / Area	Private International Law
e-mail	jgguimaraesdasilva@comillas.edu
Telephone	+34 915860458
Tutoring Schedule	Upon request from students

SPECIFIC DATA ON THE SUBJECT

Framework of the subject
Pre-requisites
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.
Contribution of the degree to the professional profile
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.

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. European legal order

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

2. Principal sources of Private International Law

2.1. EU Law

- Primary sources (founding treaties, agreements with third countries, agreements between Member States and general principles of law)
- Secondary sources (regulations, directives and other acts of the European Union).

2.2. International treaties

2.3. Domestic regulations

2.4. Case law. The role of the European Court of Justice

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

Theme 2. EU Regulation 1215/2012

1. Scope. The Stockholm programme

2. Recognition

3. Enforcement

4. Refusal of recognition and enforcement

5. Authentic documents and courts settlements

6. Transitional provisions. Relationship with other instruments

7. Proposal of amendment

Theme 3. Lugano Convention

1. Scope and parties to the convention

2. Relationship with EU regulation 1215/2012

Theme 4. Brussels Convention

1. Scope and parties to the convention

2. Relationship with EU regulation 1215/2012

AREA 3. Recognition and enforcement of foreign arbitral awards

Theme 5. New York Convention

1. Summary of provisions
- . Parties to the Convention
3. States which are not party to the Convention
4. United States issues
5. Other significant issues

AREA 4. Exequatur procedure

Theme 6. The Exequatur Spanish system

1. Exequatur and sovereignty
2. Conditions
3. Exequatur of judgments and arbitral awards
4. Other examples: exequatur in other Member States of the EU and third countries

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	Guide work	Work in collaboration	Evaluation
4	4	4	3	5

NUMBER OF INDEPENDENT WORK HOURS		
Master classes	Solving practical cases	Exam
15	10	5
ECTS CREDITS: 2 (50,00 hours)		

GRADE EVALUATION AND CRITERIA

Evaluation Activities	Indicators	Evaluation weighting
Individual work	Students will have to answer questions during class related both to the reading materials provided and the topics discussed in class.	5%
Work in collaboration	<p>Coherent oral expression, ability to construe an argument for and against a given position, ability to answer the questions posed by fellow students and teacher.</p> <p>Mock hearing of arguments for and against the recognition and enforcement of EU judgments and a foreign arbitral award. Students will be distributed in two groups, for and against the enforcement; they'll be tasked with providing arguments and choosing representatives to defend the proposed arguments before their classmates and the teacher</p>	15%
Short papers	<p>Two writings on case studies to be provided by the teacher on the interpretation of Regulation nº 1215/2012 and the potential grounds of refusal shall be handed out.</p> <p>2-3 pages length A4-size paper, with 1.5 line spacing, and 11-point Times New Roman (on a Mac, Times)</p> <p>First paper due second session/class Second paper due fourth session/class</p> <p>The key points analyzed in such case studies shall be presented in class by the students</p>	20%

Evaluation: exam (final)	<p>Proving that the questions, topics and materials included in the course have been properly understood.</p> <p>1. Analysis of a ECJ Judgment concerning the interpretation and application of Regulation n° 1215/2012 to a concrete set of facts (25%)</p> <p>2. Analysis of a domestic judgment concerning the recognition and enforcement of a foreign arbitral award. Answering of the questions included in the exam (25%).</p>	50%
Attendance	Regular attendance to classes – control by signature of a daily sheet	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)

CHAPTER OF BOOKS

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

REQUIRED READINGS

- 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)
- 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)

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

www.eur-lex.europa.eu

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/>

www.hcch.net/index_en.php?act=home.splash

http://ec.europa.eu/justice_home/judicialatlascivil/html/index_en.htm