

SUBJECT DETAILS

| Data on the subject | |
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| Name | Recognition and enforcement of foreign documents in the European Union (judicial resolutions and arbitral awards). |
| Degree | Postgraduate in Master in International and European Business Law |
| Year | 2018-19 |
| Nature | Fall |
| ECTS Credits | 2 ECTS |
| Department | Law |
| Area | Law |
| Teaching staff | Juan Ignacio Signes de Mesa / Francisco Alves Da Costa Cabral |

| Data on the teaching staff | |
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| Teaching staff | Juan Ignacio Signes de Mesa |
| e-mail | jisignes@icade.comillas.edu |
| Telephone | +352.43.03.47.45 |
| Office | European Court of Justice |
| Tutoring Schedule | Upon request from students |

| Data on the teaching staff | |
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| Teaching staff | |
| e-mail | |
| Telephone | |
| Office | |
| Tutoring Schedule | |

SPECIFIC DATA ON THE SUBJECT

| Pre-requisites |
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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 TO BE IMPROVED

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

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, 2nd 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 | 15 | |
| Practical class | 4 | 10 | |
| Debate | 4 | | |
| In class presentation | - | | |
| Individual work | 2 | | |
| Work in collaboration | 2 | | |
| Evaluation: one minute paper | - | | |
| Evaluation: class test | - | | |
| Evaluation: exam | 2,5 | 5 | |
| Evaluation: exam review | 1,5 | | |

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| Others | - | | |
| ECTS Credits: | 20 | 30 | 50 |

GRADE EVALUATION AND CRITERIA – PROFS SIGNES DE MESA AND FLORES

| Evaluation Activities | Generic Competences | Indicators | Evaluation Weighting |
|-----------------------|---|---|----------------------|
| Individual work | <p>GC 2: Ability to communicate orally and in writing</p> <p>GC 4: Problem-solving skills</p> <p>GC 5: Decision-making skills</p> <p>GC 7: Ability to work in an international context</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>GC 13: Negotiating skills</p> <p>SC 4 Mastering the main rules of EU law and international law that are relevant to international business development</p> | <p>Students will have to answer questions during class related both to the reading materials provided and the topics discussed in class.</p> | 5% |
| Work in collaboration | <p>GC 2: Ability to communicate orally and in writing</p> <p>GC 4: Problem-solving skills</p> <p>GC 5: Decision-making skills</p> <p>GC 6: Team work skills</p> <p>GC 7: Ability to work in an international context</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>GC 13: Negotiating skills</p> | <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 teachers:</p> <ol style="list-style-type: none"> 1. 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 (20%). | 20% |

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| Debate | <p>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 12: Ability to apply theoretical knowledge into practice GC 13: Negotiating skills</p> <p>SC 4 Mastering the main rules of EU law and international law that are relevant to international business development</p> | <p>1. Several cases on the interpretation of Regulation n° 1215/2012 and the potential grounds of refusal shall be presented to the students for them to debate in class (15%).</p> | 15% |
| Evaluation: exam (final) | <p>GC 2: Ability to communicate orally and in writing GC 4: Problem-solving skills GC 5: Decision-making skills GC 7: Ability to work in an international context GC 12: Ability to apply theoretical knowledge into practice GC 13: Negotiating skills</p> <p>SC 4 Mastering the main rules of EU law and international law</p> | <p>Proving that the questions, topics and materials included in the course have been properly understood.</p> <ol style="list-style-type: none"> 1. Analysis of a ECJ Judgment concerning the interpretation and application of Regulation n° 1215/2012 to a concrete set of facts (25%) 2. Analysis of a US Court Judgment and the Decision of the Court of Appeals concerning the recognition and enforcement of a foreign arbitral award. Answering of the questions included in the exam (25%). | 50% |

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| | that are relevant to international business development | | |
| Attendance | Compulsory | * | 10% |

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