

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	E000001224
Título	Máster Universitario en Derecho Internacional y Europeo de los Negocios (International and European Business Law) , por la Universidad Pontificia Comillas
Impartido en	Máster Universitario en Derecho Internacional y Europeo de los Negocios [Primer Curso]
Créditos	2,0 ECTS
Carácter	Obligatoria

Datos del profesorado	
Profesor	
Nombre	Bernardino Xavier Muñoz Calaf
Departamento / Área	Centro de Innovación del Derecho (CID - ICADE)
Correo electrónico	bxmuniz@icade.comillas.edu

DATOS ESPECÍFICOS DE LA ASIGNATURA

Contextualización de la asignatura	
Competencias - Objetivos	
Competencias	
GENERALES	
CG01	Capacidad de análisis y síntesis
CG03	Capacidad de gestión de la información
CG06	Capacidad de trabajo en equipo
CG07	Capacidad de trabajo en un contexto internacional
CG08	Capacidad de razonamiento crítico
CG10	Capacidad de desarrollo de un aprendizaje autónomo
CG11	Motivación por la calidad
CG12	Capacidad de aplicar los conocimientos teóricos a la práctica
ESPECÍFICAS	



CE02	Dominar los principales tratados internacionales con relevancia en el ámbito del tráfico económico internacional, distinguiendo los instrumentos vinculantes de las simples recomendaciones o instrumentos meramente interpretativos u orientadores (soft law)
CE04	Dominar las principales normas de derecho comunitario y de derecho internacional con relevancia para el desarrollo de negocios internacionales
CE05	Ser capaz de diseñar estrategias de reestructuración de grupos de sociedades y/o de las actividades intra-grupo y de mercado para maximizar las ventajas del marco legal
CE06	Identificar de manera precisa los riesgos contingentes derivados de las normas relevantes y establecer adecuadamente medidas de evitación o minimización

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)

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>

SUBJECT DETAILS

Data on the subject	
Full Name	EU Insolvency Law, Credit Protection and Recovery in the EU
Code	E000001224
Degree	Postgraduate in Master in International and European Business Law
Year	2021-22
Nature	Spring
ECTS Credits	2
Department	Law
Area	Law
Teaching staff	Bernardino Xavier Muñiz Calaf

Data on the teaching staff	
Teacher	
Name	Bernardino Xavier Muñiz Calaf
Department / Area	
e-mail	Bxmuniz@comillas.edu
Telephone	+34 985 12 60 70
Tutoring Schedule	Upon request from students

SPECIFIC DATA ON THE SUBJECT

Framework of the subject
Pre-requisites
None
Contribution of the degree to the professional profile
<p>The course introduces students to the general principles of insolvency and cross-border restructuring with a particular focus on the tools available within the EU. It intends to provide an understanding of the interest of the various stakeholders involved in cross-border restructurings with a view to encourage identification and critical analysis of the recovery and protection strategies which may be available under different jurisdictions.</p>

Competences - Goals

Competences to be developed

Generic Competences

- GC 1: Analysis and synthesis abilities
- GC 3: Ability to manage information
- GC 7: Ability to work in an international context
- GC 8: Critical appraisal skills

Specific Competences

- SC 4 Mastering the main rules of EU law and international law that are relevant to international business development
- SC 5 Being able to design strategies for the restructuring of corporate groups and / or intra-group and market activities to maximize the benefits of the legal framework

COURSE SYLLABUS AND CONTENT

Content

Area 1. International and cross-border insolvency and credit protection and recovery

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

- 1.1 Introduction and basic concepts
- 1.2. Insolvency test
- 1.3 The International best practices in insolvency legislation
- 1.4 Compliance of the EU cross-border legislation with international best practices

Theme 2. Out-of-court restructuring and judicial proceedings across the EU

- 2.1 Pre-insolvency mediation
- 2.2 Out-of-court schemes of arrangement
- 2.3 Refinancing and pre-packed agreements
- 2.4 Creditors' securities and claw back issues

2.5 Limitations to creditors cram down

Theme 3. Case studies: composition and liquidation

3.1. Basic requirements of reorganization in the context of cross-border insolvency

3.2. Milestone cases

3.2. Basic principles of liquidation in cross-border insolvency cases

3.4. Milestone cases

Theme 4. European cross-border insolvency – Basic principles of cross-border insolvency

4.1 Necessity of cross-border insolvency rules and possible approaches (unification vs. coordination)

4.2 Forum shopping in cross-border insolvency

4.3 Concept and implications of COMI determination. The Parmalat and other milestone cases. The amendment of EU legislation in relation with COMI

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

5.1 Main proceeding vs. secondary proceeding

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

5.3. Coordination of secondary proceedings

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.

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)				

GRADE EVALUATION AND CRITERIA

Evaluation Activities	Indicators	Evaluation weighting
Written assignments	2 short written assignments (20% each)	40%
Evaluation: exam	2 written assignments (25% each)	50%
Attendance	Regular attendance to classes – control by signature of a daily sheet	10%

BIBLIOGRAPHY AND RESOURCES

Basic Bibliography and Resources

TEXT BOOKS

- The EC Regulation on Insolvency Proceedings, a commentary and annotated guide / editors and principal contributors, Gabriel Moss, Ian F. Fletcher, Stuart Isaacs (2002)
- European Union Regulation on Insolvency (2002. Brussels) European Union Regulation on Insolvency Proceedings : an introductory analysis / by Bob Wessels (2003)
- Comentario al Reglamento Europeo de Insolvencia / by Virgós Soriano and Garcimartín Alférez, Civitas (2004)

WEBSITES

http://www.uncitral.org/uncitral/en/uncitral_texts/insolvency.html

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

OTHER MATERIAL

- UNCITRAL Model Law on International Bankruptcy
- Goode, Roy Principles of corporate insolvency law / by Roy Goode (1997)