

## SUBJECT DETAILS

Data on the subject	
Full Name	Recognition and enforcement of foreign documents in the European Union (judicial decisions and arbitral awards).
Code	E000002220
Degree	Master's in international and European Business Law (MIEBL)
Year	2021-22
Nature	Fall
ECTS Credits	2
Department	Law
Area	Law
Teaching staff	Diego Agulló Agulló

Data on the teaching staff	
<b>Teacher</b>	
Name	Diego Agulló Agulló
Department / Area	Department of Private Law / Area of Private International Law
e-mail	<a href="mailto:daqullo@comillas.edu">daqullo@comillas.edu</a>
Office	E401
Telephone	Tel. +34 91 542 28 00 Ext. 2184
Tutoring Schedule	Upon request from students. Open to personal/small groups (in person or online) tutorials (as many as necessary). Preferably request by email.

## SPECIFIC DATA ON THE SUBJECT

Framework of the subject
<b>Pre-requisites</b>
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.
<b>Contribution of the degree to the professional profile</b>
Relevance of international litigation and arbitration in a globalized world: international legal relationships (sales, leases, foreign investments, marriages, etc.), which are becoming more and more common, logically give rise to international disputes. A professional in law, economics, politics or sociology must have the basic legal knowledge to understand the essence of how these disputes work. In this module we will focus on the aspects relating to the recognition and enforcement of judgments and arbitral awards arising from such cross-border disputes.

In particular, we will focus on:

- Litigation: This course aims to provide an overview of the regime concerning the recognition and enforcement of foreign judicial decisions in the EU.
- Commercial arbitration: We will study the recognition and enforcement of arbitral awards under New York Convention (1958). This subject is also meant to provide the student with a thorough knowledge of the interaction between EU legal order, international treaties and national law in the field of private international 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

Topic 1. Introduction to European Private International Law

1. Origin of European Private International Law. Treaty of Amsterdam
2. Prerequisites, object and main content of European Private International Law
3. Principal sources of European Private International Law
  - 3.1. EU Law (Brussels Convention, Regulation 44/2001 and Regulation 1215/2012)
  - 3.2. International treaties (Lugano Conventions)
  - 3.3. Domestic regulations (Spanish domestic law, among others)
  - 3.4. Case law. The role of the Court of Justice of the European Union

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

### Theme 2. The Brussels regime

1. Introduction. Special reference to exclusive jurisdiction and weak parties' disputes
2. Potential effects of foreign judgments (Common law, French legal system and EU law approach)
3. Recognition, declaration of enforceability and enforcement
4. Foreign decisions capable of being recognised and enforced
5. Refusal of recognition and enforcement
6. Proceedings to recognise and enforce judgments
7. Authentic documents and courts settlements

### Theme 3. Lugano I & II Conventions

1. Scope, parties and content
2. Differences and similarities with the Brussels regime
3. Relationships with EU Regulation 1215/2012

## **AREA 3. Recognition and enforcement of foreign arbitral awards**

### Theme 4. New York Convention (1958)

1. Summary of provisions
2. Parties to the Convention. States which are not party to the Convention
3. The rules on the enforcement of foreign arbitration awards
4. United States issues. Other significant issues
5. Special reference to the enforcement of awards set aside at the seat of the arbitration

## AREA 4. Exequatur procedure

Theme 5. The Exequatur: Spanish legal system

1. Exequatur and sovereignty
2. Conditions and key issues
3. Exequatur of judgments and arbitral awards: legal proceedings

## TEACHING METHODOLOGY

### General methodology of the subject

#### Contact hours methodology: Activities

Each class will be divided into two parts: in the first part, the Professor will give a lecture (more theoretical) about the topic of that day. In the second part of the class, a case study (hypothetical or a real case law) will be analysed and discussed together with the students.

One day, part of the class will be dedicated to explaining and discuss how to make a commentary of a judicial decision or arbitral award.

The last session will be dedicated to the final open-book exam.

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 Professor 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	Short papers
16	8	2
NUMBER OF INDEPENDENT WORK HOURS		
Study of master classes	Solving practical cases, shor paper and guide work	
10	14	
ECTS CREDITS: 2 (50,00 hours)		

## GRADE EVALUATION AND CRITERIA

Evaluation Activities	Indicators	Evaluation weighting
<p>Solving practical exercises or case studies in class in conversation &amp; discussion with the Professor</p>	<p>Solving small exercises and practical cases in class entails a suitable mean to their learning.</p> <p>They allow students to follow the development of the subject from a practical point of view in the learning process, rectify and insist in those aspects concurring more difficulties in such a process and include items to be debated in class that entail the development of critical judgement.</p> <p>These works will be evaluated by the Professor taking into consideration mainly the evolution of the student from the beginning of the semester to its finalisation, his or her analytical skills and capacity and his or her ability to synthesise the specific knowledge of the subject, clarity to express his or her ideas and communication skills to communicate his or her conclusions in class.</p>	<p>20%</p>
<p>Analysis &amp; Commentary of a decision of the Court of Justice of the European Union / Arbitral award / Spanish Supreme Court decision / other relevant court</p>	<p>After explaining how to make a commentary of a judicial decision or arbitral award by the Professor, each student will be given a decision/award to be commented and analyzed.</p> <p>10-15 pages length. A4-size paper, with 1.5 line spacing, and 11-point Times New Roman (on a Mac, Times)</p> <p>Commentary will have to be submitted using Moodle's platform (Turnitin)</p>	<p>20 %</p>
<p>Evaluation: open-book exam (final)</p>	<p>The exam is designed to prove that the student properly understands the questions, topics and materials analyzed and studied in the course.</p> <p>The open-book exam will be structured as follows:</p> <p>1. First, there will be a set of facts of a real case law or a hypothetical case designed by the</p>	<p>50%</p>

	<p>Professor. These facts will be related to topics studied during the module.</p> <p>2. Second, there will be 5 to 10 questions that relate to the facts above mentioned or that are in relation to them. The student will have to answer to those questions.</p>	
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Attendance	<p>Attendance in class is compulsory.</p> <p>The Professor will take the register every day.</p>	10 %
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## BIBLIOGRAPHY AND RESOURCES

### Basic Bibliography and Resources

We will make use of the Encyclopedia of Private International Law. It is accessible online throughout Comillas Library – Go to “Biblioteca” / “Recursos electrónicos” / “Libros electrónicos” / “Encyclopedia of Private International Law” - Citation: Basedow, J., Rühl, G., Ferrari, F., De Miguel Asensio, P. (editors) (2017). *Encyclopedia of Private International Law*. Cheltenham (United Kingdom). Edward Elgar Publishing.

(Available physically at Comillas Library) Bogdan, M. (2012). *Concise introduction to EU private international law*. Groningen (Netherlands). Europa Law Publishing.