

| | | | | | |
|----------------|---------------------------------------|------------|-------|---------------------|-------|
| Course title | International Business Litigation (A) | | | | |
| Teacher(s) | Aude Fiorini, SAITO Akira | | | 開講区分 | 単位数 |
| | | | | 1st semester | 1.0 |
| Numbering Code | | Day・Period | Other | Timetable Slot Code | 1J387 |

Lesson topic

The International Business Litigation (A) - (Europe) course is a private international law course. Private International Law is a part of the private law of each country and it provides the rules which resolve those cases containing a foreign element (cross-border cases).

Contemporary Private International Law can be said to have four objects -

- a) to set out the conditions under which a court has jurisdiction to deal with a case having a foreign element,
- b) to determine which system of law is to govern the rights of the parties in such a case
- c) to determine the circumstances in which a foreign judgment will be recognised by the court and the methods by which such a judgment may be enforced.
- d) facilitating co-operation between States in respect of private international law issues.

The aim of this course is to introduce, and provide instruction on, several key aspects of private international law arising in international civil and commercial disputes having links with the EU. The course will show how the EU has harmonized rules in this field in 27 European countries and note the continuing uncertainties linked to the departure of the UK from the EU after almost 50 years of membership (Brexit). The course will focus on litigation aspects (jurisdiction, procedure and the recognition and enforcement) as well as choice of law in contract.

Lesson target

By the end of the module, students should:

- Have acquired a reasonably advanced knowledge of commercial law aspects of EU private international law which will provide a basis for specialisation in their future careers, whether in the legal profession, or in academic or other areas of employment.
- Have developed a reasonably advanced familiarity with the literature and legal sources of commercial law aspects of EU private international law which will enable them to keep their specialist knowledge up to date.
- Have gained a reasonably advanced understanding of the role played by the European Union in seeking to harmonize rules relating to jurisdiction, the recognition and enforcement of judgments and choice of law and understand how this differs from domestic approaches in this field.
- Have a reasonably advanced appreciation of policy considerations which often underpin such initiatives including understanding of the difficulties raised by Brexit.

More generally, students will also develop the following skills:

- English language skills, including using advanced legal sources;
- Problem solving, including being able to give concise and accurate legal advice.

Syllabus and plan

There will be a total of eight interactive lectures or seminars covering the following 5 topics. They will be held online in real time.

Topic 1 (Wed 11 May) - Harmonisation of Private International Law in Europe - History, Challenges and Prospective (General Introduction Lecture)

Topic 2 (Fri 13 & Wed 18 May) - The Brussels Ia Regulation on Jurisdiction and the Recognition & Enforcement of Judgments in Civil & Commercial Matters - EU Member States vs Third States Perspectives (Lecture and Workshop)

Topic 3 (Fri 20 & Wed 25 May) - Jurisdiction in Contract and Jurisdiction Agreements (Lecture and Workshop)

Topic 4 (Fri 27 May & Wed 1 June) - Law Applicable to Contractual Disputes (Lecture and Workshop)

Topic 5 (Wed 8 June) - European Payment Order Procedure (Lecture and Exercise)

Oral Exam (Fri 10 June)

The topics and schedule may be adjusted depending on our progress over the course.

Evaluation method

Formative evaluation through seminar participation and engagement in class discussions. Summative assessment through a written paper to be submitted after the end of the course and a short oral examination.

Written exam 60%: Oral exam 40%

Evaluation baseline

Students will be expected to understand what private international law is, how it is regulated in Europe, and have knowledge of selected points in the Brussels Ia, the Rome I and the ESCP/EPO regulations.

The written paper will ask students to answer a legal problem of the kind discussed in the virtual class on a topic covered in class - showing understanding and problem-solving skills and referring to the regulations covered in class.

The short oral exam will ask students to discuss a question on a topic covered in class and sent in advance of the oral test - testing knowledge alone.

Notice (include info. on related class)

Prior knowledge of any domestic system of private international law might be helpful but is not a pre-requisite.

Review and preparation

Prior to the start of the course, students are expected to

- have familiarized themselves with the definition and role of private international law (in the context of any legal system of their choice, for example Japan)
- have downloaded the Compendium of European Union Legislation on Judicial Cooperation in Civil and Commercial Matters 2018 <https://op.europa.eu/en/publication-detail/-/publication/a160c110-ac29-11e9-9d01-01aa75ed71a1/language-en/format-PDF/source-search> and read pp.11-13 (Extracts from the Tampere European Council).

The class on 12 May (topic 1) does not require to be otherwise prepared. It will mainly take place in the form of a lecture.

In order to prepare for topic 2, students are asked to read the recital of Regulation 1215/2012 (colloquially known as the Brussels Ia or Brussels I Recast Regulation): Compendium, at pp. 74-83.

In order to prepare for topic 3, students are asked to read Articles 4, 7(1), 25, 26, 31 of the Brussels Ia Regulation.

In order to prepare for topic 4, students are asked to read the recital of Regulation 593/2008 (Rome I Regulation): Compendium, at pp. 127-135, as well as Articles 1-3, 4, 9 and 21.

In order to prepare for topic 5, students are asked to read Arts 1, 3, 4, 7, 12, 17 & 19 EPO Regulations: Compendium, pp. 621 et seq.

Review: Study the PowerPoints documents and other class materials, try to solve the problem questions on your own again to develop a better understanding of the topics covered during the course.

Office hour · Contact information

To be notified during the course

Message for student

I look forward to students' active participation in class. Let's learn about European Private International Law together: do not hesitate to interrupt the class to ask questions and share your views.

Improvements in Teaching

Text

International Commercial Litigation, 3rd ed / T Hartley : CUP ,2020 , ISBN:
European Private International Law, 3rd / G van Calster : Hart ,2021 , ISBN:

Reference Material

The Evolution of Private International Law (pp. 969-984) / A Fiorini : 57 ICLQ ,2008 , ISBN:
Brexit: justice for families, individuals and businesses? HL Paper 134, esp. pp. 10-22 & 32-37. / : ,March 2017 , ISBN:
'Facilitating Cross-Border Debt Recovery: the European Payment Order and Small Claims Regulations' pp. 449-465 / A Fiorini : 57 ICLQ ,2008 , ISBN:

Classroom Language

English

Keywords

International Commercial Litigation; Private International Law; Jurisdiction; Choice of Law; Recognition and Enforcement of judgments; Judicial Cooperation in Civil Matters; European Civil Procedures, European Union; Brexit; Conflict of Laws; Cross-border Contracts