

Course title	International Business Litigation (A)				
Responsible person to enter grades	KAWASHIMA Fujio, Aude Fiorini			開講区分	単位数
				1st semester	1.0
Numbering Code		Day・Period, etc.	Other(対面)	Timetable Slot Code	1J387

Lesson topic

Private International Law is critical to sound global business legal relationships.

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 first show how the EU has harmonized private international law rules in 27 European countries to promote the proper functioning of the European common market as well as note the continuing uncertainties linked to the departure of the UK from the EU after almost 50 years of membership (Brexit). The course will show how these European rules impact on litigants based in Asia. The course will focus on litigation aspects (jurisdiction, and the recognition and enforcement of judgments) as well as choice of law in contract and the interface between cross-border litigation and arbitration in Europe.

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 (face-to-face) lectures or seminars covering the following 5 topics.

Topic 1 - Harmonisation of Private International Law in Europe - History, Challenges and Prospective
General Introduction Lecture: Mon 13 May 2024, 15:10-16:40.

Topic 2 - The Brussels Ia Regulation on Jurisdiction and the Recognition & Enforcement of Judgments in Civil & Commercial Matters - EU Member States vs Third States Perspectives

Lecture: Mon 13 May, 17:00-18:30.

Workshop: Tue 14 May, 13:20-14:50.

Topic 3 - Jurisdiction in Contract and Jurisdiction Agreements

Lecture: Tue 14 May, 15:10-16:40.

Workshop: Wed 15 May, 15:10-16:40.

Topic 4 - Law Applicable to Contractual Disputes

Lecture: Wed 15 May, 17:00-18:30.

Workshop: Thu 16 May, 13:20-14:50.

Topic 5 - The Litigation/Arbitration Interface in Europe

Interactive Lecture and Exercises: Thu 16 May, 15:10-16:40.

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

Evaluation method

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

Written exam 100%

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 including the Brussels Ia/arbitration interface.

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

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 first class on 13 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, 73, and Recital 12 of the Brussels Ia Regulations: Compendium, pp. 78, 84 & 110.

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.

Kobe University requires 45 hours of study from students to award one credit, including both in-class instructions as well as study outside classes. Students are required to prepare for each class and complete the review after each class, depending on the respective class goals.

Office hour · Contact information

Contact details will be announced during the first session.

Message for student

I rely on 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. I look forward to meeting you!

Improvements in Teaching

Text

International Commercial Litigation (3rd ed) / T Hartley : CUP ,2020 ,ISBN:
European Private International Law (4th ed) / G van Calster : Bloomsbury ,2024 ,ISBN:

Reference Material

A Fiorini, 'The Evolution of Private International Law' , 57 ICLQ (2008), pp. 969-984

A Fiorini, 'The Evolution of Private International Law' , 57 ICLQ (2008), pp. 969-984.

Brexit: justice for families, individuals and businesses? (March 2017) HL Paper 134, esp. pp. 10-22 & 32-37.

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; Exchange student; Term Paper