



UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Private International Law

2021-4-A5810180

Learning objectives

At the end of the course students will be able to assess jurisdiction on "international" disputes between private parties (i.e. which is the court competent to hear the case), to ascertain which law applies to it and, furthermore, whether and under which conditions foreign judgments will be recognised and can be enforced in the forum.

Contents

Private international law deals with "foreign" cases, i.e. cases connected to more than one legal system. As these cases are not located only within one legal system, they raise specific problems that are unknown in (purely) domestic cases.

In particular, three kind of questions arise.

First of all, it is necessary to ascertain which court has jurisdiction. Second, it is necessary to find out which law is applicable to the case. Third, one has to assess under which conditions the decision taken by the competent court will be recognised and can be enforced in a different legal system.

Hence, the course aims to provide students with legal notions, tools and techniques that are necessary to deal with "international" cases, which are increasingly frequent in today's legal praxis where always new and more difficult issues arise. The course, thus, completes the legal education and specialization of all those who aim to work in an international environment.

Detailed program

Scope of the course is the Italian regime of PIL as it results from national, International and EU sources of law. All three of the different PIL sections - i.e. jurisdiction, conflict of laws and recognition of decisions - will be dealt with.

The course will thus deal with the following topics:

1) Sources of PIL law: Law No 218 of 31 May 1995 on the Italian PIL system; international conventions on PIL (with a special focus on the works of the Hague Conference); EU Regulation on judicial cooperation in civil matters (special focus on The Hague programme).

2) Jurisdiction and recognition of decisions. Regulation (EU) No 1215/201 (so called *Brussels I-bis*) on civil and commercial matters; Regulation (EU) No 2019/1111 (so called *Brussels II-ter*) on matrimonial and parental responsibility matters; role of Law No 218/1995.

3) General issues of private international law, structure and functioning of choice of law rules, *renvoi*, characterisation, public policy and mandatory rules. General provision under Law No 218/1995.

4) The law applicable to contractual and non-contractual obligations: Regulations (UE) No 563/2008 (Rome I) and No 864/2007 (Rome II).

In principle, the programme for attending students is based on the same topics mentioned above in relation to all students.

However, in order to facilitate the understanding and practical application of legal instruments and rules of private international law, classes will give large space to the examination of some real cases, taken from practice or imagination.

Students will, thus, be urged to identify the different problematic profiles and to find the related solutions. This work can be done individually or in small groups.

In the light of classroom developments, and the reaction of students to these requests, the exam programme may undergo some slight changes, entailing a more in-depth study of some profiles of the individual regulations, correspondingly balanced by the reduction of other parts of the programme.

Prerequisites

Basic knowledge of international law, EU law and civil procedure law are recommended for an easier understanding of private international law.

Teaching methods

The analysis of case-law, particularly that of the Court of Justice of the European Union, will be a key element for understanding private international law.

Furthermore, as stated above, large space will be given to the examination of some real cases in order to facilitate the understanding and practical application of legal instruments and rules of private international law.

Assessment methods

Oral examination.

Only students attending classes will be given the opportunity to give a written examination instead of the oral one. Requirements for access to and contents of the written text will be discussed with the Professor at the beginning of course.

Textbooks and Reading Materials

All students should use the following textbooks:

- R. CLERICI, F. MOSCONI, F. POCAR, Legge di riforma del diritto internazionale privato e testi collegati, VI ed., Giuffr , Milano, 2009.

Please, note that all students are required to show knowledge of some of the most relevant EUCJ decisions quoted in the textbook.

Suggested access to sources of PIL law is by:

- F. MOSCONI, C. CAMPIGLIO, Diritto internazionale privato e processuale. Volume I, Parte generale e obbligazioni, VI ed., UTET, Torino, 2020.
