

## INTRODUCTION TO PRIVATE LAW - CIVIL LAW

**Dual Degree Bachelor of Laws and Bachelor in International Relations LLBBIR [2504110] SEP-2023 IPL-NLBIR.1.S.A**

Area Private and Business Law

Number of sessions: 30

Academic year: 23-24

Degree course: FIRST

Number of credits: 6.0

Semester: 2º

Category: BASIC

Language: English

Professor: **JAIME JUAN RODRIGUEZ LOZANO**

E-mail: [jrodriguezl@faculty.ie.edu](mailto:jrodriguezl@faculty.ie.edu)

### **Professor JAIME JUAN RODRIGUEZ LOZANO**

He joined Cuatrecasas in 2017, where he is an associate of the Debt Capital Markets (DCM) team. He advises issuers, corporates, trustees, arrangers and lead managers in securitisation transactions, issuances of bonds, CLOs, ABS notes, commercial paper, project bonds, interest rate derivatives, etc. He is specialised in securitisation transactions, energy projects, and hedging transactions.

Jaime Rodríguez completed his LLB and BBA at IE University, where he graduated in 2016. He completed his LLM at IE Law School and passed the Spanish bar in 2017. He is a member of the Madrid bar (Ilustre Colegio de Abogados de Madrid).

### **Office Hours**

Office hours will be on request. Please contact at:

**Email address:** [jrodriguezlozano@faculty.ie.edu](mailto:jrodriguezlozano@faculty.ie.edu)

**Personal tutorial sessions:** by appointment - also available by Zoom.

## SUBJECT DESCRIPTION

This course provides the essential understanding of private law and an overview of what it entails, focusing primarily on **civil law systems** but also understanding **common law** and **mixed jurisdictions**. Students will be exposed to comparative private law theory and practice and cover a number of introductory topics with broad application within the legal system. These include positive laws that are applied every day, such as the rights of the individual, personality rights and the notion of legal personality, natural and legal persons, legal capacity to act, and also subjective laws such as the statute of limitations. This course is also designed to provide an introduction to family law, the law of obligations, contracts, torts, and property law.

Furthermore, the course situates the various fields of private law within a broader context of laws that support sustainable policies at a local, national, and supranational levels. Thus, it surveys the developments and contemporary debates around ongoing transformations in all fields of private law. Private law transforms in parallel to evolving societal needs and changes such as those brought about by technological innovation.

## LEARNING OBJECTIVES

- Understanding the reasoning behind standing differences between European systems.
- Solve cases related to contract law in different European countries.
- Critically analyze different contract law systems and international conventions.
- To explain some basic legal concepts, sources and institutions
- To introduce students to the comparative law method by pointing to similarities and differences between the history of common and civil law systems
- Legal tools and vehicles for the creation of sustainable wealth in the course of history: contracts, property rights, corporations

The main objective of the course is that students become familiar with the principles and basic rules of private law and the various fields of private law. Students will also be exposed to a number of jurisdictions, learn how to assess them comparatively, and furthermore learn methods of interpreting and applying private law rules particularly in civil law contexts.

In more detail, in this course students will:

- learn the basics of private law;
- understand the main differences between civil and common law systems in private law;
- study comparatively various civil codes from around the world and compare with the basic approaches of common law;
- study, analyze and discuss cases in all basic areas of the discipline of private law, namely law of obligations, contracts, torts, property, family law, succession;
- understand and think critically about the transformations that private law undergoes in view of technological innovation;
- understand and think critically about the transforming needs of private law systems, including the needs to promote efficient and sustainable solutions to legal issues and conflicts between private individuals;
- analyze the societal impact of private law rules with particular focus on how private law frameworks can support (or inhibit) sustainable development goals (SDGs);
- read and place private law rules in broader historical and societal contexts; and

- discuss and predict future directions of private laws across the globe.

Students will also develop **professional skills** as listed below:

- the ability to distinguish relevant facts in private law fact-patterns;
- the ability to interpret and apply private law rules to facts; the ability to use interpretative methods and develop analytical skills to discern factual and legal patterns in private law;
- the ability to argue with competence in the foundations of private law; and
- basic negotiation skills.

**Additional skills** to be cultivated within this course:

- the ability to participate in discussion and debate;
- the ability to make effective presentations;
- the ability to work independently;
- the ability to work in groups.

## TEACHING METHODOLOGY

IE University teaching method is defined by its collaborative, active, and applied nature. Students actively participate in the whole process to build their knowledge and sharpen their skills. Professor's main role is to lead and guide students to achieve the learning objectives of the course. This is done by engaging in a diverse range of teaching techniques and different types of learning activities such as the following:

Learning Activity	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	43.33 %	65.0 hours
Discussions	10.0 %	15.0 hours
Exercises in class, Asynchronous sessions, Field Work	13.33 %	20.0 hours
Group work	13.33 %	20.0 hours
Individual studying	20.0 %	30.0 hours
TOTAL	100.0 %	150.0 hours

## PROGRAM

### FIRST PART: THE SYSTEM OF PRIVATE LAW

This part includes the foundation of a system of law, differences among systems and the basic concepts in Private Law.

### SESSIONS 1 - 2 (LIVE IN-PERSON)

#### INTRODUCTION.

- Real-life examples of Private Law.

- Overview of syllabus.
- Methodology.
- Materials: books, civil codes, readings.
- Concept of Private Law.
- Mapping of Private Law within the areas of law.
- Fields of law within Private Law.

*Book Chapters: Chapters 1 to 4 (both included) - Introduction to Private Law (available at IE Library)*

Individual assignment:

- Research the private law system of one jurisdiction (e.g. your country of origin or residence or other country of your choice).
- Summarise whether it is a civil law, common law or mixed jurisdiction and its most prevalent historical influences to and from other jurisdictions (e.g. the French civil code has influenced a number of civil codes and civil law systems around the globe) (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

## **SESSIONS 3 - 4 (LIVE IN-PERSON)**

### **THE BASICS.**

- History.
- Codification.
- "Foral laws" within Spain.
- Comparative law: civil law versus common law.
- Convergence of civil law and common law.
- Sources of law:
  - law,
  - custom,
  - general principles of law.
- Case-law.
- (i)retroactivity of law: default rule and exceptions.
- Application of law:
  - Interpretation.
  - Integration.
  - Analogy.
- Effects of laws.

*Book Chapters: Chapters 5 and 6 - Introduction to Private Law (available at IE Library)*

*Book Chapters: The Rule of Law - chapter I: The importance of the Rule of Law (Pages 5 to 9) (ced)*

*Multimedia Material: European Parliament - Breaches of EU values: how the EU can act (infographic)*

Past assignment:

- Review and debate.

Individual assignment:

- Research the ongoing processes ongoing at the European Union level regarding Poland and Hungary in the field of the rule of law.

- Summarise the issue (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

Quiz:

- Slides of prior session.

## **SESSIONS 5 - 6 (LIVE IN-PERSON)**

### **SUBJECT: THE PERSON**

- Person.
- Legal capacity and capacity to act.
- Beginning of personhood.
- Civil status.
- Age and sex.
- Minors and incapacitated adults.
- Domicile.
- Absence.
- Nationality.
- Death.
- Corpse rights.
- Civil Registry in selected jurisdictions.
- Personality rights:
  - Life.
  - Physical integrity.
  - Corpse.
  - Organ transplant.
  - Freedom.
  - Honour, intimacy and own image.
- Name and surnames. Legal protection. Pseudonym.

*Book Chapters: Chapter 11 - Introduction to Private Law (available at IE Library)*

Past assignment:

- Review and debate.

Individual assignment:

- Research the ongoing debate regarding the creation of rights and obligations for machines, AI and robots.
- Summarise the issue (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

Quiz:

- Slides of prior session.

## **SESSIONS 7 - 8 (LIVE IN-PERSON)**

### **THE RIGHTS.**

- Law versus rights.
- Comparative law: civil law versus common law.
- Meaning and concept.
- Limits.
- Patrimonial concept: the estate.
- Patrimonial elements: concept and classifications.
- Moveable objects and immoveable objects.
- Money.
- Features of goods.
- Income.
- Subjective rights: objects and subjects.
- Limits to rights.
- Course of the rights:
  - acquisition,
  - transmission,
  - modification,
  - extinction, and
  - waiver.
- Classification of legal acts.
- Representation, PoA and mandate.
- Comparative law: civil law versus common law.

*Book Chapters: Chapters 9 and 10 - Introduction to Private Law (available at IE Library)*

Past assignment:

- Review and debate.

Individual assignment:

- Research the ongoing debate regarding the principle “unfair delay” in the exercise of the action (or Verwirkung).
- Summarise the issue (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

Quiz:

- Slides of prior session.

## **SESSIONS 9 - 10 (LIVE IN-PERSON)**

### **THE LEGAL ENTITY.**

- Concept of legal entity.
- Historic origin.
- Abuse use of the legal entity. Piercing of veil.
- Types of legal entities.
- Comparative law: civil law versus common law.
- Domicile.
- Nationality.

- Legal capacity of a legal entity.
- Estate of legal entities.
- Termination of legal entities.

*Technical note: Ruling: Salomon v A Salomon & Co Ltd (1896 UKHL 1)*

Past assignment:

- Review and debate.

Individual assignment:

- Research the types of companies (legal entities) available in Spain.
- Summarise the findings (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

Quiz:

- Slides of prior session.

## **SESSIONS 11 - 12 (LIVE IN-PERSON)**

**LAW AND JUSTICE.**

- Natural law and positive law.
- Law v. morality.
- Notion of justice.
- Rule of law.

**CONCEPTS**

- Review of general principles of law.
- Identification of latin expressions used in Private Law.

*Book Chapters: Chapter 5 - Introduction to Private Law (available at IE Library)*

*Article: Ruling: United States v. Holmes (1842) - District Court for the Eastern District of Pennsylvania 22 April 1842*

Past assignment:

- Review and debate.

Individual assignment:

- Research the ruling United States v. Holmes (1842).
- Summarise your opinion if you had been the judge (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

Quiz:

- Slides of prior session.

## **SESSIONS 13 - 14 (LIVE IN-PERSON)**

- First session: **Midterm exam.**
- Second session: Preparation in team of Team Assignment, with assistance of Professor regarding the resources and outline of written answers and presentation.

**Instructions for Team Assignment:**

- Organisation:
- Students are divided in teams (randomly selected by system).
- Resources:
  - Spanish Civil Code:
  - French Civil Code.
  - Justinian Code Digest.
  - The Four Commentaries of Gaius on the Institutes of the Civil Law.
  - The Laws of the Twelve Tables.
  - The Rules of Ulpian.
- Tasks:
  - Questions will be provided.
  - Prepare short answers (max. 200 words each) to each question.
  - Prepare a presentation - one slide per answer.
- Due date for submissions:
  - 9 AM of the presentation class.

## **SESSION 15 (LIVE IN-PERSON)**

- Presentation and discussion of Team Case 1.

## **SECOND PART: FIELDS OF PRIVATE LAW**

This part will cover the four main areas of Private Law such as contract law, tort, property and family law.

## **SESSIONS 16 - 17 (LIVE IN-PERSON)**

### **CONTRACT LAW.**

- Concept of agreement.
- Classification of agreements.
- Essential elements of agreements.
- Comparative law: civil law versus common law.
- Formalities.
- Formation of contract.
- Effects of contracts.
- Third parties.
- Ineffectiveness,
- Comparative law.

*Book Chapters: Chapters 1 to 9 - Contract Law : a Comparison of Civil Law and Common Law Jurisdictions (available at IE Library)*

### Past assignment:

- Review and debate.

### Individual assignment:



- Research concepts of "null and void" and voidability.
- Summarise your opinion if you had been the judge (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

## **SESSIONS 18 - 19 (LIVE IN-PERSON)**

### **LAW OF OBLIGATIONS.**

- Concept of legal obligation.
- Debt and responsibility.
- Sources of obligations.
- Public promise of reward.
- Subject of the obligations.
- Joint and several obligations.
- Object of the obligations.
  - To give, to do and not to do.
  - Money obligations.
  - Interest payment obligations.
  - Generic obligations.
  - Alternative obligations.
  - Plurality of obligations.
  - Reciprocal obligations.
- Ancillary features of obligations:
  - Time.
  - Place.
  - Condition.
  - Condition precedent and subsequent.
- Guarantees.
- Penalty.
- Retention.
- Compliance of obligations. Payment in name of third party.
- Transfer (subrogation).
- Change of obligations: modification, assignment, termination,, impossibility, confusion of rights.

*Book Chapters: Chapters 1 to 9 - Contract Law : a Comparison of Civil Law and Common Law Jurisdictions (available at IE Library)*

#### Past assignment:

- Review and debate.

#### Individual assignment:

- Research concept of "rebus sic stantibus".
- Summarise your opinion if you had been the judge (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

#### Quiz:

- Slides of prior session.

## **SESSIONS 20 - 21 (LIVE IN-PERSON)**

### **PROPERTY LAW.**

- Concept and doctrines.
- Comparative law: civil law versus common law.
- Types of property rights.
- Breach of property rights. Remedies.
- Acquisition: comparative law.
- Concept of "traditio".
- Acquisition "a non domino".
- Termination.
- Possession.
- Usucapion.
- Property right.
- Protection of property right.
- Intellectual property.
- Land registry: comparative law.

*Book Chapters: Part Two, pages 317 - 631 - The Interaction of Contract Law and Tort and Property Law in Europe : A Comparative Study (available at IE Library)*

#### Past assignment:

- Review and debate.

#### Individual assignment:

- Research concept of "mortgage securitisation".
- Summarise your opinion if you had been the judge (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

#### Quiz:

- Slides of prior session.

## **SESSIONS 22 - 23 (LIVE IN-PERSON)**

### **FAMILY LAW**

- Family and law.
- Family law.
- Legal obligations in a family.
- Marriage.
- Separation, divorce and nullity.
- Termination of marriage.
- Economic regime of the marriage: comparative law.
- Pre-nuptial agreements.
- Sons and filiation.

*Book Chapters: Chapter 1 - European family law. Volume I : the impact of institutions and organisations on European family law (available at IE Library)*

#### Past assignment:

- Review and debate.

Individual assignment:

- Research concept of "Ecclesiastical Annulment".
- Summarise your opinion if you had been the judge (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

Quiz:

- Slides of prior session.

## **SESSIONS 24 - 25 (LIVE IN-PERSON)**

### **SUCCESSION LAW**

- Succession law: concept and comparative law.
- Death: succession "mortis causa".
- Types of succession.
- The inheritance as object.
- Assets and liabilities.
- The heirs as subjects.
- The will:
  - Concept.
  - Types.
    - Army will.
    - Ship will.
    - Others.
    - Contents.

*Book Chapters: Chapter 1 - European family law. Volume I : the impact of institutions and organisations on European family law (available at IE Library)*

Past assignment:

- Review and debate.

Individual assignment:

- Research concept of "olographic will" in your home jurisdiction, or if not available, in any other jurisdiction.
- Summarise your opinion if you had been the judge (max. 300 words).
- Due date: prior to next class.
- Short debate in next class.

Quiz:

- Slides of prior session.

## **SESSIONS 26 - 27 (LIVE IN-PERSON)**

### **REPRESENTATION AND AGENCY**

- Concept.
- Representation in everyday legal transactions.
- Agency and company law.

- Empowerment in the Spanish Civil Code: articles 1.710, 1.711, 1.717 and 1.280.
- Limits.
- Irrevocable power.
- Exercise of power.
- Ratification.
- Extinction of power: revocation, resignation, death, etc.
- Workshop.

*Technical note: Spanish Civil Code.*

*Technical note: German Civil Code - BGB*

Quiz:

- Slides of prior session.

## **SESSIONS 28 - 29 (LIVE IN-PERSON)**

- **First session:** Presentation and discussion of Team Case 1.
- **Second session:** Preparation for the final exam following prior instructions provided in class. Additional office-hours prior to Final Exam regarding scope, important areas to study and method of exam (multiple choice method).

Instructions for Team Assignment:

- Organisation:
  - Students are divided in teams (randomly selected by system).
- Resources:
  - Students have to request a Land Registry's "nota simple" of a house (e.g., the leased house in Segovia where any member of the team lives).
  - Automatic translation of the document.
- Tasks:
  - Questions will be provided.
  - Prepare short answers (max. 200 words each) to each question.
  - Prepare a presentation - one slide per answer.
  - Remember to send a PDF of the "nota simple" in the submission.
- Due date for submissions:
  - 9 AM of the presentation class.
- 

## **SESSION 30 (LIVE IN-PERSON)**

- **Final Exam.**

## **EVALUATION CRITERIA**

Students are expected to prepare the materials in advance and to participate in the class. Attendance does not amount to participation, which requires an active role from the students. Not only the frequency of interventions, but also the quality of the arguments will be taken into account. Therefore, an adequate preparation of the materials before every session will be required. Reading quizzes will be frequent. Participation in online fora, if it adds value, will enhance the students' participation grade. Class preparation and class participation are essential in order to pass the course. During the exams the use of Internet, mobile phones, smart watches, books, notes, and other materials is not allowed except otherwise indicated by the Professor, in writing.

The topics lectured before the mid-term exam are expected to be known and will be needed to successfully pass the final exam.

A failure in the final exam (i.e. grade below 5.0) will require sitting for a retake exam of the whole course in order to pass it.

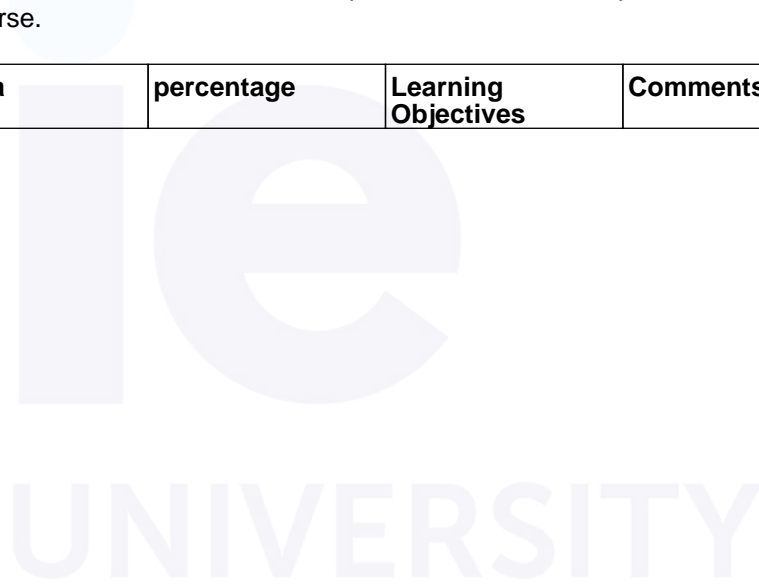
Each student has four attempts over two consecutive academic years to pass this course.

Dates and location of the final exam will be posted in advance and will not be changed.

Students must attend at least 80% of the sessions. Students who do not comply with the 80% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year).

Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

<b>criteria</b>	<b>percentage</b>	<b>Learning Objectives</b>	<b>Comments</b>
-----------------	-------------------	----------------------------	-----------------



Final Exam	40 %	<ul style="list-style-type: none"> <li>- Understanding the reasoning behind standing differences between European systems.</li> <li>- To explain some basic legal concepts, sources and institutions</li> <li>- To introduce students to the comparative law method by pointing to similarities and differences between the history of common and civil law systems</li> <li>- Legal tools and vehicles for the creation of sustainable wealth in the course of history: contracts, property rights, corporations</li> </ul>	
Quizzes	10 %	<ul style="list-style-type: none"> <li>- To explain some basic legal concepts, sources and institutions</li> </ul>	
Team Case 1	10 %	<ul style="list-style-type: none"> <li>- Critically analyze different contract law systems and international conventions.</li> </ul>	
Team Case 2	10 %	<ul style="list-style-type: none"> <li>- Solve cases related to contract law in different European countries.</li> </ul>	

Class Participation	5 %	- Solve cases related to contract law in different European countries.	
Individual assignments	5 %	- To explain some basic legal concepts, sources and institutions	
Midterm Exam	20 %	- To explain some basic legal concepts, sources and institutions	

### RE-SIT / RE-TAKE POLICY

Any student whose final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).

Grading for retakes will be subject to the following rules:

- The retakes will consist on a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.
- The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained on the second and fourth attempts is 8 out of 10.

The third attempt will require the student to complete:

- a midterm exam, and
- a final exam.

This is also applicable to students who do not have required attendance, e.g. sickness.

Dates and location of the retakes will be posted in advance and will not be changed.

In case of grade below 5.0, the student is required to take the retake exam to pass the course.

The maximum grade in the retake period is 8.0 and all exams will be graded taking this into consideration.

Students who do not comply with the 80% attendance rule will lose their 1st and 2nd chance, and go directly to the 3rd one (they will need to enroll again in this course the following academic year). Students who are in third or fourth call should contact the professor during the first two weeks of the course.

The exam will cover everything that students have learnt in class, including lectures, fora, case discussions and group exercises.

### BIBLIOGRAPHY

#### Compulsory

- Pietro Sirena. (2021). *Introduction to private law*. 3rd. Il mulino. ISBN 9788815290182 (Printed)
- Claire-Michelle SmythMarcus Gatto. (2018). *Contract Law : a Comparison of Civil Law and Common Law Jurisdictions..* 1st edition. Business Expert Press. ISBN

1631579274 (Printed)

**Recommended**

- Teresa Rodriguez de las Heras Ballell. (2010). *Introduction to Spanish private law : facing the social and economic challenges*. New York : Routledge-Cavendish.

ISBN 0415446139 (Printed)

- Christian von Bar, Eric M Clive, Hans Schulte-No"lke H G Beale, Study Group on a European Civil Code. (2009). *Principles, definitions and model rules of European private law: DCFR*. European Law Publishers. ISBN 9783866537279 (Printed)

**BEHAVIOR RULES**

Please, check the University's Code of Conduct [here](#). The Program Director may provide further indications.

**ATTENDANCE POLICY**

Please, check the University's Attendance Policy [here](#). The Program Director may provide further indications.

**ETHICAL POLICY**

Please, check the University's Ethics Code [here](#). The Program Director may provide further indications.

