

**Private International Law**  
**Law-402.2**  
**3 credits**  
**Fall 2018**

**Schedule:** Tuesdays - 10.50  
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## **I. General Description and Objectives of the Course**

International Private Law is an advanced level required course. The course introduces students to various aspects of the International Private Law (also known as Conflict of Laws in Anglo-Saxon jurisdictions) and provides a legal and practical perspective on the nature and functions of the conflict of laws (or legal collisions in post-soviet area terminology), resolution of transnational disputes, and enforcement of foreign judicial decisions and arbitral awards in national courts.

The problems covered by the course include such issues as the purpose and objectives of Private International Law, its history, sources and system, the problem of choice of law in various legal areas as contracts, torts, property, labor relations and family law aspects. The course also discusses the problem of allocating jurisdiction in and recognition and enforcement of foreign judgments.

## **II. LAW DIVISION AND COURSE LEARNING OUTCOMES**

### **Law Division Learning Outcomes**

Graduates of the Law Program should have the following competencies:

1. carry out professional activities in good faith on the basis of developed legal consciousness, legal thinking, and legal culture and with observation of ethical principles of the legal profession;
2. apply professional judgment, perform quality legal analysis, conduct legal research, and solve legal problems;
3. be able to speak and write in an argumentative, logical, and clear way in the legal context, have skills necessary to draft legal documents, be fluent in the English language at the level of professional communication;
4. draft normative legal acts and carry out their legal expertise in the field of professional activity;
5. interpret and apply substantive and procedural norms, provide qualified legal opinions and consultations in concrete types of legal activity;
6. demonstrate leadership qualities, active citizenship, take and develop initiatives aimed at promotion of civil society and welfare state;
7. understand the essence and significance of information in the development of modern society and law, master the basic methods of working with information and information technologies in the professional sphere.

## COURSE LEARNING OUTCOMES

	Law Division Learning Outcomes
Upon successful completion of the course students will be able to:	
Acquire and demonstrate knowledge of legal rules, principles and policies in the wide range of substantive areas of Private International Law covered during the semester;	1, 2
Demonstrate an understanding of choice of law provisions as well as an ability to make informed decisions concerning the private international obligations, procedural issues of claims regulated by the choice of law rules;	1, 2
Demonstrate an understanding and explain the various legal aspects of international dispute settlement procedures and the rules on the recognition and enforcement of foreign judgments and arbitral awards;	1, 2
To apply learnt concepts and rules to solve various legal situations/problems related to covered topics;	1, 2
To analyze legal texts, statutes, cases and contrast them to other texts	1, 2
To produce legal analysis in written form through drafting various legal documents (power of attorney, charters and contracts, inheritance certificates)	3, 4

### III. Course Readings

Students are required to regularly refer to the e-course page of the course: [www.e-course.auca.kg](http://www.e-course.auca.kg) as certain reading materials and all assignments will be uploaded there. Moreover, all course assignments should be uploaded by students only to the e-course. E-mail submissions are allowed ONLY if the e-course page does not work due to technical problems.

All students are expected to either borrow from the AUCA Library or purchase the Civil Code of the Kyrgyz Republic (part 2). It is highly recommended to bring the hard copy of the Civil Code to each class. An English version of the Civil Code will be available on the e-course, however, the Latest Russian edition of the Civil Code remains the main point of reference for this course.

The Code as well as other normative legal acts can be accessed by students via either Toktom or Ministry of Justice databases, both are available on campus. If students face difficulties using these databases, they are recommended to turn to the instructor or to the Library staff.

In addition to the primary legal sources, students are expected to use textbooks and commentaries to the Civil Code. The following list provides a number of textbooks and commentaries that students can use for the course purposes.

#### Books

1. Symeon Symeonides, Wendy Perdue, and Arthur von Mehren's Conflict of Laws: American, Comparative, International (2012);
2. Mejdunarodnoe Chastnoe Pravo by M.M. Boguslavskii (2009/2016);

3. Chesire, North & Fawcett, *Private International Law*, 14th ed., Oxford
4. Hay, *Conflict of Laws*, 4th ed., Thomson West 2003;

### **Legislation**

a) **National:**

- Civil Code of the Kyrgyz Republic;
- Family Code of the Kyrgyz Republic;
- Civil Procedure Code of the Kyrgyz Republic;
- Labour Code of the Kyrgyz Republic;
- Other Relevant Laws and Normative Legal Acts of the KR (indicated by the instructor during the course).

b) **US:**

- Excerpts from the American Restatement (Second) of Conflict of Laws;
- European: Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I);
- Regulation (EC) No 2201/2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility (Brussels II);
- Regulation (EC) No 805/2004 creating a European enforcement order for uncontested claims (Brussels III);
- Regulation on the Law Applicable to Contractual Obligations (Rome I);
- Regulation on the law applicable to non-contractual obligations (Rome II);

d) **International:**

- UN Convention on Contracts for the International Sale of Goods 1980 (CISG);
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention 1958);
- Other international legislation (indicated by the instructor during the course).

**On E-course throughout the course you will be provided with handouts with relevant cases, reading materials and regulations.**

### **IV. Teaching Methods**

The class will meet once a week. This course does not use traditional method of lecture and seminar division. There is going to be hybrid of lecture/seminar every class or it can be called as interactive lecture method. This method implies students to read new materials beforehand and be ready to discuss the given materials in class. Such method helps and equips the student a self-learning skill, which he/she will need in their further studies.

The main teaching methods used include the Socratic Method, which is widely used in law schools and is a way of engaging large groups of students into discussion of course topics through asking them questions and guiding them right to the core issues. This method equip

students with analytical and critical thinking since the student is not given the answer to question but the student should find an answer himself by answering instructor's question.

## V. Grading Criteria

Component	%
Presentation	10
Active Participation	20
Assignments	20
Midterm Exam	25
Final Exam	25
Total	100

**Attendance is required!** Students are expected to BE ON TIME for classes. If the instructor marked the student absent in case that the student is late for the class, he is considered to be absent for the entire class.

**If a student misses 3 class meetings he/she will automatically get 0 for class participation. Missing more than 6 classes can incur failure of the entire course upon discretion of the instructor.**

**Active Participation.** Students are expected to take an active participation in class discussions. Points for the active participation are only given in case a student demonstrates readiness for the class (in terms of reading assignments) and contributes constructively to class discussions.

**Exams.** Midterm and final exams will be conducted in an open book format. Further explanations will be provided closer to the exam date. **Exam retakes are allowed only in exceptional cases!**

### Grading Scale

A 94-100%	B- 77-79%	D+ 60-63%
A- 90-93%	C+ 74-76%	D 54-59%
B+ 86-89%	C 68-73%	D- 50-53%
B 80-85%	C- 64-67%	F less than 50%

## VI. Course Policies & Student Conduct

### Student Conduct

All students are expected to follow the AUCA Code of Student Rights, Responsibilities and Conduct. Any kind of disruptive behavior of a student gives an instructor the right to expel him/her from the class and an entire course.

## Originality, Academic Honesty & Plagiarism

Students are expected to get acquainted with the primary sources of International Law as well as with the secondary sources as textbooks and periodical articles, which facilitate deeper comprehension and assessment of the law. While essays and examination answers will draw on and be informed by this material, students are expected to **think for themselves** and to express themselves in their **own** words, providing a certain portion of originality.

All course assignments should be original and must not be plagiarized. Plagiarism is the appropriation of another person's thoughts or words without attribution. Plagiarism is an offence against the AUCA Code of Student Rights, Responsibilities and Conduct.<sup>1</sup> All types of cheating (plagiarism etc.) are strictly prohibited. If student fails to observe this requirement, instructor may give from an "F" for the work up to an "F" for the whole course depending on the type of assignment and other circumstances.

### Cell Phones and other Electronic Devices

- Should be off or on silent during classes;
- Can be used ONLY for the course purposes;
- Can be prohibited by the instructor for particular sessions.

## VII. Course Content

Topics	
<b>Class 1 &amp; 2 Sep 4, 11</b>	Introduction to the course Main concepts of Private International Law. Methods of regulation. National regime and MFN. Reciprocity and Retortions. Sources of PIL. The role of international agreements and national legislation in PIL.
<b>Class 3 Sep 18</b>	The notion of conflict of law norms, their classification and content. Renvoi, public order exception, imperative and dispositive norms in PIL. Application of foreign law in KR.
<b>Week 4 Sep 25</b>	Lex personalis, lex patriae, lex domicilii. Legal status of foreigners in KR, KR citizens abroad, refugees and stateless persons.
<b>Week 5 October 2</b>	Lex societatis. Legal status of legal entities under the PIL. Criterias of identifying lex societatis: place of incorporation, real seat, theory of control. Transnational corporations. Legal status of States in PIL. State immunity. Commercial relations of states and their responsibility.
<b>Week 6 October 9</b>	Property Law. Lex rei sitae, rei in transitu. Moveable and immoveable property, investment, protection of property rights, nationalization, expropriation.

<sup>1</sup> Part III, Section A.3 of the Code states that "[a] student must not adopt or reproduce ideas, words, or statements of another person without appropriate acknowledgment. A student must give credit to the originality of others and acknowledge indebtedness whenever he or she does any of the following: 3.1.Quotes another person's actual words, either oral or written; 3.2.Paraphrases another person's words, either oral or written; 3.3.Uses another person's idea, opinion, or theory; or 3.4. Borrows facts, statistics, or other illustrative material from work of the other student, unless the information is common knowledge."

<b>Week 7 October 16</b>	<b>Midterm Exam</b>
<b>Week 8 October 23</b>	Contract law in PIL. Cross-border transactions, representation, power of attorney, statute of limitations, autonomy of party's will (lex voluntatis), lex causae, proper law of the contract. Vienna Convention of Sales of Goods (CISG), ULIS, UNIDROIT principles, lex mercatoria, Incoterms. Different types of contracts (sales, financial leasing, factoring, franchising, services).
<b>Week 9 October 30</b>	International carriage of goods and passengers by rail, automobile, air, sea, mixed contracts, pipelines. Monetary and credit relates issues in PIL.
<b>Week 10 November 6</b>	<b>Fall Break</b>
<b>Week 11 November 13</b>	Tort law. Lex loci delicti commissi, lex causae, lex domicilii, lex patriae, lex fori. Product liability, unfair competition, environmental damage, unjust enrichment, Negotiorum gestio, culpa in contrahendo.
<b>Week 12</b>	Family and Labor Law
<b>Week 13</b>	Jurisdiction and ADR
<b>Week 14</b>	Jurisdiction and ADR
<b>Week 15</b>	Recognition and Enforcement of Foreign Judgments
<b>Final exam date TBD</b>	

**N.B!** This syllabus can anytime be changed by the professor, please follow updates on the e-course ([www.e-course.auca.kg](http://www.e-course.auca.kg))!