



University of Prizren "Ukshin Hoti" – Prizren

**Fakulty of Law**

TEACHING PROGRAM – SYLLABUS								
Level of Studies	Bachelor	Program	Law	Academic Year	2018/19			
SUBJECT		<b>Private International Law</b>						
Year	III-rd	Status of subject	Obligatory	3 hours (L)	2 hours (E)	ECTS credits	6	
Semestri	VI-th							
Teaching week	15	Teaching hours		45	Lectures-	45	Exercises	30
Teaching Methodology	Teaching Methodology will consist of discourse subject clearly and understandable, by lectures, presentations, demonstrations, and students evaluation as well as in-depth analysis for relevant topics. The Lecture will be presented by interactive method (Socratic)							
Consultations	Students have the opportunity after each lecture the option of consulting. Consultations for "Collocuium (midterm exam) and for final exam, held after the announcement of results, physically and through e-mail.							
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			Tel.	//				

<p><b>Subject Study Objectives</b></p> <p>This course provides general knowledge in intensification of legal relations with foreign element for the type as well as for the content, imposes legal various problems that appears newly which presents a new form of dimension. Especially nowadays with the dissolutions of a number of states, and the creation of new states create a new situations, which requires different solutions wich response to the interest of legal entities and also this private-legal relations (civil-legal) involving foreign element private-legal and shall be conform to the principles of international Community. Freedom of movement of men, products, intelectual property, and capital today are regular occurentce, and important characteristic of contemporary world, and for the future as well.</p>	<p><b>Benifits from Students</b></p> <p><i>After the end of the semester students will have basic knowledge concerning:</i></p> <ul style="list-style-type: none"> <li>- To understand basic principles of (PIL), clarify the position and the role of this subject, now and in the future in our country, over the interests of this subject.</li> <li>- Through this modul, students will gain advanced knowlege about the sources of law which are applied to the regulation of civil-legal relations with the foreign element (national and international) and the way of regulations of relations with foreign element as well as general and common elements of creations and implementation of (PIL), fact thourgh which the foreign element appears (Identification Facts), contact points, and institutions through which avoids the application of competent norms of (PIL);</li> </ul>
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<p>In terms of today the development of society in general, there is no legal area where foreign element is not appears. Passing, residence (until permanent residence) of foreigners in any state, namely the attitude of citizens staying abroad, creating legal relations, where as subjects apperas whether citizens of different states, or the residence (domicil) in different states; freedom of movement of goods and services from producer through determining factors ( for example: representation, quality control, transport, storage, etc.) to the consumer to the user of product, increasing of internatinal payments credit with diferent currencies, the use of intelectual creativities, especially through known-how patentes, translation and screening, respectively dramatizing out and far of the borders of states in which are created in wich states this intelectual property is created; wide propagation of ideas through television and network wich today covers the whole world in order to influence political thoughts and ideologies of wispread all these contains foreign element (internationa) that creates now problemes which requires new legal solutions.</p> <p>First of all will be told material norms (substantial) and conflict of laws from wich are regulatetd legal-private relations with foreign element. After that the legal-positive norms of national and international character should be considered. Than, the jurical practice of courts and arbitrations, of natinal and internatinal arbitrations, have to be taken into consideration, because thorough this decisions determine legal norms wich are applicable for the regulations of legal-private relations with foreign element.</p> <p>Finally have to be known the theoretical and practical attitides regarding legal regulation of private-legal relations with foreign element. This subject is planned to help students in order to improve their own context for Private International Law (PIL) in Kosovo and outside. An other thing will be considered are the judial and practice in getting knowledege about the subject in internatnional-europen justice.</p>	<ul style="list-style-type: none"> <li>- To Criticize and debate, defende the current issuee of the case and to prove its position based on the principles and rules, national and international;</li> <li>- To increase the studnet's ability to understand the importance of the PIL. Subject name (why is named as international and why private);</li> <li>- We will make the difference of legal-private (civil) relations from of legal-private (civil) relations with foreign element (internaitonal);</li> <li>- To gain knowledge on legal resources that will need to apply for adjustment of private-legal relations with foreign element (national and international);</li> <li>- Will gain knowledge of regulationg private-legal relations with foreign element (direct and indirect methot which characterised only PIL);</li> <li>- Will gain knowledge of general and common elements of creating and applying the PIL norms. The fact on which foreign legal-private element appears (identification facts) crucial facts (connection points) and deviation from competent norms (derivation from crucial facts) of PIL;</li> <li>- Will gain knowledge on general-legal which forme the PIL, over the civil rights of foreign nationals that in the territory of the country to create private-legal relations with foreign element, conflict of jurisdicion (International Procedural Law) and conflict (conflict of laws);</li> <li>- To increase the ability of the students in personal and professoinal aspects- applicable in this european trend.</li> </ul>
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**The methodology for the implementation of teaching topics:**  
The brief introduction of topics via PowerPoint, analysis, interactive discussion, group work regarding the case studies, questions and answers.

**Conditions for the implementation of teaching topic:**  
Hall, projector, laptop, internet, flipchart, the table for flipchart and markers.

**The way of assessing student ( in %)**

		<b>Percentage (%)</b>	<b>Assessment in %</b>	<b>The final grade</b>
			Exam passing rate	
			51 - 61 %	Six (6)
			61 - 71 %	Seven (7)
			71 - 81 %	Eight (8)
			81- 91%	Nine (9)
			95- 100 %	Ten (10)
			Intermediary evaluation, passing <b>51 % ...</b>	Six (6)...

<b>Method</b>		<b>Percentage (%)</b>
Debate (quizzes)	2	5
Group Project	1	5
Intermediary evaluation (one)	1	20

Presentations of assignment	1	10		
Final Exam	1	50		
Participation	1	deri-10		
<b>Total</b>		<b>100</b>		

<b>Obligations of student:</b>			
<b>Lectures:</b> - The regular attendance; Active participation in the discussion on the topics presented. Students are encouraged to read additional literature along the semester that is dedicated to different issues of this course.		<b>Exercises:</b> - The regular attendance; Participate in debates - exercises regarding the lecture, to show professional legal-scientific language. Research in writing seminars and presentation of certain topics in front of their colleagues. To pursue the disciplinary policies for attendance in lectures.	
<b>Student workload for the course</b>			
<b>Activity</b>	<b>Hours</b>	<b>Days/Weeks</b>	<b>Total:</b>
Lecture	3	15 (week)	45 Hours
Exercise	2	15	30 –exercise
Practical work			
Contacts with the lecture/consultations	1	In a week	15
Field exercise	//		
Seminars – presentations	0.5	In a semester	7.5
Homework			
Self-study time	3	15 in a week	30
Final preparation for the exam	3	15 in a week	30
Time spent on assessment (tests, quizzes, final exam)			5
Projects, presentations..etc			
<b>Remark: //</b>		<b>Total workload:</b>	175

<u>Week</u>	<b>Lecture- First Week 1...</b>	<b>1. Exercises (Study, different Cases).</b>		
1.	<p><b>Tema</b></p> <ul style="list-style-type: none"> <li>✓ Introduction presentation;</li> <li>✓ Knowledge and the purpose of the subject;</li> <li>✓ Program of the subject;</li> <li>✓ Resoult to be achived;</li> <li>✓ Literature;</li> <li>✓ Evalution;</li> <li>✓ Academic Policies.</li> </ul> <p>Students will be introducet to the subject matter in general, the way of learning during the semester and literature.</p> <p><b>INTRODUCTION</b> The Meaning, object, and the designations of the PIL. Beginning and the development of PIL an antic states, Rome,</p>	<b>Orèt</b>	<b>Tema</b>	<b>Orèt</b>
		3		2

	Greek.			
2.	<p><b>Statutive Theory-</b> . Italian, Dutch, and Flamane-Netherland school.  National sources of PIL. International Sources of PIL. International convention (bilateral and multilateral as a sources of PIL).  Common law as a source of PIL. The hirerarcy of the sources of PIL. The relation between international conventions and national sources.  The relation between different national sources of the PIL and common law. Legal gaps.  -Codificatrion of the PIL. Codification of PIL in national and international plan. Method of PIL codification. The status of PIL in the judicial sistem of the states. Views according which PIL is a part of International Law. Views according which PIL is a part of Civil law. Views according which is an independent part of the judicial sistem of the states.</p>	3		
3.	<p>-General elements of the creation of PIL norms. Foreign legal-private element (civil). The form of expression of foreign judicial-private element (basic and addition forms) – The role and the importance of the presence of foreign element in a legal judicial-relations.  -Facts based in wich is created foreign legal-private element (identification facts).  The decisive facts (connection points). Deviations from the norms of PIL (correction of conflitic norms).</p>	3		
4.	<p>-Legal Ways of regulation of legal-private relations with foreign element. Direct and indirect (conflict) of regulation of the legal-private with foreign element.  Recognition, proving and application of foreign law. Te sistem for recognition and proving of foreign law. Recognition and proving of the foreign law in the states with mixet legal sistem. The change of the foreign wich have to be recognized and enforced by the states of the country. material law  Qualification, beginning and definition. The way of solving the qualification, (according to: <i>lex fori</i>, <i>lex causae</i> and according to autonome mining). Preliminary issue. The reasons and conditions for the extension of preliminary issuee (solutions in theory and practice).</p>	3		
5.	<p>-Identification facts in subjects.  Citizenship as a fact of identification. The ways of getting citizenships. Main and other ways of getting citizenships.  The ways of losing citizenships- for the reason of expression of will of individ- for the reason of non fulfillment of oligations of the citizen given by state. Law effects of loosing the citizenship. Re sendin. Konflikt of citizenships..  -Person without citizenship and with some citizenship. Proving of the Citizenship.  Citizenship as a crucial fact. - Citizenship as a crucial fact in enjoyment of the statutory right for the appointment of competent law enforcement and for setting the jurisdiction of the court. Avoidance from the citizenship as a crucial fact Citizenship as a crucial fact of inheritance relations with the foreign element, competent law enforcement and and appointment of tje judicial competence.</p>	3		
6.				

	<b>Intermediary evaluation</b>			
7.	<p>- Residence as a fact of identification. Residence as a primary and secondary decisive fact. Residence as a subsidiar decisive fact, in exercises of the civil rights from the foreigners, for assignement of the legal competence and for assignement of the judicial competence.</p> <p>-Regular resodence and domicile Affiliation of legal entities as a fact of identification Legal persons engaging relevance of a state and international legal persons. Affiliation of legal persons as a decisive fact- in exercising of civil rights, for assignement of the legal competence and for assignement of the judicial competence.</p>	3		
8.	<p>-Identification facts in objects. The pleace where is the object, item, as a fact in identification and affiliation of the basic transport machines. Decisive facts (connection points) in object of legal-private relations with foreign element.</p> <p>-The pleace where the object if placed as a decisive fact in exercising of civil right from the foreigners, for for assignement of the legal competence and for assignement of the judicial competence (for immovable movable objects and in transit).</p> <p>-Affiliation of basic transport machines as a decisive fact in exercising of civil rights from the foreigners, for assignation of the legal competence and judicial competence.</p>	3		
9.	<p>-Decisive facts of obligatory relations with foreign element. Decisive fact for the regulation of contractual relations with foreign element. The auothonomy of the will of the parties (the role, importalce and the limits of application). The auothonomy of the will of the parties as a decisiv fact the assignement of legal competence.</p> <p>- Typer of the authonomy of the will of the parties. Limitation of autonomy and the period of time in which the parties have the right to use the autonomy by their will.</p> <p>-Limitation of autonomy of the will of the parties to the fragmentation of the contract.Legal basis of autonomy and and its exclusion of its contractual with foreign element. Autonomy of the will of the parties as a decisive fact for tha ssignation of the judicial competence.</p> <p>Decisive facts for regulation of the content of contractual relations with foreign element in the absence of autonomy.</p> <p>- Place of connectivity and the fulfillment of the contract. Domicile or the residence of debtor. The connectivity in term and other decisive fats.</p> <p>Decisive facts for the regulation of the obligatory relations with foreign element. The exception and the obligatory of applicatoin of the rule, <i>locus regit actum</i>.</p> <p>Decisive facts to the out-contractual responsibilities with a foreign element. Principle <i>lex loci delicti commissi</i>. <i>Lex fori</i> as a complementary principle.</p>	3		

10.	<p>-Deviations form the competent norms of the PIL (correction of the conflict norms). Deviations which are applied to all integrals that contains the PIL.</p> <p>International public order, Appearance, definition and designation of public order.</p> <p>National character, role and consequences of the implementation of public order.</p> <p>-Deviation from the law. The meaning and elements of the deviation from the law. The different approaces for implemeting of the deviation from the law and its legal consequences.</p> <p>Deviation which applyes to some integral norms of the PIL.</p> <p>- Re-sending (apperance, elements and the reasons for the application of the re-sending.</p> <p>-Reciprocity. The meaning, law nature and the implementation fields of the reciprocity.</p> <p>- Types of the Reciprocity, retorsion. The meaning of the implementation fields of the retorsion.</p>	3		
11.	<p>Conception about the object of the specific part of PIL. The qualities of the legal-civil foreign element, important for the specific part of PIL.</p> <p>Foreigners civil-rights and their categorization according to the opportunity of their exercising. Historic development of foreign civil rights (antique era, middle age and new era).</p> <p>Civile rights of the foreign phisic persons. Civil rights of the foreigners which are created by the state authority participation.</p> <p>-The rights of foreigners to create familiar relations (marriage, adoption, legitimation, custody. The right of foreigners to be sujetct of property legal-relations, which are for object movable and immovable objects. The rights of the foreigners to be subject of inheritance relations law (to possess with the property in case of death, the right of successor).</p> <p>The foreigners civil-right which are created without of state authoritu (obligatory rights, legal-objects that have for stady movable objects).</p> <p>The civil rights of foreign legal entities. When the legal entity can became judically legal entity. The state as a subject of property- legal relations.</p> <p>The civil rights of legal entities and the civil rights of foreign individs.</p> <p>The right of the legal entity to be the subject of inheritance relations, intelectual property.</p> <p>The right of foreign legal entity to exercise activity in domestic country.</p> <p>Civile rights of the citizens of the country to create private-legal relations with foreign element. The Apperance of the foreign element in object of the of the private-legal relations. Typer of civil rights of the country citizens (statutory and contractual).</p> <p>The right of foreigner to take cases in the courts of the domestic country.</p> <p>Legal assistance and international communication. Scope and legal assistance bases.</p> <p>The ways of communication of the legal assistance. International legal regulation of internaitonal legal assistance.</p>	3		
12.	<p>-Conflict (collesion) of jurisdictions. Recognition of the argumentativ power of the public foreign documents.</p> <p>-Legalizatin of documnets of legal-private international comunicatoin.</p> <p>-Recognition and enforcement of the foreign court decisions. Sistem for the recognition and enforcement of foreign court decisions.</p> <p>-Foreign trade arbitration. The meaning, types and the importance.</p> <p>-Recognition and enforcement of foreign arbitral decisions. Sistems for the recognition and enforcement of foreign arbitral decisions. Conditions for the recognition of foreign decisions of arbitral by national recourses.</p> <p>Recognition and enforcement of arbitral decisions under internaitonal</p>	3		

	treaties.			
13.	<p>-Conflict (collesion) of laws. The notion and the elements. The functoin of the conflict of laws. Interlocal collesion of laws.</p> <p>Conflict of laws</p> <p>Conflict of laws to certain categories of private-legal relations with foreign element created with the participation of the organ of the sovereignty.</p> <p>Collesion of laws of statutory reports with foreign elements that changes the status of two or more persons.</p> <p>-Marriage with foreign element. The material conditions for marriage with foreign element. The form of the marriage with foreign element. The form of diplomatic and consolor marriage.</p> <p>-Nullity of marriage with foreign element. Divorce of marriage with foreign element.</p>	3		
14.	<p>- Adoption with foreign element. Legitimizing with foreign element. Custody with foreign element. Collesion of the laws of certain categories of legal-private relations created without participation of state sovereignty organ. Contracts with foreign elements to which the autonomy of parties will be partly excluded. Labour contracts with foreign elements. Contract with foreign element. Insurance contracts with foreign elements.</p> <p>Collesion of the bill of exchanges and check with the foreign element.</p> <p>Collesion of delicts with foreign element.</p>	3		
15.	<p><i>Repetition of the subject, discussion, practice advice and recommendations on private international law and other techniques.</i></p> <p><b>The final exam</b> will be given by the decision of the administration.</p>	3		

## LITERATURE

### Basic Literature:

- Bekim Kadriu, *E Drejta Ndërkombëtare Private*, Tetovë, 2015.
- Asllan BILALLI & Hajredin KUÇI, *E Drejta Ndërkombëtare Private*, Prishtinë, 2012.
- Daniel Gutmann, *E Drejta Ndërkombëtare Private*, Tiranë, 2015

### Additional literature:

- Clarkson & Hill's, *Conflict of Laws*, Fifth Edition, Oxford University Prees, 2016.
- Geert Van Claster, *European Private International Law*, Oxford University Press, 2016.
- Adrian Briggs, *The Conflict f Laws*, Third Edition, 2013.
- C.M.V. Clarkson & Jonathan Hill, *The Conflict of Laws*, Fourth Edition, Oxford University, 2011.
- Në: [www.gazetazyrtare.com](http://www.gazetazyrtare.com) (Ligji mbi Arbitrazhin, Shtetësin, Azilin dhe huajt, Dokumenti për rregullimin e të drejtës ndërkombëtare private 2015).
- MAKS QOKU & ERCIS ÇELA “E drejta ndërkombëtare private europiane”, Tiranë, 2014.
- ARTA Mandro-Balili, GANETE Walker, ARDIAN Kalia, “E drejta ndërkombëtare private”. Tiranë, 2005
- HAJREDIN KUÇI, ASLLAN BILALLI, Kolizioni i ligjeve, Prishtinë, 2007;

HAJREDIN KUÇI, ASLLAN BILALLI, Zanafilla, zhvillimi historik dhe burimet e të Drejtës Ndërkombëtare Private, Prishtinë, 2006;  
ASLLAN BILALLI, Arsyet për aplikimin e normës së kolizionit gjatë rregullimit të marrëdhënieve juridiko civile me element ndërkombëtar dhe element të mbrendshëm (interlokal), E Drejta- Law, Nr. 1, 2004, Prishtinë;  
Në: [www.gazetazyrtare.com](http://www.gazetazyrtare.com) (Ligji mbi Arbitrazhin etj)  
ASLLAN BILALLI, Marrëdhëniet juridiko-private me element të huaj dhe mënyrat e rregullimit të tyre, E Drejta-Law, Nr.1, 2005;  
ASLLAN BILALLI, Njohja, të provuarit dhe aplikimi i të drejtës së huaj, E Drejta-Law. Nr.2-4, 2005;  
ASLLAN BILALLI, Elementet e përgjithshme dhe të përbashkëta të formësimit të normës në të drejtën ndërkombëtare private për rregullimin e marrëdhënieve juridiko-civile me element të huaj; E Drejta-Law, Nr. 2, 2004;  
ASLLAN BILALLI, Kolizioni i ligjeve të deliktet në komunikacionin rrugor, E Drejta-Law, Nr. 1, 1998.

**Remarks //**

**Remarks for students:**

Additional opportunities for study and deepening knowledge in this area represent the various web sites.

Success in the academic year of 2015