



# COMILLAS

UNIVERSIDAD PONTIFICIA

ICAI

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CIHS

## SUBJECT DETAILS

### Data on the subject

Full Name	EU Insolvency Law, Credit Protection and Recovery in the EU
Code	E000001224
Degree	Postgraduate in Master in International and European Business Law
Year	2023-24
Nature	Spring
ECTS Credits	2
Department	Law
Area	Law
Teaching staff	Bernardino Xavier Muñiz Calaf

### Data on the teaching staff

#### Teacher

Name	Bernardino Xavier Muñiz Calaf
Department / Area	
e-mail	<a href="mailto:Bxmuniz@comillas.edu">Bxmuniz@comillas.edu</a>
Telephone	+34 650 357 223
Tutoring Schedule	Upon request from students

## SPECIFIC DATA ON THE SUBJECT

### Framework of the subject

#### Pre-requisites

None

#### Contribution of the degree to the professional profile

The course introduces students to the general principles of insolvency and cross-border restructuring with a particular focus on the tools available within the EU. It intends to provide an understanding of the interest of the various stakeholders involved in cross-border restructurings with a view to encourage identification

and critical analysis of the recovery and protection strategies which may be available under different jurisdictions.

## Competences - Goals

### Competences to be developed

#### Generic Competences

- GC 1: Analysis and synthesis abilities
- GC 3: Ability to manage information
- GC 7: Ability to work in an international context
- GC 8: Critical appraisal skills

#### Specific Competences

- SC 4 Mastering the main rules of EU law and international law that are relevant to international business development
- SC 5 Being able to design strategies for the restructuring of corporate groups and / or intra-group and market activities to maximize the benefits of the legal framework

## COURSE SYLLABUS AND CONTENT

### Content

#### Area 1. International and cross-border insolvency and credit protection and recovery

Theme 1. Introduction to insolvency and international best practices in insolvency legislation

- 1.1 Introduction and basic concepts
- 1.2. Insolvency test
- 1.3 The International best practices in insolvency legislation
- 1.4 Compliance of the EU cross-border legislation with international best practices

Theme 2. Out-of-court restructuring and judicial proceedings across the EU

- 2.1 Pre-insolvency mediation
- 2.2 Out-of-court schemes of arrangement
- 2.3 Refinancing and pre-packed agreements
- 2.4 Creditors' securities and claw back issues
- 2.5 Limitations to creditors cram down

### Theme 3. Case studies: composition and liquidation

- 3.1. Basic requirements of reorganization in the context of cross-border insolvency
- 3.2. Milestone cases
- 3.2. Basic principles of liquidation in cross-border insolvency cases
- 3.4. Milestone cases

### Theme 4. European cross-border insolvency – Basic principles of cross-border insolvency

- 4.1 Necessity of cross-border insolvency rules and possible approaches (unification vs. coordination)
- 4.2 Forum shopping in cross-border insolvency
- 4.3 Concept and implications of COMI determination. The Parmalat and other milestone cases. The amendment of EU legislation in relation with COMI

### Theme 5. European cross-border insolvency - Coordination of main and secondary insolvency proceedings

- 5.1 Main proceeding vs. secondary proceeding
- 5.2. Power distribution between courts and insolvency practitioners in charge of the main and secondary proceedings
- 5.3. Coordination of secondary proceedings

## TEACHING METHODOLOGY

### General methodology of the subject

#### Contact hours methodology: Activities

Class will be a mix of lecture, discussion and activities. Students are expected to come to class prepared and actively take part in classroom activities.

#### Outside class methodology: Activities

Students must complete all readings prior to coming to class.

## SUMMARY OF STUDENT WORK HOURS

NUMBER OF CONTACT HOURS				
Lecture	Debate	In class presentation	Individual work	Evaluation
6	6	6		2
NUMBER OF INDEPENDENT WORK HOURS				
Lecture	Debate	In class presentation	Individual work	Evaluation
		6	12	12
<b>ECTS CREDITS: 2 (50,00 hours)</b>				

## GRADE EVALUATION AND CRITERIA

Evaluation Activities	Indicators	Evaluation weighting
Written assignments, case studies and class discussions	Written assignment / case studies deliverables (35%). Engagement in class discussions (5%)	40%
Evaluation: exam	Home essay	50%
Attendance	Regular attendance to classes – control by signature of a daily sheet	10%

## BIBLIOGRAPHY AND RESOURCES

### Basic Bibliography and Resources

#### TEXT BOOKS

- The EC Regulation on Insolvency Proceedings, a commentary and annotated guide / editors and principal contributors, Gabriel Moss, Ian F. Fletcher, Stuart Isaacs (2<sup>nd</sup> Ed. 2009)
- European Union Regulation on Insolvency Proceedings : an introductory analysis / by Bob Wessels (4<sup>th</sup> Ed. 2018)
- Comentario al Reglamento Europeo de Insolvencia / by Virgós Soriano and Garcimartín Alférez, Civitas (2004)

#### WEBSITES

[http://www.uncitral.org/uncitral/en/uncitral\\_texts/insolvency.html](http://www.uncitral.org/uncitral/en/uncitral_texts/insolvency.html)

<http://www.insol-europe.org/>

#### OTHER MATERIAL

- UNCITRAL Model Law on International Bankruptcy
- Goode, Roy Principles of corporate insolvency law / by Roy Goode (4<sup>th</sup> Ed. 2011)