

Curricular Component: <b>PRIVATE INTERNATIONAL LAW</b> ( ) Common Axis ( ) Universal Axis		
Course: <b>Law</b>	Thematic Nucleus:	
Name of the Curricular Component: <b>PRIVATE INTERNATIONAL LAW</b>		Code of the Curricular Component:
Workload: <b>2 hour-class</b>	( x ) Classroom ( ) Laboratory ( ) Distance Learning	Stage: <b>3rd stage</b>
<p><b>Summary:</b> Analysis of Private International Law by examining its evolution in Brazilian and international contexts, as well as its current application in a globalized and post-modern society.</p>		
<p><b>Goals:</b></p> <ul style="list-style-type: none"> <li>(i) Understand Private International Law from an interdisciplinary perspective with Public International Law, International Human Rights Law, Civil Procedural Law, Contract and Business Law and other branches of Law related to the study of the subject.</li> <li>(ii) Improve oral and written expression skills on the topics proposed in class, as well as the presentation of criticism based on conceptual and/or factual arguments.</li> <li>(iii) Build the critical reasoning of students regarding the study of Private International Law in Brazil, as well as seek alternatives to the existing legal framework, with the observance of post-modern International Law as a panorama.</li> </ul>		
<p><b>Methodology:</b> Expository Classes <i>Problem based learning</i> Case method</p> <p>The active and critical participation of students will be sought in all classes, who must carry out prior reading based on the bibliography and texts indicated and available on <i>Moodle</i> .</p> <p>The teacher will be available to assist students on the following days: - Online: Mondays at 6:30 pm, via teams , at the following link: <a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGRhYjNkZTktZjFmZS00ZGZlLWI4NDktMmU5OWE1ODAyZjk3%40thread.v2/0?context=%7b%22Tid%22%3a%2251da9440-4e5e-47b3-8e5c-4817f6f43c04%22%2c%22Oid%22%3a%22858200ec-c698-4d0c-8ba6-5c98891a747b%22%7d">https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGRhYjNkZTktZjFmZS00ZGZlLWI4NDktMmU5OWE1ODAyZjk3%40thread.v2/0?context=%7b%22Tid%22%3a%2251da9440-4e5e-47b3-8e5c-4817f6f43c04%22%2c%22Oid%22%3a%22858200ec-c698-4d0c-8ba6-5c98891a747b%22%7d</a> - In-person: on Wednesdays between 8:10 pm and 9:00 pm (P. 24, teachers' room).</p>		

**Evaluation criteria:**

It is recommended that:

- You read the study materials provided before classes. Materials for classes are available on *Moodle* .
- Actively participate in classroom discussions, especially when the class is divided into groups.
- Carry out the assessment exercises strictly following the proposed dates

Students will be assessed using two assessment instruments, described below:

	1st Assessment (P1)	2nd Assessment (P2)
Date	2 activities, one via Moodle worth 30% of the two-month grade and the other a group essay test worth 70%.  Note release until: 05/01/2024	2 activities, one via Moodle worth 30% of the two-month grade and the other a group essay test worth 70%.  Release of note until: 06/01/2024
Type of assessment instrument	Objective and individual questions, in the test to be carried out via Moodle , and group essay test.	Objective and individual questions, in the test to be carried out via Moodle , and group essay test.
Goals	Improve the ability to work in groups. Understand and coherently synthesize the thinking of relevant DIP authors. Relate to the content exposed in the classroom and current examples. Improve your oral expression and dialectic skills. The assessment may also require an oral presentation.	Improve the ability to work in groups. Understand and coherently synthesize the thinking of relevant DIP authors. Relate to the content exposed in the classroom and current examples. Improve your oral expression and dialectic skills. The assessment may also require an oral presentation.
Content percentage	50% of the semester content	100% of the semester content (cumulative subject)
Average weight	50%	50%
Test instructions and rules	Assessment instructions and rules will be specified in each assessment instrument	Assessment instructions and rules will be specified in each assessment instrument

**Participation grade (NP):** Students will be entitled to up to 1 point in the average, as a participation grade. The participation grade will be awarded taking into account, (i) **obligatorily, the students' results in AvaliaMack** and, (ii) at the discretion of the teacher and course coordination, if possible and authorized: attendance, active participation in debates in classroom, in group discussions and the general evolution of students. **Criterion (ii) will be at the teacher's discretion and will only be used if the student does not reach, through other grades, the average required for approval. Participation points will not be negotiated.**

**Final Media:** **The students' final average will be calculated according to the following formula: (P1 + P 2)/ 2)+ NP.** The participation point is attributed to the final average only.

**Substitute and final test:** Individual and in consultation exclusively with the law without comments. The attribution of grades will follow UPM rules.

**Basic bibliography**

**CLASS BY CLASS COURSE PROGRAM**

Week	Theme	Readings	Methodology and objective
1.	<p><b>Course Presentation.</b></p> <p><b>Private International Law</b> : Differences and similarities between Public International Law and Private International Law.</p>	<p><b>Course program</b></p> <p>NASSER, Salem H. <b>Public International Law</b>. Introduction. São Paulo: Atlas, 2013 (ebook).</p>	<p>Expository class</p> <p>Open Socratic Dialogue</p>
2.	<p><b>Private International Law</b>: the basic notion of conflict of laws in Space and the object of DIPri Study .</p> <p>Separating procedural law (jurisdiction) from substantive law (merits).</p>	<p><b>Required reading</b></p> <p>CARVALHO RAMOS, André de. Introductory Note: Private International Law and its Challenges. In. CARVALHO RAMOS, André de. <b>Private International Law: Controversial Issues</b>. Belo Horizonte: Arraes Editores, 2015. Pp. 1-5</p> <p><b>Deeper reading:</b></p> <p>CARVALHO RAMOS, André de. <b>Private International Law Course</b> . São Paulo: Saraiva, 2018. <u>pgs.</u> . 27-60.</p>	<p><b>Methodology</b> : Socratic dialogue.</p> <p><b>Goal</b> :</p> <p><u>Identify the sources of DIPri and how instruments of Public International Law aim to solve problems of Private International Law</u></p>
3.	<p><b>International Jurisdiction in Brazil</b>: limits of Brazilian jurisdiction over multinational private law cases. Hypotheses of exclusive and concurrent jurisdiction.</p>	<p><b>Required reading</b></p> <p>BRAZIL. <u>Code of Civil Procedure</u>, <u>arts.</u> . 21 to 25.</p> <p>Reference case: <a href="https://www.jota.info/tributos-e-empresas/saude/pelo-principio-da-efetividade-causa-nao-e-da-jurisdicao-brasileira-diz-tjsp-06032023">https://www.jota.info/tributos-e-empresas/saude/pelo-principio-da-efetividade-causa-nao-e-da-jurisdicao-brasileira-diz-tjsp-06032023</a></p> <p>FONTOURA COSTA, José Augusto. Brazilian international jurisdiction . Available at: <a href="https://www.jota.info/opinio-e-analise/artigos/a-jurisdicao-internacional-brasileira-20032023">https://www.jota.info/opinio-e-analise/artigos/a-jurisdicao-internacional-brasileira-20032023</a></p>	<p><b>Methodology</b> : Case method with discussion of precedents.</p> <p><b>Objective</b> : identify the main elements that attract jurisdiction to the Brazilian judiciary.</p>
Week	Theme	Readings	Methodology and objective
		<p><b>Deep reading</b></p> <p>KLA Lawyers. <b>Governing Law and Jurisdiction Clauses in Brazil: Overview</b>. Available at: <a href="https://klalaw.com.br/wp-content/uploads/2022/05/Governing-Law-and-Jurisdiction-Clauses-in-Brazil-Overview.pdf">https://klalaw.com.br/wp-content/uploads/2022/05/Governing-Law-and-Jurisdiction-Clauses-in-Brazil-Overview.pdf</a></p>	
4.	<p><b>International Arbitration and Autonomy of Will</b>: what is arbitration? How can it solve some of the problems of international jurisdiction? What are the limits to the problems resolved by arbitration?</p>	<p><b>Required reading</b></p> <p>ARAÚJO, Nádia de. <b>Private International Law: Brazilian theory and practice</b>. 7. Current Ed. Ver. <u>and ampl.</u> . – São Paulo: Ed. Revista dos Tribunais, 2018. pp. 389-410</p> <p>New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958</p> <p><b>Deep Reading</b></p> <p>RADICATI DI BROZOLO, Luca G., <u>International Commercial Arbitration</u> (Private International Law) (April 11, 2015). <u>European Encyclopedia of Private International Law</u> (Basedow, Ferrari, Asensio &amp; Rühl , eds ), <u>Forthcoming</u> . Available at SSRN: <a href="https://ssrn.com/abstract=2593354">https://ssrn.com/abstract=2593354</a></p> <p><b>Reading Additional</b></p> <p>BRAZIL. Law 9,307/96 – Brazilian Arbitration Law</p>	<p><b>Methodology</b> : Socratic dialogue</p> <p><b>Objective</b>: to understand the fundamental principles of international arbitration in Brazil. Understand the role and importance of international arbitration for</p>

Week	Theme	Readings	Methodology and objective
5.	<p><b>International Lis pendens:</b> Lis pendens between actions in Brazil and abroad.</p> <p><u>Forum Shopping</u> : what is forum shopping? How do the multiplicity of criteria for defining jurisdiction and the rules of international legal cooperation allow this practice?</p> <p><u>International Legal Cooperation as a technique to mitigate the effects of Forum Shopping.</u></p>	<p><b>Required reading</b></p> <p><b>ENGLISH HIGH COURT.</b> SulAmerica vs. <u>Enesa</u> ([2012] EWCA Civ 638)</p> <p><b>TJSP .</b> Ag.Int. 0304979-49.2011.8.26.0000 (Rel. Des. Paulo Alcides).</p> <p><b>Deep Reading</b></p> <p><b>FONTOURA COSTA, José Augusto.</b> The will and the form: the perception of arbitration in the case of the Jirau Project insurance contract. Arbitration and Mediation Magazine, 38.</p> <p><b>Further Reading</b></p> <p><b>CAMARGO, Solano de.</b> <u>Forum shopping: legal way to choose jurisdiction?</u> USP: Master 's <u>Dissertation</u> . Pp.01-25; 64-72; pp. 129-134</p>	<p><b>Methodology:</b> study of judicial precedent and open Socratic dialogue in the classroom.</p> <p><b>Objective :</b> <u>Understand what forum shopping is and the difficulties it brings to complex business contracts.</u></p>
6.	<p><b>International Legal Cooperation:</b> Types of international legal cooperation in Brazil: letters rogatory, direct assistance and approval of foreign judgments.</p> <p>Legal regime for letters rogatory, direct assistance and approval of foreign judgments.</p>	<p><b>Required reading.</b></p> <p><b>BRAZIL.</b> <u>Code of Civil Procedure</u>, arts . 26-41; arts . 960-965.</p> <p><b>POLIDO, Fabricio Bertini Pasquot .</b> International Legal Cooperation in the 2015 Code of Civil Procedure: Towards Convergence with the New Paradigms of Private International Law. In. CARVALHO RAMOS, André de. Private International Law: Controversial Issues. Belo Horizonte: <u>Arraes Editores</u>, 2015. Pp. 82-110</p> <p><b>Deep Reading</b></p> <p><u>European Parliament .</u> JUDICIAL COOPERATION IN CIVIL MATTERS – Fact Sheet. Available at: <a href="https://www.europarl.europa.eu/erpl-app-public/factsheets/pdf/en/FTU_4.2.5.pdf">https://www.europarl.europa.eu/erpl-app-public/factsheets/pdf/en/FTU_4.2.5.pdf</a></p> <p><b>Further Reading</b></p> <p><b>ARAÚJO, Nádia de.</b> The Importance of International Legal Cooperation for the Action of the Brazilian State Domestically and Internationally, in. <i>Manual on International Legal Cooperation</i>. pp. 31-48</p>	<p><b>Methodology :</b> Expository class</p> <p><b>Objective :</b> Presentation of the main methods of international legal cooperation. Understand how the two international conventions regulate similar phenomena differently, identifying similarities and differences between them.</p>

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7.	<p><b>Private International Law in the Law of Introduction to the Norms of Brazilian Law:</b> what are the connecting elements? Where are the connecting elements found in Brazilian law?</p> <p><b>The qualification process</b> : what it is and how to carry it out. Conflict of qualifications. Critical analysis of the qualification problem.</p> <p><i>Lex fori</i> : <u>critical analysis</u> of its importance.</p>	<p><b>Required reading</b></p> <p>BRAZIL. Law of Introduction to <u>the Norms of Brazilian Law</u>, arts . 7 to 10.</p> <p>DOLINGER, Jacob; TIBURCIO, Carmen. <b>Private international law</b> . 13. ed., rev., current. <u>and ampl.</u> . Rio de Janeiro: Forense, 2017. Pp. 397-418</p>	<p><b>Methodology</b> : Structured Socratic dialogue based on systematic prior reading of the legislation.</p> <p><b>Objective</b> : identify the main connecting elements existing in Brazilian law. Understanding the qualification process.</p>
8.	<p><b>The connecting elements in Brazilian law.</b></p> <p><b>Family, Succession and Property Law:</b> determining the law applicable to marriage, property regime and succession.</p> <p>Discussions regarding art. 7th, 8th and 10th by LINDB.</p>	<p><b>Required reading</b></p> <p>The case of the succession of the fascist Italian with assets in Brazil, Italy and Germany.</p> <p><b>Deep Reading</b></p> <p><b>Further Reading</b></p> <p>CARVALHO RAMOS, André de. <b>Private International Law Course</b> . São Paulo: Saraiva, 2018. pgs . 351-388.</p> <p>CARVALHO RAMOS, André de. <b>Private International Law Course</b> . São Paulo: Saraiva, 2018. Pp. 425-439.</p>	<p><b>Methodology</b> : Group exercise based on judicial precedents.</p> <p><b>Objective</b> : identification of peculiarities relating to connection elements. Critical analysis of judicial precedents.</p>
Week	Theme	Readings	Methodology and objective
9.	<p><b>The connecting elements in Brazilian law.</b></p> <p><b>Obligations</b> : determining the law applicable to international contracts (art. 9 of LINDB)</p> <p><u>Critical analysis of the (im)possibility of choosing the applicable law by the parties.</u></p>	<p><b>Required reading</b></p> <p>Takoma Case (<u>Ag. Int. REsp 1.343.290/SP</u>).</p> <p><b>Deep reading</b></p> <p>GIRSBERGER, Daniel et. <u>al.</u> Choice of Law in International Commercial Contracts: Global Perspective on the Hague Principles. <b>Chapter 56: Brazil</b> . pp. 984-999</p> <p><b>Further Reading</b></p> <p>CARVALHO RAMOS, André de. <b>Private International Law Course</b> . São Paulo: Saraiva, 2018. Pp. 352-422.</p>	<p><b>Methodology</b> : Structured Socratic dialogue based on systematic prior reading of judicial precedent.</p> <p><b>Objective</b> : identification of peculiarities relating to connection elements. Critical analysis of judicial precedent.</p>
10.	<b>In-person test (groups of 4 or 5 students)</b>		
11.	<p><b>Harmonization of Private International Law in contractual matters</b> : introduction to the Vienna Convention on the International Purchase and Sale of Goods – CISG.</p> <p>CISG applicability</p>	<p><b>Required reading</b></p> <p>The case of “chicken feet” – TJRS Civil Appeal n. 70072362940</p> <p>The case of the Kiwis - TJSP Civil Appeal n. 1017219-07.2017.8.26.0004</p> <p><b>Deep Reading</b></p> <p>SCHWENZER, Ingeborg. Interpretation And Gap-Filling Under The CISG. Available at: <a href="https://cisg-online.org/files/commentFiles/Schwenzer%20Interpretation%20and%20Gap-Filling%20under%20the%20CISG%202013%20209.pdf">https://cisg-online.org/files/commentFiles/Schwenzer Interpretation and Gap-Filling under the CISG 2013 209.pdf</a></p> <p><b>Further Reading:</b></p>	<p><b>Methodology</b> : Expository Class</p> <p><b>Objective</b> : to understand the applicability criteria of the CISG and the relevance and importance of public international law instruments for the harmonization of matters related to private international law.</p>

Week	Theme	Readings	Methodology and objective
		KUYVEN, Fernando; PIGNATTA, Francisco. Commentary on the Chicken Feet Case. <i>In</i> Revista Brasileira de Arbitragem, vol. 54, 2017. Pp. 119-154	
12.	<b>Harmonization of Private International Law in contractual matters</b> : main characteristics of the CISG.	<p><b>Required reading</b> The case of the purchase of Swiss robots by the Brazilian company</p> <p><b>Deep Reading</b> SCHWENZER, Ingeborg. The CISG – A Fair Balance of the Interests of the Seller and the Buyer. Available at : <a href="https://edoc.unibas.ch/42342/3/20160405104731_57037ba31e7eb.pdf">https://edoc.unibas.ch/42342/3/20160405104731_57037ba31e7eb.pdf</a></p>	
13.	<b>Public order:</b> importance and relevance of the concept for Brazilian Private International Law: limit to international legal cooperation and the application of foreign law by the Brazilian judge.	<p><b>Required reading</b> STF. SEC 5404 US. STJ. AgRg in CR no 3,198 US STJ. REsp 1628974 SP</p> <p><b>Deep Reading</b> <b>TBD</b></p> <p><b>Further Reading</b> APRIGLIANO, Ricardo. Public order and Process. FDUSP: Doctoral Thesis. pp. 288-296.</p>	<p><b>Methodology</b> : Case method with Socratic dialogue, based on a structured reading of judicial precedents.</p> <p><b>Objective</b> : Critical analysis of judicial decisions and the concept of public order.</p>
14.	<b>Test (groups of 4 or 5 students)</b>		
15.	<b>Exam View &amp; Course Closing</b>		
16.	Substitute Test Period – according to the calendar to be scheduled by FDIR		
17.	Final Exam Period – according to the calendar to be scheduled by FDIR		
	Last day to close notes.		