

LAW3312 Private International Law

Code

LAW3312

Title

Private International Law

Prerequisites

Law 2108 Civil Law of Kazakhstan General Part

Credits

3

Description

Private international law (PIL) tries to answer the following four basic questions: (1) When may the courts of Kazakhstan hear a case and settle a dispute involving a private international law relationship, i.e. when (a) one of the parties to the dispute is a foreign party (e.g. an individual domiciled or resident abroad or a legal entity incorporated or established abroad), or (b) when some of the facts of the case took place abroad? (2) Which substantive law – domestic or foreign – should be applied by the courts of Kazakhstan to the settlement of disputes dealing with the abovementioned private international law relationships? (3) Which effects may be given in Kazakhstan to the court decisions issued by foreign courts, settling disputes involving private international law relationships? (4) Which solutions may be given to other issues arising out of cross border elements in private international law relationships and international litigations, such as notifications for foreign parties, finding, securing and examining evidence located abroad, cooperating with foreign judicial authorities, the presence of sovereign parties in the proceedings, etc? This course is very useful for all those students who wish to pursue a career in litigation, as well as for those students who wish to learn how to draft legal documents with a view to avoiding complex future disputes, especially when any of the parties is a foreign individual or a foreign corporation.

Outcomes

Upon successful completion of the course, students will be able to: 1 Knowledge outcomes • Learn the basic terminology and concepts of private international law and international civil litigation • Learn the sources of private international law • Learn the basic terminology, concepts and theories of international jurisdiction in civil litigation • Learn the rules of international jurisdiction of the Republic of Kazakhstan • Learn the basic terminology, concepts and theories of conflict of laws and applicable law rules • Learn the applicable law rules of the Republic of Kazakhstan • Learn the basic terminology, concepts and theories of recognition of foreign judicial decisions, as well as other documents issued by foreign state authorities • Learn the rules of recognition of foreign judicial decisions of the Republic of Kazakhstan • Learn the basic terminology, concepts and theories of immunity from jurisdiction in civil litigation, as well as the basic rules on sovereign immunity of the Republic of Kazakhstan • Learn the basic terminology, concepts and theories of international insolvency • Learn the private international law aspects and rules of the Astana International Financial Center (AIFC) 2 Skills outcomes • Identify private international law relationships and their cross-border elements • Identify the issues and problems posed by the presence of cross-border elements in private relationships • Identify the issues and problems present in international civil litigation, as a dispute resolution mechanism, as well as the problems and issues meant to be solved by private international law rules • Apply rules of private international law to issues and problems related to international jurisdiction, applicable law and recognition, in the context of hypothetical case studies and sets of facts • Draft useful and enforceable choice of court and choice of law agreements in contracts between parties from different jurisdictions 3 Values and behavior outcomes • Be conscious of the international dimension of private legal relationships, so as to help clients and colleagues • Go beyond the memorization of rules and know how to apply them, being aware of the values and interests behind those rules

Assessment

60 % -first and second assessments

40 % -final assessment

Tentative course outline

Week1

Introduction to PIL (1). Private international law relationships. The four big questions of PIL

Week2

Introduction to International Jurisdiction (1)

Week3

Introduction to International Jurisdiction (2)

Week4

International Jurisdiction Rules of Kazakhstan (1)

Week5

International Jurisdiction Rules of Kazakhstan (2)

Week6

International Jurisdiction Rules of Kazakhstan (3)

Week7

Introduction to choice of court agreements and their effects under the law of Kazakhstan

Week8

Introduction to choice of law and applicable law rules (1)

Week9

Introduction to choice of law and applicable law rules (2)

Week10

Applicable law rules in Kazakhstan

Week11

Recognition of foreign judicial decisions

Week12

Sovereign immunity

Week13

International insolvency

Week14

Introduction and private international law aspects of the Astana International Financial Center (AIFC)

Week15

Private international law aspects of international commercial arbitration