Syllabus
INTERNATIONAL FAMILY LAW
(5 ECTS)

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Academic Council of Program “Jurisprudence. Private Law”
Meeting Minute № 4 dated 28 June 2019

1. Course Description
   a) Pre-requisites
   The course requires the students to have basic knowledge of law, sufficient level of English (to read legal sources and participate in class discussions), as well as other skills acquired during their studies at the university. Additional background in family law, civil law and private international law is welcome, although not mandatory for the course.

   b) Abstract
   Family law, once a stable area, has turned into a rapidly developing and thus becoming one of the most interesting and dynamic areas of law. To a significant extent it is connected with the shift in family forms we observed during recent time, and developments in reproductive medicine that allowed, in particular, to split genetic and social parentage. Along with these serious challenges to traditional family law ideas, globalization and migration processes, in turn, have brought another set of challenges for those working in family law at both national and international levels. Cross-border family disputes are increasingly becoming an every-day reality for practicing lawyers, not to mention the topics for numerous academic legal studies. Therefore, to be a specialist in this field nowadays it is not enough just to know one’s own national family law. The scales of changes make specialists in family law, both academics and practitioners, pay substantial attention to foreign legal regulation and international family law instruments.

2. Learning Objectives
   The aim of the course is to provide students with a theoretical and practical understanding of contemporary family law frameworks, identify the most important trends in development of national and international family law, and explain the key provisions of the main international instruments that form the standards of family and child law. Especial attention is paid to the UN Convention of the Rights of the Child, Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Hague Children’s Conventions, as well as some EU regulations and other international instruments related to family law.
3. Learning Outcomes

_Students must gain knowledge on:_
- the main international family law standards under the UNCRC, ECHR and the Hague Children's Conventions;
- the main trends in development of national and international family law;
- the main approaches to drafting family law agreements with foreign element.

_Skills and abilities:_
- skills to use specific international family law terms and to apply and interpret the international instruments in the family law area;
- practical abilities to research and conduct analysis of the international instruments (such as UNCRC, ECHR, the HCCH Conventions and EU regulations) and academic works in the area of international family law;
- skills in solving practical problems in the field of cross-border family law disputes, building up of the legal position and developing strategy on the cross-border family law issues.

_Students should gain the following competences:_
- ability to work with information (search, evaluate, use information, necessary for fulfilment of academic and professional tasks, from various sources, including application of the systematic approach);
- ability to carry out professional activities in the international environment;
- ability to search, analyse, and work with legally relevant information by using the juridical, comparative and other specific methods,
- ability to describe legal problems and situations in the field of international family law.

4. Course Plan

**SUBJECT 1.**

_The ‘Internationalization’ of family law. Marriage and extra-marital cohabitation in comparative and cross-border contexts_

1. The subject-matter of the course and the main sources of International Family Law. The ‘Internationalization’ of family law.
2. What is the ‘family’: national approaches and international instruments.
3. Conclusion of marriage: national and international regulatory frameworks.
4. Extra-marital cohabitation, registered partnership and other 'new’ family forms.
5. Right to marry – jurisprudence of the ECHR.

**SUBJECT 2.**  
*Divorce in comparative and cross-border contexts*

2. Jurisdiction for divorce.
3. Right to divorce – jurisprudence of the ECHR.

**SUBJECT 3.**  
*Property relations between spouses: a comparative overview of national regulation*

1. The main property regimes/systems: full community, community of acquisitions, deferred community, separation of property.
2. Marriage contract; pre-/postnuptial agreements. Duty to inform and full disclosure.

**SUBJECT 4.**  
*Divorce and division of property in a cross-border context*

1. Divorce/separation and division of matrimonial assets.
2. Divorce and maintenance between the former spouses.
3. Division of property and trusts.

**SUBJECT 5.**  
*Child and the Family*

1. Parentage issues in the cross-border context.
2. Who is the ‘parent’? International surrogacy arrangements (ISAs): the key legal problems.
3. Parental responsibility and parental custody: national and international regulation.
4. The status of a child in the family. The main principles and provisions of the
UN Convention on the Rights of the Child related to family issues.

5. The best interests of the child – the key concept of the UN Convention on the Rights of the Child.

**SUBJECT 6.**

*Disputes over children: cross-border aspects*

1. The Hague Children’s Conventions: the key concepts and main regulatory approaches.
3. Cross-border relocation disputes.

**SUBJECT 7.**

*Child removal from the family. Inter-country adoption*

1. Child removal from the family: the key principles of the jurisprudence of the UN Committee on the Rights of the Child and the European Court on Human Rights.
2. Inter-country adoption: recent development.

5. **Reading List**
   a) **Required**


b) Optional


6. Grading System

Grading in this course will be based on three types of work product:
(1) Attendance, active participation and in-class discussion
(2) Test
(3) Written exam

An overall assessment formula comprises a sum total of the following variables:
\[(\text{seminar attendance / participation}) \times 0.2 + \text{(test)} \times 0.2 + \text{(exam)} \times 0.6 = \text{final grade}\]

7. Examination Type

7.1. Attendance, active participation and in-class discussion: 20%

Each student is expected to attend all sessions having gone through and thought through the assigned material, including the questions and any problems in the text, legal act, judgment, etc. that have been assigned, and actively participate in class discussions, ask questions and make analytical comments about the assignments. Sessions will be structured as a mix of lectures, seminars, and participative workshops in order to stimulate class discussion: the participants are expected to cover the assigned materials in advance for each class.

7.2. Test: 20%

Example of test questions

Test 1

Formally established and internationally accepted definition of the “family” is stipulated:
(1) In the universal international human rights instruments;
(2) In the Hague Children’s Conventions;
(3) In the Convention for the Protection of Human Rights and Fundamental Freedoms; or
(4) Nowhere.

Test 2

The community property regime:
(1) Means that all property acquired during marriage is common property of the spouses (with some exception, for inst., personal property);
(2) Means that all property of the spouses even if acquired by each of them before the marriage is common property of the spouses; or
(3) May be both (1) and (2), as above.
Issues related to international child abduction are dealt with in:
(1) The 1989 UN Convention on the Rights of the Child;
(3) The 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children; or
(4) In all three international instruments mentioned above in (1), (2) and (3).

7.3. Written exam by the end of the course: 60%
Example of exam written assignment

1. You will have to speak at the international family law conference. The topic of your presentation is “The Internationalization of Family Law”. Please, write an outline of your presentation.

2. A foreign national Nickolas, who has entered into a registered partnership in accordance with the domestic law of his country, is going to get married in Russia with a Russian national Natasha. Will such a marriage be valid under Russian Law? What problems may arise for Nicholas with regard to this situation? What else do you need to know to answer these questions? Please, discuss.

3. Please, explain the differences and common features between the main matrimonial property regimes.

7.4. Assessment criteria for a test and a written exam:

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<th>10-point scale</th>
<th>Assessment criteria</th>
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<td>10 points</td>
<td>100 % of the answers are correct</td>
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| 9 points       | Correct answers are given for the number of questions from 96% to 99%
                 | (96% =< right answers < 100%) |
| 8 points       | Correct answers are given for the number of questions from 90% to 95%
<pre><code>             | (90% =&lt; right answers &lt; 96%) |
</code></pre>
<p>| 7 points       | Correct answers are given for the number of questions from 86% to 89% |</p>
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<td><strong>6 points</strong></td>
<td>Correct answers are given for the number of questions from 80% to 85% (80% &lt;= right answers &lt; 86%)</td>
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<td><strong>5 points</strong></td>
<td>Correct answers are given for the number of questions from 70% to 79% (70% &lt;= right answers &lt; 80%)</td>
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<td><strong>4 points</strong></td>
<td>Correct answers are given for the number of questions from 60% to 69% (60% &lt;= right answers &lt; 70%)</td>
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<td><strong>3 points</strong></td>
<td>Correct answers are given for the number of questions from 50% to 59% (50% &lt;= right answers &lt; 60%)</td>
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<td><strong>2 points</strong></td>
<td>Correct answers are given for the number of questions from 25% to 49% (25% &lt;= right answers &lt; 50%)</td>
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<td><strong>1 point</strong></td>
<td>1) Correct answers are given for less than 25% questions; 2) Cheating was noticed; 3) The student wrote the test, but did not submit the paper.</td>
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8. Methods of Instruction

Classes are split into lectures and seminars. Lectures are conducted in the interactive mode with the focus on the feedback from the students. Students are expected to get prepared for the upcoming lectures, which enables them to better comprehend the subject matter delivered by the lecturer. Seminars are aimed at combining interactive methods and spontaneous individual or group debates on specified problem areas. Such interactive tutoring is based on both the prepared and spontaneous modes. Home assignments are intended for reviewing and analyzing international treaties, judgments, textbooks, as well as at preparing to the multitasking format of exercising during in-class teamwork.

9. Special Equipment and Software Support (if required)

Access to internet and computer-based drafting equipment.