

LLM Commercial Conflict of Laws

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Teaching and assessment: TBC, Exam - 3hrs

Module description:

Conflict of laws (also known as private international law) is concerned with the law relating to cross-border litigation. Conflict of laws issues arising in any private law subject when the facts have an international element. This option examines the three main elements of the conflict of laws:

The jurisdiction of English courts to hear disputes in international litigation. We consider in detail the European rules of jurisdiction in the Brussels I Regulation (which are common to all EU states), as well as the common law rules (which are similar to those in a number of common law countries around the world).

The recognition and enforcement of foreign judgments in England. Suppose that a claimant obtains a judgment overseas against a defendant with its assets in England. In what circumstances will the judgment be given effect in England? The course considers the position under the Brussels I Regulation and at common law.

Choice of law. If an English court decides to hear a dispute, which country's rules of laws will it apply? We look at choice of law in two areas:

- Contract – for example, what effect would a clause in a contract stating that it is to be governed by New York law have in England?
- Tort – for example, what law would apply if an English tourist were involved in an accident whilst on holiday in Italy?

Since conflict of laws problems can arise in any area of law when there is an international element, this option is a natural complement to all options, particularly in international commercial law. As many of the rules are common to all states in Europe, it also complements options in European law.

Seminar topics:

- Introduction; nature of the subject
- Jurisdiction at common law: bases of jurisdiction
- Jurisdiction at common law: stays of proceedings, anti-suit injunctions
- Jurisdiction under the Brussels I Regulation- part one
- Jurisdiction under the Brussels I Regulation- part two
- Recognition and enforcement of foreign judgments
- Introduction to choice of law: theoretical concepts
- Choice of law in contract: The Rome Convention/ Rome I Regulation – part one
- Choice of law in contract: The Rome Convention/ Rome I Regulation – part two
- Choice of law in tort – the English common law and statutory rules
- Choice of law in tort – the Rome II Regulation