

Ministry of education and science of Ukraine
V. N. Karazin Kharkiv National University
Department of Civil Law disciplines

«APPROVED BY»

Dean of the Faculty of Law

Vitalii SEROHIN



PROGRAM OF CERTIFICATE EXAMINATION

Private international law
for students of the field of study D9

level higher education
branch of knowledge
specialty

bachelor level
DBusiness, Administration and Law
D9

Approved at a meeting of the Department of
Civil Law Disciplines of the Faculty of Law
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Program of certificate examination «Private international law» for students of the field of study D9 International law.

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TERMS

The attestation exam plays an important role in the final stage of formation and assessment of the theoretical training of specialists.

The attestation exam is a comprehensive test of students' knowledge of the professional disciplines provided for in the curriculum. For students of the 4th year of full-time education, it is held in the 8th semester.

The main scientific and methodical document regulating the content of the certification exam is the program. It is aimed at ensuring a comprehensive approach to the assessment of theoretical, methodical and practical training of students, to identifying the degree of their preparation for future independent activities.

The purpose of the program is to determine the scope and required level of theoretical knowledge, acquired practical skills and abilities in profiling disciplines in the field of international law.

In order to successfully pass the comprehensive attestation exam by specialty, a student **must know:**

- characteristic features, the nature of modern private international law and the main trends of its development;
- basic principles of private international law;
- the ratio of international public law and international private law;
- subject composition of participants in international private legal relations;
- main institutions, concepts and categories of private international law;
- basic provisions of the Law of Ukraine «On International Private Law»;
- grounds and limits of application of foreign private law ;
- peculiarities of the legal status of foreign persons and their property in Ukraine;
- basics of legal regulation of international circulation of goods, works, services and results of intellectual activity ;
- peculiarities of regulation of marital and family relations complicated by a foreign element;
- the main provisions of the regulation of labor relations in international private law;
- conflicting issues of inheritance law;
- peculiarities of conflict resolution of jurisdictions and proceedings in cases with a foreign element.
- the main elements of proceedings in international commercial arbitration.

The student should be able to :

- correctly interpret and apply conflicting and material norms of international private law;
- carry out a legal analysis of the actual circumstances that have developed in specific legal relationships;
- work independently with normative sources;
- operate with the achievements of the science of international private law;
- to logically justify and express one's point of view on the issues of private international law;
- apply theoretical knowledge of private international law in further practical legal activities.

EXAMINATION PROGRAM

The certification exam includes test tasks. Tests for the attestation exam consist of tasks from the disciplines: Private International Law.

Private International Law

Topic 1. General characteristics of private international law

Concept, subject and system of private international law. Peculiarities of private relations of an international nature. The concept and forms of a foreign element in relations of a private legal nature. Normative composition of international private law. The method of private international law. The place of private international law in the legal system. The main approaches in legal doctrine to the subject, method, composition of norms and the place of private international law in the legal system. Correlation of private international law with private law and international public law. Principles and functions of international private law.

Topic 2. Sources of international private law

Concepts and signs of sources of private international law. Types of sources of private international law. Legislation on private international law of foreign countries. Codification of international private law. Laws on private international law of individual countries. Judicial and arbitration practice of individual countries as a source of private international law. An international treaty as a source of private international law. Types of international agreements. Multilateral (universal and regional) treaties that contain unified conflict of laws and material norms. Bilateral contracts in international private law. Participation of Ukraine in international treaties on private international law. Custom as a source of private international law. Trade customs. Unification of norms of international private law. International bodies that take part in development and adoption of sources of international private law.

Topic 3. Conflict rules in international private law

Reasons for collisions. Concepts and types of conflict rules. The effect of imperative norms of the legislation of Ukraine, which regulates relations with a foreign element. The concept, structure and types of conflict of laws. The main types of conflict bindings (formulas of attachment): personal law of physical and legal (nationality) persons; the law of the country where the thing is located; the law of the country, which determines the requirements for the form of transactions (contracts); autonomy of the will; the law of the country applicable to the contract in the absence of a choice of law agreement; the law of the country under which the legal relationship is subject settlement, most closely related; the law of the country where the offense was committed; the law of the country determining the statute of limitations; the law of the court's country, etc.

Topic 4. Application of conflict of law norms in international private law

Qualification in international private law. Establishing the content and application of foreign law. The concept of backward reference and reference to the third law. The principle of reciprocity and retort. Circumvention of the law in private international law. Public order clause in private international law.

Topic 5. Subjects of private international law

A natural person as a subject of private international law. A citizen as a subject of international private legal relations. A foreigner as a subject of international private legal relations. The refugee as a subject of international private legal relations. A legal entity as a subject of private international law. Legal regulation of activities of foreign legal entities in Ukraine. Transnational companies as subjects of international private legal relations. Legal status

of offshore companies as subjects of international private legal relations. The state as a subject of private international law. Principles determining the legal regime of foreign investments and the investment policy of states. Legal status of foreign investors in Ukraine. State guarantees.

Topic 6. Property rights in international private law

Conflicting issues of property rights in private international law. Origination and termination of ownership. The law defining the ownership of movable and immovable property. Legal regime of ownership of foreigners and foreign legal entities in Ukraine. Legal regime of ownership of foreign states in Ukraine. Basic principles of international protection of related rights. Subjects of international protection of related rights. Terms of international protection of related rights. Basic principles of international protection of industrial property. Subjects of international protection of industrial property.

The mechanism of industrial property protection in international private law. The importance of the principles of national regime, reciprocity and priority. International legal protection of rights to methods of individualization of participants in civil turnover, goods and services. International trademark registration system. The law defining ownership and other property rights. The law defining property rights to movable property (goods) in transit. The law defining methods of protection of property rights and other property rights. Legal regime of investments of Ukrainian legal entities and citizens abroad. Legislation of Ukraine on the procedure for investing property values abroad by residents of Ukraine. Legal regulation of opening of accounts in foreign banks by residents of Ukraine. Legal regulation of foreign investments in Ukraine. The concept of foreign investments and their types. Sources of legal regulation of foreign investments in Ukraine.

Topic 7. The right of intellectual property in international private law

Concepts and types of intellectual property. Basic principles of international copyright protection. Subjects of international copyright protection. Terms of international copyright protection.

Topic 8. Obligations in international private law

Legal regulation of contractual obligations in international private law. Concept of foreign economic agreement (contract). Elements of a foreign economic agreement. Form of foreign economic agreement. The procedure for concluding international commercial contracts. The concept of types and sources of regulation of international transportation. Conflict of laws and material norms regarding the statute of limitations. Regulation of conditions of supply of goods. Basic terms of supply (INCOTERMS).

Scope of regulation and varieties. Legal regulation of monetary obligations arising from foreign economic agreements. International legal unification of settlement relations in foreign trade. Uniform rules and customs for documented letters of credit. Letter of credit agreement. Letter of credit forms. The concept of non-contractual obligations in international private law. The concept of tortious obligations. Types of conflicts of interest, which are used in the legislation of states and international treaties to determine the statute of non-contractual obligations with a foreign element. The law of the country where the offense was committed; the law of the state that suffered from the offense; court law; the law on the citizenship of the victim and the offender; the law of the place of residence of the defendant. Agreements on legal assistance of Ukraine with other states.

Topic 9. Inheritance relations in international private law

Conflicting issues of inheritance law. The right that is used when determining the procedure for the transfer of property, rights and obligations during inheritance. Legal regulation of inheritance by foreigners in Ukraine. Legal regulation of inheritance by citizens of Ukraine abroad. The role and significance of legal assistance agreements in cases of inheritance abroad:

determination of the law necessary for application; inheritance by the state; dilapidated property; will; jurisdiction over inheritance matters; measures for heritage protection.

Topic 10. Labor relations in international private law

Conflicting issues of labor law. The main types of conflicts of interest: the law of the place of conclusion of the employment contract; workplace law; the law of the place of production activity; the law of the location of the employer; employee citizenship law; the law of the ship's flag; the law of the place of registration of the vehicle. The Code of Labor Laws of Ukraine on the regulation of labor relations of citizens working outside the state. Conditions and procedure for employment of foreigners in Ukraine. Ukrainian legislation on pension provision of citizens of Ukraine who are abroad and foreigners who are in Ukraine.

Topic 11. Marital and family relations in international private law

Collision issues of family legal relations. The main types of conflicts of interest: the law of the place of marriage; law on citizenship of spouses; the law of the country of permanent residence of the child; adoption citizenship law; law of the court. Marriage of Ukrainian citizens with foreigners. Rights and obligations of foreign citizens and stateless persons in marriage and family relations. Marriages between citizens of Ukraine and foreigners in Ukraine. Marriage between a citizen of Ukraine and a foreigner, concluded outside the borders of Ukraine. Contracts of Ukraine on legal assistance in marriage. Procedure and features of divorce between a citizen of Ukraine and a foreign citizen in Ukraine. Legal regulation of personal and property relations between spouses in international private law. Regulation of relations between parents and children in international private law. Legal regulation of adoption in international private law. Legal regulation of custody and care in international private law. Establishment of guardianship and care for citizens of Ukraine living abroad. Establishment of custody and care of foreigners in Ukraine. Recognition of custody and guardianship established outside Ukraine.

Topic 12. International civil process and international commercial arbitration

Concept of international civil process. Determination of jurisdiction of civil cases with a foreign element. The main systems of determining jurisdiction. Concept of contractual jurisdiction. Procedural status of foreign citizens and foreign legal entities in the Ukrainian civil process. The procedural status of a foreign state and its diplomatic missions in Ukraine. Execution of orders of foreign institutions of justice. Legal regulation of execution of foreign court mandates in Ukraine. The Hague Convention on Civil Procedure of 1954. The role of legal aid agreements. Carrying out notarial actions regarding cases with a foreign element. Concept of legalization. Apostille The concept of foreign trade arbitration. Legal position and types of arbitration (arbitration) courts. Institutional foreign trade arbitration and arbitration ad hoc.

UNCITRAL Model Agreement on International Commercial Arbitration. Arbitration Rules of the UN European Economic Commission. Regulations of the International Commercial Arbitration Court at the Chamber of Commerce and Industry of Ukraine. Regulations of the Maritime Arbitration Commission at the Chamber of Commerce and Industry of Ukraine. The meaning and content of the arbitration clause. Recognition and enforcement of foreign arbitration awards. Agreement on the procedure for resolving disputes related to the implementation of economic activity.

QUESTIONS FOR THE CERTIFICATE EXAMINATION

«Private International Law»

1. The concept and history of PIL.
2. The problem of determining the subject of private international law.
3. The place of PIL in the national legal system. Relationship with other branches of national law.
4. Participation of a «foreign element» in private law relations.
5. Legal methods of influencing relations with a foreign element.
6. General characteristics of sources of private international law.
7. International treaty in the system of sources of private international law.
8. Ukraine's participation in multilateral and bilateral and bilateral agreements in the field of PIL.
9. Domestic law in the system of sources of private international law. Legislation of Ukraine in the field of private international law.
10. The importance of codification of domestic law in the field of PIL, its types.
11. General characteristics of the Law of Ukraine «On Private International Law».
12. The question of the duality of sources of private international law. The ratio of international treaty and domestic law.
13. Legal custom in the system of sources of private international law.
14. Judicial and arbitration practice in PIL. Judicial precedent as a source of PIL.
15. The role of doctrine in the system of sources of private international law.
16. Lex mercatoria, its place in the modern PIL.
17. The concept and importance of unification and harmonization of private international law. International centers of unification in the field of private international law.
18. The concept, function and structure of the conflict rule.
19. Classification of conflict rules, basic classification criteria.
20. Types of collision bindings (attachment formulas) and their scope.
21. The effect of conflict rules in time. Interlocal conflicts in private international law.
22. «Flexible» attachment formulas, their role in modern PIL.
23. The principle of «closest connection» in private international law, its importance in conflict regulation.
24. Autonomy of will: scope, difference from conflict rule.
25. Interpretation and application of conflict rules. Establishing the content of foreign law.
26. Legal qualification in PIL. Hidden collisions in PIL (qualification conflict).
27. Return and reference to the law of a third state.
28. Bypassing the law and its legal consequences.
29. Reservations on public order: concepts, types.
30. The concept of imperative norms. Imperative norms of a foreign state in the field of PIL.
31. Reciprocity: concepts, types. Retaliation in private international law.
32. General characteristics of the subjects of private international law.
33. Personal law of an individual: the concept, content and scope of its action.
34. Conflict rules of legal capacity of foreigners.
35. Peculiarities of the legal status of stateless persons, refugees and persons in need of temporary or additional protection.
36. Peculiarities of recognizing a foreigner with limited legal capacity and incapacity.
37. Conflicting issues of absence and declaration of death in private international law.
38. The concept of personal law of a legal entity.
39. The concept of «nationality» of a legal entity in private international law and the doctrine of its definition.
40. Foreign legal entities in Ukraine, their admission to economic activity in

Ukraine. Legal regimes for foreign legal entities in Ukraine, the grounds for their establishment.

41. Forms of participation of foreign legal entities in economic activity in Ukraine. Representative offices and branches of foreign legal entities in Ukraine.

42. Transnational corporations and their types.

43. Features of the creation and operation of offshore companies.

44. International legal entities, their legal status.

45. Participation of the state in private law relations with a foreign element.

46. State immunity in PIL. Types of state immunity, their content.

47. Basic doctrines regarding state immunity in PIL.

48. International treaties on the immunity of states.

49. Ways of expressing the state's consent not to apply the rules of immunity to it.

50. Norms on the immunity of a foreign state in the legislation of Ukraine.

51. Classification of things in civil law and PIL.

52. The main conflict rules of property rights and other property rights in modern PIL.

53. Conflicting aspects of the emergence and termination of ownership of property located in on the road.

54. The concept, classification of foreign investment and forms of investment activity. Legal regimes of foreign investment.

55. Features of international legal regulation of investment relations.

56. Legal regime of property of foreign states, international organizations, foreign individuals and legal entities in Ukraine.

57. Legal regime of property of the state of Ukraine, citizens of Ukraine and Ukrainian legal entities abroad.

58. The concept of intellectual property and its features in PIL.

59. Legal regulation of copyright protection in PIL. Major international agreements in the field of copyright protection.

60. The concept and protection of related rights in PIL. Major international treaties in the field of protection of related rights.

61. The concept and features of industrial property in PIL. International at -legal protection of industrial property. The concept of conventional priority.

62. World Intellectual Property Organization, its functions.

63. Protection of intellectual property rights within the WTO.

64. General characteristics of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.

65. Transactions with a foreign element: concepts and types. Scope of the law applicable to the transaction.

66. Conflicting issues of contract law (basic attachment formulas). Conflict bindings applied to contractual obligations with a «foreign element».

67. The concept and form of foreign trade agreement, the procedure for its conclusion.

68. Legal regulation of international purchase and sale of goods. UN Convention on Contracts for the International Sale of Goods of April 11, 1980 (Vienna Convention): general characteristics and scope.

69. International rules of Incoterms, their scope.

70. Features of consumer protection under the contract of consumption.

71. Representation, power of attorney and statute of limitations in private international law.

72. International transport organizations and their role in the unification of international legislation transportation.

73. The concept, types and features of international transport.

74. International maritime transport: concepts and types. Conflict of laws in the field of merchant shipping and unification of maritime law.

75. International rail transport. Agreement on International Rail Transport (COTIF) 1980

76. International road transport. Convention on Contracts for the International Carriage of

Goods by Road, 1956

77. Simplification of customs procedures and creation of guarantees regarding possible damage caused by international road transport.

78. International air transportation. Montreal Convention for the Unification of Certain Rules for International Carriage by Air of 28.05.1999

79. International river transport. Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways of 22 June 2001

80. International mixed transport. UN Convention on the International Carriage of Goods by Means of May 24, 1980

81. The concept and content of non-contractual obligations complicated by a "foreign element" and conflicting approaches to their regulation.

82. Conflicting issues of tortious obligations.

83. Labor relations with a foreign element and the sources of their legal regulation.

84. International legal regulation of labor rights. Normative activity of the International Organization of Editing.

85. Labor rights of migrants and foreigners in Ukraine.

86. Features of the regulation of labor relations of foreigners and stateless persons working in Ukraine. Employment of foreigners in Ukraine.

87. Labor relations of citizens of Ukraine working abroad.

88. Social security in private international law.

89. Conflict rules in the field of marital and family relations with the participation of a foreign element; their conflict regulation.

90. The law applicable to marriage. The concept of consular marriages. Recognition of marriages contracted abroad.

91. Conflict regulation of the legal consequences of marriage.

92. Conflict regulation of property and personal non-property relations of spouses. Marriage contract.

93. Conflict regulation of divorce and annulment.

94. Conflict regulation of relations between parents and children. Establishment and appeal of paternity.

95. Conflicting issues of adoption. Adoption of children of Ukrainian citizens by foreigners.

96. Guardianship and custody: general requirements and conflict of interest.

97. Rights and responsibilities of parents and children. Maintenance obligations in private international law.

98. Conflicts of legislation in the field of inheritance.

99. Conflicting issues of inheritance by law and will in the PIL.

100. The issue of inheritance in legal aid agreements.

101. Conflicting aspects of inheritance of movable and immovable property.

102. Protection of hereditary rights of Ukrainian citizens abroad.

103. The transfer of inheritance to the state in private international law

104. The concept of international civil proceedings. Sources of legal regulation of civil procedural relations with a foreign element.

105. Procedural legal capacity and legal capacity of foreign persons.

106. Procedural position of the state. Judicial immunity.

107. The concept, types and methods of determining international jurisdiction. The concept of conflict of jurisdictions.

108. Rules and grounds for determining the jurisdiction of cases with a foreign element in the courts of Ukraine. Exclusive jurisdiction.

109. Prorogation and derogation agreements.

110. International legal assistance and its types. Execution of court orders.

111. Legalization of documents. Apostille affixing.

- 112. Functions of the consul in the exercise of notarial functions. Consular legalization.
- 113. Recognition and enforcement of foreign court decisions. Systems of execution of decisions of foreign courts.
- 114. The concept and legal nature of international commercial arbitration.
- 115. Permanent arbitral tribunals. Dispute settlement in ad hoc arbitration.
- 116. International treaty unification of commercial arbitration. International centers of commercial arbitration
- 117. International regulations, UNCITRAL Model Law on International Commercial Arbitration.
- 118. Arbitration agreement: legal nature and types.
- 119. Arbitration award. Execution of foreign arbitration awards. New York Convention (1958) on the Recognition and Enforcement of Foreign Arbitral Awards.
- 120. Grounds for refusal to recognize and enforce foreign arbitral awards.

LIST OF RECOMMENDED LITERATURE

1. Beloglavek O. International contract law. O. Beloglavek . K, Takson, 2000. 270 p.
2. Boyarska, Z.I.. International commercial law: educational and methodological guide for independent study of the discipline. Z. I. Boyarska; Ministry of Education and Science of Ukraine, KNEU. K, KNEU, 2006. 196 p.
3. Vasylychenko V.V. Scientific and practical commentary on the Law of Ukraine «On International Private Law». K . Istyna, 2007. 200 p.
4. Vyshnovetska S. V., Korneev Y. V. Private International Law: S. V. Vyshnovetska, Y. V. Korneev. K. Center for educational literature, 2019. 164 p.
5. Dakhno I. I. International private law: teaching . manual. K. MAUP, 2001. 312 p.
6. Dmitriev A. I. International public law: teaching. manual. A. I. Dmitriev, V. I. Muravyov; resp. ed. Yu. S. Shemshuchenko , L. V. Gubernskiy. K.: Yurinkom Inter, 2000. 640 p.
7. Kylymnyk I. I. International private law: education . manual. I. I. Kylymnyk, A. M. Brovdiy ; Kharkiv. Kharkiv, 2018. 111 p.
8. V. Kysil. International legal unification in the regulation of the main issues of international commercial arbitration / V. Kysil, M. Prykhodko. Coll decisions and arbitration practices of the Higher arbitration court of Ukraine. 1995. No. 2. P. 218–225.
9. International private law. General part: textbook / edited by A.S. Dovgert and V. I. Kisil. K. Alerta , 2012. 376 p.
10. International private law: textbook / edited by A. S. Dovgert and V. I. Kisil. 2nd edition. K. Alerta , 2014. 656 p.
11. Fedyniak H.S. Fedyniak L.S. International private law: a textbook. K.: Alerta , 2017. 504p.
12. Yuldashev O. Kh. International private law: theoretical and applied aspects. K.: MAUP, 2004. 576 p.
13. Chubarev V. L. International Private . right : teach manual. K.: Atika , 2006. 608 p.