

Real Estate Transactions
LLM Program – academic year 2025-26

Syllabus

1. Introduction to Property Law in Europe

- Common principles and functions
- Numerus clausus vs numerus apertus (Typenzwang)
- Standardization: categories and types of in rem rights
- EU directives and Member States regulations
- Lex rei sitae and conflict of laws (Rome I): examples

2. Theory and Methods in Modern Property Law

- Economic and Empirical Analysis (Henry Smith; Yun-chien Chang)
- Liberal Theory (Hanoch Dagan)
- Civic Ownership (Greg Alexander; Joe Singer)
- Social obligations in property law (Bram Akkermans)
- Functional Comparative Method (Christine Godt; Sjef van Erp)

3. Constitutional Protection of Property Rights

- Scope of constitutional property clauses
- Takings and regulations: the compensation issue
- The right to a home: making housing affordable
- Lease reforms: penalizing empty dwellings; rent controls and large tenants

4. Digital Property

- Crypto assets and digital goods as a new type of property
- Current developments: Countries amending civil codes and statutes
- Key issues: acquisition forms; transferring control; guarantees on cryptocurrencies; digital assets and insolvency; electronic wills.

5. Sustainable Property Law

- Sustainability and circular economy
- Energy transition for buildings: regulating towards net zero
- Retrofitting residential property: real estate developers, condominium associations, green loans, banks and debt's liability
- Contracts and in rem rights regarding natural resources
- Nuisances: claims for injunctions and damages

6. Resilient Property Rights

- Acquiring title through long-term possession
- Easements: holding rights on other people's land
- Usufruct: from using landed property to money deposits and portfolio investments
- Emphyteusis: new function as policy instrument for housing
- Antichresis: reasons for a revival of an old security interest

7. Security Rights over Movable Assets

- Securities for businesses: possessory and non-possessory secured transactions
- Retention or mechanic's lien
- Pledge: non-shifting pledge and floating pledge
- Financial Collateral Directive
- Other instruments available: Reserva de dominio (Eigentumsvorbehalt)

8. Security Rights over Immovable Assets

- Securities for loans granted to corporations, businessmen and consumers
- Mortgage Law: Differences between hypothec, mortgage and Grundschuld.
- The 2014/17/EU directive and the 2019 LCCI Act: legal requirements for credit contracts on residential property
- Key court rulings in consumer protection law (ECJ and TS)
- Other instruments available: Sale and lease back (SLB); Leasing (financial lease)

9. Security through Land Registration in Europe

- Legal certainty of recorded titles
- Types of land registries in Europe and the differences among them
- The Land Registry in Spain
- Principles and requirements for recording property rights
- Current projects for cooperation of land registries within the EU (Eulis, Imola)

Seminars

A few topics for in-class discussions and debates on legal reforms :

1. Trusts: land assets without an actual "owner".
2. The opt-in "eurohypothec" model (EU proposal)
3. Timesharing and "fractal ownership"
4. Partition of assets subject to tenancy in common
5. Data ownership: who "owns" the valuable trail we leave when we let ourselves be seen and tracked by electronic devices
6. Security by blockchain instead of electronic land registries: pros and cons
7. Granting legal personality and rights to singular natural resources
8. Animals as sentient beings and their "best interest" in court proceedings
9. Street art: ownership claims on mural artworks and the artists' public discourse

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