

COMPETITIVE PROJECTS

Patrimonial Law Group

Decision-making in complex States



**PRINCIPAL
INVESTIGATOR:**



Elia
Marzal

PERIOD:

September 2021 – August 2022

FUNDING BODY:

Embajada Francesa

SUMMARY:

The grant is to co-fund the celebration of joint conference in Barcelona, examining and comparing the French and Spanish adaptations to the plural configuration of the State. The Spanish Constitution, on the one hand, is configured based on the recognition of the diversity of the Spanish nation and consequently adapts the decision-making procedures in a decentralized State, but without resolving the contradictions that such recognition raises. The French Constitution, on the other hand, configures a unitary State without political decentralization, but it has national minorities in the metropolitan territory that demand the recognition of full legislative powers, as well as overseas territories that introduce a very important element of diversity. The objective of the conference is to achieve a joint publication in a monographic issue of a specialized magazine in France or Spain.

Freedom, Equality and Fraternity? Cracks in democracies in the era of political and social fragmentation



SUMMARY:

This project aims to address the type of situations in which equality (a necessary condition of freedom) fails, whereby the corrective action of the State must enter (according to the idea of fraternity), so that the system can continue to guarantee not only freedom, but also its legitimacy – something that is especially problematic and for which legal systems struggle to find an answer.

This occurs - in the public sphere - in the case of decentralized states with structural minorities, whose will can be diluted by majority rule. The project will analyse the need to adapt this rule to guarantee the survival of minorities, as well as the need to adapt the rule within the territory of the minority group. It will also analyse whether the electoral system is an aseptic instrument, or is at the service of the ruling classes to condition final results in line with their interests.

The new forms of political participation which encourage direct participation to the detriment of representative participation will also be studied to determine to what extent these forms of participation can replace the classic structure of representative democracy. Finally, in the private sphere, the project will analyze whether contractual law (national and international) respects the principle of freedom, while especially vulnerable groups may see their negotiating position compromised in the face of a more “powerful” counterpart.

PRINCIPAL INVESTIGATOR:



Elia
Marzal

PERIOD:

May 2021 – April 2022

FUNDING BODY:

Aristos Campus Mundus

REFERENCE:

ACM2021_21

COORDINATING INSTITUTION:

Esade

EPIL



Co-funded by the
Erasmus+ Programme
of the European Union

European Private Law

**PRINCIPAL
INVESTIGATOR:**



Beatriz
Añoveros

PERIOD:

September 2019 – August 2022

FUNDING BODY:

European Union – Erasmus Plus Programme

REFERENCE:

611995-EPP-1-2019-1-ES-EPPJMO-MODULE

RESEARCH TEAM:

Antonio Delgado, Verona Tio

SUMMARY:

This Jean Monnet Module dedicated to European Private International Law will connect ESADE scholars with such important European Union issues as protecting consumers who buy goods or obtain services from companies in other Member States (passive and active consumers), tortious conduct resulting in damage (e.g. traffic accidents) involving cross-border elements; marriage and divorce between nationals or residents from different Member States, parental responsibilities such as custody and visit rights when there is foreign element, legal kidnapping, etc. It will promote academic activities in seminars and debates, and draw on legal professionals (lawyers, notaries and judges), business persons, entrepreneurs and third sector representatives.

Classes will use a “law in context” methodology, highlighting the economic, political and social contexts, to better understand institutions and norms, whilst also studying the impact of legal developments on economic, political and social elements. The new module will complement existing courses on EU efforts to become a global actor and governance issues at EU and global level.

Grupo Derecho Patrimonial



**PRINCIPAL
INVESTIGATOR:**



Sergio Llebaria
Samper

PERIOD:

January 2017 – September 2021

FUNDING BODY:

AGAUR

REFERENCE:

2017 SGR 580

RESEARCH TEAM:

Beatriz Añoveros Terradas, Rebeca Carpi Martín,
Elia Marzal Yetano, Diana Ferrer Vidal, Patricia
Font Gorgorio, Jorge Castiñeira Jerez, Ignacio
Farrando Miguel (UPF), Joaquim Castañer Codina
(UPF), Maria Corona Quesada González (UB)

SUMMARY:

The aim of these grants from the Catalan Government is to promote the activities of research groups that allow to strengthen the scientific, economic and social impact of research, as well as promote its international projection.

Limiting the limits on contractual party autonomy



PRINCIPAL INVESTIGATOR:



Beatriz
Añoveros

PERIOD:

January 2016 – December 2017

FUNDING BODY:

ACM

REFERENCE:

ACM2016_17

SUMMARY:

The freedom of the parties in contract law is a general principle recognized by almost all legal systems. During the last decades, this principle seems to be gaining so much strength as to destabilize another principle equally important – that is, the public protection of rights, being the State responsible, through the courts, for their guarantee. Only through a comparative analysis (international and national) it will be possible to assess the impact of this phenomenon. First, an intertemporal comparison will be conducted, in which the analysis of the Medieval rule of self-protection of rights expresses the lack of a strong political organization: the public absorption of the protection of the rights constitutes the transition towards Modernity, thus evidencing the current return to a stage of weak public powers by the private renunciation to fundamental rights. Second, an interterritorial comparison, being so strong in the US the possibilities for limiting public interference in private autonomy as to clash with one of the pillars of the American constitutional system such as due process.

EULaw



European Union Law in a new economic context

PRINCIPAL INVESTIGATOR:



Jose Maria de
Areilza Carvajal

PERIOD:

September 2019 – August 2022

FUNDING BODY:

EU LLL-Jean Monnet-Erasmus+

REFERENCE:

GA-2013-3032/001-001 (Project number:
542596-LLP-1-2013-1-ES-AJM-CH)

SUMMARY:

This three-year project established Prof. de Areilza as Jean Monnet Chair, and the teaching of EU Law and EU related subjects increased in the school and the awareness of European topics has been raised among faculty and students. Research and publications have also been positively affected, especially in the area of social debate on EU topics the Chair has had a very positive effect, both in the Esade Barcelona and the Madrid campuses.

The teaching team of the Jean Monnet Chair has been able to expand and innovate the European law courses offered by Esade. Research in European law has grown as well. The publication of the book “Law and Power in the European Union” in 2014 by Professor José M. de Areilza, received a lot of visibility in academia and in the general media. This had a positive result to place Esade Law School as an institution that creates knowledge and fosters critical thinking about European integration.

