Civil Procedure Law

Academic Year: (2019 / 2020) **Review date: 22-04-2020**

Department assigned to the subject: Criminal Law, Procedural Law and History Law Department

Coordinating teacher: CARRETERO MORALES, EMILIANO

Type: Compulsory ECTS Credits : 6.0

Year : 4 Semester : 2

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

THE SPANISH LEGAL SYSTEM

OBJECTIVES

To pass this subject it is necessary that at the end of the semester:

1. You know and understand:
- The various sources of Civil Procedure Law.
- The current situation of civil process and its future: current reforms.
- The principles underlying civil procedure.
- The different types of declarative and special processes that exist in Spain, being able to differentiate between declarative protection, executive protection and the interim one.
- Know the procedural requirements for parts in a civil process and the effects related to them that arise during the development of the process, as well as the subject of the process with the accumulation of claims and processes.
- Know which the preliminary and other pre-trial proceedings are.
- Distinguish between the different phases: pleadings, probation and decision-making phases of the two main declarative processes: oral and regular trial.
- Learn thoroughly the conduct of the oral trial and the ordinary trial.
- Understand the types of evidence that can be used in civil proceedings, as well as the time and form of your application and problems that arise in practice.
- Distinguish and know the means of challenge recognized by the Law: motions for reconsideration, appeal and extraordinary means for review of a procedural violation, and direct appeal.
- Differentiate the means for review from the clarifications and rectifications of resolutions that the Law covers, and other means of challenge such as the hearing of who was judged in absentia or the review of final judgments.
- Understand the development of the enforcement process: both forced and provisional.
- Know what the precautionary measures are, as well as requirements and procedure for their adoption.

2. From a practical point of view, to be able to:
- Prepare a lawsuit and question whether prior actions are necessary or appropriate.
- Choose the appropriate and / or desirable procedure.
- Determine before what court you must submit your lawsuit or the answer to a lawsuit.
- Decide if you need interim protection measures to ensure the judgment, and know how to ask for these measures and oppose those asked by the other party.
- Understand the structure of the various briefs and documents that are produced in a process, distinguishing between the writings of the parties and those of the judiciary.
- Prepare various written pleadings: challenging of court competence, claims and answers to claims with the corresponding counterclaim, if applicable.
- Choose between the various means of proof that are allowed by the legal order and know when to propose them and how to develop them.
- Prepare various briefs of preparation and lodging of the appeal, as well as know how to oppose and / or challenge those formulated by the other party.
- Knowledge of forensic practice: how to act and speak in court or as part of a court directing it or write a report.

DESCRIPTION OF CONTENTS: PROGRAMME

The content is organized into 18 lessons, structured in four parts: 1) Civil process, 2) Competence and parties to the process, 3) The declarative process with its various phases - pleadings, intermediate phase, probation, and completion or judgment, as well as means for review -, 4) Enforcement and precautionary measures

Lesson 1 CIVIL PROCEEDINGS
Lesson 2 COMPETENCE
Lesson 3 PARTS TO THE PROCESS AND MULTI-PARTY LITIGATION AND SUBSTITUTION
Lesson 4 ACTS PRIOR TO THE PROCESS AND THE LAWSUIT
Lesson 5 HEARING IN ABSENTIA AND LACK OF RESPONSE TO THE LAWSUIT. RESPONSE TO LAWSUIT.
Lesson 6 PRE-HEARING
Lesson 7 THE PROOF. EVALUATION, BURDEN OF PROOF AND PROBATION PROCEDURE
Lesson 8 THE EXAMINATION OF THE PARTIES AND THE EXAMINATION OF WITNESSES
Lesson 9 PROOF BY DOCUMENTS
Lesson 10 THE OPINION OF EXPERTS
Lesson 11 JUDICIAL RECOGNITION AND OTHER MEANS OF PROOF
Lesson 12 ACTS OF COMPLETION. THE SUMMONS FOR FINAL JUDGMENT AND PROCEEDINGS. JUDGMENT AND RES JUDICATA.
Lesson 13 THE PROCEDURAL CRISIS
Lesson 14 REVIEW MEANS. THE APPEAL OF REPLACEMENT AND THE APPEAL
Lesson 15 EXCEPTIONAL REVIEW MEANS FOR PROCEDURAL VIOLATION AND DIRECT APPEAL Lesson 16 REVIEW AND HEARING OF WHO WAS JUDGED IN ABSENTIA
Lesson 17 ENFORCEMENT AND ENFORCEMENT PROCEDURES. PROVISIONAL ENFORCEMENT.
Lesson 18 PRECAUTIONARY MEASURES

LEARNING ACTIVITIES AND METHODOLOGY

The subject "Civil Procedural Law" includes a four-week four-month period with three hours of classroom lessons per week, divided into a 1.5-hour master class and a complementary practical class of 1.5 hours. This general scheme may, however, suffer some variation in attention to the dynamics and development of the sessions. The master classes will be taught in large groups and complementary practical classes in small groups.
A. Master classes
The master classes will be taught in large groups and will be dedicated to the presentation of the fundamental concepts of the program. It will also try to mark the thread of the different contents of the course and give an overview of the subject. Notwithstanding the foregoing, the complementary practical classes will influence the essential or most difficult points, either through collective work (groups of 3-7 people), or through individual practices.
B. Complementary practices-activities
The complementary practical classes will be taught in small groups and their content will be as heterogeneous as possible, adapting to the particularities of the specific subject in which it is intended to deepen.
Among the different activities planned in principle (without prejudice to the changes, inclusions or exclusions that derive from the dynamics of the course) the following are planned:
- Exercises for applying positive law to real assumptions
- Preparation and presentation of certain topics
- Assistance to real judgments (optional)
- Discussion and debate on controversial issues
- Viewing recordings of different legal proceedings
- Preparation and development of a judicial process by students from the beginning of the process until its conclusion in the first instance

The tutoring regime will be comprised of a collective tutoring for each small group and the individual tutorials requested by the students and the teacher considers pertinent.

ASSESSMENT SYSTEM

50% of the value of continuous assessment is distributed as follows:

2 Presentation and evaluation of case studies
1.5 Group presentations and evaluation of the subjects of those presentations by test (0.75 + 0,75 test presentations)
1.5 Regular assessments by the target system (test) or short questions

Regarding the exam, it represents 50% of the final grade, but in order to be evaluated, and therefore added to the note of continuous evaluation, the student must obtain a minimum of 2 points out of the total of 5 points.

If the continuous evaluation system has not been followed, the student will only be able to opt for a maximum of 60% of the final exam grade in the ordinary examination session.

Extraordinay Summon:
- If the student followed the continous assessment process, the exam will have the same percentage value in the ordinary call and the final grade for the course will consider the note of the continous assessment and the grade obtained in the final.

- If the student did not follow the process of continous assessment, shall be entitled to carry out an extraordinary examination in a value of 100% of the total grade for the course.

- Although the student had followed the continous assessment process, shall be entitled to obtein the best mark when the grade obtained on the final exam is better than the others.

% end-of-term-examination:	50
% of continuous assessment (assigments, laboratory, practicals…):	50

BASIC BIBLIOGRAPHY

- MORENO CATENA Y CORTÉS DOMÍNGUEZ DERECHO PROCESAL CIVIL. PARTE GENERAL, 10ª EDICIÓN, TIRANT LO BLANCH, VALENCIA, 2019

ADDITIONAL BIBLIOGRAPHY

- ARNÁIZ SERRANO, A. Y LÓPEZ JIMÉNEZ, R. (DIRS.) ESQUEMAS DE DERECHO PROCESAL CIVIL, TIRANT LO BLANCH, 2018
- ASENCIO MELLADO, J.M. DERECHO PROCESAL CIVIL. PARTE PRIMERA, TIRANT LO BLNACH, 2015
- BARONA, ESCRIBANO, MORENO y otros EL PROCESO CIVIL, VIII VOLS., VALENCIA.
- CORTÉS y MORENO CATENA NUEVA LEY DE ENJUICIAMIENTO CIVIL, (V VOLS.), MADRID.
- DE LA OLIVA SANTOS, A., DÍEZ-PICAZO GIMÉNEZ, I. DERECHO PROCESAL CIVIL. EL PROCESO DE DECLARACIÓN, EDITORIAL UNIVERSITARIA RAMÓN ARECES , 2004
- MONTERO AROCA, J., GÓMEZ COLOMER, J.L., BARONA VILAR, S. DERECHO JURISDICCIONAL II. PROCESO CIVIL, 26ª EDICIÓN, TIRANT LO BLANCH, 2018