

The spanish legal system

Academic Year: (2019 / 2020)

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

Coordinating teacher: FIODOROVA , ANNA

Type: Compulsory ECTS Credits : 3.0

Year : 2 Semester : 2

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

The subject of "Spanish Judicial System" is the first contact that the student of the Dual Bachelor in Law and Business Administration has with the area of the Procedural & Litigation Law. Therefore no prior course is necessary.

OBJECTIVES

COMPETENCES OF STUDENTS:

BASIC:

- To know how to apply professionally the knowledge to their work or vocation, to have competences that usually are shown by the development and defence of arguments and resolution of problems within their area of studies.
- To develop learning skills with high level of autonomy that necessary for further studies.

GENERAL:

- To know how to express themselves orally and in written on specific matters.
- To have skills for collective discussion.
- To know and to integrate the principles and values of the culture of the peace and the democratic political systems.
- To be conscious about the recognition and defence of fundamental rights.

SPECIFIC:

- To know stages, process and principles of different jurisdictional orders.

RESULTS OF LEARNING:

- Ability to apply the obtained knowledge through arguments and procedures developed and backed up by themselves; comprehension of their knowledge and capacities to resolve problems in complex and specialized labour or professional environments that require creative and innovative ideas.
- Ability to communicate clearly and precisely with all types of audience (specialized or no) their knowledge, methodologies, ideas, problems and resolutions in the area of their studies.

DESCRIPTION OF CONTENTS: PROGRAMME

MODULE I: THE JURISDICTION

Lesson 1: Jurisdiction

1. Legal disputes and ways of their resolutions. 2. Judicial power and functions.

Lesson 2: Judicial Power

1. Principle of functioning: unity, exclusivity, independence and self-government. 2. Jurisdictional orders and entities. Extension and limits of jurisdiction. Courts by jurisdictional orders.

MODULE II: LEGAL PROMOTERS

Lesson 3: Judges, senior judges and prosecutors

1. Constitutional guarantees. A. Concept. B. The independence. C. The tenure of the office. D. The responsibility. E. The submission to the law. F. Statute. 2. Prosecutor's Office. A. Concept and nature. B. Functions. C. Principles of organisation and functioning.

Lesson 4: Promoters of Justice

1. Judicial office. A. Judicial Clerks. B. Structure of the Judicial Office. C. Judicial Police and other institutions at services of the Justice Administration. 2. Lawyers and legal representatives. A. Nomination. B. Access to the career. 3. Other promoters.

MODULE III: JUDICIAL PROCESS

Lesson 5: Judicial process

1. Concept and basic structure of the process. A. The initiating on a request of a party. B. Acts of the process: concept and types. C. The need of the system of appeal. 2. Principles of the process and procedures. 3. Classes of process.

Lesson 6: Fundamental Rights and Process

1. Right to effective judicial protection. A. Action. Action and Jurisdiction. B. From action to the right to effective judicial protection. C. The core elements of the concept of effective judicial protection. 2. The right to a trial with full guarantees: A. In the criminal process. B. In other jurisdictional orders. 3. Free legal aid.

LEARNING ACTIVITIES AND METHODOLOGY

A. LECTURES

The lectures will be given in large groups and will be devoted to the exposition of the fundamental concepts of the programme. Lectures will also be used to provide with the guiding thread and overall overview of the programme. Without the prejudice to that, practical classes (through collective or individual tasks) will reinforce and complement essential issues studied during lectures.

B. PRACTICE

The practical classes will be held up in small groups and their contents will be as heterogeneous as possible, adapting to the particularities of the subject matter.

Among the various scheduled activities (without the prejudice to the possible modifications depending on the development of the course) the following ones are foreseen:

- Exercises of the application of the positive law to real situations.
- Analysis and review of case-law.
- Preparation and presentation of certain topics.
- Opinions about recent news.
- Discussion and debate on controversial legal issues.
- Watching of recordings of different trials.
- Complementary activity - a visit to a court or an institution (Justice, Supreme Court, Constitutional Court, CGPJ, Office, etc...)

INDIVIDUAL AND GROUP TUTORIALS:

Each teacher will establish a weekly schedule for individual tutoring. The student can attend the tutorials for any questions, problems or issues that require the attention of a teacher of the subject.

On the other hand, the teacher can establish during the semester up to 2 complementary collective tutorials that in any case are voluntary. The purpose of these tutorials will be the orientation of the student, the review or clarification of specific questions on the agenda of the subject, guide for the exam, etc. These tutorials can be carried out by other teacher than one that gives the classes to the group to which a student belongs. The tutorials can be under the responsible of: teachers of the groups, assistants or fellows of the Department. The sessions will be set depending on the needs at the time of the semester considered as most suitable.

STUDENT'S INDIVIDUAL OR GROUP WORK

For the subject of 3 ECTS a student has to dedicate 46 hours of work.

ASSESSMENT SYSTEM

| | |
|---|----|
| % end-of-term-examination/test: | 50 |
| % of continuous assessment (assignments, laboratory, practicals...): | 50 |

1. ORDINARY CALL

The grade obtained by the student during the continuous assessment process might represent between

| | |
|---|----|
| % end-of-term-examination/test: | 50 |
| % of continuous assessment (assignments, laboratory, practicals...): | 50 |

50% and 100% of the final grade. The continuous assessment can reach up to 10 points (100% of the final grade) obtained according to the scale below:

- Active participation and interest classes and activities: 0,5 points (5%)
- Practice(s): 1,5 points (15%)
- 2 oral or written exams: 8 points (80%), each exam 4 points (40%).

In order to obtain 100% of the grade through the continuous evaluation, each exam has to be passed with at least 6 point from 10 (2,4 from 4)

The minimum grade to pass the subject is 5 out of 10 points.

If the student does not reach this minimum grade or want a higher one, he/she can take the final exam that the University sets in the official calendar depending on the semester of the course.

This final exam will be worth 5 points which will be added to the continuous assessment mark recalculated on 5 points instead of 10 points.

At the beginning of the course the professor can establish that the continuous assessment will represent 50% of the final evaluation and the following 50% will be represented by the grade of the final exam.

This exam has 5 questions. In either case, the questions will have a maximum space for each answer.

Students who have not made continuous assessment process can also make this final exam, but with a maximum value of 60% of the total grade for the course (6 points).

2. EXTRAORDINARY CALL

Students who have failed the course of the Spanish Judicial System in the ordinary semester, have a new opportunity in the extraordinary call. The evaluation of the students in this extraordinary call will follow the following rules:

- a. If the student followed the continuous assessment process, this extraordinary exam will have the same percentage value as in the ordinary call, i.e. 50%. To which the grade of the continuous assessment over a maximum of 5 points will be added.
- b. If the student has not followed the process of continuous assessment, he /she is entitled to make this extraordinary exam with a value of 100% of the total grade for the course.
- c. Although the student has followed the continuous assessment process, he / she is entitled to be marked also according to paragraph b) if the grade is more favorable.

The exam of the extraordinary call will comprise 10 short questions about the whole program of the course, and each question has assigned a maximum space for your answer.

BASIC BIBLIOGRAPHY

- 1. MORENO CATENA, V.; CORTÉS DOMÍNGUEZ, V. Introducción al Derecho procesal, 9ª ed., Tirant lo Blanch, Valencia, 2017
- 2. MORENO CATENA, V. (Director). LÓPEZ JIMÉNEZ, R. (Coordinadora) Esquemas de Derecho procesal. Tomo. I: Esquemas de organización judicial: tribunales nacionales y supranacionales, 5ª ed. , Tirant lo Blanch, Valencia, 2018
- 3. MONTERO AROCA, J. GOMEZ COLOMER, J.L. BARONA VILLAR, S. Derecho jurisdiccional I. Parte general, 25ª ed., Tirant lo Blanch, Valencia, 2017
- 4. DAMIAN MORENO, J. Introducción al Sistema Judicial Español, 3ª ed., Dykinson, 2013
- 5. MORENO CATENA, V. (Director), AA.VV. Manual de organización judicial, 4ª ed., Tirant lo Blanch, Valencia, 2010

ADDITIONAL BIBLIOGRAPHY

- ASECIO MELLADO, J. M. Introducción al Derecho procesal, 6ª ed., Tirant lo Blanch, Valencia, 2015
- DE LA OLIVA SANTOS, A.; Díez-PICAZO, I.; VEGAS TORRES, J. Derecho procesal: introducción, 3ª ed., Ramón Areces, Madrid, 2004

- RAMOS MENDÉZ, F. El sistema procesal español, 10ª ed., Atelier, Barcelona, 2016
- VALENCIA MIRÓN, A. J. Introducción al Derecho procesal, 12ª ed. , Comares, Granada, 2008