

Academic Year: (2020 / 2021)

Review date: 07-07-2020

Department assigned to the subject: International Law, Ecclesiastical Law and Philosophy of Law Department

Coordinating teacher: PEREZ DE LA FUENTE, OSCAR

Type: Compulsory ECTS Credits : 1.0

Year : 1 Semester : 1

OBJECTIVES

Know and understand:

- The characteristics of the legal method and its philosophical implications and for judicial function.
- The characteristics and specificities of legal science, in relation to scientific paradigms
- Understand the debate on Law as a science or a technique

Be capable of:

- Identifying and analyzing different arguments of different theories
- Making arguments in favour and against of one vision
- Analyzing critically any point of view of the different iusphilosophical controversies
- Applying different theories and arguments to practical cases, based generally in sentences

DESCRIPTION OF CONTENTS: PROGRAMME

1.- LEGAL METHOD CHARACTERISTICS

- 1.1.- Logic and Law. Internal and external justification
- 1.2.- Legal formalism
- 1.3.- Arguments of the legal interpretation
- 1.4.- Precedents and criteria for justification

2.- LAW AS A SCIENCE OR AS A TECHNIQUE

- 2.1.- Scientific paradigms and legal science
- 2.2.- Characteristics of legal dogmatic
- 2.3.- Approach to the legal method
- 2.4.- Must judges be philosophers? Can they be philosophers?

LEARNING ACTIVITIES AND METHODOLOGY

According to the ECTS system, the two credits of this subject correspond to 25 hours of student's work. These Works hours are distributed in the following way:

- 6 hours of in person class in which are included theoretical and practical sessions.

These session are based specially in Professor's explanations on basic concepts and general indications for reading and practical cases. These classes area active for students and require their participation with questions and debates.

- 9 hours of individual study by the students on the recommended readings of the bibliography and practical cases.
- 20 hours of elaboration and presentation of a work. This work should be done individually and consists of applying the knowledge on legal arguments.
- There will be a system of tutorials for the students.

ASSESSMENT SYSTEM

The assessment is based specially on the work. It is also assessed the students participation and the presentation of expositions.

Class participation 10%

Individual final work 90%

% end-of-term-examination:	0
% of continuous assessment (assigments, laboratory, practicals...):	100

BASIC BIBLIOGRAPHY

- Alexy, Robert Teoria de la argumentación jurídica, Centro de Estudios Constitucionales, 2002
- Asis Roig, Rafael de Jueces y normas, Marcial Pons, 1995
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- Barranco Aviles, M Carmen Derecho y decisiones interpretativas, Marcial Pons, 2004
- Calsamiglia, Albert Introducción a la ciencia jurídica, Ariel, 1990
- Calvo Garcia, Manuel Los fundamentos del método jurídico: una revision critica, Tecnos, 1984
- Dworkin, Ronald Law's Empire, Fontana Press, 1991
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- Ezquiaga Ganuzas, Francisco Javier La motivación de las decisiones interpretativas electorales, Tribunal Electoral del Poder Judicial de la Federación, 2012
- Gascón Abellán, Marina (coord.) Argumentación jurídica, Tirant lo Blanch, 2014
- Guastini, Riccardo Interpretar y argumentar, Centro de Estudios Políticos y Constitucionales, 2018
- Hart, L.H.A. El concepto de Derecho, Abeledo Perrot, 2007
- Hernández Gil, Antonio Problemas epistemológicos de la Ciencia jurídica, Civitas, 1976
- Hernández Gil, Antonio La ciencia jurídica tradicional y su transformación, Civitas, 1981
- Kirchmann, Julius Hermann von La jurisprudencia no es ciencia, Olejnik, 2018
- Kuhn, Thomas S. La estructura de las revoluciones científicas, Fondo cultura económica, 2017
- Larenz, K. Metodologia de la ciencia del Derecho, Ariel, 1994
- Tarello, Giovanni La interpretación de la Ley, Palestra, 2018