

Academic Year: ( 2020 / 2021 )

Review date: 09-07-2020

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 : 3 Semester : 1

**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.

The health emergency caused by the incidence of COVID-19 has had to transform all its teachings to teaching in synchronous online mode since mid-March 2020. This time interval until the pandemic is overcome, of unknown duration, requires a new teaching model that meets sanitary conditions and that takes into account a possible different scenario. The possibility of a new outbreak in the spread of the virus that forces the temporary suspension of all university activities for its containment must also be considered.

During the academic year 2020-21, the possibility of combining two scenarios is considered, depending on the epidemiological and health situation. The first of them, defined as New Normality, would allow teaching activities to be carried out in person, but limited due to the sanitary restrictions necessary to prevent the spread of the virus. The second scenario or new Containment Period would be produced by a re-emergence of the virus that would compel the competent authorities to decree a period of confinement in which any type of classroom activity on campus was not possible.

If there is a period of population confinement or very severe restrictions on the mobility and gathering of people, UC3M, as it did in the 2019-20 academic year, would close all face-to-face activity on campus. In this situation, teaching will be carried out synchronously online at the times established by the centers, through the Blackboard Collaborate tool supported on the UC3M Virtual Classroom platform.

In this context, for the 2020-2021 academic year, a hybrid or bimodal teaching model has been adopted. This new model maintains the traditional scheme of teaching at the university, in which the students in the standard subjects have two weekly sessions of equal duration, one in a master group or an aggregate of theoretical orientation, which will be taught online and synchronously, and another in a small group with more applied guidance that will be taught in person. So:

-. Synchronous online teaching, with a more theoretical orientation, will be taught in aggregate groups. The master classes will be given in aggregate groups and will be devoted to the exposition of the fundamental concepts of the program. Efforts will also be made to mark the common thread of the different contents of the course and to give an overview of the subject. Notwithstanding the foregoing, the practical-complementary classes will affect the essential or most difficult points, either through collective work (groups of 3-7 people), or through individual practices.

-. Face-to-face teaching will be taught in small, small groups, with the aim of complying with the provisions and sanitary measures in the classrooms. 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.

Extraordinary Summon:

- If the student followed the continuous 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 continuous assessment and the grade obtained in the final.

- If the student did not follow the process of continuous 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 continuous assessment process, shall be entitled to obtain the best mark when the grade obtained on the final exam is better than the others.

<b>% end-of-term-examination:</b>	50
-----------------------------------	----

<b>% of continuous assessment (assignments, laboratory, practicals...):</b>	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

- ASECIO MELLADO, J.M. DERECHO PROCESAL CIVIL. PARTE PRIMERA, TIRANT LO BLANCH, 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