

## The spanish legal system

Academic Year: ( 2021 / 2022 )

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

Coordinating teacher: HERNANDEZ MOURA, BELEN

Type: Compulsory ECTS Credits : 5.0

Year : 2 Semester :

## REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

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

## OBJECTIVES

Competences and skills that the student will acquire in the subject of Spanish Judicial System:

## A. KNOWLEDGE AND UNDERSTANDING OF:

- The existence of different methods of solving legal conflicts.
- What is procedural law and what are its features.
- What is jurisdiction and what are the functions of the jurisdiction.
- The meaning and implications of jurisdiction exclusivity.
- The model of the judiciary, institutions of its government, their composition and powers.
- The Spanish judicial organization and the distribution of competences between courts.
- The status and functions of the jurisdictional staff and other entities of Justice Administration.
- The functions of other main figures of the process: prosecutors, lawyers, etc. And the access to these careers.
- The content of the effective judicial protection.
- Conditions for granting of free legal aid.
- The process: concept, structure, types and principles.
- The procedural acts: concept, classes, characteristics and requirements.
- Cost of Justice: who and how has to paid them.

## B. CAPACITY:

- Distinguish branches of procedural law.
- Identify sources and define the content of the basic procedural laws.
- Define the scope and organisation of the judiciary.
- Restore the basic limits of the Spanish jurisdiction.
- Determine the competent body to deal with different cases.
- Legal arguments and exposing the views orally or in written.
- Identify, find and use different legal instruments.
- Work in groups, carry out and present a collective and coordinated work.

## C. ATTITUDE:

- Appreciate the importance of the Justice administration as a public service.
- Critically analyse different institutions that have been studied.
- Link studied contents in organised and coherent manner.
- Compare obtained information in order to form a personal opinion.

## DESCRIPTION OF CONTENTS: PROGRAMME

Lesson 1: Jurisdiction. 1. Legal disputes and dispute resolutions. 2. Judicial power and functions.  
 Lesson 2: Judicial Power. 1. Unity. 2. Exclusivity. 3. Independence and self-government.  
 Lesson 3: Jurisdictional orders and court system. Extension and limits of jurisdiction.  
 Lesson 4: Fundamental Rights and Jurisdiction. 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.  
 Lesson 5: Judicial process. 1. Concept and basic structure of the process. A. The initiating on a request of a party. B. Basic acts of the process. C. Appeal system. 2. Principles of the process. A. Accusatory and official. B. Dispositive and contribution of party. C. Duality, contradiction and equality. D. Free and pre-

established evidence. 3. Principles of the procedure. A. Orality. B. Immediacy. C. Concentration. D. Publicity. E. Time-limit for acts. 4. Classes of process.

Lesson 6: Procedural acts. Judicial cooperation and assistance to Courts. 1. Procedural acts. A. Concept and characteristics. B. Classes. C. Requirements. D. The invalidity of the procedural acts. 2. The communications in process. A. Practice of communications. B. Types of communications. 3. Judicial cooperation. A. Types of judicial cooperation. B. Cooperation in the EU. 4. The judicial assistance. A. Concept. B. Types of assistance: a. Internal b. International.

Lesson 7: Judges and Senior Judges. 1. Constitutional guarantees. A. Concept. B. The independence. C. The tenure of the office. D. The responsibility. E. the Submission to the law. 2. Statute. A. Concept and regulation. B. Application. C. Joining the service. D. Incapacities, incompatibilities and prohibitions.

Lesson 8: Judicial office. 1. Judicial office. 2. Judicial clerks. 3. Personnel of the Judicial Administration. A. Procedural and Administrative Management. B. Procedural and Administrative Processing. C. Judicial assistance. 4. Other institutions at services of the Justice Administration. 5. Judicial Police.

Lesson 9: Promoters of Justice. 1. Prosecutor's Office. A. Concept and nature. B. Functions. C. Principles of organisation and functioning. 2. Lawyers and Legal Representatives. A. Nomination. B. System of access to the profession. C. State Representation and defence. 3. Free Legal Aid. A. Background. B. Scope. C. Requirements. D. Content of the right. E. Procedure.

Lesson 10: Cost of Justice. 1. Public and private costs. 2. Costs and expenses. 3. State special responsibility for a proper functioning of Justice administration. A. Background. B. Degrees of the responsibility.

## LEARNING ACTIVITIES AND METHODOLOGY

The subject of Spanish Judicial System covers a semester of 12 weeks with three hours of classes per week spread over 1.5 hours of lecture and another 1.5 hours of practical classes. However this system could be slightly modified depending on the development of the classes and practical needs of each group. The lectures will be delivered in a large group and practical classes in small groups.

### 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.

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

- Case-law exercises: the application of the positive law to real situations.
- Analysis and review of case-law.
- Preparation and presentation of certain topics.
- Opinions about current news.
- Discussion and debate on controversial legal issues.
- Watching of recordings of different trials.
- Complementary activity, likely 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 3 complementary collective tutorials that in any case are voluntary.

## ASSESSMENT SYSTEM

### 1. Ordinary call

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

- Practice(s): 3 points (30%)
- 3 oral or written exams: 7 points divided among 3 exams (70%)

To obtain 100% of the grade through the continuous evaluation, each of the partial exams has to get the evaluation of minimum 5 out of 10.

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 set 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.

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 rating of the students in this extraordinary call will follow the following rules:

a. If the student followed the continuous assessment process, this extraordinary examen will have the same percentage value as in the ordinary call, i.e. 50%. To which the mark 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.

<b>% end-of-term-examination:</b>	0
<b>% of continuous assessment (assignments, laboratory, practicals...):</b>	100

## BASIC BIBLIOGRAPHY

- 1. MORENO CATENA, V.; CORTÉS DOMÍNGUEZ, V. Introducción al Derecho procesal, 10ª ed., Tirant lo Blanch, Valencia, 2019
- 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, 27ª ed., Tirant lo Blanch, Valencia, 2019
- 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, 1ª ed., Tirant lo Blanch, Valencia, 2019
- 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, 11ª ed., Atelier, Barcelona, 2019
- VALENCIA MIRÓN, A. J. Introducción al Derecho procesal, 12ª ed. , Comares, Granada, 2016