

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 : 3.0

Year : 1 Semester : 2

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

The subject of Spanish Judicial System is the first contact that students have with Spanish Procedural Law, for this reason, it is not necessary or recommended to have passed other subjects beforehand.

OBJECTIVES

COMPETENCES OF STUDENTS:

BASIC

- That students know how to apply their knowledge to their work or vocation in a professional manner and possess the competencies that are usually demonstrated through the elaboration and defense of arguments and the resolution of problems within the area of study.
- That students have developed those learning skills necessary to undertake further studies with a high degree of autonomy.

GENERAL

- Know how to express themselves orally and in writing on specific procedural issues.
- Develop discussion and collective reflection skills.
- Know and integrate the principles and values of the culture of peace and democratic political systems.
- Become aware of the importance of defending fundamental rights.

SPECIFIC

- To know the phases, steps and specific procedural principles of the different jurisdictional orders.

LEARNING RESULTS:

After passing the subject, students are expected to be able to:

- By means of arguments or procedures elaborated and sustained by themselves, apply their knowledge, understanding of these and their problem-solving skills in complex and specialized work and professional fields that require the use of creative and innovative ideas.
- Communicate clearly and accurately to all types of audiences (specialized or not) knowledge, methodologies, ideas, problems and solutions in their field of study.

DESCRIPTION OF CONTENTS: PROGRAMME

MODULE I: JURISDICTION

Lesson 1: Jurisdiction.

1. Legal disputes and modes of solution.
2. Jurisdictional power and functions.

Lesson 2: Judicial authority.

Principles of operation: unity, exclusivity, independence and self-government.

2. Jurisdictional orders and organs. Extension and limits of jurisdiction. Judicial bodies by jurisdictional order.

MODULE II: THE LEGAL PRACTITIONERS

Lesson 3: Judges and Magistrates. Prosecutor's Office

1. Constitutional guarantees of judges and magistrates. A. Concept. B. Independence. C. Immovability. D. Responsibility. E. Submission to the Law. F. Statute.
2. Public Prosecutor's Office. A. Concept and nature. B. Functions. C. Principles of organization and operation.

Lesson 4: Other legal operators

1. Judicial Office: A. Lawyers of the Administration of Justice. B. Structure of the Judicial Office. C. Judicial Police and other bodies at the service of the Administration of Justice.
2. Lawyers and Attorneys. A. Postulation. B. System of access to the profession. 3. Other operators.

MODULE III: THE JUDICIAL PROCESS

Lesson 5: Judicial process.

1. Concept and basic structure of the process. A. Initiation at the request of a party. B. Procedural acts: Concept and types. C. The need for a system of appeals.
2. Principles of process and procedure. 3. Types of process.

Lesson 6: Fundamental Rights and Process.

1. The right to effective judicial protection. A. The action. Action and Jurisdiction. B. From the action to the right to effective judicial protection. C. Essential content of the right to effective judicial protection.
2. The right to a process with all the guarantees: A. In the criminal process. B. In the rest of the jurisdictional orders.
3. Free legal assistance.

LEARNING ACTIVITIES AND METHODOLOGY

A. LECTURES

Lectures will be given in the theoretical groups -with a larger number of students- and will be devoted to the exposition of the fundamental concepts of the program. An attempt will also be made to establish the guiding thread of the different contents of the course and to give an overall view of the subject. Notwithstanding the above, the practical classes will reinforce and complement the essential points studied in the master classes, either through group work or individual work.

B. PRACTICAL CLASSES

The complementary practical classes will be given in small groups and their content will be as heterogeneous as possible, adapting to the particularities of the specific subject to be studied in depth. Among the different activities programmed in principle (without prejudice to changes, inclusions or exclusions arising from the dynamics of the course) the following are foreseen:

- Assumptions of application of positive law to real cases.
- Analysis and commentaries of jurisprudence.
- Preparation and presentation in class of certain topics.
- Reflection and debate on relevant news.
- Group discussion and debate on controversial issues.
- Viewing of recordings of different judicial processes.
- Complementary activity in the form of a visit to a judicial body or institution (Court, Supreme Court, Constitutional Court, CGPJ, Prosecutor's Office, etc.).

INDIVIDUAL AND GROUP TUTORIALS:

- Each teacher will establish a weekly schedule for individual tutorials. The student may attend tutorials to solve any doubt, problem or question that requires the attention of the responsible teacher.
- On the other hand, the teacher will be able to establish during the term up to a maximum of 2 collective tutorials of a complementary and, in any case, voluntary nature.

INDIVIDUAL OR GROUP WORK OF THE STUDENT.

- For subjects of 3 ECTs, 46 hours will be dedicated.

ASSESSMENT SYSTEM

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

1. ORDINARY CALL

- The grade obtained by the student in the continuous evaluation process will represent between 50%-100% of the final grade.

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

- The grade of the continuous evaluation may reach up to 10 points (100% of the grade) and will be obtained according to the following scale:
 - . Internships: 4 points (40%)
 - . Two objective oral or written tests: 6 points (60%), each of them with an identical value of 3 points (30%).
- In order to obtain 100% of the final grade through continuous evaluation, each of the objective tests must be passed with a minimum of 6 points out of a total of 10 (1.8 out of 3).
- The course is passed with a minimum of 5 out of 10 points.
- In the event that the student does not reach the minimum grade, does not meet the minimum grade requirements in the objective tests or, having obtained it and even passed it, wishes to raise the grade, he/she may take the final exam officially set by the University in the official exam calendar (January or May depending on the term in which the subject was taken).
- The exam will have a value of 5 points to which will be added the grade of continuous evaluation obtained by the student recalculated on 5 points.
- The teacher, at the beginning of the course, may establish that the continuous evaluation will represent 50% of the final evaluation and the final exam will represent another 50% of the final grade.
- The final exam will consist of 5 questions. In any of the cases, the questions will have a maximum space for their answer.
- Students who have not followed the continuous evaluation process may take the final exam in the ordinary exam with a maximum value of 60% of the total grade of the course (6 points).

2. EXTRAORDINARY CONVOCATION

- Students who do not pass the subject of Spanish Judicial System in the semester in which it is taught, have a new opportunity in the extraordinary call. The grading of the students in the extraordinary call will be adjusted to the following rules:
 - a. If the student followed the continuous evaluation process, the exam will have the same percentage value as in the ordinary call, that is, 50%. To this grade will be added the grade of the continuous evaluation valued on a maximum of 5 points.
 - b. If the student did not follow the continuous evaluation process, he/she will have the right to take an exam with a value of 100% of the total grade of the subject.
 - c. Even if the student had followed the continuous evaluation process, he/she will have the right to be graded in the manner indicated in section b) when it is more favorable.
- The exam will consist of 10 short questions that will deal with the whole program of the subject; each one of them will have a maximum space assigned for its answer.

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