The spanish legal system

Academic Year: (2022 / 2023) **Review date: 19-05-2022**

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 students have with Spanish Procedural Law, for this reason, it is not necessary or recommended to have passed other subjects beforehand.

OBJECTIVES

Within the framework of the subject, the following objectives are proposed:

1.- Generic of the tertiary education. As any graduate, at the end of his/her studies, he/she should have the following skills:

- Capacity for analysis and synthesis.
- Cultural curiosity, interest in learning and acquiring knowledge.
- Ability to apply their knowledge to practice.
- Ability to communicate both orally and in writing.
- Aptitude to learn and update their knowledge.
- Self-criticism.
- Competences for the approach and resolution of problems.
- Tools for negotiation and teamwork.
- Ethical commitment, being aware of the political, economic, social and legal significance of the duty to contribute to the improvement of society and the support of public expenditure.
- Ability to use computer media in order to obtain information and communicate data.

2.- Generic in the formation of the jurist. In order to be able to obtain the degree of Bachelor of Law, it is mandatory to:

- Be aware of the Law as a regulatory system of social relations, of the unitary nature of the legal system and of the necessary interdisciplinary vision of legal problems.
- Be able to use constitutional principles and values as a working tool in the interpretation of the legal system.
- Have the skills to handle the different legal sources, locating and obtaining the necessary information.
- Be able to develop legal oratory and dialectics.
- Possess basic knowledge of legal argumentation.
- Have the ability to create and structure rules and regulations.
- Be able to read and interpret legal texts.
- Know how to critically analyze the legal system.
- Know and understand the main public and private institutions in their genesis and as a whole.
- Identify and master the different ways in which Law is created.

3.- Specifics of the subject "Spanish Judicial System". In order to pass this subject, at the end of the four-month period it is necessary to:

- Know and understand:

o The different ways of solving legal conflicts.
o What is Procedural Law.
o What is the jurisdictional power and what are the functions of the Jurisdiction.
o The implications of the constitutional requirement of exclusivity in the exercise of jurisdiction.
o The model of the Judiciary, its governing bodies, composition and main competencies.
o The Spanish judicial organization and the distribution of competences among the different jurisdictional bodies.

o The status and functions of the jurisdictional personnel and of the different collaborators of the Administration of Justice.
o The basic content of the right to effective judicial protection.
o The assumptions and the procedure for the recognition of the right to free legal aid.
o The concept, structure, classes and inspiring principles of the judicial process.
o The concept, classes, characteristics and requirements of the basic procedural acts.

- Be able to:

o Distinguish the different branches of procedural law.
o Identify the sources of this discipline and delimit the fundamental content of the basic procedural laws.
o Specify the scope and organization of the Judicial Power as opposed to the rest of the public powers.
o To reconstruct the basic limits of the Spanish jurisdiction with respect to the different matters.
o Determine in the abstract the competent jurisdictional body to hear different matters.
o Argue legally their opinions and expose them both orally and in writing.
o Identify the different legal instruments, as well as to locate and use them in a rigorous manner (reading, comprehension, interpretation).
o Work in groups, carrying out and exposing works in a collective and coordinated manner.

- Know how to:

o Appreciate the importance of the Administration of Justice as an essential public service of the social and democratic State of Law.
o Critically evaluate the different institutions analyzed.
o Relate the different contents studied in such a way that they constitute an organized and coherent whole.
o Contrast and discriminate the information obtained from different sources in order to form a personal and personal criterion.

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 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

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

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

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- 6. Francisco Ramos Méndez Sistema judicial Español, 11ª ed., Atelier, 2019
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- ASENCIO 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
- VALENCIA MIRÓN, A. J. Introducción al Derecho procesal, 12ª ed. , Comares, Granada, 2016