Basic institutions of private law

Academic Year: (2022 / 2023) **Review date: 21-06-2021**

Department assigned to the subject: Private Law Department

Coordinating teacher: BELUCHE RINCON, IRIS

Type: Compulsory ECTS Credits : 3.0

Year : 2 Semester : 2

OBJECTIVES

The student shall reach, from the comprehension and critical analysis, a reasonable level of knowledge with regard to the discipline, and shall conveniently learn to solve practical conflicts. The student shall achieve, in this first course, skills in the use of technical legal terminology within the Civil Law, as well as to deal with bibliographic and jurisprudential sources.

DESCRIPTION OF CONTENTS: PROGRAMME

This subject starts with an introduction which aim is to give the student one of the most significant features of our Law: the legal-civil plurality of the Spanish System. It continues with the indispensable study of the person, which is the core and axis of the discipline: beginning and end of it, its capacity, civil protection of the so called personality rights and the regime of the different civil statutes. Also subject to analysis is the general legal regime of artificial or legal persons, and of foundations and associations in particular. The last part of the program is dedicated to the core questions of Private Law, such as the patrimony and its types, the subjective right and its limits, the autonomy of will and act of the law and the representation.
The subject deals with essential matters not only for the Civil Law, but also for other fields of Private Law, so we could speak of an introduction to Private Law.

PROGRAM
Lesson 1.- Spanish Civil Law.
1.- Civil Law: concept and current content.
2.- Legal-civil plurality in the Spanish legal system: Foral Laws.
3.- Legislative competence with regard to Civil Law.
4.- The Civil Code and special civil laws.
5.- The system of sources of Civil Law.

Lesson 2. The person. Personality rights. Legal capacity or capacity to act.
1.- Concept of person.
2.- Civil or natural capacity and legal capacity. Civil statutes: historic significance and current sense.
3.- Starting of personality. Legal protection of the nasciturus.
4.- Death and declaration thereof.
5.- Personality rights.
6.- Legal capacity: Legal age and minority. Parental authority. The emancipated minor.
7.- Incapacitation. The patrimonial protection of disabled persons. Prodigality.
8.- Tutor and curator.

Lesson 3.- Nationality. Civil residence. Domicile.
1.- Nationality. Basic legal regime of Spanish nationality.
2.-. Civil residence.
3.- Domicile. Absence.
4. The Civil Registry.

Lesson 4.- Artificial or legal persons.
1.- The basis and significance of the legal person.
2.- The abuse of the legal person.
3.- Types of legal persons.
4.- The constitution and extinction legal persons.
5.- Domicile, nationality and operation of legal persons.
6.- .Associations: concept, constitution, organization and extinction.
7.- Foundations: concept, constitution, organization and extinction.

Lesson 5.- The subjective right and its limits. Good faith and abuse of the Law. Prescription and caducity.
1.- Subjective right: concept, structure and types.
2.- Birth, acquisition, modification, transfer, loss and extinction of the subjective right. Waiver of rights.
3.- The exercise of the subjective right and its limits.
4. Good faith as limit to the exercise of the subjective right.
5.- Abuse of right.
6.- Prescription.
7.- Caducity.

Lesson 6. The patrimony.
1.- Patrimony: concept, composition, basic functions and kinds.
2.- The goods: concept, requirements and classification
3.- Products, improvements and expenses.
4.- The legal fact and the legal act.
5.- The act of the Law. Private autonomy: concept, functions and limits.
5.- Classification of the acts of the Law.

Lesson 7.- Representation
1.- The representation phenomena: concept, hypothesis and requirements.
2.- Scope and kinds of legal representation.
3.- Legal representation and voluntary representation.
4.- Voluntary representation: direct representation and indirect representation.
5.- Voluntary representation: the act of empowering.
6.- Representation with oneself: autocontracting.

LEARNING ACTIVITIES AND METHODOLOGY

Three on-site lessons shall be taught every week. A first theory class (magisterial lesson), of one hour and a half of duration, where the basic contents of the program of subject shall be explained. For the adequate understanding of the explanations, the prior reading of the handbook of reference is absolutely necessary. In a second session (practical), also of one hour and a half, practices and workshops shall be made where the students shall legally discuss and argue about the subjects proposed, acquiring the necessary skills for the solution of real situations and conflicts.

ASSESSMENT SYSTEM

Ordinary sitting

The definitive evaluation of the student shall take into account the mark obtained during the semester in the compulsory practical sessions (up to a 40%), as well as the mark obtained in the Theory exam (up to 60%).

In order to mark the practical part the following shall be taken into account: the grade obtained in the two multiple choice tests (1 point each), the participation of the student in the class (1 point), as well as the adequate performance of the individual papers entrusted to the students (1 point).

With regard to the theory part of the subject, the grade obtained in the exam at the end of the semester shall be the only thing taken into account to mark it. Said exam shall be a multiple choice test of 20 questions. Incorrect answers shall discount 50% to the value of the correct answers.

To pass the subject, a minimum mark in the final exam shall be required (3 points. 3/6).

Extraordinary sitting

If the student has followed the continuous evaluation system, the exam shall have the same percentage value as in the ordinary sitting (60%), and the final mark of the subject shall take into account the mark obtained during the semester in the continuous evaluation system (practical sessions). Therefore, for the extraordinary sitting (linked to the ordinary sitting) the mark obtained during the semester in the practical part shall be ¿kept¿, so that the student only has to take the theory exam.

If the student has not followed the continuous evaluation system, he might take the extraordinary sitting exam with a value of 100% of the total mark of the subject.

Publicity of marks and revisions

The students shall have access to the continuous evaluation system final marks (practical sessions) before the exam period begins. They shall be published in Aula Global.

The final mark of the subject shall be published in the Web within 10 days (from the date of the final exam), through the system provided by the University for the communication of the final marks, indicating the date set for the revision of the exam.

The student can ask to his group teacher for the revision of his final mark if he considers that there is a mistake in it.

No matter if the student has made part of the practical papers within the continuous evaluation system, he shall be marked as NOT ATTENDING if he does not take the final theory exam.
In the ordinary sitting, the students who have not followed the continuous evaluation system shall take a final theory exam with a value of 60% that shall be their only mark.

% end-of-term-examination:	60
% of continuous assessment (assigments, laboratory, practicals…):	40

BASIC BIBLIOGRAPHY

- ALBALADEJO Derecho civil. I. Introducción y Parte General., Madrid.
- BELUCHE RINCÓN, SIRVENT GARCÍA Instituciones Básicas de Derecho Privado. Supuestos prácticos y Autoevaluación, Tecnos, 2016
- CARRASCO PERERA Derecho civil: Introducción, Derecho de la persona, Derecho subjetivo, Derecho de propiedad, Madrid.
- DIEZ PICAZO y GULLON Sistema de Derecho civil. I. Introducción. Derecho de la persona. Autonomia privada. Persona jurídica., Madrid.
- LACRUZ BERDEJO Elementos de Derecho civil. I. Parte General, Madrid.
- LASARTE ALVAREZ Principios de Derecho civil. I. Parte General y Derecho de la Persona, Madrid.
- LOPEZ, MONTES y ROCA Derecho civil. Parte General. Derecho de la Persona, Valencia.
- PUIG FERRIOL Manual de Derecho Civil. I., Barcelona.