

Academic Year: (2022 / 2023)

Review date: 20-04-2022

Department assigned to the subject: Department of International Law, Ecclesiastical Law and Philosophy of Law

Coordinating teacher: ASIS ROIG, RAFAEL FERNANDO DE

Type: Electives ECTS Credits : 3.0

Year : Semester :

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Legal Theory

OBJECTIVES

This subject focuses on legal practice. It aims to help students develop skills and competences not available in other legal disciplines.

1. Comprehension and knowledge of the meaning and scope of logic and argumentation in LAW.
2. Comprehension and knowledge of the main Theories of Legal Argumentation.
3. Ability to use interpretive and argumentative techniques
4. Ability to analyze and evaluate the arguments expressed in judicial decisions
5. Ability to defend a thesis with legal arguments and legal methodology.
6. Comprehension and ability to use tools to create well-justified legal texts.
7. Analytical, critical and discursive capacity.

DESCRIPTION OF CONTENTS: PROGRAMME

The subject "Logic and Legal Argumentation" is important in legal training. This subject not only gives students a better comprehension of the meaning and operation of legal system and its basic institutions, but it also provides them with tools from which to analyze and development legal reasonings.

The programme is as follows:

LESSON 1. Logic and argumentation in Law

LESSON 2 Theories of legal argumentation

LESSON 3 Argumentative techniques

LESSON 4 Legal reasoning structure and reconstruction

LESSON 5. The correction of legal reasoning. Legal reasoning on fundamental rights.

LEARNING ACTIVITIES AND METHODOLOGY

LECTURES: Every lessons of the programme will be taught in lectures, although lecturers will pay special attention to those parts considered more important or those that, due to their difficulty, deserve a wider explanation. To make easier the student's work all the materials will be available on the Aula Global.

WORKSHOP "Analysis of legal reasoning": This workshop will deepen in learning practical aspects of the subject. Students will work jurisprudential texts through different activities .

Activities will be delivered at the end of the corresponding session or before the next session. They will be corrected in class by the students.

Workshop's activities will be specified at the beginning of the course. All the materials considered suitable will be available through Aula Global.

ASSESSMENT SYSTEM

Assesment System will take into account the following criteria:

Continuous assessment: Practical activities and participation in debates during the sessions 40%

Test: 20%

Final work: 40%

Individual work involving the redaction of the argumentation of a judicial decision. Dead line the date of the final exam.

The students, in order to pass the course, must get a minimum score of 3 points out of a maximum of 10 in the final work. If the the students get less than 3 points of a maximum of 10 in the final work theirs final score will be 4.5 (thought they get a score of 4.5 or above 4.5 with the numerical sum of continuous assessment and final work they do not pass de course).

For those students who do not choose the continuous assessment system, there will be a final exam on the official date with a value of 60%.

The extraordinary exam will consist of a multiple choice questionnaire and practical exercises. The continues evaluation will be saved or the exam will score 100% depending on the most favorable option for the student.

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

BASIC BIBLIOGRAPHY

- ASÍS ROIG, R. DE Sobre el razonamiento judicial , MacGraw Hill, 1998
- ASÍS ROIG, R. DE, El juez y la motivación en el Derecho , Dykinson, 2005
- ASÍS ROIG, R. DE, Jueces y normas , Marcial Pons , 1995
- ATIENZA, M. Las razones del Derecho , Centro de Estudios Constitucionales .
- BARRANCO AVILÉS, M.C., Derechos y decisiones interpretativas, , Marcial Pons, , 2004
- CUENCA GÓMEZ, P., ¿Aspectos, problemas y límites de la argumentación jurídica y judicial¿, , Derechos y Libertades, , 2004
- TOULMIN, Sph., The Uses of Arguments, , Cambridge University Press, , 1969
- WESTON, A.: Las claves de la argumentación, , Ariel , 1994
- WRÓBLEWSKI, J., Sentido y hecho en el Derecho, Servicio Editorial de la Universidad del País Vasco, , 1989

ADDITIONAL BIBLIOGRAPHY

- AARNIO, A Lo racional como razonable, Centro de Estudios Constitucionales , 1991
- ALARCÓN CABRERA, C Lecciones de lógica jurídica , Sevilla, 2000.
- ALEXY, R., Teoría de la argumentación jurídica, Centro de Estudios Constitucionales, 1989
- ATIENZA, M., Tras la justicia , Ariel , 1993
- ATIENZA, M., El Derecho como argumentación , Ariel , 2006
- BLACK, M., Inducción y probabilidad , Cátedra, 1979
- CABRA APALATEGUI, J.M.: Argumentación jurídica y racionalidad en A. Aarnio, Dykinson, 2000
- CALVO, J. Derecho y narración , Ariel , 1996
- COHEN, L.J., The Probable and The Provable, Clarendon Press, 1977
- COHEN, M. y NAGEL, E Introducción a la lógica y al método científico, , Amorrortu, 1983
- ECHAVE, D.T. y otros Lógica, proposición y normas, Astrea, 1991
- EZQUIAGA GANUZAS, F.J., La argumentación en la justicia consti-tu-cional española, Instituto Vasco de Administración pública .
- FERRATER MORA, J. Lógica matemática , Fondo de Cutura Económica , 1955
- GARCÍA AMADO, J.A ¿Del método jurídico a las teorías de la argumentación¿, Anuario de Filosofía del Derecho , 1996
- GASCÓN, M. La técnica del precedente y la argumentación racional, Tecnos , 1993
- GASCÓN, M. Los hechos en el Derecho, Marcial Pons, 1996
- HEMPEL, C.G., Filosofía de la Ciencia Natural, Alianza , 1993
- IGARTÚA SALAVERRÍA, J., ., Valoración de la prueba, motivación y control en el proceso penal, , Tirant Lo Blanch, , 1995
- LARENZ, K., Metodología de la Ciencia del Derecho, Ariel, 1995

- MACCORMICK, N., Legal Reasoning and Legal Theory, Clarendon Press, 1978
- MARTINEZ GARCIA, J.I. Decisión jurídica y argumento de autoridad, Anuario de Filosofía del Derecho, 1986
- MAZZARESE, T.: Lógica deontica e linguaggio giuridico, Cedam, 1989
- MENDONCA, D., Interpretación y aplicación del Derecho, , Universidad de Almería, , 1997
- MORESO, J.J. La indeterminación del Derecho y la interpretación de la Constitución, , Centro de Estudios Constitucionales, , 1997
- MORESO, J.J. Lógica, argumentación e interpretación en el Derecho, , uoc, 2006
- PECZENIK, A., On Law and Reason, , Kluwer Academic Publishers, , 1989
- PEIRCE, Ch. S., Deducción, inducción e hipótesis, , Aguilar, 1970
- PERELMAN, Ch. y OLBRECHT-TYTECA, L., Tratado de la argumen-tación. La nueva retórica, Gredos , 1994
- PLANTIN, C., La argumentación, , Ariel , 1998
- RECASENS, L., Experiencia jurídica, naturaleza de la cosa y lógica razonable, Fondo de Cultura Económica-, 1971
- RECASENS, L., Nueva filosofía de la interpretación del Derecho, Porruá, 1980
- SEGURA ORTEGA, M., La racionalidad jurídica, , Tecnos , 1998
- TARUFFO, M., Studi sulla rilevanza delle prove, , Cedam , 1970