

Academic Year: ( 2022 / 2023 )

Review date: 12-05-2023

Department assigned to the subject: Private Law Department

Coordinating teacher: CRESPO MORA, MARIA CARMEN

Type: Compulsory ECTS Credits : 6.0

Year : 4 Semester : 2

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

For a full advantage of the subject it is recommended that the student has passed the subjects of Person's , Law of Obligations and Damages; Contract Law and Law of Things. All materials are in continuous relationship and in this subject conflicts arise with all institutions of civil law.

**OBJECTIVES**

-I-

The student shall acquire, through the understanding of the subject and the critical analysis, a reasonable level of knowledge of the subject. The student shall learn to use that knowledge to solve real problems. The student shall acquire the capacity to use technical legal vocabulary and terminology within Family Law as well as to use handle the bibliography and court decisions on the subject. The goal is that the student understands the technical aspect of a subject with an increasing interest. We shall only mention, for example, the divorce index in Spain, minors abandonment, marriages between individuals of different nationalities or the increasing use of the filiation procedures. It is the responsibility of the University to provide the student with sufficient and solid knowledge and technical skills for his professional future.

-II-

The student shall acquire, through the understanding of the subject and the critical analysis, a reasonable level of knowledge of the subject. The student shall learn to use that knowledge to solve real problems. The student shall acquire the capacity to use technical legal vocabulary and terminology within Succession Law as well as to use handle the bibliography and court decisions on the subject. The goal is that the student understands the technical aspect of an indispensable subject.

The goal of the course is that the student knows the contents of the subject and, in particular from an indispensably practical point of view. We shall only mention, for example, the ¿Family Protocols¿ that many testaments provide for with regard to the s in the business or entrepreneurial management. On the other hand, there is a clear impulse from the European Union for the harmonization of certain aspects of Succession Law; where a Green Book has been published and a group of experts constituted. It is the responsibility of the University to provide the student with sufficient and solid knowledge and technical skills for his professional future.

**DESCRIPTION OF CONTENTS: PROGRAMME**

Family Law is undoubtedly one of the most dynamic parts of Civil Law, not only due to the deep changes it has suffered from the enactment of the Spanish Constitution, but also for being the most sensible to social and cultural development. This is shown, from the principle of equality and the equality of children and sexes, to the Dependency Law, which implements de facto guardianship, like the figure of the tutor and similar and the enlargement thereof (minors, disabled and old persons). The first lecture starts with an introduction to the subject. Its goal is to give the student one of the most significant features of our society and the Law: the family and the different models of family in our Legal System. We continue with the indispensable study of ¿matrimony¿ or ¿union of fact¿ (non-married couples): beginning and end of it, capacity, personal content (rights and obligations), as well as the patrimonial base or the different economic systems of marriage. Study of the marriage crisis (separation, nullity and divorce) and of the non-married couple and its consequences. Filiation and the paternal authority. Filiation procedures. Adoption. Guardianship.

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## PROGRAM FAMILY AND SUCCESSION LAW

### FAMILY LAW

#### Lesson 1. FAMILY AND MARRIAGE

1. Family Law. Family and Constitution. Relatives.
2. Family support
3. Matrimony: concept and characteristics. Promise of marriage.
4. Consent to marry. Capacity to marry. Form and proof.
5. Personal and patrimonial effects of marriage.
6. Non-married couples.

#### Lesson 2. ECONOMIC SYSTEM OF MARRIAGE (I)

1. Patrimonial organization of marriage
2. The primary regime
3. Pre-nuptial or marital agreements
4. Donations due to matrimony
5. Types of economic systems: Community of gains, Separation and Participation. Differences.

#### Lesson 3. ECONOMIC SYSTEM OF MARRIAGE (II). COMMUNITY OF GAINS SYSTEM

1. The community of gains: concept and legal nature. The composition of the community property.
2. Burdens and o

### LEARNING ACTIVITIES AND METHODOLOGY

The subject Family Law and Inheritance has 6 ECTS credits, which involves acquiring a set of basic skills and knowledge on the subject.

In terms of teaching methodology, in addition to traditional lectures, numerous case studies will be proposed (solving real conflicts, individually or collectively, analyzing factual, drafting agreements, settlement of economic system, partition of inheritance) in order to allow students to apply their knowledge to problems as they are submitted at the practice.

Moreover, weekly, Professor schedule a weekly hour of consultations or tutoring with each group of which he is responsible.

### ASSESSMENT SYSTEM

#### 1. EVALUATION.

The evaluation of the knowledge acquired by the students has to take into account the work developed in the practice sessions throughout the semester (continuous evaluation). This work shall entail a 40 % of the final mark. Also, an exam a final theory exam shall take place which result shall amount to a 60 % of the final mark.

### 1.1. Final exam

The final exam shall be a multiple choice test of 30 questions with 4 alternative answers each. Each question shall be valued over 0,2 points (maximum value of the exam: 6 points). The wrong answers shall subtract a fourth part of their value; that is, 0,05. The exam shall be the same exam for all students. To pass the exam it shall be necessary to obtain a minimum of 3 points (out of a maximum of 6 points) .

### 1.2. Continuous evaluation (Practice part)

The practice part shall be valued up to a maximum of 4 points, taking into account the work of the student throughout the semester.

a) The students shall obtain 3 points (maximum value) through the hand-over of a liquidation of the community of gains system (in week 6) and a partition of a succession (the students shall hand-over on week 14). The liquidation of the economic system of marriage has a maximum value of 1,5 points and the partition 1,5 points.

b) Students shall get 1 point (maximum) due to the summary test (week 9) of 20 questions. Wrong answers shall subtract (the wrong answers shall subtract a fourth part of their value).

c) Regarding the continuous face-to-face assessment tests, the specific dates of their completion will be published by the teachers of each group from the beginning of the course. The test will only be allowed on another day, in the event that the lack of attendance is due to unforeseen causes of force majeure, totally beyond the control of the student (illness, attendance at a trial, performance of medical intervention or other medical test , death of a family member in the same cases and with the same limits as the labor regulations). The student will also be required to prove or justify this cause with documents

d) Before the final theory exam the teachers shall publish the mark obtained in the "continuous evaluation" of the practice part (maximum 4 points). Once the theory exam is made (maximum 6 points) the mark obtained shall be added to the one got in the continuous evaluation. To pass the subject it is necessary to get a minimum mark of 3 points (out of a maximum of 6 points) in the final theory exam.

### 1.3. Extraordinary standing:

In May 2011, the Management Board established that the extraordinary standing shall be allowed for students to recover up to 100% of the mark. To that effect, in the extraordinary standing a theory exam of the same characteristics as the one in the ordinary standing valued up to 6 points shall take place. The students might also take a practice exam, marked with up to 4 points, through which they can recover or improve the mark obtained in the continuous evaluation. Therefore:

a) Extraordinary standing: Theory exam (test of 30 questions) valued up to 6 points which all students who failed can take. If the students so decide (that is, not to take the practice exam in the extraordinary standing), the mark obtained in the practice part shall be added to the mark of the theory exam made.

b) If the student wants to try to improve the mark obtained in the continuous evaluation he can also take the above mentioned theory exam valued up to 6 points and a practice exam, values up to 4 points.

If on that practice exam the student gets a lower mark than the one he obtained in the continuous evaluation, he has the right to keep this later. For example, if the student gets a 4 in the theory exam, and 1,5 in the practice exam, but in the continuous evaluation he got a 2, he has the right to a final mark of 6 and not 5,5.

c) Those students who have not followed the continuous evaluation and do not have a mark in that part, can take the practice exam (maximum 4 points) in the extraordinary standing alongside the theory exam (6 points maximum).

To pass the subject in the extraordinary standing it is also necessary to get a minimum mark of 3 points (out of a maximum of 6 points) in the final theory exam.

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

#### BASIC BIBLIOGRAPHY

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- Díez-Picazo/Gullón Ballesteros sistema de Derecho Civil IV, Tecnos, 2008
- Eugenio Llamas Pombo (dir.). Autoras: Crespo Mora, Martín Salamanca, Santos Morón Manual de Derecho civil. Volumen V. Derecho de Familia, La ley-Wolters Kluwer, 2021
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- Lasarte Alvarez Principios de derecho Civil. Derecho de Familia, Trivium, 2010
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- MARTÍNEZ ESPÍN, Pascual. Lecciones de Derecho Civil. Derecho de Sucesiones, dir. por Ángel Carrasco Perera., Tecnos, 2016
- PÉREZ ÁLVAREZ (ed.); ARANDA RODRÍGUEZ; DÍAZ ROMERO; RODRÍGUEZ DE ALMEIDA; MONDÉJAR PEÑA; LÓPEZ PELÁEZ Casos prácticos de Derecho Sucesorio (con pautas y materiales para su resolución), Dykinson, 2017
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- VV.AA. Derecho de Sucesiones, ed. Ángel López y López y Rosario Valpuesta Fernández, Tirant lo Blanch, 2021
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#### ADDITIONAL BIBLIOGRAPHY

- Cuenca Casas, Matilde; Yzquierdo Tolsada, Mariano Tratado de derecho de la familia 2ª ed. , Aranzadi, 2017
- Gómez Taboada, Jesús Derecho de sucesiones de Cataluña : teoría y práctica, Lex Nova Thomson Reuters, 2012
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- ALBALADEJO, M. (coord) Comentarios al Código civil y compilaciones forales, EDERSA.
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- Bercovitz Rodríguez-Cano, Rodrigo Derecho de sucesiones, Tecnos, 2009
- Bruno Rodríguez Rosado Heredero y legitimario, Aranzadi, 2017
- Gete-Alonso y Calera, María del Carmen Tratado de derecho de sucesiones : Código Civil y normativa civil autonómica : Aragón, Baleares, Cataluña, Galicia, Navarra, País Vasco, Civitas., 2011
- LÓPEZ, A.M.; VALPUESTA, M.R. Derecho de Familia, Tirant lo Blanch, 2015
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- María Martínez Martínez La sucesión intestada: revisión de la institución y propuesta de reforma, B.O.E., 2016
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- VV.AA. Memento Experto Casos Prácticos. Derecho de Sucesiones. adaptados al programa de notarías, Francis Lefebvre, 2015
- VV.AA. Memento Práctico Martin Lefebvre: Derecho de Familia y Sucesiones., Francis Lefebvre, 2013
- Vallet de Goytisoló, Juan Berchmans Panorama del derecho de sucesiones, Civitas, 1982
- Villagrasa Alcaide, Carlos Derecho de familia : procesos matrimoniales, convenio regulador, ejecución de sentencias, recursos (...), Bosch, 2011

#### BASIC ELECTRONIC RESOURCES

- . Aranzadi-Westlaw: [http://www.westlaw.es.strauss.uc3m.es:8080/index\\_spa.html?brand=nwles](http://www.westlaw.es.strauss.uc3m.es:8080/index_spa.html?brand=nwles)
- . La Ley:  
<http://revistas.laley.es/content/Inicio.aspx?params=H4slAAAAAAAAEAO29B2AcSZYIji9tynt/SvVK1+B0oQiAYBMk2JBAEOzBiM3mkuwdaUcjKasggcplVmVdZhZAzO2dvPfee++999577733ujudTif33/8/XGZkAWz2zkrayZ4hgKrlHz9+fB8/lormeLWqq8t89tnezu69nft7u7sPdZ/9fwDiBscxFwAAAA==WKE>
- Actualidad civil . . : <http://www.revista-actualidadcivil.laley.es>
- Lex nova . . : <http://www.lexnova.es>
- Sentencias Civiles Comentadas . (UNIRIOJA): <http://www.sentenciascivilescomentadas.unirioja.es>
- Vlex . . : <http://www.vlex.es>
- dialnet . . : <http://www.dialnet.es>
- sepin . . : <http://www.sepin.es>