

Academic Year: ( 2024 / 2025 )

Review date: 23-07-2024

Department assigned to the subject: Criminal Law, Procedural Law and History Law Department

Coordinating teacher: HERNANDEZ MOURA, BELEN

Type: Electives ECTS Credits : 5.0

Year : 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: 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.

#### Lesson 6: 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.

### 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

<b>% end-of-term-examination:</b>	50
<b>% of continuous assessment (assignments, laboratory, practicals...):</b>	50

#### A. ORDINARY CALL

##### A.1. Continuous evaluation

The grade obtained by the student in the continuous evaluation process may represent up to 50% of the final grade. In other words: the grade of the continuous evaluation may reach a maximum of 5 points (50% of the final grade) and will be obtained according to the following scale:

- Study Case(s): up to 1.5 points (15%)
- Objective test(s): up to 2 points (20%)
- Practical exercise(s): up to 1.5 points (15%)

In order to obtain 50% of the final grade by means of the continuous evaluation, the student must additionally meet the following conditions:

<b>% end-of-term-examination:</b>	50
<b>% of continuous assessment (assignments, laboratory, practicals...):</b>	50

- To participate necessarily in all of them.
- To be present in the corresponding class in order to participate in the realization, correction and/or delivery of the corresponding activity.
- Obtain a minimum of 2 points (out of a total of 5) in the part of the grade that corresponds to the continuous part.
- Even if the student has obtained a 5 in the continuous grade, s/he must take the final exam and obtain a minimum of 2.5 points out of 5. Otherwise, s/he will be graded in the minutes as "Not presented".

In the event that the student does not meet these requirements (and, therefore, cannot benefit from the continuous evaluation system) or has not followed the continuous evaluation process, he/she may take the final exam in the ordinary exam session with a maximum value of 60% of the total grade of the course (6 points), according to the current academic regulations.

#### A.2. Final exam in ordinary call

The remaining 50% of the grade (up to 5 points) will depend on the student's performance in the final exam. The exam will have a value of 5 points to which the continuous evaluation grade will be added, as long as the student has passed the exam (2.5 out of 5 or 5 out of 10).

In cases where, after weighting the grades obtained in the continuous assessment activities and the final examination, a student's final grade is greater than or equal to 5 but has not achieved the minimum grade required in the final examination, the final grade that will be reflected in the academic record will not be less than 4 (Fail), unless the grade obtained in the final examination is less than 3, in which case the final grade for the course will not be less than 3 (Fail).

The final exam of the ordinary call will consist of 5 development questions, whose content may deal with any point of the program.

The course will be passed with a 5 out of 10.

#### B. EXTRAORDINARY CALL

Students who do not pass the subject of Spanish Judicial System in the four-month period in which it is taught, have a new opportunity in an extraordinary call. The grading of the students in the extraordinary call will be adjusted to the following rules:

- 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 result will be added the grade of the continuous evaluation (valued on a maximum of 5 points, if s/he has obtained at least 2 points in that part).
- If the student did not follow the continuous evaluation process, s/he will have the right to take an exam with a value of 100% of the total grade of the course.
- Even if the student had followed the continuous evaluation process, s/he will have the right to be graded in the way indicated in section B. when it is more favorable.

The exam will consist of 10 short questions that may deal with the whole program of the subject.

The subject will be passed with a 5 out of 10.

#### BASIC BIBLIOGRAPHY

- 1. MORENO CATENA, V.; CORTÉS DOMÍNGUEZ, V. Introducción al Derecho procesal, 12ª ed., Tirant lo Blanch, Valencia, 2023
- 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. (Dir.) et. al. Manual de organización judicial, 4ª ed., Tirant lo Blanch, Valencia, 2010
- 6. RAMOS MÉNDEZ, F. Sistema judicial Español, 11ª ed., Atelier, 2019

#### 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
- VALENCIA MIRÓN, A. J. Introducción al Derecho procesal, 12ª ed. , Comares, Granada, 2016