

Successions Law

Code: 102237
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OT	4	0

Contact

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Use of languages

Principal working language: spanish (spa)
Some groups entirely in English: No
Some groups entirely in Catalan: No
Some groups entirely in Spanish: Yes

Prerequisites

Is required Knowledge of patrimonial civil law, family law and civil liability.

Objectives and Contextualisation

The objectives are as follows:

1. Knowledge of the fundamental concepts of inheritance law
2. Organization of a mortis causa succession
3. Making the students to deal with the practical problems for successful careers in the future
4. Knowledge of case law doctrine lines

Content

LESSON 1. THE SUCCESSION

1. Concept of succession.
2. The law of succession applied to Catalonia
 - 2.1. Rules of private international law and interregional law. Special reference to the European inheritance regulations
 - 2.2. Spanish inheritance legislation
 - 2.3. Catalan law applicable to the succession because of the death date.
3. Object of the succession: the inheritance: composition. Digital memory. Succession without an heir
4. The cause of the succession
5. The successor:
 - 5.1. Inheritance titles: the heir and the legatee
 - 5.2. Doubtful cases of distinction between heir and legatee: The heir *ex re certa*, the legacy of the aliquot part, the usufructuary heir

LESSON 2. PHASES OF THE INHERITANCE ACQUISITION

1. The succession foundation
2. The opening of the succession: the unclaimed inheritance. The possession. The hereditary right: Concept and elements
3. Hereditary *vocatio*:
 - 3.1. Inheritance capacity and disability

- 3.2. Indignity and unworthy rehabilitation
- 4. Hereditary *delatio*:
 - 4.1. Types
 - 4.2. Effects: the *ius delationis* and the *ius transmissionis*
 - 4.3. Plurality of *delatios* in favor of the same person over the same inheritance
 - 4.4. Concurrence of *delatios*: the right to increase

LESSON 3. THE TESTAMENT, THE CODICIL AND THE TESTAMENTARY MEMORIES

- 1. The testament:
 - 1.1. Concept, characters
 - 1.2. The testamentary capacity: age and natural capacity.
 - 1.3. Content: property and non-property provisions
 - 1.4. Kinds of testaments: holographic, open and closed testaments
- 2. The codicils: concept, form, content
- 3. The testamentary memories: concept, form, content
- 4. The interpretation of the testamentary will
 - 4.1. Object of interpretation
 - 4.2. Approach principles and criteria
- 5. The failure of the testament, codicil and testamentary memories:
 - 5.1. The nullity. Causes and consequences. Challenging a purported will. Conversion and validation of the void testament
 - 5.2. The revocation: concept, types and effects. Material revocation of the holograph will. Incompatible provisions
 - 5.3. The expiration
 - 5.4. The ineffectiveness by erroneous preterition and ineffectiveness by marital crisis or cohabitation crisis.

LESSON 4. THE INSTITUTION OF HEIR

- 1. The institution of heir: characterization, requirements: identification and determination
- 2. Special rules in case of plurality of heirs
- 3. Modalities of the institution. General concepts:
 - 3.1. The suspensive condition
 - 3.2. The term: the heir for life
 - 3.3. The inheritance mode: concept, types, effects
 - 3.4. Provisions prohibiting disposal
- 4. Fiduciary provisions:
 - 4.1. The designation of heir by trustee: cases, effects
 - 4.2. The inheritance and the trusted legacy: concept, content, effects, inefficiency
- 5. The executor. Concept. Types. Legal regime

LESSON 5. THE HEREDITARY SUBSTITUTIONS

- 1. The hereditary substitution: concept and types
- 2. Vulgar substitution:
 - 2.1. Concept and cases
 - 2.2. The denunciation
 - 2.3. Effects
- 3. Pupillary and exemplary substitution: concept and legal regime
- 4. The *Fideicommissum*:
 - 4.1. General provisions: concept, forms, limits and classification
 - 4.2. Interpretation of *Fideicommissum*: approach rules, presumption of condition
 - 4.3. Pending the *Fideicommissum*:
 - 4.3.1. The figure of the fiduciary heir. Administration and disposition of hereditary assets. Responsibility of the fiduciary heir. The "*cuarta trebelianica*" or free quota
 - 4.3.2. Protection of the right of the fideicommissary heirs

- 4.4. The *delatio* of the *Fideicommissum*: acquisition and effects of the *delatio*. The challenge of the dispositive acts. Fideicommissary heirs' responsibility
5. The waste *Fideicommissum* and the preventive substitution of waste: concept and legal regime

LESSON 6. THE LEGACY

1. Concept and characteristics
2. Structure:
 - 2.1. The Subjects: Term legacies and under condition
 - 2.2. Object: Rights and property
3. Effectiveness of Legacy
4. Legal regime of the Legacy:
 - 4.1. *Delatio*, repudiation and acceptance
 - 4.2. Compliance, risks, fruits
 - 4.3. Actions and guarantees of the legatee. The "*cuarta falcidia*" or fourth minimum inherited
5. Classification of Legacies
6. Failure and reduction of Legacies

LESSON 7. THE INHERITANCE AGREEMENTS AND THE "MORTIS CAUSA" DONATIONS

1. Inheritance agreements:
 - 1.1. Concept, subjects, content, form, inefficacy and resolution
 - 1.2. Classification of inheritance agreements:
 - 1.2.1. Contractual Heir. Concept and classification. Effects in life of the inheritor and when the succession is opened
 - 1.2.2. The inheritance agreement concerning certain assets. Concept and classification
 - 1.3. The inheritance agreements and family business protocols.
2. Mortis Causa Donations:
 - 2.1. Concept and characteristic features: the *contemplatio mortis* and the revocability
 - 2.2. Legal regime:
 - 2.2.1. Capacity, purpose, property transfer and failure
 - 2.2.2. Reference to the Legacy and *inter vivos* donations rules

LESSON 8. INTESTATE SUCCESSION

1. Concept and intestate succession function. The opening of the intestate succession
2. The *ab intestato* heirs:
 - 2.1. The relationship. The right of representation
 - 2.2. Succession orders:
 - 2.2.1. Right of children and descendants
 - 2.2.2. Succession of the surviving spouse or cohabitant
 - 2.2.3. Right of parents and ascendants
 - 2.2.4. Right of the collateral
3. Intestate succession in case of adoption
4. The intestate succession of the pre-pubescent
5. The intestate succession of the Catalan Generalitat

LESSON 9. LEGAL ATTRIBUTION

1. The Forced Share
 - 1.1. Concept. Legal nature. *Delatio*
 - 1.2. The beneficiaries. Deprivation and preterition. Right of representation.

- 1.3. The calculation of the global and individual Forced Share. Computing and imputation
- 1. 4. The payment of the Forced Share:
 - 1.4.1. The attribution of the Forced Share by the deceased
 - 1.4.2. Intangibility and supplement of the Forced Share
 - 1.4.3. Valuation of assets
 - 1.4.4. Responsibility
- 1.5. The "inoficiosidad"
- 1.6. Extinction of the Forced Share. Renounce. Prescription
- 2. The quarta uxoris
 - 2.1. Concept. Legal nature. Requirements
 - 2.2. Calculation. Payment. Claim action. Guarantee
 - 2.3. Extinction and forfeiture

LESSON 10. THE ACQUISITION OF INHERITANCE

- 1. Hereditary acquisition systems
- 2. Capacity to accept and renounce
- 3. The *interpellatio in iure*
- 4. The acceptance:
 - 4.1. Concept and requirements
 - 4.1. Shapes. Tacit acceptance
- 5. The renunciation
 - 5.1. Concept and requirements
 - 5.2. Loss of the power to renunciate
 - 5.3. Renunciation of inheritance to the detriment of creditors
- 6. Effects of acceptance:
 - 6.1. Confusion of assets, unlimited liability.
 - 6.2. Accepting succession cum beneficio inventarii: without liability to debts beyond the assets descended.

LESSON 11. THE HEREDITARY COMMUNITY. THE PARTITION AND THE COLLATION

- 1. The hereditary community:
 - 1.1. Legal configuration: duration
 - 1.2. Legal system: administration and disposition of hereditary assets
- 2. The partition or sharing out a succession:
 - 2.1. Legitimation. Suspension
 - 2.2. Partial operations. Classification of partitions. The inheritance arbitration
 - 2.3. Efficiency of the partition. Rescission by injury
 - 2.4. Dispute of the partition. Liability of the joint heirs
- 3. The *collatio*
 - 3.1. Concept
 - 3.2. Collatable goods and their valuation
 - 3.3. Beneficiary

LESSON 12. THE PROTECTION OF HEREDITARY RIGHT

- 1. The claim to an inheritance:
 - 1.1. Legitimized
 - 1.2. Object
 - 1.3. Inheritance claim and *usucapion* (acquisitive prescription)
- 2. The apparent heir:
 - 2.1. Concept
 - 2.3. Legal Regime: protection of third party in good faith and for onerous title purchasers.

