

**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 *Fideicommisum*:
  - 4.1. General provisions: concept, forms, limits and classification
  - 4.2. Interpretation of *Fideicommisum*: approach rules, presumption of condition
  - 4.3. Pending the *Fideicommisum*:
    - 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 *Fideicommisum*: 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 Legacie
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. INTESTATESUCCESSION**

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
  - 2.3.4. 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 renounce
    - 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.

