

**Civil Law III**

Code: 102239  
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	2	2

### Contact

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### Use of languages

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

### Teachers

Fernando Hurtado Parras  
Javier Pou de Avilés Sans  
Sandra Camacho Clavijo  
Cristina Alonso Suárez  
Olga Villagrasa Aguilar  
Santiago Robert Guillen

### Prerequisites

A good follow-up to the Civil Law course III requires a good knowledge of the fundamentals of Roman law, Civil law I and civil law II, together with the correct use of legal terminology. Indispensable is, also, the continuous study of the subject that is taught in the subject from the very beginning of the course, with the help of the corresponding manuals. The teaching assignment among teachers is distributed as follows:

Group 1: M<sup>a</sup> Carmen Núñez Zorrilla/ Spanish language  
Group 2: Sandra Camacho Clavijo and Ferran Hurtado Parras/Spanish and Catalan language  
Group 3: Santiago Robert Guillén/Catalan language  
Group 51: Sandra Camacho Clavijo and Xavier Pozo Avilés/Spanish language  
Group 52: M<sup>a</sup> Carmen Núñez Zorrilla/ Spanish language  
Group 70: Cristina Alonso Suárez and Olga Villagrasa Aguilar/Spanish and Catalan language

### Objectives and Contextualisation

Civil law III is a subject that is taught in the second semester of the second year. It has as its purpose the acquisition of the basic notions, both of the general theory of the contract, and the types of contracts in particular most used in the legal traffic. The objective is the acquisition of the aforementioned knowledge, not only at the state and regional level (study of Catalan regulation in the matter), but also, from a European perspective, given the increasing influence of Community law on contracts in the ordering of our state and in the Catalan order.

It is an essential subject because it constitutes the basis from which other subjects of the degree will be developed, such as civil law IV, family Law, inheritance law, civil responsibility or right of consumption.

Civil law III aims for the student to achieve several objectives, notably:

- Identify the fundamental concepts of the general theory of the contract and the contracts in particular.
- differentiate between the various contractual legal relations in the field of patrimonial civil law, and
- To connect the right of contracts with the right of obligations.

## **Content**

### **GENERAL THEORY OF CONTRACT**

#### **ITEM 1. PRIVATE AUTONOMY. THE CONTRACT AND ITS ELEMENTS**

1. Facts and legal acts. The declaration of Will. The legal value of silence
2. Private autonomy: limits. The principle of non-discrimination.
3. The contract:
  - 3.1. Concept and characteristics.
  - 3.2. The "Consumer Contracts": concept of "consumers and users"
4. Elements of the contract:
  - 4.1. Consent: Concept and requirements
  - 4.2. The object: concept and Requirements
  - 4.3. The cause: concept and requirements
5. Shape: concept and kinds of shapes
  - 5.1. The form in consumer contracts

#### **ITEM 2. FORMATION OF THE CONTRACT**

1. Duties and responsibility in the pre-contractual phase:
  - 1.1. Duties of information in the offer or publicity. Illicit or unfair trade practices.
  - 1.2. Preliminary treatment: Principle of good faith and responsibility for the breakdown of preliminary treatment.
2. Formation of the contract:
  - 2.1. The offer of the contract: concept, content, revocation of the offer.
  - 2.2. Acceptance: concept, requirements, time to issue acceptance.
  - 2.3. The perfection of the contract: moment; Distance recruitment; Contracting by electronic means
3. The Precontract: Legal configuration

#### **ITEM 3. GENERAL CONDITIONS OF CONTRACTING. ABUSIVE CLAUSES AND THE INTERPRETATION OF THE CONTRACT**

1. The recruitment in series: Configuration and characterization.
2. General conditions of recruitment: concept; Incorporation control.
3. Abusive clauses: concept; Control of incorporation, transparency and content. Legal effects.
4. Registration of general conditions of recruitment.

5. Interpretation and integration of the contract:

5.1. hermeneutical canons.

5.2. The integration of the contract.

#### **ITEM 4. IRREGULAR FORMATION OF THE CONTRACT**

1. The absolute lack of consent:

1.1. Dissent

1.2. The Declaration without seriousness or declaration Iocandi Cause

1.3. The Mental reserve

2. Simulation: Elements and classes; Legal Consequences

3. The vices of Consent: characterization

3.1. The Declaration without Freedom: violence and intimidation

3.2. The error in the formation of consent: types and Requirements

3.3. The Dolo: concept, classes and legal regime

#### **ITEM 5. EFFECTIVENESS AND MODIFICATION OF THE CONTRACT**

1. Contractual efficacy:

1.1. Typical contractual efficacy

1.2. The efficacy of third parties: analysis of the different assumptions.

1.3. The trust business.

2. The modification of the contract:

2.1. Modification of the contract by alteration of the circumstances.

2.2. The assignment of the contract

2.3. The subcontract

#### **ITEM 6. INEFFECTIVENESS AND INVALIDITY**

1. Invalidity; inefficiency; non-existence: conceptual precisions.

2. Nullity:

2.1. Concept and Causes

2.2. Nullity Action

3. Voidability:

3.1. Concept and Causes

3.2. The Challenge action

3.3. Confirmation

#### 4. The Termination

4.1. The Unfair advantage and injury in more than half. The termination in Catalan law.

### **CONTRACTS IN PARTICULAR**

#### **ITEM 7. THE MANDATE AND THE FIGURE OF THE MANAGEMENT OF FOREIGN BUSINESSES**

1. Representation in general: concept, classes.

2. The mandate contract: mandate with representation and without representation.

3. Mandate and management of foreign businesses.

#### **ITEM 8. THE CONTRACT OF SALE**

1. The sale: concept and characters. Civil trading; Commercial of consumption.

2. Subjects and capacity. Prohibitions on buying

3. Object: The thing and the price. The sale of future goods and the sale of foreign goods. The plurality of sales of the same well

4. Seller's obligations

5. Buyer's obligations

6. The Covenant of Reserve of Dominion and of resolute condition

7. The question of risks

8. Special purchases: The sale of a letter of grace and sales of movable property in instalments

#### **ITEM 9. THE CONTRACT OF EXCHANGE AND TRANSFER OF PROPERTY**

1. The Swap:

1.1. Concept and characters

1.2. Reporting obligations of the parties: eviction and hidden vices

2. The transfer of property or building in exchange for future construction:

2.1. Concept and Configuration

2.2. Object and content of the contract.

2.3. The regime of non-compliance

2.4. Guarantees and extinction

#### **ITEM 10. LEASE OF THINGS**

1. The lease of thing: general legal regime.

2. Renting

3. Legal regime for urban leases:

3.1. Rental of housing and leasing for non-housing use

4. The Rustic leasing contract: basic notions.

## **ITEM 11. THE LEASING OF SERVICES AND WORKS**

1. The contract for the leasing of services: concept; Object Duration Rights and duties of the parties; Termination of the contract
2. The contract of deposit: legal system.
3. The contract of lease of work: concept; Object Rights and duties of the parties; The question of risks; Termination of the contract
  - 3.1. The contract of work in the law of management of the building.
4. The provision of services and works in collaboration contracts: the company contract.

## **ITEM 12. LOAN AND FINANCING CONTRACTS**

1. Loan for use. Legal system
2. Loan for consumption. legal system
3. The hiring of real estate credit.
4. Consumer credit.
5. Financial leasing.

## **ITEM 13. ALEATORY CONTRACTS**

1. Aleatory contracts: concept; Alea or "luck"; Legal settings
2. Gambling, Wagering and Betting contracts.
3. Life Annuity
4. The life-food contract
5. Introduction to the insurance contract

## **ITEM 14. EXTRAJUDICIAL CONFLICT RESOLUTION SYSTEMS**

1. The Transaction.
2. Mediation.
3. Arbitration:
  - 3.1. Ordinary arbitration
  - 3.2. Consumer arbitration. The out-of-court resolution of online consumer litigation.