

Roman Law

Code: 102231
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	FB	1	1

Contact

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Use of Languages

Principal working language: catalan (cat)
Some groups entirely in English: No
Some groups entirely in Catalan: No
Some groups entirely in Spanish: Yes

Teachers

Carme Tort-Martorell Llabrés
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Irene Jiménez López
Marine Celine Sophie Lercier

Prerequisites

For the purposes of an adequate monitoring of Roman Law, a good knowledge and understanding on the part of the students of the basic institutions covered by the Programme is of great interest.

At the same time, an understanding of the discipline entails an adequate deepening of the subjects covered and a great advantage in being able to read complex texts and understand them.

Objectives and Contextualisation

Roman Law is a subject taught in the first term of the first year of studies. This is a subject that allows the student to acquire basic notions of an essential subject - Private Law and the History of European Law Institutions - within the Degree.

Thus, Roman Law has the academic utility of critically opening up the great topics that will later be developed in the various subjects with institutional content and thought that make up our legal system in the Western world.

In this sense, Roman Law is the basis from which the knowledge and understanding of legal institutions, the legal vocabulary, the understanding of a complete legal system in all its manifestations, as well as the development of analytical capacity and legal criticism between the initial months of graduation will be developed.

From the formative perspective, Roman Law aims to achieve several objectives for the student, among which we would like to highlight the following:

Study of legal thought, from its origins in Rome to its projection in the European and Latin American Codifications. Knowledge of the Private Law Institutions that make up the European Legal Culture and Global Law.

The exercise of critical thinking and reflection on the intimate connection between the enunciation of rights and their procedural protection.

Seek the sources and argue what may be, in each case, the solution best suited to the law (i.e. the ius, as a procedural position).

Competences

- Contextualizing the several forms of creation of law in its historical evolution and its current situation.
- Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
- Identifying and solving problems.
- Identifying, knowing and applying the basic and general principles of the legal system.
- Integrating the importance of Law as a regulatory system of social relations.
- Memorising and utilising legal terminology.

Learning Outcomes

1. Applying the procedural defence resources of law.
2. Assessing the evolution of law in Rome in relation to the social and economic evolution of the society producing it.
3. Assessing the revitalizing and creative role of Roman jurisprudence.
4. Assessing their influence in the European legal tradition.
5. Critically thinking about a jurist law versus a law based in the force of the law.
6. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
7. Describing the fundamental legal concepts, in the Roman law and the current private law.
8. Distinguishing the foundations of the Institutions of Roman Private Law.
9. Distinguishing the role and independence of legal judgements, in the face of the facultative control exercised by the Edict-announced magistrate resources.
10. Identifying and differentiating the sources of law.
11. Identifying and solving problems.
12. Reviewing the impact of the Justinian law and the influence of the Corpus Juris Civilis in the Western legal tradition.
13. Underlying that same evolution in the Western legal tradition.
14. Using basic legal terminology in in terms of procedural matters: individual and family law, succession law, property law and rights in rem, law of obligations and contracts.

Content

The Programme focuses on the in-depth study of the Institutions of Roman Private Law, given that they form the most solid basis for introducing students to the knowledge of the many disciplines that make up the backbone of the studies of Law (civil, commercial, procedural, penalti), which is more devoted to the exercise of the traditional month legal professions.

The Programme has a very recognisable structure within this approach, within a system very attached to the tradition of Private Law in Spain and Catalonia: Property (Concept, possession-property, ways of acquiring property, procedural defence, real rights), Person and Family, Inheritance (Inheritance, legacies, trusts), Obligations (General notions, Offences, Loans, Stipulations and Contracts); Liberalities (Foundations, Donations, Dowry).

For reasons of scientific consistency, the forms of procedural defence will be explained in each of the institutions. Rome Law is based on the perspective of procedural remedies, which defend conflicting interests and the creative and interpretative work of jurists, in an interdependent manner. It is not a legislated right, but

(very close to Common Law) a right made by the judges, the praetor's appeals applied by him, and by the jurisprudential elaboration.

INTRODUCTION

I. THE HISTORY OF ROMAN LAW

The European Reception of Roman Law. Historical-social budgets. Political structure from the public nothingness. Historical Stages of Roman Law.

II. THE SOURCES OF ROMAN LAW

Mueras maiorum haces y ius. The Law of the XII Tables. Republican Jurisprudence. Ius civile and ius gentium. Laws and plebiscites. The Edict: The Sources of Roman Law from Augustus The Jurisprudence of the Upper Classical Period. Hadrian's significance for the history of Roman law. Imperial rescripts. The latest classic case law. Provincial law. The tabula-classic era. Diocletian and Constantine The Corpus Christi.

III. THE PROCEDURE FOR THE ACTIONS

Las legis actiones. The procedure by formulas. Complementary resources of the jurisdiction pretoria. The private process. Procedural representation. The phase in iure. Litem replied. The appointment of a judge. The retrievers. The apud iudicem phase. The execution of the sentence. The arbitration procedure. La cognitio extra ordinem.

THE PROPERTY

I. BROAD CONCEPTS

The nothing and its classes. Content of the property. Possession Pretoria. Possession injunctions. Civilian possession. Procedural protection of the owner.

II. THE ACQUISITION OF THE PROPERTY

Classification. Formal acts of attribution of ownership. Ways of acquiring property that depend on ownership of property

III. CONCURRENCE OF RIGHTS IN REM

Types of concurrence. The co-ownership. The easements. The usufruct. Special modalities.

THE HERITAGE

I. GENERAL NOTIONS ABOUT THE ROMAN FAMILY

The family. The kinship. Parental authority. Manus and marriage. The slaves and the freedmen. Patrimonial situation of children and slaves. Noxal responsibility.

II. THE GUARDIANSHIP

Guardianship of orphans with disabilities. Types. Effects of public intervention. Tutela mulieris. The conservatorships.

III. HEREDITARY SUCCESSION

General considerations. The addition of heredity and its effects. Procedural remedies of the heir. The bonorum possessio. Legitimate heirs. Probate succession. Succession against will. The interpretation of the will.

IV. BEQUESTS, BEQUESTS AND TRUSTS.

Forms of legacies. Content and limitations of the legacies. Validity of legacies. Acquisition of the legacies. The trusts.

THE FOUNDATIONS. Historical origin. Legal regime of foundations.

THE DONATIONS. Nature; lucrative and free acts. The modus in the donations. Classes.

THE DOCTOR. Constitution. Dowry regime.

OBLIGATIONS I. BROAD CONCEPTS

Obligatio. Sources of obligations. Strict liability. Extinction of obligations.

II. CRIMINAL PROCEEDINGS

Obligations arising from the offences. Characteristics of criminal proceedings. Theft offence (furtum). Crime of damage (damnum iniuria datum). Crime of injury (iniuria). Miscellaneous offences under the law of praetorship.

III - LOANS

Crederere. y solvere. Condictio. The credit ratings. The mutual. Praetorian loans. Constitutum. Commodatum. Pignus. The mortgage.

IV. STIPULATIONS

The promising way. Abstract nature of the stipulation. Overlapping of stipulations. Novation. Plurality of stipulators or promissors. Personal guarantee.

V. BONA FIDE CONTRACTS

Historical origin. The fiducia. Deposit contract. Mandate contract. Indirect representation, partnership agreement. Legal personality. Contract of sale. Responsibility for fear of eviction. Lease agreement. Special types of locatio rei.

Methodology

The classes try to bring the student closer to the direct knowledge of the legal sources on which the statements of the teaching texts and the theoretical explanations are based.

As the whole timetable is based on the knowledge of the institutions from a procedural, dynamic perspective, the student is always provided with the means to approach by himself the best possible solution in the event of a legal conflict of interests.

The center of the learning process is the work of the student, who learns by working, the mission of the teaching staff being to help him/her in this task, providing information and showing him/her the sources where it can be obtained.

The exam, type test, will reach the content of the program, through specific questions that allow knowing the degree of reflection and knowledge of the student.

Attendance in classes, active participation in course practices and attendance at seminars and conferences will be valued.

At the same time the development of the teaching of the subject and the training of the student is based on the following activities:

1. Directed activities:

1.1. Theoretical classes: where the student achieves the conceptual bases of the subject and his normative and jurisprudential legal framework. The master classes are activities in which interactivity is demanded of the student and are conceived as a fundamentally method of transmission of knowledge from the teacher to the student.

1.2. Tests: where students analyze and solve previously elaborated assumptions. The basis of these tests is the understanding and critical application of the solutions of Roman jurisprudence related to the essential content explained to the theoretical classes. The teacher will publish in the Virtual Campus a calendar of activities planned for the course.

1.3. Supervised activities in the classroom: these are activities that the students will carry out in the classroom, conferences, seminars, congresses, with the supervision and support of the teacher. It is about the elaboration of some practical case in the classroom, of some sentence and/or normative cards, of the realization of schemes of some epigraphs of the subject; of oral interventions with questions proposed by the students themselves or by the teacher. In each case, the teacher will determine which activities will be proposed for each course.

2. Autonomous activities:

Elaboration of documents of practical activities: this will be delivered and analyzed in the classroom (see directed activities 1.2). These are practical cases proposed sufficiently in advance by the teacher, or the preparation of case files, regulations or films or other documents. In each case, the teacher will determine which activities will be proposed for each course.

2.2. Search for bibliography and instrumental jurisprudence for the resolution of practical cases. In some or some cases the students will have to make the autonomous search of the documentation.

The evaluation system combines the continuous evaluation of the practices and the resolution of a final exam.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Activities supervised in the classroom: elaboration of cards, practices and epigraphs of the programme in the classroom. Debates	11	0.44	1, 6, 9, 11
Theoretical classes	11.5	0.46	7, 8, 5, 12, 14, 2, 4
Writing of works	22.5	0.9	1, 6, 9, 11, 14
Type: Autonomous			
Reading texts	60	2.4	7, 8, 5, 12, 14, 3, 2, 4
Search for documentation and bibliography	9	0.36	10, 14
Study	36	1.44	8, 12, 4

Assessment

The evaluation model will be continuous evaluation, which requires attendance at 80% of the classes and the completion of the two exercises or tests and the final evaluation exam.

The final grade of the subject is obtained from the sum of the following evaluations: the grade of the two exercises or tests to be carried out throughout the course (25% each) and the grade of the final test or examination of the evaluation (50%).

In each teaching group, at the beginning of the course, the specific date of completion of the evaluable activities will be published on the Virtual Campus, without prejudice to the fact that, exceptionally and due to force majeure, these activities may be modified with prior and sufficient notice.

There will be a re-evaluation for those students who have not passed the continuous evaluation.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Final examination of contents	50%	0	0	1, 6, 7, 8, 9, 10, 11, 5, 12, 13, 14, 3, 2, 4
Practices and activities of proposed continuous evaluation	50%	0	0	1, 6, 7, 8, 9, 10, 11, 5, 12, 13, 3, 2, 4

Bibliography

BASIC

- Teresa Giménez-Candela, Derecho Privado Romano. Ed. Tirant lo Blanch (Valencia, 2011)
- Dictionary "Trivium" de Derecho y Economía; esp. anex IV: "Frases y locuciones latinas" (Latin phrases and locutions). Ed. Trivium (Madrid 1998)

COMPLEMENTARY

- Gerhard Wesenberg - Gunter Wesener, "Historia del Derecho Privado Moderno en Alemania y en Europa (History of Modern Private Law in Germany and Europe) Ed. Lex Nova, Valladolid 1998
- Sandro Schipani, "La codificación del Derecho Romano Comune". Ed. Giappichelli. Torino, 1996
- Reinhard Zimmermann, Estudios de Derecho Privado Europeo. Ed. Civitas, Madrid 2000
- Giovanni Luchetti - Aldo Petrucci, "Fondamenti di Diritto Contrattuale Europeo", Bologna, 2006.
- Joan Miquel, "Derecho Romano". Ed. Marcial Pons, 2017.

Especially in relation to the legal status of animals, the legal website: www.derechoanimal.info