

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

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

Competences

- Apprehending the necessary mechanisms in order to know, assess, and apply the legislative reforms as well as to follow the changes produced in a concrete subject.
- 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.
- Drawing up and formalising works, reports, documents, rulings.
- Identifying the underlying conflicts of interest in disputes and real cases.
- Identifying, knowing and applying the basic and general principles of the legal system.
- Managing bibliographic and documentary resources: databases, browsing, etc.
- Planning and organising: managing of time, resources, etc.
- Properly analysing the issues related to equality between men and women.
- Searching, interpreting and applying legal standards, arguing every case.
- Students must be capable of communicating their points of view in a compelling way.
- Students must be capable of demonstrating a critical awareness of the analysis of the legal system and development of legal dialectics.
- Students must be capable of learning autonomously and having an entrepreneurial spirit.
- Students must be capable of producing initiative, creative and innovative knowledge, as well as new ideas.
- Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

Learning Outcomes

1. Analysing the fundamental concepts of civil law.
2. Analysing the specific institutions of the property law.
3. Applying communicative strategies in order to identify and explain legal conflicts in the different fields of civil law, family law, successions, consumption, minors and civil responsibility.
4. Applying concepts in a cross-cutting way to the several subjects of civil Law from the jurisprudence of the different jurisdictional bodies.
5. Applying strategies in order to produce written and oral texts in the several fields of civil law.
6. Applying the knowledge acquired in the preparation of documents that reflect specific legal interests.
7. Contextualising the creation forms of Law in the property field.
8. Critically interpreting the foundations of the civil law.
9. Defining the European and international concepts in terms of equality.
10. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
11. Distinguishing the socio-legal context of several civil institutions.
12. Drawing up and formalising works, reports, documents, rulings.
13. Drawing up written texts (contracts, wills).
14. Enumerating the basic reforms in inheritance law.
15. Identifying the conflicts of interest that are trying to be solved by the legislator when elaborating civil regulations.
16. Managing bibliographic and documentary resources: databases, browsing, etc.
17. Planning and organising: managing of time, resources, etc.
18. Presenting orally, with a critical discourse, the reforms of civil institutions.
19. Producing oral and written texts and presenting points of view about civil-legal institutions.
20. Producing oral and written texts of egalitarian discourse.
21. Producing oral texts in the several fields of civil law, showing specific communicative abilities.
22. Producing reports about new legal changes.
23. Solving interferences between the several conflict interests of civil regulations.
24. Students must be capable of communicating their points of view in a compelling way.
25. Students must be capable of learning autonomously and having an entrepreneurial spirit.
26. Students must be capable of producing initiative, creative and innovative knowledge, as well as new ideas.
27. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

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 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. 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
 - 2.3.4. 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 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.

Methodology

The learning process is based on the work of the student, who learns by working, being the mission of the teachers to help them in this task by providing information and showing them the sources where it can be obtained.

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 Master classes: where the student reaches the conceptual bases of the subject and its legal, normative and jurisprudential framework. Master classes are those activities in which less interactivity is required of the student and are conceived as a fundamentally unidirectional method of transmitting knowledge from the teacher to the student.

1.2. Practical classes: where the students analyze and solve together with the teacher practical cases previously elaborated. In specific cases, the cases will be elaborated in class. The basis of the practical work is the understanding and critical application of the regulations and jurisprudence related to the essential content explained in the theoretical classes.

These are activities that the students will develop in the classroom, with the supervision and support of the teacher. It is about the elaboration of some practical case in the classroom, study and oral discussion of legal texts, as well as the realization of schemes of some epigraphs of the subject, the elaboration of a glossary of concepts. The specific content of these activities will be determined by the teacher of each group.

2. Autonomous activities:

2.1. Preparation of documents: these are documents of the practical activities that will be delivered and analysed in the classroom (see 1.2). These may be practical cases proposed sufficiently in advance by the teacher, taken from court rulings. A partial examination is also proposed as an autonomous activity, the specific form of which will be determined by each teacher in his or her group.

2.2. Search of bibliography and instrumental jurisprudence for the resolution of the practical cases and the preparation of the partial examination. In some cases the students will have to search for the documentation autonomously.

2.3. Comprehensive reading of legal texts: Legal texts may be judgments, regulations, journal articles or monographs, in addition to the manual or recommended manuals. The type of specific legal text will be determined by each teacher according to his or her group.

Part of the legal material available to the student will be delivered via the virtual campus.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Practical application of theoretical knowledge	22.5	0.9	2, 24, 10, 22, 16, 15, 8, 21, 23, 26
master classes	22.5	0.9	1, 3, 5, 24, 10, 22, 8, 21, 19, 26
Type: Autonomous			
job writing	20	0.8	2, 4, 6, 5, 24, 7, 10, 14, 16, 15, 12, 13, 26
partial examination and resolution of two case studies	1.5	0.06	1, 4, 10, 11, 22, 12, 13, 26, 27

reading of legal texts	30	1.2	2, 6, 7, 22, 16, 8, 21, 19, 12
search for bibliography and jurisprudence	10	0.4	4, 7, 11, 14, 18, 16, 17, 21, 12, 13, 27
study	43.5	1.74	1, 24, 10, 22, 15, 8, 12, 13, 23, 27

Assessment

COMPETENCY ASSESSMENT SYSTEM AND RATINGS SYSTEM

REGULAR EVALUATION AND RATING SYSTEM:

Continuous evaluation:

The teacher of each group will propose at the beginning of the course the activities that he considers pertinent for the purposes of the continuous evaluation. Thus, for example, it could be:

- testing theoretical knowledge (written/oral) throughout the course
- practical application of theoretical concepts (case studies, glossaries, schemes, etc.)
- comments on judgments, drafting of documents

The tests that will serve for the mark will be the partial examination with a minimum mark of 5 out of 10 (30%) and the resolution of two practical cases (20%).

Final Exam: All students, whether or not they have passed the continuous assessment, CAN ACCESS the final exam. The specific type of examination (oral, written, question development, multiple choice, etc.) will be determined by the teaching team. Students are tested on the subject program.

Programming - schedule of assessment activities In each teaching group, the specific date or week of the performance of the assessable activities will be published on the Virtual Campus before the start of teaching, without prejudice to the fact that, exceptionally and for justified reasons, these activities may be modified with sufficient advance notice. Obligatory nature refers only to evaluation activities, not to the rest of the learning activities that may be carried out.

Grade review procedure

The student body has the right to review the different results of the evaluation activities. The ordinary review of evaluation activities shall begin at least twenty-four hours after the notes have been made public, or on the same day if publicly announced earlier. The request for review shall be made directly to the faculty responsible for the subject that carried out the assessment. The review must, in any case, be personal and individualized. In the event of disagreement with the final grade, the student body will have a period of fifteen calendar days, from the date that the academic calendar sets as the deadline for closing the minutes, to present a reasoned request for review. This request will be submitted to the deanery, and will be delivered to the corresponding academic management.

Qualification of the subject with the evaluation system The score obtained in the continuous evaluation will have the value of 50% of the qualification of the subject. The score of the final exam will have a value of 50% of the grade of the subject. grade of the continuous evaluation: will consist of two grades (30% of the partial exam, 20% resolution of two case studies) the obtained or 0 if it has not been done. grade of the final exam: 50%.

the subject will be passed with a minimum of 5 out of 10, according to the percentages established.

RE-EVALUATION SYSTEM: in order to access the reevaluation, a minimum score of 3 out of 10 must be obtained between the continuous evaluation grade and the final exam. The students will be examined of the program of the subject. The subject will be passed with a minimum of 5 out of 10, according to the established percentages. The final grade will be the grade of the re-evaluation in case of taking the exam.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Synthesis examination	50%	0	0	1, 2, 6, 5, 7, 9, 10, 22, 14, 18, 16, 21, 20, 19, 12, 13, 23, 25, 26, 27
partial examination and resolution of two case studies	30% and 20% respectively	0	0	1, 2, 4, 6, 5, 7, 10, 11, 8, 17, 20, 13, 26, 27
reassessment	100%	0	0	1, 2, 6, 3, 24, 10, 11, 15, 17, 19, 13

Bibliography

1. Legislation:

- Law on Book IV of the Civil Code of Catalonia and complementary legislation
- Spanish Civil Code

2. Basic bibliography:

Civil Law of Catalonia. Inheritance Law. Antoni Vaquer - Pedro del Pozo - Esteve Bosch, Marcial Pons, Barcelona/Madrid, 2017.

Tratado de Derecho de Sucesiones, Gete-Alonso (dir.), Thomson Reuters, 2nd edition, 2016.

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Course on Civil Law, V. Inheritance Law. Manuel Albaladejo, Edisofer, 11 ed.

Elementos de derecho civil, V, Sucesiones, José Luis Lacruz Berdejo y otros, Ed. Dykinson, 2007.