

**Civil Law IV**

Code: 102238  
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	3	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**

Juan Manuel Abril Campoy  
Rafael Arnaiz Ramos  
Cristina Alonso Suárez  
Olga Villagrasa Aguilar

**Prerequisites**

A good follow-up of the course of Civil Law IV requires a good knowledge of the bases of Roman Law, Civil Law I, Civil Law II and Civil Law III. Is also relevant the correct use of legal terminology.

The allocation of teaching among the teachers is distributed as follows:

Group 1: Joan Manuel Abril and Olga Villagrasa / Catalan language

Group 2: M<sup>a</sup> Carmen Núñez and Cristina Alonso / spanish language

Group 3: M<sup>a</sup> Carmen Núñez / spanish language

Group 51: Rafael Arnaiz / spanish language

**Objectives and Contextualisation**

Civil law IV is a subject taught in the first semester (ADE + Law) and second semester (Law) of the third year. The student acquires basic notions of real rights and Property Registry.

Civil Law IV has a great academic use because contains the general concepts of real rights that will be developed in various subjects of Civil Law, especially in the optional subjects . Consequently, Civil Law IV is the basis for the following elective subjects: Family Law, Law of Successions, Civil Liability, Consumer Law.

The Civil Law IV seeks the student's achievement of various objectives, among which include particularly:

- Identify the fundamental concepts of the general theory of property law and of the legal-real relationships in particular.
- Know the system of acquisition and transmission of property and other rights in our legal system, differentiating it from the compared models.
- Understand the basic elements of real rights and connect them with the right of obligations and contract law.

## 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. Identifying the conflicts of interest that are trying to be solved by the legislator when elaborating civil regulations.
15. Managing bibliographic and documentary resources: databases, browsing, etc.
16. Planning and organising: managing of time, resources, etc.
17. Presenting orally, with a critical discourse, the reforms of civil institutions.
18. Producing oral and written texts and presenting points of view about civil-legal institutions.
19. Producing oral and written texts of egalitarian discourse.
20. Producing oral texts in the several fields of civil law, showing specific communicative abilities.
21. Producing reports about new legal changes.
22. Solving interferences between the several conflict interests of civil regulations.
23. Students must be capable of communicating their points of view in a compelling way.
24. Students must be capable of learning autonomously and having an entrepreneurial spirit.

25. Students must be capable of producing initiative, creative and innovative knowledge, as well as new ideas.
26. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

## Content

### REAL RIGHTS

#### GENERAL PART AND PROPERTY REGISTRY

##### LESSON 1. THE REAL RIGHT. ACQUISITION AND TRANSMISSION

1. The real right: concept, types. The intermediate situations
2. Sources of creation of real rights
3. The double system of acquisition and transfer of real rights
4. *Traditio*: concept and types

##### LESSON 2. THE PROPERTY REGISTRY (I)

1. The Property Registry: concept. The registration systems. The Spanish registry system and its regulations
2. The situations that enter the registry. The inscribable titles
3. The registered property: concept and types. Access to the Registry and modification of the registered property
4. Agreement and coincidence between Property Registry and land register
5. The record. Concept, types and non-valid record

##### LESSON 3. THE PROPERTY REGISTRY (II). THE MOVABLE PROPERTY REGISTRY

1. The registration of property. Concept, means of registration. Double registration
2. Inaccurate registration rectification
3. Effects of registration publicity:
  - 3.1. Material and formal publicity
  - 3.2. Legitimation
  - 3.2. The third-party effectiveness
4. The Movable property Registry: regulations, sections and fundamental characteristics

##### LESSON 4. POSSESSION

1. Concept. Possession and detention
  - 1.1. Subjects. Capacity. Co-possession and the concurrence of possessions
  - 1.2. Object
  - 1.3. Content
2. The possessory concept. Continuity
3. Possession of good and bad faith
4. Modes of acquisition of possession. Capacity. Clandestinely Possession and with violence
5. End of possession: Causes
6. Effects of possession:
  - 6.1. Possession and title. Acquisition in good faith of movable goods
  - 6.2. Settlement of the possessory situation
7. Judicial protection of possession. The *publiciana* action

##### LESSON 5. DONATION

1. Donation: legal nature
2. The donation act:
  - 2.1. Structure
  - 2.2. Capacity of the donor and the donee
  - 2.3. Object

- 2.4. Disposal effects limitation: Conditional and term donations. Donation with reversal clause. Donation with right to dispose reservation
- 3. The liberality cause:
  - 3.1. The *modalis* donation. The remuneratory donation. Indirect donation
  - 3.2. Effects derived from the liberality cause
  - 3.3. The revocation of donations
- 4. The lucrative title:
  - 4.1. Form
  - 4.2. Acceptance of the donee
  - 4.3. Efficacy of the donation
- 5. Donations with a charitable nature

#### LESSON 6. THE USUCAPIO

- 1. Concept, subjects and object
- 2. Requirements:
  - 2.1. Possession to give rise to usucapio
  - 2.2. The terms. Interruption. Suspension
- 3. The liberating usucapio
- 4. Usucapio renounce
- 5. Usucapio and Property Registry

#### LESSON 7. EXTINCTION OF REAL RIGHTS

- 1. Difference between extinction and causes of extinction of the real right
- 2. The loss of the good. Real subrogation
- 3. The consolidation. Real rights of proprietary
- 4. The renunciation

#### LESSON 8. THE PROPERTY RIGHT

- 1. The private property
  - 1.1. Concept, characters and social function. The right to housing Act
  - 1.2. Content. Temporary property
  - 1.3. Prohibitions to dispose
- 2. Restrictions on property right:
  - 2.1. Concept
  - 2.2. Restrictions in the public interest
  - 2.3. Restrictions in the private interest. Neighborhood relations
- 2.4. State of necessity
- 3. Immissions: concept, types and legal regime. Case Laws doctrine and special reference to the environment
- 4. Modes of acquisition of property right:
  - 4.1. The accession General rules. The movable accession. The inmovable accession.
  - 4.2. Occupancy. Legal status of findings and objects of extraordinary value
- 5. The property abandonment
- 6. Protection of property right
  - 6.1. The reivindicatoria action: concept. Requirements Effects
  - 6.2. Exclusion actions: negatoria action, closing, delimitation and demarcation farms actions.

#### LESSON 9. COMMUNITY PROPERTY SITUATIONS

- 1. Community and co-ownership. Community situations. Society and community Regulation
- 2. Joint ownership: concept and constitution
  - 2.1. Individual rights over the community
  - 2.2. Rights and duties on the object of the community
  - 2.3. Extinction: the community division
- 3. The Horizontal property
  - 3.1. Configuration. Constitution and legal regime. Governing bodies of the community of owners.

- 3.2. Simple Horizontal property
- 3.3. Complex Horizontal property
- 3.4. Communities and sub-communities for garages and storage rooms
- 3.5. Horizontal property by parcels: concept and legal configuration. The privative and common elements. Title of incorporation. Extinction
- 4. Time sharing or Community by turns: Concept and legal configuration. Constitutive title. Content. Extinction. Law 42/1998
- 5. Dividing Walls Community: concept, classes and legal regime
- 6. Shared ownership. Concept, object. Constitution. Content. Extinction

## REAL PARTICULAR RIGHTS

### LESSON 10. REAL RIGHTS OF GUARANTEE (I): RETENTION, PLEDGE, ANTICRESIS

- 1. Real rights of guarantee: concept and characters. Types and general legal effectiveness
- 2. Right of retention:
  - 2.1 Concept. Constitution
  - 2.2 Legal regime. Effects
  - 2.3 Retention of low value personal property
- 3. The pledge:
  - 3.1. Concept. Constitution
  - 3.2. Legal regime. Effects
  - 3.3. The pledge without displacement: legal regime
- 4. Antichresis:
  - 4.1. Concept. Constitution
  - 4.2. Legal regime. Effects

### LESSON 11. RIGHTS OF GUARANTEE (II): MORTGAGE

- 1. Legal and doctrinal concept
- 2. Object of the mortgage
- 3. Subjects: mortgagor debtor, non-debtor mortgager and third possessor of the mortgaged property, mortgagee
- 4. The constitution of the mortgage: voluntary and legal
- 5. Legal Regime of mortgage credit. Mortgage types based on credit. Subrogation and modification of mortgage loans
- 6. Efficiency of the mortgage:
  - 6.1. Security phase.
  - 6.2. Execution phase. The foreclosure
    - 6.2.1. Judicial procedure
    - 6.2.2. Extrajudicial procedure
    - 6.2.3. Legal effects of the execution. Special reference to the habitual residence
- 7. Termination of the mortgage. Cancellation of the registration
- 8. The movable mortgage. Legal regime

### LESSON 12. LIMITED REAL RIGHTS OF ACQUISITION

- 1. Limited Real Rights of acquisition: concept, types. Title of incorporation. Extinction
- 2. Voluntary real rights of acquisition: general legal regime
  - 2.1. Option: constitution, content and exercise
  - 2.2. First refusal and redemption: constitution, content and exercise
- 3. First legal refusal and redemption
- 4. Collision and preference among real rights of acquisition

### ITEM 13. USUFRUCT. USE. HABITATION. REAL RIGHT OF PARTIAL EXPLOITATION

- 1. Usufruct: concept and constitution
- 2. Object. Subject and co-ownership
- 3. Content: rights and duties of the usufructuary and the bare owner
  - 3.1. Charges before taking possession. Expenses

- 3.2. Provision of the right. Usufruct with power of disposition
- 3.3. The fruits and improvements
- 4. Extinction, liquidation and protection
- 5. Use and Habitation: common legal regime.

6. Real Right of partial exploitation: concept. Constitution and legal regime. Extinction

#### LESSON 14. EASEMENTS

- 1. Easements: concept and constitution
- 2. Content: general and accessory. Light and views easements
- 3. Easement on own property
- 4. Termination. Modification of farms and extinction of easements
- 5. Protection: confesoria action

#### LESSON 15. SURFACE RIGHT. RIGHT TO OVERHANG. CENSUS

- 1. The surface right. Concept and legal regime
- 2. The right to overhan. Concept and legal regime
- 3. The right of census. Concept, types and legal regime

### Methodology

The learning process is based on the work of the student, who learns working, being the teacher's mission to help in this task, providing information and showing 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 Lectures: where the student reaches the conceptual bases of the subject and its legal framework and jurisprudential. The master classes are the activities in which less interactivity is required of the student and are conceived as a fundamentally unidirectional method of transmitting the teacher's knowledge to the student.

1.2. Practical classes: where the students analyze and solve together with the teacher practical cases previously elaborated. In specific cases, cases will be developed 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.

#### 2. Supervised activities:

These are activities that students will develop in the classroom, with the supervision and support of the teacher. It involves the development of some practical assumption in the classroom, study and oral discussion of legal texts, or the completion of schemes of some sections of the subject, the development of a glossary of concepts. The concrete content of these activities will be determined by the teacher of each group.

#### 3. Autonomous activities:

3.1. Preparation of documents: these are documents of the practical activities that will be delivered and analyzed in the classroom (see 1.2). It may be practical cases proposed in advance by the teacher extracted from court judgments. A partial exam is also proposed as an autonomous activity, the concrete form of which will be determined by each teacher in their group.

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

3.3. Comprehensive reading of legal texts: Legal texts can be judgments, norms, journal articles or monographs, in addition to the manual or recommended manuals. The type of concrete legal text will be

determined by each teacher according to their group.

Some of the legal material available to the student will be delivered through the Moodle Classroom.

## Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Master classes and practices	22.5	0.9	2, 3, 10, 8, 16, 22, 25
Practical development in the classroom	22.5	0.9	4, 10, 8, 16, 13, 25
Type: Supervised			
Tutorials	0	0	1, 5, 16
Type: Autonomous			
midterm exam	2	0.08	1, 6, 7, 9, 15, 14, 8, 16, 19, 22, 26
reading legal texts	30	1.2	1, 4, 3, 23, 7, 15, 13, 22, 25
search of bibliography and jurisprudence	6	0.24	1, 2, 21, 17, 18
study	43	1.72	2, 4, 6, 7, 10, 21, 17, 14, 8, 16, 26
writing of works	20	0.8	5, 23, 15, 16, 20, 19, 13, 25

## Assessment

### Evaluation

The evaluation must be based on a minimum of three evaluable activities, corresponding at least to two different types (example of possible non-exhaustive typologies: case studies, course work, oral presentations, argumentation and debate, attendance, participation, exams) . None of the typologies can represent more than 50% of the final grade.

The evaluable activities will be distributed throughout the course. So it is not possible to do a single test with three well differentiated parts that correspond to two different types. A practice not adjusted to the parameters would be the realization of a final exam with a long question, a test type test and a practical case.

A correct example could be the realization of a final theory exam with a value of 50%; the resolution of 2 practical cases during the academic year, with a value of 40%, and a presentation in class during the course with a value of 10%.

Final exam:

All students, whether or not they have passed the continuous assessment, can access the final exam. The specific type of exam (oral, written, question development, multiple choice, etc ...) will be determined by the teacher. Students examine the program of the subject.

Qualification of the subject with the evaluation system:

The score obtained in the continuous evaluation will have a value of 50% on the grade of the final grade of the subject. The score of the final exam will have a value of 50% on the qualification of the subject. The overall mark of the subject will be the result of adding the score obtained in the continuous evaluation + the score obtained in the final exam.

The subject will be approved with the minimum achievement of 5 out of 10, according to the established

percentages.

Schedule-schedule of evaluation activities:

In each teaching group will be published in the Virtual Campus, before the start of teaching, the specific date or the week of realization of evaluable activities, notwithstanding that, exceptionally and for justified reasons, these can, with notice and advance enough, be modified. Compulsory refers only to evaluation activities, not to the rest of the learning activities that can be done.

Procedure for review of qualifications:

The student has the right to review the different results of the evaluation activities.

The ordinary review of the evaluation activities will begin, at least, twenty-four hours after the notes have been made public, or the same day if it has been publicly announced before.

The request for review will be made directly to the faculty responsible for the subject that has made the evaluation. The review must be, in any case, personal and individualized.

In case of disagreement with the final grade, students will have a period of fifteen calendar days, from the date set by the academic calendar as the deadline for closing the minutes, to submit a reasoned request for review. This request will be submitted to the dean, and will be delivered to the corresponding academic management.

Recovery or re-evaluation procedure:

In the exam of recovery the alumnado examines of all the matter of the asignatura. Your grade will be obtained only in this exam, without taking into account the qualification of the continuous assessment. To be eligible for reevaluation, students must have taken the ordinary final exam and have obtained a minimum grade of 3 on the average between the continuous assessment + the ordinary final exam.

The subject will be approved with the obtaining of a minimum of 5 out of 10, in accordance with the established percentages.

## Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Evaluable activities (eg partial exam and resolution two practices)	50%	2	0.08	1, 9, 10, 14, 16, 12, 22, 26
Synthesis exam	50%	1	0.04	1, 2, 4, 6, 23, 7, 9, 11, 21, 17, 15, 8, 16, 20, 19, 18, 13, 24, 25
re-evaluation	100%	1	0.04	6, 3, 5, 10, 11, 15, 14, 16, 20, 13, 26

## Bibliography

Legislation:

1. Civil Code of Catalonia: Law 5/2006, of May 10, of the Fifth Book of the Civil Code of Catalonia, relating to real rights.
2. State Civil Code
3. Mortgage Law and Regulation

Manuals:

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5. AA.VV (2008), Real estate law lessons. Editorial Atelier. Barcelona.

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