

**Family Law**

Code: 103955  
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OT	4	0

The proposed teaching and assessment methodology that appear in the guide may be subject to changes as a result of the restrictions to face-to-face class attendance imposed by the health authorities.

**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

**Teachers**

Maria Isabel García Ruíz

**Prerequisites**

*I. Former in-depth knowlege in Patrimonial Law, Personal Law and Fundamental Principles of Law.*

*II. Lecturers:*

Prof. S. Navas is in charge of the theoretical lectures (language: Spanish).

Prof. I. García is in charge of the workshops (language: Spanish).

*III. Warning:*

A student who cheats or try to cheat an exam will have a 0 as a mark. A Student who submits a paper o practica

**Objectives and Contextualisation**

The goals of Family Law are:

- 1.- Giving an in-depth knowledge of the Spanish and Catalan regulation concerning Family matters
- 2.- Deep learning of the leading cases of the Spanish Supreme Court
- 3.- Solve practical problems applying the fundamental principles of Family Law
- 4.- Questioning and proposing new approaches in family current problems.

**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.
- 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.
- Planning and organising: managing of time, resources, etc.
- Students must be capable of communicating their points of view in a compelling way.
- Students must be capable of learning autonomously and having an entrepreneurial spirit.

## Learning Outcomes

1. 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.
2. Applying strategies in order to produce written and oral texts in the several fields of civil law.
3. Applying the knowledge acquired in the preparation of documents that reflect specific legal interests.
4. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
5. Distinguishing the socio-legal context of several civil institutions.
6. Drawing up and formalising works, reports, documents, rulings.
7. Identifying the conflicts of interest that are trying to be solved by the legislator when elaborating civil regulations.
8. Planning and organising: managing of time, resources, etc.
9. Solving interferences between the several conflict interests of civil regulations.
10. Students must be capable of communicating their points of view in a compelling way.
11. Students must be capable of learning autonomously and having an entrepreneurial spirit.

## Content

### FAMILY LAW

#### LESSON 1. FAMILIES, FAMILY RELATIONSHIPS, THE DUTY OF MAINTENANCE BETWEEN RELATIVES

1. Family, families and family life
2. Family Law: concept and core features. Family contracts.
3. The kinship: concept, type, lines.
4. The legal duty of maintenance between relatives:
  - 4.1. Notion. Features
  - 4.2. Relatives concerned
  - 4.3. Legal requirements
  - 4.4. Performance of the duty
  - 4.5. Extinction: grounds
  - 4.6. Maintenance Guarantee Fund

#### LESSON 2. BIOLOGICAL PARENTHOOD

1. Legal period of conception

## 2. The determination of the biological parenthood:

2.1. The determination of the biological parenthood when the parents are married: motherhood, fatherhood and artificial insemination of a married woman

2.2. The determination of the biological parenthood when the parents are not married: legal requirements. The acknowledgement. The presumption of fatherhood when the parents are not married. Artificial insemination of the woman

3. Judicial claims and precautionary measures

4. Effects of the determination of the biological parenthood

5. Subrogate pregnancy. A future regulation?.

## LESSON 3. ADOPTION

1. Principles of the adoption's regulation

2. Adoptive parents and adoptees

3. Granting of adoption: legal requirements

4. Effects of the adoption

5. Extinction of the adoption

6. Family placement and foster parents

## LESSON 4. PARENTAL RESPONSIBILITIES

1. Concept and holders of parental responsibilities

2. Parental responsibilities of parents and third persons

2.1. Exercise by one of the parents. Third parties and good faith principle

2.2. Exercise in case of step-families

2.3. Exercise by parents who are minors

3. Content of the parental responsibilities statute: rights and duties. Contribution to the family needs. Child's person and property

4. Administration of the child's property:

4.1. Legal representation. Restrictions

4.2. Maintenance of personal relationships

4.3. Legal effects of the parent's administration

4.4. Termination of the parent's administration

5. Suspension, exclusion and extinction of the parental responsibilities

## LESSON 5. THE LAW OF MARRIAGE

1. The marriage: concept, principles. The *ius connubii*. Matrimonial systems
2. The regulation of the promise of marriage
3. Legal requirements of the marriage:
  - 3.1. Marriage agreement. Impediments
  - 3.2. The matrimonial consent. Capacity to marry
4. Legal formalities of the marriage:
  - 4.1. Civil Marriage. Marriage in case of danger of death. Secret marriage
  - 4.2. Marriage ceremonies in world religions
5. Registration of the marriage

## LESSON 6. PERSONAL AND PROPERTY RELATIONS BETWEEN SPOUSES

1. Personal relationship. General rights and duties of the spouses. Family home and management of the family
2. Property relations: Basic Marital Property
  - 2.1. Contribution to the needs of the family
  - 2.2. Protection of the family home and household goods
  - 2.3. Inheritance wealth and matrimonial property regime
3. Property relations between spouses
  - 3.1. Introduction to matrimonial property regimes
  - 3.2. Relations between spouses. Protection of the creditors. Bank accounts.
  - 3.3. Marital property agreements: concept, formal requirements, disclosure, obligations of the notary, effects against third parties, exceptional hardship
  - 3.4. The donors between spouses: types, formal requirements, revocation
  - 3.5. Tenancy by entirety. Formal requirements, questions related to bankruptcy, extinction.

## LESSON 7. MATRIMONIAL PROPERTY REGIMES

1. Separate property. Principles.
  - 1.1. Reserved property. Acquisitions. Doubtful Ownership
  - 1.2. Dissolution. Alimony
2. Participation in Acquisitions: concept, assets, debts

- 2.1. Administration, dissolution, liquidation
- 2.2. Participation. Equal participation in the net acquisitions
- 3. Community of acquisitions: concept, assets, debts
  - 3.1. Administration, dissolution, liquidation
  - 3.2. Distribution: equal sharing and adjustment

## LESSON 8. OTHER MATRIMONIAL PROPERTY REGIMES

- 1. "L'associació a compres i millores": concept, formal requirements
- 2. "L'agermanament o pacte de mig per mig": concept, formal requirements
- 3. "Pacte de convinença o mitja guanyeria": concept, formal requirements
- 4. Spanish civil Code "Sociedad de gananciales" (community of acquisitions)
  - 4.1. Concept, assets, debts. Presumption of community property. Responsibility
  - 4.2. Administration, dissolution and liquidation
  - 4.3. Registration of the community property

## LESSON 9. SEPARATION, DISSOLUTION, NULLITY OF THE MARRIAGE

- 1. The separation: concept and classes
  - 1.1. Separation by mutual consent and separation order. Requirements. Effects. The reconciliation
  - 1.2. Factual separation: Requirements. Effects
- 2. The dissolution of the marriage. Grounds
  - 2.1. Death. Statement of death. Effects
  - 2.2. Divorce. Requirements. Grounds for divorce. Effects
- 3. Nullity of the marriage:
  - 3.1. Grounds
  - 3.2. Judicial claim. Validation of a voided marriage
  - 3.3. Effects. The "putative" marriage
  - 3.4. Nullity of the catholic marriage. Enforcement

## LESSON 10. EFFECTS OF NULLITY OF THE MARRIAGE, SEPARATION ORDER AND DIVORCE OF THE FORMER SPOUSES

- 1. Matrimonial process. Previous measures
- 2. Legal effects. Temporary measures
- 3. Measures proposed by mutual consent: content, judicial approval, modification

4. Marital agreements: pre- and post-nuptial agreements
5. Matrimonial order. Modification
6. Content of the measures:
  - 6.1. Parental responsibility. Parenting plan. The participation rights of children. The best interests of the child. Child maintenance
  - 6.2. Spousal alimony: Determination. Payment. Extinction. Premarital agreements
  - 6.3. Use and disposal of family house
7. Family violence. The relevance of the protection orders in civil matters

## LESSON 11. THE LAW OF REGISTERED PARTNERSHIP AND COHABITATION

1. Registered partnership:
  - 1.1. Concept, classes. Formal requirements
  - 1.2. Property relations between partners. Agreements in case of the dissolution of the partnership
  - 1.3. Dissolution. Grounds. Effects: provisions concerning children, disposal of the family house and household goods, partner's alimony
2. Cohabitation:
  - 2.1. Concept. Formal requirements
  - 2.2. Property relations between cohabitants. Agreements in case of the dissolution of the cohabitation
  - 2.3. Dissolution. Grounds. Effects

## LESSON 12. FAMILY MEDIATION

1. Family mediation as alternative dispute resolution (ADR).
  - 1.1. Concept
  - 1.2. Distinction from others ADR strategies
2. Principles of the Family mediation: confidentiality, disclosure and admissibility of statements
4. Family mediation process
5. Consequences of the mediation concerning former spouses, partners, children and third parties

## **Methodology**

STATEMENT: Teaching and assessment methods may be submitted to change in case health authorities impose restrictions to access to campus

The learning process is based on the work of the student, who learns by doing, being the teacher's task to help by supplying information and showing where the juridical sources can be obtained.

The teaching of the matter and the student's training and learning process is based on the following activities:

## 1. Activities directed by the teacher:

1.1 *Lectures*: the student can reach the fundamentals, the legal framework and the leading cases of the subject matter.

These lectures are the kind of activities in which less interactivity is required from the student and are conceived as a fundamentally one-direction method of transmitting knowledge on the side of the teacher. The theoretical class does not necessarily have to involve a passive position of the student since it can be built by both lecturer and students or theoretical knowledge can be produced by the students and the teacher applying technology, for example, creating a wiki, via moodle. Theoretical content can be worked on from questions asked by the students or by the teacher in the classroom or from news which are published by media, etc.

1.2. *Workshops*: The lecturer will suggest at the beginning of the academic year the activities that he or she considers as pertinent to the effects of the ongoing student assessment by means of the publication in the classroom moodle the calendar with the chronogram activities. These are a kind of activities that students will develop in the classroom, with the supervision and support of the teacher.

Planned activities:

i) Exam of the part of the program's subject matter, which is expected to release the student of such part (20%).

ii) Preparation by the student of one or two cases that are later resolved in class and of which a document must be written (10%)

iii) Discussions on a current topic directly or indirectly related to any aspect of the program (5%)

iv) A simulation of a case or the resolution of a conflict (10%)

v) Oral presentation of case law (5%)

vi) Oral presentation of a poster on a very specific topic chosen by the student (10%)

## 2. Supervised activities: Tutoring

## 3. Students autonomous activities:

3.1. *Production of legal documents*: Analyzing of leading cases proposed in advance by the teacher extracted from court rulings or the performance of schemes of some sections of the matter proposed by the teacher, the development of a glossary of concepts. An exam is also proposed as an autonomous activity, the type of which will be determined by the teacher at the beginning of the academic year.

3.2. *Search of bibliography and leading cases as good preparation for the exam*.

3.3. *Comprehensive reading of legal texts*: Legal texts may be judgments, rules, journal articles or monographs, in addition to the suggested Handbooks. The specific material will be determined by the teacher during the academic year.

3.4. *Learning*

## Activities

Title	Hours	ECTS	Learning Outcomes
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Type: Directed

lectures, debates, resolution of cases, commentaries, process and mediation role playing, oral presentations	65	2.6	3, 10, 4, 5
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Type: Supervised

tutoring	5	0.2	3, 4, 5, 7, 9
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Type: Autonomous

learning	40	1.6	3, 5, 8, 11
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readings	15	0.6	2, 4, 5, 7
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search of literature and leading cases repertoires	5	0.2	3, 4, 8
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writings	15	0.6	10, 4, 8, 6
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## Assessment

MARKS AND ASSESSMENT SYSTEM (5 Hours)

ORDINARY MARKS AND ASSESSMENT SYSTEM:

### I. *Ongoing assessment of the student.*

1. There is an exam of part of the content of the program that it will be considered the 20% of the final mark. In order to pass the exam the student has to reach just 6 out of 10.

2. The resolution of two cases and subsequently the production of a legal document (10%), oral presentation in the classroom of case law (5%), debates on current legal topics in relation to the program of Civil Law I (5%), oral presentation of a poster concerning an issue that students may choose (10%), role playing of a dispute with intervention of a third party (10%) are taken into special consideration by the teacher for the student assessment.

### II. Final exam:

Every student, whether or not has passed the ongoing assessment, CAN ACCESS the final exam.

The specific type of exam (oral, written, development of relevant questions, multiple choice, etc.) will be determined by the teaching team. Students will be tested on all subjects.

### III. Marks system

Ongoing student assessment is 60% of the final mark. Final exam is 40% of the final mark as well. Students should have reached a score of 5 out of 10 as final mark in order to pass the academic year in this field of law.

REASSESSMENT: Students must obtain a grade of at least 3 between the ongoing assessment mark and that of the final exam to be eligible for reassessment. Students will be assessed for all the matters presented during the course. Students must obtain a score of at least 5 in order to pass the course. The final grade will be such as achieved in the reassessment.

### CALLS

Those settle by the academic bodies.

## Assessment Activities



Title	Weighting	Hours	ECTS	Learning Outcomes
exam of the part of the content, resolution of two cases, building of legal documents, debates on ruling and current legal topics, mediation role playing	20%, 10%, 5%, 5%, 10%, 10% respectively	2	0.08	3, 1, 2, 10, 4, 5, 7, 8, 6, 9, 11
final exam	40%	1.5	0.06	3, 2, 10, 4
reassessment	100%	1.5	0.06	3, 1, 10, 4, 9

## Bibliography

LEGAL TEXTS AND MATERIALS: Students will be expected to read all the primary works in the course bibliography

### 1. Acts and Regulations:

- La Legislación Civil Catalana: Código Civil de Cataluña y legislación complementaria
- Código Civil español
- Ley y Reglamento del registro Civil

### 2. Basics Mandatory Textbooks:

- Derecho Civil de Cataluña. Derecho de Familia, Pozo Carrascosa, Pedro, Vaquer Aloy, Antoni, Bosch Capdevila, Esteve, Marcial Pons, Barcelona, 2015.
- Derecho de familia aplicable en Catalunya, M<sup>a</sup>. del Carmen Gete-Alonso y Calera, Judith Solé Resina, Maria Ysàs Solanes, Tirant lo Blanch, València, 3<sup>a</sup> Ed. 2013.
- XVII Jornades de Dret català a Tossa, Qüestions actuals del dret català de la persona i de la família, Àrea de dret civil, UdG (coord.), Documentia Universitaria, 2013.
- Elementos del Derecho Civil, T. IV. Derecho de Familia, José Luis Lacruz Berdejo, 4<sup>a</sup> edic., Ed. Dykinson, Madrid, 2010.
- Les institucions de protecció de la persona en el Dret civil de Catalunya, Antoni Vaquer - Pedro del Pozo - Esteve Bosch, Documents de Treball, Centre d'estudis jurídics i formació especialitzada ([http://www.recercat.net/bitstream/handle/2072/179315/institucions\\_proteccio\\_dretcivil.pdf?sequence=1](http://www.recercat.net/bitstream/handle/2072/179315/institucions_proteccio_dretcivil.pdf?sequence=1)).

### 3. More Suggested Literature:

- El nuevo derecho de la persona y de la familia en el Libro 2º el Código civil de Cataluña, Sergio Nasarre Aznar / Reyes Barrada Orellana / Martín Garrido Melero (dirs.), Bosch, Barcelona, 2010.
- Tratado de derecho de la familia, 8 vols., Matilde Cuenca / Mariano Yzquierdo, Aranzadi, Cizur Menor, 2017.
- Comentarios al Código civil, Andrés A. Domínguez Luelmo (dir.), Lex Nova, Valladolid, 2010.