

Civil Law III

Code: 102239
 ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	2	2

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: Yes
 Some groups entirely in Spanish: Yes

Teachers

Sandra Camacho Clavijo
 Maria Planas Ballve
 Maria Isabel García Ruíz
 Olga Villagrasa Aguilar
 Santiago Robert Guillen
 Gloria Ortega Puente

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:

CIVIL III

Group	Teachers	Timetable	Language
1	Sandra Camacho	dm. 10.15 - 11.45 h	cast
2	María Planas	dll. 13.45 - 15.15 h	cat

51	Santi Robert	dm. 17.45 -19.15 h	cat
Seminar			
1.1	María Planas	dm.8.30 - 10 h	cat
1.2	Prof/a Lector	dm.8.30 - 10 h	
1.3	Isabel García	dm.8.30 - 10 h	cat
2.1	María Planas	dll.12 - 13.30 h	cat
2.2	Isabel García	dll.12 - 13.30 h	cat
2.3	Gloria Ortega	dll.12 - 13.30 h	cat
51	Santi Robert	dm. 16 - 17.30 h	cat
52	Prof/a Lector	dm. 16 - 17.30 h	
53	Olga Villagrasa	dm. 16 - 17.30 h	cat
70	Gloria Ortega	dx.10.45-12.15 h; dj. 9-10.30 h	cat

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.

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.
- 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 written texts (contracts, wills).
13. Identifying the conflicts of interest that are trying to be solved by the legislator when elaborating civil regulations.
14. Managing bibliographic and documentary resources: databases, browsing, etc.
15. Planning and organising: managing of time, resources, etc.
16. Presenting orally, with a critical discourse, the reforms of civil institutions.
17. Producing oral and written texts and presenting points of view about civil-legal institutions.
18. Producing oral and written texts of egalitarian discourse.
19. Producing oral texts in the several fields of civil law, showing specific communicative abilities.
20. Producing reports about new legal changes.
21. Solving interferences between the several conflict interests of civil regulations.
22. Students must be capable of communicating their points of view in a compelling way.
23. Students must be capable of learning autonomously and having an entrepreneurial spirit.
24. Students must be capable of producing initiative, creative and innovative knowledge, as well as new ideas.
25. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

Content

The positive law object of study and evaluation is the Civil Law applicable in Catalonia.

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 IN CATALAN CIVIL LAW.

1. Representation in general: concept, classes.
2. The mandate contract in Catalan Civil Law: mandate with representation and without representation.
3. The management of foreign businesses in Catalan Civil Law.

ITEM 8. THE CONTRACT OF SALE IN CATALAN CIVIL LAW

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: Concept and characters
2. The transfer of property or building in exchange for future construction in Catalan Civil Law:
 - 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. The "Violari"contract in Catalan Civil Law
4. The life-food contract in Catalan Civil Law
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.

Methodology

Methodology

The learning process starts, mainly, from the student's continuous work, through a process of assessment of the

The teaching of the subject and training is developed on the following activities:

1. Directed activities:

1.1 Theoretical classes: in which the conceptual and legal bases of the subject are assumed. The theoretical clas

1.2. Seminars: The attendance at the seminars is compulsory.

in which previously elaborated practical cases are analysed and resolved with the teachers' direction. On specific

2. Autonomous activities:

Fundamentally are those related to the study of the subject to assume the basic knowledge. In addition to the stu

2.1. The preparation of documents: those required for seminars. They can be in relation to practical cases propos

2.2. Search of bibliography and instrumental jurisprudence for the resolution of the practical cases and the prepar

2.3. Comprehensive reading of legal texts: The texts can be sentences, journal articles, monographs. The faculty

Part of the material of the activities is made available to students through the Virtual Campus.

Annotation: Within the schedule set by the centre or degree programme, 15 minutes of one class will be reserved for students to evaluate their lecturers and their courses or modules through questionnaires.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Seminar	19.5	0.78	1, 6, 3, 22, 9, 10, 20, 16, 12, 21, 24, 25
theoretical lessons	19.5	0.78	1, 2, 4, 6, 7, 9, 10, 11, 20, 14, 13, 19, 17, 24
Type: Supervised			
Tutoring and evaluation activities	1	0.04	1, 6, 19, 12
Type: Autonomous			
Legal texts reading	20	0.8	1, 2, 20, 14, 19, 18, 17, 12, 24
Study	40	1.6	4, 3, 5, 7, 10, 20, 14, 13, 8, 15, 19, 18, 17, 23, 24
Works writing	20	0.8	1, 2, 5, 22, 7, 9, 10, 20, 8, 15, 19, 18, 12, 25
bibliography and jurisprudence search	10	0.4	15, 23, 24, 25
resolution of practical cases	15	0.6	1, 4, 6, 5, 7, 10, 8, 15, 17, 12, 23, 25

Assessment

I. Ongoing assessment of the student (60%):

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 or

2. The resolution of cases and subsequently the production of a legal document(20%), oral presentacion in the cl

II. Final exam (40%):

Every student, whether or not has passed the ongoing assessment, has access to the final exam.

The specific type of exam (oral, written, development of relevant questions, multiple choice, etc.) will be determin

III.Marks system

Ongoing student assessment is 60% of the final mark. Final exam is 40 % of the final mark as well. Students sho

REASSESSMENT: Students must obtain a grade of at least 3 between the ongoing assessment mark and that of

CALLS

Those settle by the academic bodies.

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 practical in which there is evidence of plagiarism will have a 0 as a mark and will receive a warning. In case of repetition, the students will fail the subject.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
final exam	40%	2	0.08	1, 2, 4, 6, 3, 5, 22, 7, 9, 10, 11, 20, 16, 14, 13, 8, 15, 19, 18, 17, 12, 21, 24, 25
other knowledge tests: exam of the part of the content (20%), resolution of cases, building of legal documents, debates on ruling and current legal topics	60%	2	0.08	2, 4, 6, 3, 5, 22, 9, 10, 20, 16, 14, 8, 15, 19, 18, 17, 12, 21, 23, 24, 25
re-evaluation	100%	1	0.04	1, 2, 4, 6, 3, 5, 22, 7, 9, 10, 11, 20, 16, 14, 13, 8, 15, 19, 18, 17, 12, 21, 24, 25

Bibliography

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- PUIG FERRIOL, Luis et al. (2000) Manual de Dret Civil II. Dret d'Obligacions. Responsabilitat Civil. Teoria General del Contracte, Madrid, Editorial Marcial Pons.
- LASARTE ÁLVAREZ, Carlos (2019) Principis de Dret Civil III. Contractes, Madrid, Editorial Marcial Pons

COMPLEMENTARY BIBLIOGRAPHY

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2. CARRASCO PERERA, Ángel (2021) Dret de contractes, Aranzadi, Pamplona.

Software

The subject does not require any specific software.