

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

Other comments on languages

Group 1: Catalan / Group 2: Spanish / Group 3: Spanish / Group 51: Spanish

Teachers

Juan Manuel Abril Campoy
Fernando Hurtado Parras
Rafael Arnaiz Ramos
Maria Isabel Garcia Ruiz
Cristina Alonso Suarez
Santiago Robert Guillén

Prerequisites

For a good follow-up of the Civil Law IV course, a good knowledge of the bases of Roman Law, Civil Law I, Civil Law II and Civil Law III is necessary. Relevant is also the correct use of legal terminology.
The allocation of teaching among teachers is distributed as follows:

Law/BA Degree

Group 70: Joan Manel Abril/ language: Catalan
Group 70.1 Santiago Robert
Group 70.2. Joan Manel Abril
Group 70.3 To be determined

Law Degree

Group 1: Joan Manuel Abril Campoy /language: Catalan
Seminars: Groups 1.1. To be determined

Group 1.2 Joan Manel Abril

Group 1.3 To be determined
Group 2: Maria Isabel García/language: Spanish
Group 2.1 Maria Isabel Garcia
Group 2.2. To determinate
Group 2.3. To determinate
Group 51: Rafael Arnaiz Ramos/language: Spanish
Seminars: Groups 51.1 Cristina Alonso/language:spanish
Group 51.2. Rafeel Arnaiz

Group 51.3 Ferran Hurtado/language: catalan

Objectives and Contextualisation

Civil Law IV is a subject taught in the first (Bachelor of Business Administration + Law) and second (Bachelor of Law) semester of the third year. The objective of the subject is the acquisition by the students of the basic notions in the headquarters of real rights and mortgage law. Therefore, it is an essential subject within the Degree. Civil Law IV has the academic utility of opening the general concepts in property law, which will then be developed in the various subjects in charge of the Civil Law unit and especially, in the optional subjects proposed by this unit. In this sense, civil law IV is the basis from which the optional subjects will be developed: family law, inheritance law and civil liability. In addition, this training contribution will have a very important impact on other subjects of the Degree.

Civil Law IV aims for the student to achieve various objectives, among which the following stand out:

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

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

REAL RIGHTS

GENERAL PART AND REGISTRY LAW

SUBJECT 1. THE REAL RIGHT. ACQUISITION AND TRANSMISSION OF REAL RIGHT

1. The real right: concept, classes. The intermediate situations
2. Sources of creation of real rights
3. The double system of acquisition and transmission of real rights
4. Tradition: concept and modalities

SUBJECT 2. THE REGISTRY OF THE PROPERTY (I)

1. Property registration: concept. Registry systems. The Spanish registry system and its regulations
2. The situations that enter the registry. Registrable titles

3. The registry farm: concept and types. Access to the Registry and alterations to the registered property
4. Concordance and coincidence between Land Registry and Cadastre
5. The registration entry : c oncept, classes and lapsing

SUBJECT 3. THE REGISTRY OF THE PROPERTY (II). THE REGISTRY OF MOVABLE PROPERTY

1. The inmatriculación : c oncept, means inmatriculación , d ouble inmatriculación
2. Rectification of the inaccurate registration
3. Effects of registry advertising:
 - 3.1. Material and formal advertising
 - 3.2. Registry legitimation
 - 3.2. Non-enforceability and public registration faith
4. The registry of movable property: n forms, sections and fundamental features

ITEM 4. POSSESSION

1. Concept. Possession and possession
 - 1.1. Subjects. Capacity. Co-possession and concurrence of possessions
 - 1.2. Object
 - 1.3. Content
2. The possessory concept. Investment or interinversion .
3. Possession in good and bad faith
4. Modes of acquisition of possession. Capacity. Clandestine and violent possession
5. End of possession: Causes
6. Effects of possession:
 - 6.1. Possession and title. Acquisition in good faith of personal property
 - 6.2. Liquidation of the possessory situation
7. The judicial protection of possession. Publicity action

ITEM 5. DONATION

1. The donation: legal nature
2. The act of donation:
 - 2.1. Structure
 - 2.2. Donor and grantee capacity
 - 2.3. Object
 - 2.4. Limitations of the device effect: d conditional onaciones and time. Donation with reversal clause. Donation with reservation of the power to dispose

3. The free cause:

3.1. The modal donation. The remunerative donation. Indirect donation . Donations with a charitable nature.

3.2. Effects derived from the free cause

3.3. Revocation of donations

4. The lucrative title:

4.1. Shape

4.2. Grantee acceptance

4.3. Donation effectiveness

ITEM 6. USUCAPIÓN

1. Concept, subjects and object

2. Requirements:

2.1. Skillful possession to usucapir

2.2. The deadlines. Interruption. Suspension

3. The liberating usucapion

4. Waiver of usucapion

5. Usucapion and land registration

ITEM 7. EXTINCTION OF REAL RIGHTS

1. Difference between extinction and causes of extinction of the real right

2. Loss of good. The royal surrogacy

3. Consolidation. Real owner rights

4. The resignation

ITEM 8. PROPERTY LAW

1. The property right

1.1. Concept, characters and social function. New forms of access to home ownership: temporary ownership and shared ownership.

1.2. Content and scope.

1.3. Disposal prohibitions

2. Restrictions on property rights:

2.1. Concept

2.2. Restrictions on public interest

2.3. Restrictions on private interest. Neighborly relations: r elations contiguity

2.4. State of need

3. The immissions: concept, classes and legal regime. Jurisprudential doctrine and special reference to the environment

4. Ways of acquiring property rights:

4.1. Accession : r General ules ; l to real estate accession ; he movable accession.

4.2. Acquisition by occupation. Legal regime of the findings and objects of extraordinary value

5. Abandonment of property

6. Protection of property rights

6.1. The action claiming: concept , r equirements , e ffects

6.2. Exclusion actions: negative action, closure of farms, delimitation and marking

ITEM 9. COMMUNITY SITUATIONS

1. Community and joint ownership. Community situations. Society and community.

2. Undivided ordinary community: concept and constitution

2.1. Individual community rights

2.2. Rights and duties on the object of the community

2.3. Extinction: the division of the community

3. Horizontal property

3.1. Setting. Constitution and legal regime. Community bodies.

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 plots .

4. Community by turns .

5. The special mediating community .

PARTICULAR REAL RIGHTS

SUBJECT 10. THE GUARANTEE RIGHTS (I): RETENTION, GARMENT, ANTI-CRISIS

1. Real rights of guarantee: concept and characters ; c lases and general legal effectiveness

2. Lien:

2.1 Concept. Constitution

2.2 Legal regime. Effects

2.3 Withholding of low-value personal property

1. The garment:

3.1. Concept. Constitution

3.2. Legal regime. Effects

3.3. The pledge without displacement: legal regime

1. Antichresis:

4.1. Concept. Constitution

4.2. Legal regime. Effects

SUBJECT 11. GUARANTEE RIGHTS (II): THE MORTGAGE

1. Legal and doctrinal concept

2. Objective and objective extension of the mortgage

3. Subjects: mortgage debtor, non-debtor mortgagee and third owner of mortgaged property, mortgage creditor

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4. The constitution of the mortgage: voluntary and legal

5. Legal regime of mortgage credit. Mortgage classes based on credit. Subrogation and modification of mortgage loans

6. Mortgage effectiveness:

6.1. Security phase. The devastation action

6.2. Execution phase. Procedures to realize the value of the mortgaged assets

6.2.1 . Direct execution against mortgaged assets

6.2.2. Extrajudicial sale of the mortgaged assets

6.2.3. Legal effects of execution. Special reference to the habitual residence

7. The extinction of the mortgage. Registration cancellation

8. The chattel mortgage. Legal regime

ITEM 12. PREFERRED ACQUISITION RIGHTS

1. Preferential acquisition rights: concept, classes. Constitution title. Extinction

2. Voluntary acquisition rights: general legal regime

2.1. Right of option: constitution, content and exercise of the right

2.2. Rights of first refusal and withdrawal: constitution, content and exercise of rights

3. Rights of first refusal and legal retraction. Adjoining portrait. Turning

4. Collision and preference between acquisition rights

SUBJECT 13. RIGHT OF USUFRUCT. USE RIGHT AND ROOM RIGHT. REAL RIGHT OF PARTIAL USE

1. Real usufruct right: concept and constitution

2. Purpose. Subject and joint ownership

3. Content: rights and duties of the usufructuary and the owner knot

3.1. Loads before taking possession.

3.2. Disposition of law : u suffrage with the power to dispose

3.3. The fruits and the improvements

4. Extinction, liquidation and defense

5. Use and room rights

6. The right of partial use

ITEM 14. RIGHT OF SERVITUDE

1. Right of easement: concept and constitution

2. General and accessory content. Easements lights and views

3. Easement on own property

4. Extinction of easements. Modification of farms and termination of easements

5. Protection: confessional action

ITEM 15. SURFACE RIGHT. RIGHT OF FLIGHT. CENSUS RIGHT

1. The surface right. Concept and legal regime

2. The right of flight. Concept and legal regime

3. The right of census. Concept, classes and legal regime

Methodology

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

The development of teaching of the subject and student training is based on the following activities:

1. Directed activities: one that responds to a predetermined schedule, that requires the face-to-face direction of the teacher and that takes place in a group. Examples:

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

1.2. Seminars: where students analyze and solve previously elaborated practical cases with the teacher. In specific cases, the cases will be prepared 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. The class group will be divided into three seminars. Attendance at seminars is mandatory.

2. Supervised activities: one that, although it can be carried out autonomously, requires the more or less punctual supervision of a teacher.

These are activities that students will develop in the classroom, with the supervision and support of the teacher. It is about the elaboration of some practical assumption in the classroom, study and oral discussion of legal texts, or the making of diagrams 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.

3. Autonomous activities: one in which the student organizes time and effort autonomously, either individually or in groups. Examples:

3.1. Preparation of documents: these are documents of the practical activities that will be delivered and analyzed in the classroom. These can be practical cases proposed in advance by the teacher, extracted from court decisions. A partial exam is also proposed as an autonomous activity, the specific form of which will be determined by each teacher in her group.

3.2. Bibliographic search and instrumental jurisprudence for the resolution of practical cases and the preparation of the partial exam. In some or some cases, students must search for the documentation independently.

3.3. Comprehensive reading of legal texts: Legal texts can be judgments, standards, magazine articles or monographs, in addition to the recommended manual or manuals. The specific type of legal text will be determined by each teacher according to their group.

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			
Master classes and seminars	19.5	0.78	2, 3, 10, 8, 15, 21, 24
Seminars in the classroom	19.5	0.78	4, 10, 8, 15, 12, 24
Type: Supervised			
Tutorials	6	0.24	1, 5, 15
Type: Autonomous			
Assessment	5	0.2	1, 2, 4, 10, 8, 23, 24
reading legal texts	25	1	1, 4, 3, 22, 7, 14, 12, 21, 24
search of bibliography and jurisprudence	6	0.24	1, 2, 20, 16, 17
study	45	1.8	2, 4, 6, 7, 10, 20, 16, 13, 8, 15, 25
writing of works	20	0.8	5, 22, 14, 15, 19, 18, 12, 24

Assessment

The evaluation must be based on a minimum of three evaluable activities, corresponding to at least two different typologies (example of possible non-exhaustive typologies: practical cases, 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 typologies. 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 taking 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 they have passed the continuous assessment or not, can access the final exam. The specific type of exam (oral, written, development of questions, multiple choice, etc ...) will be determined by the teacher. Students are examined from the subject program.

Qualification of the subject with the evaluation system:

The score obtained in the continuous evaluation will be worth 50% of the grade for the final grade for the course. The final exam score will be worth 50% of the course grade. The overall score of the subject will be the result of adding the score obtained in the continuous evaluation + the score obtained in the final exam.

The course will be approved with a minimum of 5 out of 10, according to the established percentages.

Schedule-schedule of evaluation activities

In each teaching group, a timetable will be published on the Virtual Campus, before the start of teaching, with the specific date or week of the evaluable activities, notwithstanding that, exceptionally and for justified reasons, they may, with sufficient notice and advance notice, to be modified. The compulsory refers only to the evaluation activities, not the rest of the learning activities that can be done.

Grade review procedure

Students have 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 previously publicly announced.

The request for review will be made directly to the teaching staff responsible for the subject that has completed the assessment. The review must be, in any case, personal and individualized.

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

Recovery or re-evaluation procedure.

In the recovery exam, the students take all the subject matter of the subject. Your grade will be the one obtained only in this exam, which represents 100% of the grade, without taking into account the grade obtained in the continuous assessment, even if you have passed it. To be entitled to reevaluation, students must have taken the ordinary final exam and have failed it with a grade lower than 5 in the average between the continuous evaluation and the final exam.

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

Fraudulent conduct

A student who cheats or try to cheat an exam will have a 0 as a mark. A Student who submits a paper or 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
Evaluable activities (eg partial exam and resolution two practices)	50%	2	0.08	1, 9, 10, 13, 15, 21, 25
Synthesis exam	50%	1	0.04	1, 2, 4, 6, 22, 7, 9, 11, 20, 16, 14, 8, 15, 19, 18, 17, 12, 23, 24
re-evaluation	100%	1	0.04	6, 3, 5, 10, 11, 14, 13, 15, 19, 12, 25

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Legislation:

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2. State Civil Code
3. Mortgage Law and Regulation

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Software

No particular program is used.