

Civil Law III

Code: 102239
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	2	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

Teachers

Fernando Hurtado Parras
Maria Planas Ballvé
Maria Isabel Garcia Ruiz
Cristina Alonso Suarez
Santiago Robert Guillén

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:

Grup	Faculty	Schedule	Idiom
1	Núñez	dm. 10.15 - 11.45 h	spanis
2	Núñez	dll. 13.45 - 15.15 h	spanis
51	Planas	dm. 17.45 - 19.15 h	catalar
Seminars			
11	Nuñez	dm. 8.30 - 10 h	spanis
12	Robert	dm. 8.30 - 10 h	catalar
13	contest	dm. 8.30 - 10 h	
21	Núñez	dll. 12 - 13.30 h	spanis
22	Garcia	dll. 12 - 13.30 h	catalar

23	contest	dll.12 - 13.30 h	
511	Planas	dm. 16 - 17.30 h	catalar
512	Alonso	dm. 16 - 17.30 h	spanis
513	Hurtado	dm. 16 - 17.30 h	catalar
70	Robert	dj.10.45-12.15 h	catalar
701	Robert	dj. 9-10.30	catalar
702	contest	dj. 9-10.30	
703	contest	dj. 9-10.30	

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 subject under study in this subject has been regulated by the Catalan legislator, which has approved "Law 3/2017, of 15 February, of the Sixth Book of the Civil Code of Catalonia", relating to obligations and contracts, which for the time being, has contemplated the following contractual figures: the contract of sale, the contract of rustic lease, the contracts of cultivation, the partnership, the contract of integration, the contract of exchange, the contract of cession of property to change of future construction, representative mandate, management of other people's business, violating and food contract.

Recently, the Law of the Sixth Book of the Civil Code of Catalonia, has undergone a modification in the regulations of the sale and purchase by means of the Decree Law 27/2021, of 14 December, of incorporation of the Directives (EU) 2019/770 and 2019 / 771, in order to regulate in the Catalan system the sale and purchase of goods that incorporate or are interconnected to digital content or services, and also incorporate a new fourth section which regulates a new contractual category considered different from the sale: the contract for the supply of digital content and services.

In the rest of the matter not regulated by the Catalan legislator, it is necessary to apply and manage the state legislation.

The contents of the subject are as follows:

ASSIGNMENT PROGRAM

GENERAL THEORY OF CONTRACT

UNIT 1. PRIVATE AUTONOMY. THE CONTRACT AND ITS ELEMENTS

1. The declaration of will. The legal value of silence

2. Private autonomy: legal limits (law, morality and public order); de facto limits (adhesion contracts and compulsory contracts).

3. The contract: concept and types of contracts

4. The elements of the contract:

4.1. The consent

4.2. The object

4.3. The cause

5. The shape

SUBJECT 2. THE FORMATION OF THE CONTRACT

1. Duties and responsibility in the pre-contractual phase:

1.1. Information duties in the offer or advertising; good faith and honesty in dealings.

1.2. The formation of the contract as a result of some preliminary agreements: the duties of the parties in the phase of preliminary agreements and the responsibility for the breach of agreements. The letters of intent.

2. The formation of the contract by the offer and acceptance:

2.1. The offer of the contract: concept, requirements, validity, revocation of the offer.

2.2. The acceptance of the offer: concept, requirements, term to issue the acceptance.

2.3. The perfection of the contract: moment; place of conclusion of the contract; distance contracting; contracting by electronic means

3. The preparatory contracts: characterization; the pre-contract; the option contract.

SUBJECT 3. THE GENERAL CONDITIONS OF THE CONTRACT, THE ABUSIVE CLAUSES AND THE INTERPRETATION OF THE CONTRACT

1. Serial contracting: concept and characterization.

2. General contracting conditions: concept; incorporation control.

3. Unfair clauses: concept; control of incorporation, transparency and content. Legal effects.

4. Record of general conditions of the contract.

5. The interpretation of the contract.

6. The integration of the contract.

UNIT 4. THE IRREGULAR FORMATION OF THE CONTRACT IN THE EXTERIORIZATION OF CONSENT

1. The absolute lack of consent:

1.1. dissent

1.2. The declaration without seriousness or declaration iocandi causa

1.3. the mental reservation

1.4. the simulation

2. The vices of consent:

2.1. The declaration without freedom: violence and intimidation

2.2. The error-vice

2.3. The idol

SUBJECT 5. THE EFFECTIVENESS AND THE MODIFICATION OF THE CONTRACT

1. The contractual effectiveness:

1.1. Rule of thumb: typical binding efficiency

1.2. Exceptions to the general rule:

1.2.1. The effectiveness with respect to third parties

1.2.2. Modification of the contract due to altered circumstances.

1.2.3. The one-sided withdrawal

2. The assignment of the contract

3. The subcontract

UNIT 6. INEFFECTIVENESS AND DISABILITY

1. Invalidity and ineffectiveness; non-existence: conceptual precisions.

2. Types of contractual ineffectiveness:

2.1. Nullity: concept, causes, action and consequences of the nullity of the contract.

2.2. The annulability: concept, causes, challenge action; the confirmation

3. Termination: general characterization of the action

3.1. The unfair advantage and the injury in more than half. Rescission due to injury to Catalan law.

CONTRACTS IN PARTICULAR

SUBJECT 7. THE CONTRACT OF MANDATE AND THE FIGURE OF THE MANAGEMENT OF OTHER BUSINESSES

1. Representation in general: concept, classes.

2. The mandate contract: mandate with representation and without representation.

3. Mandate and management of foreign businesses.

UNIT 8. THE PURCHASE CONTRACT

1. The sale: concept and characters. Civil comes out; trade; of consumption.

2. Subjects and capacity. buying bans

3. Object: the thing and the price; the double sale

4. Obligations of the seller

5. Obligations of the buyer
6. The remedies in the event of default by the parties.
7. Domain reservation agreement
8. The resolutive condition agreement
9. The question of risks
10. Special sales: the sale by letter of grace; the sale of personal property in installments; the sale with conventional withdrawal

SUBJECT 9. THE AGREEMENT OF EXCHANGE AND ASSIGNMENT OF PROPERTY

1. The exchange: concept, characteristics and legal regime
2. The transfer of land or building in exchange for future construction: concept, characteristics, elements of the contract, obligations of the parties, regime of non-compliance and termination

UNIT 10. THE THING LEASE CONTRACT

1. The lease of thing: general legal regime.
2. Leasing
3. Legal regime of urban leases:
 - 3.1. Housing rental and rental for use other than housing
4. The rustic lease: basic notions.

SUBJECT 11. THE LEASING OF SERVICES AND WORKS

1. The service lease contract: concept; object; duration; Rights and duties of the parts; Termination of contract
2. The deposit contract: legal regime.
3. The construction lease contract: concept; object; Rights and duties of the parts; the issue of risks; Termination of contract
 - 3.1. The construction contract in the Building Regulation Law.
4. Provision of services and work in collaboration contracts: the partnership contract.
5. The maintenance contract
6. The contract for the supply of content and digital services

UNIT 12. LOAN AND FINANCING CONTRACTS

1. The loan-loan
2. The loan-mutual
3. The consumer loan agreement.
4. Financial leasing or financial leasing .

UNIT 13. RANDOM CONTRACTS

1. Characterization
2. The viol
3. The food contract
4. The game and the bet
5. The insurance contract

SUBJECT 14. THE EXTRAJUDICIAL SYSTEMS OF CONFLICT RESOLUTION

1. The transaction.
2. Mediation.
3. Arbitration:
 - 3.1. ordinary arbitration
 - 3.2. Consumer arbitration. The out-of-court resolution of online consumer disputes.

Methodology

The learning process starts, mainly, from the continuous work of the student, through a process of assessment of the assumption of the knowledge and formative aims fixed, that give to know through proofs of diverse typology, his academic progress throughout the course, so that it allows you to improve.

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

1. Directed activities: those that respond to a predetermined schedule, that requires the face-to-face direction of the teaching staff and that is developed in groups:

1.1 Master classes: The theory teachers will present the fundamental concepts of each topic to deepen and work in the seminars in a practical way. The student achieves the conceptual bases of the subject. You can work on theoretical content based on questions asked by students in the classroom or by teachers, based on a news item that has appeared in the press, etc ...

1.2. Seminars: Attendance at seminars is mandatory. The teacher will propose at the beginning of the course the activities that they consider pertinent for the purposes of the continuous assessment by publishing in the moodle classroom a calendar with the schedule of activities. These are activities that students will develop in the classroom. , with the supervision and support of the teachers of each seminar.

2. Autonomous activities: those in which students organize their time and effort autonomously, either individually or in groups (study, bibliographic or documentary consultations, coursework, reports, etc.):

2.1. The elaboration of documents: they are those required by the seminars. They can be in relation to practical cases proposed in advance or that have to be created by the students. Part of the autonomous activity is a partial exam, the specific form of which is determined by the teachers of each group.

2.2. Search for bibliography and instrumental jurisprudence for the resolution of the seminars and the preparation of the exam.

2.3. Comprehensive reading of legal texts: Texts can be sentences, journal articles, monographs. The type of text will be determined by the teachers of each group.

3. Supervised activity: that which, although it can be carried out autonomously, requires the more or less punctual supervision of the teaching staff (tutorials, external internships, final degree / master's thesis). 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	35	1.4	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
assessment	5	0.2	1, 2, 4, 6, 5, 22, 10, 16, 14, 13, 8, 15, 19, 18, 17, 24, 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

Continuous assessment (has a weight of 50% on the overall grade of the subject):

It is made up of the different practical activities that are carried out in the seminars, which may include a partial liberating exam chosen by the teachers in charge of each group.

The score in the continuous assessment will be the result of adding the grade obtained in each of the tests.

Attendance at seminars is mandatory in order to obtain a qualification in the continuous assessment.

The schedule that will contain the calendar, the assessment and the content of the different tests and practical activities that are carried out in the seminars, will have to be available to the students at the beginning of the course through the virtual campus.

Final exam (has a weight of 50% on the overall grade of the subject):

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

Qualification of the subject with the system of continuous evaluation

The score obtained in the continuous assessment will have a value of 50% of the grade of the subject. The score obtained in the final exam will have a value of 50% of the grade of the subject.

The subject is passed with a minimum of 5 out of 10, according to the established percentages and the result of adding the score obtained in the continuous assessment plus the score obtained in the final exam.

RE-EVALUATION / RECOVERY SYSTEM: To access the re-evaluation you must obtain a minimum grade of 3 out of 10 between the mark of the continuous assessment and the final exam. Students are examined throughout the syllabus of the subject.

The final mark of the students who take the re-assessment will be only the one obtained in this exam, without counting the mark obtained in the continuous assessment.

Important Note: A person who copies or attempts to copy in an exam will have a 0 on the exam. Students who present a practice in which there is evidence of plagiarism or who cannot justify the arguments of their practice will get a 0 and will receive a warning. In case of repetition of the behavior, it will suspend the subject.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
continuous evaluation	50%	2	0.08	2, 4, 6, 3, 5, 22, 9, 10, 20, 16, 14, 8, 15, 19, 18, 17, 12, 21, 23, 24, 25
final exam	50%	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
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

BIBLIOGRAFIA

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3. Derecho de Obligaciones y Contratos de Cataluña. Editorial Atelier, 2021. Coord. por M^a Carmen Geste-Alonso y Calera y Judith Solé Resina.
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5. Elementos de Derecho Civil II. Derecho de Obligaciones. Vol.1º. Editorial Dykinson, 2011; Jose Luis Lacruz Berdejo
6. Elementos de Derecho Civil II. Derecho de Obligaciones. Vol.2º. Editorial Dykinson, 2013; Jose Luis Lacruz Berdejo. Disponible en formato digital cercador Biblioteques UAB y en Biblioteca virtual Tirant.
7. Principios de Derecho Civil III. Contratos. Editorial Marcial Pons, 2021; Carlos Lasarte Álvarez.

Software

The subject does not require any specific software.