

Family Law

Code: 103955
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OT	4	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: No

Prerequisites

Former in-depth knowledge in Patrimonial Law, Personal Law and Fundamental Principles of Law.

Objectives and Contextualisation

The goals of Family Law are:

1. That the students know the basic contents of family law
2. That the students reflect on the evolution of family institutions and the need to adapt the legal system.
3. That the students are able to help resolve family conflicts
4. That you get a basic training for your future profession

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.
- 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.
- Present information in a way that is appropriate to the type of audience.
- 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. Identifying the conflicts of interest that are trying to be solved by the legislator when elaborating civil regulations.
7. Planning and organising: managing of time, resources, etc.
8. Present information in a way that is appropriate to the type of audience.
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. Legaleffects. 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).

2. Concept and distinction from others ADR strategies

3. 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

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

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

1. Directed activities:

1.1 Lectures: The teacher explains the fundamental concepts of the topics that will be worked on and developed in the seminars. With this, the student reaches the conceptual bases of the subject and the normative and jurisprudential legal framework. The theoretical class does not necessarily have to involve a passive position of the students. Theoretical content can be worked on from questions formulated by the students or by the teacher in the classroom or from a news item that has appeared in the press, etc.

1.2. Seminars: The teacher will propose at the beginning of the course the activities that she considers pertinent for the purposes of continuous assessment by publishing a calendar with the schedule of activities in the moodle classroom. These are activities that students will develop in the classroom, with the supervision and support of the teacher.

They're about:

i) preparation by the students of one or two practical cases that are later solved in class and of which a document must be written (20%)

ii) debates on a current topic directly or indirectly related to some aspect of the subject's program (20%).

iii) oral presentation of jurisprudence (20%)

2. Supervised activities: Tutoring

3. Students autonomous activities:

3.1. Drafting of documents: It can be about practical cases proposed in advance by the teacher, extracted from court rulings, real cases or simulated situations.

3.2. Search of bibliography and instrumental jurisprudence for the resolution of practical cases and the preparation of the exam. In some cases it will be done autonomously.

3.3. Comprehensive reading of legal texts: judgments, regulations, magazine articles or monographs, in addition to the recommended manuals.

3.4. Study of matter

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			

lectures, debates, resolution of cases, commentaries, process and mediation role playing, oral presentations	45	1.8	3, 10, 4, 5, 8
Type: Supervised			
tutoring	5	0.2	3, 4, 5, 6, 9
Type: Autonomous			
assessment	5	0.2	3, 2, 4
learning	45	1.8	3, 5, 7, 11
readings	20	0.8	2, 4, 5, 6
search of literature and leading cases repertoires	10	0.4	3, 4, 7
writings	15	0.6	10, 4, 7

Assessment

MARKS AND ASSESSMENT SYSTEM (5 Hours)

ORDINARY MARKS AND ASSESSMENT SYSTEM:

I. *Ongoing assessment of the student:*

The production of a legal document (20%), oral presentation in the classroom (20%), debates on current legal topics in relation to the programme of Civil Law I (20%).

II. 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 subject.

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 achieved in the reassessment.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
building of legal documents, debates on ruling and current legal topics	20%, 20%, 20% respectively	2	0.08	3, 1, 2, 10, 4, 5, 6, 7, 8, 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:

- Lliçons de Dret Civil Català, III, Dret de Família, M^a del Carmen Gete-Alonso y Calera y Judith Solé Resina, Tirant lo Blanch, València, 2017;
<https://biblioteca-tirant-com.are.uab.cat/cloudLibrary/ebook/show/9788491438274>
- Derecho de familia aplicable en Catalunya, M^a. del Carmen Gete-Alonso y Calera, Judith Solé Resina, Maria Ysàs Solanes, Tirant lo Blanch, València, 3^a Ed. 2013;
<https://biblioteca-tirant-com.are.uab.cat/cloudLibrary/ebook/show/9788490533789>
- Derecho Civil de Cataluña. Derecho de Familia, Pozo Carrascosa, Pedro, Vaquer Aloy, Antoni, Bosch Capdevila, Esteve, Marcial Pons, Barcelona, 2015

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.
- 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.
- 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.

Software

The subject does not require any specific software.