

**Successions Law**

Code: 102237  
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OT	4	2

## Contact

Name: Susana Navas Navarro

Email: susana.navas@uab.cat

## Teaching groups languages

You can check it through this [link](#). To consult the language you will need to enter the CODE of the subject. Please note that this information is provisional until 30 November 2023.

## Prerequisites

Is required Knowledge of patrimonial civil law, family law and civil liability.

## Objectives and Contextualisation

The objectives are as follows:

1. Knowledge of the fundamental concepts of inheritance law
2. Organization of a mortis causa succession
3. Making the students to deal with the practical problems for successful careers in the future
4. Knowledge of case law doctrine lines

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

## Content

### LESSON 1. THE SUCCESSION

1. Concept of succession.
2. The law of succession applied to Catalonia
  - 2.1. Rules of private international law and interregional law. Special reference to the European inheritance regulations
  - 2.2. Spanish inheritance legislation
  - 2.3. Catalan law applicable to the succession because of the death date.
3. Object of the succession: the inheritance: composition. Digital memory. Succession without an heir
4. The cause of the succession
5. The successor:

- 5.1. Inheritance titles: the heir and the legatee
- 5.2. Doubtful cases of distinction between heir and legatee: The heir *ex re certa*, the legacy of the aliquot part, the usufructuary heir

## LESSON 2. PHASES OF THE INHERITANCE ACQUISITION

1. The succession foundation
2. The opening of the succession: the unclaimed inheritance. The possession. The hereditary right: Concept and elements
3. Hereditary *vocatio*:
  - 3.1. Inheritance capacity and disability
  - 3.2. Indignity and unworthy rehabilitation
4. Hereditary *delatio*:
  - 4.1. Types
  - 4.2. Effects: the *ius delationis* and the *ius transmissionis*
  - 4.3. Plurality of *delatios* in favor of the same person over the same inheritance
  - 4.4. Concurrence of *delatios*: the right to increase

## LESSON 3. THE TESTAMENT, THE CODICIL AND THE TESTAMENTARY MEMORIES

1. The testament:
  - 1.1. Concept, characters
  - 1.2. The testamentary capacity: age and natural capacity.
  - 1.3. Content: property and non-property provisions
  - 1.4. Kinds of testaments: holographic, open and closed testaments
2. The codicils: concept, form, content
3. The testamentary memories: concept, form, content
4. The interpretation of the testamentary will
  - 4.1. Object of interpretation
  - 4.2. Approach principles and criteria
5. The failure of the testament, codicil and testamentary memories:
  - 5.1. The nullity. Causes and consequences. Challenging a purported will. Conversion and validation of the void testament
  - 5.2. The revocation: concept, types and effects. Material revocation of the holograph will. Incompatible provisions
  - 5.3. The expiration
  - 5.4. The ineffectiveness by erroneous preterition and ineffectiveness by marital crisis or cohabitation crisis.

## LESSON 4. THE HEIR

1. The institution of heir: characterization, requirements: identification and determination
2. Special rules in case of plurality of heirs
3. Modalities of the institution. General concepts:
  - 3.1. The suspensive condition
  - 3.2. The term: the heir for life
  - 3.3. The inheritance mode: concept, types, effects
  - 3.4. Provisions prohibiting disposal
4. Fiduciary provisions:
  - 4.1. The designation of heir by trustee: cases, effects
  - 4.2. The inheritance and the trusted legacy: concept, content, effects, inefficiency
5. The executor. Concept. Types. Legal regime

## LESSON 5. THE HEREDITARY SUBSTITUTIONS

1. The hereditary substitution: concept and types
2. Vulgar substitution:
  - 2.1. Concept and cases

- 2.2. The denunciation
- 2.3. Effects
- 3. Pupillary and exemplary substitution: concept and legal regime
- 4. The *Fideicommissum*:
  - 4.1. General provisions: concept, forms, limits and classification
  - 4.2. Interpretation of *Fideicommissum*: approach rules, presumption of condition
  - 4.3. Pending the *Fideicommissum*:
    - 4.3.1. The figure of the fiduciary heir. Administration and disposition of hereditary assets. Responsibility of the fiduciary heir. The "*cuarta trebelianica*" or free quota
    - 4.3.2. Protection of the right of the fideicommissary heirs
  - 4.4. The *delatio* of the *Fideicommissum*: acquisition and effects of the *delatio*. The challenge of the dispositive acts. Fideicommissary heirs' responsibility
- 5. The waste *Fideicommissum* and the preventive substitution of waste: concept and legal regime

## LESSON 6. THE LEGACY

- 1. Concept and characteristics
- 2. Structure:
  - 2.1. The Subjects: Term legacies and under condition
  - 2.2. Object: Rights and property
- 3. Effectiveness of Legacy
- 4. Legal regime of the Legacy:
  - 4.1. *Delatio*, repudiation and acceptance
  - 4.2. Compliance, risks, fruits
  - 4.3. Actions and guarantees of the legatee. The "*cuarta falcidia*" or fourth minimum inherited
- 5. Classification of Legacies
- 6. Failure and reduction of Legacies

## LESSON 7. THE INHERITANCE AGREEMENTS AND THE "MORTIS CAUSA" DONATIONS

- 1. Inheritance agreements:
  - 1.1. Concept, subjects, content, form, inefficacy and resolution
  - 1.2. Classification of inheritance agreements:
    - 1.2.1. Contractual Heir. Concept and classification. Effects in life of the inheritor and when the succession is opened
    - 1.2.2. The inheritance agreement concerning certain assets. Concept and classification
  - 1.3. The inheritance agreements and family business protocols.
- 2. Mortis Causa Donations:
  - 2.1. Concept and characteristic features: the *contemplatio mortis* and the revocability
  - 2.2. Legal regime:
    - 2.2.1. Capacity, purpose, property transfer and failure
    - 2.2.2. Reference to the Legacy and *inter vivos* donations rules

## LESSON 8. INTESTATE SUCCESSION

- 1. Concept and intestate succession function. The opening of the intestate succession
- 2. The *ab intestato* heirs:
  - 2.1. The relationship. The right of representation
  - 2.2. Succession orders:
    - 2.2.1. Right of children and descendants
    - 2.2.2. Succession of the surviving spouse or cohabitant

- 2.2.3. Right of parents and ascendants
- 2.3.4. Right of the collateral
- 3. Intestate succession in case of adoption
- 4. The intestate succession of the pre-pubescent
- 5. The intestate succession of the Catalan Generalitat

## LESSON 9. LEGAL ATTRIBUTION

### 1. The Forced Share

- 1.1. Concept. Legal nature. *Delatio*
- 1.2. The beneficiaries. Deprivation and preterition. Right of representation.
- 1.3. The calculation of the global and individual Forced Share. Computing and imputation
- 1.4. The payment of the Forced Share:
  - 1.4.1. The attribution of the Forced Share by the deceased
  - 1.4.2. Intangibility and supplement of the Forced Share
  - 1.4.3. Valuation of assets
  - 1.4.4. Responsibility
- 1.5. The "inoficiosidad"
- 1.6. Extinction of the Forced Share. Renounce. Prescription
- 2. The quarta uxoris
  - 2.1. Concept. Legal nature. Requirements
  - 2.2. Calculation. Payment. Claim action. Guarantee
  - 2.3. Extinction and forfeiture

## LESSON 10. THE ACQUISITION OF INHERITANCE

- 1. Hereditary acquisition systems
- 2. Capacity to accept and renounce
- 3. The *interpellatio in iure*
- 4. The acceptance:
  - 4.1. Concept and requirements
  - 4.1. Shapes. Tacit acceptance
- 5. The renunciation
  - 5.1. Concept and requirements
  - 5.2. Loss of the power to renunciate
  - 5.3. Renunciation of inheritance to the detriment of creditors
- 6. Effects of acceptance:
  - 6.1. Confusion of assets, unlimited liability.
  - 6.2. Accepting succession cum beneficio inventarii: without liability to debts beyond the assets descended.

## LESSON 11. THE HEREDITARY COMMUNITY. THE PARTITION AND THE COLLATION

- 1. The hereditary community:
  - 1.1. Legal configuration: duration
  - 1.2. Legal system: administration and disposition of hereditary assets
- 2. The partition or sharing out a succession:
  - 2.1. Legitimation. Suspension
  - 2.2. Partial operations. Classification of partitions. The inheritance arbitration
  - 2.3. Efficiency of the partition. Rescission by injury
  - 2.4. Dispute of the partition. Liability of the joint heirs
- 3. The *collatio*
  - 3.1. Concept

- 3.2. Collatable goods and their valuation
- 3.3. Beneficiary

## LESSON 12. THE PROTECTION OF HEREDITARY RIGHT

- 1. The claim to an inheritance:
  - 1.1. Legitimized
  - 1.2. Object
  - 1.3. Inheritance claim and *usucapion* (acquisitive prescription)
- 2. The apparent heir:
  - 2.1. Concept
  - 2.3. Legal Regime: protection of third party in good faith and for onerous title purchasers.

### Methodology

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.

Teaching, the student's training and the learning process are 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%). 6 out of 10.
- ii) Preparation by the student of one or two cases that are later solved in class and of which a document must be written (5%)
- iii) Oral presentation of case law I (5%)
- iv) Solving cases presented by the teacher (5%)
- v) Oral presentation of case law II (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. A 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*

#### **Unique assessment**

*It will consist about:*

- *the preparation of a scientific poster about a topic on Succession Law (30%)*

- *a case law study about a particular topic on Succession Law (20%)*

- *final exam, which will encompass all the topics concerning Succession Law (50%): in order to pass the exam it is mandatory to get 6 vpoints out of 10.*

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			
Practical application of theoretical knowledge	22.5	0.9	2, 23, 10, 21, 15, 14, 8, 20, 22, 25
master classes	22.5	0.9	1, 3, 5, 23, 10, 21, 8, 20, 18, 25
Type: Autonomous			
assessment	5	0.2	1, 4, 10, 11, 21, 12, 25, 26
job writing	15	0.6	2, 4, 6, 5, 23, 7, 10, 13, 15, 14, 12, 25
reading of legal texts	25	1	2, 6, 7, 21, 15, 8, 20, 18
search for bibliography and jurisprudence	16.5	0.66	4, 7, 11, 13, 17, 15, 16, 20, 12, 26
study	43.5	1.74	1, 23, 10, 21, 14, 8, 12, 22, 26

## **Assessment**

## 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 reached just 6 out of 10.

2. The resolution of two cases and subsequently the production of a legal document (10%), oral presentacion in the classroom of case law (10%), oral presentation of a poster concerning an issue that studiants may choose (10%) are taking into special consideration by the teacher for the student assessment.

### II. Final exam:

Every student, whether or not has passed the ongoing assessment, CAN ATTEND 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 subject.

### III. Marks system

Ongoing student assessment is 50% of the final mark. Final exam is 50 % of the final mark as well. In order to pass the final examn it s required a minimum mark: 2,5 out of 5. Furthermore, it is mandatory to get a minimu score of 2,5 in the final examen in order to average with the ongoing assessment final score.

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. However, the oingong assessment score will be taken into account.

Students must get a score of at least 5 in order to pass the course. The final grade will be such achieved in the reassessment plus the ongoing student asesment marks.

### **Unique assessment**

*It will consist about:*

- *the preparation of a scientific pòster about a topic on Succession Law (30%)*

- *a case law study about a particular topic on Succession Law (20%)*

- *final exam, which will encompase all the topics concerning Succession Law (50%): in order to pass the exam it is mandatory to get 6 vpoints out of 10.*

## Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Synthesis examination	50%	0	0	1, 2, 6, 5, 7, 9, 10, 21, 13, 17, 15, 20, 19, 18, 12, 22, 24, 25, 26
assessed activities	50%	0	0	1, 2, 4, 6, 5, 7, 10, 11, 8, 16, 19, 12, 25, 26



## Bibliography

Bibliography:

### 1. Legislation:

- Law on Book IV of the Civil Code of Catalonia and complementary legislation
- Spanish Civil Code

### 2. Basic bibliography:

- Derecho civil de Cataluña. Derecho de sucesiones. Antoni Vaquer - Pedro del Pozo - Esteve Bosch, Marcial Pons, 2017.
- Lliçons de Dret Civil Català VII. dret de Successions. M<sup>a</sup> del Carmen Gete-Alonso- Judith Solé, València, Tirant lo Blanch, 2020 (<https://biblioteca-tirant-com.are.uab.cat/cloudLibrary/ebook/show/9788413369136>).
- Dret civil català. Dret de successions. Vol. III, Adolfo Lucas (dir.), Bosch, 2010.
- Curso de derecho civil, V. Derecho de sucesiones. Manuel Albaladejo, Ed. Edisofer, 11 ed., 2015.
- Elementos de derecho civil, V, Sucesiones, José Luis Lacruz Berdejo y otros, Ed. Dykinson, 2007.

### 3. Complementary bibliography:

- Comentaris al Llibre IV del Codi civil de Catalunya, Dret de successions, Joan Egea - Josep Ferrer (dirs.), 2 vols., Atelier, 2009.
- XV Jornades de Dret català a Tossa, El nou dret successori del Codi civil de Catalunya, Àrea de dret civil, UdG (coord.), Documentia Universitaria, 2009.
- Tratado de Derecho de sucesiones, M<sup>a</sup> del Carmen Gete-Alonso (dir.), Judith Solé (coord.), Thomson Reuters, 2<sup>a</sup> edic., 2016.
- Cuestiones de Derecho Sucesorio catalán. Principios, legítima y pactos sucesorios, Lúdia Arnau- M<sup>a</sup> Luisa Zahino (dirs), Marcial Pons, 2015.

## Software

There is not such activity