

Civil Law II

Code: 102240
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	2	1

Contact

Name: Guillem Izquierdo Grau

Email: guillem.izquierdo@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.

Teachers

Xavier Cecchini Rosell

Fernando Hurtado Parras

Maria Planas Ballvé

Guillem Izquierdo Grau

Laura Arroyo San Jose

Ricardo Fernando de la Rosa Fernandez

Gibran Kalil Rivero

Maria Isabel Garcia Ruiz

Santiago Robert Guillén

Prerequisites

Preliminary note

In order to follow and make good use of Civil Law II, it is necessary to have a good knowledge of Civil Law I and the concepts of property law in Roman Law. It is essential to have knowledge and use of legal terminology.

The assigned teaching groups and professors are as follows:

102240-CIVIL LAW II

Group	Professor	Class time	Idiom	hours
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1	Cecchini	dm.10.15 - 11.45 h	catalan
2	Izquierdo	dll.13.35 -15.05 h	Spanish
51	Planas	dm. 17.45 -19.15 h	catalan
seminars			
11	De la Rosa	dm.8.30-10 h	catalan
12	Arroyo	dm.8.30-10 h	catalan
13	Cecchini	dm.8.30-10 h	catalan
21	Robert	dll.12-13.30 h	Spanish
22	Hurtado	dll.12-13.30 h	Spanish
23	Izquierdo	dll.12-13.30 h	Spanish
511	Garcia	dm. 16 - 17.30 h	catalan
512	Kalil	dm. 16 - 17.30 h	Spanish
513	Planas	dm. 16 - 17.30 h	catalan
70	Cecchini	dj. 10,15-11,45 h.	catalan
701	Hurtado	dj. 8,30-10 h.	catalan
702	Planas	dj. 8,30-10 h.	catalan
703	Cecchini	dj. 8,30-10 h.	catalan

Objectives and Contextualisation

Dret Civil II (Obligations) is one of the parts in which the subject of Civil Law in the Degree of Law is distributed, academically for teaching and evaluation:

It is located in the first semester of the second year. The matter focuses on the relations of credit and debt, the fundamental concepts and the regime of the patrimonial relations.

It is an essential subject in the Degree, the concepts, institutions and regimes of these relationships are necessary for Civil Law and the rest of the legal subjects of the Degree.

This subject is academically necessary to acquire and take on the general concepts of the obligatory relationships developed later in the other subjects of civil Law and especially in the optative subjects. Civil Law II (Obligations) is the basis from which will be developed, on the one hand, Dret Civil III (Contracts) and Dret Civil IV (Real Rights) and of another, the optionally subjects of Family Law, Law of Succession and Civil tort. In addition, this subject has a special impact on a large part of other subjects of the Degree.

Among the specific objectives, the study of the Dret Civil II (Obligations) will allow the student:

- Identify the object, sources and fundamental concepts of the right to obligations, and assume them.
- Distinguish and identify juridical relationships.
- Understand and assume the basic elements of the regime of the 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 that is the subject of study and assessment is the Civil Law applicable in Catalonia.

TOPIC 1. THE LEGAL RELATIONSHIP

1. The legal relationship: 1.1. Concept and types; 1.2. Structure
2. The subjective right: 2.1. Structure; 2.2. Classes; 2.3. Secondary legal situations.
3. The object: goods and things: 3.1. Concept and characteristics.
4. The patrimony: concept and functions.

TOPIC 2. THE OBLIGATORY RELATIONSHIP

1. The obligatory legal relationship: 1.1. Concept and structure; 1.2. Characteristics
2. The claim.
3. Debt.
4. The object: 4.1. Concept; 4.2. Requirements
5. Debit and liability: 5.1. Concept; 5.2. The natural obligation

TOPIC 3. THE SOURCES OF THE OBLIGATORY RELATION

1. The sources of obligations
2. Obligations derived from the law.
3. Contract.
4. Non-contractual sources: 4.1. Quasi-contracts; 4.2. Civil liability
5. Unilateral will

TOPIC 4. TYPES OF OBLIGATIONS (I)

1. Obligations to give, to do and not to do: 1.1. The obligation to do; 1.2. The obligation not to do; 1.3. The obligation to give; 1.4. The obligation of means and the obligation of result.
2. Generic and specific obligations.
3. Alternative and optional obligations.

4. Money obligations: 4.1. Concept, characteristics and functions; 4.2. The Spanish monetary system; 4.3. Nominalist principle and corrections: the stabilisation clauses; 4.4. The interest obligation; 4.4. Credit cards: concept, types and functions; 4.5. Electronic money.

TOPIC 5. TYPES OF OBLIGATIONS (II)

1. Plurality of obligations: 1.1. Principal, accessory and subsidiary obligations; 1.2.
2. Unity and plurality of obligations.
3. Reciprocal or synallagmatic obligations: 3.1. Concept and characteristics; 3.2. Termination for non-performance.

TOPIC 6. CIRCUMSTANCES OF THE OBLIGATORY RELATIONSHIP

1. The circumstances of the obligatory relationship.
2. The place of the obligatory relationship.
3. The time of the obligatory relationship: 3.1. Instantaneous and lasting obligatory relationships; 3.2. The essential term of the obligation: 3.3. Immediate and deferred effectiveness of the obligation.
4. Term obligations. Concept, characterisation and types of terms. Legal regime.
5. The conditional obligation: Concept, function and classes: 5.1. Legal regime of the suspensive condition; 5.2. Legal regime of the resolutive condition.
6. The modal obligation: legal regime and effects.

TOPIC 7. GUARANTEES OF THE OBLIGATORY RELATIONSHIP

1. Guarantees of the obligatory relationship.
2. The conventional penalty.
3. Deposits.
4. The bail bond: 4.1. Concept, function, characteristics and types; 4.2. Classes; 4.3. Object and form; 4.4. The relationship between the creditor and the surety (surety relationship); 4.5. The relationship between the debtor and the guarantor (covering relationship); 4.6. The plurality of sureties; 4.7. The extinction of the surety.

TOPIC 8. PERFORMANCE OF THE OBLIGATION

1. The payment or performance of the obligation: 1.1. Concept and functions; 1.2. The principle of accuracy; 1.3. The subjects of payment: 1.3.1. The accipiens. Payment to a person other than the creditor; 1.3.3. Payment by credit card; 1.4. Place of payment; 1.5. Time of payment; 1.6. The time of payment; 1.6.
2. The imputation of payments.
3. Recovery of undue payment.

TOPIC 9. SUBSTITUTES FOR PERFORMANCE

1. The subrogates of performance. Concept and function.
2. Consignment.
3. Compensation.
4. The dation in payment.
3. Payment by transfer of assets.
4. Forgiveness.

TOPIC 10 NON-PERFORMANCE AND CONTRACTUAL LIABILITY

1. Non-performance: Assumptions.
2. The debtor's default: Concept, requirements, effects and cessation.
3. Defective performance.
4. Definitive non-performance.
5. Contractual liability: 5.1. Criteria for imputation; 5.2. Clauses modifying the debtor's liability. Fortuitous event and force majeure.
6. Injury to the claim due to acts of a third party.
7. The creditor's default: Concept, requirements, effects and cessation.

TOPIC 11. THE PROTECTION OF THE CREDIT

1. Credit protection. Measures for the preventive protection of the right to credit.
2. Consumer and user protection. Conformity and contractual remedies. The commercial guarantee.
3. The action for performance of the obligation.
4. Enforcement of the performance due.
5. Reduction of the price.
6. Compensation for damages.
7. Direct action.
8. Subrogatory or indirect action.
9. The revocatory or paulian action
10. Plurality of creditors. Preference and priority of claims: 10.1. Priority of credits.

TOPIC 12. MODIFICATION OF THE BINDING RELATIONSHIP

1. Modification: 1.1. Modification as a mechanism; 1.2. Modification as an effect.
2. Novation: 2.1. Requirements; 2.2. Effects.
3. Change of creditor: 3.1. Assignment of claims; 3.2. Subrogation.
4. Change of debtor: 4.1. Modalities of change of debtor; 4.2. Effects of the change of debtor.

TOPIC 13. THE EXTINCTION OF THE OBLIGATORY RELATIONSHIP

1. Causes of extinction of the obligatory relationship. 2.
2. Confusion.
3. Other forms of extinction: 3.1. Mutual dissent; 3.2. Denunciation per unilateral will; 3.3. Withdrawal in obligatory consumer relations.

TOPIC 14. THE PLURALITY OF SUBJECTS

1. The plurality of subjects
2. Divisible and indivisible obligations
3. Divisible or partial joint obligations.
4. Indivisible or joint and several joint and several obligations: 3.1. Joint credit; 3.2. Joint debt.
5. Joint and several obligations: 4.1. The joint and several claim; 4.2. The joint and several debt.

TOPIC 15. TORT LAW

1. Civil liability. Concept and functions
2. Types of liability.
3. Presuppositions of the obligation. Liability for own acts: 3.1. Action or omission; 3.2. Fault or negligence; 3.3. Damage; 3.4. Causal nexus.
4. Liability for acts of others: 4.1. Liability of parents and guardians; 4.2. Liability due to business dependence; 4.3. Liability of non-university educational establishments.
5. Statute of limitations

Methodology

The learning process is based on the work of the person enrolled in the subject that learns working, the mission of the teacher is to provide information, indicate the sources of knowledge and supervise the work.

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 as well as learned from the doctrine and jurisprudential decisions. The theoretical classes are conceived as a fundamentally unidirectional method of transmitting the knowledge of the teaching staff to the students, which does not exclude the participation in class and the maintenance of a learning attitude.

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 occasions, the cases will be elaborated 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.

2. Autonomous activities:

Fundamentally are those related to the study of the subject to assume the basic knowledge. In addition to the study, they include, among others:

2.1. The preparation of documents: those required for seminars. They can be in relation to practical cases proposed in advance or that have to be created by the students. A partial exam is part of the autonomous activity, whose specific form is determined by the teachers of each group.

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

2.3. Comprehensive reading of legal texts: The texts can be sentences, journal articles, monographs. The faculty of each group will determine the type of text.

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			
Seminars	19.5	0.78	2, 14, 19, 21, 24
Theoretical classes	19.5	0.78	1, 2, 6, 11, 20, 14, 13, 8, 18, 12, 21, 24
Type: Supervised			
Tutoring and evaluation activities	1	0.04	1, 2, 4, 6, 5, 7, 10, 20, 16, 13, 8, 18, 12, 24
Type: Autonomous			
Assessment	5	0.2	9, 10, 14, 15, 23
Readings, preparation and writing of texts, search of bibliography and jurisprudence.	91	3.64	1, 2, 5, 14, 13, 15, 19, 18, 17, 25
Study and work outside the classroom	10	0.4	1, 2, 8, 21

Assessment

SYSTEM OF ASSESSMENT OF THE ACQUISITION OF SKILLS AND GRADING SYSTEM (5 Hours)

ORDINARY ASSESSMENT AND GRADING SYSTEM:

I. Continuous assessment:

The continuous assessment consists of three main parts:

The first part is the practical activities to be done at home and discussed in class. Students will not have to submit anything in writing unless instructed to do so by the teacher. This part is worth 20%.

The second part is a non-liberatory mid-term exam. The partial exam will consist of a first part of a multiple-choice test and a second part of theoretical questions to be developed. The value of this part is 15%.

The third part is the so-called inverse teaching, where the student will have to submit a video on the content of a topic of the programme that the teacher will assign him/her. The value of this part is 15%.

The remaining 50% to pass the course will be made up by the final exam. The final exam will consist of three theoretical questions to be developed.

II. Final exam

Students will have access to the final exam regardless of the grade obtained in the continuous assessment.

The course will only be passed if a mark of 4 out of 10 or higher is obtained in the final exam.

The specific type of final exam will be written. Students are examined on the entire syllabus of the subject, even if for academic or extra-academic reasons it has not been possible to give all the content in the lecture sessions.

III. Single assessment:

Content of the single assessment

The single assessment must have the same level of complexity as the continuous assessment and students will have to demonstrate the acquisition of the knowledge and competences of each subject, in accordance with that established in the teaching guide, which will specify the content of the single assessment test.

In any case, the single assessment, like the continuous assessment, must include a minimum of three assessable activities, of two different types, none of which may represent more than 50% of the final grade. In the event that it is required to present evidence that the student has carried out autonomously during the academic year, on the date of the single assessment it must be verified that the student has acquired the knowledge and competences foreseen.

The single assessment will consist of the following tests, which will have to be taken individually and personalised by each student, on the official date scheduled for the final exam:

(a) the resolution of a transversal practical case, where students will have to answer the questions asked about the case. (40%)

b) a multiple-choice test of 30 questions (true/false), where incorrect questions and questions left blank will be penalised (20%).

c) the completion of a written test of theoretical content, where the students will have to demonstrate their knowledge of the subject programme. (40%)

IV. Grading of the subject with the continuous assessment system

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

Continuous assessment mark: this will consist of the marks obtained in the practical activities proposed in the seminars, as well as the inverse teaching activities and the mid-term exams taken during the course.

Final exam mark: in order to pass the course, the final written exam must be passed with a minimum mark of 4 out of 10.

The course will be passed with a minimum of 5 out of 10, in accordance with the established percentages.

V. RE-EVALUATION

In order to be eligible for re-evaluation, students must obtain a minimum mark of 3 out of 10 for the subject, whether they have opted for single assessment or continuous assessment. Students are examined on the entire syllabus of the subject.

In order to be eligible for re-evaluation, students must have taken the final exam.

The course will be passed with a minimum of 5 out of 10, according to the established percentages. The final mark will be the one obtained in the re-evaluation exam.

In the re-evaluation exam, the student examines 100% of the subject without taking into account the mark obtained in the continuous assessment.

Students who have opted for the single assessment will have the same type of exam as in the final exam: it must include a minimum of three evaluable activities, of two different types, none of which may represent more than 50% of the final grade.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Assessable activities indicated by teachers in advance which must be of two different types. At least two.	50%	0	0	6, 5, 9, 10, 20, 16, 14, 8, 15, 18, 12, 23
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
Reevaluation	100%	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

Bibliography

Books

Derecho de obligaciones y contratos de Cataluña, M^a del Carmen Gete-Alonso y Calera, Judith Solé Resina (Dir.), Atelier, 2021.

Lliçons de Dret Civil Català IV. Dret d'obligacions. M^a del Carmen Gete-Alonso y Calera / Judith Solé Resina. Tirant lo Blanch, 2017. Available in electronic format

Derecho civil de Cataluña. Derecho de obligaciones y contratos. Pedro del Pozo Carrascosa/Antoni Vaquer Aloy/Esteve Bosch Capdevila. Marcial Pons 2018

Elementos de Derecho civil. Derecho de obligaciones. José Luis Lacuz Berdejo et alii. Dykinson 5^a ed, 2013

Legal Texts

Código Civil español

Codi Civil de Catalunya

Texto Refundido de la Ley General de Consumidores y Usuarios

Codi de Consum de Catalunya

LINKS

http://justicia.gencat.cat/ca/ambits/dret_civil_catala/

<http://www.mjusticia.gob.es/cs/Satellite/Portal/es/actividad-legislativa/normativa>

<https://www.boe.es/legislacion/>

<http://www.poderjudicial.es/search/indexAN.jsp>

Software

The subject does not require any specific software.