

60747 - Civil Practice

Información del Plan Docente

Academic Year	2018/19
Subject	60747 - Civil Practice
Faculty / School	102 - Facultad de Derecho
Degree	522 - Master's in Legal Practice
ECTS	7.0
Year	1
Semester	Annual
Subject Type	Compulsory
Module	---

1.General information

1.1.Aims of the course

The subject and its expected results respond to the following objectives:

The objective of the subject is that the students know the way and means of defending the interests entrusted by their clients and, being that these are external interests, it requires expertise and professional management, away from any abdication.

The acquisition of these resources will allow the students, as lawyers, to trust their odds of winning and act with confidence when it comes to performe their work.

In sum, it is intended that the student knows the judicial and extrajudicial practice and acquires a minimum initial expertise to begin the professional exercise with a specific legal background that cannot be acquired in the Degree studies or Bachelor's degree.

1.2.Context and importance of this course in the degree

Civil practice, along with other branches of law and jurisdictions, constitutes an essential element of the Master in Law to begin to intervene in the defense of the rights entrusted to lawyers.

The subject allows the intern to know the structure and organization of the competent Courts, the adequate procedure to urge the jurisdictional protection, its cost and other implications inherent to the litigation and also to know the non-litigation proceedings that must be attended for the defense, claim or conservation of rights.

1.3.Recommendations to take this course

Students must have an outstanding legal knowledge of Civil Law and Civil Procedural Law.

2. Learning goals

2.1. Competences

Once the students have achieved the present course, they will be prepared to:

- Identify the interests at stake in the most common situations they can find when they start in the profession.
- Analyze the problems which come up in the case, identifying the substantial aspects thereof and the interdisciplinary implications that may exist.
- Analyze the chances of possible solutions from the substantial and procedural perspective, evaluate the means of evidence that they have and the possibility of an agreed solution.
- Calculate the length of the lawsuit if it is carried out through the procedural way, besides the economic and tax aspects and the human impact on the parties involved.
- Choose the appropriate jurisdiction and, if appropriate, the most convenient action, among the possible ones.
- How to apply the technique, tactics and strategy that allow the student to defend the matter.
- Prepare the appropriate means of evidence to the case. The student will know about the content and usefulness of notarial and public registrar documents and how to obtain them.
- Identify, analyze and evaluate the legislation, case-law, and scientific doctrine applicable to the case, and expose them both orally and in writing with clarity, precision and legal correctness on their speech.
- The student will know about the appropriate jurisdiction of the Courts and Tribunals when it comes to bring a legal action.
- To perform out-of-court activities before the Public Administration, Public Registrar, notary offices etc.

2.2. Learning goals

The students in order to achieve this subject, must show the following results:

- Identify and describe from a legal point of view the situations and problems that the teacher may ask.
- From the study of the matter, the student must propose the legal solutions to the case.
- Evaluate the possible solutions to the case, its difficulty, cost, foreseeable time to solve the case, tax implications, etc.
- Expose their reasonable criterion to the client in order to recommend an alternative to solve the case.

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- The student must know the necessary elements to tackle the issue with the best chances of success: deadlines, lapse of time or prescription, data, necessary documents, procedure to obtain them, witnesses, evidence, etc

- Drafting legal writings to initiate proceedings; reply to counterpart allegations; write and answer appeals, procedures and incidents of the performance of the matter.

2.3.Importance of learning goals

The acquisition of legal skills within the exercise of the profession is, along with the theoretical knowledge acquired in Law School, a guarantee of the correct defense of the interests entrusted by the clients which are potentially all citizens.

The effective judicial protection envisaged in art. 24 of the Spanish Constitution requires competent action before the Courts, especially in matters in which - as it also occurs in Private Law - it rules the principle of "*Pleaded Justice*" which means that the judge has to dictate a resolution based on what the defendant and the claimant asked in their writings.

3.Assessment (1st and 2nd call)

3.1.Assessment tasks (description of tasks, marking system and assessment criteria)

The student must show that he has achieved the expected learning results through the following evaluation activities:

In the first call, this subject is evaluated only by the continuous assessment system, based on the exception to the obligation to perform a global evaluation test, envisaged on section 4, art. 9, Regulation of Learning Evaluation Standards (approved by the University Board on December 22, 2010), declared by the Master's degree Quality Assurance Committee and approved by the Postgraduate Studies Commission.

The evaluation will be made based on the practical cases submitted. The students will have to prepare the practical cases, perform the works or tests that may be asked to do, as well as participating in their speech or debate in front of the classroom according to the guidelines indicated by the responsible teachers for the different sessions. In order to pass the subject, students must attend, at least, 80% of the sessions of the course.

The final qualification of the subject will be based on the evaluation of FOUR activities carried out by the students throughout the course: THREE activities will correspond to Civil law and ONE to Procedural Law. The definite calendar along with the activities content will be specified in the schedule that will be delivered to the students at the beginning of the course.

To calculate the final mark, the overall result of the marks obtained during the course corresponding to Civil law activities will be punctuated with 90% and those corresponding to Procedural law with 10%. To calculate this average value, it's not compulsory to achieve both parts.

Students who have not chosen the continuous assessment system or have not achieved the subject for this system, they will be able to do a global test in the second call (September). This test will consist of a questionnaire of 10 short questions (test type -with a single correct answer- or questions with limited space) about the contents of the course and a practical case. The theoretical test will represent 50% of the final test and the practical case another 50% of the final test, being compulsory to pass both parts.

During the evaluation of the activities, it will be taken into account the following skills:

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- a) The ability to identify the interests at stake in the practical cases and the problems that may arise, including the interdisciplinary implications (skills 1 and 2).
- b) The ability to analyze possible solutions to the matter from a substantive and procedural perspective; the available means of evidence and the possibility of reaching an agreement (skill 3).
- c) The correct calculation of the litigation term, besides the economic, tax and emotional aspects for the parties involved (skill 3).
- d) The successful selection of the jurisdiction and the action to be exercised. The expertise in order to know the appropriate technique and strategy for the defense of the interests of the client, in particular, the necessary means of evidence (skill 4).
- e) The correct choice of legislation, case-law and scientific doctrine applicable to the case, as well as the correct oral and written legal reasoning on his presentation (skill 5).
- f) The student will know about the appropriate jurisdiction of the Courts and Tribunals when it comes to bring a legal action (skills 6 and 7).

In all the activities and practical cases, the argumentative skills will be taken into consideration, besides the clearness in exposition, coherent reasoning, appropriate use of legal language, as well as basic criteria in the drafting of academic works (absence of plagiarism, etc.).

According to current regulations, the results obtained will be classified according to the following numeric scale from 0 to 10, with expression of a decimal, to which the corresponding qualitative qualification may be added:

- From 0 to 4.9: Failed: the students have not achieved the learning results.
- From 5.0 to 6.9: Passed: the students have achieved the learning results.
- From 7.0 to 8.9: Remarkable: the students have achieved the learning results above the minimum requirements and in an outstanding way.
- From 9 to 10: Outstanding: the students have achieved the learning objectives in an excellent way.

4. Methodology, learning tasks, syllabus and resources

4.1. Methodological overview

The learning process that has been designed for this course is based on the following:

Based on the assumption that the students who attend the Master in Law are graduates or law graduates, it is presumed that they already have the theoretical knowledge of the subjects according to their degree, so that the work throughout the course will not be stopped at the explanation of theoretical issues, without prejudice to clarifications that may arise incidentally in the treatment of the practical cases. Therefore, the course will focus on the practical skills necessary to

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apply the theoretical or legal knowledge they already have.

Each practical case will refer to two or more matters of the enclosed ones, trying to cover the largest number of them. For example: questions of capacity, matrimonial regime and inheritance, as well as tax implications.

The solutions suggested by the students will be exposed and discussed in class, so that the teachers will give guidelines about how to be precise in the use of legal concepts and a correct reasoning.

4.2. Learning tasks

The program offered to the student to help him to achieve the expected results, includes the following activities:

In accordance with section 5.5.1.6 EDUCATIONAL ACTIVITIES, of the Master's Report, the activities of the subject will consist of dynamic activities through the participation of teacher and students, under the resolution of practical cases. This includes the preparation and resolution of cases, the presentation in class, analysis and defense of the proposed solutions and participation in the debates among the different possible alternatives that the students may uphold.

4.3. Syllabus

1. Coexistence of civil rights. Inter-regional law. Civil Residence Law applicable to the effects of marriage and to the succession of natural person. Intertemporal or Transitory law.
2. Real guarantees. Mortgage credit issues. Third-party effectiveness.
3. Law of Torts.
4. Proceedings for the protection of property and possession. Ownership actions and restraint orders. Joint Freehold Law.
5. Contracts and civil claims regarding contractual obligations. Contracts formalized in order to convey the property. House deed.
6. Leasehold proceedings
7. Capacity. Procedures regarding the capacity of people and their protection. Internment.
8. Filiation and parenthood proceeding. Rebuttal and claim.
9. Legal advice in family business. Marriage settlements. Domestic partnership.
10. Nullity, separation and divorce proceedings. Measure amendments. Custody. Regulatory agreement and family and community relationship plan.
11. Legal advice "*mortis causa*" businesses (wills, fiduciary, inheritance agreements, substitutions, trustees, etc).

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12. Processes which seek to the acquisition of the inheritance. Inheritance division. Inheritance without intestacy. Widower rights. Acceptance and repudiation of inheritance: procedures. Contribution in debts.

13. Oral judgment proceeding.

14. Judicial body procedural acts: resolutions, acts of communication.

4.4. Course planning and calendar

Face-to-face session's calendar and presentation of works:

It is an annual subject and it is taught within the period established in the academic calendar published every year by the Chancellorship.

The timetable can be consulted in the following address:

https://derecho.unizar.es/sites/derecho.unizar.es/files/archivos/horarios/horarios_mua.pdf

At the beginning of the course, the order of intervention of each one of the teachers will be announced and the subjects that are going to be conducted, as well as the calendar of evaluable activities that are part of the continuous assessment.

4.5. Bibliography and recommended resources