

INTRODUCTION TO PRIVATE LAW - CIVIL LAW

Bachelor of Laws LLB [2504110] SEP-2023 IPL-NLL.1.S.A

Area Private and Business Law

Number of sessions: 30

Academic year: 23-24

Degree course: FIRST

Number of credits: 6.0

Semester: 1^o

Category: BASIC

Language: English

Professor: **CASILDA CORTÉS PUYA**

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CASILDA CORTÉS PUYA, PhD in Law by Universidad Autónoma de Madrid graduated in law from Complutense University of Madrid (Spain) and also obtained her LLB at the University of Canterbury (UK). She is a qualified solicitor in England & Wales and registered with both the Madrid and UK Law Society.

She began her working career in London, practicing as a lawyer and solicitor for international law firm Irwin Mitchell. She left London to work as an Associate at Cortés Abogados in Madrid, dealing with civil and commercial law. Fourteen years ago she joined Lexiusta- Cortes, Abogados as a Partner in the International Civil Law Department, providing legal advice to Spanish and international companies as well as private clients in relation to civil and company law, arbitration, insolvency and litigation. She also serves as an expert to international courts. Casilda Cortés has also participated in a number of legal forums.

PhD Procedural Civil and Company Law. Directors liability.

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SUBJECT DESCRIPTION

This subject is based on a program designed to provide law students with the necessary tools to fully understand the mechanisms of the legal system.

The aim of the "Introduction to Private Law" class is to provide students with an essential understanding of Private Law and an overview of what it entails, thereby providing the foundations and tools to be able to fully understand the mechanism of the legal system, not only of the civil institutions that we will be looking at later on, but of all of the various modules that make up this qualification.

The course will provide a general knowledge of a number of introductory topics with broad application within the legal system. These include: positive laws that are applied every day, such as the rights of the individual; legal personality; personality rights; legal capacity to act; legal persons; subjective laws: statute of limitations and expiry; legal negotiations.

LEARNING OBJECTIVES

The objective of the course is that students will become familiar with the principles of private law.

The conceptual objectives of this course are:

- to learn the basics of private law;
- to understand and think critically about the transformations that private law undergoes in view of technological innovation;
- to study, analyze and discuss cases in all areas of the discipline of private law.

The professional skills of this course are:

- a critical analysis of factual and legal standards applicable to private law;
- the ability to argue with competence in the foundations of private law.

Additional skills to be cultivated within this course:

- Discussion/ debate;
- Presentations;
- Critical thinking.

TEACHING METHODOLOGY

Learning Activity	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	26.67 %	40.0 hours
Discussions	20.0 %	30.0 hours
Exercises in class, Asynchronous sessions, Field Work	13.33 %	20.0 hours
Group work	20.0 %	30.0 hours
Individual studying	20.0 %	30.0 hours
TOTAL	100.0 %	150.0 hours

PROGRAM

SESSIONS 1 - 2 (LIVE IN-PERSON)

I. Methodology

II. Introduction to the subject . Law and society.

Goals:

To Understand What 'Law' means. Definition.

Comprehend the evolving nature of the Law and its role in society. Private law perspective.

A First approach to the concept of the legal rule and subjective rights.

Analysis of the Main Legal traditions and the convergence of the civil and common law systems

CODIFICATION Civil Law: concept and current content.

Book Chapters: Mandatory Book. Chapter I and IV. Introduction to Private Law. Pietro Sirena. 3rd Ed. Il Mulino (See Bibliography)

Book Chapters: P. Harris: An Introduction to Law, chapter 1: Law and Society (ced)

Book Chapters: The Civil Law Tradition. An introduction to the Legal Systems in Europe and Latin America . Chap V. Codes and Codification (ced)

Article: From Lerotholi to Lando: Some examples of comparative law methodology (Global Jurist Frontiers , Vol. 4 [2004], Iss. 2, Art. 1) (CED))

Article: The path of the law (Harvard Law Review 110.5 (1997): 991-1009) (CED))

Article: Introduction: Pragmatism and Private Law (Harvard Law Review 125.7 (2012): 1640-1663) (CED))

Important :

All the readings necessary to prepare the class will be made available to the student before the beginning of the course. They will be available in the folder referenced with the session number in the readings section. In the same folder, the readings for that session from the compulsory book Pietro Sirena Introduction to Private Law third Edition will also be indicated. Digital edition : Pandora Campus. Check Library.

SESSIONS 3 - 4 (LIVE IN-PERSON)

I.Law and justice: natural law and positive law.

- The place of morality and justice within the concept of Law :references to the idea of natural law and positive law.
- Law Justice and the Positivization of Humam Rights

II.Analysis of the elements of the Rule of Law

- To understand the meaning of the Rule of law and its content. To identify the principles of the rule of law in day to day situations.

Book Chapters: Mandatory Book. Chapter V. Introduction to Private Law. Pietro Sirena. 3rd Ed. Il Mulino (See Bibliography)

Book Chapters: Institutions of Law: An essay in Legal theory. Chap 15.4 (See Bibliography)

Book Chapters: Lord Bingham: The Rule of Law, chapter I: The Importance of the Rule of Law (ced)

Other / Complementary Documentation: The rule of law (s-c)

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SESSIONS 5 - 6 (LIVE IN-PERSON)

1.Civil and Common law Jurisdiction.

- Codification , Case Law and equity.

2.LEGAL RULE: Meaning and comparative view.

- The construction of the legal rule.
- Application and Interpretation of the law.

Case Law

Donoghue & Stevenson 1932.

Hedley Byrne & Co Ltd v Heller & Partners Ltd [1964].

Caparo Industries Plc v Dickman [1990] 2 AC 605 -

Incremental Approach v Proximity: Steel v NRAM Ltd [2018] UKSC 13 (28 February 2018)

Book Chapters: Mandatory Book. Chapter VI.1. Introduction to Private Law. Pietro Sirena. 3rd Ed. II Mulino.Legal Rules, Principles , systems Chapter VI Prieto Sirena. (See Bibliography)

Book Chapters: The Civil Law Tradition : Chapter I and II and VII (ced)

Book Chapters: An Introduction to Law. Chapter 7. The making of legal rules. (See Bibliography)

Important :

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SESSIONS 7 - 8 (LIVE IN-PERSON)

1.SOURCES OF LAW I

Primary and Secondary Sources : Comparative Study. Civil Law and Common Law

2. SOURCES OF LAW II

Interpretation and Application of the Law.

Case Law:

- Fairchild v. Glenhaven (2002).
- Barker v Corus (UK) 2006 plc

Book Chapters: Mandatory Book. Chapter VII.2 and 3. Introduction to Private Law. Pietro Sirena. 3rd Ed. II Mulino.Legal Rules, Principles , systems Chapter VI Prieto Sirena. (See Bibliography)

Book Chapters: René David and John E.C.Brierley: Major Legal Systems in the World today; chapter 1: Legislation , Title III p. 102 to 154 (ced)

Book Chapters: René David and John E. C Brierley: Major Legal Systems in the world Today, Title II. Structures of the law (ced)

Book Chapters: René David and John E. C Brierley: Major Legal Systems in the world Today,

Custom and decided cases (ced)

Book Chapters: René David and John E. C Brierley: Major Legal Systems in the world Today, Supereminet principles (ced)

Book Chapters: Aharon Barak:: Purposive Interpretation in Law: CHAPTER ONE What Is Legal Interpretation? (ced)

Important :

All the readings necessary to prepare the class will be made available to the student before the beginning of the course. They will be available in the folder referenced with the session number in the readings section. In the same folder, the readings for that session from the compulsory book Pietro Sirena Introduction to Private Law third Edition will also be indicated. Digital edition : Pandora Campus. Check Library.

SESSION 9 (LIVE IN-PERSON)

Group CASE

SESSIONS 10 - 13 (LIVE IN-PERSON)

The law and the PERSON I. Natural Person

SESSIONS 10 and 11:

1. Subjects of private law.
2. Legal personality. Natural Person
3. Nature and AI Personhood

SESSIONS 12 and 13

Natural Person : Legal Capacity.

Book Chapters: Mandatory Book. Chapter XI. Legal subjects. Introduction to Private Law. Pietro Sirena. 3rd Ed. Il Mulino.

Book Chapters: P. Harris: An Introduction to Law; Chap.4 Some important legal concepts: Legal Personality (ced)

Book Chapters: N. MacCormick: Institutions of Law: Chap.5 On persons. (ced)

Article: Contracts for People Under 18 Years Old (QUARTERLY ACCOUNT SUMMER 2006 (ced))

Article: Can Nature Hold Rights? It's Not as Easy as You Think (Transnational Environmental Law, 11:3 (2022), pp. 525–552 (ced))

Important :

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SESSION 14 (LIVE IN-PERSON)

MID TERM EXAM

SESSIONS 15 - 16 (LIVE IN-PERSON)

The Law and the person II. LEGAL PERSON

Legal personality of legal person: Incorporation.

Legal capacity.

Non-commercial legal entities: associations and foundations.

Commercial legal entities: Companies.

CASE LAW:

Salomon v A Salomon & Co Ltd [1896] UKHL 1, [1897] AC 22.

Lee v Lee's Air Farming Ltd [1960] UKPC 33.

Gilford Motor Company Ltd v Horne [1933] CH 935.

Book Chapters: Mandatory Book. Re read. Chapter XI. Introduction to Private Law. Pietro Sirena. 3rd Ed. Il Mulino. Prieto Sirena

SESSION 17 (LIVE IN-PERSON)

Law and the Person III. Agency & Representation.

A person normally performs acts of the law themselves, but they also can entrust another person so that the latter can execute legal acts in the former's name.

In short, the term "Agency" refers to an act by a person ("the Agent"), on behalf of another, ("the principal") and the Principal's authorization.

This creates, alters or discharges legal relations between the Principal and a Third Party.

In modern law, however, the agent is simply and solely the representative of his principal on whose behalf he concludes transactions with third parties but the current tendency is to reserve the term "agent" to denote a representative who is bound by contract with a principal to carry out a mandate and also authorised to create, alter or discharge legal relations for the principal.

Book Chapters: Ben Schijling: Introduction to Dutch Law (pp.117-122) Chapter: 7: Chapter 7 – Representation, Power of Attorney and Mandate (ced)

Important :

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SESSION 18 (LIVE IN-PERSON)

Group CASE STUDY: Legal person and representation.

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SESSIONS 19 - 21 (LIVE IN-PERSON)

SESSION 19 Review Sessions 15 to 17.

SESSIONS 20 and 21: Rights and Obligations and Legal positions of private entities.

Principles of Private Law relationships: Private autonomy and Freedom of Form
Legal facts, act and the juridical act.

Rights and duties . General Theory of Obligations.

Concept of Subjective Rights and the right to claim.

Classification of obligations and their termination.

Book Chapters: Mandatory Book. Chapter IX and X Introduction to Private Law. Pietro Sirena. 3rd Ed. Il Mulino.

Book Chapters: Persons, Acts, and Relations; chapter 7: Legal Positions and Relations: Right and Obligations (ced)

Important :

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SESSIONS 22 - 23 (LIVE IN-PERSON)

Sources of Obligations: Introduction to Contract and Tort

- What is a contract? Comparative study.
- Requirements.
- CASE LAW : Carllill v Carbolic Smoke Ball Company [1892] EWCA Civ 1
- Distinguishing tort law from contract law.
- Harm/Damage in Tort law.
- Duty of Care.
- Liability Rules: Comparative Study.

CASE LAW:

- REREAD:
 - Donoghue & Stevenson 1932.
 - Hedley Byrne & Co Ltd v Heller & Partners Ltd [1964].
 - Caparo Industries Plc v Dickman [1990] 2 AC 605 -
 - Incremental Approach v Proximity: Steel v NRAM Ltd [2018] UKSC 13 (28 February 2018).

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SESSION 24 (LIVE IN-PERSON)

Case Study.

SESSIONS 25 - 26 (LIVE IN-PERSON)

Legal relations and Things: Property

Things and right to them

Real Rights : Adquisition and Title

Basics of Trust

Book Chapters: Mandatory Book. Re Read: Chapter X.4. Introduction to Private Law. Pietro Sirena. 3rd Ed. Il Mulino. Prieto Sirena

Book Chapters: Neil MacCormick: Institutions of Law; Chapter 8: Legal Relations and Things: Property (ced)

Own Material: NOTES ON TRUST (s-c)

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SESSION 27 (LIVE IN-PERSON)

The exercise of right

Dispute resolution

Action

The time and the exercise of rights: prescription and preclusion.

Conflicts of Law: concept, connecting factors: EU private Law: Jurisdiction and forum.

Book Chapters: Mandatory Book. Re Read: Chapter. X.5. Introduction to Private Law. Pietro Sirena. 3rd Ed. Il Mulino. Legal Rules.

Book Chapters: J. H MERRYMAN: The civil Law Tradition: Chap. XVI: Civil Procedure. (ced)

Important :

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SESSIONS 28 - 29 (LIVE IN-PERSON)

SESSION 30 (LIVE IN-PERSON)

FINAL EXAM

EVALUATION CRITERIA

Students must obtain at least a score of 4 out of 10 in each of the exams (mid-term and final). A score lower than 4 will prevent the average from being calculated with the rest of the results and will result in a fail.

The student must also be prepared to be called upon to participate. In class, randomly selected students will be asked questions about the content of the class. Participation grade will be evaluated at the end of each class.

criteria	percentage	Learning Objectives	Comments
Final Exam	30 %		Session 30
Intermediate Tests	30 %		Session 14
Individual Work	10 %		Two Individual assignments: One before Session 10 (5%) and the Second in Session 24 (5%)
Group Presentation	20 %		Sessions 9: 5% , Session 18 : 5% and Session 29 : 10%
Class Participation	10 %		

RE-SIT / RE-TAKE POLICY

GENERAL ATTENDANCE POLICY AND RETAKE

Each student has four attempts over two consecutive academic years to pass this course.

Students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year).

Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

Retake policy

Any student whose weighted final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).

Grading for retakes will be subject to the following rules:

- The retakes will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.
- The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained is 8 out of 10.
- The third attempt will require the student to complete any written assignment(s) required by the instructor and a final exam.
- This is also applicable to students who do not have required attendance, e.g. sickness.

Dates and location of the retakes will be posted in advance and will not be changed.

BIBLIOGRAPHY

Compulsory

- Prieto Sirena. (2021). *Introduction to private law*. 3rd edition. Il Mulino. ISBN 9788815290182 (Printed)

Recommended

- NEIL MACCORMICK. (2007). *Institutions of Law legal theory*. OXFORD. ISBN 9780199535469 (Printed)

- PHIL HARRIS. (2007). *An Introduction to law*. 7. Cambridge. ISBN 9780521997965 (Printed)

- JH MERRYMAND. (2007). *The Civil Law Tradition*. 3. Stanford. ISBN 9780804755696 (Printed)

- René David, John E.C. Brierley. (1979). *MAJOR LEGAL SYSTEMS IN THE WORLD TODAY*. Simon & Schuster. ISBN 9780442047340 (Printed)

- Ford Foundation. (1974). *Law and Justice*. ISBN 1021275449 (Digital)

BEHAVIOR RULES

Please, check the University's Code of Conduct [here](#). The Program Director may provide further indications.

ATTENDANCE POLICY

Please, check the University's Attendance Policy [here](#). The Program Director may provide further indications.

ETHICAL POLICY

Please, check the University's Ethics Code [here](#). The Program Director may provide further indications.