



Teaching Guide

Identifying Data					2022/23
Subject (*)	Jurisprudence		Code	612G01006	
Study programme	Grao en Dereito				
Descriptors					
Cycle	Period	Year	Type	Credits	
First and Second Cycle	1st four-month period	First	Basic training	6	
Language	Spanish				
Teaching method	Face-to-face				
Prerequisites					
Department	Dereito Privado				
Coordinador	Serna Bermudez, Pedro	E-mail	pedro.serna@udc.es		
Lecturers	Pereira Saez, Maria Carolina Rivas Pala, Pedro Serna Bermudez, Pedro Vergara Lacalle, Oscar	E-mail	c.pereira.saez@udc.es pedro.rivas@udc.es pedro.serna@udc.es oscar.vergara@udc.es		
Web					



General description	<p>The aim of this course is to provide students with a global vision of the world of law, both in terms of certain general content and in terms of the skills and competences of the lawyer.</p> <p>Normally we will not speak of "lawyer" but of "jurist", because the latter term designates the legal professional, while the former only mentions one of the possible law-related professions, not precisely the most characteristic, although perhaps the best known and, of course, the most widespread numerically.</p> <p>The general contents are a priority in this course, while the skills or competences must be acquired by the law student throughout his/her career and then in the professional practice and postgraduate training.</p> <p>From the point of view of knowledge or content, the aim is firstly for the student to acquire a detailed knowledge of the main dynamic processes that make up the life of the Law and the concepts that allow them to be understood, as well as the structural elements of the legal order. Secondly, it is intended that the student acquires a global vision of the Law as a social practice, of the elements that make up this practice and of its most outstanding characteristics. In other words, as far as the contents are concerned, this course will try to answer two fundamental questions: a) What is Law? b) How is legal life structured, what dynamic processes normally take place within it, how do these processes develop and what concepts allow an adequate understanding of them.</p> <p>In this course we will deal with concepts and notions used or presupposed in practically all branches of Law and Legal Science.</p> <p>With some exceptions, this course will not analyse specific aspects of Spanish Law, but those notions, structures and processes that are generally shared by all sectors or branches of Law, even by orders or legal systems belonging to other countries and/or other times.</p> <p>It remains now to say something about the skills or competences that are sought to be developed in this course. The Law is part of social life, but the Science of Law is not exactly a social science, because the jurist faces the unique and concrete social questions and problems, not general ones, as would be the case of the political scientist, the economist or the sociologist. Moreover, and above all, the main instrument of the jurist is the texts: his contact with social reality is mediated by the handling of written texts of different nature: legislation, case-law and dogmatic or scientific texts. Moreover, the facts that constitute a legal case must not only be analyzed and evaluated in the light of the texts just mentioned, but they themselves must be told in an orderly fashion (thus adopting the form of a text or narrative) in order to be addressed and resolved. Therefore, from the point of view of skills or competences, the object of the course is to initiate and advance students in the following specific competences, which they will have to develop throughout the degree program: a) Reading and understanding of legal texts (scholarly, legislative and case-law). b) Capacity for critical analysis of established law. c) Capacity for oral and written expression. d) Capacity for legal argumentation and familiarity with the way of reasoning characteristic of jurists.</p> <p>In addition, it is reasonable to think that the work on this subject will strengthen the development of other more generic skills or competencies, but no less important: a) Analysis and synthesis ability. b) Problem-solving ability. c) Information management ability. d) Ability to work autonomously and in teams, and to make organizational decisions in this regard. In order to develop the previous competences, the course has been designed so that the students work on it every day or, at least, every week, with different intensity and dedication according to the topics. The constant personal work of the students and, to a lesser extent, the team work, are decisive to overcome the course successfully. Finally, this course also aims, but indirectly, to raise certain attitudes in students, both intellectual and ethical: a) The sense of justice, in connection with the idea that the law exists to achieve certain purposes. b) The critical attitude. c) The sense of conceptual rigour and of reasoning.</p>
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Study programme competences	
Code	Study programme competences
A1	Knowledge of the main legal institutions
A2	Knowledge of the role of law as a regulatory system of social relations
A3	Grasping the systematic nature of the legal system
A5	Knowing the constitutional principles and values.
A7	Knowing the national and international legal and political structures.
A8	Basic knowledge of legal argumentation.
A9	Ability to handle legal sources (legal, jurisprudential and doctrinal).



A10	Ability to interpret and critically assess the legal system.
A12	Management of legal oratory (ability to express themselves properly in public).
B2	Ability to know how to apply their knowledge to their work or vocation in a professional way and possess the skills that are usually demonstrated through the elaboration and defense of arguments and the resolution of problems within their area of study.
B3	Ability to gather and interpret relevant data (usually within their area of study) to make judgments that include a reflection on social, scientific or ethical relevant issues.
B4	Ability to transmit information, ideas, problems and solutions to a specialized and non-specialized public.
B5	Acquisition and assessment of those learning skills necessary to undertake further studies with a high degree of autonomy
B6	Learning to learn.
B7	Effective problem solving.
B8	Critical, logical, and creative thinking.
B9	Working autonomously on own initiative with a lifelong learning approach.
C1	Adequate oral and written expression in the official languages.
C4	Exercising an open, educated, critical, committed, democratic and supportive citizenship for the sake of the common good.
C6	Critically assess the knowledge, technology and information available to solve the problems they face.
C7	Assume as a professional and citizen the importance of lifelong learning.

Learning outcomes			
Learning outcomes	Study programme competences		
Knowledge of the role of law as a regulatory system of social relations	A2		
Grasping the systematic nature of the legal system	A3		
Knowing the constitutional principles and values.		B8	
Ability to handle legal sources (statutes, case-law and scholar).	A9	B8 B4	
Ability to interpret and critically assess the legal system.	A1 A3 A10	B8 B3	
Critical, logical, and creative thinking.		B6 B8	C7
Working autonomously on own initiative.		B9	C4 C6
Understanding and use of the basic notions and concepts of law that are employed, but not studied, in the different areas of the science of law.	A1 A5 A10	B8 B2 B5	C1
Knowledge of the basic structure of contemporary legal systems.	A1 A3 A7		
Accurate use of concepts in legal argumentation.	A1 A2 A5 A8 A12	B7 B8	
Knowledge and understanding of the relationship between structural features and the axiological purpose of law.	A1 A2 A3 A5 A7 A10		C4 C6



Contents	
Topic	Sub-topic
Part one. Elements of legal analysis: the structure of the legal order	
Topic 1. Phenomenological approach to the world of law.	1. Un mundo de suxeitos en relación: seres humanos, e outros. 2. Un mundo de cousas. 3. Un mundo de feitos. 4. Un mundo de accións e controversias. 5. Un mundo de normas. 6. Un mundo de normas que gardan entre si unha certa orde.
Topic 2. Introduction to the theory of legal norms	1. A natureza das normas. 1.1. Algúns usos e funcións da linguaxe. 1.2. Linguaxe e pensamento: proposicións e enunciados. 1.3. A norma como proposición ou enunciado prescriptivo. 1.4. A teoría da norma como mandato: o imperativismo clásico. Crítica. 1.4. Alternativas ao imperativismo. 1.4.1. A teoría das normas de von Wright. Clases de normas. 1.4.2. A teoría das normas de Hart: a) as normas como razóns para a acción; b) normas primarias e normas secundarias: a teoría da norma xurídica conduce á teoría do sistema xurídico; c) algúns problemas. 1.5. Conclusións sobre a natureza da norma xurídica. 2. A estrutura da norma xurídica. 2.1. A solución tradicional: suposto de feito e consecuencia xurídica. 2.2. Algúns corolarios: a) a necesidade de distinguir entre normas completas e incompletas; b) Os tipos de normas xurídicas incompletas. 2.3. Crítica do modelo tradicional. 3. Fenomenoloxía das normas xurídicas: normas, disposicións e corpos xurídicos. 4. A validez ou existencia das normas xurídicas: a fronteira entre a teoría da norma e a teoría da orde ou do sistema xurídico. 5. A dimensión espacio-temporal da validez das normas: a vixencia. 6. Outras nocións: eficacia, aplicabilidade.
Topic 3. Notions of legal order and legal system theory,	1. Caracterización xeral: ordenamento, Estado e sistema. 2. A vocación sistemática do ordenamento xurídico. Os caracteres tradicionalmente atribuídos aos ordenamentos xurídicos: unidade, coherencia, plenitude e independencia. Problemas que xorden actualmente. Que é un sistema xurídico. 3. Outra forma de caracterizar os sistemas xurídicos: regras, principios e procedementos. 4. Normas primarias e normas secundarias, de Kelsen a Hart. 5. O problema da pertenza das normas a un sistema (identidade dos sistemas xurídicos). O sistema xurídico como sistema dinámico. 6. A validez das normas. 7. A validez no Dereito actual.
Topic 4. Notions of theory of sources of law and introduction to the Spanish system of sources.	1. Significados da expresión "fontes do Dereito". 2. Fontes formais e fontes materiais. 3. As fontes formais: aproximación teórica. 3.1. A lei. 3.2. O costume. 3.3. A xurisprudencia. Xurisprudencia e precedente. 3.4. A doutrina. 4. A evolución histórica das fontes do Dereito. 5. O sistema de fontes do Dereito no Dereito español. 5.1. As "fontes das fontes": o título preliminar do Código civil e a Constitución de 1978. 6.2. A Constitución. As sentenzas do Tribunal Constitucional. 5.3. A lei no noso ordenamento xurídico. O principio de legalidade. Normas con rango de lei. Os tratados internacionais. 5.4. As normas regulamentarias. 5.5. O costume no noso ordenamento xurídico. 5.6. Os principios xerais do Dereito. Concepto e funcións no noso ordenamento xurídico. 5.7. A xurisprudencia e a creación xudicial do Dereito. 5.8. Outras fontes do Dereito: en particular, os instrumentos nos que se plasman os actos da autonomía da vontade.
Topic 5. The person in law	1. A orde xurídica, orde humana: a persoa. 2. O concepto xurídico de persoa e a súa evolución. 3. Elementos para unha crítica do concepto xurídico de persoa. 4. A extensión da personalidade xurídica: capacidade xurídica e capacidade de obrar. 5. Outros suxeitos de dereito: a persoa xurídica.



Topic 6. The legal relationship	1. Concepto. 2. Presupostos. 3. Elementos. 4. Relación xurídica e situación xurídica. 5. Situacións xurídicas activas e pasivas.
Topic 7. The legal duty	1. Aproximación a partir do uso lingüístico. "Ter o deber de" e "verse obrigado a". 2. Deber xurídico e deber moral. 3. Características do deber xurídico. 4. As garantías do deber xurídico. 5. Límites do deber xurídico.
Topic 8. Legal rights	1. Idea xeral. Aproximación desde o uso lingüístico e desde as clasificacións científicas máis estendidas. 2. Dereito subxectivo e deber xurídico. 3. Estrutura do dereito subxectivo. 3. Dimensión dinámica do dereito subxectivo. Condicións de exercicio, extensión e límites. 4. Recapitulación: os deberes xurídicos son concretos e determinados, os dereitos subxectivos formulados legalmente, porén, son construcións abstractas. 6. Outras situacións de poder xurídico: as potestades.
Topic 9. Facts and Actions in Law	1. Actos e feitos. 1.1. Feitos e feitos xurídicos. 1.2. Os actos xurídicos. 2. A violación da orde xurídica. 2.1. O acto ilícito. Ilícitos típicos e ilícitos atípicos. 2.2. A responsabilidade. 2.3. A sanción. Concepto e clases.
Topic 10. Approach to adjudication	1. Os problemas da linguaxe das normas e a necesidade da interpretación. Noción e tipos. 2. Interpretación e aplicación. A aplicación do dereito e a resolución de controversias como actividade complexa: subsunción e decisión. 3. A xustificación das decisións xudiciais. A tarefa creativa dos xuíces.
Part two. Towards a global understanding: law as social practice	
Topic 11. The Law as an instrument for social life.	1. A orde social. 2. A orde social non é unha orde espontánea: funcións do Dereito en relación coa orde social. 3. Dereito, Estado e poder. 3.1. A comunidade política como creadora e conservadora da orde xurídica. 3.2. O Dereito como factor de organización, lexitimación e conservación da comunidade política.
Topic 12. The law as a set of binding materials for the resolution of conflicts.	1. O Dereito non é só o sistema de normas que se deriva ou extrae do sistema de fontes. 2. A técnica xurídica. 3. O elemento ideal: os valores. Valores xurídicos. 4. A interrelación entre o elemento ideal, a técnica e os preceptos.
Topic 13. Purposes of law and legal values	1. A xustiza. 1.1. Aproximación á noción de xustiza. Xustiza material e xustiza formal. 1.2. Principais proxeccións da xustiza. 2. A seguridade. 2.1. A seguridade como condición e esixencia da vida humana. 2.2. A seguridade xurídica, cualidade do Dereito que introduce certeza e orde. 2.3. Principais proxeccións e limitacións da seguridade xurídica. 3. Relacións entre xustiza e seguridade.
Topic 14. Forms of legal activity.	1. A produción de normas: en particular, a lexislación. 2. O tráfico xurídico. 3. A adxudicación. 3. Relación entre as actividades anteriores e o Dereito como conxunto de materiais vinculantes.
Topic 15. In short, what is the law? Law as a social practice.	1. A unificación dos sentidos de "Dereito". 2. Proposta dunha definición descritiva do Dereito. 3. Carácteres do Dereito como práctica social: 3.1. Carácter institucional. 3.2. Normatividade. 3.3. Coactividade. 3.4. Pretensión de comprensividade e pretensión de supremacía.

Planning

Methodologies / tests	Competencies	Ordinary class hours	Student?s personal work hours	Total hours
Guest lecture / keynote speech	A1 A2 A3 A5 A6 A7	28	42	70
Workbook	A9 A10 B3 C1 C7 C8	0	10	10
Speaking test	B6 B9 B4 B5 C1 C7 C8	0.5	19.5	20



Seminar	A8 A9 A10 A12 B7 B8 B2 B3 B4	14	21	35
Document analysis	A3 A5 A6 A9 A10 B6 B3 C7	3	3	6
Case study	A5 A8 A9 A10 A12 B6 B7 B8 B9 B2 B3 C4 C6 C7	0	5	5
Personalized attention		4	0	4
(*)The information in the planning table is for guidance only and does not take into account the heterogeneity of the students.				

Methodologies	
Methodologies	Description
Guest lecture / keynote speech	Through them, the teachers will explain and transmit the basic concepts and notions. The specificity of legal language requires an exposition that allows the student to grasp its correct use.
Workbook	As a way of stimulating self-learning and a critical thinking process in the students, some of the contents of the course will not be the target of a lecture, but will be read by the students, who will have to choose between several texts related to those contents, which will be determined by the professors.
Speaking test	The contents of the lectures and readings will be assessed by oral examination.
Seminar	In the seminar sessions, the lecturer will only moderate the students' interventions, and they will deal with the content of the readings, the documentary analyses and the case study.
Document analysis	The study of some contents of the course (theory of the legal norms, practical functioning of the system of sources, introduction to the application of the law) makes it recommendable that students be able to identify these contents in norms and other concrete documents, as well as to analyze case-law texts. These documents will also be important working materials for other learning activities, such as case studies.
Case study	Analysis of situations and cases that reflect the use of basic notions and other contents of the course. Students will be initiated here in the exercise of argumentative skills and will put their knowledge into practice in an applied way. This activity will be completed with debates and presentations in seminar sessions.

Personalized attention	
Methodologies	Description
Workbook Document analysis Case study	The personalised attention indicated for the readings will consist of tutorial sessions with the lecturer, where students may express their doubts and comments in regard to the texts that they have read and the lecturer may assess their level of comprehension and achievement.

Assessment			
Methodologies	Competencies	Description	Qualification
Speaking test	B6 B9 B4 B5 C1 C7 C8	The oral exam will have a mixed character, and will be used to evaluate the learning of the contents of the lectures and the level of critical reflection achieved around them. In the objective part of the exam, special emphasis will be placed on understanding the contents, the ability to identify precisely the answers to the questions and the ability to respond with conceptual and linguistic precision, avoiding ambiguity and misunderstanding. In the questions that require reflection, the ability to synthesize, identify problems and personal reflection will also be valued. Correctness of expression will be relevant in the assessment.	70



Seminar	A8 A9 A10 A12 B7 B8 B2 B3 B4	The seminars will deal with documentary sources, readings and cases that can be downloaded from Moodle. The assessment criteria will be the degree of understanding of the sources, the capacity for analysis, the consistency of the arguments and the quality of the presentations. Lack of participation and lack of accuracy in the preparation of presentations and speeches will be assessed negatively. The methodology of the seminars and the selection of materials for them are subject to the discretion of the lecturer responsible for each small group. Eventually, a written version of the students' interventions may be required.	30
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Assessment comments

To pass the course, the sum of the marks obtained in the continuous assessment of the seminars and the marks of the oral test must reach 5 points. The two marks will not be added together unless at least 1.2 points (out of a possible 3) are obtained in the seminars; and 3.5 points (out of a possible 7) in the oral test. For students with recognition of part-time dedication and academic dispensation from attendance who cannot participate in the seminar sessions, the evaluation of the competencies corresponding to the seminars (30% of the final qualification) will be carried out by means of written paper. This alternative form of evaluation will also be available to students who, for justified reasons that must be appreciated by the coordinating lecturer of the course, cannot attend the seminar sessions. To do so, they must inform the professor of the circumstances that justify the exceptionality within the first two school weeks of the four-month period. If the circumstances are supervenient, they must communicate them as soon as they occur. Students who take the oral test in the second call or opportunity (July) will keep the grades of the seminars, if they have achieved at least 1.2 points out of 3. Students who do not achieve a score of 1.2 in the January evaluation of the seminars must take the alternative evaluation described above in the July call or opportunity. For those who do not achieve a score of 1.5 the renunciation of the mark of the seminars will be optional.

Plagiarism in a piece of work, joint individual work and copying in an oral exam will result in a 0 in that exercise.

Those who do not pass the subject but pass a part (seminars or theory), will keep the grade obtained in the part passed only during the following academic year.

Sources of information

Basic	Alberto Montoro Ballesteros, Sistema de teoría fundamental del Derecho (I), Valencia, Tirant lo Blanch, 1999. José Juan Moreso y Josep María Vilajosana, Introducción a la teoría del Derecho, Madrid, Marcial Pons, 2004. Andrés Ollero, El Derecho en teoría, Cizur Menor, Thomson - Aranzadi, 2011. Luis Prieto Sanchís, Apuntes de teoría del Derecho, Madrid, Trotta, 2016, 10ª edición. Marcelino Rodríguez Molinero, Introducción a la ciencia del Derecho, Salamanca, Librería Cervantes, 2001. Gregorio Robles, Sociología del Derecho, 2ª ed., Buenos Aires, Olejnik, 2018. Francesco Viola y Giuseppe Zaccaria, Derecho e interpretación. Elementos de teoría hermenéutica del Derecho, Ana Cebeira, Aurelio de Prada y Aurelia Richart (trads.), Gregorio Robles Morchón (coord., prol. y revisión), Madrid, Dykinson, 2008.
Complementary	John Austin, ¿El significado del término ?deber??, en El objeto de la jurisprudencia, trad. de J. R. de Páramo Argüelles, Madrid, Centro de Estudios Políticos y Constitucionales, 2002. Norberto Bobbio, Contribución a la teoría del Derecho. Madrid, Debate, 1991. Manuel Calvo García, Teoría del Derecho, Madrid, Tecnos, 2010. Lon L. Fuller, El caso de los exploradores de la caverna, trad. e introducción de G. R. Carrió, Buenos Aires, Lexis Nexis, 2008. Ernesto Garzón Valdés y Francisco Javier Laporta (eds.), El Derecho y la justicia, Madrid, Trotta, 2ª ed., 2013. Jürgen Habermas, Facticidad y validez, Madrid, Trotta, 2010. H.L.A. Hart, El concepto de derecho, trad. G. R. Carrió, Buenos Aires, Abeledo-Perrot, 2011. Wesley N. Hohfeld, Conceptos jurídicos fundamentales, Genaro Carrió (trad.), México, Fontamara, 2009. Rafael Hernández Marín, Introducción a la teoría de la norma jurídica, Madrid, Marcial Pons, 2ª ed., 2002. Hans Kelsen, Teoría pura del Derecho, 2ª ed., R. Vernengo (trad.), México, Porrúa, 2009. Carlos S. Nino, Introducción al análisis del Derecho, Barcelona, Ariel, 2013. Renato Rabbi-Baldi Cabanillas, Teoría del Derecho, Buenos Aires, Ábaco de Rodolfo Depalma, 2021, 6ª edición. Gregorio Robles Morchón, Teoría del Derecho. Fundamentos de teoría comunicacional del Derecho. Vol. I, Madrid, Thomson-Civitas, 6ª ed., 2015.

Recommendations

Subjects that it is recommended to have taken before



Subjects that are recommended to be taken simultaneously

Roman Foundations of the Western Legal Tradition/612G01001

Constitutional Law: Sources of Law and Fundamental Rights/612G01003

Subjects that continue the syllabus

Philosophy of Law/612G01026

Legal Reasoning Theory and Practice/612G01041

Other comments

The progress of this course will rest basically on the students' personal work and learning. For this to be possible: a) it is necessary to attend all the lectures and readings planned for the development of the course. b) The professor of each group will indicate sufficiently in advance, either personally in the classroom or through the technological platform of the University, which materials should be read, analyzed or studied in advance of the lectures and/or seminars in small groups. The normal development of the course depends on the students carrying out these previous tasks. c) It is recommended to read and work on the texts, cases and materials indicated for each program topic before the session in which they will be used. In some circumstances, the professor may provide materials that will be used to work in the small group sessions without the need for any previous work by the students. d) In the explanations of the lectures, the professor will assume that the material indicated for the corresponding topic has been previously read, so that he will only focus on those aspects of the topic not covered by the readings, or those that he judges to be more important or of special complexity, giving a chance to the questions and opinions of those attending the session. During the lectures it is indispensable to take notes and participate actively, interrupting if necessary the professor's presentation, to ask for clarifications, to present points of view or to formulate questions.

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