



Teaching Guide

Identifying Data					2023/24
Subject (*)	Roman Foundations of the Western Legal Tradition			Code	612G01001
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 Público				
Coordinador	Rodriguez Montero, Ramon Perfecto	E-mail	ramon.rodriguez.montero@udc.es		
Lecturers	Garcia Camiñas, Julio Rodriguez Montero, Ramon Perfecto	E-mail	julio.garcia.caminas@udc.es ramon.rodriguez.montero@udc.es		
Web					
General description	It places Law in its historical dimension, within the scope of Western European Legal Culture, initiating the student in learning terminology and basic legal concepts, as well as in the resolution of the various practical assumptions that may arise, offering to it the corresponding methodological resources.				

Study programme competences / results

Code	Study programme competences / results
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
A4	Appreciating the interdisciplinary nature of legal problems
A5	Knowing the constitutional principles and values.
A6	Understanding the different manifestations of law in its historical evolution and in its current reality.
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.
A11	Ability to understand and write legal documents.
A12	Management of legal oratory (ability to express themselves properly in public).
A13	Mastering new technologies applied to law.
A14	Ability to draft legal norms.
A15	Ability to negotiate and mediate.
B1	Knowledge in an area of study that is based on general secondary education, and is usually found at a level that, although supported by advanced textbooks, includes also some aspects that involve knowledge from the forefront of his field of study.
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.
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.
B10	Teamwork and collaboration.
B11	Ethical and social responsibility.
B12	Effective workplace communication and oral and written skills in Spanish, Galician and foreign languages.
C1	Adequate oral and written expression in the official languages.
C3	Using ICT in working contexts and lifelong learning.
C4	Exercising an open, educated, critical, committed, democratic and supportive citizenship for the sake of the common good.



C5	Understanding the importance of entrepreneurial culture and knowing the useful means for enterprising people.
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.
C8	Valuing the importance of research, innovation and technological development for the socioeconomic and cultural progress of society.

Learning outcomes			
Learning outcomes	Study programme competences / results		
Know the principles of reasoning and legal argumentation through the study and analysis of Roman jurisprudential methodology	A1 A2 A4 A5 A6 A8 A10 A11 A12 A13 A14 A15	B6 B8 B9 B10 B11 B12 B1 B2	C1 C4 C5 C6 C7
Learning the basic legal terminology and the norm in the European social and historical context, critically evaluating them from approaches of equity and justice.	A1 A2 A3 A4 A6 A7 A8 A9 A10 A14 A15	B6 B8 B11	C4 C6 C7
Knowledge of the main Roman legal institutions, and of Roman law as a regulatory order of social relations throughout history	A1 A2 A4 A6 A8 A10 A14 A15	B8 B11	C4 C6 C7
Learn to discriminate the ratio decidendi and the adjective elements of a jurisprudential or judicial sentence	A2 A4 A6 A8 A9 A10 A11 A12 A15	B6 B7 B8 B9 B10 B11	C3 C4 C5 C6 C7 C8



Contents

Topic

Sub-topic



PRIMEIRA PARTE: Dereito Público, sistema de fontes e recepción europea do Dereito romano.

Tema 2. Primeiras institucións políticas e fundamentos do ordenamento xurídico.

Tema 3. Do s. IV a.C. a caída da República.

Tema 4. O Principado.

Tema 5. O Dominado.

Tema 6. A tradición romanística na cultura xurídica europea.

Características e metodoloxía xurídica dos diversos movementos culturais europeos.

SEGUNDA PARTE: Institucións de dereito privado romano.

Tema 7. Estructura das relacións xurídico-patrimoniais.

Tema 8. Dereito de familia.

Tema 9. A tutela procesual das relacións xurídico privadas e a tramitación das controversias de dereito privado

Tema 10. Dereitos reais.

Tema 11. Dereito de obrigacións.

Tema 12. Dereito de sucesións.

Temario teoría

PRIMEIRA PARTE: Dereito Público, sistema de fontes e recepción europea do Dereito romano.

Tema 1. Introducción.

1.1. Periodización da Historia xurídica romana.

1.2. Fontes do Dereito romano.

1.3. O modelo romano de Dereito de xuristas.

Tema 2. Primeiras institucións políticas e fundamentos do ordenamento xurídico.

2.1. Organización política primitiva.

2.2. Dereito primitivo.

Tema 3. Do s. IV a.C. a caída da República.

3.1. A constitución política republicana.

3.2. Desenrolo e sistematización do dereito no período republicano.

Tema 4. O Principado.

4.1. Organización política.

4.2. O dereito no Principado.

Tema 5. O Dominado.

5.1. Organización política.

5.2. Fontes do dereito.

5.3. Formación do dereito da Igrexa.

5.4. Desenrolo da cultura xurídica en Occidente e Oriente. Vulgarismo e clasicismo.

5.5. A Compilación xustiniana.

Tema 6. A tradición romanística na cultura xurídica europea. Características e metodoloxía xurídica dos diversos movementos culturais europeos.

6.1. Glosadores e Comentaristas.

6.2. A Tradición xurídica do Common law e a Equity. Diferencias e analogías coa Tradición romanística.

6.3. A revolución protestante e o Absolutismo monárquico.

6.4. O Humanismo xurídico.

6.5. O Iusnaturalismo racionalista y la Ilustración.

6.6. O positivismo xurídico e científico. A Pandectística e a Escola Histórica do dereito. O Movemento codificador.

6.7. O neo-Humanismo e a romanística moderna.

SEGUNDA PARTE: Institucións de dereito privado romano.

Tema 7. Estructura das relacións xurídico-patrimoniais.

7.1. Contido das relacións xurídico-patrimoniais.

7.2. Os suxeitos da relación xurídico-patrimonial.

7.3. Dinámica da relación xurídico-patrimonial.

Tema 8. Dereito de familia.

8.1. A familia e o matrimonio.

8.2. A patria potestad e la relacións paterno-filiais.

8.3. Tutela e curatela.

Tema 9. A tutela procesual das relacións xurídico privadas e a tramitación das



controversias de dereito privado

9.1. A formación do sistema de dereito procesual civil.

9.1.1. As accións da ley.

9.1.2. O procedemento formulario.

9.2. A tramitación procesual das accións formularias.

9.2.1. Actuaciones ante o maxistrado.

9.2.2. Litis contestatio e contido da fórmula.

9.2.3. Actuacions perante o xuíz.

9.2.4. Execución da sentenza.

9.2.5. Procedemento interdictal.

9.3. A cognitio extraordinem e el desarrollo del sistema procesal postclásico.

9.3.1. La cognitio extraordinem y o desenrolo do sistema procesal postclásico.

9.3.2. Tramitación dos litixios.

9.4. O arbitraje.

9.4.1. Os arbitrajes compromisarios.

9.4.2. A episcopalis audientia.

Tema 10. Dereitos reais.

10.1. Os bens como obxeto de relacións xurídicas.

10.2. A posesión.

10.3. A propiedade.

10.3.1. Réxime xurídico da propiedade privada no sistema civil.

10.3.2. A propiedade no dereito pretorio e nos territorios provinciais.

10.3.3. A propiedade no dereito xustiniano.

10.3.4. Transmisións patrimoniais a título oneroso e lucrativo. Donacións.

10.4. Concurrencia de dereitos reais.

10.4.1. A copropiedade.

10.4.2. Servidumes.

10.4.3. Usufructo.

10.4.4. Superficie.

10.4.5. Enfitéusis.

Tema 11. Dereito de obrigacións.

11.1. A relación obrigatoria.

11.1.1. Estructura da relación obrigatoria.

11.1.2. As fontes das obrigacións.

11.2. Negocios formais con eficacia obrigatoria.

11.2.1. Estipulacións.

11.2.2. Documento constitutivo.

11.3. Negocios causales típicos e figuras afíns.

11.3.1. Obrigacións re contractae.

11.3.1.1. Mutuo e dacións crediticias.

11.3.1.2. Comodato.

11.3.1.3. Depósito.

11.3.2. Obrigacións consensu contractae.

11.3.2.1. Compraventa e figuras afíns.

11.3.2.2. Arrendamentos.

11.3.2.3. Sociedade.

11.3.2.4. Mandato e xestión de negocios.

11.3.3. Negocios atípicos e tipificación de novas figuras causais.

11.4. Negocios con función de garantía das obrigacións.

11.4.1. Garantías personais.



11.4.1.1. Fianza.

11.4.1.2. Outras formas de fianza personal.

11.4.2. Garantías reais.

11.4.2.1. Fiducia.

11.4.2.2. Prenda.

11.4.2.3. Hipoteca.

11.5. Obrigaciónes surxidas de actos ilícitos.

11.6. Aspectos relativos a responsabilidade contractual e extracontractual no Dereito romano.

Tema 12. Dereito de sucesións.

12.1. A sucesión hereditaria.

12.2. As formas de sucesión.

12.3. Efectos patrimoniais da sucesión hereditaria.



PART ONE: Public Law, system of sources and European reception of Roman Law.

Topic 2. First political institutions and foundations of the legal system

Unit 3. From s. IV BC to the fall of the Republic.

Unit 4. The Principality.

Unit 5. The Dominated.

Unit 6. The romanistic tradition in the European legal culture.

Characteristics and legal methodology of the various European cultural movements.

SECOND PART: Institutions of Roman private law.

Topic 7. Structure of legal-patrimonial relations.

Topic 8. Family law.

Topic 9. The procedural protection of legal-private relations and the processing of private law disputes

Topic 10. Real rights.

Topic 11. Right of obligations.

Topic 12. Succession law.

SECOND PART: Institutions of Roman private law.

Topic 7. Structure of legal-patrimonial relations.

7.1. Content of the legal-patrimonial relations.

7.2. The subjects of the legal-patrimonial relationship.

7.3. Dynamics of the legal-patrimonial relationship.

Topic 8. Family law.

8.1. Family and marriage.

8.2. Parental authority and parental-filial relations.

8.3. Guardianship and curatorship.

Topic 9. The procedural protection of legal-private relations and the processing of private law disputes

9.1. The formation of the civil procedural law system.

9.1.1. The actions of the law.

9.1.2. The procedure form.

9.2. The procedural processing of formal actions.

9.2.1. Proceedings before the magistrate.

9.2.2. Litis contestatio and content of the formula.

9.2.3. Performances in front of the judge.

9.2.4. Execution of the sentence.

9.2.5. Interdictal procedure.

9.3. The cognitio extraordinem and the development of the postclassic procedural system.

9.3.1. The cognitio extraordinem and the development of the postclassic procedural system.

9.3.2. Processing of disputes.

9.4. The arbitration.

9.4.1. Arbitration arbitrations.

9.4.2. La episcopalis audientia.

Topic 10. Real rights.

10.1. Property as an object of legal relationships.

10.2. Possession.

10.3. The property.

10.3.1. Legal regime of private property in the civil system.

10.3.2. The property in the praetorium law and in the provincial territories.

10.3.3. Property in Justinian law.

10.3.4. Patrimonial transfers for onerous and lucrative title. Donations

10.4. Concurrence of real rights.

10.4.1. Co-ownership.

10.4.2. Easements.

10.4.3. Usufruct.

10.4.4. Surface.

10.4.5. Enfiteusis.

Topic 11. Right of obligations.

11.1. The mandatory relationship.

11.1.1. Structure of the mandatory relationship.

11.1.2. The sources of the obligations.

11.2. Formal business with mandatory efficiency.

11.2.1. Stipulations.



- 11.2.2. Constitutive document.
 - 11.3. Typical causal businesses and related figures.
 - 11.3.1. Obligations to contract.
 - 11.3.1.1. Mutual and credit grants.
 - 11.3.1.2. Loan.
 - 11.3.1.3. Deposit.
 - 11.3.2. Obligations consensu contractae.
 - 11.3.2.1. Sale and related figures.
 - 11.3.2.2. Leases.
 - 11.3.2.3. Society.
 - 11.3.2.4. Mandate and business management.
 - 11.3.3. Atypical businesses and typification of new causal figures.
 - 11.4. Businesses with a function of guaranteeing obligations.
 - 11.4.1. Personal guarantees.
 - 11.4.1.1. Bail.
 - 11.4.1.2. Other forms of personal bond.
 - 11.4.2. Real guarantees.
 - 11.4.2.1. Trust.
 - 11.4.2.2. Garment.
 - 11.4.2.3. Mortgage.
 - 11.5. Obligations arising from illegal acts.
 - 11.6. Aspects relating to contractual and tort liability in Roman Law.
- Topic 12. Succession law.
- 12.1. Hereditary succession.
 - 12.2. The forms of succession.
 - 12.3. Patrimonial effects of the hereditary succession.



Planning				
Methodologies / tests	Competencies / Results	Teaching hours (in-person & virtual)	Student?s personal work hours	Total hours
Events academic / information	A4	1	1	2
Workbook	A1 A5 A6 A10	0	3	3
Supervised projects	A11 B9 B1 B2 C1	5	10	15
Oral presentation	A3 A7 A8 A9 A12 A13 B12 C1 C3	5	15	20
Objective test	A3 B6	0	30	30
Guest lecture / keynote speech	A2	28	27	55
Problem solving	A14 A15 B7 B8 B10 B11 C4 C5 C6 C7 C8	5	15	20
Personalized attention		5	0	5

(*The information in the planning table is for guidance only and does not take into account the heterogeneity of the students.

Methodologies	
Methodologies	Description
Events academic / information	Attendance at Conferences and Courses, both of the subject and others related to it, suggesting the making of reviews or summaries of the treaties in them.
Workbook	Carrying out readings related to both the subjects covered in the course syllabus and general questions related to legal culture in general.
Supervised projects	Making summaries of parts of the subject that may be useful for a better understanding and subsequent study of them. With the possibility of, in case you are interested in certain topics, expand your knowledge about them.
Oral presentation	Interventions in class exposing the syllabus individually or in groups and subsequently submitting to questions from classmates and the teacher about the above.
Objective test	Final written exam of the various parts of the subject indicated, with specific questions (test or short) through which the teacher can check the correct assimilation by the students of the contents of the subject.
Guest lecture / keynote speech	Master class taught by the teacher with the possibility of student intervention asking questions about the topics whose reading was previously suggested.
Problem solving	Approach and realization of a case or practical cases connected with the previously studied theoretical subjects, with the active participation of the students in sessions established for this purpose.

Personalized attention	
Methodologies	Description
Events academic / information	- Personalized tutorials for all students (virtual and face-to-face) in order to resolve possible particular doubts that arise when reading, understanding and studying the subject.
Workbook	- Monitoring (face-to-face and virtual) of students' abilities and progress through the correction of the summaries of the conferences, works and exhibitions presented.
Oral presentation	
Supervised projects	- Attention and resolution of the problems exposed in the realization of practical cases, both in person and virtually.
Objective test	- Personal follow-up (mainly by means of telematic attention) of the formative project of the students with recognition of dedication to part time and dispensation of assistance.
Guest lecture / keynote speech	
Problem solving	

Assessment			
Methodologies	Competencies / Results	Description	Qualification



Events academic / information	A4	Asistencia a Conferencias e Cursos tanto da materia como a outras relacionadas coa mesma, suxerindo a realización de reseñas ou resúmenes do tratado nas mesmas.	1
Workbook	A1 A5 A6 A10	Realización de lecturas relativas tanto ás materias tratadas no programa da materia, como a cuestións xerais relativas a cultura xurídica en xeral.	1
Oral presentation	A3 A7 A8 A9 A12 A13 B12 C1 C3	Intervencións en clase expoñendo partes do temario por grupos ou individualmente, e someténdose posteriormente ás posibles preguntas dos demais compañeiros e o profesor, sobre a parte exposta.	20
Supervised projects	A11 B9 B1 B2 C1	Realización de esquemas e resúmenes de partes da materia que poidan resultar útiles para unha mellor comprensión e estudo posterior das mesmas. Con posibilidade de, en caso de atoparse interesados en determinados temas, ampliar os coñecementos sobre os mesmos.	8
Objective test	A3 B6	Exame final escrito das diversas partes indicadas da materia, con preguntas concretas a través das que o profesor poida comprobar a correcta asimilación por parte dos estudantes dos contidos da materia.	50
Guest lecture / keynote speech	A2	Asistencia as leccións maxistras impartidas polo profesor con posibilidade de intervención dos alumnos formulando preguntas sobre os temas cuxa lectura se suxeriu previamente.	2
Problem solving	A14 A15 B7 B8 B10 B11 C4 C5 C6 C7 C8	Formulación e realización de casos prácticos conectados coas materias teóricas previamente estudadas, con participación activa dos alumnos nas sesións establecidas ao efecto.	18
Others		Se valorarán ls traballos realizados sobre partes de la asignatura, esquemas, asistencia a conferencias y otras actividades relacionadas directamente con la asignatura	

Assessment comments



Carrying out works, face-to-face presentations and practical cases to be determined according to the progress of the course and final examination of the subject. Aspects and evaluation criteria: Knowledge of the contents of the subject. Ability to solve legal problems by applying the knowledge acquired. Attendance and participation in the course activities. Ability to synthesize and analyze the readings made.

The form of evaluation established for the students who have officially recognized the teaching dispensation will consist, in addition to the telematic delivery of the suggested works and practical cases, as well as the virtual exhibition of the indicated parts of the subject, in the realization of the ordinary final exam and, where appropriate, extraordinary of the subject. For their preparation, they must use, following the agenda established in this Guide, fundamentally the latest editions of the Manuals of the subject of professors Fernández Barreiro and Paricio Serrano: History of Roman Law and its European reception, Madrid, 2017, and Fundamentals of Private Roman Law, Madrid, 2016, as well as the other bibliography suggested in this Guide.

In order to solve the possible problems that may arise in the development of the study and understanding of the subject, a personalized system of remote attention will be arbitrated, as far as possible, by email, the forums of the various platforms enabled for this purpose (Moodle, Teams, etc.) or through face-to-face tutoring at times other than those officially established.

In the case of students who have not passed the subject and are in high summons, the possibility is foreseen that, after agreement with the responsible professor, and always in attention to the academic availability of the teacher and researcher, it is arbitrated to These students carry out various liberatory tests for parts of the subject throughout the corresponding academic year on dates other than those officially indicated. To avail themselves of this possibility, the aforementioned students must previously request the corresponding meeting with the teacher.

At the beginning of each academic year, students enrolled in the subject who follow the classroom system will be informed (in person and through the Moodle platform) of the criteria to be followed regarding the organization and its development: precision on the form and type of exams to be carried out; types, content and evaluation criteria of the suggested exposures; works of parts of the matter; other valuable activities; and approximate time planning of the various parts of the subject.

The fraudulent performance of the planned tests or evaluation activities, both in the case of face-to-face and non-face-to-face students, will imply the grade of failure in the subject ("0") in the corresponding call, invalidating the grades obtained previously.

Sources of information

Basic	<ul style="list-style-type: none">- Fernandez Barreiro-García Camiñas-Rodríguez Montero (2011). Derecho jurisprudencial romano. Método del caso. Santiago de Compostela. Andavira Editora- García Camiñas (2012). Cuestiones de jurisprudencia romana. Santiago de Compostela. Andavira editora- Rodríguez Montero (2015). Responsabilidad contractual y extracontractual en Derecho romano. Santiago de Compostela. Andavira editora- Paricio y Fernández Barreiro (2021). Fundamentos de Derecho privado romano. Madrid. Marcial Pons- Paricio y Fernández Barreiro (2021). Historia del derecho romano y su recepción europea. Madrid. Marcial Pons- Garcia Camiñas (2017). Presentaciones de Derecho Romano. Santiago de Compostela. Andavira editora- Rodríguez Montero (2017). Sobre Histotría y Derecho. Lecturas escogidas. Santiago de Compostela. Andavira editora- Rodríguez Montero (2020). Cinco Estudios sobre interpretación Jurisprudencial romana. Santiago de Compostela. Andavira editora- Rodríguez Montero (2020). Disquisiciones romanísticas. Santiago de Compostela. Andavira editora- Gábor Hamza (2022). Origen y desarrollo de los ordenamientos iusprivatistas modernos con base en la tradición del Derecho romano. Santiago de Compostela. Andavira editora <p>Os alumnos utilizarán os libros recomendados dos profesores da asignatura comezando a traballar xa desde o primeiro momento con eles para, así, poder chegar ao aula xa cos coñecementos previos e necesarios para avanzar e progresar debidamente a través das explicacións e prácticas realizadas no aula.</p>
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Complementary	<ul style="list-style-type: none">- Stein (2001). El Derecho romano en la Historia de Europa. Madrid. Siglo XXI Editores- Torrent Ruiz (2007). Fundamentos del Derecho europeo. Madrid. Edisofer- Alföldy (1992). Historia social de Roma. Madrid. Alianza Editorial- Kunkel (1982). Historia del Derecho romano. Barcelona. Ariel- Fuenteseca (1987). Historia del Derecho romano. Madrid- Schulz (1990). Principios de Derecho romano. Madrid. Edit. Civitas- Kaser (1982). Derecho privado romano. Madrid. Edit. Reus- Schulz (1960). Derecho romano clásico. Barcelona. Bosch- Murga (1989). Derecho romano clásico II. El proceso. Zaragoza. Universidad de Zaragoza- AA.VV. (2002). Textos de Derecho romano. Pamplona. Thomson-Aranzadi- AA.VV. (1968). El Digesto de Justiniano (3 tomos). Pamplona. Edit. Aranzadi- AA.VV. (1985). Gayo Instituciones. Madrid. Edit. Civitas- Gutiérrez-Alviz (1982). Diccionario de Derecho romano. Madrid. Reus S.A.- Alvaro d'Ors (1989). Derecho privado romano. Pamplona Eunsa <p>Ademais da Bibliografía complementaria específica sinalada, para unha maior información sobre os temas tratados no temario da materia, recoméndase aos alumnos interesados acudir ás obras e artigos doctrinales indicados ao final de cada lección nos libros sinalados na Bibliografía básica da materia dos autores Paricio e Fernández Barreiro. Tamén se pode consultar máis información nos links sinalados nas súas respectivas páxinas web polos profesores da materia.</p>
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Recommendations

Subjects that it is recommended to have taken before

Subjects that are recommended to be taken simultaneously

Historia do Dereito/612001103

Oral and Written Communication/612G01004

Subjects that continue the syllabus

Spain in the Historical and Legal Context of Europe/612G01002

Obligations and Tort Law/612G01016

Contract Law/612G01024

Property Law/612G01027

Legal Reasoning Theory and Practice/612G01041

Roman System of Jurisprudence/612G01043

Other comments

Carry out a previous reading of the different topics of the subject, from the basic bibliography indicated in this Teaching Guide, before the classes.

(*)The teaching guide is the document in which the URV publishes the information about all its courses. It is a public document and cannot be modified. Only in exceptional cases can it be revised by the competent agent or duly revised so that it is in line with current legislation.