



**COURSE DATA**

**Data Subject**

<b>Code</b>	35213
<b>Name</b>	Procedural Law II
<b>Cycle</b>	Grade
<b>ECTS Credits</b>	7.5
<b>Academic year</b>	2024 - 2025

**Study (s)**

<b>Degree</b>	<b>Center</b>	<b>Acad. year</b>	<b>Period</b>
1303 - Degree in Law	Faculty of Law	3	Annual
1921 - Double Degree Program BMA and Law	Faculty of Economics	3	Annual
1922 - Double Degree Prog. Law-Political Science	Faculty of Law	3	Annual
1923 - Double Degree Programme Law-Criminology	Faculty of Law	3	Annual
1930 - Double Degree Programme in Law and Political and Public Admin. Sciences	Faculty of Law	3	Annual

**Subject-matter**

<b>Degree</b>	<b>Subject-matter</b>	<b>Character</b>
1303 - Degree in Law	12 - Procedural law	Obligatory
1921 - Double Degree Program BMA and Law	4 - Year 3 compulsory subjects	Obligatory
1922 - Double Degree Prog. Law-Political Science	4 - Year 3 compulsory subjects	Obligatory
1923 - Double Degree Programme Law-Criminology	4 - Year 3 compulsory subjects	Obligatory
1930 - Double Degree Programme in Law and Political and Public Admin. Sciences	4 - Asignaturas obligatorias de tercer curso	Obligatory



### Coordination

**Name**

MONTESINOS GARCIA, ANA

**Department**

45 - Administrative and Procedural Law

## SUMMARY

### SUMMARY

Through this course the student acquires the knowledge to defend the interests of private law of any natural or legal person, either by going to the custody of the jurisdictional bodies as by using other alternative ways to resolve business conflicts of this nature.

The general objectives are:

- a) Knowledge of the basic institutions that make up the civil proceedings for a declaration as an instrument of protection of private legal relations damaged, unknown or disputed.
- b) Knowledge of the procedures for routine and special declarative processes.
- c) Knowledge of the existing ways and the executive interim protection in our legal system.
- d) Knowledge of other institutions involved in civil proceedings that do not involve judicial power given by judges and magistrates, such as arbitration and voluntary jurisdiction.

This course enables the student to know an essential branch of law for the exercise of any profession in the legal field, both to work on the Administration of Justice and for the general public.

This course is taught in the third year of the Degree in Law. The student is supposed to have knowledge of Civil, Commercial and Introduction to Procedural Law.

## PREVIOUS KNOWLEDGE

### Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

### Other requirements

Es recomendable tener superadas las asignaturas de Introducción al Derecho Procesal y todas las asignaturas sobre materias de Derecho Privado de los cursos primero y segundo.



## COMPETENCES (RD 1393/2007) // LEARNING OUTCOMES (RD 822/2021)

### 1303 - Degree in Law

- Know the content and application of each of the branches of the legal system.
- Understand the legal system as unitary and have an interdisciplinary perspective of legal problems.
- Be able to apply constitutional principles and values, the respect for human rights, with special attention to equality between men and women, sustainability and the culture of peace as working tools in the interpretation of the legal system.
- Understand the constitutional regulatory framework, the political institutions of the State and their functioning.
- Know the community and international regulatory framework, its institutions and their functioning.
- Be able to use legal sources (legal, jurisprudential and doctrinal).
- Be able to read and interpret legal texts.
- Be able to communicate correctly both orally and in writing in the field of law.
- Be able to analyse legal problems and synthesise their approach and resolution.
- Develop critical awareness for the analysis of the legal system and develop the legal dialectic.
- Acquire basic knowledge of legal arguments.
- Be able to use information and communication technology to obtain and select legal information.
- Have negotiation and conciliation skills.
- Understand the basic functions of the different legal professions.

## LEARNING OUTCOMES (RD 1393/2007) // NO CONTENT (RD 822/2021)

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- Acquire basic knowledge of legal arguments.
- Be able to use information and communication technologies to obtain and select legal information.
- Have negotiation and conciliation skills.
- Understand the basic functions of the different legal professions.
- Understand the concept of civil protection and its forms.
- Understand the phenomenon of civil process, characteristics and interests.
- Determine the courts with civil jurisdiction and venue in Spain.
- Identify the parts of civil process.
- Identify and analyse the provisions common to all processes.
- Identify and know how to apply the procedural aspects of ordinary and special civil protection.
- To know and apply the rules on arbitration, mediation and conciliation.
- Get-technology skills.
- Learn to show a critical attitude towards reality and legal solutions.

## DESCRIPTION OF CONTENTS

### 1. Introduction to the course.

Private interests, adjudication and non-judicial disputes resolution means. Principles of the civil procedure.

### 2. Non-judicial solutions of litigations in Private Law

Conciliation. Mediation. Arbitration.

### 3. Non-judicial intervention of courts in private juridic relations

The so-called voluntary jurisdiction



#### 4. Types of civil judicial custody

Declaratory guardianship and its modalities; executive guardianship; precautionary guardianship.

#### 5. Parties in the civil procedure

The capacity to be a party to the proceedings. The aptitude requirements of the parties: the capacity to be a party; the capacity to act in the proceedings; the capacity to postulate. Legal standing. The plurality of parties to the proceedings. The intervention of third parties.

#### 6. Courts and competence

Extension and limits of Spanish jurisdiction in civil matters. Generic jurisdiction or civil jurisdiction. Objective jurisdiction. Territorial jurisdiction. Functional jurisdiction. Procedural treatment of jurisdiction. Conflicts of jurisdiction and competence. Questions of jurisdiction. The distribution of cases.

#### 7. Object of the statement procedure

The procedural claim as the object of the declaration process. Identifying elements of the claim. The accumulation of procedural claims.

#### 8. Preparation of the civil procedure

Preliminary proceedings.

#### 9. Main allegations

The lawsuit. Requirements of the claim and types. The burden of attaching documents to the claim. The decision on the admission of the claim. The effects of the claim: *lis pendens*. Calling the defendant to the process. Possible conduct of the defendant. Default. The answer to the claim: the defendant's defence; procedural defences; substantive defences. Counterclaims. Other allegations.

#### 10. The evidence

Concept. Object of evidence. Sources and means of evidence. Evidentiary procedure. Evaluation of evidence. Presumptions. Burden of proof. Means of proof in particular.

#### 11. The sentence and other forms of ending the procedure

The sentence: concept. Types. Requirements; in particular, congruence. Clarification, correction and supplementation of judgments. Other ways of terminating the process: acceptance; waiver; transaction; withdrawal; caducity of the instance; extra-procedural satisfaction or lack of subject matter.



## 12. The appeals

Means of challenge: concept, basis and types. Requirements for appeals. Effects of appeals: in particular, the prohibition of reformatio in peius. Appeals in particular: appeals for reconsideration; means of challenge against decisions of the Legal Adviser for the Administration of Justice; appeals; appeals in cassation.

## 13. The judged thing and its contestation

"res judicata". Effects of res judicata. Resolutions that produce res judicata. Scope and limits of res judicata. Challenging res judicata: review of final judgments; rescission of final judgments in certain cases of default; incident of nullity subsequent to a final decision due to infringement of fundamental rights.

## 14. Types of procedures

Common declaratory proceedings; plenary and summary proceedings. Determining the appropriate procedure. Procedural treatment. Normal course of common proceedings. Abnormal course of proceedings.

## 15. Expenses and procedural costs

## 16. The execution procedure

Concept. Constitutional basis and limits. Principles of the enforcement process. The enforceable title. The enforceable titles in the Spanish civil process. The parties in the enforcement process. The competent court. The enforceable claim. The order of enforcement. Opposition to enforcement.

## 17. Money execution

Enforcement seizure. The forced realisation of the seized assets. Payment to the executor. Foreclosure.

## 18. Non money execution

## 19. Precautionary custody

**20. Special procedures****WORKLOAD**

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	75,00	100
Attendance at events and external activities	5,00	0
Development of group work	9,00	0
Development of individual work	2,50	0
Study and independent work	40,00	0
Readings supplementary material	5,00	0
Preparation of evaluation activities	15,00	0
Preparing lectures	15,00	0
Preparation of practical classes and problem	15,00	0
Resolution of case studies	5,00	0
Resolution of online questionnaires	1,00	0
<b>TOTAL</b>	<b>187,50</b>	

**TEACHING METHODOLOGY**

The teacher will explain those fundamental elements to guide students in the study and understanding of the subject. The student must actively engage in the learning process through reading, prior to the explanation of the teacher, or in class, depending on the organization of the teaching time, the materials, manuals, monographs or texts provided or indicated previously.

**Applied activities**

They will consist, among others, in the commentary of news, the resolution of cases, the accomplishment of puzzle activities or questionnaires, or the presentation of directed works. Through them, the student must develop the above-mentioned skills and will be introduced and habituated in the handling of those materials and techniques of the discipline.

These activities can either serve as a complement to the presentation of theoretical knowledge by the teacher or focus on specific aspects of the programme of the subject that will not be presented by the teacher.

The activities will be participatory and each teacher will indicate, where appropriate, which ones will be assessed.



Activities outside the classroom:

#### Supplementary activities

They include seminars, collective tutorials, the viewing of documentaries and films with discussion, visits to public institutions, etc. They will be programmed in the context of the subject and will consist of specific activities or of interdisciplinary or transversal character. They will always be done in coordination with the different groups of the same subject and / or with other subjects. In any case, the teacher will indicate if they will be assessed.

#### Directed activities

Both for the follow-up of the theoretical exposition and for the realization of the applied activities, the teacher will indicate which readings, search of news, sentences or preparation of cases, etc., must be done.

The teacher can also program, within the workload of the student, other activities that serve to reinforce or review the knowledge acquired by the student.

#### Assistance to unscheduled tutoring

To make inquiries about any topic or aspect related to the subject and its work dynamics, students can attend, in the schedule set by each teacher, non-scheduled tutorials.

## EVALUATION

The overall evaluation will be obtained as a result of a combination of the mark obtained in the test or the evaluation tests of the theoretical-practical knowledge together with that obtained in the different continuous evaluation activities.

In particular, the global evaluation of the subject will consist of:

- Up to 30%, the mark obtained in the activities subject to continuous evaluation.
- Up to 70%, the mark obtained in the test or in the evaluation tests of theoretical-practical knowledge.- The marks obtained in the continuous evaluation will only be added to the marks obtained in the test or the theoretical-practical knowledge assessment tests, if the latter is, at least, 50% of the maximum score established, either by addition of the score of the partial test passed plus the final test, either by the score of the final test.

The activities of continuous evaluation and its evaluation:

- The continuous evaluation will evaluate the realization of the activities in relation to the matter of the subject, which will be programmed and valued in the annexes to the course guide.
- In accordance with the Protocol for the Degrees of the Faculty of Law of the Universitat de València, it is recommended, at least, to carry out three assessable activities consisting, among other things, in the resolution of practical cases, in questionnaires, in the elaboration of diagrams or summaries of certain contents of the subject matter, and in the realization of presentations.



- The teacher or group teacher who participates in interdisciplinary workshops or scheduled supplementary activities should include in the annex to the course guide of the affected groups if the participation in these workshops or activities will be assessed as activities of continuous evaluation.
- In the Annex of the group's course guide, it will be necessary to determine whether the continuous evaluation activities are recoverable or not, considering the characteristics and nature of such activities.

The theoretical-practical knowledge evaluation will include:

- One partial exam that will take place according to the schedule of exams approved by the Faculty for the first semester. At least 50% of the marks are needed to pass this part of the contents. The results will be valid for both calls of the final exams.
- One final exam, that, depending on the result of the partial exam, will deal only with the contents that were not matter of the partial exam or with all the contents that should be assessed by exams in the course.
- In the annex to the academic guide students may find out the points assigned to the partial and to the final exam in the assessment of the theoretical and practical knowledge.
- In the annex of the course guide, it will be specified if the aforementioned tests will be done orally.

Regardless of the general assessment system established for all students (written or oral exam), the lecturers responsible for the subject may determine in the appendix to the teaching guide the possibility of changing the final exam modality when they are forced to hold the exam on a date other than the official one in application of the rules established for the case of coincidence of exams in the Regulations for Assessment and Grading of the Undergraduate and Master's Degrees of the University of Valencia, or any other regulatory cause established (e.g. justified force majeure). gr. cases of justified force majeure). In these cases, the new type of exam to be taken must maintain the same level of demand and difficulty as the one taken in general for the rest of the group".

Students who have followed the continuous assessment and have been assessed, in the event of not taking the final exam on the official exam date (both in the 1st and 2nd call), will obtain the grade of NOT PRESENTED.

## REFERENCES

### Basic

- - ARMENTA DEU, T., Lecciones de Derecho Procesal Civil, Ed. Marcial Pons, 2024.
- GÓMEZ COLOMER, J.L., BARONA VILAR, S., et al, Derecho Procesal Civil, Ed. Tirant lo Blanch, 2024.
- MORENO CATENA, V., CORTÉS DOMÍNGUEZ, V., Derecho Procesal Civil. Parte General, Derecho Procesal Civil. Parte Especial, Ed. Tirant lo Blanch, 2023.
- ORTELLS RAMOS, M., BONET NAVARRO, J., MARTÍN PASTOR, J., MASCARELL NAVARRO,



- M.J., CÁMARA RUÍZ, J., JUAN SÁNCHEZ, R., BELLIDO PENADÉS, R., CUCARELLA GALIANA, L., ARMENGOT VILAPLANA, A., Derecho Procesal Civil, Ed. Aranzadi-Thomson Reuters, 2024.
- RAMOS MÉNDEZ, F., El Juicio civil, Ed. Atelier, 2019.

### Additional

- Bases de datos: las que son accesibles en bases de datos DERECHO de la Biblioteca de Ciencias Sociales Gregori Mayans, a las que las y los estudiantes de la Universitat de València pueden acceder libremente
  - Webs útiles:  
[http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/judicial\\_cooperation\\_in\\_civil\\_matters/index\\_es](http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_civil_matters/index_es)  
[http://ec.europa.eu/civiljustice/index\\_es.htm](http://ec.europa.eu/civiljustice/index_es.htm)  
<http://www.prontuario.org/>  
[http://www.poderjudicial.es/cgpj/es/Poder\\_Judicial](http://www.poderjudicial.es/cgpj/es/Poder_Judicial)
- Normas:  
Diario oficial de la Unión Europea: <http://eur-lex.europa.eu>  
BOE: <http://www.boe.es>
- Jurisprudencia:  
Tribunal Constitucional: <http://hj.tribunalconstitucional.es/>  
Tribunal de Justicia de la Unión Europea:  
[http://curia.europa.eu/jcms/jcms/j\\_6/pagina-principal](http://curia.europa.eu/jcms/jcms/j_6/pagina-principal)  
Tribunal Supremo y otros tribunales españoles (Cendoj): <http://www.poderjudicial.es/search/index.jsp>  
Tribunal Europeo de Derechos Humanos  
<http://www.derechoshumanos.net/tribunales/TribunalEuropeoDerechosHumanos-TEDH.htm>