
CIVIL LAW. PROPERTY.

PROFESSOR: **FRANCISCO DE ELIZALDE**

DEGREE: 2013-2014
ACADEMIC YEAR: 1st
YEAR: 1st
SEMESTER 1st
CATEGORY: COMPULSORY
NO. OF CREDITS (ECTS): 6
LANGUAGE: ENGLISH

1. SUBJECT DESCRIPTION

Property rights play an important role in our social and economical relationships. People need property to satisfy their most basic needs (e.g., dwelling). Business is also commonly related to land (e.g., as collateral). Property law governs these relationships between persons and things.

These relationships have existed for centuries, although their features have evolved in accordance with the changing paradigms of history. Some institutions of property law come from Roman law, only slightly adjusted to fit the present day. Other institutions appeared later in history to resolve specific needs of modern life and improve security and certainty in economic transactions, as is the case of the land registry.

The legal configuration of property rights varies considerably from one country to another. To begin with, common law and civil law have a different understanding of what property rights mean. Also within the civil law tradition, property presents considerable local differences. In spite of these differences, there is indeed a common core of property law, which is particularly relevant in today's integrated Europe and globalized world. Said common core, considered in its permanent dialogue with the local features of property law, constitutes the leitmotif of this course.

This course forms part of the European Module "Towards a Common Private Law of Europe," a IE University undertaking supported by the prestigious Jean Monnet Programme of the European Commission.

2. OBJECTIVES AND SKILLS

This course aims at:

- Facilitating a general understanding of property law in common and civil law.
- Deepening in the meaning and function of the main institutions of property law.
- Analyzing the different forms of ownership in theory and practice.
- Exploring the benefits of property for others than owners: holders of easements, creditors.

- Describing the different systems of real estate transactions.
- Developing the main models of land registry, their organization, procedures, and legal effects in connection with property rights.
- Studying the context and status of the European process of unification and harmonization of property law, with particular emphasis on the Draft Common Frame of Reference (DCFR).

By the end of the course, students will be expected to be able to:

- Describe the main elements of property law in common and civil law and differences between both systems.
- Discuss about the legal configuration of property rights, their benefits and problems
- Describe the key aspects of ownership and other property rights.
- Look into the legal framework of property law in different countries.
- Resolve cases related to property law and real estate transactions in different European countries.
- Resolve cases related to the effects of land registry in property rights in different legal systems.
- Critically analyze different property law systems.

3. CONTENT

1. Property law: concept and categories. Differences in common law and civil law.
2. Dynamics of property rights and conveyance systems.
3. Ownership: approach in common law and civil law. The DCFR's approach.
4. Defense of ownership right.
5. Possession: concept and categories. A fact or a right?
6. Possession: presumptions and protection. Extinctive and acquisitive.
7. Case study
8. Urban and rural property.
9. Joint ownership.
10. Condominium.
11. Easements.
12. Case study.
13. Private property and social function of property: workshop.
14. Proprietary securities: concept, elements and categories.
15. Pledge.
16. Mortgage I.
17. Mortgage II.
18. Mortgage in the EU: UE directives, Euromortgage, DCFR.
19. Mid-term exam.
20. Registration of deeds.
21. Title registration.
22. Top legal questions for land registration and conveyance.
23. Top legal questions for land registration and conveyance.
24. New technologies and land registration. European Land Information System.
25. Cross-border conveyancing in the EU.
26. Towards a common European law of property I.
27. Towards a common European law of property II.
28. Towards a common European law of property III.
29. Review.
30. Final exam.

4. METHODOLOGY AND ECTS WEIGHTING

4.1. METHODOLOGY.

Participation of students will be a key aspect of the course. Professors will lead their learning process through presentations and lectures, but students are expected to show an active attitude and demonstrate in the class their achievements through their interventions. Students will be involved in collaborative and competitive activities in order to obtain the maximum results. Answering questions and questioning will be also part of the methodology. Other important elements of the learning process are workshops and case study sessions, where students will have to reveal their progress. Finally, it is expected that students become familiar with the use of legal texts and jurisprudence.

Legal materials and discussions will help students to learn the essential elements of property rights. Real estate transactions and security in property rights are basic elements in legal traffic, and students will discover the essence by reading, thinking and discussing about all the topics included in this course.

4.2. ECTS WEIGHTING.

Teaching Methodology	Weighting	Estimated time a student should devote:
Lectures	(27)%	39 hours
Group work	(13)%	20 hours
Other Individual studying	(60)%	91 hours
TOTAL	100%	150 hours

5. EVALUATION SYSTEM

5.1. GENERAL OBSERVATIONS

Each student has four attempts over two consecutive academia years to pass this course. Students are expected to attend at all class sessions of the course. Students' attendance must be over 70% and an absence of more than 30% will result in a grade of 0.0 for the subject.

Students not fulfilling the attendance requirement will automatically lose as well two attempts to pass the course and will have two last attempts to do so during the following academic year.

Besides, students are expected to have prepared the materials and participate in the class. Their interventions will be a part of the final grade as well as the grade on the final examination. Not only the frequency of interventions, but also the quality of the arguments will be taken into account. Therefore, an adequate preparation of the materials before every session will be required. Class preparation and class participation are essential in order to pass the course. During the final exam the use of Internet, mobile phones, books or other materials is not allowed.

Retake exam

In case of grade below 5.0, the student is required to take the retake exam to pass the course. The maximum grade in the retake period is 8.0.

A student missing over 30% of the class meetings will not be allowed to take the retake exam, but will only have two attempts left to pass the course during the following academic year.

The exam will cover everything that students have learnt in class, including lectures, case discussions and group exercises.

5.2. EVALUATION AND WEIGHTING CRITERIA

Written exams: 40%

Class attendance and active participation: 40%

Written assignments and class presentations: 20%

6. USE OF ELECTRONIC DEVICES IN CLASS

This subject does not require the use of a laptop in class; nevertheless, if you want to bring your laptop, please contact your professor. They will not be allowed in exams.

7. BIBLIOGRAPHY

RECOMMENDED

Title: Land Law

Author: Cooke. E.

Publisher / Edition / Year: Oxford University Press, Oxford, 2011

ISBN / ISSN:

Medium: x PRINT ELECTRONIC

Title: Modern Land Law

Author: Dixon, M

Publisher / Edition / Year: Routledge, 2010

ISBN / ISSN:

Medium: x PRINT ELECTRONIC

Title: Property

Author: Merrill, T. W. and Smith, H. E.

Publisher / Edition / Year: Oxford University Press 2010.

ISBN / ISSN:

Medium: x PRINT ELECTRONIC

Title: Modern Studies in Property Law, 6 vols.

Author:

Publisher / Edition / Year: Hart Publishing, Oxford, 2001-201.

ISBN / ISSN:

Medium: x PRINT ELECTRONIC

Title: Yiannopoulos Civil Law Property Coursebook

Author: Yiannopoulos, A. N.; Tooley-Knoblett, D.; Carriere, J. L.; Randall Trahan, J.

Publisher/Edition/Year: Claitor's Publishing Division, Baton Rouge, 2009.

ISBN / ISSN:

Medium: x PRINT ELECTRONIC

8. PROFESSOR'S BIO

FRANCISCO DE ELIZALDE

After gaining a Law Degree from Universidad Católica Argentina, with honors, Professor Elizalde obtained an LLM at IE, for which he was granted an award by Fundación Carolina. He re-qualified in Spain, after approving the corresponding exams at Universidad Complutense, and is a member since then of the Madrid Bar. He has worked during eight years as a lawyer for

the Litigation & Arbitration Department of Garrigues (Madrid). He has finished his doctoral thesis at Universidad de Navarra, where he teaches in the Masters' programs. His research focuses on Civil Law, area in which he collaborated with Instituto de Cultura y Sociedad, center of research in social sciences of Universidad de Navarra. He has been a visiting scholar at Cambridge and Harvard Universities.