



Universitat de Lleida

# DEGREE CURRICULUM **COMPARATIVE LAW**

Coordination: SALAT PAISAL, MARC

Academic year 2022-23

## Subject's general information

<b>Subject name</b>	COMPARATIVE LAW			
<b>Code</b>	101805			
<b>Semester</b>	2nd Q(SEMESTER) CONTINUED EVALUATION			
<b>Typology</b>	<b>Degree</b>	<b>Course</b>	<b>Character</b>	<b>Modality</b>
	Bachelor's Degree in Law	1	COMMON/CORE	Attendance-based
	Double bachelor's degree: Degree in Law and Degree in Business Administration and Management	5	COMPULSORY	Attendance-based
<b>Course number of credits (ECTS)</b>	6			
<b>Type of activity, credits, and groups</b>	<b>Activity type</b>	PRAULA		TEORIA
	<b>Number of credits</b>	1.8		4.2
	<b>Number of groups</b>	4		2
<b>Coordination</b>	SALAT PAISAL, MARC			
<b>Department</b>	PUBLIC LAW			
<b>Teaching load distribution between lectures and independent student work</b>	(40%) 60h on site - on line (depending on the situation) (60%) 90h autonomous work			
<b>Important information on data processing</b>	Consult <a href="#">this link</a> for more information.			
<b>Language</b>	English			

Teaching staff	E-mail addresses	Credits taught by teacher	Office and hour of attention
BOSCH SERRANO, MARIONA	mariona.bosch@udl.cat	5,2	
RIBES ORTEGA, CARME	carme.ribes@udl.cat	3,8	
SALAMERO TEIXIDO, LAURA	laura.salamero@udl.cat	1,4	
SALAT PAISAL, MARC	marc.salat@udl.cat	3,4	
TORRES FERRER, CLAUDIA	claudia.torres@udl.cat	1,8	

## Subject's extra information

This course is intended to provide a critical understanding of the main ideas, issues, trends and methods in the field of comparative law so that the students expand their ability to contrast solutions and become familiar with legal globalization.

## Learning objectives

1. Understand what English for Specific Purposes (ESP) is and what does it exist for
2. Students learn to deal with materials in legal English
3. Students learn to produce texts in Legal English
4. Express rationally the concept of comparative law
5. State the aims of comparative law
6. Identify the main methods of comparative law
7. Describe the main developments in the history of comparative law
8. Identify legal transplants
9. Characterize the main features of each legal family under study
10. Match legal materials with their legal families
11. Analyze critically the political initiatives
12. Identify the scholars that have fostered harmonization within the European Union and know the main traits of the European legal texts
13. Identify the functioning principles of Criminal law in countries with common law
14. Understand the concept of crime, the principles of liability and the defences in these systems
15. Comprehend the main features of British criminal Law
16. Identify the main features of the north American Criminal Law
17. Understand the general concepts of comparative law, international criminal law and transnational criminal law and identify the functioning principles of Criminal law in the different legal traditions
18. Find out what is common and what is different in different legal rules

19. Know the main arguments concerning the valuation of the cultural differences involved in the criminal motivation

## Competences

### Specific competences:

- CE3 Capacity to identify social interests and values inherent to legal principles and legal rules
- CE5 Capacity to identify and construe the sources of the law in force
- CE7 Capacity to construct a reasoned legal decision.

### Generic competences:

- CG2 Adequate information management capacity (Instrumental competence)

### Cross competences:

- CT3 Correct oral and written English technical language.

## Subject contents

### Private Law

#### 1.- Fundamentals of private comparative law

- 1.1 A concept of private comparative law.
- 1.2 Aims of comparative law.
- 1.3 Methods of comparative law.
- 1.4 History of comparative law.
- 1.5 Legal transplants.

#### 2.- Legal families of the world

- 2.0 Legal families of the world
- 2.1 The Romanistic Legal Family.
- 2.2 The common law.
- 2.3 The Germanic Legal Family.
- 2.4 The Scandinavian Legal Family.
- 2.5 Mixed systems.
- 2.6 Asian and African Systems of Law.
- 2.7 Religion-based Systems of Law.

#### 3.- Europeanisation of private law

- 3.1 Harmonization of Private Law in the European Union: The Political Initiatives.
- 3.2. The Principles of European Contract Law.
- 3.3 The Common Frame of Reference.
- 3.4 Common European Sales Law.

3.5 New proposals of European Directives: the single digital market.

## **Public Law: Constitutional and Administrative Law**

### **1.- An approach to different constitutional models**

- 1.1. The origins of constitutionalism: the first modern constitutions
- 1.2. What is a constitution?
- 1.3. Different constitutional models
- 1.4. Human rights and their protection: a comparative approach

### **2.- An approach to the different models of separation of powers**

- 1.1. Presidential systems
- 1.2. Parliamentary systems
- 1.3. Semi-presidential systems

### **3.- Comparative administrative law**

- 3.1. What are administrative law and public administrations? Differences between legal families: the case of the American agencies
- 3.2. The adjudication or decision making process in common law systems
- 3.3. Concept, relevance and consequences of the due process clause in common law systems
- 3.4. Public administration's control: the judicial review as a cornerstone of public administration's control in common law systems

## **Criminal Law**

### **1.- Comparative Criminal Law I**

- 1.1 Comparative Criminal Law: general concepts.
- 1.2 Legal traditions and Penal Systems: a comparative approach; comparative penology.
- 1.3 Main topics in Comparative criminal law.
- 1.4 How different legal systems solve the same problems.
- 1.5. International Criminal law and Transnational criminal law

### **2.-Comparative Criminal Law II**

- 2.1 Anglo-saxon countries: the penal system and the common law.
- 2.2 Crime: definition and elements in countries with common law.
- 2.3 Principles of liability and defenses.

**Master class:** methodology used in large groups. The teachers present in a structured and orderly way to the students the basic contents to be developed in the subject. Active participation of students in theory sessions is encouraged. The lectures will be virtual, according to the initial planning of the course and as the situation allows (it is therefore susceptible to changes).

**Practical classes:** case resolution: methodology used in medium groups. As part of the evaluation, students must solve practical cases. The practical sessions will be virtual or blended, as the situation allows (it is therefore susceptible to changes).

**Students' autonomous work:** of every ECTS credit (25h), 15 hours are of autonomous work of the students. This autonomous work includes the reading of materials, the study of the contents developed, the preparation of the classes, the acquisition of technical vocabulary, the preparation of essays, the preparation of oral presentations and other tasks that may be entrusted.

## Development plan

WEEK	TOPICS	GG	GM
1 to 4	Private Law + TEST (5th week)	Theory, master class	Practical exercises
5 to 10	Criminal Law + TEST (11th week)	Theory, master class	Practical exercises
11 to 15	Constitutional-Administrative + TEST	Theory, master class	Practical exercises

## Evaluation

### I. CONTINUOUS ASSESSMENT

The course is divided into three different blocks:

- Private Law
- Constitutional and Administrative Law
- Criminal Law

Each block is assessed independently at the end of the course. The **minimum grade required for each block is at least 4/10**. In order to pass the course, it is necessary to obtain an overall average mark of 5/10, after adding and averaging the three parts. In order for the average mark to be calculated, the student must have obtained at least a 4/10 in each of the three blocks.

Each block will be assessed out of 10 as follows:

TEST: 70% value

CASE STUDIES: 30%.

The multiple-choice exams will have between 20 and 40 questions. Each question will have several answers of which only one will be correct. The correct questions will be added, the incorrect ones will be subtracted and the unanswered ones will be neutral, at the discretion of each of the professors responsible for the exam. The corresponding instructions will be given in each case. The practical cases will be solved and evaluated at the discretion of each of the teachers responsible.

In the event of not obtaining a minimum of a 4 in any of the 3 blocks, the student will have the right to make it up at the end of the course on the date indicated in the recovery calendar. The make-up will consist of a multiple-choice exam of 20 questions from each of the blocks with a mark lower than 4.

## II. OPTIONAL VOLUNTARY ACTIVITY

Along with the ordinary evaluation criteria, students can carry out a voluntary activity that will allow them to raise their mark up to 1.5 points.

However, in order to be able to add the 1.5 points, it is necessary that the final mark is at least 4 (calculated through the average obtained by adding each part). In other words, you must have a minimum of 4 in order for the voluntary assessment mark to be added.

The type of voluntary activity will be determined at the beginning of the course.

## III. ALTERNATIVE ASSESSMENT

Article 1.5. 2 of the Regulations on the assessment and qualification of teaching in bachelor's and master's degrees and master's degrees at the UDL stipulates: "In order to make it easier for students to combine their studies with the development of work activities - a fact that the nature of continuous assessment makes difficult - students who wish to do so will have the right to a single assessment (by means of an exam, presentation of work or assignments or any other system determined by the lecturer in charge of the subject). If the nature of the subject requires it, attendance at certain face-to-face activities (practicals, rotations, field trips, seminars, etc.) on the established dates, activities that must be specified in the teaching guide, will be a prerequisite for the single assessment option. This right may not entail discrimination with respect to continuous assessment in relation to the

The right to continuous assessment in relation to the maximum qualification that can be obtained in that subject. The Studies Committee of the centre responsible for the degree or master's degree course in question shall establish the mechanisms by which the student may exercise this right, the deadline for submitting applications, as well as the documentation to be provided to justify the student's work activity.

Students who, fulfilling the requirements established in the aforementioned precept, wish to undergo the aforementioned alternative assessment, may pass the subject by means of a final test consisting of three parts, one for each block of the subject. Each part will consist of a multiple-choice exam of between 20 and 40 questions. In order to pass this test, it will be necessary to obtain an overall mark of 5/10.

Students who choose this option may also take the optional voluntary activity.

## Bibliography

### Inglés jurídico

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- Vanessa SIMS, English Law and Terminology: a guide for practitioners and students, Baden-Baden, Nombeos, 2006.
- Enrique ALCARZ VARÓ, El inglés jurídico (1994), Madrid, Ariel Derecho, 2002.
- Robert J. MARTINEAU, Drafting Legislation and Rules in Plain English, St. Paul, West/Wadsworth, 1991.
- Bryan A. GARNER, Legal Writing in Plain English: A Text with Exercises, University of Chicago Press, 2001.
- Anabel BORJA ALBI, El texto jurídico inglés y su traducción al español, Barcelona, Ariel Lenguas Modernas, 2000.

### General (para introducirse en la metodología comparada)

- Mathias Reimann and Reinhard Zimmermann (2019): *The Oxford Handbook of Comparative Law*, Oxford University Press.
- Susana de la Sierra (2004): *Una metodología para el derecho comparado europeo*, Aranzadi, Cizur Menor.

### Bibliografía básica por bloques temáticos

- Giuseppe de Vergottini (2019): *Diritto costituzionale comparato*, Cedam, Padova.
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- Comparative Law Blog: <http://www.comparativelawblog.blogspot.com/>
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- JuriGlobe: World Legal Systems. Research Group University Ottawa: <http://www.juriglobe.ca/eng/sys-juri/class-poli/droit-civil.php>
- Max Planck Institute for Comparative Public Law and International Law
- Oxford University Comparative Law Forum: <http://ouclf.iuscomp.org/articles/index.shtml>
- Ashworth, A., Principles of Criminal law, (7th edition, Oxford/New York, 2013).
- Smith/Hogan, Criminal Law (14th edition, Oxford/New York, 2015).
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- Serious Crime Act 2007
- U.S. Code (18 Title)