LITIGATION II
JAVIER GILSANZ

1- SUBJECT DESCRIPTION

Litigation II deals with the most significant procedural aspects of special civil proceedings (regarding individuals, possessions, property...) and small claims and negotiable instruments civil procedures as well as the study of the main procedural elements of the insolvency process, labor law procedure and administrative law procedure. Moreover, enforcement of international civil resolutions and provisional remedies in aid of civil foreign procedure will be examined.

In addition, the course will focus on the stages of the criminal process from investigation through service of an imposed sentence. The course emphasizes the ways in which the role play by actors within the criminal justice system (police, prosecutors, defense attorneys, and sentencing judges) affects the ways in which criminal matters are resolved.

The course takes a decidedly transnational approach. There are different procedural traditions and ultimately each country has its own set of procedural rules; however, in most countries the scholars – and, to a lesser extent, the practitioners – speak a similar “language” and use similar categories.

Amongst the different procedural traditions – French, Anglo-American–, the Austro-German tradition became at some point in the 20th century the most influential. The notions and terms coined within that tradition will be used as the main point of reference for the course. Comparative references to specific jurisdictions will supplement this transnational approach.

2- OBJECTIVES AND SKILLS

This course aims at helping the students to develop the skills required to understand and effectively use the main notions and categories which make up the “special part” of civil procedure: which are the special civil proceedings, which are the summary proceedings, how is the procedure of the insolvency process, which are the international aspects of provisional remedies and enforcement of resolution.

Likewise, the students will acquire the skills necessary to understand the most significant and practical elements of Criminal Procedure Law.
3- CONTENT

PART I: MAIN ASPECTS OF LABOR LAW PROCEDURE, INSOLVENCY LAW PROCEDURE AND ADMINISTRATIVE LAW PROCEDURE.

1. Insolvency Law Procedure
2. Insolvency Law Procedure
3. Case Study
4. Labor Law Procedure
5. Administrative Law Procedure

PART II: SPECIAL PROCEEDINGS AND SUMMARY PROCEEDINGS

6. Special Proceedings
7. Special Proceedings
8. Summary Proceedings
9. Case Study

PART III: SMALL CLAIMS AND NEGOTIABLE INSTRUMENTS PROCEDURE

10. Small claims procedure.
11. Negotiable instruments procedure.

PART IV: INTERNATIONAL ASPECTS OF ENFORCEMENT AND INTERIM RELIEF

12. Enforcement of international resolutions
13. Enforcement of international resolutions
14. Provisional Remedies in aid of civil foreign procedure.
15. Provisional Remedies in aid of civil foreign procedure.

PART V: ARBITRATION PROCEDURE

17. Arbitration Procedure

18. Mid Term Exam

PART V: CRIMINAL PROCEDURE

20. Criminal Procedure: The Criminal Investigation I
21. Criminal Procedure: The Criminal Investigation II
22. Criminal Procedure: The Criminal Investigation III
23. Criminal Procedure: Evidence
24. Criminal Procedure: The Jury
25. Criminal Procedure: Avoiding the trial
26. Criminal Procedure: The trial I
27. Criminal Procedure: The trial II
28. Criminal Procedure: Case study
29. Criminal Procedure: Case study.

30. Final Exam.
4- METHODOLOGY AND ECTS WEIGHTING

4.1. TEACHING METHODOLOGY

Learning will be based on three main methods:

1. Lectures, in which the students will be provided with the overall view of a specific aspect of civil procedure. The students will have to prepare each session with assigned readings, which will be defined in due time.

2. Independent work, which will be written by students, mainly with a comparative approach. Those students most interested in a particular aspect will be given the opportunity to carry on their research with the help of the professor.

3. Case studies, in which cases, texts or topics will be presented and discussed, individually or in groups.

4.2. LEARNING METHODOLOGY / ECTS WEIGHTING

6 ECTS = approximately 180 hours of dedication for an average student

<table>
<thead>
<tr>
<th>Hours devoted</th>
<th>ECTS</th>
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<tbody>
<tr>
<td>Lectures (preparation and attendance) 24 sessions of 1.5 hours each, multiplied with factor 1.9 for preparation = 66 hours</td>
<td>2</td>
</tr>
<tr>
<td>Case studies (preparation and attendance) 4 sessions of 1.5 hours each, multiplied with factor 4 for preparation = 24 hours</td>
<td>1</td>
</tr>
<tr>
<td>Exams (preparation and attendance) 2 session of 1.5 hours, multiplied with factor 30 for preparation = 90 hours</td>
<td>3</td>
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<tr>
<td>Total 180 hours</td>
<td>6</td>
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5- EVALUATION SYSTEM

5.1. GENERAL OBSERVATIONS

Each student has four attempts over two consecutive academic years to pass this course.

Class attendance is compulsory. Absence from more than 30% of the classes will result in a grade of 0.0 for the subject. In addition, students not fulfilling the attendance requirement will automatically lose the first extraordinary attempt to pass the course.

Students must do the readings and the assigned tasks for each class. Class preparation and class participation are essential to pass the course.

5.2. EVALUATION AND WEIGHTING CRITERIA

The grade will be generally determined based on the following criteria:

1. Attendance, attitude, participation, written assignments: 25%
2. Mid. Term Exam: 25%
3. Final exam: 50%
The overall grade will be subject to adjustment as considered appropriate by the professor in order to more accurately mirror the performance of the student. In particular, either poor participation in the course or poor performance in the final exam may suffice to fail the whole course, subject to the professor’s assessment.

5.3. GRADING IN EXTRAORDINARY EXAM PERIOD

If a student’s course grade is below 5.0, the student is required to take the retake exam to pass the course.

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

The maximum grade that students can obtain in the retake exam period is 8.0. The exam will cover everything that students have learned, including lectures, readings, case discussions and group exercises.

Students facing their 3rd or 4th call must contact the professor during the first two weeks of the course.