1. SUBJECT DESCRIPTION

Litigation I deals with civil procedure, one of the core subjects of any law degree.

The course addresses the basic conceptual architecture of civil procedure through a decidedly transnational approach. The course will follow closely the European Rules of European Civil Procedure (currently in draft version, scheduled for approval in early 2020), a model law elaborated by the world’s leading procedural experts under the auspices of the European Law Institute (ELI) and the International Institute for the Unification of Private Law (UNIDROIT).

This transnational perspective is enriched by constant references to the positive expressions of the model rules in the actual rules of different jurisdictions, in particular Spain, France, Germany, England, and the EU. The course ends with a brief look into the most salient aspects of the civil procedure in the USA, with a comparative discussion.

This course is one of the core activities of the Jean Monnet Chair in European Civil Procedure, the first — and so far the only — Jean Monnet Chair specifically devoted to the study and dissemination of the ELI-UNIDROIT European Rules of Civil Procedure.

2. OBJECTIVES AND SKILLS

This course aims at helping the students develop the skills required to understand and effectively use the main principles, notions, rules, and terminology that make up the “general part” of civil procedure: the organization of courts; the formative principles of civil procedure; the types of relief that can be sought; the structure of an ordinary civil proceeding.

Likewise, the students will acquire the skills necessary to critically analyze, synthesize, present, and reason on contents related to civil procedure.
3. CONTENT

1. Overview

PART I – JURISDICTION

2. The actors of civil justice
3. Court organization and structure
4. Court organization and structure
5. Jurisdiction and competence
6. Jurisdiction and competence
7. Practice
8. Practice

PART II – PROCEDURE

9. Types of relief
10. Structure of an ordinary proceeding
11. Parties
12. Commencement of proceedings. Service and due notice of proceedings
13. Practice
14. Provisional and protective measures
15. Proceedings preparatory to a final hearing
16. Access to information and evidence
17. Access to information and evidence
18. Practice
19. Practice
20. Principles of civil procedure. International and constitutional perspective
21. Principles of civil procedure. Historical and political perspective
22. Practice
23. Judgment, res judicata and lis pendens
24. Means of review
25. Means of review
26. Means of review
27. Exam

PART III – USA

28. US civil litigation
29. US civil litigation
30. Online comparative forum

4. METHODOLOGY

Litigation I aims at providing a strong intellectual framework to understand the basics of continental civil procedure, with constant comparative references.

Learning is based on different, mutually complementary methods:

1. Lectures, in which the students are provided with the overall view of a specific aspect of civil procedure. The students need to prepare each session with assigned readings, to be defined in due time.
2. Independent work, in which students study the materials with time and attention.
3. Case studies, on which students work individually.
4. Simulated hearings, in which the students play the role of lawyers, witnesses, and judges.
5. ECTS WEIGHTING

6 ECTS = approximately 150 hours of dedication for an average student

<table>
<thead>
<tr>
<th>Type of work</th>
<th>Hours devoted</th>
<th>ECTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lectures, presentations, general forum (preparation and attendance)</td>
<td>24 sessions of 1.5 hours each, plus preparation = 50 hours</td>
<td>2</td>
</tr>
<tr>
<td>Case studies, quizzes, hearings (preparation and attendance)</td>
<td>5 sessions of 1.5 hours each, plus preparation = 50 hours</td>
<td>2</td>
</tr>
<tr>
<td>Exam (preparation and attendance)</td>
<td>1 session of 1.5 hours, plus preparation = 50 hours</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>150 hours</td>
<td>6</td>
</tr>
</tbody>
</table>

6. EVALUATION SYSTEM

a) General observations

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

Dates and location of the final exam will be posted in advance and will not be changed.

Students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year).

Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

b) Evaluation and weighting criteria

The grade is generally determined based on the following criteria:

1. Contribution to class (attendance, attitude, readings, active participation, voluntary presentations, general online forum): 20%
2. Individual work (assignments, pleadings, hearings, comparative online forum): 35%
3. Exam: 45%

A grade of less than 4.0 in the exam suffices to fail the whole course.

c) Retake policy

Any student whose weighted final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).
Grading for retakes will be subject to the following rules:

- The retake will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.

- The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained is 8 out of 10.

- The third attempt will require the student to complete:
  - a written assignment (40%)
  - a final exam (60%)

This is also applicable to students who do not have required attendance, e.g. due to sickness.

- Dates and location of the retakes will be posted in advance and will not be changed.

7. USE OF ELECTRONIC DEVICES IN CLASS

Students are encouraged to use their laptops in class only for matters related to the course.

8. BIBLIOGRAPHY

a) Provided by the professor


b) Highly recommended and available


c) To learn more


**9. PROFESSOR’S BIO**

Marco de Benito holds the Jean Monnet Chair of European Civil Procedure at IE University. His areas of interest include comparative civil procedure, international arbitration, and legal history.

Prof. de Benito earned his doctorate from Comillas Pontifical University in Madrid. During his doctoral studies, he spent a year at Yale Law School and was a guest scholar at the Max Planck Institute for Comparative and International Private Law in Hamburg. Since then, he has spoken at universities such as Harvard, Maastricht, Bologna, Florence, Pisa, Pavia, Peking and a number of Latin American schools, from Mexico to Argentina.

He has authored critically acclaimed monographs on arbitration agreements and European justice systems, co-authored a handbook on European legal history, and coordinated two collective works on international arbitration (see https://marcodebenito.academia.edu).

Prof. de Benito has been consulted by the Spanish Congress and the Argentinian Government on the reform of the two countries’ arbitration laws.

For nearly two decades, he has arbitrated in seats such as Paris, London, Geneva, Milan, Madrid, or Miami, under the ICC, UNCITRAL, and Swiss Rules, applying Spanish, Austrian, or Italian law, as well as the lex mercatoria. He is regularly selected as one of the foremost arbitration practitioners under 45. Visit his boutique’s website, https://www.marcodebenito.com, to know more about his professional activity.

Prof. de Benito is an appointed member of the Procedural Law Board of the Spanish Royal Academy of Jurisprudence and Legislation.

He is fluent in English, Spanish and Italian, and can read German, French and Portuguese.