



Universidad
de Alcalá
FACULTAD DE DERECHO

COURSE GUIDE

ROMAN LAW

Degree Programme in Law
University of Alcalá

Academic Year 2022/2023
First Year - First Term

COURSE GUIDE

Course Name:	Roman Law
Code:	400001
Course Degree:	Law Degree
Department and Subject area:	Juridical Sciences Area of Roman Law
Type:	Compulsory (Basic Formation)
ECTS credits:	6 Credits
Year – term:	First Year – First Term
Professorate:	<ul style="list-style-type: none">• Prof. Dr. D. Juan Antonio Bueno Delgado• Prof. Dr. D. Aitor Fernández Delgado
Tutorial classes / Office hours:	Upon particular request of the students to the teacher at class or by e-mail: aitor.fernandez@uah.es
Language in which is taught:	English

University of Alcalá guarantees its students that, if sanitary and health requirements determined by the competent authorities prevent the total or partial attendance of the teaching activity, the teaching plans will achieve their objectives through a teaching-learning and evaluation methodology in online format that, in any case, would return to the presential modality as soon as said impediments cease.

1. INTRODUCTION

The subject of Roman Law belongs to the first quarter of the first year of the Degree in Law. Due to its basic formative character, its main aim is to provide to the future jurists during their first forming year a solid basis of juridical-technical knowledge which will be increased as they advance in the study of other fields of Law. By the study of this particular subject, the student will be able to know a complete cycle in the evolution of a Legal System that later provided, as Common European Law, the common substrate from which the terminology derived, as well as legal institutions, creation, interpretation, and application techniques regarding Law. These, nowadays, conform to the basis of nearly all Western European legal systems and of all both derived and inspired on those, constituting, accordingly, a broad referent of the Western legal culture and of the Spanish one in particular. Special attention is paid to the sources of Roman Law and its historical evolution, as well as to the general principles of Law, the genesis and evolution of the principal juridical institutions, particularly Private Law, and its reception in Europe.

When the basic knowledge is acquired, the immediate aim is its practical application through both juridical reasoning and the development of a critical spirit.

Roman Law implies the basis not only of our Legal System but also of several contemporary ones. That is the main reason because it is studied in the first course of the Degree, facilitating thus to the students the acquisition of certain concepts and knowledge that will allow the correct understanding of the rest of the subjects contained in the Law Degree Study Plan, as well as the techniques of creation, analysis, interpretation, and application of the norms.

The study of Roman Law contributes decisively to the intellectual formation of the jurist. Its knowledge constitutes an essential instrument in order to understand the nature of Law and its substantial historicity and, therefore, for the global understanding of our Legal System, placing him, moreover, in the precise moment of the historical evolution where it belongs. It is also basic for the knowledge of both the techniques of creation and interpretation of the norms, as well as for the completion of the existing gaps within. It is, consequently, an indispensable element of knowledge for the modern jurist in the broadest sense of the notion, as well as for anyone inclined towards the comprehension of the European formative process and the evolution of the main predicaments that had shaped its actual historical juncture.

No previous knowledge is required further than those mandatory to access the University.

2. COMPETENCES

- Generical competences:
 1. Ability to search for information, selection, and evaluation of legal documentation as well as of general information.
 2. Reflective, critical, and autonomous learning.
 3. Capacity for a critical analysis of the acquired knowledge, as well as for synthesis and practical application of theoretical concepts.
 4. Understanding of Law as the system of regulation of coexistence that incorporates an idea of justice. Commitment to the respect of Human Rights and the Principles of Democracy.
- Specific competences:
 1. Formation of the juridical mentality.
 2. Knowledge of the technical-juridical terminology and the common legal institutions of the Western countries as well as of those derived or inspired on them.
 3. Understanding of the substantial historicity of Law through the study of a complete cycle regarding the historical evolution of the Legal System from which most of the modern legal systems belonging to the Western Civilization as well as of those inspired in derive from.
 4. Management, understanding, analysis, and interpretation of the Roman jurisprudential sources.
 5. Arouse the critical sense and facilitate a comprehensive attitude regarding the existing relationship between reality and the juridical norms throughout the handling and understanding of the casuistic method of Roman jurisprudence.

3. CONTENTS

3.1 Theoretical contents:

I. MODULE

- * Concept of Roman Law**
- * Historical introduction**
- * Roman conceptions of the Law**
- * Procedural (Roman) Law**
- * General Theory of Legal Business**

The content of this first module is constituted, in the first place, by the study of the historical evolution of the Roman Legal System, from its remote origins up to the age of emperor Justinian I and subsequent projections. Hereafter, the definitions and several divisions on which are specified the Roman conceptions of the Law are observed. In the Procedural (Roman) Law, the means of obtaining the protection of rights through court are studied, as well as other extra-procedural measures. The General Theory of Legal Business deals with the modification, creation, and extinction of rights throughout the acts of the individuals aimed at regulating their own interests within the limits authorized by the Legal System.

II. MODULE

- * Persons and family.**

This module tries to answer, on the one hand, the question of who can have rights, that is, what requirements needed to be observed to be a subject of law, as well as other aspects related to personality within Roman Law. On the other hand, also analyzes the issues related to the Roman family, such as marriage, parental authority, guardianship, and conservatorship.

III. MODULE

- * Property.**
- * Possession.**
- * *Iura in re aliena*.**

Patrimonial rights are divided into two large blocks. In this particular module are observed those that fall over things (*res* = thing).

IV. MODULE

*** Obligations and contracts.**

*** Hereditary rights.**

In this module is observed the other large block into which patrimonial rights are divided: the so-called personal or obligation rights, which allow a certain behavior to be demanded from a certain person. In the hereditary right, the fate of a person's rights after his death is studied.

3.2 Practical contents:

As a basic technical-juridical knowledge is acquired, practical cases will be carried out in line with the explanation of the theoretical classes, to delve into the most relevant aspects of the corresponding subject, fundamentally those related to property rights.

3.3 Schedule and time-sequencing of activities:

Week	Content	Kind of activity	Total hours (intended)
1	Module I: Concept of Roman Law Historical introduction	Theory/ Practice	3
2	Module I: Roman conceptions of the Law	Theory/ Practice	3
3	Module I: Procedural (Roman) Law	Theory/ Practice	3
4	Module I: General Theory of Legal Business	Theory/ Practice	3
5	Module II: Persons	Theory/ Practice	3
6	Module II: Family	Theory/ Practice	3
7	Module III: Res and Property (I)	Theory/ Practice	3
8	Module III: Property (II)	Theory/ Practice	3
9	Module III:	Theory/ Practice	3

	Possession		
10	Module III: <i>Iura in re aliena</i>	Theory/ Practice	3
11	Module IV: Obligations (I)	Theory/ Practice	3
12	Module IV: Obligations (II)	Theory/ Practice	3
13	Module IV: Contracts (I)	Theory/ Practice	3
14	Module IV: Contracts (II)	Theory/ Practice	3
15	Module IV: Hereditary rights	Theory/ Practice	3

4. TEACHING-LEARNING METHODOLOGIES.

FORMATIVE ACTIVITIES

Distribution of the teaching and own work of the student:

Number of hours (total): 150	
Total teaching hours: 60	<ul style="list-style-type: none">• Theoretical-practical sessions (hours): 45• Guided work (hours) and assistance to tutorials, seminars, and other activities: 15
Total student own work: 90	<ul style="list-style-type: none">• These hours Will be dedicated to the preparation of both theoretical and practical classes, as well as to the study and review of the knowledge acquired in the classroom, and to the preparation of the exams.

Methodology

During the theoretical classes will be explained the most relevant parts of each of the modules that make up the subject program, particularly those issues that offer greater difficulty for its learning. It is very convenient that the student had read in advance those topics that will be covered in each theoretical class.

Throughout the course, once acquired the minimum theoretical knowledge, practical cases will be carried out that deal with some of the studied content according to the planned sequence, all of them extracted from the rich Roman legal casuistry, in order to establish concepts and project in the student not only an active attitude in learning but also promote the development of their logical reasoning, legal argumentation, as well as other various skills.

With the same latter purpose, if possible, other activities would be also carried out during the same course, such as colloquiums, debates, conferences, text comments, visits outside the classroom, etc...

Seminars will be also held on specific subjects or contents of the program.

In order to achieve a greater rapprochement between the teachers and the students, tutorials will also be arranged, on which teachers can individually control the student's learning process, guide him/her, and direct the development of his/her work and their study in a more personalized way.

5. EVALUATION

5.1 Evaluation criteria:

1. The ability to establish relationships and connections between the diverse contents contained in the program will be considered, as well as the capability to apply in the practical sessions the acquired knowledge during the theoretical ones, the capacity for synthesis, legal expression, and, particularly, both the critical and argumentative skills in order to solve juridical problems.
2. The assistance to both theoretical and practical classes will be considered, as well as to the tutorials, seminars, conferences, and other complementary activities that might be scheduled, paying special attention to both the participation and, especially, the interventions of the students and their degree of involvement with the subject, as a sign of interest in delving into the origins of the rights and democratic principles that we enjoy nowadays.
3. It will be also valued the capability to search for information, select, and evaluation of both general information and juridical documentation in particular; as well as the management, understanding, analysis, and interpretation of the Roman jurisprudential sources. A comprehensive attitude towards the existing relationship between reality and the juridical norms through the management and understanding of the casuistic method of the Roman jurisprudence will be also recognized.
4. The making of parallelisms, similarities, and the evolutionary chain of the institutions analyzed from their origin up to the modern legal systems will be also considered, as well as the knowledge of technical-juridical terminology, the understanding of legal conceptions and principles and their transfer to common legal institutions of the Western countries, and of those inspired by them.

5.2 Evaluation procedure:

During each academic year, the students will have the right to attend two examinations sitting, one ordinary and one, if necessary, extraordinary. The ordinary examination sitting will be based on a continuous evaluation, except in the case of those students who have been granted the right to access to a final evaluation, in accordance with the Regulations for Learning Evaluation Processes, approved by the Governing Council of the University of Alcalá on the 24th of March 2011.

In order for a student to be eligible for the final evaluation, he/she must request it in writing to the Dean of the Faculty during the first two weeks of teaching the subject, explaining the reasons that prevent he/she from attending the process of continuous evaluation.

A. Continuous evaluation

The students will have to attend regularly both theoretical and practical classes, as well as those scheduled activities.

During the course, TWO TESTS will be carried out, that will have partial liberatory character. Each of them will contain a theoretical part and a practical part, both based on the contents and topics pointed out in the teaching guide. Generally, students must pass each of the tests to be able to pass the subject; otherwise, average cannot be calculated. The aforementioned liberatory character is global, in such a way that is not possible to liberate a part of the program if the other parts have not also passed, both in the case corresponding to the modules that concur in the first test as well as in the second one. Nevertheless, the teacher may calibrate all these circumstances in the precise moment of calculating the final qualification.

The first partial test will deal with the content of the two first modules (I and II) and will be carried out once the contents corresponding to them have been overcome, on a date set by the Degree coordination. The second partial test will include the two last modules (III and IV), and it will be also carried out once the contents have been overcome, coinciding with the date set for the final exam.

Each of the exams in the continuous evaluation will consist of, on the one hand, ten theoretical short questions that value two points over 100, valuing accordingly a 20% total of the final rating. On the other, a practical case study will be considered, over which five questions will be posed and the students must solve them adequately. Each correct answer values 4 points over 100, consisting accordingly the practical part a 20% total of the final evaluation.

The sum of the two partial tests constitutes, at the highest, 80% of the final qualification. The assistance to both theoretical and practical classes, as well as interventions and active participation of the students during them, including the eventual scheduled complimentary activities (such as debates, commentaries, conferences, informs, etc.) will entail the remaining 20%.

In both sections will be considered, in addition to the practical application of the acquired juridical knowledge, the capability for solving problems, management of sources, the prosecution of legal reality, the critical analysis, etc.

In accordance with the Regulations for Learning Evaluation Processes, those students who have followed the continuous evaluation process that have not passed it, will not be eligible for the final assessment of the ordinary examination sitting.

B. Final theoretical-practical test

Those students that don't follow the continuous evaluation system will have to attend a FINAL TEST that will consist of both theoretical and practical content, in which they will have to demonstrate that have acquired both the generic and specific competencies demanded by the teaching guide of the present subject.

In that test, the students will have to answer 15 theoretical questions and 5 more related to a practical case study that will be also contained in the exam. Each correct answer will be valued with 0,5 points over a total of 10. To pass the subject, the students will have to obtain, at least, a qualification of 5.

Those students that follow the continuous evaluation system cannot concur to the FINAL TEST. Accordingly, those students that had already made one of the two tests predicted in the continuous evaluation can neither concur to the FINAL TEST.

C. Extraordinary examination sitting

Those students that had not passed the subject during the ordinary examination sitting, neither by the continuous evaluation system nor by the final theoretical-practical test, will have the opportunity to concur to an extraordinary THEORETICAL-PRACTICAL TEST, with similar evaluation features to the test included in the B paragraph.

The qualification system will be the one predicted by the current legislation, regulated by the R.D. 1125/2003, according to the following numerical pattern:

0,0 - 4,9 NOT PASSED -D- (SS)

5,0 - 6,9 PASSED -C- (AP)

7,0 - 8,9 OUTSANDING -B- (NT)

9,0 - 10 EXCELLENT -A- (SB)

9,0 – 10 WITH HONOURS - DISTINCTION (limited or 5%)

6. BIBLIOGRAPHY

I MODULE

Concept of Roman Law. Historical introduction. Roman conceptions of the Law. Procedural (Roman) Law. General Theory of Legal Business

RECOMENDED BIBLIOGRAHPY

○ **General character**

- DOMINGO, R. (Dir.) *et alii*, Textos de Derecho romano, Pamplona, 2002.
- DOMINGO, R., Roman Law: An Introduction, Nueva York, 2018.
- FERNÁNDEZ DE BUJÁN, A., Derecho Privado Romano, 10ª Ed., Iustel, Madrid 2019.
- FERNANDEZ DE BUJÁN, A., Derecho Romano, 6ª ed., Dykinson, Madrid 2022.
- NICHOLAS, B., An introduction to Roman Law, Oxford, 1962.
- SCHULZ, F., Principles of Roman Law, Oxford, 1956.

○ **History. Conceptions**

- ÁLVAREZ SUÁREZ, U., Instituciones de Derecho romano I (Introducción histórica, conceptos fundamentales, hechos y negocios jurídicos). Madrid, 1973.
- FERNANDEZ DE BUJÁN, A., Derecho Romano, 6ª ed., Dykinson, Madrid 2022.
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○ **Procedural Law**

- ÁLVAREZ SUÁREZ, U., Instituciones de Derecho romano, II. Derecho procesal civil, Madrid, 1975.
- FERNÁNDEZ DE BUJÁN, A., Derecho Privado Romano, 10ª Ed. Iustel, Madrid 2019.
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○ **General Theory of Legal Business**

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COMPLEMENTARY BIBLIOGHRAPHY

○ **Conceptions of Roman Law and methods for its study**

- ÁLVAREZ SUÁREZ, U., Horizonte actual del Derecho romano, Madrid, 1944.
- **History. Conceptions.**
 - ÁLVAREZ SUÁREZ, U., Curso de Derecho Romano. Tomo I. Introducción. Cuestiones preliminares. Derecho procesal civil romano, Madrid, 1955.
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 - JOHNSTON, D., Roman Law in context, Cambridge, 1999.
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 - ÁLVAREZ SUÁREZ, U., Curso de Derecho Romano. Tomo I. Introducción. Cuestiones preliminares. Derecho procesal civil romano, Madrid, 1955.
 - MURGA, J. L., Derecho romano clásico II. El proceso, Zaragoza, 1983.
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II MODULE

Persons and family

RECOMENDED BIBLIOGRAPHY

- **General character**
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 - DOMINGO, R., Roman Law: An Introduction, Nueva York, 2018.
 - NICHOLAS, B., An introduction to Roman Law, Oxford, 1962.
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- **Persons**

- ÁLVAREZ SUÁREZ, U., Instituciones de Derecho romano. III: Personas físicas y colectivas en el Derecho romano, Madrid, 1977.
- FERNÁNDEZ DE BUJÁN, A., Derecho Privado Romano, 10ª Ed., Iustel, Madrid 2019.
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- **Family**

- FERNÁNDEZ DE BUJÁN, A., Derecho Privado Romano, Iustel, Madrid 2019.
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COMPLEMENTARY BIBLIOGRAPHY

- **Liberty and slavery**

- BUCKLAND, W.W., The roman law of slavery, New Jersey, 2000.
- ROBLEDA, O, Il diritto degli schiavi nell'antica Roma, Roma, 1976.

- **Citizenship**

- SHERWIN-WHITE, The roman citizenship, Oxford 1939, 1973² (reimpresión 1980).

- **Family**

- BONFANTE, P., Corso di diritto romano. I: Diritto di famiglia, Roma, 1925. (reimpresión Milán, 1963).
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III MODULE

Property. Possession. *Iura in re aliena*

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- **General character**

- DOMINGO, R. (Dir.) *et alii*, Textos de Derecho romano, Pamplona, 2002.
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- WATSON, The law of property in the later roman Republic, Oxford, 1968.

IV MODULE

Obligations and contracts. Hereditary rights

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o **General character**

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