



## IDENTIFYING DATA

### (\*)Argumentación e interpretación xurídica

Subject	(*)Argumentación e interpretación xurídica			
Code	O03G080V01901			
Study programme	(*)Grao en Dereito			
Descriptors	ECTS Credits	Choose	Year	Quadmester
	6	Optional	4th	1st
Teaching language	Spanish Galician English			
Department				
Coordinator	Bonorino Ramírez, Pablo Raúl			
Lecturers	Bonorino Ramírez, Pablo Raúl			
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Web	<a href="http://www.pabloonorino.es">http://www.pabloonorino.es</a>			
General description	(*)A asignatura ten como obxectivo ofrecer ferramentas teóricas para mellorar as prácticas argumentativas e interpretativas dos alumnos.			

## Competencias

Code	
A5	(*)Apreciar a diversidade e a multiculturalidade
A8	(*)Ser quen de argumentar xuridicamente
A9	(*)Ser quen de utilizar os principios e valores constitucionais como ferramenta de traballo da interpretación do dereito e desenvolver dialéctica xurídica
A11	(*)Ser quen de identificar problemas xurídicos e abordar a súa solución de modo interdisciplinar
A12	(*)Ser quen de manexar fontes xurídicas
A13	(*)Ser quen de interpretar e analizar criticamente o ordenamento xurídico
A14	(*)Ser quen de comprender e de redactar documentos xurídicos
A15	(*)Ser quen de manexar a oratoria xurídica
B1	(*)Capacidade de síntese e análise
B2	(*)Capacidade de aprender
B3	(*)Capacidade de xestión da información
B4	(*)Capacidade de adaptarse a novas situacións
B5	(*)Capacidade para organizar e planificar
B6	(*)Resolver problemas de forma eficaz
B7	(*)Aplicar pensamento crítico, lóxico e creativo
B8	(*)Traballar de forma autónoma con iniciativa
B9	(*)Traballar de forma cooperativa
B10	(*)Preocupación pola calidade
B11	(*)Comportarse de forma ética e responsabilidade social como cidadán e como profesional
B12	(*)Comunicarse de xeito efectivo nun entorno de traballo (habilidades nas relacións interpersoais)
B13	(*)Traballar desde unha perspectiva comparada, manexando información comparada

## Learning aims

Expected results from this subject	Training and Learning Results	
Know the main tools that offers the logic and the contemporary theories of legal argumentation.	A8 A11	B13
Be able to argue in legal contexts.	A8	
Be able to handle the legal oratory.	A15	
Understand the relation between the theories of legal interpretation and the legal practice.	A13 A14	B1 B7

Be able to use the principles and constitutional values like tools of work of the interpretation of Law and the develop of legal dialectics.	A9	
Appreciate the diversity and the multiculturalism.	A5	
Be able to identify legal problems and tackle his solution by interdisciplinary way.	A11	
Be able to handle legal sources.	A12	
Be able to interpret and analyse critically the legislation.	A13	
Capacity of synthesis and analysis.		B1
Capacity to learn.		B2
Capacity of management of the information.		B3
Capacity to adapt to new situations.		B4
Capacity to organise and schedule.		B5
Resolve problems in an effective way.		B6
Apply critical, logical and creative thought.		B7
Work with autonomy and initiative.		B8
Work in a cooperative way.		B9
Concern by the quality.		B10
Behave of ethical form and show social responsibility like citizen and professional.		B11
Communicate of effective way in a half of work (skills in the interpersonal relations).		B12
Work from a perspective compared, handling compared information.		B13

## Contents

### Topic

I. DISAGREEMENTS and DEBATES	<ol style="list-style-type: none"> <li>1. The concept of disagreement <ol style="list-style-type: none"> <li>1.1 Classification of disagreements</li> <li>1.2 Analyses of disagreements</li> </ol> </li> <li>2. Disagreements no genuine <ol style="list-style-type: none"> <li>2.1 Merely verbal Disagreements</li> <li>2.2 Definition and verbal disagreements</li> </ol> </li> <li>3. Argumentative exchanges <ol style="list-style-type: none"> <li>3.1. Differences of opinion</li> <li>3.2 Disagreements and debate</li> </ol> </li> <li>4. The argumentation in debates</li> </ol>
II. LEGAL ARGUMENTATIONS	<ol style="list-style-type: none"> <li>1. Identification and reconstruction of arguments</li> <li>2. The reconstruction of argumentations</li> <li>3. A paradigmatic case of legal reasoning: the judicial sentence</li> <li>4. Judicial sentence and stock issues</li> <li>5. Reconstruction of judicial argumentations</li> </ol>
III. DEDUCTIVE LOGIC	<ol style="list-style-type: none"> <li>1. Validity and logical form</li> <li>2. Deductive plain Arguments <ol style="list-style-type: none"> <li>2.1 The modus ponens</li> <li>2.2 The modus tollens</li> <li>2.3 The hypothetical argument</li> <li>2.4 The disjunctive argument</li> <li>2.5 The dilemma</li> </ol> </li> <li>3. Deductive complexes Arguments</li> <li>4. The deductive chains</li> <li>5. The complex valid forms <ol style="list-style-type: none"> <li>5.1 The reduction to the absurd</li> </ol> </li> <li>6. Syllogisms</li> </ol>
IV. INDUCTIVE LOGIC	<ol style="list-style-type: none"> <li>1. The field of the probability</li> <li>2. What is an inductive argument?</li> <li>3. Some erroneous conceptions on the induction</li> <li>4. The inductive strength of an argument</li> <li>5. Induction and probability</li> <li>6. Inductive Arguments</li> <li>7. The inductive forms more usual in the legal practice <ol style="list-style-type: none"> <li>7.1 Inferences by enumeration</li> <li>7.2 The analogy</li> <li>7.3 The abduction</li> </ol> </li> </ol>

## V. INFORMAL LOGIC

1. The fallacies in the legal argumentation
2. A dialogic model
  - 2.1 Rational Dialogue
  - 2.2 Positive and negative Rules
  - 2.3 The burden of proof in oral debates
3. Informal Fallacies
  - 3.1 The appeals to the authority
  - 3.2 The personal attacks
4. Interrogations
  - 4.1 Questions, replies and answers
  - 4.2 Types of questions
  - 4.3 Presuppositions, questions and fallacies
  - 4.4 Evaluation of interrogations

## VI. THEORIES OF ARGUMENTATION

1. The theories of the contemporary legal argumentation
2. Constitutional principles and legal argumentation
3. Descriptive and normative models
  - 3.1 The theory of Arnio
  - 3.2 The theory of Alexy
  - 3.3 The theory of MacCormick
  - 3.4 The theory of Toulmin
4. The rhetoric
  - 4.1 Topical and rhetorical
  - 4.2 Perelman and the new rhetoric

## VII. THEORIES OF INTERPRETATION

1. What is to interpret?
2. Interpretation and meaning
3. The contemporary theories of the legal
  - 3.1 The position of Kelsen
  - 3.2 The position of Ross
  - 3.3 The position of Hart
  - 3.4 The position of Dworkin
4. Interpretation and legal dogmatic
5. Interpretation and application of law
6. Interpretation and argumentation
  - 6.1 interpretative Arguments

### Planning

	Class hours	Hours outside the classroom	Total hours
Laboratory practises	15	22.5	37.5
Presentations / exhibitions	3	14.7	17.7
Master Session	26	46.8	72.8
Other	2	15	17
Practical tests, real task execution and / or simulated.	5	0	5

\*The information in the planning table is for guidance only and does not take into account the heterogeneity of the students.

### Methodologies

	Description
Laboratory practises	Approach and realisation of activities of practical character.
Presentations / exhibitions	Preparation, in small groups, of a subject and oral argumentation in mock debates.
Master Session	Oral exhibition complemented with the use of audiovisual means headed to the students, with the purpose to transmit knowledges and facilitate the learning.

### Personalized attention

Methodologies	Description
Presentations / exhibitions	Resolution of theoretical and practical doubts.
Laboratory practises	Resolution of theoretical and practical doubts.

### Assessment

	Description	Qualification
Presentations / exhibitions	Evaluation of the intensive study of determinate subjects, discussion, participation and preparation of documents and conclusions.	Hasta 10

Other	Objective test that it will consist in the answer of a long question, or the answer of several short questions, or in a multiple choice test.	Hasta 70
Practical tests, real task execution and / or simulated.	Evaluations that include activities, problems or practical exercises. The students will have to resolve the activities posed, applying the theoretical and practical contents of the subject.	Hasta 20

### Other comments on the Evaluation

The students that can not participate in the continuous evaluation -or that they have disapproved- have right to a theoretical-practical examination with which can obtain the 100 % of the qualification. That objective test will consist of a written and an oral part.

The official dates of evaluation are the following:

9 JANUARY 2014, 12 hs. (Classroom 1.2) 11 JULY 2014, 16 hs. (Classroom 1.4)

End of Career, 22 October 2013, 18 hs. (Classroom to confirm)

### Sources of information

- Alchourrón, C. y Bulygin, E., **Análisis lógico y derecho**, CEC,
- Bonorino Ramírez, Pablo Raúl, **Argumentación en debates**, SPUV,
- Bonorino Ramírez, Pablo Raúl, **Introducción a la lógica jurídica**, Ediciones Suárez,
- Bonorino Ramírez, Pablo Raúl, **El imperio de la interpretación**, Dykinson,
- Bonorino Ramírez, Pablo Raúl (ed.), **Razonamiento jurídico y administración de justicia**, Bubok,
- Alchourrón, C. y Bulygin, E., **Introducción a la metodología de las ciencias jurídicas y sociales**, Astrea,
- Atienza, Manuel, **Las razones del derecho**, CEC,
- García Amado, Juan Antonio, **El derecho y sus circunstancias. Nuevos ensayos de filosofía jurídica**, Universidad del Externado,
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- Copi, Irving M., y Cohen, Carl, **Introducción a la lógica**, Limusa,
- Lifante Vidal, Isabel, **La interpretación jurídica en la teoría del derecho contemporánea**, CEC,
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- Aarnio, Aulis, **Lo racional como razonable. Un tratado sobre la justificación jurídica**, CEC,
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- Iturralde Sesma, Victoria, **Aplicación del derecho y justificación de la decisión judicial**, Tirant lo Blanch,
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- Gimeno Presa, María Concepción, **Interpretación y derecho. Análisis de la obra de Riccardo Guastini**, Universidad del Externado,
- Guastini, Riccardo, **Distinguiendo. Estudios de teoría y metateoría del derecho**, Gedisa,
- Alexy, Robert, **Teoría de la argumentación jurídica. La teoría del discurso racional como teoría de la fundamentación jurídica**, CEC,
- Rodríguez Boente, Sonia, **La justificación de las decisiones judiciales. El artículo 120.3 de la Constitución Española**, SPUSC,
- Perelman, Chaim, **Tratado de la argumentación. La Nueva Retórica**, Gredos,

### Recommendations