

The seal of the University of Valencia is a large, circular emblem in a light green color. It features a central shield with a crown on top, flanked by two smaller shields. The shield is divided into four quadrants with various heraldic symbols. The text "DEI GRA REX ARAGONVM • ALEXANDER PP VI VALENTINVS FERDINANDVS" is inscribed around the perimeter of the seal.

DEGREE IN LAW
ACADEMIC GUIDE ANNEX
PROCEDURAL LAW III

Group AR
2021-2022

Patricia Llopis Nadal, Ph.D.
Assistant Professor

1.- DATA

Name of the subject	PROCEDURAL LAW III
Character	Compulsory
Degree	Law
Course/semester	1 st semester
Academic year	2021-2022
Department	Administrative and Procedural Law
Professor	Patricia Llopis Nadal, Ph.D. Assistant Professor Patricia.llopis@uv.es Office: 3C11
Tutorial hours	Monday, 14:30-17:30. * In person (office 3C11) or online (using BBC platform). To attend these tutorial hours, it is mandatory to request in advanced a meeting with the professor and to schedule the exact hour. * Additionally, the professor will answer questions by e-mail. For that, the students must get in contact with the professor by using their University of Valencia e-mail (non-institutional e-mails will not be taken into account).

2.- PROGRAM OF THE SUBJECT

Lesson 1. Introduction.

1. Principles of the process.
2. The Spanish system of criminal proceedings.
3. The phases of the criminal process.
4. The different criminal procedures.

Lesson 2. Criminal Courts: jurisdiction and competence

1. Extension and limits of the Spanish international jurisdiction for criminal matters.
2. Jurisdiction of Spanish criminal courts.
3. The criteria for assigning criminal jurisdiction: a) Objective; b) Functional; c) Territorial.
4. Procedural exam of jurisdiction.
5. Criminal connection and its effects on the determination of the courts' jurisdiction.

Lesson 3. Parties in the criminal procedure.

1. The public prosecutor.
2. The popular prosecutor.
3. The particular prosecutor.
4. The private prosecutor.
5. The suspect / investigated / accused.
6. The parties in the civil process (joinder of procedures).

Lesson 4. Object of the criminal procedure.

1. Concept, features and importance.
2. The incidence of the penalty and the legal qualification.
3. The elements that identify the object of the process: a) The criminal act charged; b) The accused person.
4. The connection of objects.
5. The object of the civil process (joinder of procedures).

Lesson 5. Pre-trial proceedings or the investigation.

1. Functions and content.
2. The pre-trial judicial proceedings: a) Competent court; b) General rules on the requirements of the acts.
3. The pre-trial proceedings by the public prosecutor.
4. Police activities in the framework of the pre-trial proceedings.
5. Intervention of the parties and other people interested in the pre-trial proceedings.

Lesson 6. Acts to start the criminal procedure

1. The complaint.
2. The police report.
3. The private complaint / The lawsuit.
4. The institution of criminal proceedings ex officio.

Lesson 7. Acts of investigation

1. Concept of acts of investigation. Difference with the acts of evidence.
2. Typology.
3. The acts of investigation:
 - 3.1. Statement of the accused.

- 3.2. Witness statements
- 3.3. Entry and search of an enclosed space: a) Concept; b) Requirements; c) Effects.
- 3.4. Searching books and papers.
- 3.5. Seizure, opening and examination of private correspondence.
- 3.6. Acts of bodily inspection, examination or intervention.
- 3.7. Experts report.
- 3.8. Visual inspection.
- 3.9. Video recording in public places.
- 3.10. The modern acts of investigation:
Common provisions.
 - Interception of telephone and telematic communications.
 - Capture and recording verbal communications with electronic devices.
 - Use of technical devices for image surveillance, location and capture.
 - Search of mass data storage devices.
 - Remote searches of computer equipment.

Lesson 8. The imputation

- 1. Concept and functions.
- 2. The non-formal acts of imputation.
- 3. The court order of prosecution.

Lesson 9. Precautionary measures

- 1. General remarks.
- 2. Precautionary measures: a) Arrest; b) The habeas corpus process; c) The provisional imprisonment; d) The provisional release.
- 3. The precautionary patrimonial measures.

Lesson 10. The termination of the investigation. The decision on the accusation.

- 1. The termination of the pre-trial proceedings.
- 2. The decisions concerning the exercise of the accusation: a) the dismissal; b) the oral trial opening.

Lesson 11. The oral trial and the agreement.

- 1. Overview of the oral trial.
- 2. Procedural requirements and their exam.
- 3. The initial act of accusation and the initial act of defense.
- 4. The agreement / conformity of the accused and the acceptance of the facts.

Lesson 12. The evidence.

- 1. Concept and object.
- 2. Evidence obtained violating fundamental rights.
- 3. The minimum evidentiary activity in criminal proceedings: a) The taking of evidence in the oral trial; b) The evidence prior to trial; c) The acts of investigation of the pre-trial proceedings; d) The acts of investigation of the judicial police and the public prosecutor.
- 4. The object of the evidence.
- 5. The assessment of the evidence.
- 6. The burden of proof and the right to the presumption of innocence.
- 7. The evidentiary procedure.

Lesson 13. The particular means of evidence.

1. The statement of the accused.
2. The witness evidence.
3. The expert evidence.
4. The documentary evidence.
5. The visual inspection.
6. Other means of evidence to form the judicial conviction.
7. Presumptions or the prima facie evidence (evidence of signs).

Lesson 14. The hearing in the oral trial

1. The public character of the hearing.
2. The postponement of the hearing.
3. The general features of the hearing.

Lesson 15. The termination of the criminal procedure and the preliminary questions.

1. The definitive act of accusation and the definitive act of defense.
2. The termination of the criminal procedure.
3. The judgment: a) Concept; b) Typology; c) Requirements; d) Form of the judgment, specific reference to the grounds of the judgment.
4. The preliminary questions.

Lesson 16. Judicial review: means of appeal.

1. The means of appeal: a) Concept and typology; b) The right to appeal; c) Object and effects.
2. Appeals against resolutions different from judgments.
3. Appeals against judgments and similar court orders: a) The appeal and the second instance; b) The cassation.

Lesson 17. The effects of the criminal procedure.

1. Firm judicial decisions and res judicata effect.
2. The res judicata: a) Effects of the res judicata; b) Resolutions with res judicata effect; c) Scope and limits of the res judicata effect.
3. The challenge of the res judicata effect.
4. Procedural costs and free legal assistance.

Lesson 18. The ordinary criminal procedures*.

1. Criminal proceedings: a) Ordinary; b) Specials.
2. The ordinary procedure for serious crimes*.
3. Fast-track proceedings*.
4. The procedure for misdemeanors.

Lesson 19. Special proceedings and the joinder of the civil procedure*.

1. The procedure for fast-track proceedings for certain crimes*
2. The proceedings before a jury court
3. The criminal proceedings for minors
4. Procedure for fast-track sentencing
5. Other special proceedings.
6. Procedural specialties in some proceedings.
7. The joinder of the civil procedure.

Lesson 20. Judicial activities concerning the execution.

1. General remarks.
2. Legal regime.
3. The execution of penalties and security measures: general provisions.
4. The enforcement of the penalties.
5. The enforcement of the security measures.
6. The end of the execution.
7. Appeals concerning the execution.
8. The enforcement of the civil aspects of the sentence.

Lesson 21. International judicial cooperation.

1. General remarks.
2. International legal mutual assistance for criminal matters.
3. Extradition: a) Requirements; b) Active extradition; c) Passive extradition.
4. The European arrest warrant.
5. Other instruments

3.- LECTURES DEVELOPMENT AND SCHEDULE:

The lectures will take place during the 1st semester on Monday and Tuesday from 11:00 to 12:30.

WEEK	MONDAY LESSON	TUESDAY LESSON	ACTIVITIES
W1 13-14 Sept	Presentation – L1	L1	
W2 20-21 Sept	L2	L2	
W3 27-28 Sept	L2	L3	
W4 4-5 Oct	L3	L4	
W5 11 Oct	L5		
W6 18-19 Oct	L6	L7	
W7 25-26 Oct	L7	L7	
W8 2 Nov		L8	
W9 8-9 Nov	L9	L9	
W10 15-16 Nov	L10	L10	ACT. 1 BLOG ENTRY Deadline 18 th November 22:00
W11 22-23 Nov	L11	L12	
W12 29-30 Nov	L12	L13 – L14 – L15	
W13 7 Dec	L16	L16	ACT. 3 PROCEDURAL ACT Deadline 10 th December 22:00
W14 13-14 Dec	L17 – L18	L19	
W15 20-21 Dec	L19	L20	ACT. 2 BLOG ANSWERS Deadline 22 nd December 22:00

4.- EVALUATION

The final mark will consist of:

- 1.- Up to a **70 %**, the points obtained in **the final exam** aimed to assess the theoretical and practical knowledge.
- 2.- Up to a **30 %**, the points obtained by doing the three **activities** planned as matter of **continuous assessment**.

Important: *The points obtained from the continuous assessment **will not be added** to the points obtained in the exam if the latter does not reach, **at least, a 50 % of the punctuation established for that kind of assessment in the final exam.***

On the one hand, the assessment of theoretical and practical knowledge will be the result of one **final exam** with all the contents that should be assessed in the course (70% of the value of the final mark).

The final exam, which **will take place on the official date and hour**, will be *a multiple choice exam* (“examen tipo test”). In the exam each question will have four options and the student must check the most accurate answer (the most correct). Out of the total of 30 points, the right answers add up to 1 point, the incorrect ones are penalized with -0,33, the questions left blank neither add nor subtract any point.

Only the exam taking place in the official date and hour will be *a multiple choice exam*. If by a justified reason a student cannot carry out the exam in the official date and hour, an *oral exam* **will be scheduled in the closest date during the exams’ period**. In any case, this exception will be applied provided the requirements set under art. 9 of the *Reglamento de evaluación y calificación de la UV* are properly fulfilled.

On the other hand, the 30% of the final mark assigned to the continuous assessment will be the result of:

- 1) *Activity 1:* The submission of a legal blog entry: up to 10% of the value of the final mark.
- 2) *Activity 2:* The answers provided to the questions/comments made by other students: up to 10% (being mandatory to read and make questions/comments in at least two topics, different from the ones studied, in order to get any point from this activity).
- 3) *Activity 3:* The drafting of a procedural act: up to 10% of the value of the final mark.

General rules for the continuous assessment activities: all these activities shall be completed at home and submitted respecting the following requirements:

- The submission of the activities will take place through *Aula Virtual* using the *Tarea* expressly provided for each one of them. No other system will be admitted.
- Activities 1 and 3 shall be submitted as a .pdf file (*portable document format*). No other format will be admitted.

- The deadline to submit each one of the activities shall be respected. However, a delay up to 48h could be accepted for activities 1 and 3, but will imply an automatic sanction of three points in the final assessment of the activity.
- These are individual activities whose answers shall be studied, drafted and submitted *individually* by each one of the students.

→ If the activity is not properly submitted or the deadlines are not respected, the student will obtain 0 points from it.

→ If any evidence of copying from any previous work or from the activity of other student is observed, all the students involved will obtain 0 points from it.

Important: it is *not possible to repeat* the continuous assessment activities (“actividades no recuperables”). Therefore, neither for the 1st nor the 2nd call the students who have failed to submit an activity or have not obtained the grade expected will have a second chance for submitting them.

Important: if, for a justified reason, the student could not carry out any of the continuous assessment activities in the time and manner provided, the student must notify it, with enough advance notice, to the professor in order to schedule its completion, if possible. In any case, the continuous assessment activities shall be completed before the official date of the exam.

The information to draft the procedural act will be handled to the students the 22nd November. The ***deadline*** for its submission will be the **10th December at 22:00.**

The legal blog activity will consist in the individual study and the submission of a written work/essay -legal blog entry- on the topic previously assigned to each student (the details of the activity and the topic will be provided by the professor through “aula virtual” at the beginning of the semester). The ***deadline*** to submit the legal blog entry will be the **18th November at 22:00.** All the entries that fulfill the requirements will be published in “aula virtual”, after that, the students will have a period of four weeks to complete the second part of the activity: read the entries submitted by their colleagues and make questions/comments that will be answered by the author of the post. The ***deadline*** to reply the questions/comments will be the **22nd December at 22:00.** If requested by the students, it will be possible to organize collective tutorials, which will take place online, in order to ask questions or to debate about the topic that shall be covered in the legal blog entry.

Additionally, during the semester students could be invited to take part in voluntary activities such as the submission of a case study or seminar attendance. When possible to improve their grades by actively participating in those activities, the students will be properly informed in due time by email.

5.- LITERATURE

To study the subject and prepare the different activities it is highly advisable to take into account the following books:

- Armenta Deu, T., Lecciones de Derecho Procesal Penal, ed. Marcial Pons, Madrid.
 - Asencio Mellado, J. M., Derecho Procesal Penal, ed. Tirant lo Blanch, Madrid.
 - Gimeno Sendra, V., Manual de Derecho Procesal Penal, ed. Castillo de Luna, Madrid.
 - Martínez Jiménez, J., Derecho Procesal Penal, ed. Tecnos, Madrid.
 - Montero Aroca, J., Derecho Jurisdiccional III, ed. Tirant lo Blanch, Valencia.
 - Moreno Catena, V., Derecho Procesal Penal, ed. Tirant lo Blanch, Valencia.
 - Nieva Fenoll, J., Derecho Procesal III. Proceso Penal, ed. Tirant lo Blanch, Valencia.
- * If possible, always study the latest release of the work.

In addition, the latest update of the Spanish Criminal Procedure Act (“Ley de Enjuiciamiento Criminal”) which is also available in English.

Activities 1 and 2 of this Academic Program are part of the *Projecte d’Innovació Docent per al curs 2021-2022 del Vicerrectorat d’Ocupació i Programes Formatius de la UV “Consolidación académica del blog jurídico on-line en la década digital”*.