

UNIVERSIDAD DE BUENOS AIRES FACULTAD DE DERECHO Y CIENCIAS SOCIALES DEPARTAMENTO DE POSGRADO INDEPENDENT COURSE

TITLE: *Argentinean Legal System for Foreign Attorneys and Law Students. An Introduction to Argentinean Law.* Short term program in Argentinian Law

DIRECTION: Viviana Kluger and Mariano Heller

TIME FRAME: 50 hours

COURSE MODALITY: intensive course- 10 modules of 5 hours each one- during two weeks, with visits to institutions closely related to Argentine legal structure and culture.

SCHEDULE:

Mondays: 15 to 20 hs.

Tuesdays: 15 to 20 hs.

Wednesdays: 15 to 20 hs.

Thursdays: 15 to 20 hs.

Fridays: 8 to 13 hs.

VISITS: Tuesdays, Wednesdays and Thursdays, between 8 hs and 13 hs, subject to availability

DATES: From August 5th to 16th

LANGUAGE: English

RATIONALE AND JUSTIFICATION

For several decades, the phenomenon of globalization has also reached the law,

intensifying the need for exchanges and imposing interdependence between different legal systems. In short, it has created the awareness of a growing connection between the local and the distant.

In this sense, law-traditionally limited to the limits of a given country-has had to broaden its horizons and open up to the knowledge of other legal systems. The fact is that the professional practice of the lawyer of the 21st century can no longer be conceived limited to the confines of a single legal system. This is because the problems that lawyers face on a daily basis often require knowledge of other legal systems, so that they can provide adequate responses to the conflicts posed by a globalized society.

OBJETIVES

General objective:

To introduce lawyers that graduated outside the Argentine Republic and/or advanced students of the career of Law, in the legal system of our country.

Specific objectives:

1. To introduce lawyers graduated outside the Argentine Republic and/or advanced students of Law, in the processes that determined the current conformation of Argentine law.
2. To provide the basic elements to understand the general principles of Argentine law.
3. To know the fundamental structure of the main institutions and the functioning of civil, commercial, criminal, constitutional, procedural and human rights law.
4. Familiarize lawyers graduated outside the Republic of Argentina and/or advanced students of Law, with the administration of Argentine justice.
5. To carry out on-site visits, so that students can get to know the physical spaces in which the Argentine legal structure palpates and to contact the referents of the Argentine legal culture.

CONTENTS

Module I: Process of formation of the Argentine legal system

Constitutive elements of Argentine law. Castilian, indian and precodification law. Formation of the Argentine federal state. Codification. Main jurists.

LECTURER: VIVIANA KLUGER.

Module II: Constitutional Law

The Argentine constitution. Separation of powers. Federalism Hiperpresidencialism. Comparisons with other systems. 1994's amendment of the Argentine constitution. Continental and common law traditions.

LECTURER: LAURA SALDIVIA MENAJOVSKY

Module III: Judicial system

Judicial review, comparison between different models (judicial and political). The Argentine model. The role of the Argentine Supreme Court and judges in general in interpreting the Carta Magna.

LECTURER: LAURA SALDIVIA MENAJOVSKY

Module IV: Introduction to Civil Law

Argentine Civil Law: Principles and sources. Constitutionalization of Private Law. Bioethics in the Argentine Civil and Commercial Code and in Special Health regulations. Natural or "human" persons. Capacity and competence. Legal Persons. Civil and commercial obligations. Liability and Tort Law. Civil liability insurance. Essential aspects. Impact of technology on these categories: a legal perspective.

LECTURER: SANDRA WIERZBA.

Module V: Family Law and Inheritance

Marriage (includes property regimes), Cohabitation unions (civil union, registered partnership, unmarried couples), Divorce, Adoption, Children Act (N° 26.061), Principles of inheritance.

LECTURER: NATALIA TORRES SANTOMÉ

Module VI: General State of Contract Law in Argentina

Contracts, general rules of improvement, execution. Categories: general, adhesion and consumer. General characteristics of common contracts: trade, lease and deposit. Most

common contracts between companies: transportation, franchise, license and trust.

LECTURER: FULVIO SANTARELLI

Module VII: Civil Procedure

Sources of civil procedure law, including a brief historical perspective. General features of the administration of justice in civil matters. Characteristics of the procedure: role of the judge and of the parties. Fundamental guarantees. Judicial Organization. Claims and defenses. Sanctions on procedural irregularities. Evidence. Proceedings in first instance. Review proceedings.

LECTURER: EDUARDO OTEIZA

Module VIII: Companies Law & Insolvency in Argentina.

Companies General Law 19550. Unipersonal and Irregular Companies. Stock Companies. Foreign Companies. Joint Ventures and Associative Contracts. Bankruptcy and Insolvency in Argentina Law 24522. Preventive proceedings. Declaration of Bankruptcy. Foreign declaration of bankruptcy.

LECTURER: ROBERTO MUGUILLO

Module IX: Criminal Justice System

Criminal courts, police and prisons in Argentina. Criminal Law: homicide and femicide, property crimes, sex crimes, white-collar and corruption crimes. Criminal process: offenders and victims' rights. Prosecution. Plea bargains. Jury and professional judge trials. Punishment and sentencing.

LECTURER: DIEGO ZYSMAN-QUIRÓS

Module X: Human Rights in Argentina

From international law to the domestic legal system. Human right, politics and democracy. The protection of the most vulnerable. Human rights, memory and the past: the historical challenge of addressing grave violations. The interaction between governmental and non-governmental actors. Current dilemmas. An agenda for the future.

LECTURER: EMILIANO BUIS

VISITS

Only as example and subject to the availability of the respective institutions and/or agencies and/or references, the visits may be:

1. Executive Branch

- a. *Jefatura de Gabinete* or *Secretaría General*
- b. *Ministerio de Justicia.*
- c. *Agencia de Acceso a la información pública*
- d. *Jefatura de Gobierno de la Ciudad de Buenos Aires*
- e. *Ministerio de Justicia y Seguridad de la Ciudad de Buenos Aires*
- f. *Espacio Memoria y Derechos Humanos* (Ex ESMA)

2. Legislative Branch

- a. Senate
- b. Chamber of Deputies
- c. Legislative Palace
- d. Legislature of the City of Buenos Aires

3. Judiciary

- a. Supreme Court
- b. *Consejo de la Magistratura de la Nación*
- c. *Tribunal Superior de Justicia de la Ciudad de Buenos Aires*
- d. *Consejo de la Magistratura de la Ciudad de Buenos Aires*
- e. Federal and national courts
- f. Courts of the City of Buenos Aires
- g. *Ministerio Público*
- h. Governmental offices in charge of issues regarding gender-based violence.

4. Other

- a. Rectorship of the University of Buenos Aires
- b. *Auditoría General de la Nación* or *Auditoría General Buenos Aires*
- c. *Defensoría del Pueblo*
- d. *Penitenciaria*
- e. Meetings with civil society representatives
- f. *Procuración del Tesoro de la Nación*
- g. Trade Unions
- h. Journalists

EVALUATION

Attendance at seventy-five percent (75%) of classes.

Paper in English, referring to a module chosen by the student, according to instructions provided by the lecturer.

BIBLIOGRAPHY

The bibliography will be indicated by the lecturer in each case.

VIVIANA KLUGER holds a Ph.D in law from the University of Buenos Aires. She is a Tenured Lecturer at the University of Buenos Aires, Universidad de Ciencias Empresariales y Sociales and Universidad Abierta Interamericana (Argentina). Deputy Director at the *Instituto de Investigaciones de Historia del Derecho*, Argentina. Researcher at the University of Buenos Aires and *Instituto de Investigaciones de Historia del Derecho*. Her areas of work are legal history and international business law.

LAURA SALDIVIA MENAJOVSKY holds a doctorate and a master degree in law from Yale Law School. She is a constitutional law professor at University of Palermo and University of Buenos Aires. She is a former Human Rights Senior Legal Advisor at the National Secretariat of Human Rights, Argentina. Her fields of research include law and sexuality, laicism, globalization, equality and no discrimination.

SANDRA M. WIERZBA holds a PhD in Private Law from the University of Buenos

Aires. She is a researcher and lecturer of Civil and Commercial Obligations at the same university. Author and co-author of books & academic papers, mainly on Civil Liability, Health Law and Insurance Law.

NATALIA E. TORRES SANTOMÉ holds a doctorate degree in law and is specialized in private law. She is a university professor at the Universidad de Buenos Aires and Universidad de Ciencias Empresariales y Sociales, at post graduate and doctorate level. She is also a researcher at the Universidad de Buenos Aires. Her area of work is family law and inheritance.

FULVIO G. SANTARELLI holds a J.D from Austral University and is professor of “Law of Civil and Commercial Obligations” and “Consumer Law” at the University of Buenos Aires) and in various postgraduate courses.

EDUARDO OTEIZA is a Tenured Lecturer and Director of the Master in Civil Procedure at the University of La Plata, President of the Instituto Iberoamericano de Derecho Procesal and Deputy Chair of the *Asociación Internacional de Derecho Procesal*. Jean Monnet Fellow in the Instituto Universitario Europeo and former scholar of the CONICET and Bologna University, among others.

ROBERTO ALFREDO MUGUILLO, is a Juris Doctor in Commercial Law at the University of Buenos Aires, where he is also Tenured Lecturer of Commercial and Corporate Law. He is a Research Associate at C.E.A.L. (Center for Economic Analysis of the Law, USA) and international lecturer in Guatemala, Honduras, Costa Rica, Bolivia, Brasil, Mexico and USA.

DIEGO ZYSNAN-QUIRÓS is Associate Professor of Criminal Law and Criminology, Faculty of Law, University of Buenos Aires, Argentina, where he teaches criminology and sociology of punishment in Masters and Ph.D. courses. He is also Adjunct Professor of Queensland University of Technology (QUT, Australia). He has a Master's and Ph.D. from Universidad de Barcelona, Spain, and is currently a criminal law attorney. He has served as a Judge and High Law Clerk of Criminal Court in Penal Economic Matters, Buenos Aires. He has authored two books and numerous chapters

and journal articles.

EMILIANO J. BUIS is a tenured Professor of Public International Law and International Humanitarian Law at the University of Buenos Aires (UBA) Law School, where he is the Deputy Director of its LLM Program in International Relations. He also teaches International Law at the Universidad de San Andrés and at the Central University of the Province of Buenos Aires in Azul, where he co-directs the Center for Human Rights. A Permanent Researcher at the National Council for Science and Technology (CONICET), he chairs both the Seminar on Theory and History of International Law (at the Ambrosio L. Gioja Research Institute) and the UBA Observatory of International Humanitarian Law.