

Family Law (B001321)

Due to Covid 19, the education and evaluation methods may vary from the information displayed in the schedules and course details. Any changes will be communicated on Ufora.

Course size *(nominal values; actual values may depend on programme)*

Credits 6.0 **Study time** 180 h **Contact hrs** 60.0 h

Course offerings and teaching methods in academic year 2020-2021

A (semester 1)	Dutch	Gent	lecture	52.5 h
			lecture: plenary exercises	7.5 h
			online lecture	0.0 h

Lecturers in academic year 2020-2021

Verschelden, Gerd RE21 lecturer-in-charge

Offered in the following programmes in 2020-2021

	crdts	offering
Bachelor of Arts in Moral Sciences	6	A
Bachelor of Arts in History	6	A
Bachelor of Arts in Philosophy	6	A
Bachelor of Laws in Laws	6	A
Linking Course Master of Laws in Laws	6	A
Preparatory Course Master of Laws in Laws	6	A

Teaching languages

Dutch

Keywords

Affiliation – Name – Intestate Succession – Maintenance – Adoption – Minors, Parental Authority and Parental Responsibilities – Visitation / Access Rights – Guardianship – Incapable adults

Marriage – Rights and obligations of spouses – Legal matrimonial property regime – Divorce – Liquidation / Partition of matrimonial property – Legal and factual cohabitation

Position of the course

This course is an introduction to the Law of Persons and Families *sensu lato*: not only the law of persons as well as family law is addressed, but also an important part of patrimonial family law, in particular the legal matrimonial property regime (prenuptial agreements excluded) and the intestate succession (donations and wills excluded). The course is a logical sequel to Basic Concepts of Law and the Law of Obligations and Contracts (1st Bachelor), as well as to Property Law (2nd Bachelor). In the 3rd Bachelor, there is meaningful connection with Company Law, which can influence the patrimonial regime of spouses, and evidently with (civil) Procedure. The Law of Persons and Families is the necessary precursor of Estate Planning (1st Master).

Contents

Part I. Vertical relations
 Title I. Affiliation (including intestate succession)
 Title II. Adoption
 Title III. Legal protection of minors
 Title IV. Legal protection of adults

Part II. Horizontal relations
 Title I. Marriage (including the rights and obligations of spouses and the legal

matrimonial property regime as consequences)

Title II. Divorce and legal separation

Title III. Legal cohabitation

Title IV. Factual cohabitation

Subject matters:

- Law of persons and families, namely articles 143 to 515 (Titles V to XI of Book I) and articles 1475 to 1479 (Title *Vbis* of Book III) of the Civil Code. Articles 1 to 142 of the Civil Code (Titles I to IV/1 of Book I) will not be treated systematically;
- Matrimonial property law, namely articles 1398 to 1450 and 1466 to 1474 (from Title V of Book III) of the Civil Code. Articles 1387-1397 and 1451-1465 concerning prenuptial agreements will be addressed in Estate Planning (1st Master);
- Inheritance Law, namely articles 718-892/8 (Title I of Book III) of the Civil Code. Articles 893-1100 (Title II of Book III) concerning donations and wills will be addressed in Estate Planning (1st Master).

Initial competences

Notions of the basic principles of substantive Private Law as well as Civil Procedure are necessary.

Final competences

- 1 A fair basic knowledge in the current Law of Persons and Family Law
- 2 Insight in the historical evolution of the Law of Persons and Family Law and the influence of ethical, political, sociological and economic circumstances on the Law of Persons and Family Law
- 3 Acquaintance with the Civil and Judicial Code, as well as with international treaties as to apply the regulations effectively to actual problems of the Law of Persons and Family Law
- 4 The ability to apply affiliation law in a specific case, in function of litigation about establishment or contestation of paternity
- 5 The ability to apply succession law in specific cases of intestate succession
- 6 The ability to divide the (community in) matrimonial property in a case where the spouses never signed a prenuptial agreement
- 7 The ability to reflect critically upon discriminations and voids in the current Law of Persons and Family Law
- 8 Being open to and trying to find possibilities to renew regulations and make amendments in the Law of Persons and Family Law, with special attention to gender-related issues and the diversity in family relations

Conditions for credit contract

Access to this course unit via a credit contract is unrestricted: the student takes into consideration the conditions mentioned in 'Starting Competences'

Conditions for exam contract

Access to this course unit via an exam contract is unrestricted

Teaching methods

Lecture, lecture: plenary exercises, online lecture

Extra information on the teaching methods

During lectures, the Law of Persons and Family Law is approached systematically and synthesized. The subject matter is illustrated through the analysis of jurisprudence. Theory and practice of the sections evaluated by cases, will be integrated in three case-related lectures.

Learning materials and price

Compulsory:

- G. Verschelden, *Handboek Belgisch Personen-, familie- en relatievermogensrecht in Gandaius*, Brugge, die Keure, 2020, +/-1000 pages. (softcover edition released by VRG at the student's rate of +/- 50 euro; current rate for hardcover edition in bookstore: +/- 135 euro).
- a recent edition of the Civil Code and the Procedural Code. Free choice of edition, as far as the code isn't annotated.

References

- Barbaix, R. *Handboek familiaal vermogensrecht*, Antwerpen-Cambridge, Intersentia, 2018, 1026 p.

- Barbaix, R., *Familiaal vermogensrecht in essentie*, Antwerpen-Cambridge, Intersentia, 2018, 422 p.
- Declerck, C. en Pintens, W., *Schets van het familiaal vermogensrecht*, Brugge, die Keure, 2019, 530 p.
- De Page, H. en Van Gysel, A.-Ch., *Traité élémentaire de droit civil belge*, I, *Les personnes*, Brussel, Bruylant, 2015, 2 vol., 1641 p.
- Leleu, Y.-H., *Droit des personnes et des familles*, Brussel, Larcier, 2020, 888 p.
- Leleu, Y.-H., *Droit patrimonial des couples*, Brussel, Larcier, 2014, 580 p.
- Pintens, W. en Declerck, C. (eds.), *Patrimonium 2019*, Brugge, die Keure, 2019, 398 p.
- Senaevae, P. en Declerck, C., *Compendium van het personen- en familierecht*, Leuven/Den Haag, Acco, 2020, 728 p.
- Senaevae, P., Swennen, F. en Verschelden, G. (red.), *Personen- en familierecht. Artikelsgewijze commentaar met overzicht van rechtspraak en rechtsleer*, Mechelen, Wolters Kluwer, permanent geactualiseerd, losbladig.
- Swennen, F., *Het Personen- en Familierecht. Een Benadering in Context*, Antwerpen-Cambridge, Intersentia, 2019, 585 p.
- Van Gysel, A.-Ch., *La famille*, Luik, Anthemis, 2018, 348 p.
- Van Gysel, A.-Ch. en Sauvage, J., *Le couple*, Luik, Anthemis, 2018, 420 p.

Course content-related study coaching

Before every lecture, students will be able to download the presented slides (MS PowerPoint) through Minerva.

For additional information students can contact the lecturer (before or after class) or his teaching assistants (at least 2 contact hours /week), during their office hours. Questions requiring an extensive answer will only be answered in person, i.e. not by e-mail.

Evaluation methods

end-of-term evaluation

Examination methods in case of periodic evaluation during the first examination period

Written examination with open questions

Examination methods in case of periodic evaluation during the second examination period

Written examination with open questions

Examination methods in case of permanent evaluation

Possibilities of retake in case of permanent evaluation

not applicable

Extra information on the examination methods

The assessment exists of two casuistic exercises, particularly on

- a) the establishment and/or contestation of paternity, and
- b) the intestate succession combined with the technique to divide (the community in) a legal matrimonial property regime.

Next there are several open questions, both theoretical and practical, evaluating the student's ability to work swiftly and accurately with the Civil and Judicial Code.

Calculation of the examination mark

- End-of-term evaluation: 100%
- Two cases: 40%
- Open questions: 60%

Facilities for Working Students

All lectures will be recorded.