COURSE DATA

Data Subject	
Code	35219
Name	Mercantile law I
Cycle	Grade
ECTS Credits	9.0
Academic year	2019 - 2020

Study (s)

Degree	Center	Acad. year	Period
1303 - Degree in Law	Faculty of Law	2	Annual
1921 - D.D. in Business Management Administration-Law	Doubles Studies Faculty of Law - Faculty of Economics	2	Annual
1922 - D.D. in Law-Political and Public Administration Sciences	Faculty of Law	3	Annual
1923 - D.D. in Law-Criminology	Faculty of Law	2	Annual

Subject-matter

Degree	Subject-matter	Character
1303 - Degree in Law	16 - Commercial law	Obligatory
1921 - D.D. in Business Management Administration-Law	3 - Year 2 compulsory subjects	Obligatory
1922 - D.D. in Law-Political and Public Administration Sciences	4 - Year 3 compulsory subjects	Obligatory
1923 - D.D. in Law-Criminology	3 - Year 2 compulsory subjects	Obligatory

Coordination

Name	Department
MARTI LACALLE, M.ROCIO LAURA	70 - Mercantile Law 'Manuel Broseta Pont'

SUMMARY

1) The subject within the context of the general study plan, associated subjects, continuity with other subjects.

1. Commercial Law I is a core subject studied over the course of one academic year that is taken during the second year of the Degree in Law. It consists of 9 ECTS credits (225 hours).
2. The two core subjects Commercial Law I (taken in the 2nd year) and Commercial Law II (taken in the 3rd year) provide the student with a **general introduction to the function, concept and regulation of Commercial institutions.**
3. In accordance with the description given in the Study Guide of the Degree in Law taught at the University of Valencia, the subject Commercial Law I is comprised of the following topics:

"The study of companies. The autonomous business-person. Company Law. Competition Law. Industrial Property. Bankruptcy Law."

The subject Commercial Law II, in accordance with the description provided by the Study Guide of the Degree in Law taught at the University of Valencia, covers the following topics:

"Securities, The Bill of Exchange, The Cheque, The IOU. Commercial Contracts (both standard and non-standard contracts).

The topics covered in the two core subjects of the General Study Plan are complemented by three optional subjects in Commercial Law:

1. Banking, The Stock Exchange and Insurance Contracts
2. Competition Law
3. Transportation Law

2) A brief description of the subject, its content and its possible applications.

Commercial Law (Commercial Law I and II) is structured, broadly speaking, around three essential blocks or elements: business-people, the company, and the economic activity carried out by business-people via companies.

The subject **Commercial Law I** is divided into four parts and an introduction. The **introduction to Commercial Law** consists of (a) a brief history of the subject and an explanation of its relationship to other parts of the legal system (b) an examination of the constitutional framework surrounding Commercial Law in which students examine the freedom to conduct commercial activities as a right held by citizens, and the role of the intervention of public entities in the market in the context of a social economy (c) the study of the sources of Commercial Law.

The first part of the course studies the concept of business-people and businesses, and the various types of businesses that the law provides for. Particular attention is paid to commercial representation (factors, managers, agents, etc.), accounting obligations and the Commercial Registry.

The second part analyses the commercial activity of business-people through the medium of the company. This section of the course explores the legal and economic framework in which business-people and companies carry out the activity of producing, providing and distributing goods and services, and examines their economic constitution (in the treatises of the European Union, the Spanish Constitution and the Statutes of the Autonomous Communities), the configuration of a social-market economy, and Competition Law (anti-trust law and the legislation prohibiting acts of unfair competition).

This part of the course considers the legal institutions that permit companies to establish their corporate identity (trade names) and the identity of the products and services they produce or provide (trademarks and denominations of origin). It also looks at the institutions designed to protect industrial inventions and creative work (patents, utility models, industrial designs etc.).

The third part of Commercial Law I concentrates on Company Law, and in particular the legal form that companies generally assume (such as the public limited company and the company with limited responsibility), as well as other forms that they can adopt such as cooperatives and public companies.

The fourth and final part of Mercantil I examines the legal solutions to the economic crises that companies frequently face, and gives special attention to bankruptcy proceedings.

PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

Other requirements

The Study Plan for the Degree in Law does not establish any requirements in order to take Commercial Law I, however, its study should follow on from the courses on The General Theory of Law, Constitutional Law, The Institutions of the European Union, and the essential elements of Civil Law. It is also advisable that students taking this course are familiar with the General Theory of Legal Obligations and Contracts and the General Part of Administrative Law.

OUTCOMES

1303 - Degree in Law

- Know the content and application of each of the branches of the legal system.
- Understand the legal system as unitary and have an interdisciplinary perspective of legal problems.
- Be able to apply constitutional principles and values, the respect for human rights, with special attention to equality between men and women, sustainability and the culture of peace as working tools in the interpretation of the legal system.

- Be able to use legal sources (legal, jurisprudential and doctrinal).
- Be able to read and interpret legal texts.
- Be able to communicate correctly both orally and in writing in the field of law.
- Be able to analyse legal problems and synthesise their approach and resolution.
- Develop critical awareness for the analysis of the legal system and develop the legal dialectic.
- Be able to use information and communication technology to obtain and select legal information.
- Have negotiation and conciliation skills.
- Be able to create and structure regulations.

LEARNING OUTCOMES

The subject Commercial Law I has been designed so that students **achieve the following educational goals:**

- To know and use correctly the terminology employed in Commercial Law I
- To understand and use correctly the basic concepts of the topics that comprise Commercial Law I
- To understand the historical evolution of Commercial Law
- To know and to be able to apply the system of legal sources of Commercial Law
- To understand the basic aspects of the economic framework outlined in the Constitution
- To understand the basic aspects of the legal statute of the business person
- To understand the basic aspects of Competition Law (both the protection of Competition in the market and the legislation prohibiting acts of unfair competition) and Industrial Property Law
- To understand and be able to apply the law relating to partnership contracts, particularly in relation to limited companies
- Know the basic aspects of bankruptcy/insolvency law

DESCRIPTION OF CONTENTS

1. THE HISTORY OF COMMERCIAL LAW. CONCEPT, SOURCES AND CONSTITUTIONAL FRAMEWORK

1. - The history of Commercial Law. Concept and the content of the discipline in the present day
2. - The place of Commercial Law in the Constitution. The European Union.
3.- The sources of Commercial Law
4.- Specialized jurisdiction. Commercial Law Courts.

2. THE BUSINESS PERSON AND THE COMPANY. THE LEGAL REGULATION OF THE COMMERCIAL BUSINESS PERSON

1. - Concept and types of business person. Their essential characteristics. The concept of the business person (as a physical individual rather than a legal person) in the Code of Commerce. A critical evaluation.
2.- The concept of a business and legal aspects of its organization
3. - The legal regime governing the commercial business person. Collaborators dependent on and independent of the business person.
4.- Accounting rules
5.- The Commercial Register

3. COMPETITION LAW

1.- The conceptual framework of Competition Law
2.- Legal systems for the protection of competition. Competition rules in the European Union.
3.- Spanish Anti-trust Law
4.- Unfair Competition Law
5.- Rules on advertising

4. INDUSTRIAL PROPERTY RIGHTS

1. - Legal sources and protection systems for industrial property rights.
International and E.U. protection.
2. - Protection of inventions. Patents and utility models.
3. - Protection of industrial design.
4. - Protection of business secrets and know how.
5. - Distinctive signs. Functions and types.
6. - Trademarks.
7. - Trade names.
8. - Actions and procedural rules for the defence of distinctive signs.
9. - Geographical indications of origin and Domain names on the Internet.

5. COMPANY LAW. TRADING COMPANIES. GENERAL THEORY. PARTNERSHIPS.

1. - Company Law. Concept, fundament and ambit of application.
2.- The legal concept of a company. Elements of the company contract. Typology.
3. - The company and related figures: the community of assets and joint venture partnerships.
4.- Partnerships regulated by the civil code and commercial companies
5.- The requisites for the constitution of commercial companies
6. - The legal personality of companies. Definitions and limits.
7.- General partnerships and limited partnerships

6. CORPORATE ENTERPRISES (I). CONCEPT. CONSTITUTION. CAPITAL, PATRIMONY AND CONTRIBUTIONS.

1. - Concept, principles and characteristics of publicly subscribed joint stock companies and limited liability companies. Their historical evolution. The principles of the limited responsibility of the partners and the division of capital into stakes or shares and their transferability.
2. - Legal typology and the current reality of publicly subscribed joint stock companies and limited liability companies.
3. - The constitution or foundation of publicly subscribed joint stock companies and limited liability companies. Procedures. Deed of incorporation, the articles of association. The registered name, registered office and nationality.
4. - The nullity of publicly subscribed joint stock companies and limited liability companies.
5. - The legal status of companies in the process of formation and companies in irregular situations.
6. - The capital of the company and its patrimony. The concept and functions of the capital of the company. The distinction between patrimony, funds and company capital. The governing principles of company capital. Reserves
7. - Capital contributions in publicly subscribed joint stock companies and limited liability companies. Ancillary commitments.

7. CORPORATE ENTERPRISES (II). SHARES AND STAKES. THE RIGHTS OF THE STAKEHOLDERS.

1. - The share as part of the capital of the company: the nominal value, the book value, the market value and the issue value.
2. Types of share. Shares and Stakes considered as a collection of rights.
3. - Proof of share ownership: share certificates and proof by book entries.
4. - The transmission of shares. Restrictions placed on the free transfer of shares.
5. - Stakes: legal configuration.
6.- The transmission of stakes
7. - Legal provisions on transactions involving the companys own stakes or shares. The treasury share.
8. - Co-ownership and ad-rem rights on stakes and shares.

8. CORPORATE ENTERPRISES (III). THE GOVERNING BODIES OF PUBLICLY SUBSCRIBED JOINT STOCK COMPANIES AND LIMITED LIABILITY COMPANIES AND THE ANNUAL GENERAL MEETING.

1. - The concept of the governing body and the system of governing bodies in corporate enterprises.
2. The concept, classes and powers vested in General Meetings.
3. - The legal requirements of the notice of the General Meeting, its constitution and celebration.
4. - The minutes of the General Meeting. Content, modes of approval and classes.
5. - Notarised minutes.
6 - Challenging the decisions of the General Meeting.
7. - Submitting disagreements or legal conflicts between the partners to arbitration.
8. - The concept and competencies of the administrative body.
9. - The structure of the administrative body.

10.- The ambit of representation of the administrative body
11.- The appointment and cessation of the directors
12.- The remuneration of directors
13.- The duties of the directors
14. - The liabilities of the directors. Corporate action to demand liability and individual action for liability.
15. - The legal framework within which the Board of Directors operates. The delegation of powers by the board of directors: executive committees and managing directors.

9. CORPORATE ENTERPRISES (IV). ANNUAL FINANCIAL STATEMENTS. THE MODIFICATION OF THE ARTICLES OF ASSOCIATION. STRUCTURAL MODIFICATIONS. DISSOLUTION, LIQUIDATION AND EXTINCTION.

1.- Annual financial statements
2.- The modification of the articles of association
3. - Partner or shareholder exit and exclusion.
4.- The transfer of the place of domicile
5. The transformation of trading companies
6.- The merger of trading companies
7. The division of trading companies
8. The global assignment of assets and liabilities
9. The dissolution, liquidation and termination of trading companies

10. SPECIAL TYPES OF TRADING COMPANIES

1. - Special types of limited companies. Public limited companies, The European limited liability company and the Public Limited Sports Company.
2. Special types of limited responsibility companies. New Business Limited Companies.
3. - Professional Partnerships.
4. Worker owned companies
5. - Mutual Societies. Cooperatives. Mutual guarantee societies.
6.- Temporary joint ventures, economic interest groupings and groups of companies.

11. BANKRUPTCY/INSOLVENCY LAW (I)

1. - Introduction: historical background and the significance of insolvency law. Principles and general characteristics.
2.- Refinance agreements and out of court agreements to make payment
3. - The objective and subjective premises necessary for insolvency proceedings.
4. - The petition for insolvency proceedings. Voluntary and Compulsory insolvency. The declaration of the opening of insolvency proceedings.
5. - The administration of the insolvency. The administrators report.
6.- The effects of the declaration of insolvency:
A) The effects on the debtor
B) The effects on the creditor.
C) The effects on contracts

12. INSOLVENCY/BANKRUPTCY LAW (II)

1. The estate. The determination of the insolvent debtors assets and liabilities. Reintegration actions.
2. The aggregate liabilities. Determination. Recognition and classification of claims.
3. The composition. Proposals and adhesions by creditors. The Creditors Meeting. Judicial approval of the composition and its effectiveness.
4. - The winding up phase (liquidation). Winding up operations and the payment of creditors.
5. - The classification of the insolvency.
6. - Procedural regulations. Insolvency procedural pleas and the regulation of appeals.
7. European Union and International Private Law on Insolvency.

WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	90,00	100
Attendance at events and external activities	10,00	0
Development of individual work	34,00	0
Study and independent work	91,00	0
TOTAL	**225,00**	

TEACHING METHODOLOGY

The teaching methodology is adapted to the assessment criteria detailed in the annex attached to this study guide. It takes into account the options permitted by the general regulations and which are contained in paragraph 9 (for example, the programming of one or two complementary activities, or choosing to assess certain group or guided activities). However, in general, the methodology followed will share these basic characteristics:

1. The exposition of content. The classes will seek to encourage the active participation of the students in their own learning. The sessions will involve the discussion of hypothetical cases and problems, and the explanation of terms and concepts. They will rely to a large extent on the student having read and prepared the material contained in the set texts. The classes aim to be a series of informed dialogues, without prejudice to the faculty of the lecturer to provide detailed explanations on certain questions which may pose questions of particular complexity.

2. Practical and/or guided activities. Throughout the course the lecturer will introduce a number of activities that will consist of solving practical cases or problems, analysing and commenting on judicial judgements etc. These activities will be directly related to the material studied in class and the skills that the students are expected to acquire. They will serve to complement the explanations provided by the course lecturers and may require the student to work outside the lecture hall. These activities will obviously require the participation of the students and the lecturer will indicate which will be subject to evaluation. The lectuer may also programme, within the limits of the workload expected of the students, other activities that may serve to reinforce or revise course material

3. Complementary activities. At least one complementary activity, to be chosen by the course lecturer or proposed by the students, shall be included as part of the activities that require the compulsory attendance of the students. These may include attendance at conferences, seminars, or visits to institutions relevant to the course content.

EVALUATION

Final qualification is calculated by adding two different blocks/parts: on the one hand, the ongoing assessment and taking part in the planned activities (30% of the final grade) and, on the other hand, the final theory-practice test which represents 70% of the final grade.

Students have to pass the final test to pass the course. In the event of failing the test, the final grade in the record shall be determined through the weighted addition of ongoing assessment and the mark in the theory-practice test, which will in no way be higher that 4,5 (fail).

Final evaluation might take oral or written form depending on the lecturer's choice, and it has to be indicated in the annex to the syllabus.

a) If the final test is a written exam, it will be a joint examination that shall be common to all groups. Students will be allowed to use legal texts. Answering space won't be limited and it shall not be a multiple-choice (quiz) test. However, time will be limited.

b) In the case of oral evaluation, the lecturer has to indicate in the annex whether students may use legal documents for taking the exam. The lecturer will announce with at least 5 working days, though Aula Virtual, data concerning location of the exam, time, date and its maximum duration for each student and the order in which the exam will take place.

Regardless of the exam type (oral or written), it will be on the lecturer to include in the annex the possibility to change the exam type when a different day has to be appointed to solve an exams' overlapping situation in conformity with the Reglamento de evaluación y calificación de la Universitat de València.

The grade for the first sitting is formed by the result of the final test grade and the ongoing evaluation in the percentages stated above. As for the second sitting, ongoing evaluation block will be the one obtained during the year.

On-going evaluation activities (guided activities and complementary activities) can't be replicated for the second sitting whenever their nature makes it impossible to repeat a similar test that evaluates the training of the student. The lecturer will specify the latter in the annex, where complementary activities and guided activities that will take place during the course have to be detailed, too.

Despite having, fully or partially, participated in the on-going assessment, if the student does not show during the final test, the grade in the record will be NOT SAT. However, as an exception, if the student asks for it, and taking into consideration special circumstances, "FAIL" might be the grade in the record, considering only the weighed on-going assessment evaluation.

Activities that may be scored: final grade will be formed by the addition of the two following elements:

1. Final theory and practice test with legal materials support: 70% of the final grade.

2. Activities that may be scored (taking place during the lectures or outside that timeframe): 30% of the final grade.

Each lecturer has to define the activities corresponding to 30% of the final grade in the annex to the syllabus. There might be both guided activities and complementary activities. At least one activity has to be planned along the year. In any case, activities shall amount to 8 hours during the course.

2.1.- Guided activities: between 10-20% on the lecturer's discretion.

2.2.- Complementary activities: between 10 – 20% depending on the lecturer's discretion. These activities may consist of:

- Activities organised by the Department of Commercial Law for all groups.

- Activities arranged by a specific group lecturer or various course lecturers for their respective groups.

- Students may carry out complementary activities of their choice providing that these have been authorized by their group lecturer.

- Complementary activities may consist of participation in workshops, conferences, seminars, etc.

REFERENCES

Basic

- Cualquiera de los textos siguientes relacionados por orden alfabético es suficiente para atender al programa. Su consulta, coordinada con los materiales que pueda indicar o suministrar el profesor de cada Grupo, constituyen el conjunto recomendado. La referencia debe entenderse hecha a las últimas ediciones publicadas de cada una de las obras.
  BROSETA PONT, M., Manual de Derecho Mercantil (Edición revisada por Fernando Martínez Sanz), Editorial Tecnos, tomos I y II.
  EMBID IRUJO,J.M., (Dir.), Introducción al Derecho de Sociedades de capital. Editorial Marcial Pons.
  GALLEGO, E., Derecho Mercantil, Tirant lo Blanch.
  JIMÉNEZ SÁNCHEZ, G.J. (coord.), Derecho Mercantil. Editorial Marcial Pons, vol. 1, 2, 3 y 10.
  MENENDEZ, A. y otros: Lecciones de Derecho Mercantil, Editorial Thomson-Civitas, tomos I y II.
  SÁNCHEZ CALERO, F. y SANCHEZ CALERO GUILARTE, J., Instituciones de Derecho Mercantil. Editorial Thomson-Aranzadi, tomos I y II.
  VICENT CHULIA, F., Introducción al Derecho Mercantil, Editorial Tirant lo Blanch, tomos I y II.

  Son imprescindibles los textos legales correspondientes a las materias comprendidas en el programa.

ADDENDUM COVID-19

This addendum will only be activated if the health situation requires so and with the prior agreement of the Governing Council

1. Continguts / Contenidos

Se mantienen los contenidos inicialmente recogidos en la Guía Docente.

2. Volum de treball i planificació temporal de la docència

2. Volumen de trabajo y planificación temporal de la docencia

Mantenimiento del peso de las distintas actividades que suman las horas de dedicación en créditos ECTS marcadas en la guía docente original.

Respecto a la planificación temporal de la docencia, se mantienen las sesiones en los días y horas programados a través de la herramienta de videoconferencias: Blackboard Collaborate, habilitada al efecto en el aula virtual.

Se suben materiales (documentos elaborados por el profesor, presentaciones de power point) y prácticas al Aula virtual (tasques) en el horario de las clases.

Se mantiene la distribución de la calificación entre el examen y la evaluación continua: el 70% de la calificación se corresponde con la nota del examen final oral. De acuerdo con la Guía docente y su anexo, el 30% de la calificación se asigna a la evaluación continua y se reparte entre las actividades dirigidas y las actividades complementarias.

-Las actividades dirigidas se mantienen sin modificación, en los horarios de clase, pero su entrega se realiza a través del Aula Virtual.

En cuanto a las actividades complementarias, aquellos grupos que no han podido realizar la sesión relativa al Registro Mercantil, por ser presencial, han sustituido dicha actividad por otra diferente en cada caso.

3. Metodología docente

3. Metodología docente

-La docencia presencial es sustituida en horario de clases por Videoconferencia BBC. Los alumnos pueden realizar los oportunos comentarios y plantear sus dudas.

-En algunos casos, durante las dos primeras semanas de docencia no presencial, la actividad docente ha sido sustituida por actividad de aprendizaje autónomo de los estudiantes, usando las fuentes bibliográficas previstas en la guía docente y facilitándoles un tutorial para poder acceder electrónicamente a los manuales de la asignatura.

-También, se suben al Aula Virtual materiales elaborados por el profesor y presentaciones power point para preparar los temas pendientes.

• Propuesta de casos prácticos y sus soluciones correspondientes una semana después, cuando ya ha vencido el plazo para subirlos al Aula virtual (Tareas). Puesta en común por parte de algunos profesores, a través de videoconferencia, como una clase más del curso, y en otros casos, resolución de dudas a través del correo institucional o mediante el foro del aula virtual habilitado al efecto.

• Tutorías:

• Tutorías mediante videoconferencia

• Se ha habilitado foro de dudas y aportaciones para fomentar la participación activa del alumno

• A ello se une la comunicación con los alumnos mediante el correo institucional de la Universidad y por el Aula Virtual, mediante la herramienta de tutoría electrónicas, para cualquier consulta y para el envío de las prácticas.

4. Avaluació

4. Evaluación

La calificación final se obtendrá del sumatorio de los dos bloques: evaluación continua (30% de la calificación), y examen final (70%).Se elimina la exigencia del aprobado en la prueba objetiva para poder hacer media con la evaluación continua. Se podrá ponderar a partir de un 4 en el examen. Se hará media del examen con la nota de la evaluación continua a partir de 2,8/7 puntos (4/10 puntos).

Evaluación continua:

-Los anexos de cada profesor/a reflejan cómo ha concretado la evaluación continua desde el inicio de las clases no presenciales hasta el final de curso. -La actividad de evaluación continua desarrollada durante el período presencial del curso solo será recuperable si en el anexo el profesor lo había previsto. En caso contrario, dichas actividades no son recuperables.

Se mantienen los modelos de examen habituales, tanto oral como escrito. (Los profesores mantendrán el modelo de examen que escogieron en su anexo y que ha guiado su docencia, salvo casos excepcionales)

Examen ESCRITO teórico –práctico en el que se permite la utilización de textos legales. Se realizará a través del Aula Virtual (Tareas) con tiempo limitado para cada pregunta.

Examen ORAL

Examen oral por videoconferencia, a través de la plataforma BBC, que será grabado.

En cada grupo se mantiene los criterios indicados por los profesores en el Anexo a la Guía Docente.

5. Bibliografia

5. Bibliografía

-La bibliografía se encuentra a disposición de los alumnos en el Anexo a la guía docente desde el principio de curso. Se les ha recomendado desde el comienzo de las clases, su consulta, remitiéndolos a la biblioteca y, tras el cierre de las instalaciones, a los servidores online de la propia biblioteca y de Tirant.

- Los materiales docentes subidos al Aula Virtual (APUNTES GUIADOS), así como otros recursos de información accesibles gratuitamente en diferentes repositorios y bases de datos online, con atención especial a los facilitados por el servicio de bibliotecas de la Universitat de València.

En caso de no disponer todavía de un ejemplar físico, el siguiente manual de referencia está disponible en versión electrónica en la plataforma Aranzadi Proview:

MENÉNDEZ MENÉNDEZ, A./ ROJO FERNÁNDEZ-RÍO, A. (Dirs.), Lecciones de Derecho Mercantil, 17ª ed., vol. II, Cizur Menor, Aranzadi, 2019.

El manual es accesible de la forma siguiente. En primer lugar, debe conectarse el dispositivo electrónico a la red privada virtual de la Universitat (vpn). Seguidamente, debe buscarse el título del manual (Lecciones de Derecho mercantil) en el catálogo trobes (www.trobes.uv.es). Haciendo clic en el resultado que contenga la mención [Versió electrònica], será necesario seguir pinchando en el enlace hasta llegar a la plataforma Proview.