

COURSE SYLLABUS

1. COURSE DESCRIPTION

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| Degree: | Law and Business Administration |
| Double Degree | |
| Course: | Insolvency Law |
| Module: | 4. Law Institutions II |
| Department: | Private Law |
| Academic year: | 2016/2017 |
| Term: | First Term |
| Total credits: | 3 |
| Year: | 4º |
| Type of course: | Basic |
| Course Language: | English |

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| Teaching Model: | AI | |
| a. General/background: | | 70% |
| b. Theory-into-practice/developmental knowledge-building: | | 30% |
| c. Guided Academic Activities: | | |

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2. COURSE COORDINATOR

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| Course coordinator: | |
| Name: | Manuel Dorado Muñoz |
| Faculty: | Faculty of Law – <i>Facultad de Derecho</i> |
| Department: | Private Law – Derecho Privado |
| Área of knowledge: | Insolvency Law |
| Category: | |
| Office hours: | |
| Office number: | |
| E-mail: | |
| Telephone number: | |

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3. ACADEMIC CONTEXT

3.1. Course Descriptions.

Achieve a sufficient Knowledge about Insolvency Law, and the ability to apply it in practical way.

Acquire and learn to use legal terminology in oral and written form.

Learn to identify, locate and use the own legislation.

3.2. Contribution to the Training Plan.

This is a compulsory subject within the first term of the third year of the degree. His compulsory character is justified by its complexity and relevancy in traffic; consequently it is advisable to teaching, monographically, in a independent subject.

3.3. Recommendations or Prerequisites.

It is advisable to have studied in advance the subject of Commercial Law I and II, second year, and as well as the subject of Civil Law, in particular matters relating to property law. Also, it is recommends to study the elective courses relating to Commercial Law.

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4. SKILLS

4.1 Degree Skills Developed during this Course.

- Capacity for analysis and synthesis
- Possession of specific knowledge and understanding.
- Ability to manage information.
- Ability to resolving problems.
- Become aware of the importance of law as a regulatory system of social relationships.
- Acquire legal basic terminology.
- Apply information technology and communication in obtaining legal information and data communication.

4.2. Module Skills Developed during this Course.

- Capacity for analysis and synthesis.
- Ability to manage information.
- Know the unitary character of the legal system and the necessary vision interdisciplinary legal problems.
- Acquire legal basic terminology.
- Apply information technology and communication in obtaining legal information and data communication.
- Practice oral and written expression.

4.3. Course-specific Skills.

- Academic skills (know): Understand and know the main institutions in legal commercial law.
- Disciplinary skills (do): Acquire own legal terminology.
- Apply ICT.
- Professional skills (know-how): Acquire the ability to manage the own legal source.
- Development of legal oratory.
- Acquire the ability to read, interpret and write documents, and written legal and commercial texts.
- Acquire the ability to resolve legal and commercial disputes.
- Acquire the ability to apply knowledge to practical situations.

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5. COURSE CONTENT (COURSE TOPICS)

UNIT 1. INTRODUCTION TO INSOLVENCY LAW

- 1.1. Bases of Insolvency Law.
- 1.2. Preexisting Insolvency Law.
- 1.3. Current regulation of Insolvency Law.

UNIT 2. THE ASSUMPTION OF INSOLVENCY PROCEEDINGS

- 2.1. Subjective assumption.
- 2.2. Objective assumption.
- 2.3. Formal assumption.

UNIT 3. ENTITIES OF INSOLVENCY PROCEEDINGS.

- 3.1. The judge.
 - 3.1.1. Introduction.
 - 3.1.2. Territorial jurisdiction.
 - 3.1.3. Objective jurisdiction.
- 3.2. Insolvency administrator.
 - 3.2.1. Introduction
 - 3.2.2. Structure
 - 3.2.3. Obligations (Memorandum of Insolvency administrator art. 75 LC).
 - 3.2.4. Faculty, appointment, acceptance, remuneration and dismissal.
 - 3.2.5. Liability.
- 3.3. Creditor committee
 - 3.3.1. Nature and functions.
 - 3.3.2. Meeting
 - 3.3.3. Announcement.
- 3.4. Prosecuting Authority.

UNIT 4. EFFECTS OF INSOLVENCY PROCEEDINGS.

- 4.1. Effects on the debtor.
 - 4.1.1. Effects on powers of management and disposal estate.
 - 4.1.2. Effects on own fundamental rights.
- 4.2. Effects on creditors.
 - 4.2.1. Individual action.
 - 4.2.2. Executions.
 - 4.2.3. Creditor with real guarantee.

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4.3. Effects on credits.

4.3.1. Prohibition of setting.

4.3.2. Prohibition of accrual of interest.

4.3.3. Interruption of the limitation.

4.3.4. Counting of credits.

4.4. Effects on contracts.

4.4.1. General rule of validity contracts.

4.4.2. Contracts with reciprocal obligations.

4.4.3. Termination for breach.

UNIT 5. DETERMINATION OF ACTIVE AND PASSIVE MASS

5.1. Determination of active mass.

5.1.1. Universality rule.

5.1.2. Goods and rights of active mass.

5.1.3. Reintegration of goods to active mass.

5.1.4. Separations of goods to active mass.

5.1.5. Inventory formation.

5.2. Determination of passive mass.

5.2.1. Integrated credits in the mass (bankruptcy) or not (against the estate).

5.2.2. List of claims against the estate.

5.2.3. Communications and recognitions of credits.

5.2.4. Classification of insolvency claims: Insiders, ordinary and subordinated.

5.2.5. List of creditors.

UNIT 6. PRIVATE CREDITORS AGREEMENTS

6.1. Introduction.

6.2. Proposal arrangement.

6.2.1. Content.

6.2.2. Anticipated proposal arrangements.

6.2.3 Proposal in agreement phase.

6.3. Court approval of the agreement.

6.4. Effectiveness of the agreement.

6.5. Compliance agreement.

UNIT 7. LIQUIDATION PHASE

7.1. Opening of the liquidation phase.

7.2. Anticipated liquidation.

7.3. Effects of the opening liquidation phase.

7.3.1. On the debtor.

7.3.2. On the loans.

7.3.3. Opening qualifications section.

7.4. Operations settlement.

7.4.1. Performance of the goods and rights of active mass.

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7.4.2. Payment of creditors.

UNIT 8. QUALIFICATIONS OF INSOLVENCY PROCEEDINGS.

8.1. Formation qualification's section

8.2. Fortuitous and guilty insolvency proceedings.

UNIT 9. CONCLUSION AND REOPENING OF INSOLVENCY PROCEEDINGS

9.1. Conclusion of insolvency proceedings.

9.2. Reopening of insolvency proceedings.

6. METHODOLOGY AND RESOURCES

The classes will be divided into lectures and seminars. The lectures will be focus on the theory and the students are invited to express any doubts or questions related to the subject-matter. In the seminars, sometimes, students will have to resolve practical cases that will be available though the WebCT page. Students must submit the resolution of the practical cases in writing (in paper or in other media indicated by the Lecturer) at the beginning of each Seminar of the Teaching Group, unless the Lecturer indicates otherwise.

During the class the students will discuss the practical case in order to resolve it, encouraging initiative among the students, promoting their understanding of the subject and developing the relevant skills (legal resources management, ability to apply theory to practical cases, verbal and written presentation skills, use of legal terminology, etc.). The work of the students in resolving practical cases is considered critical in order to acquire the skills relating to the knowledge of the subject and for the case resolution.

In this sense, the application of theory to practical cases will be assessed in the practical part of the final exam and the evaluation of the corresponding Seminars.

Prior to attending the Seminars, the students will be required to complete a task, individually or in groups, which will be specified on the WebCt with sufficient notice indicating the materials to be used and the instructions. The students will use the tutorials, to the extent necessary, for the proper execution of their work and presentation during the Seminars. The subject-matter of the Seminars will be announced on the WebCt.



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7. ASSESTMENT

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The overall grade of the subject will be between 1 and 10 marks, and the passing grade will be 5 marks.

A) GENERAL EXAMS.

The overall grade of the subject will be the sum of the following grades:

I. Final exam:

It is worth 70% of the the overall grade (that is to say up to a maximum of 7 marks).

The final exam will consist of:

- a) Short questions (4 marks).
- b) An extended question (2 marks).
- c) A practical case (1 mark).

In order to resolve the practical case students will be allowed to use a clean copy of the legislation documents. In order to pass the subject it is necessary to obtain a minimum of 3.5 in the Final exam. If this grade is not reached, the marks from the seminars will not be added to the grade from the exam.

II. Seminars:

It is worth 30% of the overall grade (that is to say up to a maximum of 3 marks).

Each seminar will be worth 0.5 marks and the material covered in the seminars will be included in the final exam.

B) RETAKE EXAMS.

In the retake exams will be two different exams depending on whether the student passed the seminars.

I. If the student passed the seminars (that is to say that the student obtained a grade equal to or higher than 1 mark) the exam will consist of:

- a) Short questions (4 marks).
- b) An extended question (2 marks).

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c) A practical case (1 mark).

In order to resolve the practical case students will be allowed to use a clean copy of the legislation documents. In order to pass the subject it is necessary to obtain a minimum of 3.5 in this exam. If this grade is not reached, the marks from the seminars will not be added to the grade from the exam.

The students that passed the seminars will be entitled to waive the seminar grade so that the overall grade will consist solely of the 100% of examination mark. The waiver will have to be communicated a minimum of 10 days before the exam date in the manner indicated by the Lecturer. In this case, the exam will be the same as those students that fall into the following category

II. If the student did not follow the continuous assessment or did not pass the seminars (that is to say the student obtained a grade of less than 1 mark):

First part:

- a) Short questions (4 marks).
- b) An extended question (2 marks).
- c) A practical case (1 mark).

In order to resolve the practical case students will be allowed to use a clean copy of the legislation documents. In order to pass the subject it is necessary to obtain a minimum of 3.5 in the first part of the exam. If this grade is not reached, the marks from the second part of the exam will not be added to the grade from this part.

Second part:

Three extended question (each one worth 1 mark).

***STUDENTS IN EXCHANGE PROGRAMMES and those cases established in article 7º.3 of the “Normativa de Evaluación de los Estudiantes de Grado”.**

These students could choose between two examination formats:

GENERAL EXAM for exchange students:

These students could be examined in general exam that represent 100% of the grade. The exam will consist of two parts:

First part:

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- a) Ten short questions (4 marks).
- b) An extended question (2 marks).
- c) A practical case (1 mark).

In order to resolve the practical case students will be allowed to use a clean copy of the legislation documents. In order to pass the subject it is necessary to obtain a minimum of 3.5 in the first part of the exam. If this grade is not reached, the marks from the second part of the exam will not be added to the grade from this part.

Second part:

Three extended question (each one worth 1 mark).

FINAL EXAM PLUS SEMINARS for exchange students:

The overall grade of the subject will be the sum of the following grades:

I. Final exam:

It is worth 70% of the the overall grade (that is to say up to a maximum of 7 marks).

The final exam will composed of a written assessment, consisting of various questions relating to the subject.

In order to pass the subject it is necessary to obtain a minimum of 3.5 in the Final exam. If this grade is not reached, the marks from the seminars will not be added to the grade from the exam.

II. Seminars:

It is worth 30% of the overall grade (that is to say up to a maximum of 3 marks). The assessment will be done taking into account active participation and the results of Seminars.

Mobility:

The students of any of the various official mobility programs (Socrates - Erasmus, SICUE - Seneca, Atlanticus, etc.) who attend the course outside these mobility programs, may recover the final mark, relative to the block of continuous assessment, by performing some additional task to the final exam of the subject.

Students who are in this situation must notify in writing to teachers of the subject before 30 November, in the case of subjects of first semester, or before April 30, in the case of subjects of the second semester. The breach of his communication period must be agreed with the corresponding academic coordinator of its mobility contract.

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8. BIBLIOGRAPHY

MANUALES

VARIOS AUTORES (coord. Jiménez Sánchez): Derecho Mercantil II, ult. ed., Marcial Pons, Madrid

VARIOS AUTORES (coord. Jiménez Sánchez): Lecciones de Derecho Mercantil, últ. ed., Tecnos, Madrid.

BROSETA PONT, M.: Manual de Derecho Mercantil, vol. II, ult. ed., Tecnos, Madrid
SÁNCHEZ CALERO, F.: Instituciones de Derecho Mercantil, vol. II, ult. ed., Aranzadi, Pamplona.

OTROS

SÁNCHEZ CALERO, F.: Principios de Derecho Mercantil, ult. ed., Aranzadi, Pamplona.

URÍA, R.: Derecho Mercantil, ult. ed., Marcial Pons, Madrid.

VICENT CHULIÁ, F.: Introducción al Derecho Mercantil, ult. ed., Tirant lo blanch, Valencia.

VARIOS AUTORES (coord. Pérez de la Cruz): Derecho Mercantil. Documentación, Ariel, Barcelona, 1991.

Legislación: Cualquier legislación mercantil existente en el mercado, entre las que se encuentran las de las editoriales Aranzadi, Ariel, Civitas, La Ley, McGraw-Hill, Tecnos.

Utilícese siempre la última edición de manuales y legislación. Esta observación es particularmente relevante en la materia concursal, habida cuenta las numerosas e importantes reformas