Obligations and contract law

Academic Year: (2022 / 2023) **Review date: 03-02-2023**

Department assigned to the subject: Private Law Department

Coordinating teacher: MORILLAS JARILLO, MARIA JOSE

Type: Compulsory ECTS Credits : 6.0

Year : 5 Semester : 2

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Contract Law

OBJECTIVES

1) Knowledge
Mandatory law rules related to negotiable instruments. Mandatory law rules related to commercial contracts, specially in order to achieve the protection of consumers; and freedom of commercial contracts.
This knowledge is referred to both theory and practical aspects. Both, theory and practice, will enable students to know the basics of Commercial Contracts Law. Knowledge required to the future of student's careers (attorney at law, judge, business management and administration and other related to business world).
Likewise, the knowledge of these subjects is necessary to understand the rest of specialised subjects contained in the degree.
2) Abilities
Possibility of applying theoretical concepts in real situations: commercial agreements, learning to write and fill out the documents related to commercial contracts.

3) Skills
- Ability to negotiate contracts
- Improving the ability to advise companies and others
- Capacity of individual work and teamwork

DESCRIPTION OF CONTENTS: PROGRAMME

Commercial Contract Law is an essential part of Commercial Law. It covers the study of the legal rules of some negotiable instruments (bill of exchange, promissory notes and checks), the general rules of Commercial Contracts and some specific Commercial Contracts in particular. Accordingly, with regard to each contract, the concept of contract, its essential elements, the rights and obligations of the contracting parties, its effects and inefficacy are further analyzed.
When studying Contract Law we have to take into account the European legislation as well as International Commercial Law of contracts because there is a tendency towards its uniformity. The protection of consumer's perspective is to be also adopted to approach Commercial Contract Law, making a special reference to the conclusion of contracts with general conditions.
The main contracts to be studied are: the contract of sale, the contract of deposit, the contract for carriage of goods, the collaboration contracts (agency, commission agency, distribution, franchising), the insurance contract, and credit and secure transactions, among others.

COMMERCIAL CONTRACT LAW

PART I.- LEGAL RULES OF NEGOTIABLE INSTRUMENTS

1.- BILL OF EXCHANGE.

2.- BILL OF EXCHANGE: CIRCULATION, ACCEPTANCE, TRANSFER AND PAYMENT.

3.- PROMISSORY NOTES AND CHECKS. REMEDIES IN CASE OF DEFAULT.

PART II.- COMMERCIAL OBLIGATIONS AND CONTRACTS

4.- LEGAL REGIME OF COMMERCIAL OBLIGATION. SOURCES OF LAW. UNIFORM LAW OF INTERNATIONAL TRADE. CODES OF CONDUCT AND OTHER SOFT LAW INSTRUMENTS.

5.- COMMERCIAL TRANSACTIONS. CONTRACT FORMATION. PRE-CONTRACTUAL PHASE, OFFER, ACCEPTANCE, COUNTEROFFER.

6.- SPECIFIC COMMERCIAL TRANSACTIONS: CONSUMER CONTRACTS, STANDARD TERMS CONTRACTS, ELECTRONIC CONTRACTING AND RETAIL TRADE.

PART III.- MAIN COMMERCIAL CONTRACTS

7.- COMMERCIAL CONTRACTS FOR SALE OF GOODS: CONCEPT, ESSENTIAL ELEMENTS, AKIN CONTRACTS, PARTIES' RIGHTS AND OBLIGATIONS, PASSING OF RISK, DEFAULT AND REMEDIES.

8.- DEPOSIT AND ESCROW AGREEMENTS.

9.- COMMERCIAL CONTRACT FOR THE CARRIAGE OF GOODS.

10.- COLLABORATION CONTRACTS: AGENCY, COMMISSION AGENCY, DISTRIBUTION, FRANCHISING.

11.- INSURANCE CONTRACT.

PART IV.- CREDIT AND SECURED TRANSACTIONS

12.- LOAN AGREEMENTS, LEASING, RENTING AND FACTORING.

13.- CONTRACTUAL INSTRUMENTS TO PROTECT CREDIT RIGHTS: SURETYSHIP; INDEPENDENT GUARANTEES AND STAN-BY LETTER OF CREDIT; COMMERCIAL PLEDGE; COMFORT LETTERS; PENALTY CLAUSE AND LIQUIDATED DAMAGES.

LEARNING ACTIVITIES AND METHODOLOGY

The knowledge is referred to both theory and practical aspects. Both, theory and practice, will enable students to know the basics of Commercial Contracts Law. Knowledge required to the future of student's careers (attorney at law, judge, business management and administration and other related to business world).
Likewise, the knowledge of these subjects is necessary to understand the rest of specialised subjects contained in the degree.
The subject is made of ETCS. The practical classes will be up to 40% of ECTS and the theory classes up to 60% of those credits. Anyway, according to the legislation about college degrees (implementing Higher Education European Agreements) will be taken in account to set the amounts of student's study hours.
Three on-site hours shall be taught every week. In a first theory class, of one hour and a half, the main contents of the subject shall be explained. For the adequate understanding of the lectures, the previous reading of the subject in the bibliography of reference is recommended. In a second class (continuous valuation), we analyse commercial contracts documents or proposed practical cases shall be solved and the students will have to discuss and legally argue about them instead. Personal tutorial hours (theoretical and practical) will be essential in order to help students to consolidate their knowledge.

ASSESSMENT SYSTEM

To pass the course, students should get a minimum grade of 5 over 10 in both theory and practice. Accordingly students should pass the theoretical exam, and class assignments (or alternatively, practical exam) as described in student´s guide.

Normal sitting
The final grade to be obtained by the student shall take into account the mark obtained during the term in the practical compulsory sessions (up to a 40%), as well as the mark obtained in the theory exam (up to a 60 %).

Extraordinary sitting
If the student has followed the continuous valuation system, the exam shall represent the same percentage value as in the normal sitting (60%), and the final mark shall take into account the mark of the continued valuation (practical sessions) obtained during the semester. That is, the mark obtained in the practical part shall be kept and the student will only have to take the theory exam.

According to the current regulation, if the student has not followed the continuous valuation system, he shall be able to take the extraordinary sitting exam (theoretical exam, and practical exam).

Publicity of the marks and revisions
The final marks of the continuous valuation system (practical sessions) shall be published in Aula Global before the examination period.
The final grade shall be published within ten days from date of the final exam in the Web provided therefore by the University, indicating the time and place for the revision of the exam.
The student may ask for the revision of the exam to his group teacher when he considers that there is a mistake in his mark.
If the student does not attend the final exam, he shall be marked as "not present" even if he followed part of the continuous valuation system.
This system will be applied in the ordinary call and in the extraordinary call.
If the student has passed any of the parts of the subject in the ordinary call, in the extraordinary call of that same course, they will only have to do the part (theoretical or practical) that remains pending.

% end-of-term-examination:	60
% of continuous assessment (assigments, laboratory, practicals…):	40

BASIC BIBLIOGRAPHY

- Bercovitz, A., Apuntes de Derecho Mercantil, Aranzadi, latest edition
- Broseta, M. y Martínez Sanz, F., Manual de Derecho Mercantil, I y II, Tecnos, última edición
- Menéndez, A. y Uría, R. (dir.), Curso de Derecho mercantil, I y II, Cívitas, latest edition
- Piloñeta Alonso, Luis Manuel Derecho Mercantil de la Contratación, Ediuno, Última edición
- Sánchez Calero, F. y Sánchez-Calero Guilarte, J. Instituciones de Derecho mercantil, I y II, Aranzadi, latest edition
- Vicent Chuliá, F. Introducción al Derecho mercantil, Tirant lo blanch, latest edition