

COMMERCIAL LAW

Degree in Legal Studies (Solicitors)

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Code: 16309

Main Scientific Area: Business Law

Lecturer: Sara Maria Pires Leite da Silva

Language of Instruction: Portuguese

Regime: S2

Contact Hours: 60h Total Workload: 108h

ECTS: 6,0

Objectives

It is intended to prepare students to understand the rules of the merchants and trade acts, as well as preparing and reviewing documents and commercial contracts, in particular:

- 1) Understand the general scheme of the acts of trade and traders;
- 2) Prepare and review contracts on commercial establishments;
- 3) Seek and utilize distinctive commercial signs;
- 4) Fill in and use letters of credit;
- 5) Know and understand the Insolvency regime and business recovery.

The objective is, primarily, to provide students with the concepts, legal instruments and basic tools, in order to respond adequately to the main needs and concerns of the business world.

Learning Outcomes

Students should be able to advise their clients on the legal regime of the general acts of commerce, traders and companies. Moreover, they should be able to draft and analyze contracts regarding enterprises, as well as advise on the use of distinctive trade signals and adequately fill in credit notes, knowing the legal implications of those acts. They must also learn the basics of insolvency.

Course Contents

1. Conceptions of Commercial Law

1.1. Origin and historical evolution

1.2. Concept of Commercial Law: notion, autonomy and fundamental characteristics

2. Sources of Commercial Law

CHAPTER II - ACTS OF COMMERCE (GENERAL THEORY)

1. Notion of act of commerce
2. Objective and subjective acts of commerce
3. Autonomous acts of commerce and trade accessories
4. Bilateral and unilateral acts of commerce
5. Typical characteristics of the acts of commerce

CHAPTER III - THE MERCHANT

1. Eligible subjects as Merchant
2. Subjects that do not qualify as Merchant
3. Status of Merchant
 - 3.1. Firm
 - 3.2. Bookkeeping mercantile
 - 3.3. Accountability
 - 3.4. Commercial register
 - 3.5. Liability for debts of married merchant

CHAPTER IV - COMMERCIAL ENTERPRISES

1. Concept (s)
2. Enterprises as subjects (or legal entities)
3. Enterprises as objects of legal relationships
4. Contracts related to the business premises
 - 4.1. Introduction
 - 4.2. The rights concerning the building in which the business is installed
 - 4.3. Commercial lease
 - 4.4. Business transfer
 - 4.5. Lease of business establishment

5. Insolvency

5.1. The declaration of insolvency

5.2. Effects of insolvency declaration

CHAPTER V - DISTINCTIVE SIGNS OF TRADE

1. Introduction

1.1. Intellectual Property and Industrial Property

1.2. Concept and functions of Industrial Property

1.3. The protection afforded by exclusive rights

1.4. The prevention of unfair competition

1.5. Main figures of industrial property

2. Distinctive Signs of Commerce:

2.1. Patents and Utility Model

2.2. Brands

2.3. Logos

2.4. Designations of Origin and Geographical Indications

2.5. Rewards

3. Unfair competition

3.1. Acts of unfair competition

CHAPTER VI - LETTERS OF CREDIT

1. Concept, function, features

2. Letter

3. Cashier

4. Check

Recommended Bibliography

ABREU, Jorge Manuel Coutinho de, Curso de Direito Comercial, Volume I, 13.^a ed., Almedina, Coimbra, 2022.

CORREIA, Pupo, Direito Comercial, 14.^a ed., Ediforum, Lisboa, 2018.

EPIFÂNIO, Maria do Rosário, Manual de Direito da Insolvência, 8.^a Ed., Almedina, Coimbra, 2022.

FURTADO, Jorge Pinto, Títulos de Crédito, 2.^a ed., Almedina, Coimbra, 2016.

GONÇALVES, Luís Couto, Manual de Direito Industrial - Propriedade Industrial e Concorrência Desleal, 10.^a ed., Almedina, Coimbra, 2023.

OLAVO CUNHA, Paulo, Direito Comercial e do Mercado, 3.^a ed., Almedina, 2021.

Learning and Teaching Methods

The subject matter of the program corresponds to the essential competencies of a Solicitor in the Commercial Law context. The perspective is always placed in the acts that fall in the future solicitors professional skills, and typical activities of Marchand's.

Accordingly:

- Chapter I is a historical introduction and dogmatic discipline of commercial law;
- Chapters II and III are intended to meet the objective 1) of the Curricular Unit;
- Chapter IV is intended to meet the objective 2) and 5) of the Curricular Unit;
- Chapter V is intended to meet the objective 3) of the Curricular Unit;
- Chapter VI is intended to meet the objective 4) of the Curricular Unit.

Assessment Methods

Continuous and Periodic Assessment

The elements of continuous assessment:

1st Assessment Test (40%) + 2nd Assessment Test (60%)

It will be required to obtain a minimum classification of 8 (eighth) values in the two elements/ moments of assessment, for approval in the curricular unit.

The final classification will be obtained following the sum of the partial marks obtained in each of the elements of the continuous assessment, according to the weight attributed to it.

In the tests, only the consultation of legislation without notes is allowed.

The test dates will be announced by the Course Direction. Exam seasons

The assessment during the 2nd semester exams may result exclusively of a written global exam (100%).

Grade improvement

Grade improvement tests during exam periods will be exclusively composed of a written global exam (100%).

Mobility students

ERASMUS students who do not speak Portuguese may choose to be evaluated by carrying out a research work.