

# Introduction to Business Law

The subject "Introduction to Business Law" is given in two terms. Its teaching corresponds to two different departments (Philosophy of Law and Civil Law). Although the final note of the subject will be only one, the professors/responsible of the teaching of each terms will structure its part of the subject according to the demands of the matter that have to explain. It will be necessary to surpass each one of the blocks of the subject with a minimum of 5 points to approve it. For this reason, the educational plan is structured in two blocks, corresponding to the two parts of the subject. The first block designated Legal Theory corresponds with the first teaching term of the subject.

## Activities Programm

### First block Legal Theory

#### 1. Description of the subject

Academic Course: 2012-2013

Name of the subject: Introduction to Business Law. Term: 2nd

Code of the subject: 20829

Degree: ECO/ADE

Number of credits ECTS: 4 (each terms)

total Number of hours of dedication: 100 (each term)

Time:

Course: 1st year

Type: Term

Teaching: José Luis Pérez Triviño, Marisa Iglesias, Alberto Carrio, Ezequiel Paez and Sebastián Agüero.

Groups of teaching: 1, 2, 3 and 4

Teaching Language: Spanish and Catalan

## 2. Presentation of the subject and aims of learning

The first block of the subject offers a general introduction to the Law as social phenomenon in the context of the contemporary societies. The main object is to analyse a group of concepts and ideas that are indispensable to approximate us to the legal phenomenon in general and to the understanding of the legal Spanish legislation in particular. The aim of the student in this part of the course is to attain some basic legal knowledges before deepening in the study of the Business Law .

In concrete, this first part of the course is centred in five basic axes: In the first unit we will focus on the paper of the Law in the social organisation and his essential functions. We will think about questions related with the importance of the regulation for the social cooperation and with the autonomy of the Law concerning the political power and economy. In the second unit we will analyse the concept of legal norm and its differences with other types of norms, as for example the morals or socials. We will differentiate, also, between several classes of legal norms to identify the characteristics of the legal legislations and comprise the specificity of several sectors or branches of the Law . The third axis of the program has by object to explore a group of basic legal concepts, as for example,, legal personality or responsibility. In fourth place, we will focus on the study of the fundamental elements of the legal legislations in the democratic states and in the main sources of the Law . We will examine, amongst other, the meaning of notions like "Rule of Law", "separation of powers", "normative hierarchy", "constitution" and "law". Finally, the fifth and last unit has the purpose to introduce relative elements in the moral assessment of the Law and the critical analysis of the legal institutions. The aim is to offer tools that allow to understand how justify the legal structures according to social purposes. In this sense, it incorporates a critical perspective around the Law and deepens in the differences between lawfulness, legitimacy and efficiency. This examination will allow to achieve an integral and reasoned vision of the Law.

For the follow-up of the subjectit will be necessary to develop relative competences as to the Capacity of understanding and analysis of texts and legal materials of nature and diverse content, as well as the Capacity to apply and relate the concepts and theories, developing structures of argumentation properly legal. In group, when finalising the course the student will have achieved a conceptual background about the common conceptual pieces to all the branches of the Law , that will allow him tackle the second part of the subject, specifically centred in the Business Law.

### 3. Conditions for the follow-up of the formative itinerary

To develop this subject the student does not need previous knowledges, given the introductory character of this subject. The same that happens with other matters, one of the aims of our subject consists in providing part of the previous knowledges and tools that will be of utility to the study of other branches of the Law. Nevertheless, it is reasonable that the student has a previous general culture. Besides, it presupposes that the student has a minimum Capacity of abstraction and reasoning: abstraction to comprise the basic concepts of the Law as well as its functions, and reasoning to understand the fundamental practical and argumentative nature of the Law .

### 4. Competences

#### General Competences

##### Instrumental competence

1. Capacity to comprise and interpret in a reasoned way written texts of high academic(G1). It will be evaluated in the seminars, through written and oral interventions.
2. Capacity to justify with consistent arguments the own ideas, as well as to defend them publicly (G2). It will be evaluated in the seminars, through written and oral interventions.
3. Capacity to develop the ability of autonomous reasoning with critical distance in subjects or controversial questions (G7). It will be evaluated in the seminars, through written and oral interventions.

##### Interpersonal competences

4. Capacity to accept the plurality of points of view as a fundamental ingredient of the academic life. Competence to be able to give to know the own opinions inside the respect to the divergent opinions (G8). It will be boost in the activities of seminars.

##### Systemic Competence

5. Capacity to apply with flexibility and creativity the knowledges attained and to adapt them to new contexts and situations (G11).
6. Capacity to progress in the processes of training and learning of autonomous and continuous way (G12). The student has to be able to hold responsible of his own process of learning, from the readings and bibliographic queries.

**Competences**

1. Capacity to identify the legal dimension of the problems and conflicts and to use legal tools with property.
2. Capacity of identification of the existence of a problem that can not be solved with legal norms and when the legal norms do not solve such problems.
3. Capacity of identification of the functions that the legal instruments fulfil.
4. Capacity to determine the fundamental legal concepts in a concrete case and use them argumentatively.
5. Capacity to evaluate the economic and social impact of the diverse options of public investment.
6. Capacity to design economic and social programs in order to improve the conditions of the life in society: education, equality, welfare, environmental management, etc.

## 5. Subject

The program of the subject it is composed by 5 thematic units that will be explained during the 10 weeks of the course, at a rate of three hours weekly. They have as object the transmission of knowledge of the concepts or basic ideas of the subject.

### Unit 1. Introduction to the legal phenomenon

- a) Law as social phenomenon.
- b) Problems of collective action. Norms and cooperation.
- c) Law and social control. Regulation and integration.
- d) Law, power, government. Lawfulness, legitimacy, efficiency.

### Unit 2. Norms and Legislation

- a) Social, morals and legal norms.
- b) Primary and secondary norms. Institutions and legal validity.
- c) Public and Private Law: criteria of distinction.
- d) Law as a normative, coercive and institutionalised system

### Unit 3. Basic legal concepts

- a) The notion of legal personality.
- b) The notion of legal right.
- c) The legal obligation. Duties and sanctions. d) Legal responsibility.

### Unit 4. Law in contemporary democratic States

- a) Basic Elements: Rule of Law, Democracy and Separation of powers.
- b) The sources of Law: law, customs and general principles.
- c) The judicial decisions and the legal traditions.
- d) The supremacy of the Constitution and the role of Constitutional Courts.

### Unit 5. Law, legitimacy and justice

- a) On the limits of the State interference in the personal autonomy. The liberal principle of harm and its limits.
- b) Paternalism, perfectionism and legal moralism.
- c) The moral assessment of Law and normative Ethics: distinction between lawfulness, legitimacy and justice
- d) Some theories of the justice: utilitarianism, liberalism and libertarianism.

## 6. Bibliography and didactic resources

Excepting the chapters or fragments that belong to books of text of easy access from the library, the rest of materials will be available at the beginning of the course, through Moodle or in the reprographand service .

The professor will inform convenientland which readings are compulsory. Some of

these bibliographic materials will be used specifically in seminars.

Distribution of readings:

Unit 1

- Alfred Font y José Luis Pérez, El derecho para no juristas, Barcelona, Deusto, 2009: capítulo 1, y páginas 48-51 del capítulo 2.
- Neus Torbisco, Les funcions del dret, EDIUOC, 2008, pp. 20 a 42.

Unit 2

- Alfred Font y José Luis Pérez, El derecho para no juristas, Barcelona, Deusto, 2009: páginas 51-54 y capítulo 4.
- Manuel Atienza, El sentido del derecho, Barcelona, Ariel, 2001, páginas 62-70.
- Ronald Dworkin, Los derechos en serio, Barcelona, Ariel, 1984, páginas 72-80.

Unit 3

- Marisa Iglesias, Els conceptes jurídics bàsics, EDIUOC 2008, páginas 13-23 y 37-47.
- Carlos S. Nino, Introducción al análisis del derecho, Ariel, Barcelona, 1983, páginas 190-195 y 168-173.

Unit 4

- Alfred Font y José Luis Pérez, El derecho para no juristas, Barcelona, Deusto, 2009: 35-38 y capítulo 3
- C. Viver Pi-Sunyer, Constitución, Vicens Vives, Barcelona, 1994, capítulos 8, 12, 13, 14 y 15.
- David Held, La democracia y el orden global, Barcelona, Paidós, 1997, capítulo 12.
- Elías Díaz: Estado de Derecho y sociedad democrática, Madrid, Taurus, 1998, cap. 1.

Unit 5

- Alfred Font y José Luis Pérez, El derecho para no juristas, Barcelona, Deusto, 2009, páginas 59-72 y 133-151.
- Roberto Gargarella, Las Teorías de la justicia después de Rawls, Paidós, Barcelona, 1999, capítulos 1 y 2
- Ernesto Garzón, "¿Es éticamente justificable el paternalismo jurídico?", en E. Garzón, Derecho, ética y política, Madrid, CEC, 1993

## 7. Methodology

Theoretical Sessions in group.

The sessions will have as aim to develop the concepts and main ideas of the program and explain with precisely the most complex questions of the subject. In this sense, it is important that students have read the materials previously to the

session, in order to be able to expose questions and doubts that arise of the reading of these materials.

Seminars in subgroups.

This activity will be done in reduced groups and it will be centered in the discussion of subjects or concrete problems. It is important to prepare these sessions previously. The main role of the seminars is developed by students. The aim is that they develop the capacities of understanding, argumentation and critical analysis by means of the application of the theoretical concepts to practical problems.

Autonomous work. Previously to each session, theoretical or practical, the student should have done the planned compulsory readings of each unit and prepared the class following the professor's instructions.

In general, the methodology of learning is based in the participation and the active implication of the student in this process. He/she should work individually or in group, according to the cases, the bibliographic materials and exercises or activities. That method will boost the critical reflection on the readings and concepts. Also it is important that the student prepare and expose the specific doubts of the activity.

## 8. Content of the seminars

We will do 5 seminars as activity in subgroups. The attendance is compulsory and it is indispensable to prepare previously the session. In some cases we will require an oral presentation or the delivery of writing exercise. In other cases, the evaluation of the seminar will require a control of reading.

Seminar 1. Law functions. We will debate this subject from the problem of the payment of bonos by financial entities in the context of the current financial crisis.

Seminar 2. Rules and principles. The session will be centered in the analysis of this distinction and it will raise the advantages and problems to regulate by means of rules or by means of principles.

Seminar 3. Basic legal concepts. This seminar will be centered in practical cases where we will analyse the application of the fundamental legal concepts: responsibility, right and sanction, etc.

Seminar 4. Intervention of the State in the personal autonomy. This seminar will be focused in the subject of the legitimacy of the state intervention in the private sphere and in the individual autonomy. We will analyse the implications of the liberal ideas, paternalists and perfectionists from debates on subjects such as the euthanasia.

Seminar 5. Theories of justice. This seminar will consist in a discussion of the foundations of justice of a group of political measures. In concrete, the students will argue in for or against of the egalitarian liberal Theory and of the libertarian theory.

## 9. Evaluation

The final grade of this first block of the subject will be calculated from the following proportion: The final examination will have a value of 60% of the global note (6 points on 10) and the activities developed in the seminars will have a value of 40% (4 points on 10).

The final examination (60% of the final note) will comprise different types of exercises: test of multiple option, indication of the truth or falsity of a group of affirmations justifying the answer; and questions of development on theoretical notions. It is necessary to obtain a minimum of qualification in the final examination (3 on 10) so that it will do average with the grade obtained in the seminars.

The evaluation of the seminars (40% of the final note) will take into account the activities programmed and, the participation and active implication of the students in the sessions following the guidelines of the professor. The attendance to the five seminars is compulsory to obtain a positive evaluation. The absence to the sessions without justification will imply the automatic loss of 50% of the final worth of seminars. The presentations and works have to be original and own. In case that it would detect that it has been copied, or that two or more works are copied, will failed the part of the subject that corresponds to the seminars.

In the case that a student have failed the exam, there will be another turn in the next term in a Saturday that the Dean will inform previously.

These examination will have the same weight in the qualification (60% of the final note) and will comprise the same structure of exercises that the mentioned for the first turn of examination.

The grades obtained in seminars will be kept in the turn of examination in the next term.

## 10. Programming of activities

This programming pretends to be orientative of the planned progression of the course. The activities and exercises that the students have to do in order to prepare each of the sessions will be indicated conveniently in Moodle. The student has to have done the corresponding compulsory readings before each session.

	Sesiones teóricas	Seminars
Week 1	Session 1. Theoretical Session. General Introduction to the subject.  Session 2. Beginning of Unit 1. Introducción al fenómeno jurídico.	
Week 2	Session 1. Continuation Unit 1.  Session 2. End Unit 1.	- Seminar 1. Necessity and functions of Law
Week 3	Session 1. Beginning of Unit 2. Norms and Legal System.  Session 2. Continuation of Unit 2. Legal Norms.	



Week 4	Session 1. End of Unit 2. Legal System. Session 2. Beginning of Unit 3. Legal Basic Concepts	- Seminar 2. Principles and Rules
Week 5	Session 1. Continuation of Unit 3. Session 2. End of Unit 3	
Week 6	Session 1. Beginning of Unit 4. Law in contemporary democratic systems. Session 2. Continuation of Unit 4.	- Seminar 3. Legal Basic Concepts
Week 7	Session 1. Continuation of Unit 4. Session 2. End of Unit 4.	
Week 8	Session 1. Beginning of Unit 5. Law, Legitimacy and Justice. Session 2. Continuation of Unit 5.	- Seminar 4. Theories of Justice
Week 9	Session 1. Continuation of Unit 5. Session 2. End of Unit 5.	
Week 10	Session 1. Summary of main ideas. Session 2. Doubts.	- Seminar 5. Theories of Justice