

5.00 credits

18.0 h

Q1


**This biannual learning unit is not being organized in 2024-2025 !**

Teacher(s)	Durant Isabelle ;
Language :	French
Place of the course	Louvain-la-Neuve
Main themes	<p>The first part of the course examines the various insolvency procedures (bankruptcy, judicial reorganisation, transfer under court authority, collective debt settlement).</p> <p>The second part is devoted to security interests: general principles of creditors' rights of action, security interests in rem and personal security interests. Both security interests (pledges, preferential right, mortgages and practical security interests) and personal security interests (suretyship contract, joint liability and practical security interests) are systematically defined and examined. The main hypotheses of conflicts between security holders are solved.</p>
Learning outcomes	
Evaluation methods	<p>Oral exam in January (and/or September)</p> <p>This type of exam is better suited to students who work shifted hours.</p> <p>It consists of several types of question:</p> <ul style="list-style-type: none"> <li>- A definition ;</li> <li>- One or more targeted questions requiring precise and succinct answers;</li> <li>- A reflective question (to test critical thinking and the ability to sum up);</li> <li>- A case study on conflicts of rank.</li> </ul> <p>Students are given time to prepare.</p> <p>Assessment criteria:</p> <ol style="list-style-type: none"> <li>a) emphasis on the rigour of the reasoning and its legal justification (reference to the Code in particular) and the conciseness of the answers).</li> <li>b) the quality of the expression and structuring of the answer is taken into consideration.</li> <li>c) the ability to refer to the Code and the main case law decisions to support and argue the answer is essential.</li> </ol> <p>In the examination, students have their Code and any other legal or regulatory text at their disposal. They may not be annotated, subject to cross-referencing from article to article. No other documents are permitted.</p> <p>The final mark is not purely arithmetical and depends on the overall assessment.</p>
Teaching methods	<p>The insolvency law course is a lecture-based course.</p> <p>Several teaching methods are used to encourage interaction:</p> <ul style="list-style-type: none"> <li>- Study of the subject based on concrete cases;</li> <li>- Analysis of case law.</li> </ul> <p>Face-to-face teaching</p>
Content	<p>The first part of the course is devoted to examining the various insolvency procedures: bankruptcy, transfer, judicial reorganization , collective debt settlement, deficit liquidation. For each of these procedures, the conditions for opening, the method of operation and the rights of creditors are examined.</p> <p>The second part deals with the law of securities rights. Firstly, the principle of the uniform subjection of the debtor's assets and the principle of the equality of creditors will be studied. The course continues with a systematic study of the main security interests. After analysing the common features of these securities, the various types of pledge and preferential rights on movable goods and real estate are examined. The main conflicts between holders of security interests are also examined. Finally, we study personal security interest. In this respect, suretyship contract occupy a special place, being the only personal surety regulated as such by law. There is also a place for joint and several liability and for personal sureties that have arisen in practice, in particular first-demand guarantees. The course presupposes knowledge of the law of obligations, contracts and property (real rights).</p> <p>Lecture course.</p>
Inline resources	A detailed syllabus is distributed as the course progresses. It is available on Moodle.

Bibliography	<p><b>OUVRAGES</b></p> <p>Insolvabilité</p> <ul style="list-style-type: none"> <li>• A. Zenner, <i>Traité de l'insolvabilité</i>, Limal, Anthemis, 2019.</li> <li>• I. Verougstraete, <i>Manuel de l'insolvabilité de l'entreprise</i>, Waterloo, Kluwer, 2019.</li> <li>• F. George, <i>Le droit des contrats à l'épreuve de la faillite</i>, Bruxelles, Larcier, 2018.</li> <li>• C. Alter (coord.), <i>Le nouveau livre XX du Code de droit économique consacré à l'insolvabilité des entreprises</i>, coll. UB<sup>3</sup>, Bruxelles, Larcier, 2018.</li> <li>• M. Grégoire, <i>Procédures collectives d'insolvabilité</i>, Bruxelles, Larcier, 2012.</li> </ul> <p>Sûretés</p> <ul style="list-style-type: none"> <li>• F. T'Kint, <i>Sûretés et principes généraux du droit de poursuite des créanciers</i>, Bruxelles, Larcier, 2004.</li> <li>• M. Grégoire, <i>Publicité foncière, sûretés réelles et privilèges</i>, Bruxelles, Bruylant, 2006.</li> <li>• E. Dirix et R. De Corte, <i>Zekerheidsrechten</i>, Malines, Kluwer, 2006.</li> <li>• E. Dirix, <i>La réforme des sûretés réelles mobilières</i>, Waterloo, Kluwer, 2013.</li> <li>• J. Baeck et M. Kruithof (eds), <i>Het nieuwe zekerheidsrecht</i>, Anvers, Intersentia, 2014.</li> <li>• I. Durant, <i>Les sûretés réelles mobilières</i>, coll. CUP, vol. 173, Limal, Anthemis, 2017.</li> <li>• J. Caemaex, T. Cavenaile, <i>Manuel des sûretés mobilières</i>, Bruxelles, Larcier, 2019.</li> </ul> <p>ARTICLES</p> <ul style="list-style-type: none"> <li>- Articles à paraître sur la transposition de la directive sur les cadres de restructuration préventive (à paraître à la RDC et au JT)</li> <li>- Numéro spécial de la Revue des entreprises en difficulté (REDI) sur la transposition de la directive sur les cadres de restructuration préventive</li> <li>- W. Derijcke, « La réforme des sûretés réelles mobilières », <i>R.D.C.</i>, 2013, pp. 691-722.</li> <li>- F. Georges, « La réforme des sûretés mobilières », <i>R.D.F.L.</i>, 2013, pp. 319-368.</li> <li>- Z. Pletinckx, « Réforme du droit de l'insolvabilité : le nouveau livre XX du Code de droit économique », <i>J.T.</i>, 2018, pp. 465-480.</li> <li>- M. Grégoire, « La modification du Code civil en ce qui concerne les sûretés réelles mobilières », in F. Georges, <i>Insolvabilités et garanties</i>, CUP, 153, Bruxelles, Larcier, 2015, pp. 9-32.</li> <li>- J. Baeck, « Het nieuwe pandrecht », <i>R.W.</i>, 2015-2016, pp. 1209 à 1222</li> <li>- J. del Corral, « Zekerheidsrechten », <i>N.j.W.</i>, 2014, pp. 578 à 596</li> <li>- E. Dirix, « De wet van 11 juli 2013 betreffende de zakelijke zekerheden op roerende goederen », <i>Nieuwsbrief Notariaat</i>, 2014/1, pp. 1 à 6</li> </ul>
Faculty or entity in charge	BUDR

**Programmes containing this learning unit (UE)**

Program title	Acronym	Credits	Prerequisite	Learning outcomes
Master [120] in Law (shift schedule)	DRHD2M	5		