COURSE DATA

Data Subject	
Code	35255
Name	ADR (Alternative dispute resolution)
Cycle	Grade
ECTS Credits	4.5
Academic year	2019 - 2020

Study (s)

Degree	Center	Acad. year	Period
1303 - Degree in Law	Faculty of Law	4	First term

Subject-matter

Degree	Subject-matter	Character
1303 - Degree in Law	49 - ADR (Alternative dispute resolution)	Optional

Coordination

Name	Department
BARONA VILAR, SILVIA	45 - Administrative and Procedural Law
BLANCO GARCIA, ANA ISABEL	45 - Administrative and Procedural Law

SUMMARY

"ADR (Alternative Dispute Resolutions)" is placed within the litigation itinerary of the Degree´s fourth academic year.

This subject offers a list of different non jurisdictional ways of access to Justice. It is analyzed from the point of view of the Anglo-Saxon trend that raises ADRs as alternatives to the current situation to be found in most countries. In particular, it is an initial approach to the various means of ADR: mediation, conciliation, arbitration, mixed figures as med-arb, ombudsman, etc.

After the conceptual and theoretical approach, the course will be completed with practical workshops of introduction to negotiation and mediation techniques, as well as the status of an arbitration proceeding.

This subject is the perfect complement to the knowledge acquired in Procedural Law, Civil Law, Private International Law, Commercial Law and even in Criminal Law, providing a theoretical and practical overview of ADR applicable to all these areas of expertise.

PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

Other requirements

No prerequisites required
It is recommended having studied the subject "Introduction to Procedural Law"

OUTCOMES

1303 - Degree in Law

- Understand the legal system as unitary and have an interdisciplinary perspective of legal problems.
- Know the community and international regulatory framework, its institutions and their functioning.
- Be able to use legal sources (legal, jurisprudential and doctrinal).
- Be able to read and interpret legal texts.
- Be able to communicate correctly both orally and in writing in the field of law.
- Be able to analyse legal problems and synthesise their approach and resolution.
- Develop critical awareness for the analysis of the legal system and develop the legal dialectic.
- Have negotiation and conciliation skills.

LEARNING OUTCOMES

Competence No. 1:

Ability to recognize non-judicial ways of dispute resolution, their scope, and their complementary or alternative nature to the judicial protection (regarding specific skills of the degree E: 3, 6, 7, 9, 10, 11, 14).

Competence No. 2:

Ability to recognize mediation techniques existing under Spanish law and their possible extension to other areas (regarding specific skills of the degree E: 3, 7, 8, 9, 10, 14).

Competence No. 3:

Ability to recognize the institution of arbitration, subjects who may develop it, the areas where it is applicable and arbitration proceeding (regarding specific skills of the degree E: 3, 7, 8, 9, 10, 14).

DESCRIPTION OF CONTENTS

1. Introduction to ADR (Alternative Dispute Resolutions)

1. ADR: global movement.
2. Emergence and origin in the Anglo-Saxon world. Justification and philosophical and legal development in shaping the ADR as a movement.
3. Special reference to the Common Law model. Manifestations.
4. Belated expansion of ADR in the continental legal system. Incidence and influence of the European Union in its projection.
5. Linking and meaning to "Access to Justice" Where are we going to? Advantages and threats.
6. Means of ADR.
6.1. Auto-composition
6.2. Hetero-composition

2. Mediation. Concept, principles and classes

1. Mediation: concept and principles. Advantages and disadvantages. Differences with conciliation.
2. Mediation classes. Movement of sectoralization of mediation.
2.1. Family mediation.
2.2. Civil and commercial mediation.
2.3. Criminal Mediation.
2.4. Mediation in specific conflicts: neighborhood, consumer matters, social, among others.
3. Workshops on mediation: practical development of the mediation. Schools of mediation and practical application.

3. Arbitration

1. Introduction to the study of arbitration: history, legislative developments.
2. Subject matters of the arbitration.
3. Subjects in arbitration
4. Arbitral proceedings
5. Arbitral award. Effects. Appeal
6. Practical workshop. Simulation arbitral proceedings.
7. Sectoral arbitration.

WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	45,00	100
Attendance at events and external activities	5,00	0
Development of group work	6,00	0
Development of individual work	2,50	0
Study and independent work	2,50	0
Readings supplementary material	4,00	0
Preparation of evaluation activities	31,50	0
Preparing lectures	6,00	0
Preparation of practical classes and problem	10,00	0
TOTAL	**112,50**	

TEACHING METHODOLOGY

This is a theoretical-practical course that makes it possible to achieve a sufficient knowledge that allowsto solve any questions that may arise in practice. Hence, the methodology will be:

1. On the one hand, the use of master classes for teaching concepts and principles. Classes which will build on the basic tools of educational texts, by using media like PowerPoint, among others.

2. On the other hand, within the framework of the implemented activities, we will work on the practical adaptation of the know-how through simulations. Mediation procedures with use of videos, practical application of mediation techniques. Simulation of oral sessions of arbitration during the classes, among others. This methodology is carried out through workshops.

3. Also, additional activities will be planned by organizing external sessions in the centers of mediation and/or arbitration, whenever possible.

EVALUATION

The skill assessment procedures will be:

• 70%: written test or oral objective examination, including theoretical and practical issues and/or problems.

• 30%: practical activities assessment, individual and/or in group, from the development and delivery of papers, reports and/or oral presentations, and participations an seminars.

-The score obtained in the continuous assessment will only be added to the score obtained in the test or the theoretical-practical knowledge assessment tests, if the latter reaches, at least, 50% of the maximum score established, either by adding the score of the partial test passed plus the final test, either by the score of the final test.

REFERENCES

Basic

- BARONA VILAR, S., Solución extrajurisdiccional de conflictos. ADR y Derecho Procesal, Tirant lo Blanch, Valencia, 1999.
- BARONA VILAR, S., Mediación en asuntos civiles y mercantiles en España, Tirant lo Blanch, Valencia,2013.
- AA.VV. (coord. por BARONA VILAR, S.), Comentarios a la Ley de Arbitraje,Civitas, 2ª ed., Cizur Menor, 2011.
- BARONA VILAR, S., Mediación penal: fundamento, fines y régimen jurídico, Tirant lo Blanch, Valencia, 2008.
- BARONA VILAR, Silvia, "Nociones y principios de las ADR (Solución extrajurisdiccional de conflictos)", Tirant lo Blanch, 2018.

Additional

- BARONA VILAR, S. (y otros), La mediación penal para adultos: una realidad en los ordenamientos jurídicos: (experiencias en España, EEUU, Inglaterra y Gales, Países Escandinavos, Francia, Alemania, Portugal, Brasil y Chile), Tirant lo Blanch, Valencia, 2009.
- CUCARELLA GALIANA, L. A., El procedimiento arbitral: (Ley 60/2003, 23 diciembre, de arbitraje), Publicaciones del Real Colegio de España en Bolonia, 2004.
- AA.VV. (dir. por ETXEBERRIA GURIDI, J. F.), Estudios sobre el significado e impacto de la mediación¿una respuesta innovadora en los diferentes ámbitos jurídicos?, Aranzadi, Madrid, 2012.

ADDENDUM COVID-19

This addendum will only be activated if the health situation requires so and with the prior agreement of the Governing Council

English version is not available