

**COURSE DATA****Data Subject**

<b>Code</b>	42667
<b>Name</b>	Conflict management, negotiation and transaction
<b>Cycle</b>	Master's degree
<b>ECTS Credits</b>	3.0
<b>Academic year</b>	2022 - 2023

**Study (s)**

<b>Degree</b>	<b>Center</b>	<b>Acad. year</b>	<b>Period</b>
2122 - Master's Degree in Mediation, Arbitration and Conflict Management in Privat	Faculty of Law	1	First term

**Subject-matter**

<b>Degree</b>	<b>Subject-matter</b>	<b>Character</b>
2122 - Master's Degree in Mediation, Arbitration and Conflict Management in Privat	2 - Management of disputes, negotiation and transaction	Obligatory

**Coordination**

<b>Name</b>	<b>Department</b>
GUILLEN CATALAN, RAQUEL	50 - Civil Law

**SUMMARY**

The course includes the study of management, resolution and transformation of the conflicts affecting, especially, in the detailed analysis of the ADR (Alternative Dispute Resolution), as well as the legal consequences arising therefrom in their different application contexts.

Deepening ADR systems that they currently offered to citizens, in the light of Directive 52/2008 on mediation in civil and commercial matters, and the Law 5/2012 of 6 July, which has transposed the directive, emphasize the importance of this subject in an emerging issue, which give students the opportunity to learn the structure of conflicts, the skills needed to address extra-jurisdictional and legal mechanisms can be provided as complementary to the judicial system



## PREVIOUS KNOWLEDGE

### Relationship to other subjects of the same degree

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

## COMPETENCES (RD 1393/2007) // LEARNING OUTCOMES (RD 822/2021)

### 2122 - Master's Degree in Mediation, Arbitration and Conflict Management in Privat

- Students should apply acquired knowledge to solve problems in unfamiliar contexts within their field of study, including multidisciplinary scenarios.
- Students should possess and understand foundational knowledge that enables original thinking and research in the field.
- Elaborar y manejar los escritos, informes y procedimientos de actuación más idóneos para los problemas suscitados.
- Adquirir los instrumentos para poder planificar, ordenar y encauzar actividades de manera que se eviten en lo posible los imprevistos, se prevean y minimicen los eventuales problemas y se anticipen sus soluciones.
- Contemplar en conjunto y tener en cuenta los distintos aspectos y las implicaciones en los distintos aspectos de las decisiones y opciones adoptadas, sabiendo elegir o aconsejar las más convenientes dentro de la ética, la legalidad y los valores de la convivencia social.
- Participate in, lead and coordinate debates and discussions, be able to summarize them and extract the most relevant conclusions accepted by the majority.
- Conocer y usar con fluidez las categorías, prescripciones y procedimientos relevantes para cada caso y sus antecedentes y soluciones más significativas.
- Saber trabajar de manera colegiada o integradora, reproduciendo contextos reales y aportando y coordinando los propios conocimientos con los de otras ramas e intervinientes.
- Ser capaces de integrarse en equipos, tanto en función de mediación y de negociación como en funciones específicas de arbitraje y en funciones de resolución alternativa de controversias.
- Comprender y aplicar correctamente los aspectos normativos y deontológicos de las distintas instituciones de resolución alternativa de controversias.

## LEARNING OUTCOMES (RD 1393/2007) // NO CONTENT (RD 822/2021)

Students gain ability to analyze, manage and help resolve conflicts cooperatively and disputes submitted to them in the exercise of their profession.

They know in depth the non-judicial dispute resolution systems and the legal effects arising thereof, assessing the benefits involved in each legal practice.



They know the legal framework of the various institutions (mediation, negotiation, transaction) its reporting principles and legal effects and learn to apply the process and techniques in various civil and commercial contexts, mainly in derivatives bankruptcy proceedings

## DESCRIPTION OF CONTENTS

### 1. The conflict

1. Concept
2. Elements
3. Cycle and Conflict Analysis
4. Personal Conflict Management

### 2. Traditional and alternative systems Of conflict resolution : the jurisdiction and the various ADR

1. 1 Conflict resolution through the courts. Advantages and disadvantages
2. 2 Transaction
3. 3 Arbitration
4. 4 Negotiation
5. 5 Reconciliation

### 3. General Theory of mediation

1. Concept
2. informants Principles
3. Process
4. Techniques
5. Results

### 4. Settlement of payments: the bankruptcy mediation

1. The bankruptcy mediation : definition and rules
2. Features
3. The settlement of payments
4. Functions of the bankruptcy mediator
5. Effects
6. Responsibility bankruptcy mediator

**WORKLOAD**

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	18,00	100
Tutorials	12,00	100
<b>TOTAL</b>	<b>30,00</b>	

**TEACHING METHODOLOGY**

The teacher will explain those fundamental elements that will guide the students in the study and understanding of the subject . The student, meanwhile, should be actively engaged in the learning process by reading prior to the teacher's explanation , or in class , depending on the organization of teaching time, those materials, manuals , monographs and texts provided or mentioned previously .

The aforementioned theoretical explanations will be supplemented with the development of case studies that will enable to contextualize the knowledge acquired, as well as the Organization of seminars or conferences related to the matter, which will be scheduled in the context of the subject and preferably consist of specific activities of the subject or of interdisciplinary or transverse nature of the Master.

**EVALUATION**

The student will be assessed through weekly monitoring and preparation of various program contents.

The Students must take, individually or collectively, as determined by the teacher, the evaluation activities proposed in the classroom, at the time indicated .

Specifically, this work will consist of performing , presentation and discussion in the context of practical classes and performing work on the subject.

The acquisition of generic skills and specific how priority identified in the matter and, mainly, ability to learn, reason, analyze and expose conflicts and alternative systems that are applicable to them in the management and resolution will be especially present.

In addition, a final test type will be carried out to demonstrate the knowledge acquired in the subject.



Therefore, the final evaluation will consist of:

- Class attendance: 2 points
- mediation practice: 3 points
- Exam Test: 5 points

The aforementioned evaluation system will be applicable to both the first and second calls.

## REFERENCES

### Basic

- ALZATE SÁEZ DE HEREDIA, Ramón.: Análisis y resolución de conflictos: una perspectiva psicológica, Editorial de la Universidad del País Vasco, Bilbao, 1998
- BLANCO CARRASCO, Marta.: Mediación y sistemas alternativos de resolución de conflictos. Una visión jurídica, Reus, Madrid, 2009
- BOQUÉ TORREMORELL, M<sup>a</sup> Carmen.: Cultura de mediación y cambio social, Sistemas alternativos de resolución de conflictos. La mediación Gedisa, Barcelona, 2003
- CAIVANO, Roque J., GOBBI, marcelo, PADILLA, Roberto E.: Negociación y mediación: instrumentos apropiados para la abogacía moderna. Métodos alternativos y el rol de los abogados, AD-HOC, Buenos Aires, 1997
- GARCÍA VILLALUENGA, Leticia y VAZQUEZ DE CASTRO, Eduardo (Dir.), Habilidades y procedimientos en la mediación. De la teoría a la práctica de los MASC, Aranzadi, 2022.

### Additional

- AURELI, Filippo, M. DE WAAL, Frans B.: Natural conflict resolution, Berkeley, University of California Press, cop., 2000
- CONSTANTINO, Cathy A., SICKLES MERCHANT, Christina.: Diseño de sistemas para enfrentar conflictos: una guía para crear organizaciones productivas y sanas, Granica, Barcelona, 1997
- DUKES, E. Franklin, PISCOLISH, Marina A., STEPHENS, John B.: Reaching for higher ground in conflict resolution: tools for powerful groups and communities, Jossey-Bass cop., San Francisco, 2000
- ENTELMAN, Remo F.: Teoría de conflictos: hacia un nuevo paradigma, Gedisa, Barcelona, 2002
- FISHER, Roger, BROWN, Scott (traduit de l'anglais par Mariette Gimo). : D'une bonne relation à une négociation réussie, Seuil, Paris, 1991
- GARCÍA VILLALUENGA, L., TOMILLO URBINA, J., VÁZQUEZ DE CASTRO, E. (Codirectores): Mediación, arbitraje y resolución extrajudicial de conflictos en el siglo XXI. Tomos I y II. Ed. Reus, Madrid, 2010.
- HO-WON, Jeong (Ed.): Conflict resolution: dynamics, process and structure, Ashgate cop., Aldershot, 1999
- MULHOLLAND, Joan.: El lenguaje de la negociación: manual de estrategias prácticas para mejorar la comunicación, Gedisa, Barcelona, 2003
- MUNDUATE JACA, Lourdes y MEDINA DÍAZ, Francisco José (Coords.): Gestión del conflicto, negociación y mediación, Pirámide, Madrid, 2005
- ROGEL VIDE, Carlos.: Transacción y mediación, nº3 Revista General de Legislación y Jurisprudencia,



2009.

