

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

Code	44556
Name	Workshop on negotiation, mediation and arbitration skills
Cycle	Master's degree
ECTS Credits	3.0
Academic year	2020 - 2021

Study (s)

Degree	Center	Acad. year	Period
2217 - M.U. en Derecho, empresa y justicia 17-V.2	Faculty of Law	1	First term
3123 - Law, Criminal Science and Criminology	Doctoral School	0	Annual

Subject-matter

Degree	Subject-matter	Character
2217 - M.U. en Derecho, empresa y justicia 17-V.2	9 - Taller de técnicas de negociación, mediación y arbitraje	Obligatory
3123 - Law, Criminal Science and Criminology	1 - Complementos Formación	Optional

Coordination

Name	Department
BARONA VILAR, SILVIA	45 - Administrative and Procedural Law

SUMMARY

The "Workshop on negotiation, mediation and arbitration skills" contains a social, sociological and legal current reality within the panorama of the protection of citizens through non-judicial or judicial means, but at the same time as a consequence to a desire for integration into the comprehensive scope of the Administration of Justice. The subject focuses on delimitation of the various means to work individually with each of them, deepening around the essential keys of theory and practice. Besides, it provides an overview that allows and facilitates the acquisition of all conflict management skills.



PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

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

Other requirements

Preferably, legal knowledge from Law or Legal Sciences Degree, in accordance with the Master's verifica.

OUTCOMES

2217 - M.U. en Derecho, empresa y justicia 17-V.2

- Es capaz de participar dentro de redes y equipos interdisciplinarios e interinstitucionales con el fin de establecer acuerdos de cooperación, y abordar de manera constructiva los posibles desacuerdos.
- Students should apply acquired knowledge to solve problems in unfamiliar contexts within their field of study, including multidisciplinary scenarios.
- Students should be able to integrate knowledge and address the complexity of making informed judgments based on incomplete or limited information, including reflections on the social and ethical responsibilities associated with the application of their knowledge and judgments.
- Students should demonstrate self-directed learning skills for continued academic growth.
- Students should possess and understand foundational knowledge that enables original thinking and research in the field.
- Identificar, analizar e interpretar los problemas jurídicos complejos conforme a criterios jurídicos y deontológicos, con el debido respecto a valores democráticos y a principios fundamentales, sin que tenga cabida la discriminación por razón de sexo, creencia o lugar de procedencia.
- Diferenciar, seleccionar y gestionar métodos apropiados de aprendizaje, presenciales y no presenciales, basados en la autonomía personal y en el control de las fuentes de información.
- Conocer y aplicar correctamente los distintos métodos de investigación científica adecuados al ámbito de estudio e investigación jurídica determinado.
- Conocer y aplicar las TICs en el desarrollo y elaboración de una investigación jurídica.
- Adquirir y aprender los instrumentos y técnicas necesarias para elaborar una sólida argumentación jurídica para ser comunicada a la comunidad académica e, incluso, en foros generalistas, de forma oral y/o escrita, y hacerlo de forma clara, precisa y convincente.
- Diseñar, adaptar y desarrollar procesos de investigación desde parámetros de integridad académica y ética.



- Saber seleccionar, localizar y utilizar las distintas fuentes de información, en especial, las bases de datos y gestores bibliográficos.
- Capacidad de trabajo en equipos multidisciplinares para la resolución de casos y situaciones jurídicas complejas nacionales e internacionales.
- Capacidad de implementación práctica de los conocimientos aprendidos en los debates y discusiones, así como ser capaces de dirigirlos e identificar y analizar las conclusiones más relevantes.
- Comprender y analizar la eficacia de la utilización de medios alternativos de solución de conflictos tales como el arbitraje y la mediación en la actividad comercial nacional e internacional desde la visión de un mercado global e internacionalizado.
- Identificar y valorar de forma conjunta las implicaciones en las distintas ramas jurídicas del desarrollo de la constitución económica y del establecimiento y consolidación del principio de libertad de empresa.
- Analizar y comprender la evolución experimentada por el ordenamiento jurídico, para conocer los bloques normativos y reguladores vigentes de los operadores económicos.
- Saber precisar, comparar y contrastar mediante razonamientos lógicos argumentos proporcionados por otros, bien en debates, bien cuando se trabaje en grupo, sobre la base del respeto mutuo.
- Identificar, seleccionar y aplicar la metodología de investigación adecuada al sector temático seleccionado y ser capaz de comunicarla con el rigor debido.
- Identificar y controlar las fuentes de información -legales, doctrinales y jurisprudenciales- especializadas para el tema de investigación, tanto en soporte físico como on-line.

LEARNING OUTCOMES

The activities allow students to acquire not only the necessary theoretical knowledge, but also the skills needed for the practice, by interpreting the most relevant social phenomena. Besides, students will be able to manage legal tools, as well as to develop the social skills to conflict management

DESCRIPTION OF CONTENTS

1. Conflict theory. Types of conflicts.

- 1.1. Concept of conflict.
- 1.2. Subjective elements: Bidimensional model.
- 1.3. Objective elements: typology of conflicts.
- 1.4. Cases and analysis.



2. What to do about the conflict? Passivity and Activity.

- 2.1. Position towards conflicts.
- 2.2. Inactivity. Consequences.
- 2.3. Selfcompositive solutions: negotiation, conciliation and mediation.
- 2.4. Heteroompositive solutions: special reference to arbitration.

3. Analysis of the conflict arisen within the economic and business fields (ad intra and ad extra)

- 3.1. Conflicts ad intra. Solutions.
- 3.2. Conflicts ad extra. Solutions.
- 3.3. Role-play

4. Study of existing techniques of resolution conflicts and management in the commercial sector and its social relevance. Negotiation, mediation and arbitration, a theoretical study of their definition and legal framework.

- 4.1. Negotiation. Theories and doctrines.
- 4.2. Mediation. National and international overview.
- 4.3. Mediation. Technics and phases of mediation.
- 4.4. Role-play in situ.
- 4.5. Arbitration. National and international context.
- 4.6. Principles and rules in arbitration.

5. Negotiating practices. Mediation techniques and its practical applicability. The arbitration process, procedure and rules. Application of the theory of legal arguments.

- 5.1 Development of a negotiation process. Basis. Protagonists. Application of technics and performance.
- 5.2. Mediation in practice. Role play and selfevaluation.
- 5.3. Development of an arbitration procedure. Role distribution and oral scenification.

**WORKLOAD**

ACTIVITY	Hours	% To be attended
Theory classes	19,50	100
Classroom practices	6,00	100
Seminars	4,50	100
TOTAL	30,00	

TEACHING METHODOLOGY

- Master class
- Elaboration and presentation of papers and works

EVALUATION

- Assessment of the interventions in the workshop of negotiation, mediation and arbitration. 60.0%
- Assessment of the participation of the students in debates and workshops, as well as resolving any other planned activities, being assessed not only the number of interventions but also the quality of them. 20.0%
- Assessment of the intervention and participation of the students in the classes, as well as the realisation of other activities planned. 20.0%

REFERENCES**Basic**

- BARONA VILAR, S., Solución extrajudicial de conflictos. ADR y Derecho Procesal, Valencia, Tirant lo Blanch, 1999.
- BARONA VILAR, S. Mediación penal. Fundamento, fines y regimen jurídico, Valencia, Tirant lo Blanch, 2011.
- BARONA VILAR, S., Mediación civil y mercantil, Valencia, Tirant lo Blanch, 2013.
- BARONA VILAR, S., Nociones y principios de las ADR, Valencia, Tirant, 2018.
- BARONA VILAR, S. (ed.), Psicoanálisis del arbitraje: Solución o problema en el actual paradigma de justicia, Valencia, Tirant lo Blanch, 2020.
- SOLETO, H. y CARRASCOSA, A. (eds.), Justicia restaurativa: una justicia para las víctimas, Valencia, Tirant, 2019.



Additional

- 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 (coord.. BARONA VILAR, S.), Valencia, Tirant lo Blanch, 2009.
- ESPLUGUES BARONA, C., Arbitraje y Derecho Administrativo. Teoría y realidad, Valencia, Tirant, 2018.
- MARCOS FRANCISCO, D., La mediación: ¿fórmula estrella para resolver los conflictos de consumo?, publicado en el Libro Homenaje al Prof. Juan Montero Aroca por su 70 aniversario, Tirant lo Blanch, 2013.

ADDENDUM COVID-19

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

This subject is taught during the second semester of the academic year 2020-21 (January 2021). The CCA of the Master will adopt, where appropriate, taking into account the evolution of the current pandemic of COVID-19 and the possible indications of the academic and health authorities, any measure it deems appropriate to ensure the normal development of the teaching. Measures that will be communicated publicly and immediately to all the students of the subject and that will seek to combine the permanence of the teaching activity with the preservation of the health of teachers and students.