



Information about the subject

Degree: Official Master's Degree in Law and procure

Faculty: Faculty of Legal, Economic and Social Sciences

Code: 1810004 **Name:** Extrajudicial Settlement of Disputes and Client Counselling

Credits: 2,00 **ECTS Year:** 1 **Semester:** 1

Module: Procedural practice

Subject Matter: Extra-procedural conflict resolution and advice **Type:** Compulsory

Field of knowledge: Social and Legal Sciences

Department:

Type of learning: Classroom-based learning

Languages in which it is taught: Spanish

Lecturer/-s:

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Module organization

Procedural practice

| Subject Matter | ECTS | Subject | ECTS | Year/semester |
|---|------|---|------|---------------|
| Extra-procedural conflict resolution and advice | 2,00 | Extrajudicial Settlement of Disputes and Client Counselling | 2,00 | 1/1 |



Learning outcomes

At the end of the course, the student must be able to prove that he/she has acquired the following learning outcomes:

- R1 Know perfectly the types of arbitration and, in particular, the ordinary arbitration and the special arbitrations, knowing how to handle their laws and national and international regulations.
- R2 Perfectly distinguish the specific fields of application of mediation and handle its regulatory rules.
- R3 Students determine the viability and convenience of resolving possible legal conflicts or conflicts already raised by the client by negotiation, mediation and/or arbitration.
- R4 Students can advise the client on the convenience, where appropriate, of agreeing contractual arbitration clauses or recommending the most suitable out-of-court dispute resolution route or routes and to explain the meaning, scope and effects of these.
- R5 Students can file a claim and intervene in the corresponding incident, defending the client when the corresponding arbitration agreement is already in place.
- R6 Know and acquire the requirements, skills and abilities to act as an arbitrator, as well as their possible responsibility.
- R7 Understand and acquire the requirements, skills and abilities to act as a mediator, as well as its possible responsibility.
- R8 Know how to defend the client in an arbitration procedure, filing the appropriate claim or reply, proposing the relevant evidence and making any other written and oral interventions during the procedure.
- R9 Know how to follow the appropriate steps in the different mediation procedures in order to bring the parties together and try to reach an amicable agreement.
- R10 Students can propose an amicable solution to the parties without having to go to court.
- R11 Students manage to request the judicial appointment and removal of arbitrators.
- R12 Master the way to request judicial assistance in the taking of evidence.
- R13 Know how to request the judicial adoption of precautionary measures in an arbitration procedure.
- R14 Know how to bring an action for annulment and intervene in proceedings for the annulment of an award.



- R15 Know how to initiate and process an award enforcement procedure.
- R16 Master the proper procedure for the recognition of foreign awards or arbitral decisions.



Competencies

Depending on the learning outcomes, the competencies to which the subject contributes are (please score from 1 to 4, being 4 the highest score):

| BASIC | | Weighting | | | |
|---------|--|-----------|---|---|---|
| | | 1 | 2 | 3 | 4 |
| B6 | Students have abilities to understand knowledge that provides a basis or opportunity to be original in the development and/or application of ideas, often in a research context. | | | X | |
| B7 | Students can apply their acquired knowledge and problem-solving skills in new or unfamiliar environments within broader (or multidisciplinary) contexts related to their area of study. | | | | X |
| B9 | Students communicate their findings and the ultimate knowledge and reasons behind them to specialist and non-specialist audiences in a clear and unambiguous manner. | | | | X |
| B10 | Students develop the learning skills that will enable them to continue studying in a largely self-directed or autonomous manner. | | | X | |
| GENERAL | | Weighting | | | |
| | | 1 | 2 | 3 | 4 |
| G1 | Students can find and select information and relevant sources for problem solving, development of action strategies and advice to clients. | | | | X |
| G2 | Prepare and handle the writings, reports and procedures of action most suitable for the problems raised. | | | | X |
| G3 | Relate the instruments to be able to plan, order and channel activities in such a way that unforeseen events are avoided as much as possible, possible problems are foreseen and minimized, and their solutions are anticipated. | | | | X |
| G4 | Apply a set and take into account the different aspects and implications in the different aspects of the decisions and options adopted, knowing how to choose or advise the most convenient within the ethics, legality and values of social convenience . | | | X | |



| | | | | |
|-----|---|---|--|---|
| G8 | Control contradictory information and provide a critical judgment on it. | x | | |
| G9 | Relate and relate cases, problems or situations and provide and defend possible solutions through different techniques of presentation - oral, written, presentations, etc. | | | x |
| G10 | Students assume the legal profession as a social and solidarity function, beyond the strict free justice. | | | x |

| SPECIFIC | | Weighting | | | |
|----------|--|-----------|---|---|---|
| | | 1 | 2 | 3 | 4 |
| E1 | Possess skills that allow applying the specialized knowledge acquired in the bachelor's degree or degree to the exercise before courts or public authorities, as well as in advisory functions. | | | | x |
| E2 | Know the techniques aimed at establishing the facts in the different types of proceedings, especially the production of documents, interrogations and expert evidence. x | | x | | |
| E4 | Students know the different techniques of composition of interests and to be able to find solutions to problems by means of alternative methods to the jurisdictional route. | | | | x |
| E7 | Know and know how to apply professional deontological rights and duties in the relations of the person exercising the law or the procurement with clients, other parties, courts or public authorities and among other persons practicing law or the procurement, as well as with other professionals. | | | | x |
| E10 | Know how to identify conflicts of interest and know the techniques for their resolution, establish the scope of professional secrecy and confidentiality, and preserve the independence of criteria. | | | | x |
| E13 | Develop skills and abilities to choose the correct strategy to defend the rights of clients taking into account the demands of the different fields of professional practice. | | | | x |
| E15 | Develop the skills and abilities necessary for the use of procedures, protocols, systems, and judicial applications, which require the acts of communication and cooperation with the Administration of Justice with special attention to those of an electronic, computer and telematics nature. | | x | | |



E17 Know how to develop skills that allow you to improve the efficiency of your work and enhance the overall functioning of the team or institution in which it develops through access to sources of information, knowledge of languages, management of the Knowledge and management of applied techniques and tools.

X

E19 Know how to present facts orally and in writing, and extract legal consequences from arguments, in attention to the context and the recipient to whom they are addressed, in accordance with the modalities of each procedural area.

X

E21 Know how to develop interpersonal skills and abilities, which facilitate professional practice in their relations with the citizens, with other professionals and with institutions.

X



Assessment system for the acquisition of competencies and grading system

| Assessed learning outcomes | Granted percentage | Assessment method |
|---|--------------------|--|
| R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16 | 40,00% | Objective tests and final examination in person. |
| R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16 | 40,00% | Theoretical and practical activities. |
| R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16 | 20,00% | Attendance and participation in class. |

Observations

1^a) It will be necessary to obtain a 5 in the exam with micro-cases so that the percentages obtained from the mark of the practices can be applied, as well as the mark obtained by attendance and participation in class, and thus obtain the mark end of the course.

2^a) If a grade lower than 5 is obtained in the exam with micro-cases of 1st call, in the exam of 2nd call the grade of the micro-cases exam will be the final grade of the subject, without taking into account the note of attendance and participation nor the note of practices.

MENTION OF DISTINCTION:

According to Article 22 of the Regulations governing the Evaluation and Qualification of UCV Courses, the mention of "Distinction of Honor" may be awarded by the professor responsible for the course to students who have obtained, at least, the qualification of 9 over 10 ("Sobresaliente"). The number of "Distinction of Honor" mentions that may be awarded may not exceed five percent of the number of students included in the same official record, unless this number is lower than 20, in which case only one "Distinction of Honor" may be awarded.



Learning activities

The following methodologies will be used so that the students can achieve the learning outcomes of the subject:

- M1 Exposition of contents by the teacher, analysis of competencies, explanation and demonstration of capacities, skills and knowledge in the classroom. Specific instructions about group and individual work on each topic.
- M2 Group work sessions in groups supervised by the teacher. Study of legal cases, both true and fictitious, diagnostic analysis, problems, field study, computer room, visits, data search, libraries, network, Internet, etc. Significant construction of knowledge through student interaction and activity.
- M3 Application of interdisciplinary knowledge.
- M4 Personalized attention and in small groups. Period of instruction and/or orientation carried out by a tutor with the objective of reviewing and discussing the materials and topics presented in the classes, seminars, readings, completion of assignments, etc.
- M5 Set of oral and/or written tests used in the initial, formative or summative evaluation of the student.
- M6 Group preparation of readings, assumptions and problem solving to present, discuss or deliver in the classes or tutorial.
- M7 Student's study: Individual reading preparation, study of practical cases, jurisprudence. Writing of writings and papers to present or deliver in classes or tutorials.



IN-CLASS LEARNING

IN-CLASS LEARNING ACTIVITIES

| | LEARNING OUTCOMES | HOURS | ECTS |
|------------------------------------|---|--------------|-------------|
| Face-to-face lessons. M1 | R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16 | 7,50 | 0,30 |
| Practice class. M2 | R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15 | 7,00 | 0,28 |
| Seminar. M3 | R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16 | 1,50 | 0,06 |
| Presentations of group work. M6 | R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16 | 2,00 | 0,08 |
| Tutorial. M4 | R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16 | 1,00 | 0,04 |
| Evaluation. M5 | R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16 | 1,00 | 0,04 |
| TOTAL | | 20,00 | 0,80 |

LEARNING ACTIVITIES OF AUTONOMOUS WORK

| | LEARNING OUTCOMES | HOURS | ECTS |
|------------------------|---|--------------|-------------|
| Group work. M6 | R1, R2, R4, R5, R6, R7, R11, R12, R13, R14, R15 | 10,00 | 0,40 |
| Individual work. M7 | R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16 | 20,00 | 0,80 |
| TOTAL | | 30,00 | 1,20 |



Description of the contents

Description of the necessary contents to acquire the learning outcomes.

Theoretical contents:

| Content block | Contents |
|---|---|
| THEMATIC BLOCK 1: GENERAL ASPECTS | Alternative Dispute Resolution (ADR) concept and classes. Characteristics, advantages and disadvantages and principles of extrajudicial dispute resolution procedures: special reference to arbitration and mediation. National and international regulations governing both figures and their main characteristics. |
| THEMATIC BLOCK 2: SCOPE OF APPLICATION AND SUBJECT MATTERS OF ARBITRATION | Scope of application of the Spanish arbitration law, with special reference to ordinary and special arbitrations: 1) Consumer arbitration. 2) Arbitration in the field of transport. 3) Arbitration regarding intellectual property. 4) Arbitration in matters of industrial property. 5) Arbitration in the private insurance sector. 6) Arbitration at the headquarters of cooperatives. 7) Probate arbitration. 8) Arbitration in matters of horizontal property. 9) Other private arbitrations. 10) Arbitration in the Public Law sector. 11) Pseudo-arbitrations in Spanish regulations. |
| THEMATIC SECTION 3: THE ARBITRAL AGREEMENT. BRIEF SUMMARY OF CONTENT | Concept, content and effects of the arbitration agreement. Forms of subscription and perfection of the arbitration agreement. Special incidence in pathological clauses. Arbitration agreement and claim on the merits before a Court: approach and processing of the decline. |
| THEMATIC SECTION 4: THE REFEREES | Ability and skills to be a referee. Number and appointment system of arbitrators. Causes and procedure for abstention and challenge of arbitrators. Responsibility of the arbitrators and arbitration institutions. The principle kompetenz kompetenz. |



THEMATIC SECTION 5: THE ARBITRAL PROCEDURE AND THE TERMINATION OF THE PROCEEDINGS

General aspects of the procedure: 1) The regime of notifications of arbitration actions and the calculation of time limits. 2) The place of arbitration. 3) The language of the arbitration. Procedures and specific aspects: 1) Start of arbitration. 2) Demand and answer. 3) Form of arbitration proceedings and hearings. 4) The test. 5) The regime of default of the parties. 6) The award. 7) Precautionary measures. Abnormal forms of termination of the arbitration procedure.

THEMATIC SECTION 6: JUDICIAL INTERVENTION IN ARBITRATION

The jurisdictional functions of support and control of the arbitration: 1) The appointment and judicial removal of arbitrators. 2) Legal assistance in the practice of evidence. 3) The adoption of precautionary measures by jurisdictional bodies. 4) The action for annulment of the award. 5) Enforceability of the award. 6) The exequatur of foreign awards. 7) Performance of the procurator in the protocolization of mediation agreements and arbitration awards.

THEMATIC BLOCK 7: SCOPE OF APPLICATION AND SUBJECT MATTERS OF MEDIATION.

Mediation in civil and commercial conflicts in general. Specific areas of application of mediation: 1) Mediation in the business environment: corporate mediation, in companies and between companies. 2) Mediation in industrial property. 3) Mediation in intellectual property. 4) Mediation in international trade. 5) Mediation in consumption. 6) Mediation in the bankruptcy area. 7) Family mediation. 8) Intercultural mediation. 9) Criminal mediation.

THEMATIC SECTION 8: PSYCHOLOGICAL ASPECTS

Emotions, characters, various personalities and the influence of the environment. Emotional intelligence and control of emotions. Psychopathies (violence, alcoholism, drug addiction, etc.). Attitudes and their modification when addressing the different conflicts. Feedback.

THEMATIC SECTION 9: THE MEDIATOR AND THE MEDIATION PROCEDURE

The figure of the mediator: requirements and communication skills and active listening to act as a mediator. The necessary active role of the mediator, his techniques and tools: verbal and non-verbal communication, conversational skills, assertiveness and use of questions. Mediation models. Phases and steps in the mediator procedure.



Temporary organization of learning:

| Block of content | Number of sessions | Hours |
|---|--------------------|-------|
| THEMATIC BLOCK 1: GENERAL ASPECTS | 1,00 | 2,00 |
| THEMATIC BLOCK 2: SCOPE OF APPLICATION AND SUBJECT MATTERS OF ARBITRATION | 1,00 | 2,00 |
| THEMATIC SECTION 3: THE ARBITRAL AGREEMENT. BRIEF SUMMARY OF CONTENT | 1,00 | 2,00 |
| THEMATIC SECTION 4: THE REFEREES | 0,40 | 0,80 |
| THEMATIC SECTION 5: THE ARBITRAL PROCEDURE AND THE TERMINATION OF THE PROCEEDINGS | 1,00 | 2,00 |
| THEMATIC SECTION 6: JUDICIAL INTERVENTION IN ARBITRATION | 0,60 | 1,20 |
| THEMATIC BLOCK 7: SCOPE OF APPLICATION AND SUBJECT MATTERS OF MEDIATION. | 1,00 | 2,00 |
| THEMATIC SECTION 8: PSYCHOLOGICAL ASPECTS | 1,00 | 2,00 |
| THEMATIC SECTION 9: THE MEDIATOR AND THE MEDIATION PROCEDURE | 3,00 | 6,00 |



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Addendum to the Course Guide of the Subject

Due to the exceptional situation caused by the health crisis of the COVID-19 and taking into account the security measures related to the development of the educational activity in the Higher Education Institution teaching area, the following changes have been made in the guide of the subject to ensure that Students achieve their learning outcomes of the Subject.

Situation 1: Teaching without limited capacity (when the number of enrolled students is lower than the allowed capacity in classroom, according to the security measures taken).

In this case, no changes are made in the guide of the subject.

Situation 2: Teaching with limited capacity (when the number of enrolled students is higher than the allowed capacity in classroom, according to the security measures taken).

In this case, the following changes are made:

1. Educational Activities of Onsite Work:

All the foreseen activities to be developed in the classroom as indicated in this field of the guide of the subject will be made through a simultaneous teaching method combining onsite teaching in the classroom and synchronous online teaching. Students will be able to attend classes onsite or to attend them online through the telematic tools provided by the university (videoconferences). In any case, students who attend classes onsite and who attend them by videoconference will rotate periodically.

In the particular case of this subject, these videoconferences will be made through:

☒ Microsoft Teams

☐ Kaltura



Situation 3: Confinement due to a new State of Alarm.

In this case, the following changes are made:

1. Educational Activities of Onsite Work:

All the foreseen activities to be developed in the classroom as indicated in this field of the guide of the subject, as well as the group and personalized tutoring, will be done with the telematic tools provided by the University, through:

☒ Microsoft Teams

☐ Kaltura

Explanation about the practical sessions:



2. System for Assessing the Acquisition of the competences and Assessment System

ONSITE WORK

Regarding the Assessment Tools:

☒

The Assessment Tools will not be modified. If onsite assessment is not possible, it will be done online through the UCVnet Campus.

☐

The following changes will be made to adapt the subject's assessment to the online teaching.

| Course guide | | Adaptation | |
|-----------------|----------------------|--------------------------------------|---------------------|
| Assessment tool | Allocated percentage | Description of the suggested changes | Platform to be used |

The other Assessment Tools will not be modified with regards to what is indicated in the Course Guide.

Comments to the Assessment System:



1^a) Concerning attendance, being online classes, attendance is not mandatory (although convenient) and mere assistance will not count in the final note. As a result, attendance is not recorded. The percentage of the expected score for mere assistance (20%) will increase the percentage of participation and favourable attitude in the subject (the percentage of the subject will be, therefore, in total, 20%). In other words, being the online classes will only take into account the participation of the student (besides, of course, the percentage corresponding to the practise and the exam) and the favourable attitude in the subject expressed by the student in the following ways:

1. The interventions of the students in the classes themselves (in-person or online), with the corresponding records or annotations.
2. Virtual tutoring through the UCVnet Virtual Campus or online sessions through Teams developed as a group or individual tutoring.
3. Interventions in the forum created on the UCVnet platform to raise and answer questions of the subject.
4. Emails or messages received raising questions about the subject.

However, in order not to harm students and to respect the corresponding percentages indicated in the teaching guides (following the academic report) as long as they have been applicable, the percentage corresponding to the mere attendance of the classroom teaching developed so far will be considered.

2^a) The type test exam will be done through the UCVnet platform (moodle). It will be possible to use manuals, notes, legislation and jurisprudence.