

Negotiation

Academic Year: (2019 / 2020)

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Department assigned to the subject: Private Law Department

Coordinating teacher: VEGA JUSTRIBO, BARBARA DE LA

Type: Compulsory ECTS Credits : 2.0

Year : 1 Semester : 1

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

SUBJECTS THAT IT IS RECOMMENDED TO OVERCOME: Law Degree.

OBJECTIVES

BASIC SKILLS:

- CB6 Possess and acquire knowledge that provides a basis or opportunity to be original in the development and/or application of ideas, often in a research context.
- CB7 Make the students able to apply the knowledge acquired, and their ability to solve problems in environments that are new or little known within broader contexts (or multidisciplinary) related to their field of study.
- CB8 Make the students able to integrate knowledge and face the complexity of exercising judgment from information that, being incomplete or limited, includes reflections over the social and ethical responsibilities linked to the application of their knowledge and judgments.
- CB9 Make the students capable to communicate their conclusions and the knowledge and ultimate reasons that support those conclusions, to a public that may be specialized or non-specialized in a clear and unambiguous manner.
- CB10 Make the students possess the learning skills that allow them to continue studying in a way that will, to a great extent, have to be self-directed and autonomous.

GENERAL SKILLS:

- CG1 Understand the multidisciplinary nature of the legal order and the necessarily interdisciplinary approach to legal problems, especially from an international perspective.
- CG2 To integrate, manage, identify, organize and analyze information of a legal nature.
- CG3 To formulate critical judgments, evaluate them, and communicate their conclusions in a clear and orderly manner.
- CG4 To evaluate the development of personal and collective actions, identifying rigorous and well-finished work, as well as mistakes, making arguments, and proposing alternative solutions to improve processes and outcomes.
- CG5 To acknowledge the growing importance of teamwork and show initiative, creativity and sense of responsibility, maintaining a lively interest during the whole process.
- CG6 To adapt and blend into different working groups, keeping fluid relationships and communication, respecting ideas and solutions proposed by others with an attitude of cooperation and tolerance, sharing responsibilities and issuing and receiving instructions.
- CG7 To develop professional works in interdisciplinary and international teams, with the ability to integrate diverse contributions in diverse and multicultural legal environments, all towards a common goal.
- CG8 To acquire an adequate and correct attitude at an international level, especially in the context of legal compliance and the management of conflicts of interest in the negotiation of contracts and their performance, as well as in the dispute resolution stage.

SPECIAL SKILLS:

- CE1 To be able to draft legal documents in Spanish and English in the context of contract negotiation, the execution of transnational transactions, as well as in international conflictual contexts.
- CE2 To understand the different types of conflicts present in every negotiation or dispute resolution activity in the context of international legal practice and to analyse its influence in the development of

the legal service to be rendered with regard to the parties involved: businesses, the State, or physical persons.

CE3 To negotiate to resolve and/or avoid situations of legal conflict, which will permit the lawyer to improve the efficiency of its work.

CE 4 To be able to deliver a satisfactory outcome for the client when the project requires coordinating schedules and teams in different time zones, cultures and expectations, in order to finish a project consisting in closing a deal, or carrying forward a dispute before different venues.

CE5 To understand and adapt to the legal environment the different stages of a project in a contractual as well as a procedural context: beginning and planning, decision-making, conflict management, and monitoring and control of execution

CE9 Capacity to understand the economic implications of legal decisions, and the financial perspective when evaluating a client or a project.

CE19 Capacity of critical analysis of contractual and procedural documents and legal texts with an international origin for their correct interpretation and execution.

CE20 Capacity to draw common criteria from diverse sources from different legal traditions, and to formulate proposals and positions not based on arguments of authority, but of consistency.

CE22 To develop interpersonal skills, which facilitate the practice of international advocacy in relation with clients and other players, as well as choosing the correct legal strategy for the defense of those clients' interests

LEARNING OUTCOMES FOR THE SUBJECTS:

Legal writing and oral advocacy

Negotiation

Time, client and project management

After taking this course the student will be able to:

-Know the foundations of a proper written and oral advocacy, especially in English, which will be applied to the drafting of contract and procedural documents, and to the legal defense of the client's interests.

-Understanding of the oral and written skills that are more appropriate according to the type of situation in an international environment: negotiation of contract documents and its drafting, drafting of procedural documents, negotiation of agreements, or pleading before courts and arbitral tribunals.

-Understand the different positions that intervene in an international negotiation, with special attention to the different cultural and legal aspects that take place in transnational transactions.

-To apply Project management tools to the affairs that they undertake or participate in.

-To command and understand the importance of the management of costs, human resources and change of scope in the performance of legal services.

COMPETENCES ACQUIRED BY THE STUDENT AND RESULTS OF LEARNING

The actual context of legal globalization makes negotiation a key element both for reaching agreements and for preventing and managing legal disputes.

This module facilitates the student the knowledge of the best practices of negotiation and the development and training of the necessary skills to better know the interests and needs of his/her clients and to help them in the most efficient way to obtain their satisfaction.

The subject will allow the student to acquire the following academic and professional abilities and skills:

- Learn about the best negotiation tactics
- Identify the real interests and needs of his/her clients
- Identify the interests and needs of the other party
- Know how to carry out an adequate and effective preparation of the negotiation process
- Communicate clearly with the negotiating party
- Understand the role that cultural differences play in international negotiation
- Build a good relationship with the negotiating party
- Develop an efficient and successful negotiation process

The student will have the opportunity to put into practice the knowledge acquired through workshops and role play development

DESCRIPTION OF CONTENTS: PROGRAMME

SCHEDULE OF THE SUBJECT

SUBJECT PRESENTATION

Presentation of contents, structure of the subject, objectives pursued and method to be followed. Evaluation system. Tasks to be developed. Skills, abilities and expertise to be acquired.

NEGOTIATION: CONCEPT AND TYPES

POSITIONS AND INTERESTS

WORKSHOP ON POSITIONS AND INTERESTS: The students, in groups, will work on the distinction between positions and interests for later class discussion and sharing

COMMUNICATION / ACTIVE LISTENING

CROSS CULTURAL ASPECTS IN INTERNATIONAL NEGOTIATION: DIFFERENT PERSPECTIVES

GROUP WORKSHOP / ROLE PLAY: The students, in groups, will work on communication and active listening practices for later class discussion and sharing

BATNA, WATNA, ZOPA AND EXTERNAL LEGITIMACY CRITERIA

GROUP WORKSHOP / ROLE PLAY: The students, in groups, will work on these different aspects for later class discussion and sharing

STAGES: PREPARATION, DEBATE AND CLOSING. STRATEGIC PLANNING: INTERESTS AND GOALS, OFFER, COUNTER-OFFER AND 'ANCHORING EFFECT'

CONCESSIONS AND DEADLOCK. THE AGREEMENT

CHECKLIST TO PREPARE A NEGOTIATION

GROUP WORKSHOP ON CHECKLIST TO PREPARE A NEGOTIATION

The students, in groups, will work on the negotiation preparation checklist for later class discussion and sharing

NEGOTIATION ROLE PLAY

The students, in groups, will develop a role play of negotiation that will later be discussed in class

CLARIFICATIONS / FEEDBACK

LEARNING ACTIVITIES AND METHODOLOGY

TEACHING ACTIVITIES BY MATTER:

- AF2 Practice/Case
- AF3 Lecture-plus-practice
- AF6 Group work
- AF7 Students' individual work

TEACHING METHODOLOGIES BY MATTER:

MD1: Lecture in class by the professor aided by computer and audiovisual tools, in which the course's main concepts will be developed, and the main literature will be provided.

MD2: Critical reading of the texts recommended by the course's professor: press articles, reports, manuals and/or academic articles, for their discussion in class, or to expand and consolidate the lessons of the course.

MD3: Resolution of cases, problems, etc, provided by the professor, individually or in group.

MD4: Exposition and discussion in class, moderated by the professor, on topics regarding the contents of the course, as well as practical cases.

MD5: Making of Works and reports individually or in group.

TRAINING ACTIVITIES, METHODOLOGY TO BE USED

The purpose is to form the students in the subject of negotiation through a teaching-learning system adapted to the new requirements of the Bologna process

The overcoming of the subject will support the acquisition of theoretical and practical knowledge.

Practical knowledge will be obtained through the workshops and role plays.

STRUCTURE OF TEACHING:

1. Master Class:

The program of the course (7 lessons) has been attempted to adapt to the number of classes (8) to be developed in four weeks, with a total of 12 teaching hours.

In the theoretical class the teacher will explain the fundamental ideas of each subject, the student should, if the teacher so indicates, complete the class explanations with the Manuals indicated in the recommended Bibliography (the bibliography is included in the program of the subject), or with the Manual or materials specifically identified by the teacher.

2. Practical class:

In the practical classes and activities associated with them, the students have to carry out the planned activities under the supervision of the teacher. There are activities of different types according to the schedule:

- When the schedule indicates "Workshops", "Working Group" or "Role Play" is, mainly, that the students carry out directly in class certain practical exercises. It may also be that students bring to class a resolved case to be delivered to the teacher at the beginning of the class, and to be discussed and commented in class under the direction and supervision of the teacher.

ASSESSMENT SYSTEM

| | |
|---|----|
| % end-of-term-examination/test: | 40 |
| % of continuous assessment (assignments, laboratory, practicals...): | 60 |

EVALUATION SYSTEMS BY MATTER

- SE1 Participation and engagement in class
- SE2 Individual or group Works done during the course
- SE3 Final exam
- SE4 Presentation and public discussion of End of Studies Project

| Evaluation systems | Minimum weigh (%) | Maximum weigh (%) |
|--------------------|-------------------|-------------------|
| SE1 | 20% | 40% |
| SE2 | 40% | 50% |
| SE3 | 10% | 40% |

The attendance and participation of the students in all classes can be qualified as MANDATORY, insofar as the final grade will depend largely both on the attendance and participation in class and on the completion of the exercises provided for each practical class.

THE EVALUATION OF COMPETENCES ACQUISITION WILL BE BASED ON THE FOLLOWING:

- Pass a theoretical-practical examination of the content of the subject.
- Attendance and participation in the classes.
- Continuous evaluation of the student, attending to the participation in class and to the works and practices carried out.

As a whole, the purpose of the evaluation is to check whether the students have met the learning objectives.

Through assessment, the student will demonstrate that possess and understand the knowledge of the discipline, that has the capacity to communicate such knowledge and that has acquired learning skills.

In short, it is a matter of achieving knowledge, professional competences or skills and abilities to work in an international legal team

Evaluation:

The evaluation of the knowledge acquired by the students must take into account the work done by them throughout the classes (continuous assessment). This continuous assessment is allocated 60% on the final grade. In addition, a final theoretical exam will be carried out with an assessment of 40% of the final score.

Final score:

Once the final theoretical exam is done, both punctuations will be added to obtain the final score of each of the students. To pass, you must obtain a minimum grade of 5 points. However, those students who do not exceed a minimum of 1.5 in each part of the assessment (final theoretical exam and continuous assessment) will not approve.

The master in International advocacy is a master's degree that is taught in person. Therefore, students are required to attend all the theoretical and practical classes that the master has programmed. A student may only be absent for no reason from a maximum of 15 per cent of the classroom hours (i.e. not the sessions or days) in each subject. In case of excused absences, the total maximum will be 25%. If the student hold an absence greater than those indicated, a "0" will be computed on the continuous evaluation rating. Likewise, the absences lower than those percentages may be taken into account when it comes to modulate downward the qualification of the continuous evaluation, especially if it includes a participation note.

In the extraordinary call the weight will be: Final examination: 60% and continuous evaluation: 40%.

BASIC BIBLIOGRAPHY

- Douglas Stone, Bruce Patton, Sheila Heen, Roger Fisher Difficult Conversations: How to Discuss What Matters Most, XX, Nov 01, 2010
- Edward De Bono Six Thinking Hats: An Essential Approach to Business Management, Little, Brown, & Company, 1985. ISBN 0316177911
- Edward de Bono Conflicts: A Better Way to Resolve them, Penguin (UK), 1st Edition November 21st 1985
- Henry Brown; Arthur Marriott, QC ADR: Principles and Practice , 3rd Edition Sweet & Maxwell, 2011
- Howard Raiffa The Art and Science of Negotiation, Harvard University Press, 1982
- Marshall B. Rosenberg Nonviolent Communication: A Language of Life, Encinitas, CA: PuddleDancer Press, Third Edition, 2015. ISBN 978-1892005281
- Max Bazerman, Margaret Neale Negotiating Rationally, Simon & Schuster, 1993
- Robert H. Mnookin, Scott R. Peppet Andrew S. Tulumello Beyond Winning: Negotiating to Create Value in Deals and Disputes, Harvard University Press, 04/15/2004. ISBN 9780674012318
- Roger Fisher & William Ury Getting to Yes: Negotiating Agreement without Giving in, Harvard University Press, 12 dic 1991
- Roger Fisher and Elizabeth Kopelman Beyond Machiavelli : Tools for Coping With Conflict, Harvard University Press, January 1, 1994
- Stephen Covey The 3rd Alternative: Solving Life's Most Difficult Problems, Free Press, October 4th 2011
- Stephen R. Covey The 7 Habits of Highly Effective People; Powerful Lessons in Personal Change, Simon and Schuster, November 9, 2004
- William Ury Getting to yes with yourself (and Other Worthy Opponents), HarperOne, January 20th 2015. ISBN 0062363387

ADDITIONAL BIBLIOGRAPHY

- J Kim Wright Lawyers as Peacemakers: Practicing Holistic, Problem-solving Law, ABA American Bar Association, 2010
- Linda Alvarez Discovering Agreement: Contracts That Turn Conflict into Creativity, ABA American Bar Association, July 1, 2016

BASIC ELECTRONIC RESOURCES

- International Mediation Institute . International Mediation Institute : <https://imimmediation.org/>