

Academic Year: ( 2021 / 2022 )

Review date: 13-07-2021

Department assigned to the subject: Criminal Law, Procedural Law and History Law Department

Coordinating teacher: SOLETO MUÑOZ, HELENA

Type: Electives ECTS Credits : 2.0

Year : 1 Semester : 1

**REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)**

Negotiation

**OBJECTIVES****CORE COMPETENCES:**

- Possess and understand knowledge that provides a basis or opportunity to be original in the development and/or application of ideas, often in a research context.
- To be able to apply the knowledge acquired and their problem-solving skills in new or unfamiliar environments within broader (or multidisciplinary) contexts related to their area of study.
- Students are able to integrate knowledge and deal with the complexity of making judgements based on information that, although incomplete or limited, includes reflections on the social and ethical responsibilities linked to the application of their knowledge and judgements.
- Students should be able to communicate their findings and the ultimate knowledge and reasons behind them to specialist and non-specialist audiences in a clear and unambiguous manner.
- That students possess the learning skills that will enable them to continue studying in a largely self-directed or autonomous manner.

**GENERAL SKILLS:**

- Perceive the multidisciplinary nature of the legal system and the necessary interdisciplinary vision of legal problems, especially from an international perspective.
- To integrate, manage, identify, organize and analyze legal information.
- Formulate critical judgments, evaluate them and communicate their conclusions in a clear and orderly manner
- Assess the development of personal and collective performance, identifying rigorous and well-done work, as well as errors, arguing and proposing alternative solutions to improve processes and results.
- Recognize the growing importance of teamwork and demonstrate initiative, creativity and a sense of responsibility, maintaining interest throughout the process.
- Adaptation and integration in different work groups, maintaining fluid relations and communications, respecting ideas and solutions contributed by others with an attitude of cooperation and tolerance, sharing responsibilities and giving and receiving instructions.
- Developing professional work in interdisciplinary and international teams, acquiring the capacity to integrate diverse contributions in diverse multicultural and legal environments towards a common goal.
- Acquiring an appropriate and correct conduct at international level, especially in the case of regulatory compliance and management of conflicts of interest both in the negotiation of contracts and their execution, as well as in the dispute resolution phase.
- Capacity to understand the advisory function in a wider scope such as the transnational
- Ability to apply in new and multidisciplinary environments the concepts, principles, theories or models related to the globality and internationality of law.

**SPECIFIC SKILLS:**

- To be able to write legal documents in Spanish and English in environments of contract negotiation, carrying out transnational operations, as well as in an international conflict environment.
- Understand the various types of conflicts of interest present in any negotiation or dispute resolution activity within the framework of international law and analyse their influence on the development of the legal service to be provided to the parties involved: companies, the State, or individuals.
- Negotiate to resolve and/or avoid situations of legal conflict, allowing the lawyer to improve the efficiency of his work.
- To learn the key legal concepts and institutions in the law of other jurisdictions, especially those coming from the common law system and their comparison and contrast with the main institutions of continental law.

- Learn the key legal principles and institutions in transnational law and public international law, and understand the channels through which the interests protected by the various branches can converge and relate, either through the transmission of principles and teachings, or through conflict between them, and the need to achieve complex balances.
- The ability to understand the economic implications of legal decisions, and the financial perspective when considering a client or a project
- The ability to understand commercial companies in terms of the diversity of interests that are manifested in them, their points of convergence and conflict, as well as the diversity of agency problems that can occur, and the mechanisms, legal and derived from autonomy of will, for their solution.
- The ability to extrapolate the interests at stake in business operations to a cross-border environment, where the preferences of different parties may vary, and the legal mechanisms for resolving conflicts may be diverse, so that it is possible to understand the priorities of each party in each context.
- The ability to bring together the contractual perspective, subject to party autonomy, and bilateral negotiation, with the multilateral perspective, and with the public interest perspective, as a distinct actor, combining interests not represented in the negotiating process and limits to party autonomy
- The ability to understand the main tax issues that need to be taken into account in an environment of cross-border activity, particularly those arising from international conventions and international tax planning.
- Ability to reconcile legal and economic/accounting interpretative perspectives in order to design transactions and structures that combine tax optimization with the most scrupulous compliance with legality.
- To know the procedures that integrate the different arbitration and judicial procedures at an international level.
- To be able to integrate the knowledge of the different phases of an international procedure in a sequential perspective, where the different scenarios are anticipated and the best strategy for the procedure is prepared.
- Advanced capabilities for the execution and transnational coordination of proceedings for the taking of evidence, especially the production of documents, interrogations and expert evidence in complex situations.
- Knowledge and ability to integrate the defence of clients' rights into the framework of international jurisdictional protection systems.
- Capability of critical analysis of contractual and procedural documents and legal texts of international origin for their correct interpretation and execution.
- Capacity to extract common criteria from diverse sources of different legal traditions, and to formulate proposals and positions not based on arguments of authority, but of coherence.
- To advise on matters of regulatory compliance, corporate, contract, procedural, labor, administrative and tax law from the point of view of international law.

#### LEARNING OUTCOMES BY SUBJECT

After passing this subject the student will be able to:

Acquire an all-encompassing vision of the most relevant operations in international practice, including the corporate and contractual perspective, as well as the regulatory one.

- Know the various procedures most frequently used in the international arena, both judicial and arbitration, as well as their different phases and procedures
- To be able to draft procedural documents for international judicial and arbitral proceedings
- know how to assess the risks and plan the strategies involved in international negotiation or mediation with a view to reaching an agreement between the parties concerned
- To know and explain the main human and fundamental rights and their protection in the main international instruments
- Know the main legal situations and problems arising from the transnational mobility of workers, persons and citizens, as well as those arising from family and inheritance law at international level
- Putting into practice the essential elements of international law according to the various substantive areas in which transnational practice takes place

#### DESCRIPTION OF CONTENTS: PROGRAMME

##### International Mediation

##### Session 1.

- 1.1. International mediation. Mediation in the European Union. Comparative Civil and Common Law.
- 1.2. International mediation institutions. Mediation clause, effects of mediation.
- 1.3. Practice: international mediation.

##### Session 2.

- 2.1. Mediation: concept, types, advantages and disadvantages.

## 2.2. Commercial Mediation: UNCITRAL Model Law.

### Session 3.

- 3.1. Mediation micro-techniques.
- 3.2. Practical: mediation techniques

### Session 4.

- 4.1. Phases, agreement and role of the lawyer in mediation.
- 4.2. Role of the mediator.
- 4.3. Role-play: briefing, constitutive session, mediation process, caucus, cross-caucus and agreement.

## LEARNING ACTIVITIES AND METHODOLOGY

- AF1 Lecture
- AF2 Practice/Case
- AF3 Lecture-plus-practice
- AF6 Group work
- AF7 Students individual work

## TEACHING METHODOLOGIES

- 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.
- 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.
- Resolution of cases, problems, etc, provided by the professor, individually or in group.
- Exposition and discussion in class, moderated by the professor, on topics regarding the contents of the course, as well as practical cases.
- Making of works and reports individually or in group.

TUTORING: Students will have access to tutorials with the person responsible for coordinating the subject. With the tutoring it is intended to organize the teaching and learning processes that are based on the interaction between the student and the teacher in order to: (i) Guide the autonomous and group work of the students (ii) Deepen in different aspects of the subject (iii) Guide the academic and comprehensive training of the student. The tutorials will take place at the time and under the conditions determined by the teacher in Aula Global.

## ASSESSMENT SYSTEM

- SE1 Participation and engagement in class
- SE2 Individual or group Works done during the course
- SE3 Final exam

Evaluation systems	Minimum weigh (%)	Maximum weigh (%)
SE1	20%	30%
SE2	40%	60%
SE3	20%	40%

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%
- Continuous evaluation: 40%.

<b>% end-of-term-examination:</b>	30
<b>% of continuous assessment (assignments, laboratory, practicals...):</b>	70

#### BASIC BIBLIOGRAPHY

- MOORE The mediation process, Jossey-Bass, 2014

#### ADDITIONAL BIBLIOGRAPHY

- ALZATE SÁEZ DE HEREDIA, Ramón Análisis y resolución de conflictos, una perspectiva psicológica, Universidad del País Vasco, 2002
- CARRASCAL GUTIÉRREZ, Ángel La mediación internacional en el sistema de Naciones Unidas y en la Unión Europea: evolución y retos de futuro, Revista de Mediación, núm. 8.
- MOORE, Christopher El proceso de mediación: métodos prácticos para la resolución de conflictos, Granica, 2010
- RODRÍGUEZ, Luis Fernando Mediación comercial internacional , Dykinson, 2016
- SOLETO MUÑOZ, Helena Mediación y resolución de conflictos: técnicas y ámbitos, Tecnos, 2017
- SUARES, Marínés Mediación: conducción de disputas, comunicación y técnicas, Paidós, 1996
- URY, William L, BRET Jean M. y GOLBERTS, STEPHEN B. Cómo resolver las disputas: diseño de sistemas para reducir los costos del conflicto., Rubinzal Culzoni, 1995

#### BASIC ELECTRONIC RESOURCES

- . Mediation in Member States: [https://e-justice.europa.eu/content\\_mediation\\_in\\_member\\_states-64-en.do](https://e-justice.europa.eu/content_mediation_in_member_states-64-en.do)
- . International Mediation Institute: <https://www.imimmediation.org/>