



COURSE DATA

DATA SUBJECT

Code: 44562

Name: Domestic and international commercial arbitration and state courts. Present and Future

Cycle: Master's Degree

ECTS Credits: 3

Academic year: 2025-26

STUDY (S)

Degree	Center	Acad. year	Period
2217 - Master's Degree in Law, Business and Justice	Facultat de Dret	1	First quarter, Second quarter

SUBJECT-MATTER

Degree	Subject-matter	Character
2217 - Master's Degree in Law, Business and Justice	Arbitraje comercial interno e internacional y tribunales estatales. Presente y futuro	COMPULSORY

COORDINATION

ESPLUGUES MOTA CARLOS AURELIO

SUMMARY

National and International commercial activity has grown steadily during the last decades. The analysis of this whole situation has been done in too many cases only from a commercial or economic perspective without taking into account the relevance of the legal dimension in the proper development of any commercial operation. And in many cases, when this has been done there has been a somehow rigid -and usual final- reference to both choice of law and choice of jurisdictions rules.

The goal of our topic is to break down this approach and to analyse the resolution of commercial disputes as a primary element to take into account when preparing any commercial operation and drafting the legal support to it. In this task, three different elements will be stressed:

1) Firstly, the different ways to solve commercial disputes in Europe and Latinamerica will be approached in depth.

2) Secondly, their interrelation will be studied, analyzing their singularities, their potential ways of cooperation and the problems arisen out of their coexistence.



3) Finally, and with a much more generic character, the student must take full account of the legal and economic incidence that the issue of the resolution of conflicts has in the area of international trade and the necessity to deal with it and to articulate sound responses to it when entering into a commercial transaction. Students taking this topic should be capable of choosing the correct dispute resolution mechanism when they finish it.

PREVIOUS KNOWLEDGE

RELATIONSHIP TO OTHER SUBJECTS OF THE SAME DEGREE

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

OTHER REQUIREMENTS

All students should preferably have a degree in Law.

COMPETENCES / LEARNING OUTCOMES

2217 - Master's Degree in Law, Business and Justice

Adquirir y/o mejorar la capacidad y habilidad de coordinación, así como desarrollar destrezas interpersonales que faciliten el trabajo en grupo.

Aplicar los conocimientos y técnicas adquiridos a entornos y situaciones interdisciplinarias complejas para anticiparse a los problemas, valorando la creatividad y solvencia de las propuestas.

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.

Conocer y aplicar las técnicas de comunicación y expresión oral y corporal en los debates y discusiones planteadas respecto de problemas jurídicos actuales, participando de forma activa en la resolución de los mismos.

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.

Identificar y valorar los problemas jurídicos de interés en una sociedad globalizada en el ámbito de la actividad empresarial que requieren de una profundización en la investigación jurídica para ser afrontados de forma plural.

Saber aplicar los conocimientos adquiridos durante el curso, a través de la resolución de problemas puntuales y multidisciplinares desde la óptica de la actividad comercial nacional e internacional y la seguridad jurídica.

Saber identificar los posibles conflictos de interés en el seno de las empresas y operadores económicos en sus relaciones con otros agentes y, especialmente, con los consumidores, para conocer y desarrollar técnicas y mecanismos de tutela y protección de los derechos e intereses de las partes de la relación jurídica.



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.

Saber trabajar el liderazgo en equipos específicos e interdisciplinares.

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 possess and understand foundational knowledge that enables original thinking and research in the field.

Utilizar los conocimientos avanzados adquiridos aplicables a la realidad empresarial de forma solvente, tanto de forma individual como en equipo, desde una perspectiva pluridisciplinar.

DESCRIPTION OF CONTENTS

1. Resource to national courts and ADR mechanisms and the resolution of national and international disputes.

- 1.1. Recourse to national courts as the traditional dispute resolution's mechanism.
- 1.2. ADR mechanisms: arbitration, mediation, negotiation...
- 1.3. Comparison

2. International jurisdiction rules for state courts in the EU (ad intra and ad extra)

- 2.1. The process of harmonization of International Private Law and Procedure Law in the EU.
- 2.2. The system of international jurisdiction in the UE.
- 2.3. The several systems of international jurisdiction in Latinamerica.
- 2.4. Potential future reforms of the EU model: special reference to its interaction with arbitration.

3. Freedom of circulation of judicial resolutions and public documents in the EU

- 3.1. The freedom of circulation of judicial resolutions in the EU: bases and solutions.
- 3.2. The effects of foreign judicial judgments in Latinamerica.
- 3.3. The freedom of circulation of foreign public documents in the EU: regulation, solutions and future.

- 4.1. The basis of the regulation of international commercial arbitration: analysis of some relevant issues.
- 4.2. Arbitration agreement and arbitrability.



4. International commercial arbitration: Spanish solutions and comparative approaches.

- 4.1. The basis of the regulation of international commercial arbitration: analysis of some relevant issues.
- 4.3. Arbitration procedure.
- 4.4. Relationshipsh between state courts and the arbitration: appointment of arbitrators, provisional measures, setting aside of the arbitration award.
- 4.5. Ways of conclusion of the arbitration.

5. Investment arbitration

- 5.1. Basis of the regulation of investmente arbitration.
- 5.2. The CIADI system.
- 5.3. BITs and the CIADI system.

WORKLOAD

PRESENCIAL ACTIVITIES

Activity	Hours
Theory	19,50
Seminar	6,00
Classroom practices	4,50
Total hours	30,00

NON PRESENCIAL ACTIVITIES

Activity	Hours
Attendance at other activities	0,00
Individual or group project	0,00
Independent study and work	0,00
Preparation of lessons	0,00
Preparation for assessment activities	0,00
Resolution of case studies	0,00
Total hours	0,00

TEACHING METHODOLOGY

In this topic very practica lectures will be combined with the individual and collective preparation of papers and specific tasks. The student is also expected to participate in some specialized seminars and collective workshops.

EVALUATION



- 1 °) Evaluation of the participation in the lecture as well as any other activities implemented with special reference to the number and quality of the interventions of the student. 30.0%
- 2 °) Evaluation of the tutorial with assessment of the level of preparation of the student and of his/her acquired knowledge: 25.0%
- 3 °) Evaluation of the expositions to be implemented by every student in the lectures. 45.0%

REFERENCES

- BARONA, S. (coord.), Comentarios a la Ley de Arbitraje, Cizur Menor, Civitas, 2ª ed., 2011, p. 59 y ss. -Ibid., Psicoanálisis del arbitraje: solución o problema en el actual paradigma de justicia, Valencia, Tirant, 2020. -Ibid., Mediación, Arbitraje y Jurisdicción en el actual paradigma de Justicia, Cizur Menor, Civitas Thomson Reuters, 2016. -Ibid., Nociones y principios de las ADR, Valencia, Tirant, 2018. -CONEJERO, C., HIERRO, A., MACCHIA, V. et al, El arbitraje comercial internacional en Iberoemaría. Marco Legal y jurisprudencial, Madrid, La Ley, 2009. -ESPLUGUES, C. (ed.), New Developments in Civil and Commercial Mediation, Heidelberg, Springer, 2015. -Ibid., Mediación civil y comercial, Valencia, Tirant, 2019. -Ibid., Tratado de arbitraje comercial internacional en LA, Valencia, Tirant, 2019. -Ibid., Tratado de inversiones y arbitraje de inversiones en LA, Valencia, Tirant, 2020 -Ibid., Derecho del comercio internacional, Valencia, Tirant, 9 ed., 2020. -ESPLUGUES, C., BARONA, S., Global Perspectives on ADR, Cambridge, intersentia, 2014. -ESPLUGUES, C., IGLESIAS, J.L., PALAO, G., Derecho internacional privado, Valencia, Tirant, 14 ed., 2020. -FERNÁNDEZ MASIA, Tribunales nacionales, arbitraje internacional y protección de inversiones extranjeras, Madrid, Marcial Pons, 2008. -ZAPATA, A., BARONA, S., ESPLUGUES, C., El arbitraje interno e internacional en Latinoamérica, Bogotá, UExternado, 2010.