

**Business Legal Documentation. Commercial  
Arbitration and Mediation**

Code: 43474  
ECTS Credits: 9

Degree	Type	Year	Semester
4313781 Enterprise Law	OB	0	A

The proposed teaching and assessment methodology that appear in the guide may be subject to changes as a result of the restrictions to face-to-face class attendance imposed by the health authorities.

### Contact

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### Teachers

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### Use of Languages

Principal working language: spanish (spa)

### Prerequisites

There are no previous requirements.

### Objectives and Contextualisation

To assume specialized knowledge in commercial legal documentation and commercial arbitration and mediation

### Competences

- Communicate and justify conclusions clearly and unambiguously to both specialised and non-specialised audiences.
- Integrate knowledge of the law and of negotiation to make judgments in the business context.
- Seek out information in the scientific literature using appropriate channels, and use this information to formulate and contextualise a research topic in business law.
- Seek out, interpret and apply legal provisions related to tax, employment or penal matters within corporate activity, and any others in which a legal solution is needed for situations arising in the business context.
- Solve problems in new or little-known situations within broader (or multidisciplinary) contexts related to the field of study.
- Use acquired knowledge as a basis for originality in the application of ideas, often in a research context.
- Work in a team to create synergies in the workplace, in a coordinated, cooperative fashion.

### Learning Outcomes

1. Communicate and justify conclusions clearly and unambiguously to both specialised and non-specialised audiences.
2. Describe the workings of commercial arbitration and the main legal provisions governing it.
3. Explain the key elements of law on compulsory account books, in the light of accounting plans, both general and for small and medium-sized enterprises.
4. Explain the meaning and usefulness of audit reports.
5. Interrelate legal principles and negotiation techniques to assess commercial documentation and arbitration processes in business.
6. Provide a fair, effective response to practical cases in business law, bankruptcy law and competition law.
7. Seek out information in the scientific literature using appropriate channels, and use this information to formulate and contextualise a research topic in business law.
8. Solve problems in new or little-known situations within broader (or multidisciplinary) contexts related to the field of study.
9. Use acquired knowledge as a basis for originality in the application of ideas, often in a research context.
10. Work in a team to create synergies in the workplace, in a coordinated, cooperative fashion.

## **Content**

### Commercial legal documentation

The general content of the subject aims to familiarize students with some of the documents used in the professional practice of company law. Given the great breadth of the subject, it will necessarily be a very selective content on issues of a commercial nature, such as company law, commercial contracts, competition law, among others.

### Commercial arbitration and mediation

#### Lesson 1. Commercial and investment arbitration

1. Concepts.
2. National and international legal regime.
3. Advantages and disadvantages of arbitration.
4. National and international commercial and investment arbitration bodies.
5. Special arbitrations by reason of the matter

#### Lesson 2. The arbitration agreement or arbitration agreement

1. Content and formality of the arbitration agreement.
2. Principle of separability of the arbitration agreement.
3. Principle of competence-competence.
4. Effects of the arbitration agreement.

#### Lesson 3. Arbitrators and arbitration institutions

1. Ad hoc arbitration.
2. Institutional arbitration.
3. Arbitration of law and substantive rules applicable to the merits of the dispute.
4. Equity arbitration.

5. Appointment of the arbitrator. Capacity. Recusal.

6. Civil liability of arbitrators.

7. Provision of funds

Lesson 4. Substantiation of the arbitration procedure. Expenses and costs.

1. Principles of the arbitration procedure.

2. Procedure and procedural schedule.

3. Place and language of arbitration.

4. Initiation of arbitration proceedings.

5. Demand and answer.

6. Written and oral hearings and performances.

7. Expertise.

8. Precautionary measures.

9. Arbitration expenses and costs.

Lesson 5. The arbitral award and its execution. Cancellation and revision of the award.

1. Transaction without award and the award accepted.

2. Form and content of the award.

3. The motivation of the award.

4. Date and place of the award. Your notification.

5. Interpretation and correction of the award. Additional praise.

6. Effects of the arbitral award.

7. Action for annulment of the award. Causes. The review appeal.

8. Recognition and execution of the award.

Lesson 6. Autocompositional methods of extrajudicial resolution.

1. Commercial mediation.

2. Other methods of self-composition.

\* Any changes regarding this content will be notified at the beginning of the course.

## **Methodology**

### Arbitration and commercial mediation

For each session the teacher will make available the compulsory reading materials and the practices to be carried out individually or in groups. It will proceed to the exposition of the matter, pausing to carry out the practices.

As a general rule, at the end of each session, the student or group of students must send the teacher the practices and cases resolved that day through the virtual campus.

### Commercial legal documentation

During each session the presentation will be made and a debate will be opened. It will also specify which are the compulsory reading materials for the rest of the students.

Annotation: Within the schedule set by the centre or degree programme, 15 minutes of one class will be reserved for students to evaluate their lecturers and their courses or modules through questionnaires.

### **Activities**

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Classroom lectures	56	2.24	2, 5, 8, 1, 9, 10
Type: Supervised			
Resolution of exercises	10	0.4	7, 2, 5, 8, 1, 10
Type: Autonomous			
Personal study	67.5	2.7	7, 2, 5, 8, 1, 10

### **Assessment**

In relation to Arbitration and commercial mediation, the final exam counts 50%. The exam has 2 parts:

Theoretical examination of 40 true / false test questions.

- The correct answers add 1 point. The incorrect ones subtract 0.5 points. Blank answers subtract 0.5 pts.

- To take into account the practical case exam and the practicals, the student must obtain a minimum of 4 in this theoretical exam.

Practical case exam. It consists of locating legislation and jurisprudence to answer the questions raised in the practical case. The student works autonomously and has a period (24-48 hours) for the resolution and sending the answer to the teacher of the proposed scenario.

Practices (30%), class active participation (20%).

In relation to Commercial legal documentation, the exam must be prepared with the compulsory reading materials and will consist of a practical case of writing, analyzing or interpreting commercial legal documentation, in accordance with the teacher's instructions.

### REVIEW AND REEVALUATION

Once the evaluation has been communicated, a review may be requested so that the Professor explains to the student the applied criteria (art. 114.3 UAB academic regulations), without prejudice to the student's rights to challenge the grade.

The date of the final exam of the subject is scheduled in the exam calendar of the Faculty.

The scheduling of the evaluation tests cannot be modified, unless there is an exceptional and duly justified reason why an evaluation act cannot be carried out. In this case, the people responsible for the degrees, after consulting the teachers and the affected students, will propose a new schedule within the corresponding school period (art. 115.1 Calendar of evaluation activities, UAB Academic Regulations)

To pass the course, the student must have participated in the three evaluation activities and have obtained at least a 3.5 in the final exam. To take the final exam, it is necessary to prove attendance to 90% of the classes.

Only the reevaluation of the test is possible (50%). The continuous assessment activities cannot be reevaluated, since their meaning is to check the knowledge progressively acquired throughout the course, notwithstanding that in case of illness or other eventualities an alternative solution may be found for the specifically affected student.

To retake the exam, student must have obtained at least a 3 in each of the three evaluation activities. Students who take the reevaluation exam may obtain a maximum grade of 7 in the subject.

## Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Assignments	30%	20	0.8	7, 2, 5, 9, 10
Attendance and active participation in class	20%	67.5	2.7	1
Theory and practical tests	50%	4	0.16	2, 4, 3, 5, 6, 8, 9

## Bibliography

### Commercial arbitration and mediation

- ALONSO PUIG, J. M. y BONNIN REYNÉS, V., *Memento práctico-arbitraje 2020-2021*, Ed. Levebre, Madrid, 2020.
- BARONA, S. (coord.), *Mediación en asuntos civiles y mercantiles en España: tras la aprobación de la Ley 5/2012, de 6 de julio, de mediación en asuntos civiles y mercantiles*, Tirant lo Blanc, Valencia, 2013.
- BLANCO GARCÍA, A. I., *Árbitro y partes. Los peligros y entresijos de la práctica del arbitraje*. Tirant lo Blanc, Valencia, 2020.
- CALATAYUD, A., y otros autores, *Proceso civil y mediación: su análisis en la Ley 5/2012 de mediación en asuntos civiles y mercantiles*, Aranzadi, Navarra, 2013.
- COSTA MESTANZA, M., *El Arbitraje para empresarios y abogados jóvenes paso a paso*, Epraxis, Madrid, 2013.
- ESPLUGUES MOTA, C., *Tratado de inversiones extranjeras y arbitraje de inversiones en Iberoamérica*, Tirant lo Blanch, 2020.
- GARCÍA VILLALUENGA, L., TOMILLO, J., VÁZQUEZ DE CASTRO, E. (codirs.), *Mediación, arbitraje y resolución extrajudicial de conflictos en el siglo XXI*. 2 tomos, Cátedra Euroamericana de protección jurídica de los consumidores, Cátedra CRV de Derecho e Innovación, Gobierno de Cantabria, Madrid, 2010.
- GONZÁLEZ PILLADO, E., *Arbitraje y mediación en materia de consumo*, Tecnos, Madrid, 2012.
- MARTÍN HITA, L. (coord.), *Comentarios a la Ley de mediación en asuntos civiles y mercantiles*, Epraxis, Las Rozas de Madrid, 2013.

- SÁEZ, I., DORREGO, A., *Arbitraje y mediación: problemas actuales, retos y oportunidades*, Lex Nova, Valladolid, 2013
- PÉREZ-LUÑO, E., *La reforma del arbitraje de 2011: presupuestos, antecedentes y alcance*, Tirant lo Blanc, Valencia, 2013.
- PRATS ALBENTOSA, L. (coord.), *Comentarios a la Ley de arbitraje*, La Ley, Madrid, 2013.
- VÁZQUEZ ALBERT, D., y TUSQUETS, F. (dir.), *El arbitraje: nueva regulación y práctica arbitral*, Tirant lo Blanc, Valencia, 2013.
- VÁZQUEZ DE CASTRO, E. (ed.). *Prácticum Mediación*, Aranzadi, Madrid, 2015.
- VILALTA, A.E., *Mediación y arbitraje electrónicos*, Aranzadi, Navarra, 2013.

#### Commercial legal documentation

Without prejudice of recommending more specific books, handbooks of commercial law are recommended as follows

- BROSETA PONT, M. y MARTÍNEZ SANZ, F., *Manual de derecho mercantil*, 2 vols, , Tecnos, Madrid, last edition.
- JIMÉNEZ SÁNCHEZ, G. y DÍAZ MORENO, A. (dirs.), *Derecho mercantil 2 vols*, Barcelona-Madrid-São Paulo, Marcial Pons, last edition
- MENÉNDEZ, A. y ROJO, A. (dirs.), *Lecciones de derecho mercantil*, 2 vols., última edición, Cizur Menor, Thomson Reuters Civitas, last edition.
- SÁNCHEZ CALERO, F., *Instituciones de Derecho mercantil*, 2 vols., Aranzadi, Cizur Menor, 2015.

#### **Software**

The subject does not require any specific software.