

Negotiation and Mediation (B001343)

Due to Covid 19, the education and evaluation methods may vary from the information displayed in the schedules and course details. Any changes will be communicated on Ufora.

Course size *(nominal values; actual values may depend on programme)*

Credits 3.0 **Study time** 90 h **Contact hrs** 30.0 h

Course offerings and teaching methods in academic year 2021-2022

B (semester 1)	Dutch	Gent	online lecture	0.0 h
			lecture: plenary exercises	5.0 h
			guided self-study	5.0 h
			lecture	20.0 h

Lecturers in academic year 2021-2022

Lanckswaerd, Eric RE21 lecturer-in-charge

Offered in the following programmes in 2021-2022

	crdts	offering
Master of Science in Teaching in Social Sciences (main subject Laws)	3	B
Master of Laws in Laws	3	B

Teaching languages

Dutch

Keywords

Alternative Dispute Resolution - Negotiation - Mediation - Conflict Management

Position of the course

In this course, students are introduced to alternative dispute resolution (ADR: alternative Dispute Resolution). Because of social changes, radical evolutions in legal practice, and legislation that favors ADR, modern lawyers must have a thorough knowledge of the existing ADR methods. It is important that they can estimate when ADR is appropriate. They should be able to apply ADR methods adequately and be able to inform and assist their clients about alternative dispute resolution. The lawyer of the future will look at disputes differently: not only the legal aspects of a case matter, but also many other aspects, such as people's real interests and concerns, their well-being, the relationships at stake, etc. In this section disputes and their solution are mainly approached in a non-legal way. A sustainable and comprehensive solution to the real problems of the parties is in the foreground. All ADR methods are mapped, although most attention is paid to negotiation and mediation.

In this course the theory of ADR is explained. Students who want to gain practical skills can choose for an additional course

Contents

The student acquires a broad view of conflicts, their causes and the various ways to solutions. He has a good view of the various ADR options (including a multidisciplinary approach) and has knowledge of the criteria that help determine the choice for a specific solution process. He is aware of the role and obligations of legal practitioners in the field of ADR. He can situate ADR within broader evolutions in society and in legal practice. He can use ADR in such a way that it responds to those needs and evolutions. The student is able to reflect critically on ADR. He develops a view on himself, in particular on a number of attitudes important for dealing with conflict. He is introduced to a series of basic skills (eg active listening), at least in theory, as far as possible also through experience.

The following topics are covered:

- Conflict, communication and emotions. (Acquiring a broad view of conflicts (conflict iceberg), causes of conflicts, escalation, types of conflicts, conflict styles, etc. Theory of communication and introduction to some communication models (eg nonviolent communication), the communication skills. Importance of and dealing with emotions.)
- Description, characteristics, emergence and positioning of ADR.
- Basic philosophy of certain ADR methods, completion of the existing paradigm of conflict resolution. (Thinking in terms of points of view, claims and fight complemented with thinking in terms of interests, cooperation and empowerment of those involved. Broadening ways of looking at and dealing with conflicts).
- Overview of the ADR methods (Introduction to the different forms of ADR, their legal framework, the basic principles and concrete working methods. Methods that will certainly be discussed: negotiation, collaborative role of experts, amicable settlement before the court and chamber for amicable settlement, complaints and ombudsman services, mini-trial, early neutral evaluation, one-text procedure, joint fact-finding, dispute boards, peacemaking circles. Special attention to multidisciplinary approach).
- Choosing the appropriate method. (Including selection criteria)
- Role and task of legal practitioners. (Having an eye for the non-legal aspects of a case, such as the welfare of people, the solution of the real problem, the preservation of a good relationship between the parties, etc. The task, role, attitude and values of the contemporary lawyer. This also includes topics such as: the balance between feeling and reason, dealing with power, dealing with the truth, the (new) professional relationship between lawyer and client or litigant (specification per category: lawyers, judges, civil-law notaries, bailiffs, administrative lawyers, ...), to prepare and assist people during ADR. Task of information and awareness-raising. The legal obligations for lawyers, bailiffs, judges and clerks to inform about ADR and to promote ADR. Attention for ethical issues).
- Possible (critical) views on ADR
- ADR in the various legal domains (including family law, administrative law, criminal law)
- Special topics. (including online dispute resolution, mandatory mediation)..

Initial competences

This mandatory course deepens and expands the knowledge of Civil Procedural Law (2ba), that contained a (brief) overview of the methods of alternative dispute resolution.

Final competences

- 1 Have a thorough knowledge of alternative dispute resolution (ADR) methods and their regulations
- 2 Have insight into ADR methods and apply them to concrete situations.
- 3 Have a broad view on disputes, communication and emotions
- 4 Strive for cooperation, mutual understanding and the integration of mutual interests in the application of ADR
- 5 Informing litigants about and assisting them during alternative solution processes.
- 6 Helping litigants in choosing the most suitable solution path
- 7 To be aware of the broader task and role view of the modern lawyer.
- 8 To situate ADR in the context of societal evolutions and evolutions in legal practice
- 9 To have insight into the concrete application possibilities of ADR in the various legal domains (eg family law, criminal law).

Conditions for credit contract

Access to this course unit via a credit contract is unrestricted: the student takes into consideration the conditions mentioned in 'Starting Competences'

Conditions for exam contract

Access to this course unit via an exam contract is unrestricted

Teaching methods

Guided self-study, lecture, lecture: plenary exercises, online lecture

Extra information on the teaching methods

The lecturer provides lectures on the subject matter. Classes continue through the first semester.

The students also engage in self-study by assignments from the lecturer (e.g. case analysis, assignments regarding insight into their own personality, viewing film material).

Learning materials and price

Syllabus and other learning materials are distributed through Ufora.

References

The students will find further references in the learning material (especially syllabus)

Course content-related study coaching

The students can contact the professor (Eric Lanckswaerd), during the break or after the lesson.

Questions can also be sent by e-mail to: Eric.Lanckswaerd@UGent.be

Evaluation methods

end-of-term evaluation

Examination methods in case of periodic evaluation during the first examination period

Written examination with multiple choice questions, open book examination

Examination methods in case of periodic evaluation during the second examination period

Written examination with multiple choice questions, open book examination

Examination methods in case of permanent evaluation

Possibilities of retake in case of permanent evaluation

not applicable

Extra information on the examination methods

Written open book exam with open questions (which can also relate to a case) and multiple choice questions (the latter are on a maximum of 1/2 of the points). During the open book exam, questions can also be asked about the self-study assignments that the students are required to perform.

Calculation of the examination mark

100% written exam

Facilities for Working Students

Working students can take the course unit and take an exam