


Educational Institution
“Belarus State Economic University”

APPROVED BY
Rector of Educational Institution
“Belarus State Economic University”


29.06. V. Shutsilin
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SETTLEMENT OF LEGAL CONFLICTS IN THE FIELD OF MEDIATION

The Curriculum of the Institution of Higher education in the academic discipline for
the specialty
1-24 80 01 “Jurisprudence”

The Academic Program is based on the curriculum for Masters with a term of study of 1 year in the specialty 1-24 80 01 Jurisprudence (Profiling - Legal Support of Economic Activities)

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RECOMMENDED FOR APPROVAL:

Department of Civil Law Disciplines of the Belarus State Economic University
(Protocol No. 10 \ 5 May 2021);

Scientific and Methodological Council
(Protocol No. 5 \ 5 May 2021)

Explanatory Note

Objectives and Tasks of teaching and learning

Training in "SETTLEMENT OF LEGAL CONFLICTS IN THE FIELD OF MEDIATION" is important for the training of legal professionals, owing to the importance of learning about mediation and the ability to apply the mediation procedure in the event of legal conflicts.

The Institute of Mediation is known and applied in legal practice in many countries, as well as in international practice. Gaining the knowledge about the mediation is important for the development of one of the priority areas for improving legal dispute settlement mechanisms.

The purpose of studying of the academic discipline "Settlement of legal conflicts in the field of mediation" is to provide trainees with knowledge about the legal regulation of mediation and prospects for using the mediation procedure, as well as to obtain the practical skills in conducting and participation in the mediation procedure for the settlement of legal conflicts.

The task of studying the academic discipline "Settlement of legal conflicts in the field of mediation" is:

- acquire theoretical knowledge by trainees about the features of mediation as one of the methods of alternative resolution of legal disputes, which in theoretical and practical significance for lawyers;
- learn the principles of mediation;
- learn the peculiarities of implementation of mediation;
- acquire the ability to find a mutually acceptable solution taking into account the interests of the parties, who in a state of conflict;
- learn the skills of preparation of agreement on the application of mediation; preparation of mediation agreement; learn the peculiarities of the execution of the mediation agreement.

The results of the development of the academic discipline "Settlement of legal conflicts in the field of mediation" are based on the successful fulfillment of the requirements for studying the academic discipline.

The Master must know:

- History of mediation development;
- Conflict resolution mechanism in procedure of mediation and mediation principles;
- Advantages and disadvantages of mediation in relation to other ways of resolving of disputes and other legal conflicts;
- Organization of the mediator's activities;
- Role of mediator in mediation procedure;
- Requirements for the mediator;
- Concept and content of agreement on the application of mediation;
- Mediation procedure and its stages;
- Results of mediation procedure;
- Concept and content of a mediation agreement;

- Peculiarities of extrajudicial mediation;
- Mediation in cases, which are in court;
- Peculiarities of the execution of the mediation agreement/

The Master must be able to:

- Determine the mediability of disputes arising from civil legal relations, including disputes connected with the implementation of entrepreneurial and other economical activities;
- Prepare of the agreement on the application of mediation;
- Prepare the mediation agreement;
- Analyze from a legal point of view the practical situations that arise at the settlement of a dispute in mediation;
- Apply the legislation governing mediation;
- Participate as mediators at various stages of the mediation procedure.

The study of academic discipline is directed at learning by Masters 'students the basics of mediation in order to successfully carry out their professional activities. This implies the understanding of the essence, problems and prospects of the development of mediation in modern conditions; obtaining in-depth insights into the problems of judicial and extrajudicial mediation; obtaining practical and research skills in this field.

The practical role of academic discipline is the acquisition by Masters the skills to identify and analyze the disputes that can be resolved in the mediation procedure, as well as skills to conduct mediation procedure.

The general meaning of the academic discipline "Settlement of legal conflicts in the field of mediation" is determined by the content of the course, familiarization of Masters with the skills to participate in mediation, understand the essence and significance of mediation for resolving disputes, and improving the legal culture in society. The study of the academic discipline "Settlement of legal conflicts in the field of mediation" involves the use of such interacting forms of classes as lectures, seminars and independent work with legislation and scientific literary sources.

Lectures are devoted to the most complex and problematic issues of the discipline. Seminars are held by means of discussion, presentation of abstracts and reports of Masters 'students, by methods of conducting the tests, games with the fulfillment by Masters 'students of specific tasks and subsequent discussion of decisions. Masters'students' knowledge is monitored in the form of answering questions, completing test tasks, discussing reports (abstracts) at seminars, assessing the quality of learning material of the academic discipline "Resolving legal conflicts in the field of mediation," and encouraging students to work independently.

The study program for the discipline "Settlement of legal conflicts in the field of mediation" consists of 108 hours: 36 hours of class work, including 24 hours of lectures and 12 hours of seminars, and 72 hours of master student self-study. The final assessment method is Academic credit.

COURSE CONTENT

Topic 1. The concept and meaning of mediation. Sources of legal regulation of mediation

Fundamentals of Legal Conflict. Causes, stages of development and possible options for resolving a legal dispute. History of the development of mediation as the method of alternative dispute resolution. The relationship of mediation with other fields of knowledge - conflict science, psychology, jurisprudence. Legal sources of mediation. The concept of mediation. Relationship of mediation to other means of dispute settlement and resolution. Advantages and disadvantages of dispute settlement in the mediation procedure in comparison with the court procedure, as well as with other methods of alternative dispute resolution.

Topic 2. Negotiation as the basis of the mediation procedure.

Types of negotiations. Strategy and tactics of negotiation process. Positional trading. Negotiations based on interests. Stages of negotiations. Negotiations between the parties with the participation of the mediator.

Topic 3. The basic principles of mediation.

The principle of volunteerism. The principle of good faith. The principle of equality between the parties. Principle of cooperation between the parties. The principle of impartiality of the mediator. The principle of mediator independence. Principle of confidentiality. The principle of trust in the mediator. Types of mediation. Mediation in the resolution of certain categories of disputes.

Topic 4. Mediator Role in Mediation Procedure

Requirements for mediator. Functions of mediator in the mediation procedure. Professional ethics of the mediator. Organizations that provide mediation. State registration of mediation institutions, amendments and (or) additions made to their charter, registration of separate divisions of legal entities. Liquidation of institutions and termination of activities. The Register of Mediators and the Register of Organizations, which provide mediation procedure. Selection and assignment of mediator for mediation. Mediator reward.

Topic 5. Agreement on the application of mediation

Form of the agreement on the application of mediation. Subjects of the agreement on the application of mediation. Contents of the agreement on the application of mediation. The impact of agreement on the application of mediation over the limitation period for the claim. Invalidity of the agreement on the application of mediation. Access to justice in connection with the conclusion of the agreement on the application of mediation.

Topic 6. Mediation.

Rules for mediation. Mediation participants. Rights and obligations of the parties. Rights and duties of the mediator. Preparation for mediation.

Stages of mediation. The stage of the opening of mediation procedure (introductory word of the mediator). Stage of representation of the parties (examination of circumstances of a dispute and interests of the parties). Stage of the discussion of the parties on the elaboration of the agenda and questions for discussion. Individual conversation of the mediator with the parties. The stage of developing proposals for settlement of the dispute. The stage of preparation of the mediation agreement and its signing. Mediation completion stage. Confidentiality of information related to the mediation procedure.

Topic 7. Mediation agreement.

The form of the mediation agreement, Content of the mediation agreement. Features of the procedure for execution of a mediation agreement.

Topic 8. Mediation in international practice and in foreign countries.

Application of mediation in international practice.
Experience of the Application of mediation in foreign countries.

Teaching and methodical card of the course
Day Training Form

№	Theme number	Quantity of Academic hours						Other	Testing
		Lectures	Practical studie	Seminar	Laboratory work	Controlled independent work			
						LC	PS		
1	2	3	4	5	6	7	8	9	10
1	The concept and meaning of mediation. Sources of legal regulation of mediation	4		2				[1, 2, 10, 11]	interview
2	Negotiation as the basis of the mediation procedure	4		-				[2, 10, 11]	interview P reparation of abstract
3	The basic principles of mediation	4		2				[2, 10, 11]	interview essay
4	The role of mediator in mediation procedure	2		2				[2, 9, 10, 11]	interview
5	Agreement on the application of mediation	2		2				[2, 4, 5, 10, 11]	interview test
6	Mediation procedure	4		2				[2, 10, 11]	interview essay
7	Mediation agreement	2		2				[2, 10, 11]	interview test
8	Mediation in international practice and in foreign countries	2		-		2		[2, 10, 11]	Presentatio n of abstract
	Total	22		12		2			Academic credit

Educational-methodical map of the academic discipline

Methodical recommendations on the organization of independent work of master students in the academic discipline

In mastering the knowledge of the educational discipline, an important stage is the independent work of students in the magistracy. The recommended time budget for self-service is an average of 2-2.5 hours per 2-hour classroom.

The main directions of independent work are:

- initially a detailed introduction to the curriculum;
- acquaintance with the list of recommended literature on the discipline in general and its topics, its availability in the library and other availability;
- the study of the necessary literature on the topic, the selection of additional literature;
- studying and expanding the lecture material of the teacher at the expense of special literature, consultations;
- preparation for seminars on specially designed plans with the study of basic and additional literature;
- preparation for diagnostic monitoring forms (tests, essay and so on);
- preparation for the academic credit.

ORGANIZATION OF INDEPENDENT WORK OF MASTER'S STUDENTS

Independent work of master 'students is aimed at deepening and consolidating of their knowledge and developing practical skills.

The independent work of master 'students within the discipline "Settlement of legal conflicts in the field of mediation" includes:

- analysis of material for classes;
- application of legislation to specific practical situations;
- preparation for interview;
- preparation of abstracts and essays.

Creative problem-oriented independent work of master's students is focused on the development of intellectual skills, general cultural and professional competencies, creative potential skills.

Includes the following types of work:

- research, analysis, structuring and presentation of information;
- creative work on the practical situation.

Content of independent work of master's students within the discipline "Settlement of legal conflicts in the field of mediation"

1. Work with materials of lectures and practical classes: preparation for classes, self-search for additional information (in accordance with the topics of the classes).
2. Work on the preparation of abstracts and essays.
2. Analysis of legislation and its implementation

Control over independent work of master's students

1. The quality of the work of undergraduates with practical materials is controlled in l classes in the form of interview, individual tasks.
2. The abstract is presented in the form of a presentation.
3. Abstracts and essays are reviewed and evaluated by the teacher.

The assessment of the activity of master's students is carried out according to the results of:

- checking of abstracts;
- interview in the classroom;
- monitoring of tests (open and closed type test).

The study of the discipline "Settlement of legal conflicts in the field of mediation" is based on the knowledge gained in the study of other legal disciplines, including the disciplines "Civil Procedure", "Civil Law," "Family Law", "Labor Law."

To study discipline "Settlement of legal conflicts in the field of mediation", the following knowledge and skills are necessary:

Knowledge: in the sphere of civil, family, labor legal relations, procedural legal relations.

Skills: to apply acquired knowledge in practice, operate with terminology material, assimilate theoretical material independently, participate in discussions and formulate their own conclusions and proposals.

Regulations and legislation

1. The Constitution of the Republic of Belarus of 1994 (with amendments and additions adopted at republican referendums on November 24, 1996 and October 17, 2004) //Consultant Plus: Belarus. Technology 3000 [Electronic Resource]/LLC YurSpectrum, Natz. Legal Information Center. Rep. Belarus. - Minsk, 2014.
2. Law of the Republic of Belarus "On mediation" of 12.07.2013 No. 58-Z //National legal Internet portal of Republic of Belarus, 23.07.2013, 2/2056.
3. Decision of the Constitutional Court of Republic of Belarus of 08.07.2013 No. P-841/2013 "About compliance to the Constitution of Republic of Belarus of the Law of Republic of Belarus "About Mediation" //National legal Internet portal of Republic of Belarus, 24.07.2013, 6/1324/
4. Civil Procedural Code of the Republic of Belarus of 11.01.1999 No. 238-Z //National register of legal acts of Republic of Belarus, 17.03.1999, No. 18-19/2/13.
5. Economic Procedural Code of the Republic of Belarus od 15.12.1998 N 219-Z // National Register of Legal Acts of the Republic of Belarus, 06.09.2004, No. 138-139, 2/1064
6. On approval of the Rules of Mediation: Resolution of the Council of Ministers of the Republic of Belarus of 28.12.2013 No. 1150//National Legal Internet Portal of the Republic of Belarus, 05.01.2014. 5/38236/
7. Resolution of the Council of Ministers of the Republic of Belarus dated 31.12.2013 N 1184 "On the implementation of the Law of the Republic of Belarus" On Mediation " (together with the "Regulation on the Qualification Commission for Mediation," "Instructions on the Procedure for Issuing and Terminating a Mediator Certificate," "Standard Rules for the Activities of an Organization Providing Mediation") // National Legal Internet Portal of the Republic of Belarus, 12.01.2014, 5/38275.
8. Resolution of the Ministry of Justice of the Republic of Belarus of 17.01.2014 N 15 "On approval of the Rules of Ethics of the mediator" // National Legal Internet Portal of the Republic of Belarus, 23.01.2014, 8/28273.
9. United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore 07.08.2019) // National Legal Internet Portal of the Republic of Belarus, 03.07.2020, 3/3802.

Literature

Basic:

1. Zdrok, O. N. Mediation: manual /O. N. Zdrok. - Minsk: Four quarters, 2018. – 540 pages.
2. Taranova, T.S. Fundamentals of alternative dispute resolution: lecture course/T.S. Taranova, N.I. Ivut, I.A. Belskaya. - Minsk: BSEU, 2012. – 110 pages.

Additional:

1. Prospective development of the Institute of Mediation in the Law of the Republic of Belarus/T.S. Taranova [et al.]; under the common. Ed. Prof. T.S. Taranova. - Minsk: RIVSH, 2017. – 180 pages.
2. Kamenkov, V.S. "On the significance of the principles of mediation in different countries "/V.S. Kamenkov//information and legal portal Ilex [Electronic resource]. - Access date: 05.05.2021
3. What Is Mediation And How Does It Work? // <https://corporate.findlaw.com/litigation-disputes/what-is-mediation-and-how-does-it-work.htm> [Electronic resource]. - Access date: 05.05.2021

CURRICULUM APPROVAL PROTOCOL

Academic subject title to be matched	Name of the Department:	Proposals for changes in the curriculum content of the higher education institution on an academic subject	The decision taken by the department that worked out the curriculum (mentioning the date and the protocol number)
Philosophy and methodology of science	Philosophy	<p><i>Удмуртский колл.</i> <i>Зав. кафедры философии</i> <i>А.А. Попова</i></p>	<p>5 мая N10</p>

ADDITIONS AND MODIFICATIONS TO THE CURRICULUM

_____ academic year

№	ADDITIONS AND MODIFICATIONS	Basis
1		

The curriculum is revised and approved at a meeting of the Department of Civil Law Disciplines (Protocol No. _____ 2021)

Head of Department
Doctor of Juridical Sciences, Professor

T.S. Taranova

CONFIRM
Dean Faculty of Law

A.N. Shklyarevsky