

Syllabus

«International Commercial Arbitration: Case Study»

1. Course Description

a. Title of a Course

“International Commercial Arbitration: Case Study”

b. Pre-requisites

- basic knowledge of international law, civil law and civil procedure,
- upper-intermediate level of oral and written legal English

c. Course Type (compulsory, elective, optional)

elective

d. Abstract

Practical course “International Commercial Arbitration: Case Study” is dedicated to the institutes of international commercial arbitration as private mechanism of alternative dispute resolution of international commercial disputes. Special emphasis is made on the methods of case-study, drafting of procedural documents and preparation of oral pleadings. The course is build-up as a training, combination of individual and collective exercises. During the course participants take part in a moot court.

2. Learning Objectives

Main purpose of the course is to make students able to deal with the typical cases resolved in international commercial arbitration worldwide, make research and prepare and represent legal argumentation. Students will gain knowledge on legal mechanism of international commercial arbitration in national, comparative and transnational (de-localized) aspects, understand the role of international commercial arbitration in modern commercial world, obtain practical legal skills.

This purpose presupposes necessity of several steps necessary for development of the abovementioned competences. They consist in gaining knowledge on theory of international commercial arbitration, studying cases and analyzing the peculiarities of the procedure in main international commercial arbitration institutions. This course is also a platform for preparation of students for participation in competitions on international commercial arbitration, mainly Willem C. Vis International Commercial Arbitration Moot.

3. Learning Outcomes

Students must gain *knowledge* on:

- arbitration as a dispute settlement mechanism, regulatory framework of arbitration in Russia, abroad and internationally, forms and essential characteristics of international commercial arbitration, cooperation between arbitration and national judicial systems;
- applicable procedures in international commercial arbitration, commencement of arbitration, selection and appointment of arbitrators, taking evidence in arbitration, nature of arbitration award as well as its recognition and enforcement.

Skills and abilities:

- to use specific terms and sources of international commercial arbitration;
- practical abilities of research, analysis of cases and commentaries;
- skills to analyze and solve cases, building up of the legal position and composition of procedural documents;
- drafting arbitration agreements in commercial contracts;
- oral skills and rhetoric;

- preparation for participation in moot court competitions.

Students should gain the following competences:

- ability to work with information (search, evaluate, use information, necessary for fulfilment of scientific and professional tasks, from various sources, including application of the systematic approach);
- ability to work in international legal environment, use international private law in day-to-day legal activity;
- ability to find most effective and appropriate legal decision of the problem, develop problem-oriented and client-oriented approaches;
- ability to search, analyse, and work with legally relevant information by using the juridical, comparative and other specific methods,
- ability to describe legal problems and situations occurring in professional sphere.

4. Course Plan

I. Basics of International Commercial Arbitration

1. Essence and Regulatory Framework of International Commercial Arbitration.
2. Juridical Nature of Arbitration.
3. Arbitration Agreement – Autonomy, Validity, Interpretation.
4. Arbitrability and Competence.
5. Arbitration and the Courts.
6. Arbitration and International Law.

II. Legal Documents in the Sphere of International Commercial Arbitration: General Overview

1. UNCITRAL Model Law.
2. UNCITRAL Arbitration Rules.
3. ICC Arbitration Rules.
4. LCIA Arbitration Rules.
5. SCC Arbitration Rules.
6. New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958.

III. Arbitrators and Arbitration Procedure

1. Commencement of Arbitration.
2. Selection and Appointment, Challenge and Removal of Arbitrators.
3. Determination of Jurisdiction.
4. Arbitration Procedure.
5. Taking Evidence in International Commercial Arbitration.
6. Interim and Conservatory Measures.
7. Arbitration Award.

IV. Applicable Substantive Law in International Commercial Arbitration: General Overview

1. Applicable Substantive Law in International Commercial Arbitration: Choice, Proof, Interpretation, Application. Conflict of Laws Rules in International Commercial Arbitration.
2. Substantive National Law in International Commercial Arbitration.
3. Lex mercatoria, INCOTERMS 2010, UCP 600 and UNIDROIT Principles in International Commercial Arbitration.
4. United Nations Convention on Contracts for the International Sale of Goods 1980.

5. Reading List

a. Required

- Julian D M Lew, Loukas A Mistelis, Stefan M Kroll. *Comparative International Commercial Arbitration*. The Hague, 2003.

b. Optional

- Jonathan Hill, Adeline Chong. *International Commercial Disputes. Commercial Conflict of Laws in English Courts*. Oxford, 2010.
- Gary B. Born. *International Arbitration: Law and Practice*. The Hague, 2014.

6. Grading System

exam; rating system (incl. written and oral tasks, presentations, written tests and moot court).

7. Guidelines for Knowledge Assessment

The current and inter-mediate control of knowledge has been carried out on the basis of accumulative system of points gained by the participants for:

- tests written in class (regular control of knowledge),
- composition of legal memoranda,
- oral submissions during a moot court,
- presentations,
- reports.

8. Methods of Instruction

- use of interactive educational technologies (case study, work in small groups; conferences);
- central part in the course plays the application of the simulations (moot court);
- use of ratings and accumulative system of control.

9. Special Equipment and Software Support (if required)

Power-point, Internet, video-typing