

THE GOVERNMENT OF THE RUSSIAN FEDERATION
Federal State Autonomous Educational Institution
for Higher Education

THE NATIONAL RESEARCH UNIVERSITY HIGHER SCHOOL OF
ECONOMICS

Faculty of Law
Department of Judicial Power

Bachelor Degree Curriculum Year 4
Field of Education 40.04.01. – Jurisprudence
Detailed Field - Judicial Power

Level - Bachelor Degree

INTERNATIONAL COMMERCIAL ARBITRATION: CASE STUDY

Course Syllabus
Author of the Course / Course Instructor
Mikhail Galperin, Ph.D., Professor (mgalperin@hse.ru), Elena Mazetova

Approved at the session of the Department of Judicial Power
Tamara G. Morshakova
Department Head

Approved at the Academic Council of Bachelor Program “Jurisprudence» session
Bulat Nazmutdinov
Academic Supervisor of Bachelor Program
_____, 2017 (Protocol N __)

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COURSE DESCRIPTION

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 to oral pleadings.

The course is conducted in English.

TITLE OF THE COURSE

“International Commercial Arbitration: Case Study”

PREREQUISITES

The course is aimed at students of 3th year of bachelor program or above.

Basic knowledge of international law, civil law and civil procedure, advanced level of oral and written legal English are required.

COURSE TYPE

Elective.

ABSTRACT

The course is build-up as a training, combination of individual and collective exercises. During the course participants take part in a moot court. The course will be useful for foreign and Russian students seeking to deepen their knowledge on international commercial arbitration as well as on legal background on international commerce in general.

COURSE 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. As the result of the course students will obtain knowledge on legal mechanism of international commercial arbitration in national, comparative and transnational (de-localized) aspects, understand the role of international commercial arbitration, get 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.

COURSE 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 arbitral award as well as it's recognition and enforcement.

Skills and abilities:

— 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, analyze, 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.

COURSE PLAN

A. Table: Total hours broken down by subject

Item	Subject-Headings	Total hours	In-Class Hours, including		Self-study hours
			Lectures	Seminars	
1.	Subject 1. Introduction into the Commercial Arbitration	12	-	4	8

2.	Subject 2. Essence and Principles of International Commercial Arbitration	12	-	4	8
3.	Subject 3. Arbitration Agreement	12	-	4	8
4.	Subject 4. Evidences, Costs and Arbitral Award	12	-	4	8
5.	Subject 5. Arbitrators and Arbitration Procedure	12	-	4	8
6.	Subject 6. Institutional and Ad Hoc Arbitration	12	-	4	8
7.	Subject 7. Recognition and Enforcement of Arbitral Awards	12	-	4	8
8.	Subject 8. Applicable Substantive Law in International Commercial Arbitration:	10	-	2	8

	General Overview				
9.	Subject 9. Presentation Skills and Legal Research in Arbitration	12	-	4	8
	Total:	108	-	36	72

B. Content of the Course

Subject 1. Introduction into the Commercial Arbitration

1. Arbitration in International and Domestic Commerce.
2. Studying International Commercial Arbitration.
3. Legal Career in Arbitration.
4. Presentation of Willem Vis International Commercial Arbitration Moot.

Subject 2. Essence and Principles of International Commercial Arbitration

1. History of Arbitration.
2. Essence of International Commercial Arbitration.
3. Principles of International Commercial Arbitration.
4. Legal Framework of Arbitration.
5. Arbitration and International Law.

Subject 3. Arbitration Agreement

1. Legal Nature of Arbitration Agreement.
2. Autonomy, Validity, Interpretation.
3. Subjective and Objective Arbitrability.
4. «Pathological» Arbitration Agreements.

Subject 4. Evidences, Costs and Arbitral Award

1. Evidences in Arbitration.
2. Costs in Arbitration.
3. Arbitral Award.

Subject 5. 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. Interim and Conservatory Measures.

Subject 6. Institutional and Ad Hoc Arbitration

1. UNCITRAL Arbitration Rules.

2. ICC Arbitration Rules.
3. LCIA Arbitration Rules.
4. SIAC Arbitration Rules.

Subject 7. Recognition and Enforcement of Arbitral Awards

1. New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958.
2. UNCITRAL Model Law Regulation.
3. National Laws Regulation.

Subject 8. 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.

Subject 9. Presentation Skills and Legal Research in Arbitration

1. Oral Skills in Arbitration.
2. Using Legal Practice in Arbitration.
3. Legal Research and Case Analysis Techniques.

READING LIST

A. Required

1. Julian D M Lew, Loukas A Mistelis, Stefan M Kroll. Comparative International Commercial Arbitration. The Hague, 2003.
2. Moses M.L. The Principles and Practice of International Commercial Arbitration. Cambridge University Press, 2017. – 432 p.

B. Optional

1. Гальперин М.Л. Третейское разбирательство – это не бизнес // Закон. 2015. № 10. С. 1-17;
2. Гальперин М. Л. Компетенция международного коммерческого арбитража при несостоятельности одной из сторон спора. К вопросу о национальной и транснациональной правовой политике // Закон. 2010. № 7. С. 105-122;
3. Курочкин С.А. Третейское разбирательство и международный коммерческий арбитраж. М.: Статут, 2017. – 288 с.;
4. Blackaby N., Partasides C., Redfern A., Hunter M. Redfern and Hunter on International Arbitration. Oxford University Press, 2015;

5. Born G. International Arbitration and Forum Selection Agreements: Drafting and Enforcing. Wolters Kluwer, 2016;
6. Conrad N., Munch P., Black-Branch J. International Commercial Arbitration. Model clauses, forms and documents – A Commentary. Hart Publishing, 2013;
7. Cordero-Moss G. International Commercial Arbitration: Different Forms and their Features. Cambridge University Press, 2013;
8. Varady T., Barcelo J., Kroll S., Mehren J. International Commercial Arbitration – A Transnational Perspective (American Casebook Series). West Academic Publishing, 2015;
9. Wolff R. (ed.) The New York Convention: Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958 – A Commentary. Beck/Hart, 2012;
10. UNCITRAL 2012 Digest of Case Law on the Model Law on International Commercial Arbitration - <http://www.uncitral.org/pdf/english/clout/MAL-digest-2012-e.pdf>;
11. UNCITRAL Notes on Organizing Arbitral Proceedings <http://www.uncitral.org/pdf/english/texts/arbitration/arb-notes/arb-notes-e.pdf>;
12. Kluwer Arbitration Blog - <http://kluwerarbitrationblog.com/>

GRADING SYSTEM

A. Assessment

- Intermediate test – 25%
- Moot court – 25%
- Examination (written) – 50%

An overall assessment formula comprises a sum total of the following variables:

$(\text{Intermediate test}) * 0.25 + (\text{Moot court participation}) * 0.25 + (\text{Final exam}) * 0.5 = \text{final grade}$

B. Grading

Grading rates for an essay and written exam:

- Outstanding 9 – 10 points
- Very good 7 – 8 points
- Good 5 – 6 points
- Satisfactory 3 – 4 points
- Poor 1 – 2 points.

GUIDELINES FOR KNOWLEDGE ASSESSMENT

Self-study control:

- Case analysis as agreed with the Course Instructor (5-10 printed pages (Times New Roman, 14 pt);
- In-between forms: 1-2 regular tests during seminar classes lasting 45 minutes to check key questions discussed on previous classes.

Intermediate control:

Exam – graded assessment of the level of acquired knowledge and developed skills during the Course; includes written questions covering syllabus material, i.e. theoretical and practical dimensions (case study). Parameters: Written 60-minute exam (case study)

METHOD OF INSTRUCTION

- Use of interactive educational technologies (case study, work in small groups; conferences, presentations from legal practitioners);
- Central part in the course plays the application of the simulations (moot court);
- Use of Power Point presentations;
- Use of ratings and accumulative system of control.

Practical course “International Commercial Arbitration: Case Study” provides an overview of key theoretical and practical aspects of commercial arbitration as an alternative dispute resolution mechanism for settling major cross-border commercial disputes. The course is based on case-study approach where special attention is given to the analysis of landmark decisions and further panel discussions.

Being designed to invite and support intense discussions of various arbitration related topics, this course also helps students who is willing to participate in famous Willem C. Vis International Commercial Arbitration Moot to get better prepared for shortlisting of future HSE team members. For more details about Vis Moot and HSE team please follow the link: <http://vishse.com/index.html>.

Eligible participants in course shall be students of 3th year of bachelor program or above. Basic knowledge of international law, civil law and civil procedure, advanced level of oral and written legal English are required.

The tutors of the course are:

Mikhail Lvovich Galperin, PhD, LLM (Lond.), Professor of High School of Economics, Deputy Minister of Justice of the Russian Federation,

Elena Anatolyevna Mazetova, Senior Legal Counsel, Yandex,

Michael Swainston, Barrister, QC, Brick Court Chambers.

The number of students admitted to the course is limited. Candidates willing to participate are required to send their motivation letters in English to mgalperin@hse.ru with «ICA Course_2018» in the subject of e-mail. Motivation letter should be from 3 to 6 pages supporting your interest to attend the course and providing overview of what you intend to achieve at the end of the course. The deadline for sending motivation letters is **May 14, 2018**.