

INTERNATIONAL COMMERCIAL ARBITRATION

Course Syllabus

Authors of the Course / Course Instructors

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COURSE DESCRIPTION

Course “International Commercial Arbitration” 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 contemporary case law, drafting of procedural documents and preparation to oral pleadings.

The course is conducted in English.

TITLE OF THE COURSE

“International Commercial Arbitration”

PREREQUISITES

The course is aimed at students of 3rd 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 (compulsory, elective, optional)

Elective.

ABSTRACT

6 ECTS. 42 contact hours

The course is build-up as a training, combination of individual and collective exercises, development of theoretical and practical skills. 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.

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. 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.

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 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
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			Lectures	Seminars	
1.	Subject 1. Introduction into the Commercial Arbitration	24	-	4	20
2.	Subject 2. Essence and Principles of International Commercial Arbitration	24	-	4	20
3.	Subject 3. Arbitration Agreement	24	-	4	20
4.	Subject 4. Evidences, Costs and Arbitral Award	24	-	4	20
5.	Subject 5. Arbitrators and Arbitration Procedure	14	-	4	10
6.	Subject 6. Institutional and Ad Hoc Arbitration	14	-	4	10

7.	Subject 7. Recognition and Enforcement of Arbitral Awards	24	-	4	20
8.	Subject 8. Applicable Substantive Law in International Commercial Arbitration: General Overview	14	-	4	10
9.	Subject 9. Presentation Skills and Legal Research in Arbitration	66	-	10	56
	Total:	228	-	42	186

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, International Investment Arbitration.

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. Третейские итоги // Закон. 2017. № 9. С. 34-40;
2. Гальперин М.Л. Третейское разбирательство – это не бизнес // Закон. 2015. № 10. С. 1-17;

3. 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;
4. Курочкин С.А. Третейское разбирательство и международный коммерческий арбитраж. М.: Статут, 2017. – 288 с.;
5. Blackaby N., Partasides C., Redfern A., Hunter M. Redfern and Hunter on International Arbitration. Oxford University Press, 2015;
6. Born G. International Arbitration and Forum Selection Agreements: Drafting and Enforcing. Wolters Kluwer, 2016;
7. Conrad N., Munch P., Black-Branch J. International Commercial Arbitration. Model clauses, forms and documents – A Commentary. Hart Publishing, 2013;
8. Cordero-Moss G. International Commercial Arbitration: Different Forms and their Features. Cambridge University Press, 2013;
9. Varady T., Barcelo J., Kroll S., Mehren J. International Commercial Arbitration – A Transnational Perspective (American Casebook Series). West Academic Publishing, 2015;
10. 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;
11. 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>;
12. UNCITRAL Notes on Organizing Arbitral Proceedings <http://www.uncitral.org/pdf/english/texts/arbitration/arb-notes/arb-notes-e.pdf>;
13. 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 30-45 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.