

International Commercial Arbitration (B001764)

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 4.0 **Study time** 120 h **Contact hrs** 30.0 h

Course offerings and teaching methods in academic year 2021-2022

A (semester 2) English Gent lecture 22.5 h

Lecturers in academic year 2021-2022

Piers, Maud 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)	4	A
Master of Laws in Laws	4	A
Master of Laws in International Business Law	4	A
Master of Laws in International and European Law	4	A
Exchange Programme in Law	4	A

Teaching languages

English

Keywords

Arbitration , International commercial law

Position of the course

Students already have a basic notion of what arbitration entails. Most of them got an introduction to the concept of arbitration in some of their other law classes. However, oftentimes this was only a basic introduction. This course aims at having the students acquire a higher level of expertise regarding international arbitration. A successful student will acquire thorough knowledge of the operation and the challenges of international arbitration and this from a broad comparative law perspective.

Contents

In this class, students learn about the law of international commercial arbitration. This includes a study of the law that applies to the arbitration agreement and the arbitration proceedings, as well as the law that governs the court proceedings concerning the annulment, recognition or enforcement of an arbitral award. To gain insight into the law of international commercial arbitration, reference will be made to the arbitration laws of several national legal systems, to the uniform law provided in the UNCITRAL Model Law, to arbitration regulations of the most prominent arbitration institutions (eg. the ICC Court of Arbitration) as well as soft law instruments and instruments of *lex mercatoria* (Unidroit, IBA). This class also focuses on the arbitration practice. Students will acquire the skills necessary to make practical choices about the arbitration procedure in light of the political and economic context in which the seat of arbitration is or must be situated. The students also become acquainted with different methods of ADR and with investment arbitration.

Initial competences

The students must have sufficient knowledge of the English language. They also must have acquired some prerequisite knowledge on the legal aspects of international trade, such as regarding private international law or international commercial transactions.

Final competences

1 Know and apply the requirements for drafting a valid arbitration agreement and properly

- assess and understand the course of an arbitration procedure
- 2 Understand and have insight into the international arbitration practice
- 3 Draft and evaluate documents used in international commercial arbitration and make strategic decisions in this regard
- 4 Form an opinion about topical issues in arbitration and defend this opinion in writing
- 5 Understand and assess the different approaches in the arbitration practice and law of different countries
- 6 Acknowledge and compare the benefits of one particular legal system over another for the parties involved in international commercial arbitration
- 7 Understand and explain the development of transnational 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

This course unit cannot be taken via an exam contract

Teaching methods

Guided self-study, lecture, online discussion group

Extra information on the teaching methods

This class is taught by studying the law in action. Practical examples and real-life cases must illustrate how the arbitration law is applied in practice. The professor guides the students through the most important stages of the arbitration procedure and points out the different issues that counsel as well as arbitrators encounter in international arbitration. Students must prepare for each class and they are expected to participate in the discussions. The students will have one week to engage in and earn grades for a small group discussion that happens on an online forum. They will be asked to take a stance with regard to minimum 3 and maximum 5 statements and to engage with the responses of their fellow participants. The discussions on these fora present an opportunity for collaborative learning and stimulates critical reflection and self-study. Therefore, the posts should be short and not exceed 200 words.

Learning materials and price

The professor will provide a reader with relevant case-law, doctrine, and legislation. The most used reference works are:

- G. BORN, *International Commercial Arbitration* (2nd edition), Kluwer Law International, 2014.
- N. BLACKABY, C. PARTASIDES, A. REDFERN & M. HUNTER, *Redfern and Hunter on International Arbitration* (6th edition), Oxford University Press, 2015.
- J. LEW, L. MISTELIS & S. KRÖLL, *Comparative International Commercial Arbitration*, Kluwer Law International, 2003.
- J. WAINCYMER, *Procedure and Evidence in International Arbitration*, Kluwer Law International, 2012.
- L. BOSMAN, *ICCA International Handbook on Commercial Arbitration*, ICCA, 2020 (loose leaf).

References

See course material and see the addenda of international treaties and arbitration rules of some of the major arbitration institutions.

Course content-related study coaching

The professor will be available to provide guidance and answer questions.

Evaluation methods

end-of-term evaluation and continuous assessment

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

Oral examination

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

Oral examination

Examination methods in case of permanent evaluation

Participation

Possibilities of retake in case of permanent evaluation

examination during the second examination period is possible

Extra information on the examination methods

25% class participation, that is: active participation in at least 3 and maximum 5 online discussion fora; and 75% Oral exam

Retake permanent evaluation: submission of 1500 words paper taking position with regard to a topical issue

Calculation of the examination mark

The evaluation of their contribution to the discussion fora accounts for 25% of the grade. The oral exam that assesses the students' understanding of the law and practice of arbitration accounts for 75% of the grade.