# Law of international arbitration

## Prof. Pietro Franzina

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The course aims to provide a critical understanding of international arbitration as a mechanism to settle disputes in the field of international trade and commerce. Students who complete the course are expected to be able to identify and correctly approach the key legal issues surrounding the negotiation of arbitration agreements, the enforcement of those agreements before arbitral tribunals and State courts, the initiation and conduct of arbitral proceedings, and the recognition (or annulment, as the case may be) of arbitral awards.

***COURSE CONTENT***

After an introductory part on the fundamental problems of the discipline, the course illustrates the law of international arbitration through a mock case replicating arbitral proceedings conducted under the 2019 arbitration rules of the Milan Chamber of Arbitration (CAM). Students are actively involved in the mock case throughout the entire course. The case is meant to give students the opportunity to explore the distinctive features of international arbitration as it operates in practice, and to become familiar with the sources of the law of arbitration, including national legislation, arbitration rules, the 1958 New York Convention on the recognition and enforcement of foreign arbitral awards and the Uncitral Model Law on International Commercial Arbitration. Taking the mock case as a point of departure, the following topics will be discussed: the conclusion, interpretation and enforcement of arbitration agreements; the arbitrability of disputes; the laws governing the various issues relevant to arbitration; the notion and relevance of the seat of arbitration; the role of State courts; the arbitral tribunal (selection, appointment and challenge of arbitrators, etc.); the conduct of arbitral proceedings; the recognition and enforcement of foreign awards; the annulment of arbitral awards; mandatory rules and *ordre public*; arbitration and EU law; interim measures; the peculiar problems relating to investor-State arbitration and arbitration involving States or State entities.

***READING LIST[[1]](#footnote-1)***

M.L. Moses, *The Principles and Practice of International Commercial Arbitration* (3rd ed.), Cambridge University Press, 2017. In addition: (a) students who attend the course will be assigned readings relevant to the topic of each stage of the mock arbitration; (b) students who do not attend the classes shall read A. Stone Sweet, *The Evolution of International Arbitration: Judicialization, Governance, Legitimacy*, Oxford University Press, 2017 (chapters 1, 2, 5 and 6).

***TEACHING METHOD***

The course is taught in an interactive manner, based on a international arbitration mock case conducted under the CAM Rules. In light of this, students are encouraged to attend the lectures regularly and get involved in the discussion. About one third of the lectures involve a co-lecturer (a litigation lawyer, a case manager, an arbitrator, an academic, etc.). The latter will join the discussion between the professor and the students and provide further insights on the issues considered.

***ASSESSMENT METHOD AND CRITERIA***

Students are examined orally. The purpose of the exam is to assess the student’s ability to identify and properly address the key issues that may arise in real-life arbitration scenarios. In assessing the students, the following will be especially taken into consideration: (a) whether the candidate correctly identifies the rules that govern the issues considered; (b) whether the candidate provides a reasoned explanation of the application of those rules to the case examined; (c) the degree of familiarity of the candidate with the main judicial and scholarly authorities regarding the topics under consideration.

***NOTES AND PREREQUISITES***

A proper understanding of the law of international arbitration presupposes a basic knowledge of private international law, the law of civil procedure and the law of contracts. As the course is taught entirely in English, and largely builds on the interaction between the professor and the students (and the co-lecturers, where present), students are expected to have a good command of the English language (a B2 level, according to the Common European Framework of Reference, or CEFR, is normally sufficient).

*In case the current Covid-19 health emergency does not allow frontal teaching, remote teaching will be carried out following procedures that will be promptly notified to students.*

*Place and time of consultation hours*

Consultation hours during the class terms are indicated on the course professor’s webpage (https://docenti.unicatt.it/ppd2/it/docenti/59200/pietro-franzina).

1. I testi indicati nella bibliografia sono acquistabili presso le librerie di Ateneo; è possibile acquistarli anche presso altri rivenditori. [↑](#footnote-ref-1)