**Law of Domestic and International Arbitration**

Prof. Pietro Franzina; Prof. Alberto Romano

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

The course deals with arbitration as a way to resolve disputes outside judicial courts. The course consists of two modules: the first module revolves around the analysis of the provisions laid down in Title VIII of Book IV of the Italian Code of Civil Procedure (articles 806 to 832); the second module, which is taught in English, deals with the questions that surround arbitration when an international element arises: it illustrates the provisions – national and international – that address those questions and gives an insight in the practice of international arbitration.

At the end of the course, students are expected to have developed a critical understanding of the rules governing arbitration and the underlying concepts. Specifically, students should be able to detect the issues raised by real-life cases and provide a reasoned answer to those issues based on the pertinent provisions.

***COURSE CONTENT***

First Module – Law of Domestic Arbitration *(30 hours): Prof. Alberto Romano*

Arbitration: concept of foundations. Historical overview, sources and future developments. Arbitration agreements. Arbitrability of disputes. The legal relationship between the parties and the arbitrators. Appointment and challenge of arbitrators; rights and liabilities of arbitrators. The request for arbitration. The arbitral process. The award. Multi-party arbitration. Review and correction of the award. The relationship between arbitrators and judicial courts.

Second Module – Law of International Arbitartion *(30 hours): Prof. Pietro Franzina*

International arbitration defined. The law of international arbitration: actors and sources; in particular, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The conclusion, interpretation and enforcement of arbitration agreements. The arbitrability of disputes. The seat of arbitration: notion and relevance. The role of State courts. The arbitral tribunal: selection, appointment and challenge of arbitrators. The arbitral process. The law applicable to the merits; mandatory rules and *ordre public*; arbitration and EU law. The recognition and enforcement of foreign awards. The annulment of arbitral awards. Interim measures. Arbitration of investment disputes.

***READING LIST***

First Module

Prof. Romano’s reading list will be provided at the beginning of the course, having regard to the upcoming reform, contemplated under Article. 1, para. 15, of the Law No 206 of 26 November 2021. In any case, students who attend the classes have the option to prepare the exam by studying their own class notes.

Second Module

All students, regardless of whether they attend the classes or not, shall study M.L. Moses, *The Principles and Practice of International Commercial Arbitration* (3a ed.), Cambridge University Press, 2017. In addition: (a) students who attend the classes will be asked to read a few other short texts, relating to the subject matter of the lectures; (b) students who do not attend the classes will read chapters 1, 2, 5 and 6 of A. Stone Sweet, *The Evolution of International Arbitration: Judicialization, Governance, Legitimacy*, Oxford University Press, 2017.

***TEACHING METHOD***

The first module is mainly taught in Italian in the form of traditional lectures. Active participation, however, is recommended.

The second module, which is entirely taught in English, likewise consists of traditional lectures. Active participation of students is warmly encouraged. To this end, several guests – scholars and practitioners – will join the lectures and share their views with the students. A presentation of the Milan Chamber of Arbitration will also be proposed. The end of the module will be marked by a moot arbitration, with the participation of teams of students.

***ASSESSMENT METHOD AND CRITERIA***

Students will be examined separately on each of the two modules, within one and the same session. They will be examined orally. Only for the second module, students may opt to take, instead, a written exam. To pass the exam, students must show they have an sufficient knowledge of the topics studied in both modules. The highest grades are awarded to students with a strong knowledge of such topics, and with the ability to present them in a clear, precise and linguistically appropriate manner.

One grade for the two modules is awarded.

***NOTES AND PREREQUISITES***

To understand the law of arbitration students must possess a good knowledge of the law of civil procedure, private international law and the law of obligations. Given that part of the course is taught in English, and that active participation is encouraged, students are expected to have a sufficient knowledge of that language (roughly corresponding to the B2 level of the Common European Framework of Reference of Languages - CEFR).

*Place and time of consultation hours*

Prof. Alberto Romano is available to meet students after each class as well as on the dates agreed upon with the students concerned, either through Microsoft Teams or at the Department of Law: interested students are invited to call (0272000626) or write an e-mail (*alberto.romano1@unicatt.it*) to arrange an appointment.

Prof. Pietro Franzina’s consultation hours are indicated in his webpage: https://docenti.unicatt.it/ppd2/it/docenti/59200/pietro-franzina.