**Law and Practice of Arbitration**

Prof. Pietro Franzina; Prof. Alberto Romano

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

The course aims to provide a knowledge of arbitration as a method of dispute resolution alternative to court proceedings. It 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 deals with the questions that surround arbitration when an international element arises, and aims to illustrate the rules that address those questions and their operation in the practice of international arbitration.

Students are expected to develop, at the end of the course, a critical understanding of the rules governing domestic and international arbitration, as well as the key concepts underlying such rules. Specifically, students should be able to identify the issues raised by real-life cases and provide a reasoned answer to those issues based on a methodologically sound analysis of the pertinent provisions.

***COURSE CONTENT***

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

Arbitration: outline and 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 arbitration claim. The proceedings. The award. Multi-party arbitration. Review and correction of the award. The relationship between arbitrators and judicial courts.

Seconde Module – Law and practice of International Arbitration *(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 in international arbitration. 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[[1]](#footnote-1)***

First Module

Students shall study the presentations that Prof. Romano reserves the option of providing at the beginning of class.

Second Module

All students, regardless of whether they attend the course or not, shall study M.L. Moses, *The Principles and Practice of International Commercial Arbitration* (3rd ed.), Cambridge University Press, 2017.

***TEACHING METHOD***

The course is mainly taught in the form of traditional lectures. Active participation of students is warmly encouraged. To this end, especially in the second module, scholars and practitioners will join the professor as guests and share their views and experience with the students. A presentation of the Milan Chamber of Arbitration will also be proposed. At the end of the second module the students will be invited to take part in a moot arbitration.

***ASSESSMENT METHOD AND CRITERIA***

Students will be examined separately on each module, within one and the same session. They will be examined orally. Only for the second module, students may choose 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. Since the course is taught in English, and active participation is encouraged, students are expected to have a sufficient knowledge of that language (roughly corresponding to the B1 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 (0272000589) 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*.

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