

Course description for Arbitration law (15 ects)

Autumn 2023

About the course

Arbitration Law is a self-standing advanced level course aimed at students who want to learn about commercial arbitration law. The course is suitable both for those who lack prior knowledge of arbitration, and for those who have limited knowledge of the subject and are interested in deepening their knowledge. The course is suitable for law students as well as for students in other subject areas, e.g. political science, business administration and computer science. The course is suitable for international, exchange students.

Commercial arbitration, as a private dispute resolution mechanism that is an alternative to national courts is very popular in Sweden and internationally. Commercial arbitration is widely used to resolve disputes regarding various issues ranging from delivery, service and shareholders agreements, through construction, license, employment, credit to IP agreements, to name a few.

Course content

The course provides extensive knowledge in fundamental areas of arbitration law such as the procedure, doctrines and legal framework. It covers such topics as disputes and their resolution, arbitration and other alternative dispute resolution mechanisms, arbitration agreements, applicable law, arbitral tribunal, procedure and arbitral award. The course covers international commercial arbitration.

The course helps students to be better equipped to understand and deal with legal problems, including when these have an international element.

Learning outcomes

Knowledge and understanding

After completing the course, the student is expected to be able to:

- demonstrate knowledge and understanding of international commercial arbitration law, particularly with respect to regulations, procedure and enforcement; and
- demonstrate knowledge of the role of arbitration in dispute resolution, as well as knowledge of developments in the field of arbitration.

Skills and Abilities

After completing the course, the student is expected to be able to:

- demonstrate in-depth ability to apply and interpret various rules and assess complex legal problems in the field of international commercial arbitration with the help of relevant legal methods;
- demonstrate advanced ability to systematically, critically and independently identify, formulate and analyze complex legal issues in the area of arbitration law;
- show advanced ability to both individually and in groups report and discuss the results of such arbitration law analyses, as well as
- show advanced ability to plan and write a memorandum in the subject area within given time frames.

Evaluation ability

After completing the course, students are expected to be able to:

- critically evaluate legal issues in the field of international commercial arbitration, including the implications for society in general.

Teaching

The teaching in the course focuses on the following themes.

Introduction to arbitration law, characteristics, and sources. The purpose of these seminars is to introduce different theoretical and methodological approaches to arbitration law and to put arbitration law in a larger perspective.

Complex issues related to arbitration agreement, doctrines, the parties and the applicable law. Here, the seminars will focus on case analysis and critical thinking.

Arbitral tribunal – powers and duties, independence and impartiality, comparison of the tribunal's position vis-à-vis the national court. Students will write an academic essay and perfect their skills in critical analysis, persuasive writing and use of sources.

Arbitration procedure – the focus of the seminars will be on due process and other procedural principles. The students will conduct a mock arbitration that will allow the students to apply law and persuasive argumentation skills into practice both in writing and orally.

Arbitration and the role of the courts in arbitration – the seminars in this part will focus on the theoretical and doctrinal issues related to the recognition and enforcement of foreign arbitral awards, understanding ordre public (legal order) and due process.

In addition, teaching can take place in the form of lectures by invited lecturers and/or study visits.

The main part of the teaching will be held in English. Invited lecturers can hold lectures in Swedish if all students speak Swedish. Otherwise the teaching is in English. The course literature, reference literature and reading materials are available in Swedish and English.

Forms of examination

Examination is based on

- mandatory active attendance at 80% of the seminars,
- a written memorandum,
- an arbitration mock,
- home exam.

The examination takes place in English – Written memorandum and take-home exam can be written in also in Swedish.

Active participation in 80 % of the seminars is compulsory. Active attendance means that the student must prepare the tasks in advance and be able to participate in the discussions on them. In the event of special circumstances, the head of the course can grant exceptions. In this case, the student shall be responsible for completing an additional assignment.

The grading is done on the basis of the following:

- the PM (essay) 6 pages in English or Swedish (student's choice) max. 10 points, min. 5 to pass.
- the mock arbitration (written and oral) in English, max. 10 points, min. 5 to pass.
- the take-home exam. in English or Swedish (student's choice) max. 30, min. 15 to pass.

For other examination moments, only the grade Pass (G) and Fail (U) are used.

A PM (essay) or exam submitted late will be corrected, but will automatically result in points being deducted.

The course grade is based on a sum of achieved points. As a final grade for the course, one of the grades is used:

Passed with honors (AB) 43-50 points

Passed not without distinction (BA) 34-42 points

Passed (B) 25-33 points

Failed (U) 0-24 points

The course uses the following assessment criteria:

1. Knowledge and understanding of arbitration law from a theoretical, methodological and societal perspective.
2. Knowledge of and understanding of current research and development in the field
3. Ability to apply rules and make qualified legal analysis and assessment of problems and issues.
4. Ability to independently and critically identify, formulate, analyze and argue legal issues in groups and individually.
5. Ability to independently and in a group plan for and carry out in writing argumentation and independent and critical analysis of arbitration law issues within given time frames.

Students who fail the regular exam are given the opportunity to take a new exam. Those who have received a passing grade do not have the right to undergo a new examination for a higher grade. A student who has failed twice by the same examiner has the right to request a different examiner for further attempts. However, this does not apply if there are special reasons against appointing another examiner.

In order to be approved for the course, it is required that all expected study results for the course are met.

Students who request it, have the right to be graded according to a seven-point grading scale. The request must be made by the student before the examination in a manner determined by the Department of Law. In such a case, the grade according to the seven-point grading scale - A (Excellent), B (Very good), C (Good), D (Satisfactory) or E (Sufficient) is used. Failing grades are Fx (Insufficient) or F (Completely Insufficient) - applies instead of the regular grade.

A student with a certificate of special pedagogical support issued by Stockholm University has the opportunity to receive an adapted examination.

Course literature

Nigel Blackaby, Constantine Partasides, et al., Redfern and Hunter on International Arbitration (Sixth Edition), 6th edition (Kluwer Law International; Oxford University Press 2015) (chosen parts) [https://www.kluwerarbitration.com/book-toc?title=Redfern+and+Hunter+on+International+Arbitration+\(Sixth+Edition\)](https://www.kluwerarbitration.com/book-toc?title=Redfern+and+Hunter+on+International+Arbitration+(Sixth+Edition))

Anette Magnusson, Jakob Ragnwaldh and Martin Wallin (eds), International Arbitration in Sweden. A Practitioner's Guide. 2nd edition (Kluwer Law International 2021) (chosen parts) [https://www.kluwerarbitration.com/book-toc?title=International%20Arbitration%20in%20Sweden%3A%20A%20Practitioner%27s%20Guide%20\(Second%20Edition\)](https://www.kluwerarbitration.com/book-toc?title=International%20Arbitration%20in%20Sweden%3A%20A%20Practitioner%27s%20Guide%20(Second%20Edition))

Lag (1999:116) om skiljeförfarande t.o.m. SFS 2018:1954 https://sccarbitrationinstitute.se/sites/default/files/2022-11/skiljeforfarandelagen_1mars2019_swedish.pdf

New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 juni 1958) <https://www.newyorkconvention.org/english>

UNCITRAL Model Law on International Commercial Arbitration https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-09955_e_ebook.pdf

Other sources will be provided for specific seminars.