

**Global Law Program  
Fundação Getulio Vargas  
FGV DIREITO SP**

**Syllabus**

**Regular courses - 2 months courses  
Spring Semester 2020**

Global Law Program - Fundação Getulio Vargas

**Course:** Introduction to Brazilian Legal System

**Workload:** 30 hours

**Credits:** 2

**Overview:**

The main object of this course is to introduce foreign students to the Brazilian Legal system. After a brief overview of the main features of the 1988 Constitution, the course will focus in our system of constitutional review, especially on the role of the Supreme Court. The course will certainly have a comparative perspective, to help students understand the peculiarities of the Brazilian system vis-à-vis their own constitutional systems. The subpart of the *Introduction to Brazilian Legal System* discipline provides an overview of the basic concepts underlying Brazilian tax law. Subjects covered in this introductory course include the assignment of federal and subnational taxes, the main principles and rules of individual and corporate taxation and the tax law treatment of inbound and outbound transactions and investments. Special emphasis is placed on selected issues of Brazilian taxation with an international impact.

The course aims to develop on student's knowledge on the various sources and core concepts of Brazilian tax law, as well as critical analytical skills on the structure of the Brazilian tax system and its policy implications, with a special emphasis on inbound and outbound transactions and investments.

**References:**

- ✓ Afonso, José Roberto; Barroso, Rafael, BRAZILIAN TAX AFFAIRS (Latin American and Caribbean Law and Economics Association Annual Papers, 2007) (transcript available at: <http://www.escholarship.org/uc/item/1rf7690j>).
- ✓ Rubinstein, Flavio, *Brazil*, in TAX ASPECTS OF FISCAL FEDERALISM: A COMPARATIVE ANALYSIS, (Claudio Sacchetto and Gianluigi Bizzoli, ed.), Amsterdam: IBFD, (forthcoming; an electronic draft will be circulated by the professor).
- ✓ Afonso, José Roberto; Rezende, Fernando, THE BRAZILIAN FEDERATION: FACTS, CHALLENGES AND PROSPECTS (Stanford University Center for Research on Economic Development and Policy Reform, Working Paper 149, 2002) (transcript available at: <http://www.stanford.edu/group/siepr/cgi-bin/siepr/?q=system/files/shared/pubs/papers/pdf/credpr149.pdf>).
- ✓ McLure, Charles E, *The Brazilian Tax Assignment Problem: Ends, Means and Constraints*, in A REFORMA FISCAL NO BRASIL, São Paulo: Fundação Instituto de Pesquisas Econômicas, 45-71 (1993).
- ✓ Schoueri, Luís Eduardo, *National Report: Brazil*, in THE EU AND THIRD COUNTRIES: DIRECT TAXATION (Michael Lang; Pasquale Pistone, ed.), Viena: Linde, 639-681 (2007).
- ✓ CONTRIBUTION TO THE HISTORY OF TAX TREATIES: THE BRAZILIAN EXPERIENCE (2008) (transcript available at: <http://www2.wu-wien.ac.at/taxlaw/events/Conferencepapers/Rust2008/NRRust2008BrazilSchoueri.pdf>).
- ✓ Souza, Celina, *Brazil's Tax System: The Dilemmas of Policy Reform* (Fondation canadienne pour les Amériques Working Paper FPP-05-02, 2002) (transcript available at: [http://www.focal.ca/pdf/brazil\\_tax.pdf](http://www.focal.ca/pdf/brazil_tax.pdf)).
- ✓ Ter-Minassian, Teresa, *Brazil*, in FISCAL FEDERALISM IN THEORY AND PRACTICE (Teresa Ter-Minassian ed.), Washington: International Monetary Fund, 438-456 (1997).
- ✓ World Bank, BRAZIL: ISSUES IN FISCAL FEDERALISM (Report No. 22523-BR, 2002) (transcript available at: <http://siteresources.worldbank.org/BRAZILINPOREXTN/Resources/3817166-1185895645304/4044168-1186403960425/51IssuesFiscalFederalism.pdf>).

Global Law Program - Fundação Getulio Vargas

**Course:** Sharing Economy: regulation, consumer protection and liability issues

**Workload:** 30 hours

**Credits:** 2

**Overview:**

Sharing economy: concept and context. New Technologies and Consumer Law. Law follows technology. Precaution vs. Laissez Faire. Globalization. Dematerialization. Techno-regulation and the rule of law. Automated decision making and self-learning machines. Technology and its influence on consumers and authorities. Shift from offline to online commerce. Cross border sales. Big Data and marketing. Privacy and data protection. The new power relation between suppliers and consumers. Legal and ethical challenges technology bring within the domain of B2C (business to consumer). Predictive analytics. Consumers' freedom of choice and contract. Traditional liability schemes and sharing economy. Risk sharing and consumer protection. Local authorities and policy makers versus new commercial relations: to regulate or not to regulate?

**References:**

- ✓ Gellert, R., Data protection: a risk regulation? Between the risk management of everything and the precautionary alternative, (2015) 5(1) International Data Privacy Law, 3.
- ✓ Koop, C. and Lodge M., What is regulation? An interdisciplinary concept analysis, (2015) Regulation & Governance.
- ✓ Koops, Bert-Jaap, The (In)Flexibility of Techno-Regulation and the Case of Purpose-Binding (November 1, 2011). *Legisprudence*, Vol. 5, No. 2, pp. 171-194, 2011. Available at SSRN: <https://ssrn.com/abstract=1953967>
- ✓ Leenes, Ronald E. and Lucivero, Federica, Laws on Robots, *Laws by Robots, Laws in Robots: Regulating Robot Behaviour by Design*, November 28, 2014, *Law, Innovation and Technology* (2014) 6(2) LIT 194–222. Available at SSRN: <https://ssrn.com/abstract=2546759>
- ✓ Lessig, L., 'The Law of the Horse: What Cyberlaw Might Teach', (1999) 113 *Harvard Law Review*, 501.
- ✓ Morgan, B. and Yeung, K., *An Introduction to Law and Regulation: Text and Materials*, Cambridge University Press, 2007.
- ✓ Morgan, Bronwen and Yeung, Karen, *An Introduction to Law and Regulation: Text and Materials*. Available at SSRN: <https://ssrn.com/abstract=994783>
- ✓ Murray, A. and Scott, C., Controlling the New Media: Hybrid Responses to New Forms of Power, (2002) 65 *Modern Law Review*, 491.
- ✓ Murray, A., *The Regulation of Cyberspace: Control in the Online Environment*, Routledge Cavendish, 2007.
- ✓ Ramsay, Iain, *Consumer Law and Policy: Text and Materials on Regulating Consumer Markets*, 3rd edition, Oxford, Hart Publishing, 2012.
- ✓ Scott C., Regulation in the age of governance: The rise of the post-regulatory state, in Jordana. J. and Levi-Faur, D., *The Politics of Regulation: Institutions and Regulatory Reforms for the Age of Governance*, Edward Elgar Publishing, 2004.
- ✓ Valant, Jana, Consumer protection in the EU: Policy overview, European Parliamentary Research Service, available at:

[http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/565904/EPRS\\_IDA\(2015\)565904\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/565904/EPRS_IDA(2015)565904_EN.pdf)

Weatherill, S., EU Consumer Law and Policy, Cheltenham, UK, Edward Elgar Publishing, 2013.

**Course:** Global Securities Regulation and its influence in Brazil

**Workload:** 30 hours

**Credits:** 2

**Overview:**

Considering the different status of economic openness (free capital movements), and having in mind the specific limits and restrictions imposed by the different jurisdictions and its legal systems, the course will examine the impact of globalization on national and international, and public and private securities regulation. It will focus around the following related issues:

- (i) the relationships established in the international capital markets and how they affect the domestic regulatory activity,
- (ii) the limits of the domestic and international regulation,
- (iii) harmonization possibilities in securities regulation,
- (iv) legal determinants that can drive to the development of the regulatory environment and to the development of the markets.

**References:**

- ✓ COFFEE, John C.; SELIGMAN, Joel; SALE, Hillary. Cases and Materials. Securities Regulation, 10th ed, 2007, New York: Foundation Press
- ✓ IOSCO. Objectives and Principles of Securities Regulation, May/2003. Available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD154.pdf>
- ✓ BALDWIN, R.; CAVE, M.; LODGE, M. Understanding regulation: theory, strategy and practice. Oxford: Oxford University Press, 2012.
- ✓ BRUMMER, C. Soft Law and the Global Financial System: Rule Making in the 21st Century. Cambridge: Cambridge University Press, 2012.
- ✓ EATWELL, J. The Future of International Financial Regulation. In: BURKE, S. (Ed.). Re-Defining the Global Economy. New York: Friedrich Ebert Stiftung Occasional Paper No. 42, 2009. P. 37-43.
- ✓ HELLEINER, E.; PORTER, T. Making Transnational Networks More Accountable. In: Sara BURKE, S. (Ed.). Re-Defining the Global Economy. New York: Friedrich Ebert Stiftung Occasional Paper No. 42, 2009. P.14-24. Available at <http://library.fes.de/pdf-files/iez/global/06293.pdf>.
- ✓ KELLY, C.; KARMEI, R. S. The hardening of soft law in securities regulation. Brooklyn Journal of International Law, v. 34, 2009. (Brooklyn Law School. Legal Studies Paper n. 141). Available at <http://ssrn.com/abstract=1371188>.
- ✓ LA PORTA, R.; LOPEZ DE SILANES, F.; SHLEIFLER, A. What Works in Securities Laws? The Journal of Finance, v. LXI, n 1, 2007.
- ✓ MILHAUPT, C.; PISTOR, K. Law and Capitalism: What Corporate Crises Reveal about Legal Systems and Economic Development around the World. Chicago: University of Chicago Press, 2008.
- ✓ PORTER, T. Globalization and Finance. Cambridge, Mass.: Polity, 2005.
- ✓ SIMMONS, B. The International Politics of Harmonization: The case of Capital Market Regulation. International Organization, v. 55, 2001, p. 589-620.
- ✓ SINGER, D. A. Regulating Capital: Setting Standards for the International Financial System. Ithaca: Cornell University Press, 2007.
- ✓ UNDERHILL, G.; ZHANG, X Setting the rules: private power, political underpinnings, and legitimacy in global monetary and financial governance. International Affairs, v. 84, n. 3, 2008, p. 535-554.

Global Law Program - Fundação Getulio Vargas

**Course:** Social Representation of Law in Brazil

**Workload:** 30 hours

**Credits:** 2

**Overview:**

The course intends to present and discuss accepted representations of Brazilian society. In its history, different images have led to the emergence of competing, sometimes antagonistic views, on the role of Law and the judicial system. By debating myths and perceptions through concrete situations, this course offers an introduction to the economic and social problems that challenge the Brazilian interpreter and that influence how its legal system works

**References:**

- ✓ BRESSER-PEREIRA, L.C. MARAVALL, José María and PRZEWORSKI, A. Economic reforms in new democracies: a social-democratic approach. In William C. Smith, Carlos H. Acuña and Eduardo Gamarra, eds., Theoretical and Comparative Perspectives for the 1990s. New Brunswick, USA: Transaction Books, 1994: 181-212.
- ✓ CANDIDO, A. (translated by Howard S. Becker) – On Literature and Society – Princeton University Press, 1995
- ✓ LEVINE, R. & CROCITI, J. (eds.) - The Brazil Reader: History, Culture, Politics (The Latin America Readers), 1999
- ✓ MARTINUSSEN, John – Society, State and market. A guide to competing theories of development. Zed Books, 1997.
- ✓ TAYLOR, Charles - Modern social imaginaries, Durham : Duke University, 2004.

**Global Law Program  
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**Syllabus**

**Visiting Professor – Short Term Courses  
Spring Semester 2020**

## Global Law Program - Visiting Professor

**Course:** Comparative Competition Enforcement and Procedure

**Workload:** 15 hours

**Credits:** 1

### Overview:

Competition enforcement is an ever-developing and intellectually challenging area. The way in which the law is enforced is crucial to the understanding of how competition policy develops.

In practice, no competition lawyer can afford to ignore the dynamics of competition enforcement and its procedural dimension.

The aim of this course is to give students the knowledge and the analytical tools necessary to understand the dynamics of public and private enforcement in the global context, to deal with the complex procedural problems that arise in practice, and to form their own view on the policies and enforcement models involved.

### Methodology

In the European Union, enforcement by the European Commission and national competition authorities (public enforcement) has developed significantly over the past two decades and continues to evolve. Furthermore, competition enforcement has moved away from a purely administrative model: alongside public enforcement, private enforcement is now a major feature of the system and in some Member States, including the United Kingdom, certain competition infringements are also a criminal offence. Thus, the course focuses on the EU not only because the EU is a major jurisdiction internationally, hence significant in itself in a globalized economy, but also because the EU is an interesting model and case study for how competition enforcement works. However, the course looks beyond EU competition enforcement. Competition enforcement has a global dimension. Public enforcement, which may also include criminal enforcement, and private litigation often involve more than one jurisdiction such as, for example, the United States. Thus, US antitrust enforcement will be discussed in comparison with EU law.

On the strength of its comparative and global approach, the course will focus on practical solutions and strategies to deal with the interaction of public and private enforcement in a multijurisdictional environment.

### Evaluation Criteria and System

The course is taught in five interactive seminars. The assessment consists in an essay of no more than 3,000 words, including footnotes but excluding bibliography. Students will have to choose one of two questions and will have two weeks to submit the essay. The essay aims at assessing students' critical and analytical skills rather than purely their knowledge.

### References:

- ✓ Articles 101 - 106 of the Treaty on the Functioning of the European Union
- ✓ - EU White Paper on Modernisation – 1999
- ✓ - Council Regulation (EC) No 1/2003 (OJ 2003, L1/1-25)
- ✓ - Directive (EU) 2019/1 of the European Parliament and the Council (ECN + Directive)
- ✓ - Sections 1 and 2 of Sherman Act, 15 U.S.C. § 1 (2007)
- ✓ - Justice Manual, Title 7.1: Antitrust, at <https://www.justice.gov/jm/jm-7-1000->
- ✓ policy and Antitrust Division Manual, Fifth Edition, Chapter I, at
- ✓ <https://www.justice.gov/atr/file/761126/download>

- ✓ - Sections 1 and 5 of Federal Trade Commission Act, 15 U.S.C. §§ 41 and 45, as amended
- ✓ R Nazzini, Competition Enforcement and Procedure, ch 2
- ✓ - ECN+ Directive
- ✓ - Commission Notice on the handling of complaints [2004] OJ C101/65
- ✓ - Commission Notice on best practices for the conduct of proceedings concerning
- ✓ Articles 101 and 10 TFEU (Best Practice Notice)
- ✓ 2006 Fining Guidelines
- ✓ - ECN+ Directive
- ✓ - J Temple Lang, 'How Can the Problem of the Liability of a Parent Company for
- ✓ Parent Company for Price Fixing by a Wholly-Owned Subsidiary Be Resolved' 37
- ✓ (2013-2014) Fordham International LJ 1481 (on Keats)
- ✓ - EU Settlement Regulation
- ✓ - EU Settlement Notice
- ✓ - 2006 Leniency Notice
- ✓ - DoJ Corporate Leniency Policy
- ✓ - DoJ Individual Leniency Policy
- ✓ - CMA Guidance on leniency and no-action letters in cartel cases (you may focus on
- ✓ the first 13 pages and cross refer to the rest of the guidance when needed)
- ✓ - T Obersteiner, 'International Antitrust Litigation: How to Manage
- ✓ Multijurisdictional Leniency Applications' [2012] Journal of Competition Law and
- ✓ Policy 1
- ✓ - ECN+ Directive
- ✓ - Directive 2014/104/EU of the European Parliament and of the Council on certain
- ✓ rules governing actions for damages under national law for infringements of the
- ✓ competition law provisions of the Member States and of the European Union
- ✓ ('Damages Directive')
- ✓ R Nazzini, Competition Enforcement and Procedure, ch 4
- ✓ - Scott D. Hammond, The Evolution of Criminal Antitrust Enforcement Over the
- ✓ Last Two Decades (February 25, 2010)
- ✓ - Antitrust Modernization Commission, Report and Recommendations (2007),
- ✓ Chapter III.D, Criminal Remedies, pp. 293-308
- ✓ - Enterprise Act 2002, ss 188 - 202 in their original form and as amended by the
- ✓ Enterprise and Regulatory Reform Act 2013, ss 47 and 48
- ✓ - 2011 UK Consultation Paper 'A Competition Regime for Growth', ch 6
- ✓ - 2012 UK Consultation Response 'Growth, Competition and the Competition
- ✓ Regime', ch 7
- ✓ - Norris v Government of the United States of America [2008] 1 AC 920
- ✓ - R v George [2010] 1 WLR 2676
- ✓ - R v B (I) [2009] EWCA Crim 2575, [2010] Bus LR 748
- ✓ R Nazzini, Competition Enforcement and Procedure, ch 3
- ✓ - Commission Green Paper on Damages actions for breach of the EC antitrust rules
- ✓ (and Staff Working Paper)
- ✓ - Commission White Paper on Damages actions for breach of the EC antitrust rules
- ✓ (and Staff Working Paper)

- ✓ - Damages Directive
- ✓ - Case C-453/99 Courage Ltd v Bernard Crehan [2001] ECR I-6297
- ✓ - Joined cases C-295/04 to C-298/04 Vincenzo Manfredi v Lloyd Adriatico Assicurazioni SpA [2006] ECR I-6619
- ✓ - Sections 4 – 5 of Clayton Act, 15 U.S.C. §§ 15 – 16
- ✓ - Federal Rules of Civil Procedure, Rule 23
- ✓ - Illinois Brick Co v Illinois, 431 US 720 (1977)
- ✓ - Hanover Shoe Inc v United Shoe Machinery Corp, 392 US 481 (1961)

Global Law Program – **Visiting Professor**

**Course:** Contemporary Corporate Governance Issues

**Workload:** 15 hours

**Credits:** 1

**Overview:**

Corporate governance is a crucial topic with growing importance in a globalized economic and business environment. It is vital for students to have an understanding and a broad knowledge of various governance models used in different jurisdictions. Whether as a corporate director, investor or employee, knowing the difference between shareholder value, stakeholder and enlightened shareholder value jurisdictions and understanding how corporate scandals and frauds occur is of critical importance. The course will examine various models, analyze examples of governance problems and discuss emerging governance issues.

We will focus on the following primary objectives: 1) understanding the role of directors in corporate governance; 2) the difference between shareholder and stakeholder models; 3) various conflicts of interest associated with each model; 4) the impact of state-ownership and/or state control of corporations (such as SOEs) on the economy, corruption and governance; 5) comparing and contrasting several models and 6) the exploring the serial misconduct of corporations in specific jurisdictions.

We will also use the draft of an upcoming book chapter on national security in international economic law; the section related to state-ownership/SOEs and its impact on corporate governance which will be emailed or otherwise distributed to each of you.

Unless directed in class, you are not required to read the footnotes (you are welcome too of course and they are a source for you for further research).

Class participation is strongly encouraged. The best way to prepare for the exam will be reading the assigned readings and class participation. All questions in class are welcomed. But if you prefer, I will happily answer your questions outside of the classroom and I will make myself available after class to answer any questions you may have about what we covered in class.

The final exam will consist of 4 essays of which you will select 2 essays. Each essay is worth 50 points for a total of 100 points.

**References:**

- ✓ The main “texts” will be various journal articles which I have published including:
- ✓ The Virtues of Shareholder Value Driven Activism: Avoiding Governance Pitfalls
- ✓ [https://repository.uchastings.edu/hastings\\_business\\_law\\_journal/vol12/iss3/4/](https://repository.uchastings.edu/hastings_business_law_journal/vol12/iss3/4/)
- ✓ The Director Duty of Care in Qatar <https://scholarship.law.duke.edu/djcil/vol26/iss2/2/>

## Global Law Program – Visiting Professor

**Course:** The South African approach to anti-discrimination law

**Workload:** 15 hours

**Credits:** 1

### Overview:

The course will expose students to the South African approach to anti-discrimination law, including matters such as transformative constitutionalism, the drafting history of the applicable legislation; the approach to standing (*locus standi*); remedies; court procedure; the difference between fair and unfair discrimination; prohibited grounds of discrimination; recognition of new prohibited grounds; burden of proof; hate speech; harassment; contentious judgments handed down by magistrate's courts, High Courts and the Constitutional Court.

**Objectives:** To inculcate in the students an appreciation for the South African approach to unfair discrimination, hate speech, and harassment; to allow for self-reflection on students' part of their own jurisdictions' approaches to these issues; to do comparative research on advantages and disadvantages and limitations of the South African and other legislation.

**Methodology:** Pre-reading of prescribed materials, class discussions, asking students to reflect on their own countries' approach to anti-discrimination legislation; research assignment

### Preliminary syllabus

The Course Syllabus should include the following information:

1. Résumé of the professor including previous education/professional experience: attached
2. Course description and objectives: As above
3. Methodology: As above
4. Evaluation Criteria and System: Class discussions, class participation mark, research assignment where a comparative approach to the research problem must be adopted – students to submit a draft on which I will provide feedback before final submission of final assignment

### References:

- ✓ Judgments by South African magistrate's courts, High Courts and Constitutional Court on the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000;
- ✓ articles on transformative constitutionalism (eg Klare, Pieterse, Albertyn & Goldblatt, Moseneke, Langa);
- ✓ articles on the divergent approaches taken by South African courts on hate speech litigation;
- ✓ articles on (in)ability of South African equality law to facilitate societal transformation.

## Global Law Program - Visiting Professor

**Course:** Hate Speech, Equality and Democracy: the Global Judicial Dialogue

**Workload:** 15 hours

**Credits:** 1

### **Overview:**

This course intends to offer an introduction to the principles and values behind the protection of freedom of expression as a fundamental right and a cornerstone to any democracy, in order to analyse the theory debate on hate speech and constitutional equality. In particular, a core question will be placed: is there any space for hate speech bans or does the regulation of hateful speech by the state undermine its democratic legitimacy (R. Dworkin, 2009) as well as the acceptance and enforcement of antidiscrimination laws (J. Weinstein, 2017)?

In order to understand the reasons behind contemporary bans of hate speech, students will familiarize with the European multilevel protection of equality and non-discrimination on different grounds, such as ethnicity, religion, gender and sexual orientation. The need to strike a balance between freedom of expression and equality will be explored through the case-law of the European Court of Human Rights, the Court of Justice of the European Union and some domestic constitutional judges (e.g.: the French Conseil Constitutionnel, the German Bundesverfassungsgericht, the Italian Constitutional Court) deciding different hate speech cases. Particular attention will be paid to the judicial reaction to: a) the spread of racist and Islamophobic discourse following the current perceived migration crisis and the global fear of terrorist attacks; b) the recent attempts to ban degrading and discriminatory statements against women and LGBT people increasing throughout Europe following the rise of rightwing populism.

Moreover, the analysis of hate speech will take into consideration the effects of the use of internet and social platforms on sexist discourse, particularly targeting young women, women in the media and female politicians and will explore the most recent EU legislative and political responses.

Eventually, the course intends to stimulate a comparison between the European and the Latin-American approach to the limitation of the freedom of expression examining the potential and practical outcomes from a dialogue between Strasbourg and San José.

### **Objectives**

The course offers an insight into the theories behind the so-called “hate speech dilemma” and provides students with a basic knowledge of the European multilevel system of protection against discrimination and of the current judicial approach towards hate speech bans as a means to achieve greater equality and fight social exclusion. It also aims at enabling them with the ability to critically evaluate the relevant case-law, to compare judicial interpretations in the European and the Latin American contexts and to debate on the possible responses to harmful speech online as a new challenge for democratic societies.

### **Methodology**

The course will alternate face-to-face lessons and in-class discussions of landmark cases and theoretical essays. Interaction will always be encouraged, especially with the aim of holding a final roundtable debate on the future common challenges in European and Latin-American legal systems on the risks and benefits of hate speech bans as a means to face populist challenges to liberal democracies.

### **References:**

- ✓ To be assigned

## Global Law Program – Visiting Professor

### **Course:** European and Comparative Contract Law

**Workload:** 15 hours

**Credits:** 1

#### **Overview:**

The course deal with the development (or non-development) of harmonised contract law, especially in Europe, the main concrete questions of contract law in the light of this development, and the effects of harmonized (or non-harmonised) contract law. These questions are not dealt with in a perspective of theory of harmonization, but tackling the main topics of classical contract law and of contract law in a globalising and digitalizing world. The course builds upon my experience in teaching (international business law, comparative contract law, European private law, ...), drafting model laws (PECL and DCFR) and legal practice.

Summary of topics:

- Private law & primary EU law (incl. effect or free movement law on contract law)
- The role of harmonization instruments and projects (CISG, EU law, soft law as Unidroit PICC and PECL/DECFR)
- Main tendencies in sales law - business sales (CISG) v. consumer sales
- Main features of EU Consumer contract law
- Precontractual dealings, formation and validity of contracts in general v. EU consumer sales
- Content, performance and remedies of contracts in general v. EU consumer sales
- The new law on consumer contracts for digital content
- EU consumer law in relation to national law: effectiveness; transplantation problems for uniform law in general
- Stars and chains of contracts – risk and liability in designing contractual relations
- Multiparty (contractual) relationships
- Related topics of insolvency law (incl. insolvency avoidance of contracts)
- Related topics of tort law (Product liability, supply chain liability, immunities esp. in e-commerce)

#### **References:**

- ✓ Texts of legal instruments, case law of the ECJ and some national courts, doctrinal articles

## Global Law Program – Visiting Professor

**Course:** International Commercial Arbitration

**Workload:** 15 hours

**Credits:** 1

### Overview:

The importance of alternative methods of dispute resolution (“ADR”) in the international arena has steadily increased in the recent past. ADR often allows the parties involved in a dispute to reach resolution earlier and with less expense than traditional litigation. In particular, international arbitration has become one of the most important methods for resolving international commercial disputes.

I have designed this course to explore the field of international commercial arbitration in depth; in particular, the following topics:

- Introduction to international commercial arbitration. Local vs. international arbitration. Differences, applicable law, and institutional landscape. Institutional vs. ad hoc arbitration. Regulatory framework, advantages and disadvantages. The UNCITRAL rules of arbitration.

- The arbitration agreement: content, interpretation, effects and enforcement. Arbitrability, parties to arbitration agreements, multiple parties, pathologies.

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- The arbitral tribunal: arbitrator qualifications, independence and impartiality, procedures for the appointment of arbitrators, objections, challenge of arbitrators, provisional measures ordered by arbitrators, IBA Guidelines on Conflicts of Interest in International Arbitration, rights and duties of the arbitrators. Liability of the arbitrators.

- The arbitral proceedings: parties’ autonomy to determine the arbitral procedure, procedural phases, seat of the arbitration, language of the arbitration. IBA rules on the taking of evidence in international arbitration. Submissions and Hearings.

- The arbitral award: form and content, correction, interpretation and supplementation of arbitral awards.

- The role of the local courts: intervention in aid of the arbitration - appointment and challenge of arbitrators, provisional measures, evidence, annulment, recognition and enforcement of the arbitral award. The New York Convention of 1958 and other treaties. Parallel proceedings.

### COURSE LEARNING OBJECTIVES

The course learning objectives are as follows:

- Learn about the characteristics that make international arbitration an attractive option for dispute resolution;
- Develop a critical understanding of when it is advisable to use it; and
- Learn the sequential phases of an international arbitration, from the design of an arbitration agreement through the enforcement of an award.

### METHODOLOGY

The course methodology consists of interactive lectures, practical exercises, and debates.

**References:**

- ✓ To be assigned