

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

Syllabus

**Regular courses - 2 months courses
Fall Semester 2022
(August to December 2022)**

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:

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Global Law Program - Fundação Getulio Vargas

Course: Stabilization of International Business Transactions: from contract (re)negotiation to dispute resolution

Workload: 30 hours

Credits: 2

Overview:

In every legal system, the stabilization of business transactions depends on contracts, contract law, private international law and dispute resolution.

In this course we will first have a look at the different legal systems and consider which law applies to an international contract.

The main part of the course will be devoted to central questions of contract law related to crossborder business transactions. Issues related to interpretation, applicable law, remedies, avoidance, hardship, force majeure, damages and dispute resolution (particularly mediation and arbitration) will be discussed.

The course will combine lecturing with experiential learning tools, including simulated negotiations of contract clauses and mock dispute resolution situations.

References:

- ✓ BORTOLOTTI, Fabio. Drafting and Negotiating International Commercial Contracts (pp. 15-28)
- ✓ CALLEROS, Charles - Introducing Civil Law Students to Common Law
- ✓ CISG and Latin America, Regional and Global Perspectives, Netherlands, The Hague 2016, ix and 590 p. (jointly with Cesar Pereira and Leandro Tripodi)
- ✓ GILLIES, Peter, MOENS, Gabriel - International Trade And Business pp. 121-174
- ✓ SCHWENZER, Ingeborg; HACHEM, Pascal; KEE, Christopher. Global Sales and Contract Law, United Kingdom, Oxford 2012, cxcii and 873 p.
- ✓ GOTANDA, J.Y.. Awarding Damages Under the United Nations Convention on the International Sale of Goods a Matter of Interpretation
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- ✓ MARCEL FONTAINE, Filip De Ly - Drafting International Contracts - An Analysis of Contract Clauses-Martinus Nijhoff Publishers Brill Academic (2006)
- ✓ SCHWENZER, Ingeborg, et. Al. Schlechtriem & Schwenzler, Commentary on the UN Convention on the International Sale of Goods (CISG), 4th edition, United Kingdom, Oxford 2016, cxiv and 1602 p
- ✓ ZWEIGERT, K., KÖTZ, H., Introduction to comparative law - General Considerations

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Course: MICROFINANCE DIFFUSION AND REGULATION IN BRAZIL

Workload: 30 hours

Credits: 2

Overview:

Microfinance has always been associated as an efficient tool in the fight against poverty and inequalities, from the perspective of financial emancipation and the promotion of human dignity. This course is designed to examine the different actors, contexts and narratives of the microfinance movement and the governmental policies and private arrangements, including services and efforts provided there. It will focus around the following related issues:

- a. Challenges facing microfinance programs vis a vis financial inclusion,
- b. International guidelines on the role of financial sector regulators and on performance and expectation of microfinance institutions and customers.
- c. Objectives and key principles of microfinance regulation and supervision.
- d. Brazilian initiatives and the development of its microfinance regulatory environment.

References:

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- ✓ Cull, Robert, Demirgüç-Kunt, Asli and Morduch, Jonathan. "Microfinance Trade-Offs: Regulation, Competition and Financing". In: *Policy Research Working Paper Series 5086*, The World Bank, 2009. Available at <https://documents.worldbank.org/pt/publication/documents-reports/documentdetail/846571468339264494/microfinance-tradeoffs-regulation-competition-and-financing>
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<https://www.financialaccess.org/publications-index/2008/curtailprofitability?rq=Does%20Microfinance%20Regulation%20Curtail%20Profitability%20and%20Outreach>

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- ✓ Schonberger, S. N. Microfinance prospects in Brazil. [Washington, DC]: The World Bank, 2001. (Latin America and Caribbean Region Sustainable Development Working Paper, nº 12).
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- ✓ Yunus, Muhammad. "The future of Microfinance". In Brown Journal of World Affairs. Spring/Summer2020, Vol. 26 Issue 2, p1-8. 8p.

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Course: M&A hot topics and challenges in Brazilian and International practice

Workload: 30 hours

Credits: 2

Overview:

The purpose of this course is three-folded:

- (1) to provide a broad overview of the structuring and development of M&A transactions, including key players, deal motivation and common structures, the due diligence process and management role;
- (2) to debate hot topics in connection with M&A documentation; and
- (3) to discuss policy matters faced by courts addressing M&A challenging issues.

This course will look into real life transactions to further the purposes mentioned above. We may have two or three guest speakers who will offer their invaluable insights during short presentations.

References:

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- ✓ DEPAMPHILIS, Donald. Mergers, acquisitions, and other restructuring activities : an integrated approach to process, tools, cases, and solutions. San Diego : Elsevier, 2015.
- ✓ ADAMS, Kenneth A.. A Legal-Usage Analysis of “Material Adverse Change” Provisions. Fordham Journal of Corporate & Financial Law. v. 10, n. 1, p. 9-53, 2004.
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- ✓ ALVES, Daniel Rodrigues. Determinabilidade, negociação e elaboração das cláusulas de preço contingente (earn-out) nas operações de compra e venda de participação societária ou de estabelecimento e análise de conflitos à luz do princípio da boa-fé objetiva. 2016. 87 f. Dissertação (Mestrado Profissional em Direito) - FGV Direito SP, Fundação Getulio Vargas, 2016. Disponível em <http://bibliotecadigital.fgv.br/dspace/handle/10438/17494> . Acesso em 17 Jun 2019.
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**Global Law Program
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Syllabus

**Visiting Professor – Short Term Courses
Fall Semester 2022
(august to December 2022)**

Global Law Program - **Visiting Professor**
Prof. Patricia Saiz - ESADE

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.
- 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.

Global Law Program - **Visiting Professor**
Prof. Rifat Azam – Reichman University - Harry Radzyner Law School

Course: Taxation and Technology

Workload: 15 hours

Credits: 1

Overview:

Technology changed the world of trade, services and transactions. The global digital economy is growing rapidly to constitute a substantial share of the global economy. The intersection of taxation and technology raises fundamental challenges to the international tax regime as well as the national tax systems. In this course, we will explore main and current challenges and responses as well as the potential of technologies for better taxation. We will understand the debate on taxing technology Multinationals such as Facebook, Google and Apple including the recent efforts of the EU to impose digital services tax. We will analyze issues of international taxation of e-commerce and cloud computing. We will learn the Value Added Taxation of e-commerce and cloud computing according to the recent changes in EU Law and the Israeli Law. We will engage in the U.S. discussion of States Sales and Use taxation of online transactions following the recent U.S. Supreme Court landmark decision in South Dakota v. Wayfair. We will dig into taxation aspects of technologies that enabled sharing economy, such as Airbnb and Uber. We will examine the tax outcomes of selling technologies and intellectual properties including case studies of Israeli exits, such as Mobileye deal and Waze deal. Finally, we will explore the role and prospects of Block chain Technology, Big Data, and Artificial Intelligence in fighting tax avoidance and evasion, and administering tax systems fairly and efficiently.

LEARNING OBJECTIVES

Students completing this instructional offering are expected to:

1. Demonstrate a proficiency in reading critically the materials assigned for this course.
2. Demonstrate a knowledge of substantive legal doctrine fundamental to this course, e.g. principles of international taxation, income taxation, value added taxation, sales and use taxation.
3. Identify legal issues and apply legal reasoning and analysis to solve problems in a logical and structured manner to issues covered in this course. For example, issues of e-commerce and cloud computing taxation. Issues of sharing economy taxation. Issues of intellectual property taxation.
4. Communicate orally or in writing, or both, the legal reasoning and analysis regarding issues covered in this course.
5. Analyze the pros and cons of different proposals to cope with the challenges of taxation and technology.
6. Develop a vision on future developments and uses of technologies for better taxation.
7. Work with other students and develop collaborative and communication skills.

Global Law Program - **Visiting Professor**
Prof. Richard Albert - The University of Texas at Austin

Course: How Constitutions Change

Workload: 15 hours

Credits: 1

Overview:

In this course on How Constitutions Change, students will study the forms of constitutional change from comparative, doctrinal, historical, and theoretical perspectives. The Canadian and United States Constitutions will be prominent case studies and we will also make frequent reference to other constitutions, including those in Brazil, France, Germany, India, Japan, Mexico, South Africa, Turkey, the United Kingdom. Topics include the political and philosophical foundations of constitutional amendment, the procedures and purposes of constitutional change, the status and enforceability of unwritten constitutional norms, the theory and doctrine of unamendability, the consequences of amendment difficulty, and the use and misuse of referendums in constitutional change.

Objectives:

Students should expect to meet three objectives by the end of the course:

1. To understand the forms of constitutional change.
2. To understand the how constitutional change relates to democracy, sovereignty and the judiciary.
3. To have a considered opinion on how constitutional designers should structure the rules of constitutional amendment.

Evaluation:

Students will be required to write a short essay to be submitted to the instructor within two weeks of the end of the course. Further details about the subject-matter of your paper will be specified on the syllabus.

Global Law Program - **Visiting Professor**
Prof. Alison Jones – King's College London

Course: EU Competition Law

Workload: 15 hours

Credits: 1

Overview:

The course examines the principal EU competition laws, their goals and how they are enforced. It then examines the substantive EU competition rules and how they control anticompetitive agreements, unilateral conduct of dominant firms and mergers. It will examine the core EU competition law provisions and cases. It will also cover contemporary debates on competition law, including the question of whether the current rules are sufficient to deal with competition issues arising in the digital economy. These debates and discussions are of relevance to all competition law systems across the globe, and where relevant/ appropriate approaches in different jurisdictions - especially the US - will be discussed.

Global Law Program - **Visiting Professor**
Prof. Anton Kok – University of Pretoria

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 antidiscrimination 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

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 5. List of Required Course Materials: 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