

# Wydział Prawa i Administracji

## EDUCATIONAL SUBJECT DESCRIPTION SHEET

### Polish Arbitration Law in the Light of the UNCITRAL Model Law on International Commercial Arbitration

<b>Subject name</b> Polish Arbitration Law in the Light of the UNCITRAL Model Law on International Commercial Arbitration		
<b>Subject</b> Polish Arbitration Law in the Light of the UNCITRAL Model Law on International Commercial Arbitration		
<b>ISCED classification</b> 0421 Law	<b>Examination</b> exam	
<b>Field of study</b> prawo	<b>Education profile</b> General academic	<b>Period</b> Semester 5, Semester 6, Semester 7, Semester 8, Semester 9, Semester 10
<b>Lecture languages</b> English	<b>Mandatory</b> Elective	
<b>Hours</b> lecture: 30	<b>Number of ECTS points</b> 5	<b>Didactic cycle</b> 2019/20
<b>Study level</b> jednolite magisterskie	<b>Study form</b> Full-time	<b>Disciplines</b> Legal science
<b>Subject coordinator</b>	Andrzej Olaś	
<b>Lecturer</b>	Andrzej Olaś	

### Entry requirements

Good command of English (at least B2 level), including knowledge of basic legal English terminology

### Goals

C1	<p>The aim of the course is to familiarize participants with the issues of domestic and international arbitration in Poland and around the world, by presenting the basic notion of arbitration and its nature as a private non-judicial means of dispute resolution in civil and commercial matters, the relationship of arbitration to judicial justice system in the context of the constitutional and conventional principle of the right to a court and fair trial; basic assumptions and general principles of arbitration as well as principles and rules governing the conduct of arbitration proceedings, the issue of post-arbitration proceedings related to setting aside arbitral awards as well as recognition and enforcement of domestic and foreign arbitral awards pursuant to Polish arbitration law (Part V of the Polish Code of Civil Procedure and the New York Convention on the recognition and enforcement of foreign arbitral awards) and in light of the model legal framework as provided for in the UNCITRAL Model Law on International Commercial Arbitration. In addition to achieving comprehensive understanding of the Polish arbitration legal framework, the aim of the course is to explore the symptoms of the process of gradual convergence and harmonization of national arbitration legal systems, leading to the emergence of the foundations of a transnational private dispute resolution system as well as presentation of the role and importance in these processes of the New York Convention on the recognition and enforcement of foreign arbitral awards and the UNCITRAL Model Law on International Commercial Arbitration which together form a "constitution" for international commercial arbitration.</p>
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## Subject's learning outcomes

Code	Outcomes in terms of	Effects
<b>Knowledge - Student knows and understands:</b>		
W1	Student knows and understands the notion of arbitration as a method of resolving disputes and settling civil and commercial matters, including the place of arbitration in the system of civil proceedings in Poland and around the world as well as its relation to judicial justice system in the context of the constitutional and conventional principles of the right to a court and fair trial	PRA_K3_W02, PRA_K3_W04, PRA_K3_W05, PRA_K3_W07, PRA_K3_W08, PRA_K3_W11, PRA_K3_W12, PRA_K3_W13, PRA_K3_W18, PRA_K3_W19
W2	Student knows and understands the basic principles and institutions of the law of arbitration as well as general principles and rules governing the conduct of arbitration proceedings and the methods of analyzing, interpreting and applying the provisions that underlie them	PRA_K3_W10, PRA_K3_W11, PRA_K3_W12, PRA_K3_W13, PRA_K3_W14, PRA_K3_W15, PRA_K3_W19
W3	Student knows and understands the relationship between arbitration proceedings and court proceedings, including the role of a state court in arbitration proceedings, as well as the nature, function and specificity of post-arbitration proceedings related to the setting-aside and recognition and enforcement of domestic and foreign arbitral awards	PRA_K3_W10, PRA_K3_W11, PRA_K3_W12, PRA_K3_W13
W4	Student knows the legal terminology in the field of arbitration, including proceedings before the arbitration court and post-arbitration proceedings	PRA_K3_W02, PRA_K3_W13
<b>Skills - Student can:</b>		
U1	Student is able to properly use legal terminology for the purpose of accurate presentation and explanation of the issues and problems pertaining to the arbitration	PRA_K3_U15
U2	Student is able to search, interpret and apply relevant provisions in the field of Polish arbitration law;	PRA_K3_U06, PRA_K3_U07, PRA_K3_U08, PRA_K3_U09, PRA_K3_U10, PRA_K3_U11, PRA_K3_U14, PRA_K3_U15, PRA_K3_U16
U3	Student is able to solve procedural problems in the field of arbitration law	PRA_K3_U06, PRA_K3_U07, PRA_K3_U08, PRA_K3_U09, PRA_K3_U10, PRA_K3_U11
<b>Social competences - Student is ready to:</b>		
K1	The student is ready to deepen his knowledge of Polish and foreign arbitration law and its practical application in the rendering of legal aid in the field of dispute resolution in civil and commercial matters	PRA_K3_K01, PRA_K3_K06

## Study content

No.	Course content	Subject's learning outcomes
1.	The notion of arbitration (theories, legal nature and definitions of arbitration; types of arbitration, comparison with other judicial and extrajudicial dispute resolution mechanisms: court litigation, negotiations, conciliation mediation; main features of arbitration);	W1, W3, W4, U1, U2, U3, K1
2.	The place of arbitration in the legal system: arbitration vis-a-vis constitutional and conventional standards of right to a court and a fair trial as well as the principle of judicial justice system, arbitration in the system of civil proceedings, arbitration and EU law;	W1, W2, W3, W4, U1, U2, K1

3.	The sources of law governing arbitration, applicable law (lex arbitri), seat of arbitration; significance of soft-law acts in international commercial arbitration, with particular emphasis on the UNCITRAL Model Law on International Commercial Arbitration;	W1, W4, U1, U2, U3, K1
4.	The arbitration agreement – part I: theories on the legal nature of arbitration agreement, types of arbitration agreements, applicable law to the arbitration agreement	W2, W4, U1, U2, U3
5.	The arbitration agreement – part II: formal and substantive requirements, validity, effectiveness and enforceability of arbitration agreements, subjective and objective scope of arbitration agreements, arbitrability of a dispute, severability doctrine, multi-step/multi-tiered dispute resolution clauses	W2, W3, W4, U1, U2, U3
6.	The arbitral tribunal and arbitrators: composition of arbitral tribunal and appointment of arbitrators, legal status, rights, obligations and liability of arbitrators, recusal and dismissal of arbitrators	W2, W4, U1, U2, U3
7.	The jurisdiction of the arbitral tribunal: “Kompetenz-Kompetenz” doctrine, examination and challenging of the arbitral tribunal’s jurisdiction;	W2, W4, U1, U2, U3
8.	Interim measures and preliminary orders in arbitration proceedings	W2, W4, U1, U2, U3
9.	The conduct of arbitral proceedings – part I: general principles governing arbitral proceedings	W2, W3, W4, U1, U2, U3
10.	The conduct of arbitral proceedings – part II: commencement of proceedings	W1, W4, U1, U2, U3
11.	The conduct of arbitral proceedings – part III: pleadings, evidence & hearings	W2, W3, W4, U1, U2, U3
12.	The conduct of arbitral proceedings – part IV: arbitral awards and termination of proceeding	W2, W3, W4, U1, U2, U3
13.	The post-arbitral proceedings - part 1: recourse against awards (annulment proceedings);	W2, W3, W4, U1, U2, U3
14.	The post-arbitral proceedings – part 2: recognition and enforcement of domestic and foreign arbitral awards	W1, W2, W3, W4, U1, U2, U3
15.	Overview of the rules of arbitration of some leading Polish and foreign arbitral institutions: Court Of Arbitration at the Polish Chamber of Commerce in Warsaw, Court of Arbitration at the Confederation of Lewiatan in Warsaw; International Chamber of Commerce International Court of Arbitration in Paris, London Court of International Arbitration, Vienna International Arbitral Centre, The Arbitration Institute of the Stockholm Chamber of Commerce Singapore International Arbitration Centre	W2, W3, W4, U1, U2, U3, K1

## Literature

### Obligatory

1. Explanatory Note by the UNCITRAL secretariat on the 1985 Model Law on International Commercial Arbitration as amended in 2006 (część II oficjalnego tekstu Prawa Modelowego)
2. UNCITRAL Secretariat Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards

### Optional

1. P. Pietkiewicz et. al., Arbitration in Poland, Warsaw: Court of Arbitration at the Polish Chamber of Commerce 2011

## Course advanced

### Teaching methods:

text analysis, lecture, conversation lecture, lecture with multimedia presentation, case study

Activities	Examination methods	Credit conditions
lecture	written exam, essay	Written exam in the form of a brief case-study exercise requiring identification and resolution of one or more of legal problems + multiple-choice test (15 questions). Exam duration: 45 minutes. Mandatory registration for the exam via the USOS system. Instead of taking multiple-choice test exam, the course may be completed through the preparation of an out-of-class assignment in the form of: - essay (approx. 5-15 pages, Times New Roman, line spacing: 1,5) comparing a specific aspect of arbitration law (e.g. certain principle or rule) under the Polish arbitration law and a chosen foreign legal system in light of the framework of UNCITRAL Model Law. or: - a written gloss / commentary (approx. 5-15 pages, Times New Roman, line spacing: 1,5) to a chosen decision of a state court (Polish or foreign) or an arbitration tribunal ruling on an important procedural issue in the field of arbitration. The deadline for submitting essays and glosses exempting from the written exam will be given at the first class.

### Calculation of ECTS points

Activity form	Activity hours*
lecture	30
participation in an exam	1
self-study regarding classes	60
preparation for the exam	40
<b>Student workload</b>	<b>Hours</b> 131
<b>Workload involving teacher</b>	<b>Hours</b> 30

\* hour means 45 minutes

## Methods of evaluating the learning outcomes

Learning-outcome code	Method of evaluation	
	written exam	essay
W1	x	x
W2	x	x
W3	x	x
W4	x	x
U1	x	x
U2	x	x
U3	x	x
K1	x	x

<b>Code</b>	<b>Content</b>
PRA_K3_W02	Absolwent zna i rozumie podstawowe pojęcia jakimi posługują się nauki społeczne oraz zna w stopniu zaawansowanym pojęcia jakimi posługują się nauki prawne
PRA_K3_W04	Absolwent zna i rozumie funkcję systemu prawnego w przeciwdziałaniu i rozwiązywaniu konfliktów społecznych (z uwzględnieniem różnych koncepcji społeczeństwa i państwa)
PRA_K3_W05	Absolwent zna i rozumie ustrój, strukturę i funkcjonowanie państwa oraz organizacji międzynarodowych
PRA_K3_W07	Absolwent zna i rozumie ewolucję systemu prawa (norm, zasad, instytucji, agend)
PRA_K3_W08	Absolwent zna i rozumie system prawa polskiego na tle systemów prawnych innych państw oraz systemu prawa Unii Europejskiej i jego wpływu na prawo krajowe
PRA_K3_W11	Absolwent zna i rozumie strukturę polskiego systemu prawa oraz relację pomiędzy różnymi gałęziami prawa
PRA_K3_W12	Absolwent zna i rozumie funkcje, instytucje, zasady i normy podstawowych gałęzi prawa materialnego i procesowego
PRA_K3_W13	Absolwent zna i rozumie szczegółowe zagadnienia w obrębie wybranych gałęzi prawa
PRA_K3_W18	Absolwent zna i rozumie ustrój, strukturę i funkcjonowanie państwa
PRA_K3_W19	Absolwent zna i rozumie system prawa polskiego na tle systemów prawnych innych państw
PRA_K3_W10	Absolwent zna i rozumie procesy stosowania prawa
PRA_K3_W14	Absolwent zna i rozumie metody prawnicze - analizę, argumentację i interpretację
PRA_K3_W15	Absolwent zna i rozumie podstawowe metody uzyskiwania niezbędnych danych dla pogłębionej analizy zjawisk prawnych
PRA_K3_U15	Absolwent potrafi posługiwać się obcym językiem prawniczym (na poziomie B2+)
PRA_K3_U06	Absolwent potrafi wyjaśniać procesy stosowania prawa
PRA_K3_U07	Absolwent potrafi wyjaśniać zjawiska naruszania prawa
PRA_K3_U08	Absolwent potrafi ustalać, analizować, interpretować i klasyfikować stany faktyczne, z którymi mają być łączone określone konsekwencje prawne
PRA_K3_U09	Absolwent potrafi identyfikować, analizować, interpretować przepisy prawne, które można zastosować dla rozstrzygnięcia określonego problemu prawnego
PRA_K3_U10	Absolwent potrafi dokonać kwalifikacji prawnej stanu faktycznego
PRA_K3_U11	Absolwent potrafi podjąć decyzję o konsekwencjach prawnych stanu faktycznego oraz ją uzasadnić
PRA_K3_U14	Absolwent potrafi przygotować wystąpienie ustne w języku polskim i obcym
PRA_K3_U16	Absolwent potrafi wyszukiwać informacje o prawie polskim i zagranicznym
PRA_K3_K01	Absolwent jest gotów do uwzględniania zmienności norm prawnych oraz uzupełniania wiedzy o nich
PRA_K3_K06	Absolwent jest gotów do dalszego kształcenia