

DISPUTE RESOLUTION
(RESOLUTION OF PRIVATE INTERNATIONAL DISPUTES)

Master of International Trade Policy and Law

Foreign Trade University (FTU)

03 – 08 April 2019

COURSE CONTENT

International trade law aims at facilitating cross-border commerce. Firms and entrepreneurs are encouraged to enter into cross-border contracts and to invest abroad. This class will focus on the resolution of disputes arising out of such commercial activities by private parties and concentrate primarily on issues of procedural law. We will discuss key questions of transnational litigation and commercial arbitration and will also look briefly at alternative methods of dispute resolution, such as mediation. The class follows a comparative approach. Students will be instructed on basic concepts of cross-border litigation in Europe, the U.S. and (to a lesser extent) other countries to gain a sound understanding of dispute resolution issues. We will also analyze important international conventions harmonizing the legal framework for the resolution of private international disputes. Accordingly, the section on arbitration is based primarily on the UNCITRAL Model Law on International Commercial Arbitration. At the end of each section, there will be a discussion and a quick feedback test securing the active participation of class participants. Students will receive copies of all relevant legal texts and rules that are discussed in class.

THE LECTURER

Wolfgang Wurmnest holds the Chair for Private Law, Economic Law, Private International and Comparative Law at the University of Augsburg (Germany). He studied law in Hamburg (Germany) and Lyon (France) and obtained his LL.M. from the University of California at Berkeley. Prior to joining the faculty of University of Augsburg, he served as Professor at the University of Hannover (Germany) (2009-2013) and Senior Research Fellow at the Max Planck Institute for Comparative and International Private Law in Hamburg (Germany) (2002-2003, 2004-2009).

Wolfgang Wurmnest's research interests relate to cross-border cases raising classic questions of private international law, such as jurisdiction, applicable law and enforcement of judgments and awards. In addition, he writes on competition law and regulation. He regularly teaches classes on international dispute resolution.

COURSE SYLLABUS

Class 1 (Wednesday, 03 April 2019)

Part One -- Introduction

- A. About this class
- B. Structuring international commercial disputes
- C. Dispute resolution mechanisms
- D. What are key issues in international cases?
- E. Sources of law
- F. Litigation in the U.S., Germany and Vietnam: Some comparative remarks
- G. Questions and discussion
- H. Quick quiz

Class 2 (Thursday, 04 April 2019)

Part Two -- Service of Process

- A. Introduction
- B. Service under the Hague Service Convention
- C. Service in the EU (overview)
- D. The legal situation in Vietnam
- E. Questions and discussion
- F. Quick quiz

Part Three -- Jurisdiction

- A. The international and comparative perspective
 - I. The common law approach
 - II. The approach in (European) civil law countries
 - III. Where does Asia stand?

Class 3 (Friday, 05 April 2019)

- B. The European approach to jurisdiction under the Brussels Regulation (BR)
 - I. Introduction
 - II. General jurisdiction (Arts. 4, 62, 63 BR)
 - III. Exclusive jurisdiction (Art. 24 BR)
 - IV. Jurisdiction by appearance (Art. 26 BR)
 - V. Special jurisdiction (selected bases) (Arts. 7-9 BR)
 - VI. Jurisdiction to protect weaker parties (Arts. 10-23 BR)
 - VII. Choice of forum (Art. 25 BR)

Class 4 (Saturday, 06 April 2019)

- C. The US approach to jurisdiction
 - I. Introduction
 - II. Jurisdiction in tort cases
 - III. *Forum non conveniens*
 - IV. Forum selection clauses
- D. The situation in Vietnam
- E. Questions and discussion
- F. Quick quiz

Class 5 (Monday, 08 April 2019)

Part Four -- International Commercial Arbitration

- A. Introduction
- B. Legal framework
- C. The agreement to arbitrate
- D. The limits of arbitration
- E. The arbitration proceeding (overview)
 - I. Constituting the arbitral tribunal
 - II. A glimpse at the procedure before the tribunal
 - III. Post-arbitration issues
- F. Questions and discussion
- G. Quick quiz

READING

All relevant legal texts and rules will be handed out as hard copies in class. Important judgments may be provided as PDFs. Students are not required to read any judgments, articles or legal texts prior to class.