



INTERNATIONAL INVESTMENT ARBITRATION ONLINE

OSUN Connected Learning Contest Winner

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Course: International Investment Dispute Settlement

I would like to share my experience teaching classes online by focusing on an assignment as part of the course “International Investment Dispute Settlement”. This assignment relates to an international investment arbitration proceeding. It involves students reading materials along with a problem-based case before class, discussing the case via a think-write-pair-share activity, writing memoranda, recording video presentations of their key submissions and questions with my feedback on each video, and taking part in an oral arbitration simulation. Here is the link to a short video I have prepared on my experience of online teaching with a focus on this assignment: https://www.auca.kg/en/auca_news/4137/

International Investment Dispute Settlement

This course is focused on the study of legal aspects of international investment dispute settlement. As the number of multimillion-dollar investment arbitration cases filed by investors against host states, including Kyrgyzstan, is increasing, the comprehension of this field of law has become essential. Classes are aimed at providing students with the knowledge and critical understanding of key issues surrounding international investment dispute settlement. The course is focused primarily on international investment arbitration and covers topics ranging from the drafting of an arbitral agreement to the holding of arbitral proceedings and enforcement of awards. Special attention is paid to the analysis of leading arbitration cases under the rules of the UN Commission on International Trade Law (UNCITRAL) and International Centre for the Settlement of Investment Disputes (ICSID). At the same time, attention is also dedicated to alternatives to investment arbitration, including but not limited to international investment mediation.

As the course is interactive and practice-oriented, there are a number of practical assignments, such as an international investment arbitration simulation. Course activities allow students not only to apply the substantive knowledge gained in practice, but also help improve their proficiency in verbal and written communication as well as their analytical and problem-solving skills.

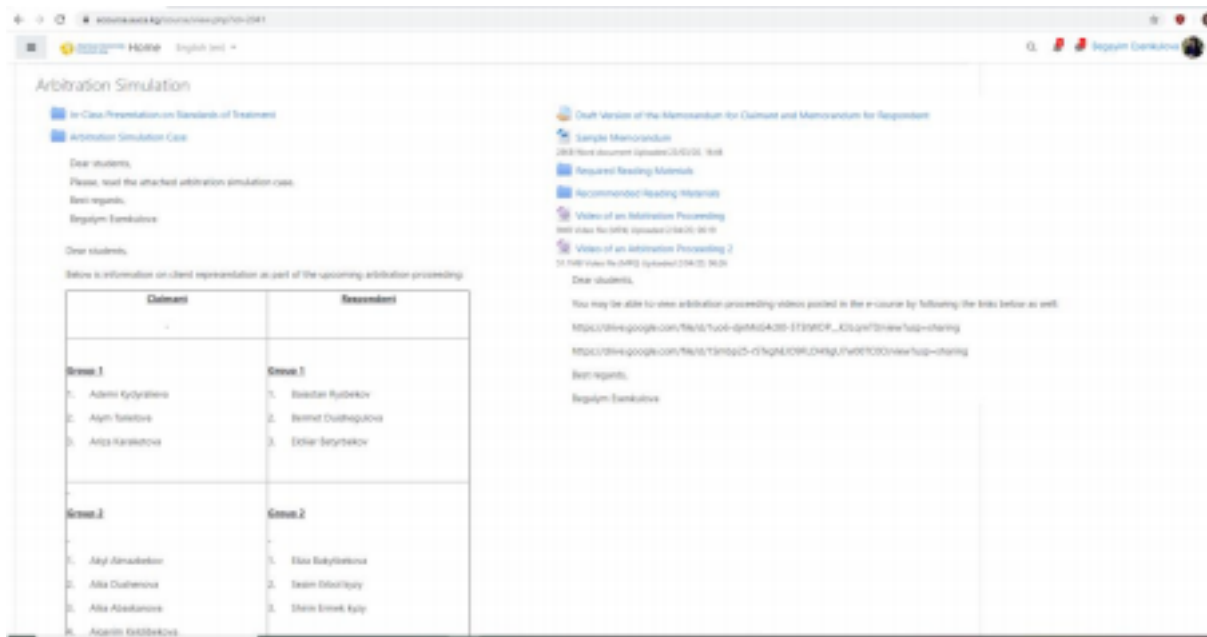
Practical and pedagogical value

This assignment worked really well, since every single student that took the course worked hard on it. Students had to prepare for the assignment both on their own and by working in groups. I believe that engaging students in such an assignment is important especially in a remote learning context, since it makes them both work hard and feel connected to one another despite not being in one class physically.

The assignment

A. Preparatory Activities before Class

Students received reading materials and a 20-page problem-based case related to international investment dispute settlement (the case may be provided upon request). The case involved two parties. One party (Claimant) argued that its rights have been violated. The other side (Respondent) has tried to prove the reverse. In particular, in this case an investor (Claimant) has argued that the state has violated its investment protection rights by revoking its license to operate in the host state. The host state (Respondent) has argued that the revocation of the license has been a measure taken in order to prevent environmental damage caused by the investor and has been undertaken in full compliance with law. The case, instructions, and materials related to the case have all been posted in the e-course (Moodle):



B. Preparatory Activities during Class (held via Zoom)

I devoted a class session to preparing students for the investment arbitration simulation in class based on the reading materials they have read. In particular, I asked several questions about the case and then invited them to think, write, pair, and share their answers. They first answered questions by writing in their notebooks or computers. Then they paired up and exchanged their views on the questions. As the final step, each group shared answers by writing them in a common google document accessible to everyone and provided oral responses to the questions posed.

C. Written Homework and In-Class Arbitration Simulation

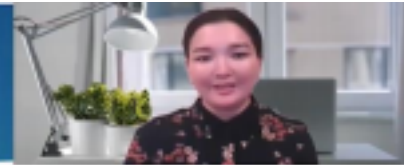
Students were divided into three groups: claimants, respondents, arbitrators. Students representing the claimant and respondent submitted written memoranda in support of their positions. They also recorded small video presentations outlining their key arguments and questions they had about the case. I watched their video files before the next class and responded to their questions before the actual arbitration simulation.

During class, we then held an international investment arbitration simulation which is similar to a court proceeding with each side presenting its arguments and the arbitrator making the decision regarding the case. Below are illustrations from the in-class role-playing simulation:



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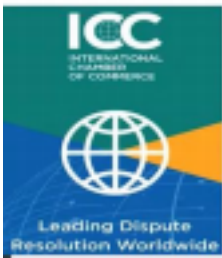
International Investment Arbitration Simulation April 24, 2020



Aibike Arbitrator

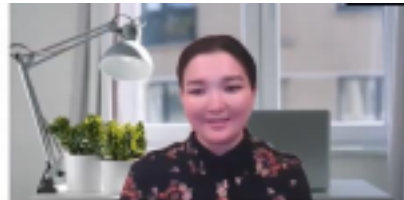
Erik Arbitrator

Begimai Arbitrator



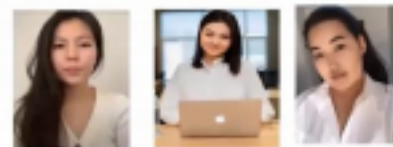
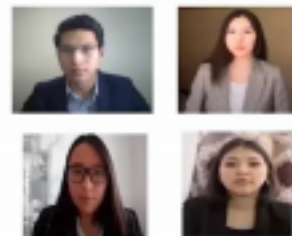
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INTERNATIONAL INVESTMENT ARBITRATION SIMULATION APRIL 24, 2020



Counsel for Claimant

Counsel for Respondent





Each student had a role to play in this assignment. This enabled the assignment to be engaging for all students, even though the simulation took place via Zoom.

III. Video

Here is the link to the short video on my experience of online teaching with a focus on the above assignment: https://www.auca.kg/en/auca_news/4137/

IV. Reflection on the Assignment

It is very important for me to involve students in discussions and different activities so that they are able to question and cross-examine the material and each other to discover the knowledge they are seeking. It is also important to provide students with an opportunity to not only gain knowledge but also develop skills in my classes. This assignment was successful, since it engaged every student and encouraged students' active participation. It was intended to help develop students' strength of mind, critical inquiry, and ability to think for themselves. This stimulates students to be active participants in the educational process instead of being simply passive observers. Students not only study a huge amount of information, but genuinely acquire and improve their approach to learning the material. In this I see the achievement of the purpose of education which is to educate students on how to study, how to solve problems as well as how to think critically and independently rather than what to think. I am happy that I have been able to engage students in

various activities online so that they can continue improving their skills and gaining knowledge and believe that such activities may be used by faculty across different programs in a remote learning context.