

Simulated arbitration on-line; training law students in a multi-jurisdictional context

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Abstract. This project enables law students from different countries to participate in a simulated arbitration case on-line. The objective of this innovative e-training distance learning tool is to familiarize law students with law and practice of international commercial arbitration. International arbitration is more than another way to settle cross-border commercial disputes. It is a real forum where the law governing international economic relations is progressively elaborated, applied and enforced in a constantly changing world. Law students need to get themselves acquainted with this discipline, which is particularly adapted to the modern requirements of an increasingly globalized economy. Four Universities participated in the simulated arbitral proceedings using this tool: <http://mockarbitrationonline.blogspot.gr/> The case selected was related to a multinational cross-border business transaction. Instead of using fictitious states (such as Utopia or Ruritania), specific countries were selected (such as Czech Republic, Ukraine and Greece), in order for students to apply the legal rules, which are actually in force in these countries.

1 Introduction

The beginning of the 2013-2014 academic year in the Law School of the Aristotle University was marked with the launching of a far-reaching and highly ambitious project – mock arbitration trial between the students of different Universities across Europe, i.e. the Aristotle University as host institution and the claimant in the simulated proceedings; Odessa National University named after I.I. Mechnikov acting as the respondent to the claim; Charles University in Prague in the capacity of the Arbitration Centre; Leiden Law School representing the Arbitral Tribunal, called for delivering the justice in the simulated proceedings.

The essence of the project lies in reproducing the exhaustive range of legal procedures, which constitute the backbone of arbitration process in a foreign forum – starting from submitting the request for arbitration and ending at the enforcement of the award against the losing party in the latter's country. In view of the rising importance and rapid evolvement of the international commercial arbitration practice (Redfern, p. 1),

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participation in the mock trial is one-of-a-kind chance for the students to get a foretaste of the real proceedings in the arbitration court and thus prepare themselves for the future legal career.

2 About the Moot courts

The leading professionals put emphasis on the exceptional feasibility (Spillane, p. 6) of the moot courts as an innovative and forward-looking method of educating senior law students. Indeed, future attorneys and counselors are recommended to familiarize themselves with the appropriate style and way of conduct expected during the pleadings before the court as well as focus on refining their skills as regards legal writing. Internationalization of the study programs, increasing demand for the lawyers with a broader worldview and overall competitiveness of the present day legal market – all of these factors in the cumulate call for implementation of conceptually new educational methods [3], mock trials or simulated proceedings among those.

The umbrella definition of the moot court (based on the descriptions elaborated by the Philip C. Jessup International Moot Court Competition, the ELSA Moot Court Competition, the Annual Willem C. Vis International Commercial Arbitration Moot, the Frankfurt Investment Arbitration Moot Court, and others) is as follows:

Moot court is an interactive simulation of resolving a legal dispute in a pre-defined forum, including but not limited to local courts, arbitration venues, dispute resolution Boards attached to International Institutions and others, which is grounded on a fictional case and usually has a two-stage structure, i.e. the written round and the oral presentation. One of the most profound benefits of the aforesaid clinical tool for the University's curriculum is that the mock proceedings enable more extensive and all-encompassing legal training in the real-life situations, which stirs the students into action and provokes them to seek unconventional solutions.

As a matter of fact, the idea of a mock arbitration online project handled by the Aristotle University does not deviate from the globally accepted moot practice as regards the substance of the game. However, the initiative of our University is a way ahead considering the structure and elements of the simulated trial: unlike other distinguished moots, the procedure of mock arbitration trial under the auspices of the Aristotle University does not limit itself merely to two rounds (submissions, pleadings). In contrast, our project has been spanning for four full semesters until now and breaks down into multiple stages which will be illustrated in greater details below.

We remain committed to more thorough, all-encompassing reproduction of the commercial arbitration process, allowing the students to master diversified professional skills, such as the ability to draft comprehensible procedural documents, effectively handle legal correspondence, prepare well-structured, powerful oral presentations. Such an approach is innovative and has not been yet repeated elsewhere and adds a fresh perspective to the role playing as educational method.

3 The mock arbitration project

Mock arbitration game supervised by the Department of International Studies of the Faculty of Law in the Aristotle University of Thessaloniki is conducted through the application of clinical legal education technique, which is of aid in promotion of a greater learning depth. Legal scholars of the new generation mark the clinic method as highly feasible for teaching law in view of the fact that it ensures active performance of the

students [4] and is more successful in holding their long-term concentration (in comparison with the traditional lecturing method).

Ideally, the case study lying in the base of the simulation game should be devised in such a way so as to trigger the participants' attention and activate their analytical capabilities. Accordingly, the case devised at the outset of the game reflected the trending issues arising out of a multinational cross-border business transaction. Instead of using fictitious states (such as Utopia or Ruritania), specific countries have been selected (such as, Ukraine, Greece and Czech Republic), in order for students to apply –to the extent necessary– the legal rules, which are actually in force in these countries.

The mock dispute can be summarized as follows: a certain Czech company entered into the Contract on Sales and Erection on Site of a Photovoltaic Park (in the territory of Moravia, Czech Republic) with a Ukrainian manufacturing company. Due to the complicated logistics and being highly pressed for time, the Ukrainian party, which acted as Seller by virtue of the aforesaid Contract, made a decision to engage a third party into delivery and installation of the said park. At that point, the Greek company was called to supply and deliver galvanized steel bases for the solar trackers constituting the park. Despite the fact that, in the first face, the Ukrainian and the Greek contractors seemingly agreed on the transaction terms and quality specifications, upon delivery of the steel bases, the Ukrainian party apparently was not satisfied with the purchased goods, estimating them to be unfit for the purposes of their business. Considering that the Greek party refused to admit any infringement on their part and/or provide compensation for future losses, the Ukrainian company seized the equipment to set off the alleged debt. Consequently, the parties declared that the dispute had arisen and initiated the arbitral process.

Therefore, the Ukrainian and the Greek team were given the task to determine the following issues:

- Whether there was a valid arbitration agreement;
- Whether there was a duty to perform the Contract;
- Whether the corporal return of the goods was lawful;
- Whether there was any outstanding debt/damage.

Figuratively, the game process is divided into two major stages, i.e. (1) the proceedings in the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic and (2) enforcement of the Arbitral Award in the territory of the defeated party (currently, the dispute has reached the stage of the recognition of the Award in Ukraine).

During the first round, both teams mastered the integrate procedure of the arbitration, having submitted request for arbitration and counterclaim, officially nominated the arbitrators, prepared two sets of pre-hearing and one set of post-hearing submissions. It should be highlighted that the legal procedure is being observed to the fullest detail in view of the requirement for the teams to work on various supportive documents instead of strictly focusing on the claims. To be precise, over the course of the simulated proceedings, the players were challenged to obtain Powers of Attorney, Resolutions of the Board of directors, Calculation of the Legal Fees etc.

All participants in the mock arbitration have been expressing genuine satisfaction with the game hosted by Aristotle University, describing it as “exciting opportunity to enrich their knowledge, which, beyond doubt, will equip them to succeed in legal practice”.

4 Further perspectives

Dramatic globalization of the legal sphere dictates the need for the universities that train future lawyers to conduct systematic upgrades on the school program, making it truly internationalized and externally oriented. To suit the newly-emerged trend, the faculties are

recommended to set stage for co-operation with other institutions worldwide [3]. From this view-point, Aristotle University has a huge potential to become a binding link between top-ranked European Law Schools, with the Mock Arbitration Project as platform for reconceptualization of present-day legal education. We anticipate that the aforesaid moot trial will evolve further, with the view to attract goal-oriented mind-sets and enthusiastic young lawyers representing varying backgrounds and schools of legal thought. Abundance of partners in co-operation will allow to involve other legal bodies and/or staff into the game (such as legal counsels on local law, expert bureaus, broker agencies and any other authority potentially influencing the arbitral process in real life).

The new database specifically designed to host new games thanks to a grant accorded by the Aristotle University's Research Committee, offers infinite possibilities of expansion and a lot of learning opportunities to the students interested in joining it and to their academic advisers and corresponding institutions: <http://www.arbitralsimulator.com/>.

References

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