This course will focus in detail on the instances in which resort to conflict of laws is necessary in the international arbitration context. The objective of this course is to allow participants to realise on how many occasions both State courts and arbitrators will need to report a conflict of laws analysis despite the claim that conflict of laws issues are not relevant in the international commercial arbitration context. Participants will first be taught to identify what conflict of laws rules may apply and will then be given hypothetical cases and will be asked to critically examine whether a solution can be found that does not require a conflict of laws approach.

Participants will learn to identify the various potentially applicable conflict of laws rules and the differences in outcomes their application may lead to, thus applying them to determine whether one set of conflict of laws rules is more suitable to a given party’s needs than another.

Topics to be dealt with:

**In class 1:**
Defining International Commercial Arbitration

**In class 2:**
Conflict of Laws in International Arbitration: An Overview

**In class 3:**
Conflict of Laws Issues Concerning the Arbitration Agreement (law applicable to the arbitration agreement; applicable laws under the NY Convention)

**In class 4:**
Conflict of Laws Issues Concerning the Jurisdiction of the Arbitral Tribunal (lex loci arbitri v lex fori; applicable law and extension of the arbitration agreement to non-obvious parties)

**In class 5:**
Conflict of Laws Issues Concerning the Jurisdiction of the Arbitral Tribunal (effect of overriding mandatory rules on the arbitration agreement; arbitration and insolvency)

**In class 6:**
Conflict of Laws Questions and the Law Applicable to the Merits (General Remarks)

**In class 7:**
Conflict of Laws Questions and the Law Applicable to the Merits (Mandatory Rules and the Law Applicable to the Merits)

**In class 8:**
Post-Award Conflict of Laws Issues

**In class 9:**
Post-Award Conflict of Laws Issues
**Reading List**

**For class 1:** Delaume, What is an International Contract? An American and Gallic Dilemma, 28 INTERNATIONAL AND COMPARATIVE LAW QUARTERLY 258 (1979); Ferrari, How International Should International Commercial Arbitration Be?, FESTSCHRIFT FOR M.J. BONELL (forthcoming)


**For class 4:** Brekoulakis, Arbitrability and Conflict of Jurisdictions: The (diminishing) relevance of lex fori and lex loci arbitri, in Ferrari/Kröll (eds.), CONFLICT OF LAWS IN INTERNATIONAL ARBITRATION, 2011, 117 et seq.; Abdel Wahab, Extension of Arbitration Agreement to Third Parties: A Never Ending Legal Quest Through the Spatioal-Temporal Continuum, in Ferrari/Kröll (eds.), CONFLICT OF LAWS IN INTERNATIONAL ARBITRATION, 2011, 137 et seq.


**For class 6:** Silberman/Ferrari, Getting to the Law Applicable to the Merits in International Arbitration and the Consequences of Getting it Wrong, in Ferrari/Kröll (eds.), CONFLICT OF LAWS IN INTERNATIONAL ARBITRATION, 2011, 257 et seq

**For class 7:** Bermann, Mandatory Rules of Law in International Arbitration, in Ferrari/Kröll (eds.), CONFLICT OF LAWS IN INTERNATIONAL ARBITRATION, 2011, 325 et seq.; Mayer, Mandatory Rules of Law in International Arbitration, 2 Arb. Int. (1986) 274

**For classes 8 & 9:** Di Pietro, Applicable Laws under the New York Convention, in Ferrari/Kröll (eds.), CONFLICT OF LAWS IN INTERNATIONAL ARBITRATION, 2011, 63 et seq.