

Course title	Code No.
<b>Legal Conflicts in Shipping</b>	--

Semester	Course status (mandatory or optional)
<b>III.</b>	<b>Mandatory</b>

Lecturer(s)	E-Mail
<b>Prof. Sander Limant, LL.M.</b>	<b>Sander.limant@hs-flensburg.de</b>

Contact hours per week	Credit Points	Workload (hours per semester)		
		Presence	Self-study	
4	6	<b>Lecture</b>	60	120
		<b>Seminar</b>	-	-
		<b>Practice</b>	-	-
		<b>Laboratory</b>	-	-
		<b>Other</b>	-	-

Media (equipment)	Teaching aids (literature, group work ...)
<ul style="list-style-type: none"> <li>- computer</li> <li>- projector</li> <li>- board</li> <li>- copy of contracts forms</li> <li>- copy of case study</li> </ul>	<ul style="list-style-type: none"> <li>- literature</li> <li>- presentations</li> <li>- legal rules (e.g. International Maritime Arbitration Committee: ICC-CMI rules, London Maritime Arbitration Association Terms; German Maritime Arbitration Association Rules, Society of Maritime Arbitration Rules)</li> <li>- case study</li> <li>- group work</li> </ul>

Enrolment requirements and entry competences required for the course
<ul style="list-style-type: none"> <li>- proficiency in English</li> <li>- basic computer skills</li> </ul>

Conditions for permission to take the exam
<ul style="list-style-type: none"> <li>- active participation in teaching</li> <li>- group work presentation</li> <li>- two colloquiums passed</li> </ul>

Assessment methods and criteria
Assignment 30% Written exam 70%

**Learning outcomes at the program level to which the course contributes**

On completing this module, students will have an understanding of

- the procedures for bringing claims in the Commercial Court;
- the distinction between litigation and arbitration, and why parties arbitrate;
- the effect of arbitration clauses in contracts, and trade arbitration rules;
- the concept of conciliation and how it is different from arbitration;
- the methods of enforcing foreign judgments and arbitration awards;
- the conflicts of law rules that arise in maritime disputes;
- policy concerns upon which the courts rely when determining conflict disputes;
- the impact of the Rome Convention and the Brussels and Lugano Convention on the courts' approach;
- the advantages of forum shopping;
- the concept of competition law under special consideration of European Rules;
- the role of community institutions under special consideration of shipping;
- anti-competitive arrangements to avoid the abuse of dominance;
- state aid and the respective rules;
- liner conferences and other consortia;
- the role of ports;
- the control of mergers under the EC Merger Regulation with regard to procedural issues.

**Learning Outcomes**

**Professional competence**

The student has the ability to

- determine various types of marine disputes, claims and approaches to resolve these;
- understand the different procedures to solve legal conflicts;
- design an arbitration regime and know about the effects of the most commonly used arbitration clauses;

**Key skills**

The student has the ability to

- Determine the different procedures to settle legal cases;
- Determine the economic impact of the different procedures;
- Take action to enforce legal judgements and arbitration awards;
- Understand the concept of forum shopping;
- Understanding of the impact of European Competition law on

<ul style="list-style-type: none"> <li>- understand the process of arbitration procedures;</li> <li>- suggest methods of legal enforcement;</li> <li>- understand the general rules of competition law;</li> <li>- understand the basics of EC law with special consideration of transport and shipping policies;</li> <li>- understand the EC competition rules applying to shipping;</li> <li>- understand anti-competitive arrangements to tackle abuse of dominance;</li> <li>- determine the problem with state aid under competition rules;</li> <li>- determine the role of liner conferences, consortia and ports for the maritime industry;</li> <li>- determine means of merger control under EC merger regulation rules;</li> <li>- determine procedural issues.</li> </ul>	<p>economic actions in the shipping market;</p> <ul style="list-style-type: none"> <li>- Understand the meaning of liner conferences under competition law;</li> <li>- Have knowledge on Merger Control Measures as set out in EC Merger Regulation Rules.</li> </ul>
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**Applicability in other courses/programs**

This module is suitable for study programs in economic fields of study.

**Content**

**GENERAL PART:**

- Types of Marine Disputes, Claims and Approaches to Resolution
- Procedures for Claims in Commercial Courts
- Distinction between Litigation and Arbitration
- Reasons for Arbitration
- Designing an Arbitration Regime
- Effect of Arbitration Clauses in Contracts and Trade Arbitration Rules
- The Concept of Conciliation and Distinction to Arbitration
- Arbitration Procedures
- Methods of Enforcing Foreign Judgements and Arbitration Awards
- Conflicts of Legal Rules in Maritime Disputes
- Rome Convention

- Brussels and Lugano Conventions
- Advantages of Forum Shopping

**SPECIAL PART:**

- Introduction to Competition Law
- Introduction to EC Law
- EC Transport Policy and Shipping Policy
- Key Provisions of EC Competition Law
- Role of Community Institutions in EC Competition Law and Shipping
- EC Competition Rules and Shipping
- Council Regulation (EEC) 4056/86 and 1419/2006
- Anti-Competitive Arrangements
- Abuse of Dominance
- State Aid
- State Authorities
- Liner Conferences
- Consortia
- Ports
- The Control of Mergers under the EC Merger Regulation
- Procedural Issues

**Literature**

- F. Sparka: Jurisdiction and Arbitration Clauses in Maritime Transport Documents: A Comparative Analysis, 2010, 1<sup>st</sup> ed., Springer-Verlag Berlin.
- Y. Baatz et al.: Maritime Law, 4<sup>th</sup> ed., 2017, Routledge London.
- P. K. Mukherjee, M.Q. Mejia Jr. & J. Xu: Maritime Law in Motion, 2020, 1<sup>st</sup> ed., Springer International Cham.
- H. Liu: Liner Conferences in Competition Law, 2010, Springer Berlin.
- V. Power: EU Shipping Law, 3<sup>rd</sup> ed., 2019, Routledge London.
- R. D. Blair & D. D. Sokol: The Oxford Handbook of International Antitrust Economics Vol. 1, 2015, Oxford University Press, Oxford.
- S. Baughen: Shipping Law, 7<sup>th</sup> ed., 2018, Routledge Milton.

**Amendment Log**

Version No.:	Date:	Changes:	Name:
<b>1</b>	11/06/2020		Limant

