



National Research University "Higher School of Economics"
"Employment contract drafting: national and international dimensions". Course syllabus.
for the area 030501.62 "Jurisprudence" bachelors level

**Federal State Autonomous Educational Institution
for the Higher Professional Education
"National Research University
"Higher School of Economics"**

Law Faculty
Department for Labour Law and Social Security Law

Course syllabus

**"EMPLOYMENT CONTRACT DRAFTING:
NATIONAL AND INTERNATIONAL DIMENSIONS"**

for the programs "Jurisprudence", "Jurisprudence. Private law"
for the area 030501.62 - Jurisprudence
bachelors level

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Approved at the departmental meeting

on «__»_____ 2016

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Endorsed by the academic council of the program

«__»_____ 2016, protocol No _____

Academic director of the program

E.S. Gerasimova _____

Moscow, 2016.

*Other University divisions and other universities shall not use this program without prior consent of
the department drafted the program.*

I. EXPLANATORY NOTE

Course description: Contract drafting is an essential skill for a modern lawyer. Not all branches of law require lawyers to master it, but regardless one's profession and interests contracts understanding is a necessary capability to work, rest, run a business, bringing up children, and ultimately live a successful life.

In this context, employment contract is a type of contracts almost everybody signs either on employer's or an employee's side. However, employment law is a very specific branch of law that has developed many peculiar concepts, special interpretations, unique approaches, unusual institutions and stakeholders. It also intersects with many other branches of law, requiring an employment lawyer be aware of many related issues.

Employment law is also widely regulated on international and regional level, imposing on lawyers a requirement to know, monitor and apply not only national laws, but international treaties and regulations as well.

This short course allows students to grasp reflection of the ideas of employment contract drafting for both foreign (national and multinational) and international employers. It drifts from contract drafting basics to specific issues and cases, allowing students to grasp the most important aspects of this field.

Course aim: The course aimed at making students master the skill of employment contract drafting and interpretation when working with a foreign or international employer.

Prerequisites: before attending this course students shall have knowledge of general legal theory, constitutional law, general civil law and contract law, as well as national labour law.

Course objectives:

After successful completion of this course, students will be able to:

- know all aspects of employment contract drafting;
- analyze national employment law and other regulations applicable to employment contract

- consult clients and provide legal support for employers, employees and other stakeholders seeking to protect their rights in regards to employment relations matters;
- understand an international dimension of employment law and know its application in contracts and workplaces;
- acquire skills of employment contract drafting and interpretation.

Session: The course lasts for 1 module.

II. COURSE OUTLINE

No.	Topics	Total hours	Auditorium hours		Self study
			Lectures	Seminars	
1.	Global and General Issues in Employment Law				
1.1.	1.1.1. Introductory issues & course orientation. 1.1.2. Terminology in employment contracts. 1.1.3. Lawyer’s false friends in international contract drafting 1.1.4. Consistency and integrity in a multilingual contract: correlation of incomparable concepts, approaches and procedures	11	2	-	10
1.2.	1.2.1. Structure of an employment contract. 1.2.2. Terms of employment: explicit and implicit (implied) terms and where to find them. 1.2.3. Role of international standards, bilateral and multilateral treaties in the process of employment contract drafting and negotiation 1.2.4. Forms of employment contract: shall it always be in writing (in a written form)	11	6	-	10

2.	Contracts with Domestic, Foreign and Transnational Employers				
2.1.	2.1.1. Tips and common mistakes in employment contract drafting. 2.1.1. Skills building sessions(class work in groups/pairs): - in employment contract terminology and structure - in mistakes and tricky clauses in employment contracts	18	2	2	14
2.2.	2.2.1. Recruitment/job-search and hiring/placement processes: 2.2.2. Job interviews and background checks. 2.2.3. Skills building sessions: - identifying you needs and requirements - CVs writing and... reading techniques	15	2	2	12
2.3.	2.3.1. Contract negotiation: discussing terms of employment: what to offer, what to agree to and what to turn down. 2.3.2. Trade-unions membership & employee representation issues. 2.3.3. ‘Secondary’ documents in the course of employment. 2.3.4. Disputes on non-hiring: employer’s and employee’s perspective. 2.2.5. Skills building sessions: - negotiation on the terms of employment; - case-study and round table on non-hiring.	15	6	4	12

3.	Contracts with International Employers				
3.1.	3.1.1. Employment regulations and rules in international entities of public and private nature. 3.1.2. Structure, contents, clauses of employment contracts and limits of terms negotiation	18	2	2	14
3.2.	Employment disputes settlement: bodies and procedures	12	2	-	10
TOTAL:		128	20	12	92

Basic textbook:

1. International Encyclopaedia of Laws: Labour Law and Industrial Relations. / Ed. by: R. Blanpain. – Kluwer Law International. - ISBN: 9789065449054. - Current version of a loose-leaf edition or an online version: <http://www.kluwerlawonline.com/toc.php?area=Looseleafs&mode=bypub&level=4&values=Looseleafs~~IEL+Labour+Law>

Additional reading:

Aaron B.A., Van Wezel Stone K. Rethinking Comparative Labour Law: Bridging Past and Future. – Vandeplass Publishing, 2007.

- Adams K.A. Dysfunctional drafting // National Law Journal. 2008. Vol. URL: <http://www.adamsdrafting.com/wp/wp-content/uploads/2014/06/NLJ-Dysfunctional-Drafting.pdf> (and other papers of K.A. Adams)
- Adams K.A. Dysfunction in contract drafting: the cases and a cure // Tennessee Journal of Business Law. 2014. Vol. 15. Pp. 317-331. URL: <http://www.adamsdrafting.com/wp/wp-content/uploads/2014/04/Dysfunction-in-Contract-Drafting.pdf>
- Adams K.A., Allen T. The illusion of quality in contract drafting // New York Law Journal. 2012. Vol. 248. No. 11. URL: <http://www.adamsdrafting.com/wp/wp-content/uploads/2014/05/Illusion-of-Quality-NYLJ.pdf>
- Adams K.A., Scherr R.M. Top Ten Tips in Drafting and Negotiating International Contracts. Association of Corporate Counsel "Top Ten" Legal Resources. April 21, 2015. URL: <http://www.acc.com/legalresources/publications/topten/drafting-and-negotiating-intl-contracts.cfm?makepdf=1>
- Bolderson H., Mabbett D. Mongrels or thoroughbreds: A cross-national look at social security systems // European Journal of Political Research. 1995. Vol. 28. Pp. 119-139.
- Bronstein A.S. International and Comparative Labour Law: Current Challenges. – Plagrave McMillan, 2009.
- Child B. The Study of Contract Drafting Strategy: Exercises in Mine Detection // Journal of Legal Education. 1992. Vol. 42. No. 2. Pp. 279-289.
- Comparative Labour Law and Industrial Relations In Industrialized Market Economies. Ed. by: R. Blanpain. – Wolters Kluwer, 2010.
- Corbin A. Legal Analysis and Terminology Faculty Scholarship Series. Paper 2881 // Yale Law Journal. 1919. No. 29. Pp. 163-173. URL: http://digitalcommons.law.yale.edu/fss_papers/2881
- Countouris N. The Changing Law of the Employment Relationship. – Ashgate, 2013.
- Dixon J. African Social Security Systems: An Ordinal Evaluation // Journal of Social Development in Africa. 2000. Vol. 15. Issue 1. Pp. 49-60. URL: <http://sanweb.lib.msu.edu/DMC/African%20Journals/pdfs/social%20development/vol15no1/jsda015001006.pdf>
- Dixon J. Comparative Social Security: The Challenge of Evaluation // Journal of Comparative Policy Analysis. 1998. Vol. 1. No. 1. Pp. 61-95.
- Dixon J. Social Security in Global Perspective. Westport: Praeger Publishing, 1999.
- Dynamics and Terminology: An interdisciplinary perspective on monolingual and multilingual culture-bound communication. Terminology and Lexicography Research and Practice. T. 16. Ed. by: R. Temmerman, M. Van Campenhoudt. John Benjamins Publishing Company, 2014.
- Elgar Encyclopedia of Comparative Law. Ed.by: Smits J.M. Edward Elgar, 2012.
- EU's Mutual Information System on Social Protection (MISSOC). URL: <http://ec.europa.eu/social/main.jsp?catId=815>
- International Encyclopaedia of Laws: Labour Law and Industrial Relations. / Ed. by: R. Blanpain. – Kluwer Law International. URL:

<http://www.kluwerlawonline.com/toc.php?area=Looseleafs&mode=bypub&level=4&values=Looseleafs~~IEL+Labour+Law>

Kaim-Caudle P.R. Comparative Social Policy and Social Security: A Ten Country Study. Dunnellen, 1973

Paunio E. Legal Certainty in Multilingual EU Law: Language, Discourse and Reasoning at the European Court of Justice. Routledge, 2016

Pieters D. Social Security Systems of the States Applying for Membership of the European Union. Antwerpen: Intersentia, 2003.

Pieters D. The Social Security Systems of the Member States of the European Union. Antwerpen: Intersentia, 2002.

Robertson C.D. Multilingual law a framework for analysis and understanding. Routledge, 2016

Shiga Sh. International Comparison of Tax and Social Security Policies. Sho Sato Conference held on March 9-10, 2009. Institute for Legal Research and in cooperation with the Robbins Religious and Civil Law Collection, School of Law, University of California, Berkeley. URL: [https://www.law.berkeley.edu/files/sho_sato_tax_conf_web_paper--shiga\(1\).pdf](https://www.law.berkeley.edu/files/sho_sato_tax_conf_web_paper--shiga(1).pdf)

Shutsha D.D. Transaction et contrat de travail: Une analyse comparative en droits congolais, français et belge. - Éditions Universitaires Européennes, 2012.

The Global Workplace: International and Comparative Employment Law Cases and Materials. Ed. by: R. Blanpain, S. Bisom-Rapp, et al. - Wolters Kluwer, 2012.

The Idea of Labour Law. Ed. by: G. Davidov, B. Langille. – Oxford University Press, 2011.

Vrooman J.C. Regimes and Cultures of Social Security: Comparing Institutional Models through non-linear PCA // International Journal of Comparative Sociology. 2012. Vol. 53. No. 5-6. Pp. 444-477.

Wilson Th.M. The Galveston Plan and Social Security: A Comparative Analysis of Two Systems // Social Security Bulletin. 1999. Vol. 62. No. 1 Pp. 47-64. URL: <https://www.ssa.gov/policy/docs/ssb/v62n1/v62n1p47.pdf>

Scholarly journals:

Bulletin of Comparative Labour Relations.

Comparative Labour Law and Policy Journal.

Comparative Labour and Social Security Law Review. URL: <http://comptrasec.u-bordeaux.fr/en/comparative-labour-and-social-security-law-review>

International Labour Law Reports.

Social Security Bulletin

Electronic sources:

Electronic subscriptions of the NRU HSE library: <http://library.hse.ru/e-resources/e-resources.htm>

World Legal Information Institute website: <http://www.worldlii.org/>

Database of national labour legislation of the International Labour Organization
NATLEX: <http://www.ilo.org/dyn/natlex/>

GARANT, electronic database system, English edition

Measurement and evaluation of student achievement:

Student achievement is measured and evaluated by:

- ability to understand the scope and specifics of labour and social security law;
- knowledge of the core principles and main provisions of the sources of labour and social security law;
- ability to analyze legal provisions of labour and employment legislation in order to consult clients and provide legal support for employers, employees and other stakeholders seeking to protect their rights in regards to labour and employment matters;
- ability to understand an international dimension of labour and social security law;
- ability to draft legal papers concerning labour and social security law issues.

Grading:

The grading system of the Law Faculty of the State University Higher School of Economics is mostly numerical, but sometimes verbal notions synonymous with numerical grades are also used. At an exam knowledge of each student is assessed with two grades given simultaneously due to the University policy and the national educational standard requirements. The grade scale looks as follows:

Numerical 10-point scale	Verbal/numerical 5-point scale
1 – unsatisfactory 2- very bad 3- bad	Totally unsatisfactory – 1 Unsatisfactory – 2
4- satisfactory 5 – very satisfactory	Satisfactory - 3
6 – good 7 – very good	Good – 4
8 – almost excellent 9 - excellent 10 – brilliant	Excellent - 5

Grades below 4 out of 10 (satisfactory or “3” out of 5) mean that the topic/course hasn’t been mastered by the student and requires re-testing/re-examination.

Class policies:

1. Assigned reading should be completed before each class. Students are expected to come to class prepared to share questions and thoughts related to the assigned topics.

2. The Policy of the Department of Labour law and Social Security Law of the Law Faculty of the State University Higher School of Economics permits a student to incur no absences without prior notice and without providing evidence of a good reason.

3. Written homework (if given) must be turned in at the class session following the class at which it has been given. Coursework/essay must be turned in a week before the date of the last class in the course schedule. It is not limited in pages/words and assessed on the basis of its academic value, but it is advised to have it between 6 000 and 9 000 words (or between 10 and 15 PowerPoint slides). Students must make arrangements with the Lecturer/Instructor to make up any missed assignments.

4. Lecturer/Instructor may review the completion of the homework anonymously with the class after the students works have been graded and returned to students. Students are welcome to ask questions and discuss any homework related matters (preferably after the class at which it was given or via e-mail).

5. It is not allowed to register to or to leave the course after the third class has been held.

6. Non-attendance without good cause and prior notice entails additional questions and assignments at the final exam.

7. Grades are given throughout the course upon the students’ activity in the class, their abilities and efforts to master the course material, their devotion and involvement in the group work in the class and the progress of a particular student in the course subject.