Introduction to Law

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Class teacher: Oksana N. Lopatina

Course description

Introduction to Law is a half course for the second year ICEF students which is a part or the HSE degree programme. It is specifically designated so as not to require any prior exposure to law, and does not suppose that students will necessarily pursue any further law options. Nevertheless, it is designed in the belief that an acquaintance with core law concepts and processes is an essential element in the ICEF curriculum.

The course seeks to place law in its social, economic, political, historical and philosophical context and thus not only to provide students with a knowledge of legal rules but also to help them to develop a critical understanding of the operation of those rules in society. The critical and analytical skills required by a lawyer are valuable in many other contexts. The programme is therefore suitable not only for students who intend to seek entry into the legal professions but also for students intending to seek careers in many other areas, such as banking, management, economics and finance.

Introduction to law aims to provide insight into the nature and function of law, familiarize the students with legal concepts and terminology, principal sources of law and of the means by which laws are made, develop an understanding of the nature and purpose of rights and duties in law. The course provides an overview of the major legal systems of the world, introduces the students to the study of constitutions and constitutional system of Government. It also focuses on the key legal concepts, principles and doctrines which underpin the core areas of law, including public law, the law of obligations and company law.

Teaching objectives

The course is designed to develop a number of skills:

- research skills: finding relevant cases and articles; effective use of large (and highly technical) body of statutory material;

- reasoning skills: understanding how judges can reach radically different conclusions on the same facts;

- problem-solving: understanding how many issues can be thrown up by the same set of facts. Strong emphasis is placed on this in tutorials,
and all tutorial sheets contain at least one detailed problem question for analysis;

- critical skills: assessing how effective the law is, and how it might be made more effective.

**Teaching methods**

- Lectures will be delivered using a combination of teaching styles, which include the use of practical questions, real life cases and examples as a basis for explaining concepts. Overhead transparencies, case studies and supplementary material will also be supplied.

- Seminar programme forms an important part of the academic development component of Introduction to Law.

  The seminar will usually cover topics to be dealt with in assignments. Detailed reading lists are provided and students are expected to be fully prepared beforehand in order to be able to participate in class.

**Grade determination**

There will be an end-of-course 2½ hour final examination worth 60% of the final grade. The students will be required to answer a number of Multiple Choice Questions (20%) and two from a choice of four to six short questions (40%). Suggested approach: 40 minutes for MCQs, 40 minutes each for short question. Indicative length — 1.5 pages, not to exceed 2.5 pages per question). Open book. On short questions the grade received will be based upon:

- The relevance of an answer to the question set

- Clarity of expression and continuity

- Evidence of reading and thought related to the topic

- Quality of the arguments presented

There will be one test during the semester. The test is compulsory and should be taken seriously. It assists borderline students and consolidates knowledge, making it easier to learn for the examination. The mark for the test together with the tutorial assignments marks counts towards a student’s class record. The class record constitutes 40% final mark (20% — test, 10% — each assignment).

The topics for the written assignments will be prescribed well before the due date.
Main reading

Students will be expected to read the relevant chapters on the topics set out above in one of the textbooks marked as main reading on the detailed reading list provided below. Students can also use the textbook written by O. Lopatina together with three readers compiled by the same lecturer.

Students are also strongly encouraged to spend time browsing through the books in the ICEF reading hall. There is a vast array of material which can be used to supplement their notes and also for research assignments and tests.


Additional reading

2. Давид, Р. Основные правовые системы современности, Москва, 1999.
Internet resources and databases

1. http://law.lse.ac.uk/ie/
5. http://www.londonexternal.ac.uk/current_students/programme_resources/lse

Course outline

Constitutional Law

1. Nature, classification and sources of law
   Main theories of the origin of law. Analysis of the basic concepts as to the nature of law and its connection with social science. Classification of legal systems into legal families and the typical cleavage Common Law- Civil Law. Introduction to the methodology appropriate to conduct comparative research, that is finding out the content of the chosen legal system with all limits and pitfalls that it may involve – starting from the different sources of law, codes or cases, phrasing the issues or problems so that it is possible to compare one with the other and drawing conclusions from the comparison.

   \[ MR \ (Ch. \ 1, \ 2); \ MR2 \ (Ch. \ 1, \ 2); \ AR1 \ (Vol. \ 1, \ BI-III) \]

2. The nature and sources of Constitutional law

   The concept of federalism. The division of lawmaking power – horizontal and vertical.

   Constitutional rights of businesses and individuals.

   \[ MR1 \ Ch. \ 1, \ 2); \ MR2 \ (Ch. \ 1, \ 2) \]


The electoral systems.

- A simple majority system known as “first past the post” or “plurality” system.
- Proportional representation system: party list system.

4. The Executive

Introduction. Government and executive power. The formation of governments in a comparative perspective. Function and membership (RF and UK models).

Scrutiny of the Executive — Parliament’s most constitutionally significant role. Judicial review of executive action — mechanism and effectiveness. The relationship between the legislature, the executive and the courts with particular emphasis on how the system actually works in practice.

MR1 (Ch. 1); MR5 (Ch. 2)

Contract Law

5. Fundamentals of Contract Law


Influence of economic theory. Inequality of bargaining power, the use of standard form contracts. The relationship of contract and tort.

MR1 (Ch. 6: I, II); MR3 (Ch. 1), MR5 (Ch. 4); MR6 (Ch. 1)

6. Formation of Contracts

Key ingredients to the formation of a contract:

- agreement
- consideration
- intention to create legal relations
- Other factors affecting the formation of a contract.

The phenomena of agreement:
• Offer. The character of an offer, essential elements of an offer. Types of offer: bilateral and unilateral. Communication of offers, revocation of offers and termination of offers.

Offer vs. invitation to treat. The distinction between offers and invitations to treat. Cases in which the distinction is settled, presumptively by authority or by statute.


Consideration. The doctrine of consideration. The nature and purpose of consideration in English contract law. Executed and executory consideration. General rules on consideration.

Intention to create legal relations. Domestic and commercial agreements.

MR1 (Ch. 6: III–IX); MR3 (Part 1); MR6 (Ch. 1); AR2 (Vol. 2, B. 1)

7. Terms of Contract
The nature of terms:

• expressly stated and incorporated into the contract by the parties themselves;

• implied factually from the circumstances as being the presumed intention of the parties;

• imputed into the contract by process of law for some other purpose, e.g. for consumer protection.

Classification of terms:

• conditions

• warranties

• Exemption clauses. Definition and scope of exemption clauses. Incorporation of exemption clauses in a contract. Statutory control of exemption clauses.

MR3 (часть II); MR6 (Ch. 3)

8. Matters Affecting the Validity of Contracts
Unenforceable, Void, Voidable and Illegal contracts. Vitiating factors. Mistake. Classes of mistake:

• Common mistake,
• Mutual mistake,

• Unilateral mistake.

Misrepresentation. Representations distinguished from terms of contract. Classes of misrepresentation and their remedies.

• Fraudulent misrepresentation,

• Negligent misrepresentation,

• Innocent misrepresentation.


*MR1 (Ch. 6: XII); MR3 (Part 3); MR6 (Ch. 7)*

9. Discharge of a Contract

Introduction. The basic rules.

• Discharge by performance. General rule — performance must be strictly in accordance with the terms of the contract to be a discharge. Time for performance. Tender. Payment/Waiver.

• Discharge by agreement. Ways to discharge a contract by agreement:
  1. release,
  2. new agreement,
  3. accord and satisfaction,
  4. provision for discharge contained in the contract itself.

• Termination by notice.


*MR3 (Part 4); MR6 (Ch. 7); AR1 (Vol. 2, B–2)*
**Company Law**

10. **Business organizations**
   Introduction. Past, present, future.
   Forms of business organization:
   
   
   • The Partnership form of business organization. Characteristics of a Partnership.
   
   Types of partnerships:
   
   1. General partnership
   2. Limited partnership
   
   Formation of a partnership compared to similar entities. Partnership management and finance. The legal relationship between the partners. The duty of good faith. The partnership’s finances. The distinction between a partner and a lender. Division of profits and sharing of losses between partners.

   Liability of partners to outsiders. Partnership disputes. Termination and retirement from a partnership.

   • Companies.

   **MR4 (Part 1)**

11. **Companies**
   Introduction. Sources of company law. The meaning of incorporation. The legal consequences of incorporation. The legal characteristics of a registered company.

   The classification of companies. Two approaches to classification: by potential liability of owners and by pattern of ownership.

   Potential liability of members:

   • limited by shares
   • limited by guarantee

   Pattern of ownership:

   • Public company (PLC)
   • Private company (LTD)


   **MR4 (Ch. 1, 2); MR7 (Ch. 17)**
12. The Formation of a Company


Comparison of tailor-made with “off the shelf” companies.

“Constitution” of a company. Memorandum of association and Articles of association.


MR4 (Ch. 3); MR7 (Ch. 20)

13. Financial Structure


Distribution of profits — the provision for dividends payment.


MR4 (Ch. 4, 5); MR7 (Ch. 21)

14. Loan Capital

Introduction. The power to borrow. Secured loans.

A debenture document. Terms relating to repayment and interest. Terms relating to security. Clauses designed to give the lender further protection.

Registration of charges. Types of debt securities: the mortgage-legal charge; the fixed-specific charge; the floating charge. Crystallisation of the floating charge.

The priority rights of creditors and the registration of charges. Debenture-holder’s remedies. Receivers, administrative receivers.

MR4 (Ch. 6, 7); MR7 (Ch. 22)

15. Management Structure


Meetings. Types of meeting: annual general meeting, extraordinary general meeting. Convening a meeting. Proceedings at meeting. Written resolution. Minutes and returns. Proxies.

*MR4 (Ch. 6–8); MR7 (Ch. 24, 25)*

16. **Fundamental Changes**


Insolvency. Introduction. The bankruptcy procedure. The trustee in bankruptcy. Assets in a bankrupt’s estate. Distribution of the bankrupt’s assets. Duration of the bankruptcy and discharge of the bankrupt.


Takeovers and mergers.

*MR4 (Ch. 9); MR7 (Ch. 26)*

### Distribution of hours

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