Course Unit Information Sheet (Syllabus)

MASTER OF LAW
CORPORATE LAW / EMPLOYMENT LAW

Course Unit
Employment Law III – TA

Teaching Staff
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Others

Learning goals
Studying Employment Law as a branch of law that seeks justice and the full citizenship at work

Contents

PART I

General Overview

1. The idea of citizenship at work within the Western countries
2. Civil Law and common law systems: differences and common ground
3. Normative sources of law: principles and rules
4. General values of the Employment Law: dignity, equality and freedom
5. Specific principles of the Employment Law: the employees' principle of protection and the freedom of management principle. Need to articulate different principles
6. Employment Law as a branch of law that protects the citizenship: rights of personality and equality and non-discrimination

PARTE II

Rights of personality

1. Concept and reasons for its existence
2. The civil and the labour protection
3. Labour rights of personality
4. Recent topics:
   4.1. Freedom of expression and freedom of religion
       • Symbols and religious cults at the workplace
       • Right to free speech and to criticize the management
   4.2. Violation of physical and moral integrity
       • Mobbing and moral harassment
       • Sexual harassment / #Me too movement
   4.3. Right to privacy
       • Hiring selection process – questions regarding sexual and emotional life
       • Hiring employees based on the use of algorithms
   4.4. Personal data protection
• Right to control, rectification and actualization – the European RGPD
4.5. Biometric data
• The use of microchips at the employees’ bodies
4.6. Remote surveillance instruments
• Systems of video surveillance; use of GPS
• The lawfulness (or unlawfulness) of the proof for dismissal purposes
4.7. Confidentiality of messages
• Email
• Messaging / Chats
• Posts at Social Media

PARTE III

Equality and discrimination

1. Concept of equality and historic evolution
2. Main international treaties
3. From formal equality to equality of fair opportunities
4. The influence of the United States of America spreading the principle of equality: the Civil Rights Act de 1964 as a landmark
5. The Welfare State, the Portuguese Constitution and the Portuguese language speaking countries constitutions
6. Main Concepts:
   • Disparate treatment
   • Disparate impact
   • Bona fide occupational qualification
   • Affirmative actions
7. Recent Topics
   7.1. Disparate treatment at the access to employment
   • Based on gender, color or religion
   7.2. Disparate impact at the access to employment:
   • The afro-americans case at USA;
   • The women access to employment in Europe
   • The use of burka at the workplace
   7.3. Discrimination at the execution of the employment contract
   • The principle of equal pay for equal job
   • The gender pay gap
   • Discriminatory clauses at collective agreements
   • Maternity and the protection of pregnant and breastfeeding mothers
   7.4. Authorized distinctions
   • The USA bona fide occupational qualification
   • Lawful salary differences based on productivity and seniority
   • Religious and ideological corporations
   7.4. Affirmative actions
   • The USA affirmative actions
   • The European implementation of quotes for women and disabled
Parte IV
Final remarks

Employment law as a branch of law that seeks citizenship

1. The idea of individual freedom and the free development of personality
2. The prohibition of discrimination as a matter of freedom and citizenship

Skills to be developed

This seminar intends to give the Students a broad understanding of modern topics regarding Employment Law and the fight for a global citizenship. For that purpose students will study rights of personality and equality and non-discrimination at the workplace.

Methodology

The Seminar will be organized through lectures and practical classes. Students are invited to participate, work at group, and to present papers based on specific cases and court decisions from different geographies. Ultimately, the Students will have to do a final exam, that values 50% out of 100%. The other 50% includes the participation, the presentation of cases and the attendance of classes.

Ultimate goals

The main objective of this course is to provide the Students the idea of Employment Law as a discipline that seeks justice and the full citizenship, based on the implementation of rights of personality and equality and non-discrimination legal rules.

Bibliography

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- An Introduction to Portuguese Employment and Labour Law, Almedina, Coimbra, 2019
- Equality, Welfare State and Democracy, Almedina, Coimbra, 2018
- The Influence of the United States spreading the principle of equality, Almedina, Coimbra, 2016;
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RAMALHO, Maria do Rosário, *Tratado de Direito do Trabalho I, Dogmática Geral*, 4.ª edição, Almedina, Coimbra, 2015;  

**LEGISLATIVE ACTS AND OFFICIAL PUBLICATIONS**

Portuguese Labour Code  
Portuguese Constitution  
Civil Code  
Universal Declaration of Human Rights  
The European Union Chart of Fundamental Rights  
*Civil Rights Act* (Title VII) of 1964  
Livro Verde Sobre As Relações Laborais, 2016 –  