

Course Unit Information Sheet (*Syllabus*)
EMPLOYMENT LAW

Course Unit

Employment and Labour Law

Teaching Staff

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Others

Learning goals

Studying Employment and Labour Law

Contents

PART I

The Concept of Employment Law

1. The work as a human activity
 - 1.1. Broad, restricted and technical notions
 - 1.2. Terminology and conceptual drift
2. Employment and Labour Law
 - 2.1. Background
 - 2.2. The Social Question
 - 2.3. Basic Idea
 - 2.4. Civil law and labour law
 - 2.5. The internationalization of labour law
 - 2.6. The modern labour law and the idea of citizenship at work
 - 2.7. The principle of the worker's protection
3. Sources of law
 - 3.1. International sources
 - a. European Union Law
 - b. International Labour Organization covenants
 - 3.2. National sources
 - a. Portuguese Constitution of 1976
 - b. Portuguese Labour Code of 2009
 - c. Collective agreements
 - d. Customs and practices
 - 3.3. Conflict of sources
 - a. Hierarchical conflict of sources
 - b. Conflict of sources in space
 - c. Conflict of sources in time
4. The Employment contract
 - 4.1. Notion
 - 4.2. Legal and economic subordination
 - 4.2. Distinction between an employment contract and a provision of services contract
 - 4.3. Employees vs. independent contractors: legal tests and presumptions



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PARTE II

Rights of personality

1. Concept and basic idea
2. The civil and the labour protection
3. Labour rights of personality
 - 3.1. Freedom of expression and freedom of religion
 - 3.2. Violation of physical and moral integrity. Prohibition of harassment
 - 3.3. Right to privacy
 - 3.4. Personal data protection – the European RGPD
 - 3.5. Biometric data
 - 3.6. Remote surveillance instruments
 - 3.7. Confidentiality of messages

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:
 - a. *Disparate treatment*
 - b. *Disparate impact*
 - c. *Bona fide occupational qualification*
 - d. *Affirmative actions*
7. Recent Topics
 - 7.1. Disparate treatment at the access to employment
 - 7.2. Disparate impact at the access to employment:
 - a. The *afro-americans* case at the USA
 - b. The women access to employment in Europe
 - c. The use of *burka* at the workplace
 - 7.3. Discrimination at the execution of the employment contract
 - a. The principle of equal pay for equal job
 - b. The *gender pay gap*
 - c. Discriminatory clauses at collective agreements
 - d. Maternity and the protection of pregnant and breastfeeding mothers
 - 7.4. Authorized distinctions
 - a. The USA *bona fide occupational qualification*
 - b. Lawful salary differences based on productivity and seniority
 - c. Religious and ideological corporations
 - 7.4. Affirmative actions



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- a. The USA *affirmative actions*
- b. The European implementation of quotes for women and disabled
- c. The importance of *soft law*

Parte IV – Labour Law

- 1. General Overview
- 2. Collective Structures
 - 2.1. Workers ‘councils
 - 2.2. Trade unions
 - 2.3. Associations of employers
 - 2.4. Collective bargaining
 - a. Contractors
 - b. Procedure
 - c. Modalities of collective agreements
 - d. Contents
 - 2.5. Collective disputes
 - a. Types of conflicts
 - b. Means of resolution disputes: arbitration, mediation and conciliation
 - 2.6. Right to strike
 - a. Competence
 - b. Previous notice
 - c. Effects

Skills to be developed

This Course intends to give the Students a broad understanding of Employment and Labour Law. For that purpose students will study basic concepts, as well as rights of personality, equality and non-discrimination at the workplace, collective bargaining and collective disputes.

Methodology

The Course 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 and Labour Law as a discipline that seeks justice, balanced relationships, and the full citizenship, based on the implementation of rights of personality and equality and non-discrimination legal rules.

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LEGISLATIVE ACTS AND OFFICIAL PUBLICATIONS

Portuguese Labour Code

Portuguese Constitution

Civil Code

Universal Declaration of Human Rights

The European Union Charter of Fundamental Rights

Civil Rights Act (Title VII) of 1964

Livro Verde Sobre As Relações Laborais, 2016 –

http://www.gep.msess.gov.pt/estudos/pdf/livro_verde_2006.pdf