

## Curricular Unit

Master in L&M 4E 2024/2025

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## Introduction

This course deals with the Employment and Labour Law major issues and subjects.

It is divided into two large blocks: the first is about Employment Law, which deals with the employment contract and the individual relationship between the Employer and the Employee; the second is about Labour Law, which includes collective bargaining and collective disputes, particularly the strike.

The course has an international approach, touching in several international sources of law and bringing a comparative point of view about different legal traditions on employment law.

## Goals

Acquire knowledge about Employment and Labour Law (individual and collective).

Know the main international legal framework (e.g. ILO, European Union).

Develop the ability to solve concrete cases, according to a legal-practical perspective.

Stimulate the ability to debate issues by developing argumentation techniques.

## Methods

The course follows a legal-practical perspective and a case-method approach.

Classes are based on the resolution of practical cases and work-group presentations.

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 work, based on a case about different employment and labour law issues, that students must solve.

The presentation of cases and the attendance of classes are highly recommended.

The development and densification of subjects are flexible, and the Professor is aimed at meeting the interests of students regarding all the points of the syllabus.

## Course Contents

### CHAPTER I - INTRODUCTION

- § 1. Notion of Labour Law: a special source of law aimed at protecting the weaker part of the contract
- § 2. Sources of Labour Law: statute law and autoregulation – the importance of the collective agreements

### CHAPTER II – EMPLOYMENT CONTRACT

#### Section I - General aspects

- § 3. Major characteristics: legal and economic subordination
- § 4. Employee; independent contractor & para-subordination. The special case of the work provided at digital platforms

#### Section II – Hiring process

- § 5. Process of selection and use of algorithms and AI
- § 6. Form of contract

#### Section III - Citizenship rights

- § 7. Personality rights
- § 8. GDPR and protection of personal data
- § 9. Equality and non-discrimination

#### Section IV - Content

##### Subsection I - Characteristic content

- § 10 Scope of activities
- § 11. Place of work / Remote work
- § 12. Working schedule / Right to disconnect
- § 13. Salary

##### Subsection II - Special contracts

- § 14. Fixed-term and very short-term contracts
- § 15. Temporary work
- § 16. Telework agreement
- § 17. Commission of services 'contract

#### Section V - Vicissitudes

##### Subsection I –Transfer of Undertaking

- § 18. The EU Directive
- § 19. Paradigmatic cases of the Court of Justice of the European Union

##### Subsection II –Work Accidents

- § 20. Legal background – objective liability
- § 21. Employer's duties and compensable damages

#### Section VI - Termination of contract

- § 22. Expiry
- § 23. Mutual agreement
- § 24. Termination on the initiative of the worker (denounce with just cause; notice of termination)
- § 25. Termination at the employer's initiative (dismissal with just cause; collective dismissal)

### CHAPTER III – LABOUR LAW – COLLECTIVE RIGHTS

#### Section I – Collective Agreements

- § 26. Trade Unions and employers 'associations
- § 27. Collective bargaining: importance; process and assumptions
- § 28. Collective agreements: a powerful source of law to govern the employment relationship

## Assessment

Students will be graded based on:

- a) A written exam – 24 hours take-home exam (50%)
- b) Their participation in class, group presentations and written assignments (50%)

## References

### Main bibliographic references

- DAVIDON, Guy / Langille, Brian, *The Idea of Labour Law*, Oxford, 2013
- DRAY, Guilherme, *An Introduction to Portuguese Employment and Labour Law*, 3rd Ed., Almedina, Coimbra, 2023
- DRAY, Guilherme, *Equality, Welfare State and Democracy*, Almedina, Coimbra, 2018
- DRAY, Guilherme, *The Influence of the United States spreading the principle of equality*, Almedina, Coimbra, 2016
- DEAKIN & MORRIS, *Labour Law*, 7th Ed., Hart Publishing, 2021
- Arneson, Richard. "Equality of Opportunity." *The Stanford Encyclopedia of Philosophy*, Edward N. Zalta (ed.), Fall Edition 2008.
- Freeman, Alan. "Antidiscrimination Law: The View From 1989." *Race and Equality Law, The Library of Essays on Equality and Anti-Discrimination Law*, Edited by Angela P. Harris, Ashgate, University of California, 2013
- Goldman, Alvin L. / Corrada, Roberto L., *Labor Law in the USA*, Third Revised Edition, Wolters Kluwer, Law and Business, The Netherlands, 2011
- Gosepath, Stefan. "Equality." *The Stanford Encyclopedia of Philosophy*, Edward N. Zalta (ed.), Spring Edition 2011.

Note: Additional elements will be indicated during the lessons.

## READINGS

- [The Idea of Labour Law](#), Guy Davidov & Brian Langille – Background; Notion and importance of Labour Law
- [ILO – Collective Bargaining](#), ILO – Sources and importance of collective bargaining

- [ILO – Employment Relationship Recommendation n 198](#), ILO - Employment contract and its qualification
- [Dynamex Operations West, Inc. v. Superior Court of Los Angeles County](#), Superior Court of LA, USA - Employment contract and its qualification
- [Uber BV and others \(Appellants\) v Aslam and others \(Respondents\)](#), Supreme Court UK - Employment contract and its qualification
- [ILO – Employment Contracts Act](#) – ILO, Employment contract; content
- [California Employment Contract Template](#) – ILO, Employment contract; content
- [Employees’ Personality Rights](#), ACM.Gov – Citizenship Rights
- [GDPR & Protection of Personal Data](#), GDPR Summary – Citizenship Right
- [ILO Labour Standards on Equality at Work](#) – Citizenship Rights
- [Corporate Social Responsibility & Labor Compliance](#), Guilherme Dray - CSR
- [Termination of Employment Contract, ILO C158](#), ILO – Termination of the Employment Contract
- [ILO Principles Concerning The Right to Strike](#), ILO – Right to Strike
- [“Objective” vs “Subjective” Job Insecurity: Consequences of Temporary Work for Job Satisfaction and Organizational Commitment in four European Countries](#), Hans De Witte, Katharina Näswall
- [“The New Concept of a ‘Worker’ in the Field of Collective Dismissals”](#), Ana Castro Franco
- [“In Defence of \(Efficiently Administered\) “Just Cause” Dismissal Laws”](#), Guy Davidov
- [“Collective Bargaining Laws: Purpose and Scope”](#), Guy Davidov

## LEGISLATION

- [ILO Constitution](#) (1919)
- [ILO Declaration of Philadelphia](#) (1944)
- [Universal Declaration of Human Rights](#) (1948)
- [US Civil Rights Act of 1964](#) – US Law, Citizenship Rights (1964)
- [European Union Charter of Fundamental Rights](#) (2000)
- [European Pillar of Social Rights](#) (2021)
- [Portuguese Constitution \(1976\)](#)
- [Portuguese Labour Code](#) (2009)