EMPLOYMENT LAW AND PROCEDURE

Degree in Legal Studies (Solicitors)

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Code: 16311

Main Scientific Area: Business Law

Lecturer: Iva Alberta Teixeira Faria

Language of Instruction: Portuguese

Regime: S2

Contact Hours: 60h Total Workload: 108h

ECTS: 6,0

Objectives

- Define the scope and object of Labor Law and recognize the sources of Labor Law;- Distinguish the employment contract from similar contractual figures;- Identify the essential elements of the formation of the employment contract;- Name and explain the rights and duties of the subjects of the employment contract;- Characterize the content of the employment contract.- Explain and characterize the various forms of duration and organization of working time;- Determine qualitatively and quantitatively the remuneration and equity benefits;- Identify and understand the legal status of the forms of suspension and termination of the employment contract;- Know the essential aspects of the Labor Process, bearing in mind that this branch of Law is articulated with Civil Procedural Law;- Identify the existence of specific principles of Labor Law that give it autonomy and address the divergences and convergences between the labor process and the civil process;- Know the procedural means by which labor disputes are resolved.

Learning Outcomes

It is intended that the student, at the end of the course:1. Master the general principles of labor law and the work process;2. Know, understand and know how to apply the most relevant labor regimes, namely with regard to specific sources, the employment contract and the respective contractual modalities, the provision of work, remuneration, contractual vicissitudes and termination of the employment contract;3. Be able to advise, resolve practical issues, draft contracts and intervene, by way of legal advice, to individuals or within a company/organization with regard to legal and labor issues.

Course Contents

Chapter I - Introductory notions and Sources of Labor Law1. Object and Scope of Employment Law2. Sources of Labor Law2.1. International Sources2.2. Internal Sources2.2.1. Collective Regulation Business Instruments2.2.2. Collective Regulation Non-Negotiable Instruments2.2.3. Labor Uses2.3. Hierarchy of Sources Chapter

Chapter II - The Employment Contract1. The Employment Contract - Concept and Elements2. Figures Related to the Employment Contract

2.1. Provision of service contract2.2. The Presumption of Employment Contract

Chapter III - Formation of the Employment Contract1.1. Training Processes

1.2. Information Obligation in the Formation of the Employment Contract1.3. Assumptions of the Employment

Contract2. Accessory Clauses - The Condition and the Term3. Invalidity of the Employment Contract4. Trial Period5. Employer's Obligations Chapter

Chapter IV - Law and Duties of Labor Subjects1. Rights, Duties and Guarantees of Labor Subjects2. Personality Rights of Labor Subjects3. Equality and Non-Discrimination

Chapter V - Content in general and the special contents in the Employment Contract1. Contracted Activity, Functional Flexibility2. Category and seniority3. Employment Contract modalities4. Workplace

Chapter VI - Duration and Organization of Working Time1. Working time1.1. Normal Working Period - Limits and Exceptions1.2. Work schedule1.3. Exemption from working hours1.4. Extra work1.5. Shift work1.6. Night work2. Right to Rest2.1. Daily and weekly rest2.2. Holidays2.3. Vacation2.4. Absences2.5. Remuneration in Rest Period

Chapter VII - Remuneration and other equity benefits1. Retribution - Concept and Introductory Notes1.2. Determination of the Value of the Remuneration and Guaranteed Minimum Monthly Remuneration1.3. Compliance with the Obligation to Return1.4. Guardianship of Retribution Chapter

Chapter VIII - Vicissitudes and non-compliance with the Contract1. Contractual vicissitudes1.1. The Assignment of the Contractual Position

1.2. Transfer of the Company or Establishment1.3. Occasional Worker Assignment1.4. Activity Reduction and Contract Suspension1.4.1. Suspension of the Contract for Fact Regarding the Worker1.4.2. Temporary Reduction of the Normal Working Period and Suspension of the Employment Contract due to Fact Regarding the Employer1.4.3. License Without Retribution1.4.4. Pre-Reformation2. Breach of Contract

Chapter IX - Termination of Employment Contract1. Expiry of employment contract2. Termination of employment contract by mutual agreement3. Individual Dismissal - Justified Objective and Subjective Cause3.1. Power, Disciplinary Procedure and Dismissal for a Fact Attributable to the Worker (Justified Subjective Cause)3.2. Dismissal with Just Objective Cause3.2.1. Collective Dismissal3.2.2. Dismissal due to extinction of the job3.2.3. Dismissal for Inadaptation4. Termination of the Employment Contract by the Worker

5. Termination of employment contract by the worker and abandonment of work

6. Illegality of dismissal
Chapter X - The Labor Process1. Specificities of procedural assumptions in Labor Procedural Law2. Procedural acts, instance and the provisional composition of the dispute3. Species and Forms of Process4. Special processes

Recommended Bibliography

1. Lições de Direito do Trabalho - A relação individual de trabalho - de David Falcão e Sérgio Tenreiro Tomás - Edição: Almedina,12ª edição, 2023.

2. Contrato de Trabalho – Noções Básica, de João Leal Amado, 4ª Edição - Reimpressão 2023

3. Tratado de Direito do Trabalho, Parte II - Situações Laborais Individuais – de RAMALHO, Maria do Rosário Palma Ramalho, Edição: Almedina, 9.ª Edição, 2023.

4. Direito do Trabalho – de António Monteiro Fernandes, Edição: Almedina, 22ª Edição, 2023.

5. Direito do Trabalho – de Pedro Romano Martinez, Edição: Almedina, 11ª Edição, 2023.6. Manual de Direito do

Trabalho e de Processo do Trabalho - 11ª Edição, 2023.

Learning and Teaching Methods

The students will be able to define Labor Law and to recognize the sources of Labor Law through Chapter I.

The contents of Chapters II to IV will enable the student to distinguish the employment contract from similar contractual figures, to identify the essential elements of the formation of the employment contract and to list and explain the rights and duties of the subjects of the employment contract.

The characterization of the content of the employment contract and the identification of employment contracts subject to a special regime is achieved through Chapter V.Chapters VI and VII enable the student to name and characterize the various forms of duration and organization of working time and to determine remuneration and other property benefits.

Through Chapter VIII, students will be able to identify contractual vicissitudes and to characterize non-compliance with the contract.

The identification and understanding of the legal regime of the forms of termination of the employment contract is achieved through Chapter IX.

Chapter X allows the student to know the Procedural Law of Labor with a view to acquiring skills of criticalapplication of standards from a practical perspective, including the labor procedural system, namely the specificities of the procedural assumptions in the Labor Procedural Law and the singularities of the procedural Instance labor.

Assessment Methods

Continuous and periodic assessment:

The curricular unit will be evaluated according to the following elements:

1. An individual, in-person test weighing 40% of the final classification;

2. An individual, in-person test weighing 45% of the final classification;

3. A group project (of two members) to prepare an employment contract in a phased manner and distributed throughout the semester with timings established during classes and duly published on the Moodle platform with a weighting of 10% of the final grade;

4. Proven participation in an extracurricular activity, to be indicated by the teacher, with a weight of 5% of the final classification;

- It is mandatory to carry out all assessment elements, so failure to carry out any assessment period implies failure to approve the curricular unit;

- The assessment elements referred to in 1 and 2 have a minimum score of eight values each. - All evaluation elements will be evaluated from 0 to 20, with 2 decimal places.

- In tests, only legislation is allowed to be consulted without notes. Test dates will be announced in due course by the Course Director.

- The final group project, containing all partial elements submitted throughout the semester as provided for in point3. will have to be delivered, on paper and in person, to the teacher in classes during the last week of the academic semester.

Exam times and grade improvement

In exam periods (second semester exam period, special period and exceptional period) and grade improvement exams, the assessment will consist of a written, individual and face-to-face exam, in which the student takes advantage of the group work grade (10%) and proven participation in extracurricular activity (5%) achieved in continuous assessment, so the exam classification will be calculated as follows:

1. A written, in-person and individual exam weighing 85% of the final grade;

2. Classification of the group work carried out in the continuous assessment with a weight of 10% of the final classification.

3. Proven participation in an extracurricular activity, to be indicated by the teacher, with a weight of 5% of the final classification. In the event that the student has not submitted group work in the continuous assessment or has not participated in any extracurricular activity, the exam will be weighted 100%.

The exam dates will be fixed and published in the site,in accordance with the terms set out in the Academic Regulations.

Mobile students

ERASMUS students who master the Portuguese language will be assessed in the same terms as national students and those mentioned above.

In the event that the ERASMUS student does not master the Portuguese language, the assessment will be carried out through research work corresponding to a weighting of 100%.