Universitat Autònoma de Barcelona

2019/2020

Employment and Social Security Law I

Code: 102292
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	3	1

Contact

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Use of Languages

Principal working language: spanish (spa)
Some groups entirely in English: No
Some groups entirely in Catalan: Yes
Some groups entirely in Spanish: Yes

Teachers

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Prerequisites

There are no prerequisites.

Objectives and Contextualisation

Labour Law I is a subject taught in the first term of the third year of studies. This is a subject that allows the student to acquire the structural elements of a subject that is continued in the second term in the course Labour Law II.
Labour Law I has the academic utility of establishing the basic conceptual bases of the sources of the labour legal system, delimiting its object and its individual and collective subjects.
From a training perspective, Labour Law I aims to achieve a number of objectives for the student, among which the following are particularly noteworthy:
- Identify the purpose, sources and principles of labour law.
- To differentiate between the various subjects who interact in the field of Labour Law.
- Identify collective labour rights, participation, negotiation and conflict, with special attention to freedom of association, its subjective scope and its content.

Competences

- Arguing and laying the foundation for the implementation of legal standards.
- Drawing up and formalising works, reports, documents, rulings.
- Drawing up legal texts (contracts, judgements, sentences, writs, rulings, wills, legislation...).
- Explaining the legislative reforms and jurisprudential changes.

- Identifying and solving problems.
- Integrating the importance of Law as a regulatory system of social relations.
- Mastering the computing techniques when it comes to obtaining legal information (legislation databases, jurisprudence, bibliography...) and in data communication.
- Memorising and utilising legal terminology.
- Negotiating and mediating between different people or institutions in the context of a conflict (between public administrations-administrators, family and child protection related conflicts, between business-workers and their representatives, parties to a case..).
- Properly analysing the issues related to equality between men and women.
- Searching, interpreting and applying legal standards, arguing every case.
- Students must be capable of communicating their points of view in a compelling way.
- Students must be capable of learning autonomously and having an entrepreneurial spirit.
- Students must be capable of making decisions.
- Students must be effective in a changing environment and when facing new tasks, responsibilities or people.
- Use different information and communication technologies.
- Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

Learning Outcomes

1. Acting in a conflict situation posed as practical work.
2. Applying in combination the principles of hierarchy and most favourable law.
3. Applying the principle of inalienability of labour rights.
4. Clearly identifying the controversy points as well as differentiating between legal and interest labour disputes.
5. Defining the content and utility of the regulatory and jurisprudential newsletters and databases used in the occupational framework.
6. Defining the main interpretation and implementation principles of the Labour Law.
7. Describing in a practical way the minimum and essential content of the legal-occupational documents: employment contracts, collective agreements, or communications between employer and employee, among others.
8. Describing the databases of Spanish public administrations and European and international organizations, as well as knowing how to gain access to the news these institutions might provide.
9. Describing the mechanisms and legal principles used to balance the relations produced in the scope of implementation of Labour Law.
10. Detecting the assumptions where the collective bargaining, unilateral pacts or unilateral decisions of the entrepreneur damage the equality between men and women in the workplace.
11. Detecting when an equality plan is significantly efficient to achieve equality in the work place.
12. Drawing up and formalising works, reports, documents, rulings.
13. Drawing up said documents with an appropriate content and style.
14. Enumerating the means (collective bargaining, social concertation) used for individuals and groups to create the Labour Law.
15. Explaining and identifying the content and scope of that terminology to others.
16. Identifying and solving problems.
17. Identifying the areas (in a legal, administrative courts, collective agreements negotiation or others..) where it's possible to negotiate and mediate between several subjects in case of a labour dispute.
18. Identifying the databases of commercial nature and knowing how to use them correctly.
19. Identifying the issues and aspects that should be reformed, and properly integrating them with the current part of the legal system or the jurisprudence and/or judicial doctrine.
20. Identifying the several individuals and social groups and their different interests on the scope of Labour Law: employers, entrepreneurs, trade unions, employers' associations, company representatives.
21. Identifying the transitional or derogatory arrangements of the legal-occupational standards and applying them in a proper way, in combination with the principle of most beneficial condition.
22. Interpreting and comprehending labour regulatory texts, sentences of the labour court and collective agreements.
23. Interpreting the employment standards in the light of the general rules of interpretation and the pro operario principle.

24. Students must be capable of communicating their points of view in a compelling way.
25. Students must be capable of learning autonomously and having an entrepreneurial spirit.
26. Students must be capable of making decisions.
27. Students must be effective in a changing environment and when facing new tasks, responsibilities or people.
28. Use different information and communication technologies.
29. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

Content

LESSON 1. TRAINING PROCESS AND PURPOSE OF LABOUR LAW
1. Process of historical and legal training in Labour Law.
2. Delimitation of the object: Voluntary work performed under subordination and dependence
2.1 Substantive budgets: voluntary, external, subordination and salary retribution
2.2 Adjective budgets: inclusions and exclusions
3. Related cases: execution of works, provision of services and others
4. Self-employment. Modalities. Legal regime.
LESSON 2. SUBJECTS OF THE EMPLOYMENT RELATIONSHIP
1. The worker
1.1 Concept
1.2 Typology
1.3 Foreign workers
2. The entrepreneur
2.1 Concept
2.2 Typology
2.3 Business interposition: contracts, subcontracts and the assignment of workers
3. The company and the workplace
3.1 The employment concept of a company
3.2 The workplace
3.3 Enterprise groups
4. The temporary employment agency
4.1 Concept, requirements and public control
4.2 Legal regime of the employment contract
4.3 Provision contract. Worker and user company relations
II. SOURCES OF LABOUR LAW AND THEIR APPLICATION
LESSON 3 STATE AND AUTONOMOUS SOURCES
1. Sources of labour law: regulatory powers and labour standards
2. Constitution and Labour Law
2.1 Constitutionalisation of labour rights
2.2 Labour content of the 1978 Constitution: systematization and guarantees
2.3 Fundamental human rights and labour law. In particular the right to non-discrimination on grounds of sex.
3. The laws
4. Regulatory standards
5. Regulatory powers of the Autonomous Communities
LESSON 4 INTERNATIONAL AND COMMUNITY SOURCES
1. Internationalization of labour law: international labour standards, typology and internal efficiency
2. The International Labour Organization
2.1 Origins, principles and objectives
2.2 Organizational and functional structure
2.3 The normative role of the ILO: Conventions, Recommendations and Resolutions
3. The European Union
3.1 Economic and social origins, principles and objectives
3.2 The regulatory role of the EU: treaties, regulations and directives
3.3 Community social policy and content of Community social law
4. Other international organizations and their normative action in labour matters.
LESSON 5 PROFESSIONAL AND OTHER SOURCES
1. Collective autonomy: configuration, subjects and manifestations

2. Collective bargaining: configuration, subjects and manifestations
3. Collective agreements:
3.1 Concept
3.2 Typology and nature
3.3 Effectiveness
4. The labor custom
5. General principles of law
6. The jurisprudence
7. The supplementary right
LESSON 6 APPLICATION OF LABOUR STANDARDS
1. Hierarchy of labour standards and principles of interpretation and application
2. Interpretation of labour standards and pro-worker principle
3. Principles for the application of labour standards
3.1 Concurrence of rules and principle of a more favourable rule
3.2 Temporary succession of rules and most beneficial condition principle
3.3 Principle of the inalienability of workers' rights
4. Application of the rules in time and space
III. COLLECTIVE LABOUR LAW
LESSON 7 FREEDOM OF ASSOCIATION: GENERAL ASPECTS AND INDIVIDUAL FREEDOM OF ASSOCIATION
1. Concept and legal regulation of freedom of association
2. Individual Freedom of Association: Concept
3. Collective Freedom of Association: Concept
4. Individual freedom of association
4.1 Subjective scope: inclusions, exclusions and limitations
4.2 Content: Positive and negative trade union membership rights and the right to trade union activity
LESSON 8 COLLECTIVE FREEDOM OF ASSOCIATION: TRADE UNIONS. THE PROTECTION OF FREEDOM OF ASSOCIATION
1. The union
1.1 Concept and functions
1.2 Typology
1.3 Legal regime: constitution, status, financing, functioning and responsibilities
2. Trade union representativeness
2.1 Concept and rationale
2.2 Criteria for determining trade union representativeness: state, regional and sectoral levels
2.3 Representation and trade union action
3. Protection of freedom of association
LESSON 9 BUSINESS PARTNERSHIPS
1. The right of business association: constitutional regime and its normative regulation
2. Business associations
2.1 Concept, functions and typology
2.2 Legal framework: constitution, organisation and operation
3. Representativeness: concept, criteria for determination and recognized attributions
LESSON 10 GENERAL CONFIGURATION AND REGULATION OF PARTICIPATION
1. General settings
1.1 Workers' participation: trade union representation and action
1.2 Participation in the enterprise: systems and degrees
1.3 Institutional participation: systems and degrees
2. Constitutional regime and regulatory development
3. The unitary representation of workers in the company: personnel delegates and works councils
3.1 Areas of implementation
3.2 Organizational structure and electoral procedure
3.3 Functions and powers
3.4 Guarantees for the performance of its functions
4. Trade union representation of workers in the company: trade union sections and trade union delegates
4.1 Areas of implementation
4.2 Organizational structure
4.3 Functions and powers

4.4 Guarantees for the performance of its functions
5. Other representative bodies. Special consideration in matters of health and safety in the company: prevention delegates and health and safety committees
6. The right of assembly. Assembly of workers
7. Institutional participation.
LESSON 11 COLLECTIVE BARGAINING AND COLLECTIVE AGREEMENTS
1. Collective bargaining: concept, characteristics and foundations
2. Constitutional recognition and policy development
3. Types of negotiable agreements: statutory collective agreements, extra-statutory collective agreements and company agreements
4. The statutory collective agreement
4.1 Concept, classes and efficiency
4.2 Negotiating units: scope, negotiating parties and their negotiating capacity and legitimacy
4.3 Content: delimiter, normative and obligatory
4.4 Negotiation procedure: initiative, communications, constitution of the negotiating committee, deliberation, adoption of agreements, registration, deposit and publication
4.5 Legality check
4.6 Implementation issues: validity, duration, interpretation and concurrence of agreements
4.7 Adhesion and extension
5. Extra-statutory collective agreements
5.1 Concept and rationale
5.2 Classes
5.3 Legal regime. Efficiency
6. Company agreements and pacts
7. Social concertation: negotiated legislation, social pacts and framework agreements
LESSON 12 RIGHT TO STRIKE, LOCKOUT AND COLLECTIVE BARGAINING PROCEDURE
1. The Collective Work Conflict: Concept and Classes
2. The strike
2.1 Concept
2.2 Constitutional recognition and normative regulation
2.3 Ownership, modalities, purposes and limits
2.4 Procedure and exercise of the right to strike
2.5 Effects
3. The lockout
3.1 Concept
3.2 Constitutional recognition and normative regulation
3.3 Ownership and causes
3.4 Procedure
3.5 Effects
IV. LABOUR ADMINISTRATION AND SOCIAL JURISDICTION
LLIÇÓ 13. LABOUR ADMINISTRATION AND SOCIAL JURISDICTION
1. L'administració laboral.
1.1. Organisation and competences
1.2 Organic and functional structure of the labour administration: central, peripheral and institutional
1.3 Labour and Social Security Inspectorate
1.4 Labour administration of the Autonomous Communities
1.5. Potestat sanccionadora: infraccions i sancions
2. Social jurisdiction
2.1 Jurisdictional bodies of the social order
2.2 Extension and limits of social jurisdiction.

Methodology

The learning process is based on the student's Work, and it is the teacher's mission to help them in this task by providing information and showing them the sources where it can be obtained. The development of the teaching of the subject and the student's learning is based on the following activities:
1. Directed activities:
1.1 Master classes: where the student reaches the conceptual bases of the subject and its legal, normative

and jurisprudential framework. The master classes are the activities in which less interactivity is required of the student and are conceived as a fundamentally unidirectional method of transmitting knowledge from the teacher to the student.
1.2 Practical classes: students, individually or in small groups, analyse and solve practical cases together with the teacher.
The resolution and debate of the practical cases requires a previous Work of the students, which will consist in the preparation of the basic conceptual elements of the matter to treat and the integral resolution of a case to deliver it and/or to debate it in the classroom. This activity will be oriented to the preparation of the students for the accomplishment of the 4 practical activities of evaluation (obligatory to do and to approve 3).
The basis of the practical Work is the understanding and critical application of the regulations and jurisprudence related to the content of the subject explained in the theoretical classes.
2. Supervised activities:
Activities that the students will develop individually or in small groups, with the non-presential support of the teacher, oriented to the preparation of the evaluable practices.
2.1 Preparation of summary sheets of sentences or regulations. Drawing up of diagrams of some sections of the syllabus.
2.2 Search and reading of bibliography and jurisprudence instrumental for the resolution of practical cases.
2.3 Evaluable practical cases that are elaborated prior to the resolution in the classroom.
3. Self-employed activities:
3.1 Search and reading of bibliography, regulations and jurisprudence complementary to the contents of the theoretical classes.
3.3 Practical cases that are elaborated and resolved in the classroom.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
PRACTICAL TARGETED ACTIVITIES	22.5	0.9	23, 2, 3, 6, 9, 14, 15, 20, 19, 17, 21
THEORETICAL CLASSES	22.5	0.9	1, 24, 5, 27, 7, 8, 10, 11, 4, 18, 22, 16, 13, 12, 25, 26, 29, 28
Type: Supervised			
Search and reading of preparatory materials for the elaboration of evaluable practices. Drafting of the assumptions for the evaluable practices.	10	0.4	23, 1, 5, 27, 8, 10, 11, 18, 22, 16, 13, 12, 25, 29, 28
Type: Autonomous			
STUDY	85.5	3.42	23, 2, 3, 6, 9, 14, 15, 4, 20, 19, 17, 21, 22

Assessment

1. Regular evaluation system
This system combines the continuous evaluation of the practical activities and the resolution of a final theoretical exam.

1.1 Continuous evaluation of practical activities. The grade corresponding to the continuous evaluation of the practical activities will be the arithmetic mean of the grades obtained in the three practical evaluation activities that will be carried out during the semester.

1.2 Ordinary Final Theoretical Examination. All students may present themselves, regardless of whether or not they have participated in the practical activities of continuous assessment and of the average mark they have obtained in these. It will consist of the resolution of between 5 and 10 questions, some of which may correspond to questionsdealt with through practical activities. Each of the exam questions will be graded from 0 to 10. The test score will be obtained from the average of the total score divided by the number of questions.

1.3 Grading of the subject with the ordinary evaluation system The score obtained through the continuous evaluation of the practical activities will have a value of 50% of the grade of the subject. The score of the final theoretical examination will have a value of 50% of the grade of the subject. In order to be able to add the score corresponding to the continuous evaluation of the practical activities it is necessary that the score of the theoretical final exam be at least 5 points out of 10. If this minimum is not achieved the score will be "suspense" and the numerical value corresponding to the theoretical exam expressed in parameter 0-10. The final grade of the subject will be obtained by making the corresponding average and will be considered passed if a minimum of 5 points out of 10 is achieved.

2. Reevaluation. It consists of a theoretical examination and, in the case of some people, also a practical examination. Students who opt directly for this evaluation system and those who have not passed through the regular evaluation system will have access.

2.1 Theoretical examination. It will consist of the resolution of between 5 and 10 questions, some of which may correspond to issues addressed through the practical activities. Each question will be scored from 0 to 10 points and the score will be obtained from the corresponding average. This part of the examination will have a value of 50% of the total.

2.2 Practical examination. It will consist of the resolution, properly based on law, of a practical case with the thematic content corresponding to the subject matter under examination, similar to those that have been resolved during the practical activities subject to continuous evaluation. This part of the review will have a value of 50 per cent of the note. The practical examination will only have to be carried out by persons who have obtained a score of less than 5 out of 10 through the practical activities of continuous evaluation. Persons who have obtained a score equal to or higher than 5 points will have this score maintained as a practical part score.

2.3 The final grade of the examination will be obtained by making the weighted average of the score obtained in both parts, theoretical and practical. If the grade of the theoretical part does not achieve this minimum, the grade will be "suspense" and the numerical value will be that corresponding to the theoretical examination expressed in parameter 0-10.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
EVALUATION ACTIVITIES CARRIED OUT IN THE PRACTICAL CLASSES	50	2	0.08	23, 2, 3, 6, 9, 14, 15, 4, 20, 19, 17, 21, 22
PRACTICAL TEST	50	6	0.24	23, 1, 2, 3, 7, 10, 15, 19, 22, 16, 13, 12
THEORETICAL EXAMINATION	50	1.5	0.06	23, 1, 24, 5, 27, 7, 8, 10, 11, 4, 18, 22, 16, 13, 12, 25, 26, 29, 28

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