

Employment and Social Security Law II

Code: 102291
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	3	2

Contact

Name: Ricardo Esteban Legarreta

Email: ricardo.esteban@uab.cat

Teaching groups languages

You can check it through this [link](#). To consult the language you will need to enter the CODE of the subject. Please note that this information is provisional until 30 November 2023.

Teachers

Ricardo Esteban Legarreta

Vidal Aragonés Chicharro

Ferran Rosell Güeto

Montserrat Solé Truyols

Xavier Solà Monells

Julia Senra Petit

Prerequisites

In order to achieve the learning results proposed, it is highly recommended that the student has studied and passed the third year subject "Employment and Social Security Law I".

Passing the course is not an official previous requirement for taking Employment and Social Security Law II, but it is a proper basis for being in a position to pass it.

Lecturers:

Group 1:

Seminar 11 Montserrat Solé

Seminar 12

Seminar 13 Vidal Aragonés

Group 2: Ricardo Esteban

Seminar 21

Seminar 22 Ricardo Esteban

Seminari 23

Group 3: Xavier Solà

Seminar 511

Seminar 512 Xavier Solà

Seminar 513 Júlia Senra

Group 70 Management + Law:

Seminar 701 Ferran Rosell

Seminar 702

Objectives and Contextualisation

Employment and Social Security Law II is a course that is taught in the second term of the third year of Law degree,

based on the knowledge gained from the structural elements of the matter that have been the subject of Employment and Social Security Law I.

This is a course that develops the legal regime of access to employment, recruitment and training. rights and duties of salaried workers, legal regim of the powers of management, and of the

business organisation, as well as the modification, discontinuation and termination of the employment relationship, and the so called special contracts of employment.

Competences

- Arguing and laying the foundation for the implementation of legal standards.
- Defending and promoting the essential values of the social and democratic State of Law.
- 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..).
- Present information in a way that is appropriate to the type of audience.
- 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 demonstrating a critical awareness of the analysis of the legal system and development of legal dialectics.
- 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.
- Students must prove they know and comprehend the main public and private institutions in its genesis and as a whole.
- 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. Analysing the situation by comparing several collective agreements and watching the historical evolution of these situations.
3. Applying in combination the principles of hierarchy and most favourable law.
4. Applying the principle of inalienability of labour rights.
5. Clearly identifying the controversy points as well as differentiating between legal and interest labour disputes.
6. Defining the content and utility of the regulatory and jurisprudential newsletters and databases used in the occupational framework.
7. Defining the main interpretation and implementation principles of the Labour Law.
8. 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.
9. 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.
10. Describing the mechanisms and legal principles used to balance the relations produced in the scope of implementation of Labour Law.
11. 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.
12. Detecting when an equality plan is significantly efficient to achieve equality in the work place.
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. Enumerating the regulations helping the reconciliation of work and family life.
16. Explaining and identifying the content and scope of that terminology to others.
17. Gathering good business related practices.
18. Identifying and solving problems.
19. 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.
20. Identifying the databases of commercial nature and knowing how to use them correctly.
21. 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.
22. 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.
23. 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.
24. Interpreting and comprehending labour regulatory texts, sentences of the labour court and collective agreements.
25. Interpreting the employment standards in the light of the general rules of interpretation and the pro operario principle.
26. Knowing the foundations of the legal areas of industrial relations in the specific scenario of immigration and transnational mobility.
27. Knowing the foundations of the legal areas of industrial relations in the specific scenario of legal management of diversity in the company.
28. Knowing the foundations of the legal areas of industrial relations in the specific scenario of new technologies and freedom of speech and information.

29. Knowing the foundations of the legal areas of industrial relations in the specific scenario of new technologies and labour market.
30. Knowing the foundations of the legal areas of the industrial relations in the specific scenarios of public administrations.
31. Knowing the mechanisms that must be applied in every situation.
32. Present information in a way that is appropriate to the type of audience.
33. Students must be capable of communicating their points of view in a compelling way.
34. Students must be capable of learning autonomously and having an entrepreneurial spirit.
35. Students must be capable of making decisions.
36. Students must be effective in a changing environment and when facing new tasks, responsibilities or people.
37. Understanding the specific situations in a collective agreement.
38. Use different information and communication technologies.
39. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

Content

Unit 1

ACCESS TO / WORK AND GENERAL CONFIGURATION OF THE EMPLOYMENT CONTRACT

1. Access to work

1.1 Right to work and duty to work

1.2 Occupation policy: concept, subjects and measures

1.3 Placement and mediation in the labour market: public services and other parties involved

2. Employment contract

2.1 Origin and historical evolution

2.2 Concept and Characters

2.3 Structure

2.4 Constitutive and regulatory functions

2.5 Typology

3. Special regime employment contracts and relationships

Unit 2

FORMATION OF THE EMPLOYMENT CONTRACT: ELEMENTS AND INITIAL PHASE

1. Capacity of the parties to contract

2. Form and formalities of the employment contract

3. Validity and effectiveness of the employment contract

4. Legal regime

Unit 3

MODALITIES AND TYPOLOGY OF THE EMPLOYMENT CONTRACT

1. Permanent and fixed-term employment: stability and flexibility of employment

2. Permanent employment contracts of indefinite duration

2.1 Indefinite employment contract for an employer

2.2 Permanent-continuous employment contract

3. Structural fixed-term employment contracts

3.1 Temporary employment contracts due to production circumstances

3.2 Temporary employment contracts of substitution

4. Fixed-term work contracts for a mixed cause

4.1 Training and internships contracts

4.2 Relief contract

5. Part-time contract

6. Other forms and types of employment contract

UNIT 4

BUSINESS POWERS AND DUTIES OF THE PARTIES

1. The management power of the employer

2. The disciplinary power of the employer

3. Employer's power of control

4. Duties of the worker

4.1 Duty to work

4.2 Dependence and duty of obedience

4.3 Duty of diligence: due performance, collaboration and contribution to productivity improvement

4.4 Duty of good faith.

5. The employer's duties

5.1 Duty to protect the employee's professional capacity

5.2 Duty to protect the employee's person

5.3 Duty to protect the employee's property. Employee's inventions

6. Occupational health and safety rights and duties: rights and obligations of the employer and employee

Unit 5

WORKING HOURS AND INTERRUPTIONS

1. The working day

1.1 Concept, basis and type

1.2 Ordinary working day and special working days

1.3 Extraordinary working day. Overtime

2. Working hours

2.1 Concept

2.2 Establishment and modification

2.3 Classes

2.4 Night work hours

2.5 Shift work

3 Interruptions of the working day

3.1 Concept

3.2 Assumptions: periodic and non-recurrent interruptions

3.3 Effects

4. Periodic interruptions

4.1 Daily rest

4.2 Weekly rest

4.3 Annual rest: annual rest

4.4 Work holidays

4.5 Work calendar

5 Non-recurrent interruptions: permits and licenses

UNIT 6

WAGE BENEFITS

1. Wages

1.1 Concept

1.2 Legal and economic characteristics

1.3 Extra-wage payments

2. Wage arrangements and systems

3. Wage structure

3.1 Basic wage

3.2 Wage supplements

4. Wage fixing

4.1 Heterogeneous fixing: minimum inter-professional wage

4.2 Conventional fixing: wage according to collective agreements

4.3 Absorption and compensation

5. Place, time and method of payment

6. Protection of wages

6.1 Due payment surcharge

6.2 Privileges of wage credit

6.3 Unseizability of wages

6.4 The Wage Guarantee Fund

UNIT 7

MODIFICATION OF THE EMPLOYMENT CONTRACT

1. Modification of the employment contract

1. Concept

1.2 Modalities

1.3 Effects

2. Functional mobility

2.1 Concept and limits

2.2 Modalities

2.3 Effects

3. Geographical mobility

3.1 Concept and limits

3.2 Modalities: movement and transfer

3.3 Effects

4. Substantial changes in working conditions

4.1 Concept and limits

4.2 Manifestations

4.3 Effects

5. Succession of companies

UNIT 8

THE SUSPENSION OF THE EMPLOYMENT CONTRACT

1.1 Concept

1.2 Causes

1.3 Effects

2. Cases of suspension of the employment contract

2.1 For reasons concerning the employee

2.2 For reasons concerning the employer

2.3 For reasons beyond the control of the parties

2.4 Special consideration of leave of absence

UNIT 9 TERMINATION OF THE EMPLOYMENT CONTRACT

1. The termination of the employment contract

1.1 Concept and grounds

1.2 Causes

1.3 Effects

2 Assumptions of termination of the employment contract

2.1 By decision of the employee

2.2 By will of both parties

2.3 By decision of the employer

2.4 By decision of the employer

UNIT 10 DISMISSAL AS A CAUSE OF TERMINATION OF THE EMPLOYMENT CONTRACT

1. Disciplinary dismissal

1.1 Concept

1.2 Causes

1.3 Procedure.

1.4 Effects

2. Objective dismissal

2.1 concept

2.2 Causes

2.3 Procedure

2.4 Effects

2. Collective redundancies

2.1 Concept

2.2 Causes

2.3 Procedure:

2.4 Effects

UNIT 11

SPECIAL REGIME LABOUR CONTRACTS

1. Special regime employment contracts

1.1 Characterisation and meaning

1.2 Speciality of the legal system and supplementation of common regulations

2. Type and legal regime

2.1 Senior management personnel contract

2.2 Family home personnel contract

2.3 Professional sportsmen contract

2.4 Artists contract for public shows

2.5 Commercial operators contract

2.6 Disabled people contract for special work centres

2.7 Civilian personnel contract for military establishments

2.8 Harbour dockers

2.9 Prisoners to penitentiary institutions

2.10 Resident health graduates

2.11 Lawyers in legal offices

2.10 Others

Methodology

The learning process of the students in the framework of this course will be organized from the three kinds of training activities described below.

1. Directed activities

The directed activities are all those that are performed in the classroom with the main protagonism of the teacher. Two main types of activities are carried out as directed activities:

Firstly, lectures. This is an activity in which the main role falls on the lecturer and it has an essentially theoretical character. They will consist of a presentation by the teacher of various aspects of the syllabus, taking as a basis the applicable regulations and the dossiers that are eventually provided through the Virtual Campus, which will include slides and other materials of interest for the analysis of each of the subjects (parts from judgments, fragments of collective agreements, and so on).

Secondly, the seminars that are carried out with a main role of students. These activities will have a mainly practical character. They will consist of three macro-practical activities, each of which will involve both, previous work outside the classroom and classroom work. Both will involve a series of tasks of different kinds: identification and study of the regulatory framework of a given institution, reading and understanding of case law, search for collective agreements, resolution and discussion of practical cases, preparation of legal documents, etc.

The seminars will be structured in three big blocks, the so called macroactivities, which will include diverse practical activities and an activity of assessment on the set of questions treated in the framework of each block. In order to be able to carry out the assessment activity, it will be essential to deliver the documents requested in each case in relation to the activities of each block. The dates of the three assessment activities will be announced at the beginning of the semester through the TeachingSpace of the Moodle.

Attendance at seminars is compulsory. In the part corresponding to the previous work, some or all of the practical activities may be carried out in a small group that will be formed by the students at the beginning of the semester. In the part corresponding to classroom work, the practical activities will be carried out in groups or individually, as determined. The same is provided for assessment activities that could be done individually or in a group as determined by the teaching staff responsible for the group.

As for the schedule of lectures, seminars and assessment activities, the schedule will be hung up before the start of classes

2.Supervised activities.

The supervised activities are those tutoring activities that can be carried out outside the classroom, individually or in group by students, to help them in carrying out their tasks and in understanding the subject.

3.Independent activities.

Independent activities are all those in which students organise their time and effort autonomously, either individually or in a group, such as research and the study of bibliography, the preparation of diagrams or summaries, etc. Within this framework , the essential part of the autonomous activities is linked to the follow-up of master classes and to the preparation of the final written exam.

Annotation: Within the schedule set by the centre or degree programme, 15 minutes of one class will be reserved for students to evaluate their lecturers and their courses or modules through questionnaires.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Master classes	19.5	0.78	25, 3, 4, 7, 10, 14, 16, 22, 21, 19, 23
Seminars	19.5	0.78	1, 33, 6, 36, 8, 9, 11, 12, 5, 20, 24, 18, 13, 34, 35, 39, 38
Type: Supervised			
Tutorials	5	0.2	25, 1, 6, 36, 9, 11, 12, 20, 24, 18, 13, 34, 39, 38
Type: Autonomous			
Assesment	5	0.2	8, 15, 21, 24
Growndwork of the activities carried out in seminars	50	2	25, 3, 4, 33, 36, 11, 12, 24, 18, 13, 34, 35, 39, 38
Study	40	1.6	25, 3, 4, 7, 10, 14, 16, 5, 22, 21, 19, 23, 24

Assessment

1. Regular assesment system

The regular assesment system combines the continuous assesment based on seminars with a final written exam.

1.1 Continuous assement of seminars

The mark of the continuous assesment comes from the mark obtained in the set of assesment activities explained above. In this regard, the three block assesment will have the value among 40/35% of the overall mark, and student participation in class will have the value among 10/15 % of the overall mark.

The lecturer in charge of every group will announce in the moodle, before the beginning of the semester, the value of activities (35 or 40 %) and students participation (15 or 10 %)

1.2 Final written exam

First of all, in order to do the final exam, students must have performed two seminar block assesment before. The exam will have at least 5 questions and no more than 10 questions. The mark obtained at the final exam will have the value of 50 per 100 of the overall mark

1.3 Marks in the regular assesment system

The overall mark of Labour Law I it is the average of the mark obtained at the continuous assesment and the one obtained at the final exam. Anyway the mark obtained at the exam must reach, at least, to 5 points in order to average whith the mark obtained in the continuous assesment.

If the average reaches a minimum of 5 points out of 10, the subject will be considered passed through the ordinary assessment. If not, it will be possible to go to the re-assesment to perform the part or parts of the assesment, where a minimum score of 5 points has not been obtained before.

2. Reassessment.

Students who have taken part in the regular evaluation -by participating in at least three of the assesment activities proposed in the ordinary evaluation System, including the exam--, can do thereassesment activities.

The theoretical re-evaluation exam will have the same characteristics as the ordinary written exam. The practical assesment will consist of the resolution of a practical case.

The grade of the subject in the re-evaluation will be obtained by making the arithmetic mean between two marks: the one obtained in the theoretical re-assessment exam (or in its case in the ordinary final written exam) and the mark obtained in the practical re-assessment exam (or the final mark of the continuous evaluation in seminars).

Any way, it is necessary that the mark of the theoretical exam is at least 5 points out of 10. If this minimum is not reached the grade will be "failed".

If the arithmetic mean reaches a minimum of 5 points out of 10, the subject will be considered passed through the re-evaluation.

3. Only assesment

Students having been accepted in the only assessment, should perform, in the same day, the following assesment activities.

3.1 A multiple choice test (20 % of the mark).

The test will have 20 questions with four possible answers and an only correct answer.

3.2 A practical exam (30% of the mark).

This exam will be the same that the one described in point 2.

3.3. A theoretical exam (50 % of the mark).

This exam will be the same that the one described before (point 1.2).

3.4. Marks in the only assessment system.

The subject will be considered passed if the addition of the marks obtained in the three assesment activities, depending on the weight that corresponds to them in each case, reaches a mark of 5 points out of 10. With this regard, the minimum mark of the theoretical exam must be of 5 point out of 10.

The students who fail, will have access to current reassessment (point 2)

4.Fraudulent Behaviour

A student who cheats or tries to cheat in an exam will be given a 0. A student who submits a paper or a practical exercise in which evidence of plagiarism can be identified will be given a 0 and will receive a warning.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Continuous assessment of seminars	50 per 100	6	0.24	25, 1, 2, 3, 7, 8, 37, 21, 23, 24, 32, 18, 17, 13, 38
Exam	50/100 per 100	2.5	0.1	25, 1, 33, 26, 27, 29, 30, 31, 6, 36, 8, 9, 11, 12, 15, 5, 20, 24, 18, 13, 34, 35, 39, 38
Reassement	50 per 100	2.5	0.1	25, 3, 4, 26, 27, 29, 28, 7, 10, 14, 15, 16, 5, 22, 21, 19, 23, 24

Bibliography

In each group the lecturer will advise the students on the bibliography of the course

Handbooks:

Alonso Olea, Manuel,; Casas Baamonde, María Emilia: Derecho del Trabajo, Ed. Civitas. Last edition

Camps Ruiz, Luis Miguel i Ramírez, Juan Manuel: Derecho del Trabajo: Ed. Tirant lo Blanch, last edition. Available at the UAB digital library.

Cruz Villalón, Jesús: Compendio de Derecho del Trabajo, Ed. Tecnos, Madrid, last edition

Goerlich Peset, José María: Derecho del Trabajo, Ed. Tirant lo Blanch, last edition. Available at the UAB digital library.

Martín Valverde, Antonio, Rodríguez-Sañudo, Fermín i García Murcia, Joaquín: Derecho del Trabajo, Ed. Tecnos, last edition

Mercader Uguina, Jesús.: Lecciones de Derecho del Trabajo, Ed. Tirant lo Blanch, last edition. Available at the UAB digital library.

Montoya Melgar, Alfredo: *Derecho del Trabajo*, Ed. Tecnos. Last edition

Ramírez Martínez, Juan Manuel: Curso básico de Derecho del trabajo y de la Seguridad Social, Ed. Tirant lo Blanch, last edition. Available at the UAB digital library.

Regulations:

Código Universitario de Derecho del Trabajo, Boletín Oficial del estado,
https://www.boe.es/biblioteca_juridica/codigos/codigo.php?id=289&modo=2¬a=0&tab=2

Legislación social básica. Ed. Civitas, last edition

Legislación laboral y de Seguridad Social. Ed. Tecnos, last edition

Legislación laboral y de Seguridad Social. Ed. Aranzadi, last edition

Software

The course does not require any specific software.