

LABOUR LAW II

Bachelor of Laws LLB [2504110] SEP-2023 LL2-NLL.3.M.A

Area Private and Business Law

Number of sessions: 30

Academic year: 23-24

Degree course: THIRD

Number of credits: 6.0

Semester: 1º

Category: COMPULSORY

Language: English

Professor: **DANIEL CIFUENTES MATEOS**

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Daniel Cifuentes has extensive professional experience in employment law and is considered to be one of the top lawyers in Spain in this practice area. In 2014 he joined Pérez-Llorca as partner of the Employment practice, after a number of years working at law firms such as Olswang, Bird & Bird and Uría Menéndez.

Studies

- 2013 Specialist course in Employment and Insolvency law. Wolters Kluwer.
- 2013 Postgraduate studies in Insolvency law. Universidad de Deusto.
- 2001 Master's degree in Sports law. Universidad San Pablo CEU.
- 2000 Course in Labour law practice. Universidad Complutense.
- 1997 Degree in Law. Major in Business law. Universidad San Pablo CEU.

Practice Areas

As an expert in labour law, Daniel advises on all areas of labour relations, covering everything from day-to-day business matters to more complex issues regarding corporate transactions and the transfer of undertakings.

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SUBJECT DESCRIPTION

In line with Labour Law I, this course is aimed at providing students with the necessary tools, skills and knowledge on the main foundations, institutions, sources and mechanisms of labour law which are necessary to handle legal issues that arise at today's global workplace and to tackle common day-to-day problems related to this area of practice. Specific themes and material aspects of European Labour Law will be explored in more detail. These include: Freedom of Movement of Workers, Atypical employment, Protection against Discrimination, Business Reorganisation, Transfer of Undertakings and Employee Involvement in the undertaking, to list but a few. Most of the topics will be covered from an international, European and comparative perspective. Where possible and useful, reference will also be made to the national systems of Labor Law of the EU member states.

LEARNING OBJECTIVES

The objective of Labour II is for students to delve deeper into the knowledge of labor law institutions, understanding, on the one hand, the reason for their existence and their purpose, and on the other hand, their practical application in the day-to-day operations of companies.

TEACHING METHODOLOGY

Learning Activity	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	13.33 %	20.0 hours
Discussions	6.67 %	10.0 hours
Exercises in class, Asynchronous sessions, Field Work	20.0 %	30.0 hours
Group work	16.67 %	25.0 hours
Individual studying	43.33 %	65.0 hours
TOTAL	100.0 %	150.0 hours

PROGRAM

SESSION 1 (LIVE IN-PERSON)

Introduction. Syllabus presentation and quick recap.

What is going on here? The European Pillar of Social Rights, the ILO initiative on the Future of Work, towards a new social dimension?

Article: Flexibilization, Globalization and Privatization: Three Challenges to Labour Rights in Our Time (Osgoode Hall Law Journal, Volume 44, Number 1 (Spring 2006) (CED)

Article: The European Pillar of Social Rights: An Assessment of its Meaning and Significance (Cambridge Yearbook of European Legal Studies, 21 (2019), pp. 101–127) (CED)

SESSION 2 (LIVE IN-PERSON)

Introduction. Syllabus presentation and quick recap.

What is going on here? The European Pillar of Social Rights, the ILO initiative on the Future of Work, towards a new social dimension?

SESSION 3 (LIVE IN-PERSON)

International employee mobility. Main legal aspects. Freedom of movement.

Practical Case: CJEU 15th December 1995, C-415/93, “Bosman” (Judgment of the Court of 15 December 1995)

Other / Complementary Documentation: Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

Other / Complementary Documentation: Regulation 492/2011 on freedom of movement for workers within the Union

Resources:

Regulation 492/2011 on freedom of movement for workers within the Union.

SESSION 4 (LIVE IN-PERSON)

International employee mobility. Main legal aspects. Freedom of movement.

Practical Case: CJEU 15th December 1995, C-415/93, “Bosman” (Judgment of the Court of 15 December 1995)

Other / Complementary Documentation: Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

Resources:

Regulation 492/2011 on freedom of movement for workers within the Union.

SESSION 5 (LIVE IN-PERSON)

Freedom of establishment. Posted workers directive.

Article: Posted workers: single market or protection of national labour law systems (Common Market Law Review 34: 571–602, 1997) (CED)

Article: One Step Forward, Two Steps Back? The Viking and Laval Cases in the ECJ (Industrial Law Journal, Vol. 37, No. 2, June 2008) (CED)

Article: The Court of Justice and the Social Market Economy: The Emergence of an Ideal and the Conditions for its Realization (Common Market Law Review Social market economy 45: 1335–1356, 2008) (CED)

Resources:

- Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.
- Directive (EU) 2018/957 of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (Text with EEA relevance).
- Case Study: CJEU 18th December 2007, C-341/2005, “Laval”
- Case Study: CJEU 11th December 2007, C-438/2005, “Viking”

SESSION 6 (LIVE IN-PERSON)

Freedom of establishment. Posted workers directive.

Resources (see session 5):

- Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.
- Directive (EU) 2018/957 of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (Text with EEA relevance).
- Case Study: CJEU 18th December 2007, C-341/2005, "Laval"
- Case Study: CJEU 11th December 2007, C-438/2005, "Viking"
- Davies P. (1997), Posted workers: single market or protection of national labour law systems in *Common Market L. Rev.*, 34(3), pp. 571-602.
- Davies A. C. L. (2008), One Step Forward, Two Steps Back? The Viking and Laval Cases in the ECJ in *Industrial Law Journal*, 37(2), pp. 126–148.
- Azoulay L. (2008), The Court of Justice and the Social Market Economy: The Emergence of an Ideal and the Conditions for its Realization in *Common Market Law Review*, 45(5), pp. 1335-1356.

SESSION 7 (LIVE IN-PERSON)

Scope of Employment. Employment contracts. Types. Content

Article: The Concept of 'Worker' in European Labour Law: Fragmentation, Autonomy and Scope (Industrial Law Journal, Vol. 47, No. 2, July 2018) (CED)

Other / Complementary Documentation: The concept of 'worker' in EU law: status quo and potential for change. Brussels: ETUI

Article: Jeffery M. (1998), Not really going to work? Of the directive on part-time work, 'atypical work' and attempts to regulate it (Industrial Law Journal, 27(3), pp. 193-213) (CED)

Resources:

- ILO Convention 138 on Minimum Age;
- ILO Convention 175 on Part Time Work; ILO Convention 177 on Homeworking,
- Directive 99/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP;
- Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC
- Case Study: CJEU 3rd July 1986, C-66/85, "Lawrie-Blum"
- Jeffery M. (1998), Not really going to work? Of the directive on part-time work, 'atypical work' and attempts to regulate it in *Industrial Law Journal*, 27(3), pp. 193-213.
- Countouris N. (2018), "The Concept of 'Worker' in European Labour Law: Fragmentation, Autonomy and Scope in *Industrial Law Journal*, 47(2), pp. 192-225.
- Risak M. and Dullinger T. (2018), The concept of 'worker' in EU law: status quo and potential for change. Brussels: ETUI, available at <https://ssrn.com/abstract=3190912>.

SESSION 8 (LIVE IN-PERSON)

Scope of Employment. Employment contracts. Types. Content

Resources:

- ILO Convention 138 on Minimum Age; ILO Convention 175 on Part Time Work;
- ILO Convention 177 on Homeworking, Directive 99/70/EC of 28 June 1999 concerning the

- framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP;
- Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC
 - Case Study: CJEU 3rd July 1986, C-66/85, “Lawrie-Blum”
 - Jeffery M. (1998), Not really going to work? Of the directive on part-time work, ‘atypical work’ and attempts to regulate it in *Industrial Law Journal*, 27(3), pp. 193-213.
 - Countouris N. (2018), “The Concept of ‘Worker’ in European Labour Law: Fragmentation, Autonomy and Scope in *Industrial Law Journal*, 47(2), pp. 192-225.
 - Risak M. and Dullinger T. (2018), *The concept of ‘worker’ in EU law: status quo and potential for change*. Brussels: ETUI

SESSION 9 (LIVE IN-PERSON)

Subcontracting and intermediaries in the labour market. Contractors.

Illegal lease of employees. Temporary employment agencies.

Article: Casual Work beyond Casual Work in the EU (European Labour Law Journal, Volume 7 (2016), No. 3) (CED)

Book Chapters: Core and Contingent Work in the European Union A Comparative Analysis; Core and Contingent Work: a Theoretical Framework. Bloomsbury, 2017 (CED)

Article: Independent contractors and the challenge of vertical disintegration to employment (Oxford Journal of Legal Studies Vol. 10, No. 3) (CED)

Resources:

- ILO Convention 181; Directive 2008/104/EC of 19 November 2008 on temporary agency work.
- Countouris N. & Horton R. (2009), Temporary Agency Work Directive: Another Broken Promise in *Industrial Law Journal*, 38(3), pp. 329-338.

SESSION 10 (LIVE IN-PERSON)

Subcontracting and intermediaries in the labour market. Contractors.

(See session 9):

- De Stefano V. (2016), *Casual Work beyond Casual Work in the EU in European Labour Law Journal*, 7(3), pp. 421-441
- Lo Faro A. (2017), *Core and Contingent Work: a Theoretical Framework* in Ales E., Deinert O. & Kenner J. (Eds.), *Core and contingent work in the European Union: a comparative analysis*, Oxford, UK, pp. 7-23.
- Collins H. (1990), *Independent contractors and the challenge of vertical disintegration to employment protection laws in Oxford J. Legal Stud.*, 10(3), pp. 356-360

Illegal lease of employees. Temporary employment agencies.

Resources:

- ILO Convention 181; Directive 2008/104/EC of 19 November 2008 on temporary agency work.
- Countouris N. & Horton R. (2009), Temporary Agency Work Directive: Another Broken Promise in *Industrial Law Journal*, 38(3), pp. 329-338.

SESSION 11 (LIVE IN-PERSON)

The hiring process.

Resources: ILO Convention 181 on Private Employment Agencies.

Working conditions. Minimum standards: wages and hours of work.

Resources:

- ILO Convention 95 on Protection of Wages; ILO Convention 131 on Minimum Wage Fixing; ILO Convention 47 on Forty-Hour Week; ILO Convention 132 on Holidays with Pay; Directive 2008/94/EC of 22 October 2008 on the protection of employees in the event of the insolvency of their employer; Directive 2003/88 of 4 November 2003 concerning certain aspects of the organization of working time, Directive 2019/1152 of 20 June 2019 on transparent and predictable working conditions in the European Union
- Case Study: CJEU 9th September 2003, C-151/2002, "Jaeger"
- Case Study: CJEU 21st February 2018, C-518/15, "Matzak"

SESSION 12 (LIVE IN-PERSON)

The hiring process.

Resources: ILO Convention 181 on Private Employment Agencies.

Working conditions. Minimum standards: wages and hours of work.

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- Case Study: CJEU 9th September 2003, C-151/2002, "Jaeger"
- Case Study: CJEU 21st February 2018, C-518/15, "Matzak"

SESSION 13 (LIVE IN-PERSON)

Health and safety.

Resources:

- ILO Convention 155 on Occupational Safety and Health; Framework Directive 89/391/EEC on health and safety, Directive 89/654 on minimum safety and health requirements for the workplace.
- Moore P. (2019), OSH and the Future of Work: benefits and risks of artificial intelligence tools in workplaces

Other typical clauses in employment contracts. Trial periods. Exclusivity and post contractual non-compete clauses. Permanence agreements.

Changes in working conditions. Novation agreements and unilateral decisions. Substantial and non-substantial changes. Geographical mobility.

Working Paper: OSH and the Future of Work: benefits and risks of artificial intelligence tools in workplaces (European Agency for Safety and Health at Work)

SESSION 14 (LIVE IN-PERSON)

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- ILO Convention 155 on Occupational Safety and Health; Framework Directive 89/391/EEC on health and safety, Directive 89/654 on minimum safety and health requirements for the workplace.
- Moore P. (2019), OSH and the Future of Work: benefits and risks of artificial intelligence tools in workplaces

Other typical clauses in employment contracts. Trial periods. Exclusivity and post contractual non-compete clauses. Permanence agreements.

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Working Paper: OSH and the Future of Work: benefits and risks of artificial intelligence tools in workplaces (European Agency for Safety and Health at Work)

SESSION 15 (LIVE IN-PERSON)

Mid-term Exam

SESSION 16 (LIVE IN-PERSON)

Maternity/paternity/family related rights

Article: The EU Charter of rights and the right to equality (ERA Forum, pp. 571–584, 2011) (CED)

Book Chapters: Solidarity and Conflict: European Social Law in Crisis (pp. I-II). Cambridge: Cambridge University Press, 2018 (CED)

Resources:

- Directive 2010/18/EU implementing the revised Framework Agreement on parental leave; Directive 2/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding; Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave. Directive (EU) 2019/1158 of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU
- Equality. Equal pay, equal treatment and types of discrimination
- Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation; Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast); ILO Convention 173 on Equal Remuneration.
- Case Study: CJEU 22nd January 2005, C-144/04, “Mangold”
- Case Study: CJEU 10th July 2008, C-54/07, “Feryn”
- Sciarra S. (2018), Solidarity and Conflict: European Social Law, Cambridge University Press (extracts uploaded on BB)
- Peers S. (2011), The EU Charter of rights and the right to equality, ERA Forum, pp. 571–584.

SESSION 17 (LIVE IN-PERSON)

Maternity/paternity/family related rights

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- Directive 2010/18/EU implementing the revised Framework Agreement on parental leave; Directive 2/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding; Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave. Directive (EU) 2019/1158 of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU
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- Case Study: CJEU 22nd January 2005, C-144/04, "Mangold"
- Case Study: CJEU 10th July 2008, C-54/07, "Feryn"
- Sciarra S. (2018), *Solidarity and Conflict: European Social Law*, Cambridge University Press (extracts uploaded on BB)
- Peers S. (2011), *The EU Charter of rights and the right to equality*, ERA Forum, pp. 571–584.

SESSION 18 (LIVE IN-PERSON)

Protection of employer's interests. Duty to obey. Employers' surveillance rights. Workplace Monitoring and AI. Whistleblowing. Grievances procedures. Sanctions.

Article: Artificial Intelligence is Watching You at Work, Digital surveillance, employee monitoring and regulatory issues in the EU context (Comparative Labor Law and Policy Journal, Volume 41, n° 30, 2019) (CED)

Resources:

- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). Article 29 group's working document on the surveillance of electronic communications in the workplace.
- Aloisi A. and Gramano E. (2019), *Artificial Intelligence is Watching You at Work, Digital surveillance, employee monitoring and regulatory issues in the EU context*, Comparative Labor Law and Policy Journal.

SESSION 19 (LIVE IN-PERSON)

Protection of employer's interests. Duty to obey. Employers' surveillance rights. Workplace Monitoring and AI. Whistleblowing. Grievances procedures. Sanctions.

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- Aloisi A. and Gramano E. (2019), Artificial Intelligence is Watching You at Work, Digital surveillance, employee monitoring and regulatory issues in the EU context, Comparative Labor Law and Policy Journal.

SESSION 20 (LIVE IN-PERSON)

Transfer of undertakings.

Book Chapters: Transfer of Undertakings in Watson P., EU Social and Employment Law, 2nd Ed., Oxford, 2014 (pp. 137-171) (CED)

Book Chapters: The Fissured Workplace: why work became so bad for so many and what can be done to improve it, Cambridge, MA & London, 2014 (pp. 1-27) (CED)

Resources:

- Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.
- Case Study: CJEU 21st October 2010, C-242/09, "Albron"
- Case Study: CJEU 6th March 2014, C-458/12, "Amatori"
- Weil D. (2014), The Fissured Workplace: why work became so bad for so many and what can be done to improve it, Cambridge, MA & London, pp. 1-27.
- Watson P. (2014), Transfer of Undertakings in Watson P., EU Social and Employment Law, 2nd Ed., Oxford, pp. 137-171

SESSION 21 (LIVE IN-PERSON)

Transfer of undertakings.

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- Case Study: CJEU 21st October 2010, C-242/09, "Albron"
- Case Study: CJEU 6th March 2014, C-458/12, "Amatori"
- Weil D. (2014), The Fissured Workplace: why work became so bad for so many and what can be done to improve it, Cambridge, MA & London, pp. 1-27.
- Watson P. (2014), Transfer of Undertakings in Watson P., EU Social and Employment Law, 2nd Ed., Oxford, pp. 137-171

SESSION 22 (LIVE IN-PERSON)

Termination of employment. Termination by the employee. Termination by the employer. Post termination obligations.

Termination of employment. Objective dismissals, collective redundancies.

Book Chapters: The Charter in Time of Crisis: a case study of dismissal in Countouris N. and Freedland M. (Eds), Resocialising Europe in a time of crisis, Cambridge, 2013 (pp. 262-272) (CED)

Book Chapters: European Labour Law, 14th Ed., The Hague, 2014 (827-843) (CED)

Resources:

- Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies.
- Barnard C. (2013), *The Charter in Time of Crisis: a case study of dismissal in Countouris N. and Freedland M. (Eds), Resocialising Europe in a time of crisis, Cambridge, pp. 262-272.*
- Blanpain R. (2014), *European Labour Law, 14th Ed., The Hague, 827-843.*

SESSION 23 (LIVE IN-PERSON)

Termination of employment. Termination by the employee. Termination by the employer. Post termination obligations.

Termination of employment. Objective dismissals, collective redundancies.

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- Barnard C. (2013), *The Charter in Time of Crisis: a case study of dismissal in Countouris N. and Freedland M. (Eds), Resocialising Europe in a time of crisis, Cambridge, pp. 262-272.*
- Blanpain R. (2014), *European Labour Law, 14th Ed., The Hague, 827-843.*

SESSION 24 (LIVE IN-PERSON)

Termination of employment. Termination by the employee. Termination by the employer. Post termination obligations.

Termination of employment. Objective dismissals, collective redundancies.

Resources (See session 22):

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- Barnard C. (2013), *The Charter in Time of Crisis: a case study of dismissal in Countouris N. and Freedland M. (Eds), Resocialising Europe in a time of crisis, Cambridge, pp. 262-272.*
- Blanpain R. (2014), *European Labour Law, 14th Ed., The Hague, 827-843.*

SESSION 25 (LIVE IN-PERSON)

International and European Protection of Collective Rights.

Employee Involvement and collective bargaining in the EU

Article: Non-Standard workers and freedom of association: a critical analysis of restrictions to collective rights from a human rights perspective (Industrial Law Journal, 2016) (CED)

Book Chapters: Workers without workplaces and unions without unity. Non-standard forms of employment and collective rights, in Pulignano V. & Hendrickx F. (Eds.), Employment Relations for the 21st Century, Bulletin of Comparative Labour Relations, Vol. 107 (CED)

Book Chapters: The Right to Strike in the EU after Accession to the ECHR: A Practical Assessment, in Mark Freedland and Jeremias Prassl (eds), EU Law in the Member States: Viking, Laval and

beyond (Hart Publishing Oxford 2015) (CED)

Resources:

- Case Study: CJEU 12st September 1999, C-67/96, “Albany”
- Case Study: CJEU 4th December 2014, C-413/13, “FNV Kunsten”
- De Stefano V. (2017), Non-Standard workers and freedom of association: a critical analysis of restrictions to collective rights from a human rights perspective in *Industrial Law Journal*, 46(2)
- Aloisi A. and Gramano E. (2019), Workers without workplaces and unions without unity. Non-standard forms of employment and collective rights, *Bulletin of Comparative Labour Relations*
- Velyvyte V. (2016), The Right to Strike in the EU after Accession to the ECHR: A Practical Assessment in Freedland M. and Prassl J. (Eds.), *Viking, Laval and Beyond*, London

SESSION 26 (LIVE IN-PERSON)

International and European Protection of Collective Rights.

Employee Involvement and collective bargaining in the EU

Resources (See session 25):

- Case Study: CJEU 12st September 1999, C-67/96, “Albany”
- Case Study: CJEU 4th December 2014, C-413/13, “FNV Kunsten”
- De Stefano V. (2017), Non-Standard workers and freedom of association: a critical analysis of restrictions to collective rights from a human rights perspective in *Industrial Law Journal*, 46(2)
- Aloisi A. and Gramano E. (2019), Workers without workplaces and unions without unity. Non-standard forms of employment and collective rights, *Bulletin of Comparative Labour Relations*
- Velyvyte V. (2016), The Right to Strike in the EU after Accession to the ECHR: A Practical Assessment in Freedland M. and Prassl J. (Eds.), *Viking, Laval and Beyond*, London

SESSION 27 (LIVE IN-PERSON)

Practice

SESSION 28 (LIVE IN-PERSON)

Practice

SESSION 29 (LIVE IN-PERSON)

Course wrap up. Final questions

SESSION 30 (LIVE IN-PERSON)

Final Exam

EVALUATION CRITERIA

GENERAL OBSERVATIONS

Each student has four attempts over two consecutive academic years to pass this course.

Students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule will lose their 1st and 2nd chance, and go directly to the 3rd one (they will need to enroll again in this course next academic year).

Students who are in third or fourth call should contact the professor during the first two weeks of the course.

RETAKE POLICY

In July's retake the maximum final score would be of 8 out of 10. Grading for retakes will be subject to the following rules:

Students failing the course in the first regular period will have to do a retake in July (except those not complying with the attendance rules, which are banned from this possibility).

Dates and location of the July retakes will be posted in advance and will not be changed.

criteria	percentage	Learning Objectives	Comments
Final Exam	30 %		
Mid-Term Exam	30 %		
Group Presentation	20 %		
Class Participation	20 %		

RE-SIT / RE-TAKE POLICY

BIBLIOGRAPHY

Compulsory

- Catherine Barnard. (2012). *EU Employment Law*. 4th edition. Oxford. ISBN 9780199692927 (Printed)

Recommended

- Carola Frege & John Kelly. (2013). *Comparative employment relations in the global economy*. 1st Edition. Routledge. ISBN 9780415686624 (Printed)

BEHAVIOR RULES

Please, check the University's Code of Conduct [here](#). The Program Director may provide further indications.

ATTENDANCE POLICY

Please, check the University's Attendance Policy [here](#). The Program Director may provide further indications.

ETHICAL POLICY

Please, check the University's Ethics Code [here](#). The Program Director may provide further indications.