Individual labour relations and trade union law

Academic Year: (2019 / 2020) **Review date: 30-04-2020**

Department assigned to the subject: Social and Private International Law Department

Coordinating teacher: GIMENO DIAZ DE ATAURI, PABLO

Type: Compulsory ECTS Credits : 6.0

Year : 4 Semester : 2

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

- Constitution and System of Sources
- Introduction to Civil Law and Personal Law
- Contract Law
- Law of Obligations and Tort Law
- Entrepreneurs and their Legal Status

OBJECTIVES

Basic Competencies:
Students know how to apply their knowledge to their work or vocation in a professional way and possess the skills that are usually demonstrated through the elaboration and defence of arguments and the resolution of problems within their area of study.
Students have the ability to gather and interpret relevant data (usually within their area of study) in order to make judgments that include a reflection on relevant issues of a social, scientific, or ethical nature.
Students have developed the learning skills necessary to undertake further studies with a high degree of autonomy.
General Competencies:
Capacity for organization, analysis, and synthesis.
Capacity for oral and written expression on specific subjects.
Awareness of the importance of recognizing and defending fundamental rights.
Acquisition of a personal and collective commitment with respect for and protection of the principles of equality between men and women, equal opportunities, and universal accessibility for people with disabilities.
Cross-Curricular Competencies:
Be able to work in multidisciplinary and/or international teams as well as to organize and plan work taking the right decisions based on the available information, gathering and interpreting relevant data to make judgments, and critical thinking within the area of study.
Specific Competencies:
Resolution of complex legal problems.
Mastery of the concepts and fundamental principles of the different sectors of the legal system.
Competence in the handling of legal sources (legal, jurisprudential and doctrinal).
Drafting of documents and legal reports.
Capacity in the treatment and resolution of legal issues in one or more foreign languages.
Legal knowledge adapted to the areas of business and commercial relations.
Familiarity with the phases, formalities, and specific procedural principles of the different jurisdictional orders.

DESCRIPTION OF CONTENTS: PROGRAMME

Unit 1. Sources of the labour code.
1. Contextualization of Labour Law.
2. Concept of Labour Law.
3. Sources of labour Law.
4. The international legal regime of work.
5. Law and regulatory power in the labour code.
6. Collective bargaining: the collective agreement.
7. Relations between state norms and the collective agreement.
8. Principles of application of labour standards.

Unit 2. Scope of Labour Law. Common and special employment relations. Self-employed work.
1. Clarifications on the concept of worker.

2. Employment related assumptions.
3. Activities excluded from labour legislation.
4. Labour relations of a special nature.
5. Self-employed work.

Unit 3. Entrepreneur, employer, and company.
1. Entrepreneur: concept and types.
2. Company and work centre.
3. Groups of companies.
4. Productive decentralization, subcontracting, and contract work.
5. Transfer of workers.
6. Temporary employment agencies.

Unit 4. The employment contract. Contract modalities.
1. The employment contract.
2. Characterizing traits.
3. Capacity and requirements for concluding an employment contract.
4. The formalization of the employment contract and the trial period.
5. Permanent contracts.
6. Structural temporary contracts.
7. Training contracts.
8. Provisions common to temporary hiring.

Unit 5. Basic labour rights and duties of the worker.
1. Basic labour rights of the worker.
2. The integration of fundamental rights in the employment contract.
3. Special reference to the right to equality and non-discrimination.
4. The basic duties of the worker.
5. Good faith and duty not to compete with the activity of the company.

Unit 6. The determination of the provision of services. The power of management and control of the labour activity.
1. Professional classification.
2. The power of business management.
3. Ius variandi.
4. Functional mobility.
5. Working place.
6. Geographical mobility.
7. The control power of the employer.
8. Disciplinary power in the company.
9.

Unit 7. Working time.
1. The ordinary working day and working hours.
2. Overtime.
3. Breaks.
4. Special days.
5. Reduction of working hours.
6. Part-time contracts.

Unit 8. Salary and retributions.
1. Concept and structure of salary.
2. Sources of salary determination.
3. Time, place and form of salary payment.
4. Protection of the salary.

Unit 9. Objective and subjective modifications of work. Interruptions and suspension of the employment contract.
1. Objective modifications. Substantial change in working conditions.
2. Subjective modifications: change of ownership of the company.
3. Non-periodic interruptions of work.
4. The suspension of the employment contract: causes and effects.
5. Leave of absence.

Unit 10. Termination of the employment contract.
1. Concept and typology of the causes of termination of the employment contract.
2. Termination by joint will of the parties.
3. Termination of the contract due to disappearance, retirement, or incapacity of the worker.
4. Termination of the contract due to disappearance, retirement, or incapacity of the employer.
5. Termination by the will of the worker.
6. Agreements and formalities common to different types of termination.

Unit 11. Dismissals and layoffs.
1. Termination by the will of the employer.
2. Disciplinary dismissal of the worker.

3. Layoff for objective reasons.
4. Collective redundancies.

Unit 12. Freedom of association and the right to business association.

1. Collective autonomy and its manifestations.
2. Ownership of the right to freedom of association.
3. The individual and collective content of freedom of association.
4. The protection of freedom of association.
5. The union: concept, constitution, and responsibility.
6. The Spanish model of representation.
7. Business associationism.

Unit 13. Representation and participation of workers in the company.

1. Unitary representation bodies: work councils and personnel delegates.
2. Competencies and guarantees of the delegates of personnel, and work committees.
3. Union sections and union delegates.
4. The right of workers to meet in the company.
5. The right of participation of public officials.

Unit 14. Collective bargaining: models, subjects, and content.

1. The types of collective agreements.
2. The collective agreement of general effectiveness.
3. The scope of the collective agreement.
4. The negotiating parties.
5. The negotiation procedure.
6. The content of the negotiation.

Unit 15. Measures of collective conflict and out-of-court dispute resolution mechanisms.

1. Collective conflict measures.
2. Constitutional recognition and typology.
3. The strike: ownership and exercise.
4. Types or modalities of strikes.
5. Procedure for exercising the right to strike.
6. Limits on the exercise of the right to strike.
7. The strike and essential services for the community.
8. he legal effects of striking.
9. Lockouts.
10. Out-of-court dispute resolution mechanisms.

LEARNING ACTIVITIES AND METHODOLOGY

THEORETICAL-PRACTICAL CLASSES. These will present the knowledge that students should acquire. Students will receive class notes and will have basic reference texts to facilitate the follow-up of the classes and the development of the subsequent work. Students will solve exercises and practical problems, and workshops will be held to acquire necessary skills.
TUTORING. Individual assistance (individual tutorials) or group assistance (collective tutorials) given to students by the teacher.
INDIVIDUAL OR GROUP STUDENT WORK.

ASSESSMENT SYSTEM

FINAL EXAM. In which the knowledge, skills, and abilities acquired throughout the course will be assessed globally. Sitting the exam is mandatory in all cases. 50%
CONTINUOUS EVALUATION. This will assess the work, presentations, performance in debates, expositions in class, exercises, practices and participation in workshops throughout the course. 50%

Extraordinary call:
A) If the student followed the continuous assessment process, will remain the rating system of the ordinary call and the profesor will give the most favorable assessment, the note with the 50% of exam or the note with the 100% of exam
B) If the student did not follow the continuous assessment process, the student can perform an exam with a value of 100% of the final grade

% end-of-term-examination:	50
% of continuous assessment (assigments, laboratory, practicals…):	50

BASIC BIBLIOGRAPHY

- CATHERINE BARNARD. EU Employment Law, Oxford European Union Law Library, 2012

- DUNLOP, J. T Industrial Relations System, Arcturus books , 1978

- DUNLOP, J. T. Industrial Relations Systems. Revised edition, Harvard business school press, 1993

- GÓMEZ ABELLEIRA, F.J. Handbook of Spanish Employment Law, Tecnos, 2012

ADDITIONAL BIBLIOGRAPHY

- PAUL M. SECUNDA/JEFFREY M. HIRSCH. Labor Law: A problem Based Approach, LexisNexis, 2012

- ROGER BLANPAIN/SUSAN BISOM-RAPP/WILLIAM R. CORBETT/HILARY K. JOSEPHS/MICHAEL J. ZIMMER The Global Workplace: International and Comparative Employment Law Cases and Materials, Cambridge, 2012

- RON BROWN East Asian Labor and Employment Law: International and Comparative Context, Cambridge, 2012