

Academic Year: ( 2019 / 2020 )

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

Coordinating teacher: NAVAS-PAREJO ALONSO, MARTA

Type: Electives ECTS Credits : 2.0

Year : Semester : 2

**REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)**

It is recommended to have passed the subject "Judicial and out-of-court settlement of employment claims and labor disputes" which is taught in the first quarter.

**OBJECTIVES****Basic skills**

- CB6 Possess and understand knowledge that provides a basis or opportunity to be original in the development and / or application of ideas, often in a research context
- CB7 That students are able to apply the knowledge acquired and their ability to solve problems in new or unfamiliar environments within broader (or multidisciplinary) contexts related to their area of study
- CB8 That students are able to integrate knowledge and face the complexity of making judgments apart from information that, being incomplete or limited, includes reflections on the social and ethical responsibilities linked to the application of their knowledge and judgments
- CB9 That students know how to communicate their conclusions -and the knowledge and ultimate reasons that sustain them- to specialized audiences in a clear and unambiguous way.
- CB10 That students have the learning skills that allow them to continue studying in a way that will be largely self-directed or autonomous

**General Competences**

- CG1 - Recognize the growing importance of teamwork in the workplace and demonstrate ability to adapt and integrate into different groups, sometimes with conflicting interests, maintaining relationships and fluid communications, respecting ideas and solutions provided by others with an attitude of cooperation and tolerance , sharing responsibilities and giving and receiving instructions.
- CG2 -Accepting the need for constant self-learning and continuous training as instruments that facilitate permanent updating in the field of labor relations derived from the need to adapt to changes in the labor market and the dizzying legislative changes and variations in criteria jurisprudential.
- CG3 - Ability to apply the knowledge acquired in the tasks of job counseling and consulting, in order to solve problems of special complexity and relevance within the field of Labor Law and Social Security.
- CG4 -Manifest a high sense of personal responsibility and correct deontological behavior when intervening in the processes related to professional practice and with the advisory activities of lawyers, registered social graduates, consultants and labor advisors.
- CG5 - Ability to produce texts and reports with terminological precision in order to avoid unnecessary litigation and favor effective communication.
- CG6 -Capacity for individual and collective negotiation between private and public administrations.

**Specific competences**

- CE1 Identify, interpret, relate and apply all relevant norms and jurisprudence in any case that arises within the labor and social security area, even in the most complex or difficult cases.

CE2 Propose and provide solutions to real problems (present) related to legal or conventional obligations in labor and social security in all types of organizations, with or without profit, both in the public and private sectors.

CE3 Identify, evaluate and weigh risks due to possible liabilities arising from total or partial non-compliance with labor and social security obligations.

E4 Design strategies or plans that prevent future problems related to legal or conventional obligations in labor and social security in all types of organizations, with or without profit, in both the public and private sectors.

CE5 Draft documents of any level of complexity (contracts, plans, programs, policies, letters, notifications, etc.) in any area of ¿¿labor relations and social security.

CE6 Know all administrative, judicial and extrajudicial systems with competence in monitoring compliance with labor and social security regulations or in resolving conflicts that arise in this area; as well as its operating regime and applicable procedures.

CE7 Take an active part at any level of complexity in administrative, judicial and extrajudicial procedures of any system with competence in monitoring compliance with labor and social security regulations or in resolving conflicts that arise in this area

CE8 Search means of proof, master the techniques of each one of them for the investigation of the facts, and evaluate all this in the different judicial, extrajudicial and administrative procedures taking into account the specificities of the labor procedures.

CE9 Advise all types of companies, organizations, workers, social agents, public administrations on behaviors or courses of action in labor and social security matters in all types of scenarios and environments, both national and international.

CE10

Negotiate contracts, agreements, plans and programs and give autonomous solutions to real conflicts in labor and social security matters, whatever their level of complexity.

CE11 Audit compliance with labor and social security regulations in all types of organizations.

CE12 Relate legal information with extralegal data in order to find solutions and formulate creative and original proposals for new problems in the field of labor relations and social security.

CE13 Synthesize the complex legal-labor information in order to provide interlocutors who are not legal professionals relevant information for decision making (financial, fiscal, human resources, operations, etc.).

CE14 To be updated in the face of the continuous normative and jurisprudential changes of the matter to give concrete answers to applicative problems produced by the modification of norms and judicial pronouncements.

## DESCRIPTION OF CONTENTS: PROGRAMME

### MEDIATION AND NEGOTIATION OF EMPLOYMENT DISPUTES

#### Unit 1. Techniques and skills in individual and collective negotiations (I): conflict

1. Concept, parts and origin.
2. Elements of the conflict
3. Types of labour disputes
4. The dynamics of the conflict
5. Means of settlement: judicial and extrajudicial or autonomous.
6. The importance of dispute resolution instruments in the field of labour

#### Unit 2. Techniques and skills in individual and collective negotiations (II): labour arbitration

1. Concept and types
2. Objectives and principles
3. General legal framework
4. The arbitrator
5. Effects of arbitration

#### Unit 3. Techniques and skills in individual and collective negotiations (III): Labour mediation

1. Concept of mediation
2. Objectives and principles of mediation
3. General legal framework for mediation
4. Scope of mediation
5. Labour mediation and qualified mediators

#### Unit 4. The practice of mediation

1. Areas of labour mediation
2. Techniques of mediation
3. Status of the mediator
4. Relationship with the parties
5. Effects of mediation

#### Unit 5. Institutional framework for the out-of-court settlement of labor disputes (I)

1. Out-of- court settlement of labour disputes and their instruments: legal framework and background.
2. Administrative and preliminary ruling system
3. Autonomous System at State level: Agreement on Autonomous Settlement of Labour Disputes ASAC and Interconfederal System of Mediation and Arbitration
4. Autonomous system at regional level
5. The Labour Authority and the Labour Inspectorate and their role in conflict resolution

#### Unit 6. Institutional framework for the out-of-court settlement of labor disputes (II)

1. Out-of-court settlement of labour disputes and collective autonomy: National Consultative Commission on Collective Agreements and Joint Commission
2. Settlement of private conflicts: collective bargaining, consultation period and mediation in individual conflicts

### LEARNING ACTIVITIES AND METHODOLOGY

#### TRAINING ACTIVITIES OF THE STUDY PLAN REFERRED TO MATTERS

- AF1 Theoretical class
- AF2 Practical classes
- AF3 Theoretical practical classes
- AF4 Laboratory practices
- AF5 Tutorials
- AF6 Group work
- AF7 Individual student work

#### METHODOLOGY

Lessons in class by the teacher with support of IT and audio-visual means.

Critical reading of texts recommended by the teacher

Press articles, reports, manuals and / or academic articles, either for later discussion in class, or to extend and consolidate the knowledge of the subject.

Resolution of practical cases, problems, etc. raised by the teacher either individually or in group.

Presentation and discussion in class, under the moderation of the teacher, of topics related to the content of the subject, as well as practical cases.

Essays and / or reports individually or in group.

### ASSESSMENT SYSTEM

<b>% end-of-term-examination/test:</b>	50
<b>% of continuous assessment (assignments, laboratory, practicals...):</b>	50

1. Continuous Assessment: cases, debates and papers.
2. Exam

In case of the extraordinary exam, the student must complete a theory exam and a practical exam. The completion of the practical exam will not be necessary if the student has passed the continuous assessment.

### BASIC BIBLIOGRAPHY

- DE LLANOS/ PONTI/ COSTA. Ampliando el pastel: tres casos sobre la dinámica de las negociaciones. , Granica, 2004
- MONGE RECALDE. Técnicas de Negociación Colectiva: el decálogo del buen negociador. , FC. , 2008
- MUNDUATE JACA. Psicosociología de las relaciones laborales. , PPU, Barcelona.
- MUNDUATE JACA/MARTÍNEZ RIQUELME. Conflicto y negociación., Eudema, Madrid.
- RODRIGUEZ ELORRIETA, N. La mediación y el arbitraje laboral, Atelier Libros, 2017
- STEVENS. Strategy and Collective Bargaining Negotiation. , McGraw Hill, New York.
- SÁNCHEZ TORRES. El deber de negociar y la buena fe en la negociación colectiva. , CES, Madrid..
- TORRES OLID, F. La resolución extrajudicial de los conflictos colectivos., Aranzadi, Cizur Menor., 2012
- VIANA LÓPEZ, C. Mediación Laboral, Dykinson, 2013
- WALTON/ McKERSIE. A Behavioral theory of labour negotiations., New York..

#### ADDITIONAL BIBLIOGRAPHY

- CRUZ VILLALÓN, J. El nuevo papel de la mediación y el arbitraje en los procesos de negociación colectiva., Relaciones Laborales, nº 2, 2011..
- LANTARÓN BARQUÍN, D. Novedades normativas y proyección de la reforma laboral de 2010 en el ámbito de la solución extrajudicial de conflictos., Revista General de Derecho del Trabajo y de la Seguridad Social, nº 24, 2011..
- MANRIQUE LÓPEZ, V.F. El arbitraje laboral en su actual configuración jurídica, Deusto, 2000
- ORDEÑANA GEZURAGA, I. Análisis crítico del arbitraje laboral y su entorno en el ordenamiento jurídico español , Civitas, 2009