

## Trade Union law

Academic Year: ( 2023 / 2024 )

Review date: 31-03-2023

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

Coordinating teacher: GARCIA SALAS, ANA ISABEL

Type: Compulsory ECTS Credits : 6.0

Year : 1 Semester : 2

Branch of knowledge: Social Sciences and Law

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

Introduction to Social Law

## OBJECTIVES

- The student will obtain theoretical and practical knowledge about the industrial relations.
- The student will end up understanding how important is this subject in connection with the other subjects in this Degree.
- The student will acquire several skills to find legislation, collective agreements, case law and bibliography.

## DESCRIPTION OF CONTENTS: PROGRAMME

Lesson 1. Collective autonomy and labour relationships system

1. Collective autonomy: concept and structural elements
2. The three-dimensional structure of the collective autonomy in the Spanish Constitution: The right to freedom of association; the right to collective bargaining; the right to strike and collective actions.

Lesson 2. The freedom of association

1. Freedom of association as a fundamental right
2. Subjective scope of the right to freedom of association.
3. The content of the right to freedom of association.
4. The right to freedom of association protection

Lesson 3. Legal regime of trade unions

1. Creation of a the trade union.
2. Internal functioning elements and financial support.
3. The trade union liability.

Lesson 4. The most representativeness

1. The most representative unions: general concept, selection criteria and preferential status
2. The most representative employers' organisations

Lesson 5. Workers' representation and collective action in the workplace

1. The 'dual channel' system of employee representation.
2. Employee-elected representatives: personnel delegate and works council.
3. The election of the employee representatives
4. Union representatives: union section and union delegate.
5. Functions, facilities and legal protection of the representatives.
6. The right of assembly in the workplace.

Lesson 6. The collective bargaining

1. Constitutional and legal recognition of the collective bargaining: meaning and scope
2. Subject scope and content of the right to the collective bargaining.

3. Types of collective agreements.
4. The choice of the bargaining unit. The collective bargaining structure and the coordination of different bargaining levels.
5. The collective agreement content.

Lesson 7. The general efficacy collective bargaining dynamic: negotiating, validity and administration of the collective agreement.

1. Bargaining agents: capacity and legitimacy.
2. The procedural requirements of the negotiation. The duty of negotiating.
3. Formalities and legality control: the challenging of a formal collective agreement.
4. The validity of the collective agreement.
5. The administration of the collective agreement.
6. Adherence and extension of the collective agreement.

Lesson 8. Collective disputes.

1. Concept and types of employment disputes. Constitutional regulation of the collective disputes.
2. The manifestation of collective disputes by workers and by employers.

Lesson 9. The strike.

1. Constitutional recognition of the right to strike: subjective scope and content.
2. The right to strike exercise.
3. The prohibition of replacing strikers by the employer.
4. Functional limitation to the right to strike: Security and maintenance services.
6. Types of strike. Illegal strikes and unfair strikes.
7. The strike effects.

Lesson 10. The strike in essential services.

1. Limits to the right of strike exercise in essential services: constitutional foundation.
2. The concept of essential services.
3. Determination of the minimum service.
4. The breach of the minimum service and its effects.

Lesson 11. The employer lockout.

1. The lockout: concept and conditions.
2. The lockout in Spain: constitutional doctrine.
3. Reasons for lockout.
4. Lockout procedure and effects.
5. Lockout and essential services.

Lesson 12. Alternative dispute solutions

1. Concept and types. External and autonomous solutions.
2. Non-judicial dispute resolutions: conciliation, mediation and arbitration.
3. Non-judicial dispute resolutions in the Spanish labour law. Particularly, the fifth Agreement on Independent Labour Dispute Resolution (ASAC V).

Lesson 13. Collective autonomy and Public Function.

1. The freedom of association and the right to strike of the public servants.
2. The public servants representation: organisation and functions.
3. The collective bargaining in the Public Function: bargaining agents; structure, content and negotiation procedure; types of agreements and effects.
4. The strike in de Public Function

## LEARNING ACTIVITIES AND METHODOLOGY

- Lectures.
- Readings on the various issues and sentences addressed in the program under study.
- Resolution of practical exercises individually, and discussion in class.
- Workshops in groups, in class under the supervisión of the teacher.

Office hours or videocinference: by appointment or during the hours established by the teacher at the beginning of the semester. The teacher can also assist the student by email.  
There will be at least a collective tutoring.

#### ASSESSMENT SYSTEM

- Continuous assessment (4 ECTS)
  - \* Resolving practical exercises
  - \* Participation in debates in class, and in practical sessions
  - \* Workshops
- Written final exam about basic questions (2 ECTS). Students must obtain 2 points over 5.

For those students who do not pass the continuous assessment, there will be a theoretical and practical exam in First (Ordinary), equals than 60% of final grade.

For those who do not pass the First (Ordinary) Session, there will be a theoretical and practical exam in Second (Extraordinary) Session, equals than 100% of final grade.

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

#### BASIC BIBLIOGRAPHY

- J.R. MERCADER UGUINA Lecciones de Derecho del Trabajo. , Valencia, Tirant lo Blanch, última edición..
- MERCADER UGUINA, J. R. (dir.); PUEBLA PINILLA, A. de la (coord.). Esquemas de Derecho del Trabajo II. Derecho Sindical , Tirant lo Blanch, 2020
- T. SALA FRANCO Derecho Sindical, , Tirant lo Blanch, Valencia, última edición..

#### ADDITIONAL BIBLIOGRAPHY

- A. BAYLOS GRAU (coord) Estudios sobre la huelga, Bomarzo, 2005
- DE SOTO RIOJA, S. Representación y libertad sindical, límites a la libertad sindical negativa, la mayor representación sindical y su necesaria revisión, Comisión Ejecutiva Confederal de UGT, 2015
- FERNÁNDEZ LÓPEZ, M.F. Representación y libertad sindical : la LOLS y la sección sindical en la pequeña y mediana empresa, Comisión Ejecutiva Confederal de UGT, 2013
- GARCÍA SALAS, ANA ISABEL El ejercicio abusivo de la huelga, Tirant Lo Blanch, 2018
- I.GARCIA-PERROTE / J. MERCADER UGUINA La reforma de la negociación colectiva, Lex Nova, 2011
- LAHERA FORTEZA, J. Manual de negociación colectiva, Tecnos, 2021
- LAHERA FORTEZA, J. La negociación colectiva tras la reforma laboral de 2021, Tirant lo Blanch, 2022
- NIETO ROJAS, P. Las representaciones de los trabajadores en la empresa, Lex Nova Thomson Reuters, 2015
- R. ESCUDERO RODRIGUEZ , La representatividad sindical en el modelo laboral español, , Tecnos, Madrid, 1990..
- TUDELA CAMBRONERO, . Las garantías de los representantes de los trabajadores en la empresa, , Tecnos, Madrid, 1991.
- VALDEOLIVAS GARCIA, Y. Antisindicalidad y relaciones de trabajo (un estudio de la conducta antisindical en la empresa). , Cívitas, 1993..

#### BASIC ELECTRONIC RESOURCES

- Mercader Uguina, J, Goerlich Peset, J.M y De la Puebla Pinilla, A. (Directores) . El foro de labos:  
<http://https://www.elforodelabos.es/#>