

Academic Year: ( 2023 / 2024 )

Review date: 28-04-2023

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

Coordinating teacher: NAVAS-PAREJO ALONSO, MARTA

Type: Compulsory ECTS Credits : 6.0

Year : 3 Semester : 2

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

Individual employment law.  
Collective labour law.

**OBJECTIVES**

That 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 defense of arguments and the resolution of problems within their area of study.

That students have the ability to gather and interpret relevant data (usually within their area of study) to make judgments that include a reflection on relevant issues of social, scientific or ethical nature.

That students can transmit information, ideas, problems and solutions to a specialized and non-specialized public.

That students have developed those learning skills necessary to undertake further studies with a high degree of autonomy.

Master the fundamental concepts of Law, Economics, Business Administration, Sociology and Psychology.

To know with some depth the legal framework of labor relations in Spain, in its substantive and adjective aspects.

Select, analyze and interpret the legal and conventional regulations, as well as the jurisprudence and judicial doctrine applicable to factual assumptions regarding labor and collective relations, in order to solve different problems in these areas.

Understand the deontological and social ethics implications involved in the different processes of negotiation, decision making and normative application.

Be able to work in multidisciplinary and / or international teams as well as to organize and plan the work taking the right decisions based on the available information, gathering and interpreting relevant data to make judgments and critical thinking within the study area.

Be able to correctly expose and write a topic or compose a speech following a logical order, providing accurate information and in accordance with established grammatical and lexical norms.

Be able to assess the reliability and quality of information and its sources using such information in an ethical manner, avoiding plagiarism, and in accordance with the academic and professional conventions of the study area.

Understand simple and complex legal problems linked to labor relations and employment, and offer precise solutions from the different perspectives of the different subjects involved

Drafting legal and economic-accounting documents with precision and clarity in which solutions are exposed based on problems related to the work factor in the company and its labor legal-administrative effects.

Advise the different agents involved in the legal-labor relations of the company to prevent and solve

potential or current conflicts.

Design, apply, evaluate processes, tools, plans, systems, etc. related to the organization of work and compliance with legal obligations with regard to individual and collective working conditions.

Knowing the organization, powers, faculties of legal-administrative procedures in labor and social protection matters, and knowing how to act as agent in representation of the different possible interests confronted.

Learn how to implement transversally in the processes of human resource management, and application of Social Law, the gender perspective, as well as the optimization of fundamental rights, and human rights, directly or indirectly linked to work.

Have acquired advanced knowledge and demonstrated an understanding of the theoretical and practical aspects and of the work methodology in the field of labor relations and employment management with a depth that reaches the forefront of knowledge

Be able, through arguments or procedures developed and supported by them, to apply their knowledge, understanding of these and their abilities to solve problems in the field of Labor Relations, Social Law and Human Resources management and employment, in complex professional and specialized areas, which require the use of creative and innovative ideas.

Have the ability to collect and interpret data and information on which to base their conclusions including, when necessary and relevant, reflection on social, scientific or ethical issues in the field of Labor Relations, Social Law and Management of Employment and Human Resources

Being able to cope with complex situations or requiring the development of new solutions in the academic, work or professional sphere within the scope of individual and collective labor relations, relations with the Labor and Social Security Administration, and the management of human resources, in its substantive and procedural aspects.

Know how to communicate clearly and accurately to all types of audiences (specialized or not), knowledge, methodologies, ideas, problems and solutions in the field of Labor Relations, Social Law and Employment Management and Human Resources.

Be able to identify their own training needs in the field of Labor Relations, Social Law and Employment Management and Human Resources, within the framework of their work or professional environment and to organize their own learning with a high degree of autonomy in all types of contexts (structured or not).

## DESCRIPTION OF CONTENTS: PROGRAMME

### Unit 1. Introductory framework

1. The sanctioning labor law: evolution and state interventionism.
2. Sanctioning sources:
  - 2.1. The Constitution
  - 2.2. The law
  - 2.3. The regulatory collaboration and collective autonomy.
3. Scope of action of the Autonomous Communities
4. The disciplinary power of the employer, foundation and sources.
5. Informative principles of the sanctioning right of work and the disciplinary power of the employer.

### Unit 2. The Labor and Social Security Inspectorate

1. The Labor and Social Security Inspectorate
  - 1.1. Origin and background.
  - 1.2. Performance of the Labor and Social Security Inspection.
  - 1.3. Organization and structure.
  - 1.4. Functions, faculties and competences.
2. The Labor Sub-inspectors. Competences and functions.

### Unit 3. Infractions and administrative sanctions in the social order (I)

1. Concept.
2. Responsible subjects.

3. Qualification and identification of infractions.
4. Criteria for graduation of sanctions.

#### Unit 4. Infractions and administrative sanctions in the social order (II)

1. Labor infractions
  - 1.1. Infringements on labor relations
  - 1.2. Infringements in matters of prevention of occupational risks
  - 1.3. Infractions in employment
  - 1.4. Infringements in matters of temporary employment agencies and user companies
  - 1.5. Infringements in matters of insertion companies
2. Infringements in matters of Social Security
3. Infractions regarding migratory movements and work of foreigners
4. Infringements in respect of cooperative societies
5. Infringements due to obstruction of the inspection work.
6. Sanctions.

#### Unit 5. The administrative sanctioning procedure in the social order

1. Applicable legislation.
2. Previous actions and phases of the procedure
3. Prescription of infractions and sanctions and expiration of the file.
4. Other procedures
5. Challenging sanctions in the courts

#### Unit 6. Criminal Law of Labor (I): crimes of illegal imposition of conditions of work and Social Security, of illegal Trafficking of labor and of fraudulent emigrations

1. Crimes against the rights of workers and other crimes related to Labor Law. Introductory questions.
2. The crimes of illegal taxation of working conditions and Social Security, illegal trafficking in labor and fraudulent emigration.
  - 2.1. Legal assets protected.
  - 2.2. Typical behaviors
  - 2.3. Active and passive subject.
  - 2.4. The sorrow.

#### Unit 7. Criminal Labor Law (II): Crimes against the right to strike, freedom of association and discrimination in employment

1. Protected legal assets.
2. Subjects.
3. Typical behaviors.
4. Subjective requirements.
5. The penalty

#### Unit 8. Criminal Law of Labor (III): Crimes against the Safety and Health of Workers

1. Types of crimes and protected legal good.
2. Subjects.
3. Typical behavior.
4. The penalty.

#### Unit 9. Criminal Law of Labor (IV): Offenses of fraud against Social Security and other crimes

1. Crimes against Social Security fraud
2. Other crimes

#### Unit 10. The disciplinary power of the employer

1. The exercise of disciplinary power in the company.
  - 1.1. Legal basis of the disciplinary power and collaboration of collective bargaining.
  - 1.2. The duty of obedience of the worker
  - 1.3. Limits to the disciplinary power of the employer: the worker's constitutional rights. The right of resistance of the worker.
  - 1.4. Punishable noncompliance.
  - 1.5. Graduation of faults and sanctions.
2. The disciplinary procedure.

- 2.1. Formal requirements: Notification.
- 2.2. Contradictory file and hearing of the representatives of the workers.

## LEARNING ACTIVITIES AND METHODOLOGY

- LECTURES. Topics are presented by the teacher. Some readings may be required by the teacher.
- ACTIVITIES. There will be different activities such as cases, workshops, tests, etc

The tutorships will be those determined by the professor.

## ASSESSMENT SYSTEM

**FINAL EXAM.** In which the knowledge, skills and abilities acquired throughout the course will be assessed globally. It is obligatory to take the final exam. 5 points.

**CONTINUOUS ASSESSMENT.** In it, work, presentations, debates, exercises, practices and work in the workshops throughout the course, etc. will be evaluated. 5 points.

In order to pass the subject, it is necessary to obtain 5 points out of 10 in the same. In addition, it is obligatory to take the final exam and obtain in the latter a minimum note of 2 points out of 5. This is applicable both in ordinary and extraordinary call.

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

For the extraordinary call, in case, the University regulation for this case will be applied.

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

## BASIC BIBLIOGRAPHY

- BURGUÉS PASCUAL, A. M. (Coord.), GARCÍA CRUZ, P. (Coord.) Derecho administrativo sancionador, Atelier, Última edición
- CARRERO DOMINGUEZ, C. EL REGIMEN JURIDICO SANCIONADOR EN MATERIA DE PREVENCIÓN DE RIESGOS LABORALES, La Ley, 2001
- FERNANDEZ LOPEZ El poder disciplinario en la empresa, Cívitas, 1991.
- FERNANDEZ SCALIUSI, M.A La reforma del procedimiento administrativo : la nueva Ley 39/2015, de 1 de octubre, del Procedimiento Administrativo Común de las Administraciones Públicas , REVISTA DE LA UNIVERSIDAD DE DEUSTO, 2015
- GARCIA MURCIA, J. Responsabilidades y sanciones en materia de seguridad y salud en el trabajo., Aranzadi, 2003
- MERCADER UGUINA, J.R. Lecciones de Derecho del Trabajo. , Tirant lo Blanch., Última edición.
- MERCADER UGUINA, J.R. Y TOLOSA TRIVIÑO, C. Derecho administrativo laboral, Tirant lo Blanch, 2004
- NAVAS-PAREJO ALONSO, M. La delegación de funciones en el contrato de trabajo. , Aranzadi - Thomson Reuters, 2020
- NAVAS-PAREJO ALONSO, MARTA OBLIGACIONES Y RESPONSABILIDADES DE LOS TRABAJADORES EN MATERIA DE SEGURIDAD Y SALUD LABORAL, Lex Nova, 2012
- VV. AA. (GARCÍA BLASCO, J. y MONEREO PÉREZ, J. L. Dres.) Comentario sistemático al Texto Refundido de la Ley de Infracciones y Sanciones en el Orden Social y normas concordantes, Comares, 2006

## ADDITIONAL BIBLIOGRAPHY

- KUTCHINS, A.; TWEEDY, K. No Two Ways about It: Employer Sanctions versus Labor Law Protections for Undocumented Workers, , 5 Berkeley J. Emp. & Lab. L. 339, 1983
- SÁNCHEZ-TERÁN HERNÁNDEZ, J. M. Los criterios de graduación de las sanciones administrativas en el orden social. , Lex Nova, 2007
- VEGA, M.L.; RBERT, R. Labour Inspection Sanctions: Law and practice of national labour inspection systems , Working Document Number 26, ILO., 2013

## BASIC ELECTRONIC RESOURCES

- . Ministerio de Trabajo y Economía Social: <http://www.mites.gob.es/>

