

Academic Year/course: 2022/23

28519 - Collective Labour Law

Syllabus Information

Academic Year: 2022/23

Subject: 28519 - Collective Labour Law

Faculty / School: 108 - Facultad de Ciencias Sociales y del Trabajo

Degree: 428 - Degree in Labour Relations and Human Resources

ECTS: 6.0

Year: 3

Semester: First semester

Subject Type: Compulsory

Module:

1. General information

2. Learning goals

3. Assessment (1st and 2nd call)

4. Methodology, learning tasks, syllabus and resources

4.1. Methodological overview

The methodology followed in this course is oriented towards the achievement of the learning objectives. A wide range of teaching and learning tasks are implemented, such as lectures and practice sessions.

The approach, methodology and evaluation of this guide is prepared to be the same in any teaching scenario. They will be adjusted to the socio-sanitary conditions of each moment, as well as to the indications given by the competent authorities.

4.2. Learning tasks

This course is organized as follows:

Lectures (30 hours). The most significant contents of each section will be presented in order to facilitate their understanding and study.

Practice sessions (30 hours). Search, analysis and writing of legal documents of the contents of the program. The methodology applied is based on resolution of cases.

Autonomous work and study (90 hours).

Readings of textbooks, doctrinal articles and reference books

Search and analysis of legislation and jurisprudence

Resolution of questionnaires and problems

Resolution of practical cases

4.3. Syllabus

This course will address the following topics:

UNIT 1. THE TRADE UNIONS IN SPAIN. I. THE TRADE UNIONS IN THE 1978 CONSTITUTION. II. THE PURPOSES OF THE TRADE UNION (AND OF THE EMPLOYERS). III. THE PRINCIPLE OF TRADE UNION FREEDOM. IV. ESSENTIAL

CONTENT AND ADDITIONAL CONTENT OF THE FUNDAMENTAL RIGHT TO FREEDOM OF TRADE UNION. V. INDIVIDUAL CONTENT OF THE FREEDOM OF TRADE UNION. VI. COLLECTIVE CONTENT OF TRADE UNION FREEDOM. VII. THE TRADE UNION LEGAL REGIME. 7.1. *Birth and constitution of the Trade Union*. 7.1.1. *Budgets*. 7.1.2. *The act of constitution*. 7.1.3. *The legal personality*. 7.1.4. *Statutes deposit*. 7.2. *Fusion and dissolution of the Trade Union*. 7.3. *Trade Union funding*. 7.4. *The responsibility of the trade unions*. VIII. THE TRADE UNION FREEDOM OF ENTREPRENEURS. IX. THE REPRESENTATIVENESS OF THE TRADE UNIONS. 9.1. *Criteria for selecting the most representative trade union*. 9.2. *Rights and powers granted to the most representative trade unions*. 9.3. *Irradiation and implantation*. X. THE REPRESENTATIVENESS OF THE ENTREPRENEURS. 10.1. *Selection criteria*. 10.2. *Rights and powers granted to the most representative business associations*. XI. PROTECTION OF TRADE UNION FREEDOM

UNIT 2. THE ORGANIZATION OF THE WORKERS IN THE COMPANY. I. UNITARY REPRESENTATION OF WORKERS IN THE COMPANY. 1.1. *Company committees and staff delegates*. 1.1.1. *Representative bodies*. 1.1.2. *Personality and action*. 1.1.3. *Composition*. 1.1.4. *Election and mandate*. 1.1.5. *Competencies*. 1.1.6. *Guarantees*. 1.1.7. *Electoral process*. II. THE REPRESENTATION OF OFFICIALS IN PUBLIC ADMINISTRATIONS. III. TRADE UNION REPRESENTATION. IV. REPRESENTATION IN MATTER OF PREVENTION OF OCCUPATIONAL RISKS. V. THE RIGHT OF ASSEMBLY. VI. IMPLICATION (INFORMATION, CONSULTATION AND PARTICIPATION) OF WORKERS IN COMMUNITY LAW, IN THE UE AND IN THE ET.

UNIT 3. COLLECTIVE AGREEMENTS IN SPANISH LAW I. THE CONSTITUTION AND THE RIGHT TO COLLECTIVE BARGAINING. II. THE 'NEW LABOR RELATIONS FRAMEWORK' AND COLLECTIVE BARGAINING. III. CONCEPT AND CHARACTERS. IV. AMBIT OF APPLICATION. THE PROBLEM OF THE NEGOTIATION UNITS AND THE LEGITIMATION TO NEGOTIATE. 4.1. *Ambit of application and bargaining units*. 4.2. *Legitimation*. V. PROCESSING PROCEDURE. 5.1. *Initiative*. 5.2. *Negotiating commission*. 5.3. *Deliberations, negotiations and adoption of agreements*. VI. CONTENT OF THE COLLECTIVE AGREEMENTS. 5.1. *Obligatory content*. *Labor peace*. 5.2. *Minimal content*. 5.3. *Normative content*. 5.3.1. *The 'matters' object of the agreement*. 5.3.2. *The limits to conventional content*. 5.3.3. *The non-application in the company of certain working conditions provided for in the collective agreement*. VII. ENTRY INTO FORCE AND DURATION. ULTRA-ACTIVITY OF THE COLLECTIVE AGREEMENT. 7.1. *The free determination by the parties of the date of entry into force and the duration of the collective agreement and possible retroactive effects*. 7.2. *Review and partial updating of the collective agreement during its validity*. 7.3. *The files or ways to disapply a collective agreement during its validity other than the 'unhang' of article 82.3 ET*. 7.4. *Complaint and extension of the collective agreement*. 7.5. *The ultra-activity of the collective agreement and the end of said ultra-activity*. 7.6. *The succession of collective agreements*. VII. VALIDITY AND PUBLICITY. 8.1. *The ex officio challenge*. 8.2. *Direct challenge by the 'private' legitimized (article 165 LRJS)*. 8.3. *Trial, sentence and its effects (article 166 LRJS)*. IX. THE CONCURRENCY OF AGREEMENTS. 9.1. *The organization of the structure and concurrence of collective agreements by the most representative trade union and business organizations*. 9.2. *The concurrence of collective agreements*. X. APPLICATION AND INTERPRETATION. 10.1. *General interpretation*. 10.2. *Ordinary interpretation*. 10.3. *Rules of interpretation*. 10.4. *The joint commission*. XI. ADHESION AND EXTENSION. XII. COLLECTIVE BARGAINING AND PARTICIPATION IN THE DETERMINATION OF WORKING CONDITIONS IN THE PUBLIC SERVICE. XIII. EUROPEAN COLLECTIVE BARGAINING.

UNIT 4. COLLECTIVE LABOR CONFLICTS. I. CONCEPT AND PURPOSE. II. CLASSIFICATION. III. INDIVIDUAL AND COLLECTIVE CONFLICTS. IV. LEGAL CONFLICT AND CONFLICT OF INTERESTS. V. THE LEGAL PROCEDURE FOR RESOLUTION OF COLLECTIVE CONFLICTS. 5.1. *Legal regime*. 5.1.1. *Formalization capacity*. 5.1.2. *Competent bodies*. 5.1.3. *Process*. VI. THE SPECIAL PROCESS OF COLLECTIVE CONFLICT. VII. THE MEDIATING FUNCTION OF THE LABOR INSPECTION. VII. THE AGREEMENTS ON EXTRAJUDICIAL SOLUTION OF LABOR DISPUTES (ASAC V). 8.1. *The ASAC. Mediation Procedure*. 8.2. *The ASAC. Arbitration Procedure*.

UNIT 5. THE RIGHT TO STRIKE I. NORMATIVE MODELS. II. INCUMBENTIP, CONTENT AND LIMITS. 2.1. *Incumbents*. 2.2. *Contents*. 2.3. *Limits*. III. THE LEGAL REGIME OF THE STRIKE IN OUR REGULATION. 3.1. *Recognition of the right to strike and legality requirements*. IV. STRIKE CLASSES. 4.1. *Due to the causes or reasons for the strike*. 4.2. *For strike behaviour*. 4.3. *For the legal significance of the strike*. V. EXERCISE OF THE RIGHT TO STRIKE. 5.1. *Declaration and notification of the strike*. 5.2. *Development of the strike*. 5.3. *Termination of the strike*. 5.4. *Effects of the strike*. 5.5. *The responsibility of the union in terms of illegal or abusive strikes declared by the union*. VI. THE EXERCISE OF THE RIGHT TO STRIKE IN THE ESSENTIAL SERVICES OF THE COMMUNITY. 6.1. *The constitutional renewal of article 10.2 of the RD-Law 17/1977, of March 4, on labor relations*. 6.2. *The concept of 'essential community services' and its determination*. 6.3. *The decision-making body: the government authority*. VII. THE PRECISE GUARANTEES TO ENSURE THE MAINTENANCE OF ESSENTIAL SERVICES. 7.1. *The establishment of minimum services*. 7.2. *The proportionality between the interests at stake*. 7.3. *The motivation of the measure*. 7.4. *Effects of non-compliance with minimum services on the legality of the strike and on non-compliant workers*. VII. BASIC GUIDELINES OF THE JUDGMENT OF THE CONSTITUTIONAL COURT OF APRIL 8, 1981.

UNIT 6. THE LOCKOUT. I. THE LOCKOUT IN THE CONSTITUTION. II. THE LOCKOUT IN RDL 17/1977. III. BASIC GUIDELINES OF THE JUDGMENT OF THE CONSTITUTIONAL COURT OF APRIL 8, 1981.

4.4. Course planning and calendar

The lectures and practical classes will be conducted in a coordinated manner.

Weeks 1 to 2: Didactic unit I

Weeks 3 to 10: Didactic unit II

Weeks 11 to 15: Didactic unit III

- Weeks 1, 2 y 3: Didactic unit 1
- Weeks 4 a 5: Didactic unit 2

- Weeks 6 a 9: Didactic unit 3
- Weeks 10: Didactic unit 4
- Weeks 11 a 14: Didactic unit 5
- Weeks 15: Didactic unit 6

According to academic calendar and programming by the Faculty