

**COURSE DATA****Data Subject**

<b>Code</b>	35860
<b>Name</b>	Labour and trade union law
<b>Cycle</b>	Grade
<b>ECTS Credits</b>	6.0
<b>Academic year</b>	2020 - 2021

**Study (s)**

<b>Degree</b>	<b>Center</b>	<b>Acad. year</b>	<b>Period</b>
1313 - Degree in Business Management and Administration	Faculty of Economics	3	Second term
1330 - Degree in Business Management and Administration (Ontinyent)	Faculty of Economics	3	First term

**Subject-matter**

<b>Degree</b>	<b>Subject-matter</b>	<b>Character</b>
1313 - Degree in Business Management and Administration	46 - Compulsory subjects in the pathway: human resources management	Optional
1330 - Degree in Business Management and Administration (Ontinyent)	24 - Materia Optatividad 3er curso	Optional

**Coordination**

<b>Name</b>	<b>Department</b>
LOPEZ BALAGUER, MERCEDES	76 - Labour and Social Security Law

**SUMMARY**

*Derecho del Trabajo y Sindical* (Employment and Labour Law) will provide the students with the specific knowledge required by the verification memoir of the Degree in Business Administration. According to this, the subject will help students to know the fundamental basis of labour legislation and will provide them with the knowledge necessary to solve problems applying labour rules.



Another aim of *Derecho del Trabajo y Sindical* is to make students aware of the existence of powers counterbalancing the employer's managerial prerogatives, both within and outside the enterprise. So that legal instruments of worker's representation and participation, collective bargaining and legal institutions for settling industrial disputes will fulfill the contents of this subject.

The subject will provide the students with the abilities needed for a proper development of the human resources management in the enterprises, within the legal framework. Nevertheless the aim is not to make the students experts in employment law but to make them achieve the basic knowledge allowing to understand the legal limits and context for applying personnel policies within the enterprises.

## PREVIOUS KNOWLEDGE

### Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

### Other requirements

La asignatura exige que el alumno se familiarice con la terminología jurídica básica, lo cual resulta siempre un reto, y un sobreesfuerzo necesario, en el aprendizaje del derecho del trabajo en el marco de titulaciones no jurídicas

## OUTCOMES

### 1313 - Degree in Business Management and Administration

- Demonstrate capacity for analysis and synthesis.
- Demonstrate oral and written communication skills in the native language.
- Be able to analyse and search for information from different sources.
- Be able to make decisions.
- Be able to negotiate and reconcile interests effectively.
- Be able to transmit and communicate complex ideas and approaches to both specialised and lay audiences.
- Be able to apply economic principles for the diagnosis and resolution of social problems such as immigration, discrimination and others that affect society and the market.
- Be able to work in a team.
- Have interpersonal skills.
- Have critical and self-critical capacity.
- Show commitment to ethics and social responsibility.



- Manage time effectively.
- Be able to learn autonomously.
- Be able to adapt to new situations.
- Show creativity.
- Show leadership and skills for mobilising the capacities of others.
- Have initiative and entrepreneurial spirit.
- Show motivation for quality.
- Be able to contribute positively to raising awareness of environmental and social issues and to overcoming all forms of discrimination, as essential factors for economic development and poverty alleviation.
- Be able to coordinate activities.
- Acquire interdisciplinary knowledge of the company and its social, economic, institutional and legal environment, and of the basic elements of the management process, such as organisation and administration, accounting, taxation, operations, human resources, marketing, financing and investment.
- Be able to understand and use the different quantitative and qualitative methods to reason analytically, evaluate results and predict economic and financial parameters.

## LEARNING OUTCOMES

According to the technical data sheet of the certificate of verification of the Degree, the subject Labour and Trade Union Law must be oriented to the acquisition from the student of the following learning results:

- Get to know and properly use the legal terminology in labour matters.
- Understand the basic concepts of Labour and Trade Union Law.
- Acquire a minimum skill in the application of labour and social security standards to be able to solve concrete problems.



- Ability to collect biography.
- Set clear, achievable, specific and measurable objectives.

## DESCRIPTION OF CONTENTS

### 1. Labour Law versus the Right to Employment. Flexicurity.

#### 1) PRODUCTIVE ACTIVITY AND LABOUR LAW: NEW REQUIREMENTS.

- 1.1 Origin and purpose of Labour Law.
- 1.2 Globalization and the challenges of Labour Law.

#### 2) FLEXICURITY IN THE EUROPEAN UNION.

- 2.1 Employment policy in the European Union.
- 2.2 The common principles of flexicurity.

### 2. System of sources of the Labour Legal Order

#### 1) CHARACTERISTICS OF THE SYSTEM OF LABOUR SOURCES.

#### 2) THE DIFFERENT SOURCES OF LABOUR LEGAL ORDER

- 2.1 International norms.
- 2.2 Community norms.
- 2.2 Constitution.
- 2.3 Laws.
- 2.4 Regulations.
- 2.5 Agreements.
- 2.6 Supplementary sources

### 3. Problems of application and interpretation of the labour norms.

#### Efficacy of Labour Law.

#### 1) RELATIONS BETWEEN THE SOURCES OF LABOUR LAW.

- 1.1 Different types of standards according to their imperative.
- 1.2 Concurrence of norms.
- 1.3 Succession of norms.

#### 2) INDIVIDUAL AUTONOMY AS A SOURCE OF LABOUR LAW.

#### 3) INTERPRETATION OF LABOUR RULES.

- 3.1 Criteria for interpreting the rules.
- 3.2 Criteria for interpretation of the courts: jurisprudence.

#### 4) EFFECTIVENESS OF LABOUR LAW.

- 4.1 Irrenunciability of rights.
- 4.2 Prescription and Expiration.



4.3 Labour Administration: The Labour Inspection and the LISOS.

4.4 The social jurisdictional order.

#### **4. Coverage of the labour needs of companies. The scope of application of Labour Law.**

1) LABOUR CONTRACTING. THE FIELD OF APPLICATION OF THE WORKERS STATUTE.

1.1 Definition of employment contracts: The scope of application of the Workers Statute.

1.2 The consequences derived from the employment contract.

2) RESORTING TO PRODUCTIVE EXTERNALIZATION. LABOUR CONSEQUENCES.

2.1 Existing Outsourcing Mechanisms: Contractors and Temporary Employment Companies.

2.2 Assumptions of illegal transfer of workers.

3) LABOUR COVERAGE THROUGH AUTONOMOUS WORKERS.

3.1 The protection of the self-employed worker.

3.2 Economically Dependent Self-Employed Workers.

3.3 The false self-employed.

#### **5. Representation of workers in the company.**

1) THE DOUBLE CHANNEL OF REPRESENTATION.

1.1 The unitary representation.

1.2 The Union representation. a) Freedom of association.

b) The Union and the greater representation c) The Union in the company.

2) SPECIALIZED REPRESENTATION IN RELATION TO LABOUR RISK PREVENTION MATTERS.

3) OTHER FORMS OF PARTICIPATION AND REPRESENTATION OF THE WORKERS IN THE COMPANY.

3.1 Assembly of workers.

3.2 The Social Responsibility of Companies or Corporate Social Responsibility.

#### **6. Collective bargaining and collective disputes.**

1) COLLECTIVE BARGAINING.

1.1 Statutory collective agreements.

1.2 Extra-statutory collective agreements.

1.3 The agreements and company agreements.

2) THE STRIKE.

3) THE PATRONAL CLOSURE.

4) SOLUTION OF COLLECTIVE CONFLICTS.

#### **7. 7. The income in the company. Input flexibility.**





1) THE COMPANYS INCOME.

- 1.1 Freedom of contract and its limits.
- 1.2 The form of the employment contract.
- 1.3 The trial period.

2) CONTRACTUAL MODALITIES.

- 2.1 Temporary contracts.
- 2.2 Indefinite contracts.
- 2.3 Part-time contracts.

**8. Determination and modification of working conditions. Internal flexibility.**

1) DETERMINATION OF LABOUR CONDITIONS.

- 1.1 Workplace.
- 1.2 Professional classification.
- 1.3 Salary.
- 1.4 Working time.

2) MODIFICATION OF LABOUR CONDITIONS.

- 1.1 Geographic mobility.
- 1.2 Functional mobility.
- 1.3 Substantial modification of working conditions.

**9. Termination of the employment contract. Output flexibility.**

1) EXTINCTION BY THE WORKER.

- 1.1 With cause
- 1.2 Without cause

2) EXTINCTION BY THE ENTREPRENEUR.

- 2.1 Disciplinary dismissal.
- 2.2 Objective dismissals.
- 2.3 Other causes of termination of the employment contract.
  - a) Disappearance of the worker.
  - b) Disappearance of the employer. Transmission of the company.
  - c) Mutual agreement.
  - d) Resolving condition. e) Final term.

**WORKLOAD**

ACTIVITY	Hours	% To be attended
Theory classes	30,00	100
Classroom practices	30,00	100
<b>TOTAL</b>	<b>60,00</b>	

**TEACHING METHODOLOGY**

Given the non-legal profile of the degree in which the subject is taught, it is essential to properly combine various teaching methodologies.

**Exhibition of theoretical contents through the master class.** After a previous work of reading and preparation of each of the topics by the students, the teacher will show and explain in a dynamic way those fundamental elements that should guide students in the study and understanding of the subject, using frequently practical assumptions, so that students are able to approach the problems and legal solutions that may arise in the daily life of companies. This way, the students will be familiarized with the legal language, the handling of legal and judicial texts, and the way in which personnel problems are solved in the labour legislation.

With the aim of exposing the contents of the subject, the involvement of the student is essential, since he/she must make an autonomous effort prior to reading and preparing the different sessions.

**Development of the knowledge acquired through the realization of practical classes.** Although the theoretical classes will include a practical component, it will be in the practices where the students, in cooperative work, will fully apply their knowledge on the subject, providing answers to somewhat more complex assumptions and trying to achieve in each of the sessions the previously defined knowledge and application objectives.

**Supervised autonomous work.** The work of the students must be supervised by the teacher. In an idyllic context, an individualized follow-up of the students' learning process would be perfectly feasible and



manageable, providing satisfaction to students and teachers. A context like the current one requires rationalizing efforts and activities.

The continuous evaluation of the student cannot be based on criteria of mere class attendance or delivery of tasks. The activities entrusted to the students must be supervised by the teacher, who must provide feedback to the student about their work, otherwise this will lead to a “bureaucratization” of the learning process. Given the increase in teaching dedication of teachers, which implies a considerable increase of students to attend; in view of the research requirements that are formulated for teachers; and with the perspective of a legal-labour context subjected to constant unexpected changes in regulations, which cause the need for constant updating of the teaching staff as well as their teaching materials, it is necessary to find a balance point between the supervision of the student activity and the other activities of the teaching staff.

In this context, the periodic collection of individual work from students is unfeasible, and group work does not solve the problem either.

Therefore, the option that seems most viable is that of autonomous work supervised through the virtual classroom forums. It is about launching questions, creating various forums, so that the students reflect and share their points of view – meditated on them and contributing ideas. The supervision of this activity by the teacher is fundamental, as collective supervision allows to rationalize the teacher’s teaching efforts without detriment to their effectiveness.

**Directed activities:** Both for the follow-up of the theoretical exposition and for the realization of the applied activities, the teacher will indicate the readings, case-law or cases, etc., the student will have to carry out.

Although it is not the object of work in the classroom, the teacher can also program, within the volume of work of the student, other activities that are useful to reinforce or review the knowledge acquired by the student.

**Independent study.** Obviously, the student must prepare autonomously and independently the course and the diverse sessions to it. The tutelage instruments of the students (tutorials, either face-to-face or through the virtual classroom) will be an indispensable complement for the achievement of the teaching objectives.

## EVALUATION

1<sup>st</sup> Call:





- Final written and / or oral test, consisting of an exam, which may be in the form of objective questions or development type question, including theoretical-practical issues and / or problems. It constitutes 70% of the grade. In these tests, the following will be considered as general evaluation criteria:
  - Adequacy of the answer to what is asked: concretion and precision.
  - Writing and Spelling.
  - Terminology and technical precision.
  - Coherence and internal logic of the basis of the answers.
- The continuous evaluation of each students is based on regular attendance and active participation in the proposed face-to-face activities, such as the practical implementation or participation in workshops, the resolution of questionnaires, the preparation and / or delivery of papers, report and / or oral presentations on such activities, individually or collectively, all taking into consideration the degree of involvement and effort of students in the teaching-learning process and the skills and attitudes shown during the development of them. It constitutes 30% of the grade.

In any case, for this 30% of the grade to be taken into consideration, students must have passed the final test.

#### 2<sup>nd</sup> Call:

It is considered that the activities of the continuous evaluation developed during the course have a recoverable nature. For these purposes, at the time of the final test of the 2<sup>nd</sup> call –either written or oral– or prior to its conclusion, the corresponding recovery activities will be proposed to the students.

## REFERENCES

### Basic

- AA.VV. Camps y Ramírez (coord.) Derecho del Trabajo. Valencia (Tirant lo Blanch), última edición
- Alonso Olea y Casas Baamonde: Derecho del Trabajo, Civitas, Madrid, última edición



### **Additional**

- Martín Valverde, Rodríguez-Sañudo y García Murcia: Derecho del Trabajo, Tecnos, Madrid., última edición
- Montoya Melgar: Derecho del Trabajo, Tecnos, Madrid. última edición
- Palomeque y Alvarez: Derecho del Trabajo, Ceura, Madrid. última edición
- Vida Soria, Monereo López y Molina Navarrete: Manual de Derecho del Trabajo. Comares, Granada. última edición
- Legislación laboral y de la Seguridad Social, a cargo de Galiana y Sempere. Ed. Aranzadi.
- Normas laborales básicas, a cargo de Blasco y Goerlich, Edit. Tirant Lo Blanch, Valencia.

## **ADDENDUM COVID-19**

**This addendum will only be activated if the health situation requires so and with the prior agreement of the Governing Council**

### **1. Contents**

The contents of the course are maintained, however, depending on its nature, it will be distributed among the different types of sessions in which hybrid or on-line teaching is organized.

### **2. Workload and time planning of teaching**

The different activities are maintained, with the hours of dedication in ECTS credits established in the original teaching guide. In the event that it is necessary to resort to hybrid or on-line teaching according to health imperatives, the sessions and activities programmed will be developed, as a general rule, on the dates and times established by the competent academic authority.

### **3. Teaching methodology**

If possible, in accordance with the criteria established by the health and academic authorities, teaching will be carried out in full in accordance with the provisions of the Guide.

If hybrid forms of teaching are required, master classes may be held in the modality of on-line distance teaching, preferably by means of synchronous video conferencing. If the computer tools allow it, the corresponding sessions may be held in the presence of part of the students and with streaming access for the rest.

Physical attendance times of the students, according to the criteria established by the academic authority, will be dedicated to applied activities and collective tutoring. Depending on availability, streaming access will also be allowed for the rest of the students.

If throughout the course the health situation requires all the teaching to be online, depending on the characteristics of the subject, the computer availability of the members of each group and the effective functioning of the computer tools, the master classes must be carried out preferably by means of synchronous BBC videoconferences. If this is not possible, they may be replaced by uploading materials in the Virtual Classroom (VC), or voice-over transparencies. For the applied activities, which will be



uploaded through the VC, interaction between teachers and students will be guaranteed, through BBC video conferences or the use of forums or chats within the VC.

In any case, apart from the personalized attention through the VC tool or e-mail, a collective tutoring system will be established, through BBC sessions or chats or forums within the VC.

#### **4. Evaluation**

The criteria set out in the teaching guide are fully maintained, both with regard to the weighting between continuous assessment and the final test, and the minimum requirements for scoring on both. The possibility of obtaining the mark for the entire continuous assessment is guaranteed in the event that the student cannot attend the activities in person due to health requirements.

The final test will be held in accordance with the provisions of the teaching guide. In the event that, at some point, due to health imperatives, the face-to-face evaluation is not possible, an objective test composed of multiple-choice theoretical and practical questions with the discount for errors, an essay question format test or an oral examination will be carried out remotely, using the computer tools available.

#### **5. Bibliography**

The existing bibliography is maintained in the teaching guide. If the health situation implies the closure of the libraries, support material will be provided through the virtual classroom.

##### **1. Contents**

The contents of the course are maintained, however, depending on its nature, it will be distributed among the different types of sessions in which hybrid or on-line teaching is organized.

##### **2. Workload and time planning of teaching**

The different activities are maintained, with the hours of dedication in ECTS credits established in the original teaching guide. In the event that it is necessary to resort to hybrid or on-line teaching according to health imperatives, the sessions and activities programmed will be developed, as a general rule, on the dates and times established by the competent academic authority.

##### **3. Teaching methodology**

If possible, in accordance with the criteria established by the health and academic authorities, teaching will be carried out in full in accordance with the provisions of the Guide.

If hybrid forms of teaching are required, master classes may be held in the modality of on-line distance teaching, preferably by means of synchronous video conferencing. If the computer tools allow it, the corresponding sessions may be held in the presence of part of the students and with streaming access for the rest.

Physical attendance times of the students, according to the criteria established by the academic authority, will be dedicated to applied activities and collective tutoring. Depending on availability, streaming access will also be allowed for the rest of the students.



If throughout the course the health situation requires all the teaching to be online, depending on the characteristics of the subject, the computer availability of the members of each group and the effective functioning of the computer tools, the master classes must be carried out preferably by means of synchronous BBC videoconferences. If this is not possible, they may be replaced by uploading materials in the Virtual Classroom (VC), or voice-over transparencies. For the applied activities, which will be uploaded through the VC, interaction between teachers and students will be guaranteed, through BBC video conferences or the use of forums or chats within the VC.

In any case, apart from the personalized attention through the VC tool or e-mail, a collective tutoring system will be established, through BBC sessions or chats or forums within the VC.

#### **4. Evaluation**

The criteria set out in the teaching guide are fully maintained, both with regard to the weighting between continuous assessment and the final test, and the minimum requirements for scoring on both. The possibility of obtaining the mark for the entire continuous assessment is guaranteed in the event that the student cannot attend the activities in person due to health requirements.

The final test will be held in accordance with the provisions of the teaching guide. In the event that, at some point, due to health imperatives, the face-to-face evaluation is not possible, an objective test composed of multiple-choice theoretical and practical questions with the discount for errors, an essay question format test or an oral examination will be carried out remotely, using the computer tools available.

#### **5. Bibliography**

The existing bibliography is maintained in the teaching guide. If the health situation implies the closure of the libraries, support material will be provided through the virtual classroom.