



## FICHA TÉCNICA DE LA ASIGNATURA

Datos de la asignatura	
Nombre completo	Derecho laboral y social comunitario / EU Labor Law
Título	<a href="#">Máster Universitario en Derecho Internacional y Europeo de los Negocios (International and European Business Law) por la Universidad Pontificia Comillas</a>
Impartido en	Máster Universitario en Derecho Internacional y Europeo de los Negocios [Primer Curso]
Nivel	Postgrado Oficial Master
Créditos	0 ECTS

Datos del profesorado	
<b>Profesor</b>	
Nombre	Carlos Saldaña Quero
Departamento / Área	Departamento de Derecho Económico y Social
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<b>Profesor</b>	
Nombre	María Dolores Carrascosa Bermejo
Departamento / Área	Departamento de Derecho Económico y Social
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## DATOS ESPECÍFICOS DE LA ASIGNATURA

Contextualización de la asignatura
<b>Aportación al perfil profesional de la titulación</b>
Raising awareness about the practical implications of the employment/labor legislation in the day-to-day operations of local and international companies.
<b>Prerequisitos</b>
Basic legal background and basic understanding of general concepts of employment/labor law.

Competencias - Objetivos	
<b>Competencias</b>	
<b>GENERALES</b>	
CG01	Capacidad de análisis y síntesis
CG03	Capacidad de gestión de la información
CG06	Capacidad de trabajo en equipo



<b>CG07</b>	Capacidad de trabajo en un contexto internacional
<b>CG08</b>	Capacidad de razonamiento crítico
<b>CG10</b>	Capacidad de desarrollo de un aprendizaje autónomo
<b>CG11</b>	Motivación por la calidad
<b>CG12</b>	Capacidad de aplicar los conocimientos teóricos a la práctica
<b>ESPECÍFICAS</b>	
<b>CE02</b>	Dominar los principales tratados internacionales con relevancia en el ámbito del tráfico económico internacional, distinguiendo los instrumentos vinculantes de las simples recomendaciones o instrumentos meramente interpretativos u orientadores (soft law)
<b>CE04</b>	Dominar las principales normas de derecho comunitario y de derecho internacional con relevancia para el desarrollo de negocios internacionales
<b>CE05</b>	Ser capaz de diseñar estrategias de reestructuración de grupos de sociedades y/o de las actividades intra-grupo y de mercado para maximizar las ventajas del marco legal
<b>CE06</b>	Identificar de manera precisa los riesgos contingentes derivados de las normas relevantes y establecer adecuadamente medidas de evitación o minimización

## BLOQUES TEMÁTICOS Y CONTENIDOS

### Contenidos – Bloques Temáticos

#### AREA 1: EU Labor Law

##### Theme 1: Equality law and no-discrimination

1. Introduction to EC law and policies on equality
2. No-discrimination based on prohibited grounds
3. EC regulations on ethnic and racial discrimination / equal opportunities between men and women
4. Analysis of recent court decisions and in-class debate

##### Theme 2: Employees' work conditions

1. Introduction
2. Freedom of movement and posted workers regulations
3. Temporary agency workers
4. Analysis of recent court decisions and in-class debate

##### Theme 3: Employees' rights on restructuring enterprises

1. Introduction
2. Protection of employees' rights in case of transfers of undertakings

3. Collective redundancies and employees' rights in case of insolvency
4. Analysis of recent court decisions and in-class debate

#### Theme 4: Workers' involvement in decision-making processes

1. Introduction
2. Information, consultation and participation rights
3. European works councils and European companies regulations
4. Analysis of recent court decisions and in-class debate

## BIBLIOGRAFÍA Y RECURSOS

### Bibliografía Básica

#### Text books

BARNARD, Catherine (2006): EC Employment Law, Oxford EC Law Library, Third Edition

#### Websites

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en>

#### Notes

The course will include the analysis of a minimum of 8 recent court decisions on the following topics, which will be subject of in-class debate: a) Equality and no discrimination rights; b) Employees' work conditions; c) Types of employment contracts; d) Collective redundancies and transfer of undertakings; e) Employees' information, consultation and participation rights. The specific court decisions to be analyzed during each session will be circulated to the students prior to the session.

#### Other material

Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation

Directive 2000/43/EC on the principle of equal treatment irrespective of ethnic or racial origin

Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation

Directive 96/34/EC parental leave directive

Directive 96/71 on posted workers within the framework of a rendering of services

Directive 2008/104/EC on temporary agency workers

Directive 99/70/EC fixed-term work directive

Directive 97/81/EC part-time work directive

Directive 2001/23/EC on the safeguarding of employees' rights in case of transfers of undertakings

Directive 2008/94/EC on the protection of employees in case of insolvency

Directive 98/59/EC on collective redundancies

Directive 2009/38/EC on European Works Councils and employees' information and consultation rights in companies of European dimension

Directive 2002/14/EC on information and consultation rights in the EC

## METODOLOGÍA DOCENTE



# COMILLAS

UNIVERSIDAD PONTIFICIA

ICAI

ICADE

CIHS

GUÍA DOCENTE

2021 - 2022

## Aspectos metodológicos generales de la asignatura

### RESUMEN HORAS DE TRABAJO DEL ALUMNO

HORAS PRESENCIALES
HORAS NO PRESENCIALES
CRÉDITOS ECTS: 0 (0 horas)

### EVALUACIÓN Y CRITERIOS DE CALIFICACIÓN

En cumplimiento de la normativa vigente en materia de **protección de datos de carácter personal**, le informamos y recordamos que puede consultar los aspectos relativos a privacidad y protección de datos que ha aceptado en su matrícula entrando en esta web y pulsando "descargar"

<https://servicios.upcomillas.es/sedelectronica/inicio.aspx?csv=02E4557CAA66F4A81663AD10CED66792>

## SUBJECT DETAILS

Data on the subject	
Full Name	EU Labor Law
Code	E000001226
Degree	Postgraduate in Master in International and European Business Law
Year	2021-22
Nature	Spring
ECTS Credits	2
Department	Law
Area	Law
Teaching staff	Dolores Carrascosa Bermejo, and Carlos Saldaña

Data on the teaching staff	
<b>Teacher</b>	
Name	Dolores Carrascosa Bermejo
Department / Area	Economic and Social Law
e-mail	<a href="mailto:mdcarrascosa@comillas.edu">mdcarrascosa@comillas.edu</a>
Telephone	
Tutoring Schedule	Upon request from students

Data on the teaching staff	
<b>Teacher</b>	
Name	Carlos Saldaña Quero
Department / Area	Economic and Social Law
e-mail	<a href="mailto:csaldana@comillas.edu">csaldana@comillas.edu</a>
Telephone	
Tutoring Schedule	Upon request from students

## SPECIFIC DATA ON THE SUBJECT

Framework of the subject
<b>Pre-requisites</b>

Basic legal background and basic understanding of general concepts of employment/labor law.

### Contribution of the degree to the professional profile

Raising awareness about the practical implications of the EU employment/labour legislation in the day-to-day operations of local and international companies.

## Competences – Goals

### Competences to be developed

#### Generic Compétences

- GC 1: Analysis and synthesis abilities
- GC 3: Ability to manage information
- GC 7: Ability to work in an international context
- GC 8: Critical appraisal skills
- GC 10: Ability to develop autonomous learning skills
- GC 11: Concern for quality
- GC 12: Ability to apply theoretical knowledge into practice

#### Specific Compétences

- SC 4 Mastering the main rules of EU law and international law that are relevant to international business development

## COURSE SYLLABUS AND CONTENT

### Content

#### Area 1. EU Labor Law

##### Theme 1. EU anti-discrimination Law

- 1.1 Introduction to EU anti-discrimination Law and equal treatment: main legal sources
- 1.2 The protected grounds in the scope of EU anti-discrimination provisions regarding labour and social security Law. Exceptions..
- 1.3 Key concepts of EU anti-discrimination law: direct discrimination, indirect discrimination, discrimination by association, positive action, harassment and victimisation
- 1.4 Enforcement of rights according to EU non-discrimination Directives: remedies and sanctions and the burden of proof
- 1.5 Analysis of recent CJEU case-law and in-class debate

## Theme 2. Labour Mobility: Free Movement of Workers and Social Security Coordination. Posting

2.1 Introduction

2.2 Free movement of Workers

2.3 Social Security Coordination Regulations. Posted workers in a Social Security perspective

2.4. Posted workers: labour law perspective

2.5 Analysis of t CJEU case-law and in-class debate

## Theme 3. Working conditions

3.1. Introduction

3.2. Fixed term & part term contracts.

3.3. Temporary work agencies.

3.4. Heath & safety

3.5. Working time

3.6. Analysis or CJEU case-law and in-class debate.

## Theme 4. Employees' rights on restructuring enterprises

4.1 Introduction

4.2 Protection of employees' rights in case of transfers of undertakings

4.3 Collective redundancies and employees' rights in case of insolvency

4.4 Analysis of CJEU case-law and in-class debate

## Theme 5. Workers' involvement in decision-making processes

5.1 Introduction

5.2 Information, consultation and participation rights

5.3 European works councils and European companies regulations

5.4 Analysis of CJEU case-law and in-class debate

## TEACHING METHODOLOGY

<b>General methodology of the subject</b>
<b>Contact hours methodology: Activities</b>
Participative, active class. Students are expected to be fully engaged and involved in the discussion and CJUE case-law analysis.
<b>Outside class methodology: Activities</b>
Students are expected to come to class with some presentations of CJUE prepared.

## SUMMARY OF STUDENT WORK HOURS

NUMBER OF CONTACT HOURS			
Lecture	Practical Class	Debate	Evaluation : exam
8	5	5	2
NUMBER OF INDEPENDENT WORK HOURS			
Lecture	Practical Class	Exam	Evaluation : exam
6	12	12	
<b>ECTS CREDITS: 2 (50,00 hours)</b>			

## GRADE EVALUATION AND CRITERIA

Evaluation Activities	Indicators	Evaluation weighting
Class Presentation and participation	Coherent oral expression, correct use of the sources of knowledge to construe a presentation and an argument, correct answer to questions posed by the professors or fellow students, active class participation: - Class presentation (30%). - Class participation (10%)	40 %
Evaluation: exam (final)	Correct answers to the questions formulated by the professors	50%
Attendance	Regular attendance to classes – control by signature of a daily sheet	10%



## BIBLIOGRAPHY AND RESOURCES

### Basic Bibliography and Resources

#### TEXT BOOKS

- BARNARD, Catherine EC Employment Law, Oxford EC Law Library, Last Edition.
- ELLIS, Evelyn Ellis, WATSON, Philippa. EU Anti-Discrimination Law. Oxford EU Law Library. Last Edition.
- WATSON, Philippa: EU social and employment law, Oxford University Press Last edition
- SCHLACHTER, Monika: EU Labour Law: a commentary, Kluwer Law International. Last edition.
- FUCHS and CORNELISSEN: EU Social Security Law. C.H. Beck, Hart and Nomos Last edition.
- FREDERIC DE WISPELAERE, F. & PACOLET, J. "Posting of workers: the impact of social security coordination and income taxation law on welfare States" [https://hiva.kuleuven.be/nl/backupoud/docs/working-papers/HIVA\\_WP2015\\_01.pdf](https://hiva.kuleuven.be/nl/backupoud/docs/working-papers/HIVA_WP2015_01.pdf)
- MASLAUSKAITE, K. "Posted workers in the EU: state of play and regulatory evolution" <http://www.institutdelors.eu/wp-content/uploads/2018/01/postedworkers-maslauskaite-ne-jdi-mar14.pdf?pdf=ok>
- TRZECIAKOWSKI, R. "Restrictions on the Posting of Workers: Protectionism against the Poorer Member States" <http://4liberty.eu/restrictions-on-the-posting-of-workers-protectionism-against-the-poorer-member-states/>
- CARRASCOSA BERMEJO, D. "Cross-border healthcare in the EU: Interaction between Directive 2011/24/EU and EU Regulations on social security coordination. ERA Forum (2014)15. 359-380 p. DOI 10.1007/s12027-014-0358-8

#### WEBSITES

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en>

Network of legal experts (MoveS: Free Movement of Workers and Social Security Coordination). <http://ec.europa.eu/social/main.jsp?langId=en&catId=1098>

#### NOTES

The course will include the analysis of recent CJEU case-law on the following topics, which will be subject of in-class debate:

- a) Equality and no discrimination rights
- b) Free movement of workers
- c) Social Security coordination
- d) Intra EU Posting
- e) Employees' work conditions
- f) Types of employment contracts
- g) Collective redundancies and transfer of undertakings
- h) Employees' information, consultation and participation rights.

The specific CJEU Judgements to be analysed and presented during each session will be circulated to the students prior to the session.

#### OTHER MATERIAL

- Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation
- Directive 2000/43/EC on the principle of equal treatment irrespective of ethnic or racial origin
- Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation Directive 2010/18/UE parental leave directive
- Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States
- Regulation EU/492/2011 on freedom of movement for workers within the Union
- Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers
- Directive 96/71 on posted workers within the framework of a rendering of services
- Directive 2014/67/EU (on the enforcement of Directive 96/71/EC) concerning the posting of workers in the framework of the provision of services
- Directive 2018/957/EU amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services
- Directive 2008/104/EC on temporary agency workers
- Directive 99/70/EC fixed-term work directive
- Directive 97/81/EC part-time work directive
- Directive 2001/23/EC on the safeguarding of employees' rights in case of transfers of undertakings
- Directive 2008/94/EC on the protection of employees in case of insolvency
- Directive 98/59/EC on collective redundancies
- Directive 2009/38/EC on European Works Councils and employees' information and consultation rights in companies of European dimension
- Directive 2002/14/EC on information and consultation rights in the EC
- Regulation EC/883/2004 and Regulation EC/987/2009 Social Security EU Coordination
- Administrative Commission for the Coordination of Social Security Systems Decision N° A2 concerning the interpretation of Article 12 of Regulation (EC) No 883/2004. Legislation applicable to posted workers and self-employed workers temporarily working outside the competent State. 12<sup>th</sup>-6-2009 (determination of the applicable legislation). (2010/C 106/02). DOUE 24-4-10
- Administrative Commission for the Coordination of Social Security Systems. Recommendation N° A1. concerning the issuance of the attestation. (2018/C 183/06). DOUE 29-5-18