

## SUBJECT DETAILS

Data on the subject	
Full Name	EU Labor Law
Code	E000001226
Degree	Postgraduate in Master in International and European Business Law
Year	2024-25
Nature	Spring
ECTS Credits	2
Department	Law
Area	Law
Teaching staff	Dolores Carrascosa 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
<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

<b>Framework of the Subject</b>
<b>Pre-requisites</b>
Basic legal background and basic understanding of general concepts of employment/labour law.
<b>Contribution of the degree to the professional profile</b>
Raising awareness about the practical implications of the EU employment/labour legislation in the day-to-day operations of local and international companies.
<b>Competences – Goals</b>
<b>Competences to be developed</b>
<b>Generic Compétences</b>
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
<b>Specific Compétences</b>
SC 4 Mastering the main rules of EU law and international law that are relevant to international business development.

## COURSE SYLLABUS AND CONTENT

<b>Content</b>
<b>Area 1. EU Labor Law</b>

### Theme 1. Working conditions (Prof Saldaña)

1. Introduction
2. Fixed term & part term contracts.
3. Temporary work agencies.
4. Health & safety
5. Working time
6. Analysis of CJEU case-law and in-class debate.

### Theme 2. Employees' rights on restructuring enterprises (Prof. Saldaña)

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 CJEU case-law and in-class debate

### Theme 3. Workers' involvement in decision-making processes (Prof. Saldaña)

1. Introduction
2. Information, consultation and participation rights
3. European works councils and European companies' regulations
4. Analysis of CJEU case-law and in-class debate

### Theme 4. EU anti-discrimination Law (Prof Carrascosa)

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

### Theme 5. Labour Mobility: Free Movement of Workers and Social Security Coordination. Posting. (Prof Carrascosa)

1. Introduction to intra-EU mobility (situation after Brexit)
2. Free movement of workers and their families and jobseekers.
3. Social Security Coordination Regulations. Posted workers in a Social Security perspective.
4. Posted workers: labour law perspective.
5. International telework and national applicable legislation (employment conditions and social security)
6. Analysis of CJEU case-law and in-class debate

## TEACHING METHODOLOGY

### General methodology of the subject

#### Contact hours methodology: Activities

Participative, active class. Students are expected to be fully engaged and involved in the discussion and in CJUE case-law analysis.

#### Outside class methodology: Activities

Students are expected to come to class with some analysis 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
Work in class and participation	Coherent written and oral expression, correct use of the sources of knowledge to construct a critical analysis and an argument, correct response to questions posed from professors or peers, active class participation:  - Individual written analysis of CJEU case-law and brief class explanatio (35%). - Class participation (5%)	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

### TEXT BOOKS

- BARNARD, Catherine EC Employment Law, Oxford EC Law Library, Last Edition.
- ELLIS, Evelyn, 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.  
<https://doi.org/10.1007/s12027-014-0358-8>
- CARRASCOSA BERMEJO, D. Key Ideas on Mobility and Social Security after Brexit. ERA Forum 22, 387-406 (2021). <https://doi.org/10.1007/s12027-021-00685-3>
- CARRASCOSA BERMEJO, D., Molina Millán, J. The binding nature of posting PDA1 issued under EU social security Coordination Regulations and the possible role of national courts. ERA Forum 24, 69-103 (2023). <https://doi.org/10.1007/s12027-023-00749-6>
- VERSCHUEREN, H. The Application of the Conflict Rules of the European Social Security Coordination to Telework During and After the COVID-19 Pandemic. European Journal of Social Security 2022, Vol. 24(2) 79-94 DOI: 10.1177/13882627221107042
- DE PAUW, B. and VERSCHUEREN, H. "The Framework Agreement on the applicable social security law in case of habitual cross-border telework after the pandemic ERA Forum  
<https://doi.org/10.1007/s12027-023-00766-5>

### 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

## Basic Bibliography and Resources

### TEXT BOOKS

- BARNARD, Catherine EC Employment Law, Oxford EC Law Library, Last Edition.
- ELLIS, Evelyn, 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"  
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- 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.  
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- CARRASCOSA BERMEJO, D. Key Ideas on Mobility and Social Security after Brexit. ERA Forum 22, 387-406 (2021). <https://doi.org/10.1007/s12027-021-00685-3>
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- VERSCHUEREN, H. The Application of the Conflict Rules of the European Social Security Coordination to Telework During and After the COVID-19 Pandemic. European Journal of Social Security 2022, Vol. 24(2) 79-94 DOI: 10.1177/13882627221107042
- DE PAUW, B. and VERSCHUEREN, H. "The Framework Agreement on the applicable social security law in case of habitual cross-border telework after the pandemic ERA Forum  
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<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:

- f) Equality and no discrimination rights
- g) Free movement of workers
- h) Social Security coordination
- i) Intra EU Posting
- j) Employees' work conditions

k) Types of employment contracts

l) Collective redundancies and transfer of undertakings

m) Employees' information, consultation and participation rights.

The specific CJEU Judgements to be analysed 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 concerning the posting of workers in the framework of the provision of services amended by Directive 2018/957/EU
- 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 2008/104/EC on temporary agency workers.
- Directive 99/70/EC on fixed-term work.
- Directive 97/81/EC on part-time work.
- 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 on 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
- International telework Guidance notes of the Administrative Commission:  
Pandemic telework: <https://ec.europa.eu/social/BlobServlet?docId=26238&langId=en>  
Post-pandemic telework: <https://ec.europa.eu/social/BlobServlet?docId=25818&langId=en>  
Current guidance: <https://ec.europa.eu/social/BlobServlet?docId=26977&langId=en>