

Judicial and Extrajudicial Management of Labor Conflicts

Code: 100495
ECTS Credits: 6

Degree	Type	Year	Semester
2500258 Labour Relations	OB	3	2

The proposed teaching and assessment methodology that appear in the guide may be subject to changes as a result of the restrictions to face-to-face class attendance imposed by the health authorities.

Contact

Name: Nuria Reynal Querol
Email: Nuria.Reynal@uab.cat

Use of Languages

Principal working language: catalan (cat)
Some groups entirely in English: No
Some groups entirely in Catalan: Yes
Some groups entirely in Spanish: Yes

Teachers

Laura Rodriguez Murciano

Prerequisites

To carry out a correct follow-up of this subject it is necessary to have previously passed the subjects "Labor Law I", "Labor Law II", "Labor Law III" and "Trade Union Law", since all of them offer basic training in relation to the legal framework of labor relations without which the issues that are dealt with in "Judicial and extrajudicial management of the labor conflict" can not be understood or analyzed properly.

Group 1: Laura Rodríguez and Núria Reynal (catalan)

Group 51: Laura Rodriguez and Núria Reynal (catalan)

Objectives and Contextualisation

The main objective of this subject is the knowledge and understanding of the different means of resolving the labor conflict, both in its jurisdictional and out of court.

Competences

- Applying the information and communication technologies to the different areas of action.
- Clearly expressing ideas or facts in a compelling way.
- Drawing up and formalising reports and documents.
- Preparing, drawing up and formalising the general written documents in administrative and judicial processes.
- Students must be capable of persuading others to agree with their point of view.
- Technically representing the people or entities of the administrative, fiscal, and procedural fields, and also of defence in labour courts.
- Verbally communicating and defending a project.

- Working effectively in teams.

Learning Outcomes

1. Applying the information and communication technologies to the different areas of action.
2. Assessing the benefits of the extrajudicial systems of conflict solution in the procedural practice.
3. Clearly expressing ideas or facts in a compelling way.
4. Describing regular processes and special processes.
5. Drawing up and formalising reports and documents.
6. Knowing the techniques of the procedural methods to the different jurisdictions.
7. Students must be capable of persuading others to agree with their point of view.
8. Understanding the meaning and proceedings of every formality and the means of challenge of every assumption.
9. Understanding the opportunity in the means of appeal and enforcement of judicial resolutions of labour courts.
10. Verbally communicating and defending a project.
11. Working effectively in teams.

Content

FIRST PART: INTRODUCTION TO PROCESSAL LAW

SUBJECT 1. RIGHT AND PROCESS. THE PROCESS AS A CONTROL MECHANISM OF RESOLUTION

1. The autotutela
2. The self-contained means of conflict resolution
3. Heterocompositive systems for conflict resolution

UNIT 2. ACTION

1. The action as an expression of the procedural activity of the parties
2. The procedural discipline of the party
 - a) The ability to be a part
 - b) The procedural capacity
 - c) The legitimation
 - d) The procedural application

ITEM 3. THE JURISDICTION

1. Jurisdiction as an expression of the judge's procedural activity
2. The independence of the Judicial Power
3. Exclusivity of the exercise of the jurisdictional function
4. The unit of jurisdiction
5. Organizational criteria for the Courts of Justice

SUBJECT 4. THE PROCESS

1. The trial judgment

- a) The factor time in the process
- b) General structure of the process

2. The procedure

3. The judicial trial. The thing judged

ITEM 5. THE CONSTITUTIONAL GUARANTEES OF THE PROCESS

- 1. The formulation of the constitutional guarantees of the process
- 2. The guardianship of the constitutional guarantees of the process

SECOND PART: LABOR PROCESSAL LAW AND EXTRAJUDICIAL WORKING CONFLICT SOLUTION MEANS

SUBJECT 6. JURISDICTIONAL SOCIAL ORDER: GENERAL ASPECTS

- 1. The material scope of the social jurisdictional order
- 2. The organs of the social jurisdiction and its functional and territorial scope
- 3. The work process
 - a) Informative principles
 - b) Parts
 - c) Procedural acts

SUBJECT 7. THE ORDINARY LABOR PROCESS

- 1. The pre-trial phase: administrative conciliation and prior administrative claim
- 2. Start, development and conclusion of the ordinary process

ITEM 8. PROCESSAL MODALITIES

- 1. Processes related to the individual work relationship: sanctions, vacations, professional classification, geographical mobility and substantial modification of working conditions
- 2. Disposal processes and other causes of termination of the employment relationship: disciplinary dismissal, dismissal of the objective and dismissal of the group and force majeure
- 3. Collective dimension processes: collective conflict, objection of collective agreements and electoral matters
- 4. Processes in union matters: guardianship of freedom of association and impugnations regarding union statutes
- 5. Exit process

SUBJECT 9. MEDIA OF IMPUGNATION AND EXECUTION OF SENTENCES

- 1. The means of challenging in the social jurisdiction: types of resources
- 2. The execution of sentences in the social jurisdiction

ITEM 10. THE EXTRAJUDICIAL MEANS OF SOLUTION OF WORK CONFLICTS

- 1. Types of extrajudicial means of conflict resolution: conciliation, mediation and arbitration

2. Extrajudicial means of legal origin
3. Extrajudicial means arising from collective bargaining
 - a) The Interconfederation Mediation and Arbitration Service (SIMA)
 - b) The Labor Court of Catalonia (TLC)
 - c) Other means of conventional origin

Methodology

The methodology and the assessment may have some modification depending on presential restrictions imposed by the health authorities.

The learning process of the students in the framework of this subject will be organized from the three types of training activities that are set out below:

1. DIRECTED ACTIVITIES: The directed activities are all those that are developed in the classroom, in the schedules foreseen for the subject and under the direction of the teacher. They can be theoretical or practical.

1.1. Theoretical classes Consist of the presentation by the teacher of various aspects of the syllabus, based on the applicable regulations. For the correct monitoring of the theoretical classes it is essential that all students have a compilation of procedural and labour law properly updated during the theoretical classes.

Within the framework of the theoretical classes, small-format activities will also be carried out periodically (reading and analysis of documents, elaboration of brief diagrams, resolution of test questionnaires, etc.), which in some cases will be carried out individually and others in groups. The objective of these activities will be the deepening of questions previously raised by the teacher.

1.2. Practical classes are dedicated to the execution of 6 practical activities, three correspond to the first part of the agenda (themes 1 to 5) and the other three to the second part (themes 6 to 10). Each practical activity includes prior work outside the classroom (approximately 10 hours) and classroom work (two sessions of 1.5 hours).

Both will involve a series of tasks of different formats: identification and study of the regulatory framework of a given institution, reading and understanding of case law, investigation of collective agreements, etc.

The second classroom session will include an evaluation activity. In some cases, the objective of the practical activities will be to deepen on aspects analysed in the framework of the theoretical classes and in others to deal with new questions that have not been dealt with before in that context.

In the part corresponding to the previous work, the practical activities will be carried out obligatorily in groups of 3 or 4 people, which will be conformed to initiative of the students at the beginning of the semester. In the part corresponding to the work in the classroom, the practical activities will be executed in group or individually, according to the cases.

2. SUPERVISED ACTIVITIES: The supervised activities are those that are carried out outside the classroom, based on the instructions given by the teacher, and are subsequently subject to some process of supervision or monitoring by the teacher.

As has already been shown, the previous work involved in the practical activities generates a series of tasks of different format that must be carried out outside the classroom and are subsequently supervised and verified through the classroom work proposed within the framework of the same activity. Through the theoretical classes, other supervised activities may be proposed, as a budget or as a complement to the small-format activities referred to above.

3. AUTONOMOUS ACTIVITIES: The autonomous activities are all those in which students organize their time and effort autonomously, either individually or in a group, such as research and bibliography study, the elaboration of schemes or summaries, etc. Within the framework of this subject, the essential part of the

autonomous activities is linked to the follow-up of the theoretical classes and to the preparation of the final theoretical examination.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Practical classes	18	0.72	
Preparation of judicial documents	10	0.4	
Preparation of summaries	19	0.76	
Research and analysis of judicial documentation	15	0.6	
Resolution of practical cases	15	0.6	
master class	24	0.96	
Type: Autonomous			
Study	42	1.68	

Assessment

COMPETENCY ASSESSMENT SYSTEM AND RATINGS SYSTEM

1. ORDINARY EVALUATION AND QUALIFICATION SYSTEMS The course has two distinct parts (the first covers topics 1 to 5, and the second covers topics 6 to 10), each of which will be evaluated independently. The evaluation system combines, in both cases, the continuous evaluation of the practical activities and the resolution of a final theoretical examination.

1.1. Continuous evaluation of the practical classes Requires attending the practical classes, delivering the documentation required in each case and resolving the proposed evaluable activities in the classroom. The continuous evaluation corresponding to the first part of the syllabus will be passed when at least two of the three proposed practical activities have been carried out and approved. Likewise, the continuous evaluation corresponding to the second part of the syllabus will be passed when at least two of the three proposed practical activities have been carried out and approved.

The final grade corresponding to each part of the subject will be the average of the two best grades obtained.

The final exam on the first part of the syllabus can only be taken if the continuous evaluation of this part of the subject has been passed. Similarly, the final examination on the second part of the syllabus may only be carried out if the corresponding continuous assessment has been passed. In both cases, the examination will consist of the resolution of six to ten short questions. Each of the questions in the examination will be graded from 0 to 10 points.

1.3. Qualification of the subject with the ordinary evaluation system

(a) Qualification of the first part of the agenda

The score obtained in the continuous evaluation of the practical activities of this part will have a value of 50% and the score of the final theoretical examination will have a value of 50%. When the continuous evaluation has been passed and a minimum of 4 points have been obtained in the final theoretical examination, the score

of this first part of the syllabus will be obtained making the corresponding average. This first part of the syllabus will be passed with the obtaining of a minimum average of 5 out of 10. When the grade of the exam is lower than 4, the grade corresponding to this part will be suspended.

b) Qualification of the second part of the syllabus

The same criteria will be applied as those used in the qualification of the first part of the syllabus and now just presented.

c) Final grade of the subject. The final grade of the subject will be obtained from the average resulting from the grades achieved in the two parts of the syllabus. To pass the course, it is necessary to have passed both parts.

2. SUBSIDIARY EVALUATION AND QUALIFICATION SYSTEMS The acquisition of competencies is evaluated by means of a theoretical-practical examination. The subsidiary exam, of a theoretical-practical nature, may be taken by students who have opted directly for this evaluation system. Students who have followed the ordinary evaluation system and have not passed the continuous evaluation of one or both parts of the subject, as well as those students who have not taken or have failed the ordinary examination, may also do so. In these cases, the part of the subject that has been passed (either the continuous assessment or the regular examination) will be exempt from the subsidiary examination and the grade obtained at the time will be exempt from the subsidiary examination. The subsidiary examination will consist of two parts, each of which will have a value of 50% of the grade.

First. One for the first part of the agenda, which will be divided into two sections:

a) A theoretical section that will consist of the resolution of five to eight short questions. Each question will be scored from 0 to 10 points and the score will be obtained from the corresponding average. This section of the exam will have a value of 50%.

b) A practical paragraph that will consist of the resolution conveniently founded in law of a practical case with the thematic content corresponding to the subject matter of the examination. For the resolution of this part only a compilation of procedural and labour law will be available as support material. This section of the examination will have a value of 50%. Second. The second part of the examination will allude to the contents included in the second part of the agenda and will have the same structure as the first part. A theoretical section of five to eight short questions that will have the value of 50%; and a practical section that will be worth 50%.

The score of each part of the exam will be obtained by making the proportional calculation of the score achieved in the corresponding theoretical and practical sections. To pass each part of the exam, you must pass both the theoretical and practical sections. The final grade of the exam will be obtained by averaging the score obtained in the two parts of the test (for the first part of the syllabus and for the second part of the syllabus). The subject will be passed when each of the two parts of the exam have been passed independently.

3. DATES OF THE EXAMINATIONS

The theoretical examination corresponding to the first part of the syllabus will be agreed by the teacher on the first day of teaching.

The days of the theoretical examination relating to the second part of the syllabus and the subsidiary examination shall be the days determined by the Faculty of Law.

4. CALLS

The number of calls is established in the rules of permanence. Both in the final exams and in the subsidiary exams, the fact of appearing and suspending or the fact of withdrawing after having been communicated the questions, implies to exhaust the call.

FRAUDULENT CONDUCT:

A student who cheats or try to cheat an exam will have a 0 as a mark. A Student who submits a paper o practical in which there is evidence of plagiarism will have a 0 as amark and will receive a warning. In case of repetition, the students will fail the subject.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Activities of evaluation realised during de practical activities	50%	4	0.16	1, 8, 10, 7, 6, 4, 9, 3, 5, 11, 2
Final exam	50%	3	0.12	8, 6, 4, 9, 3, 2

Bibliography

1.Manuals:

-RAMOS MÉNDEZ, *El sistema procesal español*, ed. Atelier, Barcelona, last edition.

-*Práctica Social*, databsae Wetlaw.

2.Normative Compilations:

-Ley Orgánica del Poder Judicial

-Ley de Enjuiciamiento Civil

-Ley de Procedimiento Laboral

3.Links web:

The main links web that will have to use in this subject correspond to the databases "Westlaw", "Tirant online" and "La ley". They are of free consultation by all the students of this University whenever it access from de web page of the Service of Libraries of the UAB (section "Bases de dades", situated inside the "Recursos").