

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

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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

Cristina Riba Trepal
Laura Rodriguez Murciano

Prerequisites

To carry out a correct follow-up of this course 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 and without them the issues that are dealt with in "Judicial and extrajudicial management of Labor conflicts" can not be understood nor analysed properly.

Group 1: Laura Rodríguez Murciano (catalan) and Arantza Libano Beristain (spanish)

Group 51: Laura Rodriguez Murciano (catalan) and Cristina Riba Trepal (catalan)

Objectives and Contextualisation

The main objective of this course is to acquire the knowledge and understanding of the different means for 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

UNIT 1. LAW AND PROCESS. THE PROCESS AS A MECHANISM FOR RESOLVING CONFLICTS

1. *Autotutela*
2. 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) Technical participation in the process

UNIT 3. THE JURISDICTION

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

UNIT 4. THE PROCESS

1. The *processus iudicii*

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

2. The procedure

3. The jurisdictional trial. *Res judicata*

UNIT 5. THE CONSTITUTIONAL GUARANTEES OF THE PROCESS

1. The formulation of the constitutional guarantees of the process

2. The functioning of the constitutional guarantees of the process

SECOND PART: LABOR PROCEDURAL LAW AND EXTRAJUDICIAL CONFLICT SOLUTION MEANS

UNIT 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

UNIT 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

UNIT 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 impugnation regarding union statutes

5. Exit process

UNIT 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

UNIT 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 learning process of the students in the framework of this subject will be divided into three types of training activities:

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

1.1. Theoretical lessons 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.

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 could 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). In some cases, the objective of the practical activities will be to deep into aspects analysed in the framework of the theoretical classes and in others to deal with new questions.

2. **SUPERVISED ACTIVITIES:** The supervised activities are those 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.

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 subsequently could be 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 complement to the small-format activities referred to above.

3. **AUTONOMOUS ACTIVITIES:** The autonomous activities are those in which students organise 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 exam.

Annotation: Within the schedule set by the centre or degree programme, 15 minutes of one class will be reserved for students to evaluate their lecturers and their courses or modules through questionnaires.

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

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 independently evaluated. The evaluation system combines, in both cases, the continuous evaluation of the practical activities and the resolution of a final examination.

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 passed. 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 passed.

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

2. 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.

3. Qualification of the subject

(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 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 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 failed.

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.

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 both parts passed.

DATES OF THE EXAMINATIONS:

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

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 failing or the fact of withdrawing after having been communicated the questions, implies to exhaust the call.

FRAUDULENT CONDUCT:

A student who cheats or tries to cheat an exam will have a 0 as a mark. A student who submits a paper in which there is evidence of plagiarism will have a 0 as a mark 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, Francisco, *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 to useful webs for 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 one accesses from de web page of the Service of Libraries of the UAB (section "Bases de dades", situated inside the "Recursos").

Software

The subject does not require any specific software.