VNIVERSITAT DE VALÈNCIA

Course Guide
35257 Labour-related court proceedings

COURSE DATA

Data Subject	
Code	35257
Name	Labour-related court proceedings
Cycle	Grade
ECTS Credits	4.5
Academic year	2018 - 2019

Study (s)

Degree	Center	Acad. year	Period
1303 - Degree in Law	Faculty of Law	4	First term

Subject-matter

Degree	Subject-matter	Character
1303 - Degree in Law	51 - Labour-related court proceedings	Optional

Coordination

Name	Department
NORES TORRES, LUIS ENRIQUE	76 - Labour and Social Security Law

SUMMARY

The subject "Labour Procedural Law" is a six-monthly optional subject that can be studied in the Degree in Law, within the litigation itinerary. It constitutes 4.5 ECTS credits, as stated in the curriculum of the Degree in Law (p.190).

The Labour Judicial Process is a fundamental part of the labour legal order. Labour Law and Union Law account for a series of rights and obligations that rest on a very important segment of the population - workers and employers - within the framework of specific relationships, this is to say, those emerging from dependent and subordinate work; Social Security Law, instead, brings us closer to the social protection regime when facing certain situations of need. Well, due to the fact that this set of rights and obligations –work-related, trade union and Social Security- are not always subject to peaceful and voluntary compliance and its holders are interested in its effective completion, the legal system provides a series of channels for the achievement of such objective.

One of those channels is, precisely, to go before a judicial instance -an impartial third party- which has the capacity of provide an adequate solution to the conflict arising between the one that pursues the fulfillment of a right and the one that denies it. The singularities of the labour relations, in terms of their protagonists and regulation, determine that the bodies and channels for solving these labour-related conflicts are also "unique", in other words, different from those foreseen to solve other conflicts arising in life within society. On such basis, the Labour-related Procedural Law aims to analyze the judicial channels for solcing labour disputes.

The content of the subject “Labour Procedural Law”, as set out in the technical file of the subject included in the curriculum of the Degrre in Law, includes the “Labour legal institutions (social jurisdiction); the labour-dispute resolution systems (judicial and extrajudicial); the procedural action of labour and social security rights” (p. 192).

In short, the subject refers to very broad topics. The content is of a general nature, related to the organization and structure –this is, the bodies in charge of solcing the labour-related disputes, the delimitation of the disputes that these bodies can solve, the subjects that can go before these bodies and the possible actions carried out by the parties-; However, the subject covers also some more specific content, related to the process developed since the moment in which a conflict arises until it is solved. Moreover, it must be notes, that labour disputes can not only be resolved in court, but also out of court, therefore this subject also covers the out-of-court possible channels for settling labour disputes.

PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

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

Other requirements

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

The subject Labour Procedural Law is taken in the fourth year of the Degree in Law, so that students should come with prior knowledge acquired in other disciplines which will be very useful for the present subject: on one side, the subjects of Labour Law I and II, taken in 2nd and 3rd year, providing you with an in-depth knowledge of the substantive content of labour relations in their individual and collective aspects, on the other side, an approach to Social Security law.

OUTCOMES

1303 - Degree in Law

- Know the content and application of each of the branches of the legal system.
- Understand the legal system as unitary and have an interdisciplinary perspective of legal problems.
- Be able to use legal sources (legal, jurisprudential and doctrinal).
- Be able to read and interpret legal texts.
- Be able to communicate correctly both orally and in writing in the field of law.
- Be able to analyse legal problems and synthesise their approach and resolution.
- Develop critical awareness for the analysis of the legal system and develop the legal dialectic.
- Acquire basic knowledge of legal arguments.
- Have negotiation and conciliation skills.

LEARNING OUTCOMES

- The Labour Procedural Law subject must be oriented to the student obtaining the following learning results:

First, ability to know the judicial and extrajudicial forms of solving labor disputes (relationship with specific competences of CE grade 2,3,7,8).
- Second, ability to know the organization and competence of the social jurisdiction (CE 2,3,7,8).
- Third, ability to know the appearance and performance of the parties before the social jurisdiction (CE 2,3,7,8,9,10,11,12).
- Fourth, ability to know and know how to perform the oral and written acts of the labor process (CE 2,3,7,8,9,10,11,12).
- Finally, capacity for oral presentation and decision-taking regarding the most effective procedural labor strategy (CE 9,10,11,12,14).

DESCRIPTION OF CONTENTS

1. The jurisdictional social order and its competences

The objective of this first unit aims to be an introduction to the subject. In this sense, it provides the students with a series of basic concepts about the discipline which will allow them to understand the following units. The starting point will be the approximation of the notion of conflict/dispute, its typology and the different possible ways for its solution, both judicial and extrajudicial.
In second place, once the basis is understood, this first unit also aims to explain what the jurisdictional social order is. This will be done by resorting to the analysis of its origins and the determination of its regulatory sources. On the basis of the analysis of such norms, the bodies integrating it and the issues solved its competences- will be specified.

2. The parties to the process the litigants

Once the first unit has been defined, this is to say, what the jurisdictional social order is, its bodies and the conflicts it can solve, the object of this second unit is to study the parties that may go before the jurisdictional bodies. In fact, this unit establishes the possible parties to the process, who these can be and the requirements these must fulfil in order to take part in the process, giving way to the study of the capacity and legitimation within the labour-related process.
This unit also analysis the labour-related processes with a plurality of parties and the intervention of the FOGASA within the process. Moreover, this unit also foresees the study of the singularities related to the postulation (representation and technical defence) within the social order. Finally, the unit concludes tackling with the free legal aid provision.

3. Process, procedure and procedural acts

This unit aims to analyse the different types of protection offered by the labour process, the principles inspiring the process and the procedure, including the analysis of the different aspects related to the procedural acts (typology, general rules for its implementation, efficacy and nullity, communication acts).

4. The preliminary acts, the preparatory acts and the precautionary measures

Before the beginning of the process, several proceedings may take place, these can be mandatory and aimed at avoiding the initiation of the process by achieving a pacific solution to the dispute separating the parties, or voluntary and aimed at preparing the later process. Both types of proceedings, known as the preliminary (conciliation before the process and prior administrative complaint) and preparatory acts, respectively, will be tackled within this unit.
Aside from the above and taking into consideration that the justice rendering task requires some time, during which determinate situations frustrating the effectiveness of the judicial protection may happen, this unit will also analyse a series of proceedings aimed at combining such risks and what are known as precautionary measures.

5. The ordinary process

In principle, the procedural norms take into consideration that in each conflict, the exercise of each action generates a differentiated process; however, in certain cases, the LRJS provides a joint treatment. This happens in situations of accumulation of actions or processes, both of the institutions which will be studied within this unit.
These actions, which are exercised before the social order, determinate the opening of a process whose formalities are generally common to all the cases. This process is known as an ordinary process and is used for handling the majority of the labour-related demands, in particular, for all of those which do not foresee a special modality. So, this second part of the unit focuses on its analysis, following the diverse phases since the moment in which the complaint is filed until its conclusion by means of a judgment or other.

6. The procedural modalities

The provisions of the ordinary procedure do not perfectly fit with the processing of certain disputes and may result as dysfunctional; for this reason, together with the ordinary process, the LRJS regulates a series of procedural modalities that serve to process certain lawsuits in regards to some specific matters. Well, the purpose of this unit is, precisely, the analysis of the procedural modalities; likewise, the contents of this lesson also includes the labour-related payment order and the insolvency incident.

7. The judicial redress means

The jurisdictional activity is not infallible and, for this reason, the procedural rules provide for a system of remedies giving the parties the possibility of challenging the judicial decisions and, where appropriate, obtaining a modification or cancellation. Consequently, the judicial redress means constitute the object of analysis of this first part of the unit. In this sense, the unity focuses on the study, not only of the judicial remedies that can be filed against the decisions of the secretary, but also of the judicial body (revision: internal administrative appeal; supplication appeal, cassation appeal; cassation appeal for unification of doctrine; complaint; hearing the rebel defendant; review of final judgment).

8. The executive process

Part of the content of the right to an effective judicial protection refers to the right to execute judicial decisions. In fact, as it is possible for these not to be spontaneously fulfilled, a system must be established in order to satisfy the person in whose favour they were issued. In this sense, the procedural law establishes the executive process with the purpose of imposing the condemned its compliance with the due guarantees-. This procedure can be provisional or definitive; they may be ordinary or, depending on the content of the resolution, of a special nature. Anyway, all of these will be analysed within this unit.

WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	45,00	100
Attendance at events and external activities	4,00	0
Development of group work	3,00	0
Development of individual work	3,00	0
Study and independent work	30,00	0
Readings supplementary material	3,00	0
Preparation of evaluation activities	3,00	0
Preparing lectures	8,00	0
Preparation of practical classes and problem	4,00	0
Resolution of case studies	9,50	0
TOTAL	**112,50**	

TEACHING METHODOLOGY

- **Exhibition of theoretical contents:**

The teacher will present and explain those fundamental elements that will guide students in the study and understanding of the subject.
Students, for their part, must actively engage in the learning process through reading -prior to the teacher's explanation, or in class, depending on the courses' organization- the materials, manuals, monographs or texts provided or indicated previously.

- Applied activities:
These will consist on the commentary of judgments or press news, the resolution of cases or the accomplishment of puzzle activities or questionnaires, the analysis of labour-related questions, etc., through which the student will have to develop the previously mentioned competences.
These activities may either serve as a complement to the presentation of theoretical knowledge by the teacher, or focus on specific points of the program of the subject that will not be subject to exposure in class.
These activities will be participatory and each teacher will indicate, where appropriate, which will be subject to evaluation. Through them, the student will be introduced and get used to the handling of the materials and techniques of the discipline.

- **Activities outside the classroom:**

Complementary activities, such as seminars, assistance to trials or video viewing, etc. They will be programmed in the context of the subject and will consist of specific activities of the subject or of interdisciplinary or transversal character, and always in coordination with the groups of the same subject or of other subjects. The teacher will indicate, if applicable, if these activities are going to be evaluated.

Directed activities. The teacher will indicate, both for the follow-up of the theoretical exposition and for the realization of the applied activities, what readings, research of case-law or preparation of cases, etc., will have to be made by the student. Although they are not the object of work in the classroom, the teacher can also program, within the volume of work of the student, other activities that serve to reinforce or review the knowledge acquired by the student.

Assistance to unscheduled tutoring. Students will be able to attend the non-scheduled tutorials that each professor covers, within the schedule established by the latter, in order to be able to consult on any topic or aspect related to the subject and its work dynamics

EVALUATION

1st Call:
• **Final written and / or oral test**, consisting of an exam, which may be objective or development type test, 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

Continuous evaluation of each student, 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, reports 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 the course. This constitutes the 30% of the grade.
In any case, in order for this 30%of the grade to be taken into consideration, the student must have passed the final test.

2nd 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 second call - written or oral - or prior to its conclusion, the corresponding recovery activities will be proposed to the students

REFERENCES

Basic

- ALBIOL ORTUÑO; ALFONSO MELLADO; BLASCO PELLICER; GOERLICH PESET, Derecho procesal laboral, Valencia, Tirant lo Blanch, última edición.

Puede sustituirse por cualquiera de los manuales que se mencionan a continuación en las referencias complementarias, bastando una de ellas.

This may be substituted by any of the books mentioned bellow in the additional references, any of these is enough.

- Ley 36/2011, de 10 de octubre, reguladora de la jurisdicción social.

- BLASCO PELLICER, A. et altri, Formularios Laborales, Valencia, Tirant lo Blanch.

Additional

- BLASCO PELLICER, A. (Dir.), El proceso laboral, 2 Vols., Valencia, Tirant lo Blanch.
  - GARBERÍ LLOBREGAT, J. El nuevo proceso laboral, Madrid, Civitas.
  - GOERLICH PESET, J. Mª.; NORES TORRES, L. E., Manual de Derecho Procesal del Trabajo, Las Palmas de Gran Canaria, Servicio Publicaciones ULPGC.
  - MONEREO PÉREZ, J. L. (Dir.), Manual de Derecho Procesal Laboral, Madrid, Tecnos.
  - MONTOYA MELGAR, A. et altri, Curso de Procedimiento Laboral, Madrid, Tecnos.

  Asimismo, al margen de los manuales anteriores y de la bibliografía específica que en los mismos se puede localizar sobre cada unidad, también resultan de utilidad los comentarios generales a la LRJS, entres los cuales se pueden destacar los siguientes:

  Likewise, apart from the previous manuals and the specific bibliography that can be found on each unit, the general comments to the LRJS are also useful, among which the following can be highlighted: previous manuals and the specific bibliography that can be located on each unit, general comments to the LRJS amy also be useful, among which the following can be highlighted:

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  FOLGUERA CRESPO, J.A.; SALINAS MOLINA, F.; SEGOVIANO ASTABURUAGA, Mª. L., Comentarios a la Ley Reguladora de la Jurisdicción Social, Valladolid, Lex Nova.
  - MOLINA NAVARRETE, C., Análisis de la nueva Ley de la Jurisdicción Social. Nuevas reglas legales, nuevos problemas, nuevos retos, Madrid, La Ley.
  - RODRÍGUEZ PASTOR, G.E., ALFONSO MELLADO, C.L. (Dirs.), La nueva Ley de la Jurisdicción Social, Albacete, Bomarzo.
  - VIROLÉS PIÑOL, R. Mª. (Dir.), Memento experto Nueva Ley Reguladora de la Jurisdicción social 36/2011, RDL 3/2012, Madrid, Ed. Francis Lefebvre
- En fin, también pueden resultar útiles las siguientes fuentes de conocimiento en red (se enumera un listado meramente indicativo):

  In short, the following knowledge sources in the network can also be useful (the following is a merely indicative list:

  Bases de datos:

  http://www.westlaw.es
  http://www.tirantonline.com

  Normas:

  Convenios internacionales OIT
  http://www.ilo.org/global/lang--en/index.htm

  Normas comunitarias: Diario oficial de la Unión Europea:
  http://eur-lex.europa.eu/JOIndex.do

Normas estatales:
http://www.boe.es

Boletines autonómicos:
http://www.boe.es/aeboe/consultas/enlaces/boletines_autonomicos.php

Boletines provinciales:
http://www.boe.es/aeboe/consultas/enlaces/boletines_provinciales.php

Convenios colectivos:
http://www.empleo.gob.es/es/sec_trabajo/ccncc/index.htm

Jurisprudencia:

Tribunal de Justicia de la Unión Europea
http://curia.europa.eu/jcms/jcms/j_6/pagina-principal

Tribunal Constitucional:
http://www.tribunalconstitucional.es

Tribunal Supremo: base Cendoj
http://www.poderjudicial.es/search/index.jsp

Publicaciones:

Ministerio de Trabajo, Migraciones y Seguridad Social: Publicaciones electrónicas
http://www.empleo.gob.es/es/publica/index.htm