

**Academic Year/course: 2021/22**

## **28526 - Procedural Labour Law**

### **Syllabus Information**

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**Academic Year:** 2021/22

**Subject:** 28526 - Procedural Labour Law

**Faculty / School:** 108 - Facultad de Ciencias Sociales y del Trabajo

**Degree:** 428 - Degree in Labour Relations and Human Resources

**ECTS:** 6.0

**Year:** 4

**Semester:** First semester

**Subject Type:** Compulsory

**Module:**

## **1. General information**

### **1.1. Aims of the course**

The subject and its expected results respond to the following approaches and objectives:

To provide students with the theoretical, conceptual and application framework of the labor process, around effective judicial protection, action and jurisdictional function, and to enable them to integrate in the scope of their professional activity the different legal elements that demand or condition decisions and the resolution of problems in the field of individual or collective work conflicts, either before the Social Jurisdiction or out of court through mediation or arbitration.

These approaches and objectives are aligned with the following Sustainable Development Goals (SDGs) of the United Nations 2030 Agenda (<https://www.un.org/sustainabledevelopment/es>) in such a way that the acquisition of learning outcomes of the subject provides training and competence to contribute to some extent to its achievement. Objective 4: Quality education. Objective 5: Gender equality. Goal 8: Decent work and economic growth. Objective 10: Reduction of inequalities.

### **1.2. Context and importance of this course in the degree**

This course completes the module of the legal framework regulating labor relations and Social Security. The subject provides the knowledge of the legal protection necessary to understand the mechanisms of judicial solution of labor conflicts in a degree with a clear interdisciplinary inspiration projected on work as a social phenomenon from different manifestations. Its location in the fifth semester and fourth year is justified by the need to know and understand the substantive law that regulates the employment relationship and Social Security and by the requirement to know a previous legal methodology that ensure the successful development of the formal dimension of procedural law.

### **1.3. Recommendations to take this course**

Students must have internalized the formal and discursive logical processes (legal methodology) that govern the field of Law and know and understand the subject matter of knowledge and study of Individual Law and Collective Labor Law, as well as Social Security. Therefore, it is advisable to have completed the subjects that make up the Regulatory Framework Module of Labor Relations and Social Security.

They must also be receptive to the language in which the labor process is formalized and articulated (its formal and procedural aspects) and to a logic that combines reasoning from objective or material law approaches, studied in the subjects of the Module, with strategies that allow the defense of the interests of the parties in the individual or collective conflict before the judicial court. Therefore, it is highly recommended to have a minimum command of written and oral expression and legal terminology.

As has been customary since the first year of this Module, it is advisable to plan work time in accordance with the teaching schedule, paying particular attention to the dates of evaluation of the practical tests and, where appropriate, the scheduling of readings.

## **2. Learning goals**

### **2.1. Competences**

When passing the subject, the students will be more competent to

1. To take the appropriate decision or strategy using mediation or the lawsuit to manage the labor disputes in an organized and planned manner and according to ethical criteria (C3, C7, C8, C35, C49, C55).
2. To prepare and correctly present opinions, suits and other procedural documents in accordance with the contents, formal criteria and style required in the legal-procedural field (C2, C4, C6, C18, C34, C36, C37, C50).
3. Formulate pleadings, answers, conclusions, maintain positions, issue reports or proceedings before or during the trial as plaintiff or defendant, orally or in writing (C1, C4, C9, C35, C37).

## 2.2. Learning goals

In order to pass this subject, the student must demonstrate the following results

1. To know and understand the judicial system of labor courts, representation, litigation and defense before the Social Jurisdiction.
2. To know how to identify labor and social security disputes and is capable of selecting and applying the different types of cases.
3. To identify and understand the writings and resolutions of the jurisdictional courts of the Social Order.
4. To know how to manage and search for specific sources of information related to the labor process: web pages, databases, procedural forms, etc.
5. To be able to elaborate, substantiate and present claims and other writings in the labor process, as well as answer the complaint, to make the counterclaim, or prepare reports

## 2.3. Importance of learning goals

As well as the specific contribution of other subjects of the Regulatory Framework Module of Labor Relations in the teaching and acquisition of competences and contents, the Procedural Law adds a qualification to the future of the professional of labor relations so that he can solve his labor disputes and know the mechanisms of judicial or extrajudicial solution established by the legal ordering, as well as the basic concepts of the labor process and its legal terminology. This knowledge will allow them to develop in the professional field and contribute to the resolution of problems in a context of endemic litigation, which fluctuates according to the evolution of economic cycles, labor flexibility and the change in labor relations.

# 3. Assessment (1st and 2nd call)

## 3.1. Assessment tasks (description of tasks, marking system and assessment criteria)

**Students will demonstrate that they have achieved the learning outcomes through the following assessment activities:**

- A global test at the end of the semester on the date indicated by the center from the completion of the exams. This final test will evaluate the theoretical and practical knowledge of the subject.
- An evaluation of the learning process of the practical knowledge throughout the semester.

### Global evaluation system

To pass the subject, students will take a global test at the end of the semester on the date set by the center for the exams. This final test will assess the theoretical and practical knowledge learned.

The theoretical exam will be written and will consist of an objective test, in which you must answer a questionnaire with 20 multiple choice questions with four options, and in the resolution of two open questions. This will evaluate the knowledge, identification and understanding that accredits the student on the contents of the program; the expository capacity, clarity and correctness in the written expression, as well as the mastery and precision in the use of legal terms. Test errors are penalized following the following criteria: two wrong questions subtract one good.

The test represents 80% and the open questions 20% of the total value of the theoretical part. This part also represents 50% of the total note over 10 points.

The practical exam will consist of solving in writing an assumption or practical case on any of the subjects that make up the contents of the subject. This practical part will have a value of up to 30% of the final grade calculated on the 10. The final mark of the practical part will be the sum of the one obtained in the practical exam plus the mark of the evaluation obtained in the practical cases carried out during the semester in class (up to 20% of the final mark calculated out of 10).

### Assessment of practical knowledge during the semester

During the scheduled semester, the face-to-face students will be able to carry out an evaluation of the learning process of practical knowledge through the resolution in writing, and in teams that will be formed in class, of two practical cases that will be exposed and defended in class, which will serve to assign students a grade with a weighted value of up to 20% of the final grade calculated out of 10. In order to be eligible for the evaluation of these practices, they must attend Type 4 activities, consisting of a "field practice" in the Social Courts of Zaragoza on the dates indicated and make a report on the trials seen in the corresponding morning session. Exceptionally, if it is not possible to attend the trials in person, given the health situation that persists due to the pandemic, Type 4 activities would be replaced by Type 3 teaching seminars that would be held by videoconference (viewing trials).

Those who have not carried out the practical cases during the semester or have not carried out the Type 4 activities, must take the practical exam provided for in the final overall assessment test referred to in the previous section. Corresponding to

the practical exam a weighted value of up to 50% of the final mark calculated out of 10.

Criteria for evaluating the learning process of practical knowledge during the semester and the practical exam of the final test.

It will be valued:

- \* The ability to search, select and manage the appropriate regulations and documentation and, where appropriate, the use of ICT tools.
- \* The solution given to the problems raised, taking into account the strategy or decision adopted, its coherence and justification.
- \* The correct preparation and presentation of the results in written form. The use of information and communication technologies will also be evaluated.

#### **Requirement levels**

Taking the qualification obtained in the evaluation of the practices carried out during the semester and in the practical exam (total value up to 50%), as well as the result of the final theoretical knowledge test (value up to 50%), the students will obtain the final grade calculated out of 10, since according to current regulations, the results obtained will be scored according to the numerical scale from 0 to 10, with an expression of one decimal place, to which the corresponding qualitative grade can be added. To pass the subject, at least 50 percent of the above-mentioned numerical scale must be obtained between both tests and, having reached, at least, a score of 2,5 points (out of 10) in each of the parts (theory and practice)

#### **Tests for students who are not face-to-face or who are present in other calls different from the first one.**

The non-face-to-face students who present to the first call will take the global test

The students who have to appear in the next call, for not having passed the subject in the first call or for having passed only the theoretical exam or the practical part, will only take the test or test that they have not passed and are pending.

## **4. Methodology, learning tasks, syllabus and resources**

### **4.1. Methodological overview**

The methodology followed in this course is oriented towards the achievement of the learning objectives. It is based on the following activities that favour the development/acquisition of the competences and learning results associated with the subject:

1. The didactic method of instruction with exposition of the concepts and theoretical knowledge and the use of bibliography on the programmed contents.
2. The use of the case method in practical classroom activities centred on the activity and participation of the student.
3. External practical activity: supervised visit to Social Courts.

Students are expected to participate actively in the class throughout the semester.

To guarantee the autonomous work of the students, the learning process is supported by the different resources contained in the tele-training platform of the Digital Teaching Ring of the University of Zaragoza made available to them.

Teaching is organized to be taught in person in the classroom. However, taking into account the health situation, and in view of the decision of the Faculty of Social and Labor Sciences to establish the teaching of fourth-year subjects online, the teaching of the subject is adapted to the online modality. So, the classroom activities will develop by videoconference and non-contact activities will be conducted through the platform teleformación of the Ring Digital professor at the University of Zaragoza.

The Global assessment tests will take place on the dates and within the hours established by the center.

If these tests cannot be carried out in person, due to sanitary conditions, they will be carried out in a non-physical way using the technological means available at Unizar (moodle-ADD, etc). In this case, the student body will access the platform on the date and time established by the center in the examen calendar through the browser on their computer equipment.

The theoretical test will last 60 minutes through a questionnaire enabled for this purpose in Moodle and the practical test, which will begin after the theoretical test, will last approximately 120 minutes.

### **4.2. Learning tasks**

This is a 6 ECTS course organized as follows:

*Lectures: 30 hours (T1).*

Presentation of the most significant theoretical contents of each didactic unit in order to facilitate its comprehension and study

*Practice sessions: 26 hours (T2).*

Search and analysis and drafting of legal documents related to the contents of the programme

Case Study Resolution

Preparation of complaint and argumentation and presentation of pleadings and other procedural issues.

*Practice sessions field work: 4 hours (T4)*

Supervised visit to court labor in order to learn and understand the development of the labor procedure through the taking of data in the oral procedure and its subsequent analysis and elaboration of a report. This activity is compulsory in

order to be eligible for the evaluation of the practical activities carried out throughout the semester.

*Autonomous work: 86 hours (T7).*

Reading of textbooks, doctrinal articles and reference books

Search and analysis of legislation and jurisprudence

Questionnaire resolution and problem

Preparation of practice sessions

*Examinations: 3 hours (T8)*

A final written examination

### **4.3. Syllabus**

*Topic 1. Social jurisdiction*

1. Effective judicial protection. Action. Jurisdiction .
2. Characteristics and organization of the Jurisdiction.
3. Spanish jurisdictional divisions and structure of courts.
4. Courts of the Social Jurisdiction. Social Jurisdiction scope: extension and limits.
5. Rules of Jurisdiction of Social Courts and Tribunals.
6. Conflicts of Jurisdiction, conflicts of judicial competence, questions of judicial competence.

*Topic 2. The parties or litigants*

1. Concept, capacity and legitimacy.
2. Processes with plurality of litigants.
3. FOGASA's intervention in the trial.

*Topic 3. Labor Process and procedural acts. Process Avoidance: pre-trial activity*

1. The Labour Process. Concept and guiding principles. Procedural duties.
2. Procedural proceedings.
3. Procedural resolutions.
4. Pre-trial activity: conciliation and previous reclamation.
5. Preparatory acts and Pre-trial proceedings.
6. Precautionary measures.

*Topic 4. Ordinary proceeding and order for payment procedure*

1. Claim: Concept and requirements.
2. Actions accumulation and court orders accumulation.
3. The lawsuit. Presentation, admission and correction its defects.
4. Judicial conciliation.
5. The trial and its phases: Allegations, evidence and conclusions.
6. Trial record.
7. Final Diligences.
8. The termination of the trial: The sentence. Other termination modes.
9. The order for payment procedure.

*Topic 5. Proceeding types*

1. Dismissal on disciplinary grounds.
2. Impugnation of penalties.
3. Claim against the State for the payment of processing salaries in dismissal lawsuits.
4. Dismissal on objective grounds.
5. Collective dismissal on economic, technical, organisational or production-related grounds
6. The holiday process.
7. The electoral process.
8. The professional classification procedure.
9. The process of geographical mobility and substantial changes in working conditions.
10. The process concerning rights to work-life balance legally or conventionally recognized.

11. Social Security benefit processes.
12. The ex officio process.
13. The process of challenging administrative acts in labor and social security matters, excluding benefits.
14. The collective conflict process.
15. The process of impugned collective agreements.
16. The challenge process concerning the statutes of trade unions and employers' associations or their modification.
17. The process of protection of fundamental rights and freedoms.

*Topic 6. Review of court decisions. The labor enforcement of judgments*

1. General considerations on the review the decision processes.
2. Types of appeals.
3. The Enforcement Title and its Classes.
4. Provisional and definitive enforcement.

#### **4.4. Course planning and calendar**

The schedule of the theoretical and practical face-to-face sessions of the subject through videoconference and the dates of the exams of the 1st and 2nd call will be made public on the centre`s website. Attendance at courts for Type 4 practices will be communicated by the teaching staff of the subject through the Digital Teaching Ring of the University of Zaragoza.