



CONSEJO GENERAL DEL PODER JUDICIAL
ESCUELA JUDICIAL



Red Europea de Formación Judicial
European Judicial Training Network (EJTN)
Réseau Européen de Formation Judiciaire (REFJ)

DIDACTICAL GUIDE

ONLINE COURSE THE EUROPEAN JUDICIAL AREA IN THE SPHERE OF EMPLOYMENT AND SOCIAL AFFAIRS 3rd EDITION - 2013/14



DIRECTOR

Ms María Dolores Valdueza Blanco

Lecturer at the Universidad Carlos III de Madrid

TECHNICAL DIRECTOR

Mr Carlos Uribe Ubago

Director of the Ongoing Training Department at the
Spanish Judicial School

PRESENTATION OF THE COURSE

The CGPJ decided to organise this online course, the first edition of which was held in 2010-11, in the context of the European Judicial Area, with the idea that in performing our duties in the Labour Jurisdiction we are making it possible, to the extent that our daily labours allow, to acquire greater knowledge of community law in order to be able to apply it in our decisions. It is a question of having the broadest perspective possible of the community legal system whose rules, while independent from and different to those of our internal law, form part of the individual legal systems of each Member State of the European Union, something that the Court of Justice in Luxembourg recognised long ago.

It is clear that this regulatory panorama is a vital tool for hearing cases, whose connections with community law are increasingly significant. This is why it is especially interesting that we should dedicate this course to deal in greater depth with those matters considered appropriate due to their direct connection with the multiple and varied *acquis* of cases submitted to the Labour Jurisdiction which, as of the entry into force of the new law governing the same, will be able to hear matters that would usually have been assigned to the Contentious-Administrative Jurisdiction. [Moreover, if the new Law Governing the Labour Jurisdiction is finally passed, it will also encompass new competences that are currently attributed to the Contentious-Administrative Jurisdiction].

The method and application of the course takes advantage of all the benefits of the e-learning system or online training, as it allows everyone to participate, with no restrictions of time or space, entering into constant and real time contact with their tutors online, who are a fundamental part of this useful platform via which, in a decided and enthusiastic manner, we are attempting to deal with this Jurisdiction for the first time and provide an interesting perspective on the applications of community law.

The subject matter has been organised into four modules, with a view to covering those areas which have been considered of particular interest for our day-to-day work and are an obligatory point of reference if we intend to consolidate a bedrock of knowledge and a pragmatic vision that will enable us

to go into greater depth in our decisions in the best way possible in all those cases in which community rules and case law are at hand to help us examine and resolve cases.

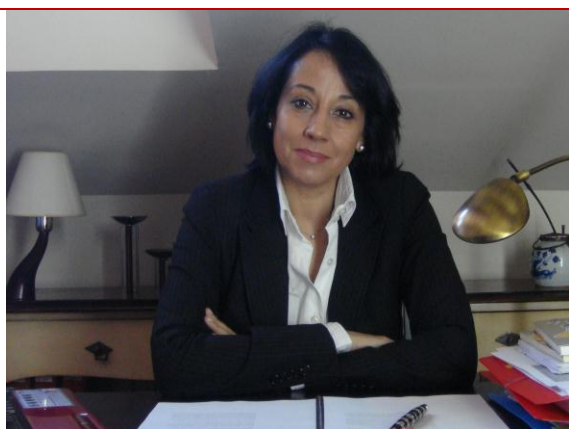
In order to ensure the effective viability of this course, it receives a subsidy from the European Union and the participants come from all over said territory, which is why the units are available in Spanish, French and English.

PRESENTATION OF THE ACADEMIC TEAM

The academic team of the Course is comprised of Judges and specialist professors, lecturers and researchers in Labour and Social Security Law, representing five Universities.

What follows is a brief introduction of the main collaborators of the course.

DIRECTOR AND TUTOR OF MODULE III



Ms María Dolores Valdueza Blanco

Visiting Lecturer of Labour Law at Universidad Carlos III de Madrid.

CV:

Visiting Lecturer of Labour and Social Security Law at Universidad Carlos III de Madrid. Doctor of Laws (Prize for Special Achievement) and Specialist in Social Security Law at the same University.

Publications in the field of social security coordination, immigration and freedom of movement.

She has previously practiced as a lawyer, specialising in labour and social affairs and family law.

She has performed different activities as a jurist in the context of fundamental rights and the mobility of workers.

Research stage at the European Commission's Unit (E-3) for Free movement of workers, coordination of social security schemes (Brussels, 2009).

Support posting to the Department of Labour and Social Affairs of the Spanish Permanent Representation to the European Union, during the Spanish presidency of the Council of the European Union (Brussels, 2010).

TECHNICAL DIRECTOR



Mr Carlos Uribe Ubago
Senior Judge
Director of the ongoing training
department

CV:

Senior Judge of the Labour Division, performing his judicial duties in Barcelona and Alicante.

He is currently the Director of the ongoing training department.

He has formerly worked as a lawyer, specialising in Labour, Family and European Law.

M.A. in European Law.

He has done several postgraduate courses on Family Law, Mercantile Law, Tax Law, Legal French, etc.

He has lectured at the Universitat Pompeu Fabra as Associate Lecturer of Labour Law.

He has participated in several international projects: EU Twinning Projects, *Aula Iberoamericana*, etc.

TUTOR FOR MODULE I



Mr José Manuel Gómez Muñoz
Professor of Labour Law, at the
Universidad de Sevilla
(Jean Monnet professor of European
Law)

CV:

Jean Monnet Professor of European Union Law.

Professor of Labour and Social Security Law at the Universidad de Sevilla.

He has been awarded several prizes, including: *Premio Extraordinario de Doctorado* (Universidad de Sevilla, 2005), *Premio de Investigación del Consejo Económico y Social* (2001), *Premio Andalucía de Migraciones* (2004), etc.

He is the author of several publications and has spoken at more than 150 Conferences and Symposiums both in Spain and abroad.

TUTOR FOR MODULE II



Mr Francisco Javier Calvo Gallego
Lecturer at the Department of Labour
Law at the Universidad de Sevilla

CV:

Director of the Department of Labour and Social Security Law at the Universidad de Huelva and subsequently Secretary of the same; he was also the assistant director of the Labour Relations School at the Universidad de Huelva.

Director of the Social Responsibility and Labour Relations Portal of the Department of Employment of the Regional Government of Andalusia and head of the Labour Law Portal Project of the Andalusian Council for Labour Relations.

He has performed several studies for the International Labour Organisation, the European Commission and the European Parliament, the Ministry of Employment and the State and Andalusian Public Employment Services.

For further information, please see his blog:

<http://personal.us.es/javiercalvo/>

TUTOR FOR MODULE IV



Ms Rosa María González de Patto

Lecturer in Labour Law

Universidad de Granada

CV:

- Doctor of Laws and Social Sciences from the Universidad de Granada (Prize for Special Achievement).

-Vice-dean of Infrastructures and Services and subsequently Secretary General of the Faculty of Economics and Business at the Universidad de Granada.

-Researcher in several Research Groups and Projects currently in progress; including:
GENERAL COUNCIL OF THE SPANISH JUDICIARY RESEARCH GROUP:
“REFORM OF THE LABOUR PROCEDURE ACT” (GI10130)

EXCELLENCE RESEARCH PROJECT: PREVENTION AND PROTECTION OF DEPENDENT SENIOR CITIZENS IN ANDALUSIA (SEJ-6834)

RESEARCH GROUP: “THE SURVIVING SPOUSE’S PENSION: A NECESSARY REFORM IN THE LIGHT OF CHANGES IN FAMILY STRUCTURES”, National R&D&i Plan 2008-2011 (DER2010-21398)

-Collaborator in several Ongoing Training Courses of the General Council of the Spanish Judiciary.

-Visiting lecturer at different foreign Universities and Institutions: University of Silesia, Katowice (Poland); Universidad Nacional S. Agustín de Arequipa, Arequipa (Peru); Corte Superior de Justicia del Cusco, Cuzco (Peru); Facoltà di Giurisprudenza and Facoltà di Economia, Università di Bologna, Bologna (Italy).

CONTENT

MODULE 1. THE REGULATORY FRAMEWORK OF EUROPEAN LABOUR LAW

Tutor: **Prof. Dr. José Manuel Gómez Muñoz.**

UNIT 1.- COMPETENCES, PRINCIPLES AND EU LABOUR RULES

Prof. Dr. José Manuel Gómez Muñoz, Professor of Labour Law, Universidad de Sevilla (Jean Monnet Professor of European Law).

UNIT 2.- THE DIRECT APPLICABILITY OF EUROPEAN UNION LAW

Mr Antonio Pérez Van Kappel. Lawyer at the Court of Justice of the European Union

UNIT 3.- THE SYSTEM OF ACTIONS BEFORE THE COURT OF JUSTICE OF THE EU WITH PARTICULAR REFERENCE TO REQUESTS FOR A PRELIMINARY RULING

Mr Joaquín Huelin Martínez de Velasco. Senior Judge of the Contentious-Administrative Division of the Supreme Court

MODULE II. NON-DISCRIMINATION AND EU CITIZENSHIP

Tutor: **Prof. Dr. Francisco Javier Calvo Gallego**

UNIT 4.- THE PRINCIPLE OF EQUAL TREATMENT (I)

Prof. Dr. M^a Fernanda Fernández López, Professor of Labour Law. Law Faculty, Universidad de Sevilla.

Prof. Dr. Francisco Javier Calvo Gallego, Lecturer at the Labour Law Department, Universidad de Sevilla

UNIT 5.- THE PRINCIPLE OF EQUAL TREATMENT (II)

Prof. Dr. M^a Fernanda Fernández López, Professor of Labour Law. Law Faculty, Universidad de Sevilla.

Prof. Dr. Francisco Javier Calvo Gallego, Lecturer at the Labour Law Department, Universidad de Sevilla

UNIT 6.- EU CITIZENSHIP

Mr Dimitry Teodoro Berberoff Ayuda. Senior Judge of the Contentious-Administrative Division of the High Court of Catalonia

UNIT 7.- THE FREEDOM OF MOVEMENT AND RIGHTS OF POSTED WORKERS

Ms M^a Luisa Segoviano Astaburuaga. Senior Judge of the Labour Division of the Supreme Court

MODULE III SOCIAL SECURITY

Tutor: Prof. M^a Dolores Valdueza Blanco.

UNIT 8.- SOCIAL SECURITY COORDINATION: GENERAL ASPECTS OF COORDINATION REGIMES

M. Jean Claude Fillon. Former member of the Social Security Ministry. Expert at the European network TRESS (Training and reporting on European Social Security)

UNIT 9.- SOCIAL SECURITY COORDINATION: BENEFITS (I)

Mr Carlos García de Cortazar Nebreda. Former Coordinating Director for Employment in the Spanish Permanent Representation to the European Union

UNIT 10.- SOCIAL SECURITY COORDINATION: BENEFITS (II)

Prof. M^a Dolores Valdueza Blanco. Visiting Lecturer in Labour Law at Universidad Carlos III de Madrid.

UNIT 11.- SOCIAL SECURITY COORDINATION: BENEFITS (III)

Mr Fernando Lousada Arochena, Senior Judge of the Labour Division, High Court of Galicia.

MODULE IV. THE INDIVIDUAL AND COLLECTIVE DIMENSIONS OF LABOUR LAW IN THE EUROPEAN UNION

Tutor: Prof. Dr. Rosa M^a González de Patto

UNIT 12.- PROTECTION OF THE RIGHTS DERIVED FROM THE EMPLOYMENT CONTRACT (I): HEALTH AND SAFETY AT WORK AND WORKING TIME

Mr Ignasi Camós Victoria. Director for Employment at the Spanish Permanent Representation to the European Union.

UNIT 13.- PROTECTION OF THE RIGHTS DERIVED FROM THE EMPLOYMENT CONTRACT (II) RIGHT TO INFORMATION, FIXED-TERM CONTRACTS, TEMPORARY WORK AGENCIES, PART-TIME WORK, TELEWORK AND PARENTAL LEAVE

Prof. Dr. Rosa M^a González de Patto. Lecturer in Labour Law at Universidad de Granada

UNIT 14.- VICISSITUDES OF THE EMPLOYMENT RELATIONSHIP (I): INSOLVENCY AND COLLECTIVE REDUNDANCIES

Prof. Dr. Miguel Carlos Rodríguez-Piñero Royo. Professor of Labour Law. Universidad de Huelva

Prof. Dr. Giorgio Verrechia. Lecturer in Labour Law. University of Cassino (Italy).

Prof. Dr. María Emilia Castellanos Burguillo. Lecturer. Anton Menger Department (Labour and Social Security Law). Universidad de Huelva

UNIT 15.- VICISSITUDES OF THE EMPLOYMENT RELATIONSHIP (II): TRANSFERS OF UNDERTAKING

Prof. Dr. Jesús Cruz Villalón. Professor of Labour Law. Law Faculty. Universidad de Sevilla.

Prof. Dr. Patrocinio Rodríguez Ramos. Lecturer in Labour and Social Security Law. Universidad de Sevilla.

UNIT 16.- THE COLLECTIVE RIGHTS OF WORKERS: SOCIAL DIALOGUE, COLLECTIVE BARGAINING, INFORMATION AND CONSULTATION

Ms. Cécile Barbier. Senior researcher. European Social Observatory (Ose).

Ms. Dalila Ghailani. Researcher. European Social Observatory (Ose).

AIMS

The judicial application of community law, whose complex system of sources we judges must be familiar with in order to do our basic job of applying and interpreting the rules and the case law, is combined with the internal legal systems of each state. This dual reality, which exists when dealing with the resolution of disputes under the aegis of two legal systems, that of each country and the European one, can help us make contact with judges in our own area in order to debate and reflect on aspects and matters of common interest to our jurisdictional function, because if the rules and case-law doctrine are common in relation to this law, there can also be a kind of judicial cooperation, to use a term belonging to other jurisdictional spheres, in the sense of exchanging impressions (debate and reflection) on the various matters regulated by community rules and that arise on a daily basis in the resolution of cases.

This online course upon which we are embarking constitutes a remarkable opportunity to establish this relationship with colleagues who resolve labour disputes and who also participate in this European judicial area, which we will try to make as dynamic as possible, in all respects. As such, it is of interest not just because of the advantages provided by the contribution of theoretical and practical knowledge of a law that is applied on a preferential basis, but also because it shares opinions, points of view or approaches to the matters dealt with in the units comprising the modules into which the course is divided in a real and effective manner.

We thus set out these two guidelines or trends, both interactive, one of which forms part of the constant relationship with the tutors of the course and the other aimed at this “cooperation” that transcends our framework to meet those who, like us, perform the same jurisdictional work in other countries of the European Union.

RESOURCES FOR STUDYING THE CONTENT

The participants will have the following study materials:

- ✓ Sixteen units in *pdf* format drafted by the academic team, which can be consulted and downloaded from the virtual campus.
- ✓ A self-assessment questionnaire for each study unit, which can be filled in on the virtual campus. The aim of these questionnaires is to enable the participants to check if they have correctly grasped the essential aspects of the content of the course.
- ✓ A case study for each of the four course modules.
- ✓ One introduction for each module of the course, prepared by the tutors.
- ✓ One outline for each course unit, provided in flash format to be consulted online and also as a *pdf* that the participants can download.
- ✓ Presentation of the course in video format by the Directors of the course.
- ✓ Other material considered of interest, both in electronic format and in hard copy.

This material will be available on the platform of the online course in Spanish, French and English. The units will be translated by specialists in legal translation in order to ensure the texts are drafted using the appropriate terminology.

PHYSICAL ATTENDANCE STAGE

At the end of the course, in the month of May 2014 there will be a physical attendance stage at the Ongoing Training Department in Madrid, lasting a day and a half.

Attendance is voluntary and participation is not obligatory in order to obtain a participation certificate for the course. **The physical attendance session is reserved for those participants who have followed the course on a regular basis, completing the case studies and receiving positive assessments from the tutors. The organizers will not cover any expenses incurred due to this meeting (travel, lodgement, allowances).**

Among the objectives of this stage are the pooling of the knowledge acquired, the exchange of the experiences and opinions of the participants and the lecturers, as well as an assessment of the different aspects of the course.

The methodology of the physical attendance stage will be the usual one for seminars and workshops. In this regard, we will work in small groups coordinated by tutors in order to analyse real life cases encountered in courts. Moreover, lectures will be given by renowned specialists in the field on areas of current interest in the sphere of Judicial Cooperation in Labour Matters:

CALENDAR

The course will consist of two stages:

- A. **The e-learning stage:** Running from 2 December 2013 to April 2014.
- B. **The physical attendance stage**, which will take place in the month of May 2014 – date to be announced – in Madrid and will last a day and a half.

A. The e-learning stage

While the course will progress in a flexible manner, in order to adapt as far as possible to the personal characteristics of each student, we have established the following basic calendar setting out when the course topics will be made available to the participants.

Sending the passwords and course documentation	2 to 8 December 2013
Module zero on how to use the tools on the IT platform (Voluntary module)	8 to 15 December 2013
Module I (Units 1, 2 and 3)	16 December 2013 to 12 January 2014
Module II (Units 4, 5, 6 and 7)	13 January – 9 February 2014
Module III (Units 8, 9, 10 and 11)	10 February – 9 March 2014
Module IV (Units 12, 13, 14, 15 and 16)	10 March – 13 April 2014
Deadline for sending outstanding case studies and finalising the debate topics	14 to 27 April 2014

B. The physical attendance stage

This will take place at the Ongoing Training Department in Madrid, lasting for a day and a half, in the month of May 2014 (dates to be announced) with workshop-based methodology.

ACTIVITIES TO BE CARRIED OUT DURING THE COURSE. TUTORIALS

The units will be provided on the Virtual Campus in accordance with the established calendar, and will remain at the disposal of the participants until the conclusion of the course. Each unit will require special effort and personal dedication (approximately four to five hours). Together with the unit, the

students will be given a self-assessment questionnaire on the contents of each unit, solely for the purposes of allowing the participants to check what they have learned. Each unit will also include an outline that will help the participant assimilate the content of the same.

One case study will be sent with each module related to the content of the same. Completion of the case study is obligatory. Once completed, the case studies should be sent to the tutor in charge of the module using the corresponding tool on the platform.

Once the tutor has studied the case study sent by each participant, he/she will send an academic commentary on the work carried out using the IT tool on the platform, in order to exchange opinions and enrich the learning experience for both tutor and participant.

Moreover, a debate forum will be organised for each of the modules based on a topic of interest proposed by the tutor, who will moderate the debate, inviting all students to participate.

COMMUNICATION WITH THOSE IN CHARGE OF THE COURSE

Any academic consultations in relation to the content of each module or topic may be sent to the tutors via the internal platform email. Moreover, if you prefer, you can publish any queries on the debate forum open for each module, so that the rest of the participants can see them.

The Directors and Coordinators will likewise be at the disposal of the participants for any general questions regarding the course.

Any administrative matters or related to the platform will be dealt with by the Spanish Judicial School and should be submitted via the internal platform email or by calling Ana María Martín or Angel Fresneda at the following telephone

numbers: +34 91 700 58 07 / 19 (Ongoing Training Department, for Spanish participants), or Antonio Marchal at +34 93 406 73 79 (Initial Training Service, for participants of other nationalities).

CERTIFICATES AND ASSESSMENT

Two kinds of certificates will be issued, a certificate of **completion** for those who have completed all the proposed exercises and a **participation** certificate for those participants who, while they have followed the course regularly, have not completed all the case studies.

The course involves 100 hours of personal work according to the EHEA methodology (equivalent to 4 ECTS credits).

Meanwhile, upon conclusion of the activity, the participants will be asked to give their opinion on the progress of the same in a questionnaire. **The Directors of the course will be open to suggestions and comments at all times with a view to improving this training activity.**

SUMMARY OF THE PROGRAMME

ONLINE COURSE – EUROPEAN JUDICIAL AREA: EMPLOYMENT AND SOCIAL AFFAIRS – III Edition 2013 – 2014

Director: Luis Lacambra Morera (TSJ Madrid) – Technical director: Carlos Uribe Ubago (CGPJ) – Head of Studies: M^a Dolores Valdueza Blanco (U.C.III M.)

MODULE I THE REGULATORY FRAMEWORK OF EUROPEAN LABOUR LAW <i>Tutor: José Manuel Gómez Muñoz. (Universidad Sevilla)</i>	MODULE II NON- DISCRIMINATION AND EU CITIZENSHIP <i>Tutor: Francisco Javier Calvo Gallego (Universidad Sevilla)</i>	MODULE III SOCIAL SECURITY <i>Tutor: M^a Dolores Valdueza Blanco. (Universidad Carlos III de Madrid)</i>	MODULE IV THE INDIVIDUAL AND COLLECTIVE DIMENSION OF LABOUR LAW IN THE EUROPEAN UNION <i>Tutor: Rosa M^a González de Patto (Universidad de Granada)</i>
UNIT 1 COMPETENCES, PRINCIPLES AND EU LABOUR RULES <i>José Manuel Gómez Muñoz (Universidad Sevilla)</i>	UNIT 4 THE PRINCIPLE OF EQUAL TREATMENT (I) <i>María Fernanda Fernández López and Francisco Javier Calvo Gallego (Universidad Sevilla)</i>	UNIT 8 SOCIAL SECURITY COORDINATION: GENERAL ASPECTS OF COORDINATION REGIMES <i>M. Jean Claude Fillon. (Expert du TRESS)</i>	UNIT 12 PROTECTION OF THE RIGHTS DERIVED FROM THE EMPLOYMENT CONTRACT (I): HEALTH AND SAFETY AT WORK AND WORKING TIME <i>Ignasi Camós Victoria (Director for Employment. Permanent Representation of Spain in the EU)</i>
UNIT 2 THE DIRECT APPLICABILITY OF EUROPEAN UNION LAW <i>Antonio Pérez Van Kappel. (Court of Justice of the EU)</i>	UNIT 5 THE PRINCIPLE OF EQUAL TREATMENT (II) <i>Francisco Javier Calvo Gallego Prof. Dr. María Fernanda Fernández López (Universidad Sevilla)</i>	UNIT 9 SOCIAL SECURITY COORDINATION: BENEFITS (I) <i>Carlos García de Cortazar Nebreda (Former Coordinating Director. Permanent Representation of Spain in the EU)</i>	UNIT 13 PROTECTION OF THE RIGHTS DERIVED FROM THE EMPLOYMENT CONTRACT (II) RIGHT TO INFORMATION, FIXED-TERM CONTRACTS, TEMPORARY WORK AGENCIES, PART-TIME WORK, TELE-WORK AND PARENTAL LEAVE <i>Rosa M^a González de Patto (U. Granada)</i>
UNIT 3 THE SYSTEM OF ACTIONS BEFORE THE COURT OF JUSTICE OF THE EU WITH PARTICULAR REFERENCE TO REQUESTS FOR A PRELIMINARY RULING <i>Joaquín Huelin Martínez de Velasco. (Senior Judge at the Supreme Court)</i>	UNIT 6 EU CITIZENSHIP <i>Mr Dimitry Teodoro Berberoff Ayuda (Senior Judge, Catalonia High Court)</i>	UNIT 10 SOCIAL SECURITY COORDINATION: BENEFITS (II) <i>Prof. M^a Dolores Valdueza Blanco (Universidad Carlos III De Madrid)</i>	UNIT 14 VICISSITUDES OF THE EMPLOYMENT RELATIONSHIP (I): INSOLVENCY AND COLLECTIVE REDUNDANCIES <i>Giorgio Verrechia (Universidad de Casino – Italy), María Emilia Castellano Burguillo and Miguel Rodríguez-Piñero Royo (Universidad de Huelva)</i>
	UNIT 7 THE FREEDOM OF MOVEMENT AND RIGHTS OF POSTED WORKERS <i>M^a Luisa Segoviano Astaburuaga (Senior Judge at the Supreme Court)</i>	UNIT 11 SOCIAL SECURITY COORDINATION: BENEFITS (III) <i>Fernando Lousada Arochena (Senior Judge. Galicia High Court)</i>	UNIT 15 VICISSITUDES OF THE EMPLOYMENT RELATIONSHIP (II): TRANSFERS OF UNDERTAKING <i>Jesús Cruz Villalón and Patrocinio Rodríguez Ramos (Universidad de Sevilla)</i>
			UNIT 16.- THE COLLECTIVE RIGHTS OF WORKERS: SOCIAL DIALOGUE, COLLECTIVE BARGAINING, INFORMATION AND CONSULTATION <i>Ms Cécile Barbier – Ms Dalila Ghailani European Social Observatory (Ose)</i>