

Simulated courtroom trials: a challenging learning activity

DOI: 10.46932/sfjdv3n3-011

Received in: March 22nd, 2022

Accepted in: April 21st, 2022

Roser Casanova Martí

Postdoctoral researcher of Procedural law

Institution: Universitat Rovira i Virgili

Address: Av. Catalunya, 35, 43002 Tarragona (Spain)

E-mail: roser.casanova@urv.cat

Federic Adán Domènech

Full Professor of Procedural law

Institution: Universitat Rovira i Virgili

Address: Av. Catalunya, 35, 43002 Tarragona (Spain)

E-mail: federic.adan@urv.cat

Elisabet Cerrato Guri

Senior lecturer of Procedural law

Institution: Universitat Rovira i Virgili

Address: Av. Catalunya, 35, 43002 Tarragona (Spain)

E-mail: elisabet.cerrato@urv.cat

Joan Picó i Junoy

Full Professor of Procedural law

Institution: Universitat Pompeu Fabra

Address: C/ Ramon Trias Fargas, 25-27, 08005 Barcelona (Spain)

E-mail: joan.pico@upf.edu

ABSTRACT

In this paper we report a learning experience taught by lecturers in Procedural Law at the Universitat Rovira i Virgili (URV). This innovative experience comprises the simulation of courtroom trials in the field of Procedural Law and is taught to first-year undergraduate Law students taking the *Introduction to Procedural Law* course. These simulated courtroom trials, which aim to provide students with practical experience, are highly satisfactory in terms of the students' acquisition of theoretical and practical skills. Implementing this learning experience at the beginning of the degree enables first-year students to quickly become familiar with all aspects of real trials and the practices employed in courts and tribunals. Moreover, the students improve their oral skills by conducting a simulation of oral proceedings and their writing skills by drafting a report on their simulated courtroom trial.

Keywords: simulated trial, courtroom, procedural law, learning activity.

1 INTRODUCTION

Procedural law is one of the disciplines with the most practical importance for professionals in the legal field, such as lawyers, judges, magistrates, prosecutors and court clerks. For this reason, the

theoretical knowledge acquired by students in the classroom should be complemented by a practical perspective of that knowledge. The lecturers in Procedural Law at the Universitat Rovira i Virgili have therefore implemented simulated courtroom trials in the first-year undergraduate Degree course entitled *Introduction to Procedural Law* as a teaching methodology in this discipline¹.

The aim of this methodology is to enable students, through active participation, to assume the roles of the various legal professionals who intervene in daily legal practice². This methodology satisfies the objectives of the European Higher Education Area, i.e.: a) to enable students to acquire skills and abilities as well as knowledge, b) to promote constant student-teacher interaction, and c) to implement continuous student assessment.

This teaching methodology is introduced in the first year of the Law Degree (in *Introduction to Procedural Law*) for the following reasons:

- a) The students are explained how legal proceedings are organized, what procedural modalities exist, and which tasks are performed by each legal profession.
- b) The course complements the components of another Degree subject (*Legal Skills*), i.e. oral and written competences.

We believe this teaching methodology should also serve as a foundation for similar activities on other URV degree courses in Procedural Law and on the URV's Master's in Access to the Legal Profession, which is taught in collaboration with the Bar Associations of Tarragona, Reus and Tortosa³.

2 PLANNING THE ACTIVITY

The following activities must be completed before beginning the simulated courtroom trial to ensure that the trial is conducted properly and effectively. Some of these activities are carried out by the lecturer and others by the students. Note that the trial takes place in the last month of the course after completion of the theoretical component.

¹ LASHERAS HERRERO, P. y OCÓN GARCÍA, J.C., "Una corta experiencia con vocación de futuro. Simulación de juicios en la asignatura de Derecho procesal", in REDUR: Revista Electrónica del Departamento de Derecho de la Universidad de La Rioja, n.11, 2013, pp. 235-237; CERRATO GURI, E., GIMÉNEZ COSTA, A., and MARIN CONSARNAU, D., "La metodología de simulación en una asignatura jurídica: guía de buenas prácticas", in *El aprendizaje del derecho procesal. Nuevos retos de la enseñanza universitaria* (dir. PICÓ I JUNOY), J. M^a. Bosch, Barcelona, 2011, pp. 349-353; and GONZÁLEZ GRANADA, P., et altri, "Acción pedagógica de simulación de juicios. Metodología docente de derecho procesal en el EEES", in REJIE: Revista Jurídica de Investigación e Innovación Educativa, n.2, 2010, pp. 81-92.

² CABRERA, DÍEZ-SOMAVILLA y SANCHO, "Ejemplo de proyecto docente innovador: caso Comunica2", in *South Florida Journal of Development*, v.1, n.4 (2020), pp. 258-267, provide another example of a teaching methodology involving the active participation of students.

³ MÉNDEZ-MANTUANO, LOZADA, PLAZA, et altri have also referred to this need in "Prospectiva del nuevo mundo educativo", *South Florida Journal of Development*, v.2, n.5 (2021), p. 6355.

2.1 THE FACTUAL SCENARIO

A. The court of jurisdiction

Students are provided a factual scenario, which they use to prepare a court file and which is to be resolved in simulated courtroom proceedings on an agreed day. As the procedural system is divided into four jurisdictional orders, and as first-year students have only elementary knowledge of substantive law, this factual scenario relates to a civil matter since: (1) employment and administrative jurisdictional orders require a greater degree of specialization, (2) the Code of Civil Procedure is the suppletive regulatory text for the procedural laws of other jurisdictional orders; and (3) in the current curriculum, substantive law on criminal, employment and administrative matters is not taught on first-year URV courses – unlike civil law, which is covered in the second term of the first year of the undergraduate Degree.

B. Example of a factual scenario

The factual scenario provided to students is as follows:

On 10th January 2022, student Carlos Segura drove out of the car park at the Faculty of Law. As he was leaving, a car driven by Ms Carmen Resinas, accompanied by Ms Amparo Martínez, which was driving along Avenida Catalunya, failed to stop at a red traffic light and crashed into Mr Segura's vehicle. Students Sonia Jiménez, Rafa Mesas and Julia Casas were pedestrians at the traffic light and witnessed the accident.

When they received reports of the accident, two local police officers, officer Fernández and officer Figueres arrived on the scene to examine Ms Resinas and ascertain whether she had been driving under the influence of alcohol and whether her car was insured. The officers drafted a report with their information on the accident. Jaime López, a friend of Mr Segura, took various photographs to demonstrate that his friend's car was driving on a public road at the time of the accident.

Mr Segura suffered a series of injuries as a result of the accident and was taken to Joan XXIII Hospital. There he was treated by Dr Carla Sasa, who assessed his injuries and drafted a medical report before discharging him. For insurance purposes, the sum payable for injuries and sick leave was assessed at 3,500 euros. Mr Segura's vehicle was towed to a garage, where the mechanic, Sebastian Pozo, evaluated the cost of repairing the vehicle at 6,350 euros and provided an estimate to that effect.

The students are provided the procedural rules from the Law on Civil Procedure and the materials they need to resolve the dispute.

1. Procedural application:

Article 23. Procedural postulation.

1. Appearance in court will be conducted through a barrister. The barrister must have a Law Degree and be licensed to exercise their profession in a competent court.

2. Notwithstanding the provisions of the preceding paragraph, litigants may appear on their own behalf:

- in oral proceedings for claims below two thousand euros and in initial small claims proceedings, in accordance with the provisions of this Act.

Article 31. Intervention of the lawyer.

1. The litigants shall be counselled by lawyers duly authorised to exercise their profession in a competent court. No applications may be filed without the lawyer's signature.

2. The only exception is that of oral proceedings relating to claims for an amount less than two thousand euros.

2. Jurisdiction

Article 45. Jurisdiction of the Courts of First Instance.

The Courts of First Instance are responsible, in first instance, for hearing all civil cases not expressly assigned to other courts by legal provisions. These Courts will also hear matters, acts, issues, and appeals as assigned to them under the Organic Law on the Judiciary.

Article 52. Territorial jurisdiction in special cases.

In trials in which compensation is requested for damages arising from the circulation of motor vehicles, the court of the location where the damages were caused will have jurisdiction.

With regard to substantive rules, on the other hand, the following regulations apply:

1. The Eighth Additional Provision of Law 30/95, of 8th November 1995, on the regulation and supervision of private insurance.

Article 1. The driver of a motor vehicle is responsible, as a result of the risk created by the act of driving, for damage caused to persons or property in connection with the driving.

2. Civil Code

Article 1902. Anyone who through deed or omission causes harm to another through fault or negligence is obliged to repair the harm caused.

3. Royal Decree 1507/2008, of 12th September 2008, which approves the Regulation on compulsory civil liability insurance for the use of motor vehicles.

Section 1. Motor vehicles

1. For the purposes of civil liability for the use of motor vehicles and the requirement for insurance, ‘motor vehicle’ means any vehicle intended for travel on land and powered by an engine, including mopeds, special-purpose vehicles, trailers and semi-trailers whose entry into circulation requires administrative authorization in accordance with the provisions of the legislation on traffic, the circulation of motor vehicles, and road safety. Exempt from the requirement for insurance are trailers, semi-trailers and special towed machinery with a maximum authorised mass not exceeding 750 kilograms, as well as any vehicle temporarily or permanently removed from the Vehicle Registry of the General Directorate of Traffic.

Article 2. Motor vehicles incidents

1. For the purposes of civil liability for the use of motor vehicles and compulsory insurance cover governed in this Regulation, an incident arising from use of a vehicle is understood to be any incident deriving from the risk created by use of motor vehicles referred to in the previous article, whether in garages or parking areas, on urban or interurban public or private roads that are suitable for traffic, or on roads or terrain which, though unsuitable, are in general use.

Article 10. Application of the amounts of compulsory insurance cover

1. Where damage to persons and damage to property concur and compensation for the latter exceeds the amount referred to in Article 4.2.b) of the recast text of the Motor Vehicles Public Liability and Insurance Act, the difference shall be compensated by the remainder that may result in compensation for damage to persons up to the limit outlined in Article 4.2.a) of the recast text.

The factual scenario provided to students is divided into two sections. The first section describes the practical case to be defended and is the basis on which to prepare the court file. It reports the events leading up to the traffic accident and presents all individuals who will intervene in the court proceedings.

The second section explains the substantive and procedural rules on which the students must base their statements, i.e. to compensate for the students’ lack of knowledge of the legal rules on procedure and materials, which they will study in later courses, they are given the rules they must apply to conduct the simulated courtroom trial.

C. Assigning roles

As one objective of this teaching activity is to enable students to interact in various procedural positions, the practical scenario delivered to students lists all those who, directly or indirectly, have knowledge of the traffic accident that forms the basis of the court file. The lecturer’s task is to explain

which individuals take part in the proceedings, discuss their roles, and enable all students to intervene. Therefore, not only are students assigned the roles of interested parties, i.e. the plaintiff and defendant, but also the roles of those who participate in the process as witnesses or experts, e.g. health professionals, mechanics, and police officers.

Enrolment for this course ranges from 100 to 120 students per year. However, to promote greater interaction between students and teachers, the groups for this practical activity comprise just 15 students. Once these groups are created, their members are free to assume the roles of lawyers, interested parties, witnesses, police officers, forensic doctors, or mechanics.

2.2 PREPARATORY SESSIONS

A. Drafting the procedural documents

The aim of this activity is not only to take part in the oral proceedings but also to practise drafting a court file. However, students in the first year of their law degree are not accustomed to writing procedural texts.

To help students with this task, therefore, in one lesson the lecturer explains how the most important documents (such as the claim and the response to the claim) are written. This lesson may be imparted by the course lecturer and be complemented with the more practical knowledge of a practising lawyer. Based on authentic documents, including claim forms and responses to claims, students are taught how the facts and legal basis for the factual scenario should be recorded.

To help them draft these documents correctly, students are shown how to justify the assertions contained within them and to provide accreditation with supporting documents to accompany the claim or response to the claim. For example, when the factual scenario contains a financial claim for personal and material damage to a vehicle, valid accompanying documents to support that claim are reports from experts such as forensic doctors or mechanics.

B. Videos of real trial proceedings

Due to the large number of students on the course, it is impossible for all students and their lecturers to attend real court hearings because: a) they would not fit into the courtroom, and b) dividing them into groups of a more manageable size for courtroom visits would entail missing numerous teaching hours in this and other courses.

However, since the oral proceedings of trials are recorded, we show recordings of real proceedings in the classroom and answer any questions the students may have on them. For reasons of consistency, just like the factual scenario of the practical activity, all recorded trials shown relate to civil law.

C. Videos of simulated trials from previous courses

To complement the above session on real trial proceedings, in another session students are shown recordings of simulated trial proceedings carried out by students in previous academic years.

The aims of this session are to show students how their previous classmates conducted this activity, give them ideas and resources to help them perform it as well as possible, and demonstrate that what takes place in real courtroom proceedings can be transposed to a practical classroom session of the undergraduate Law degree.

3 THE SIMULATED TRIAL

3.1 SCENOGRAPHY

To make this activity attractive for students and achieve the greatest similarity with real oral proceedings, a special University classroom that resembles an authentic legal courtroom must be used.

A classroom of the Universitat Rovira i Virgili has therefore been specially designed to make this activity more realistic. This also helps to show students where participants in a real court hearing (i.e. magistrates, court clerks, lawyers, interested parties, witnesses and experts) position themselves and explain the order in which each intervention is carried out.

3.2 CONDUCTING THE ACTIVITY

Courtroom proceedings are divided into the following phases:

A. Presentation of the court file

To satisfy the first aim of this teaching activity, students should submit their court file before the beginning of the oral proceedings. This file must contain the statements from the interested parties, i.e. the claim, the response to the claim, and all documents that accredit and support the lawyers' statements and the statements of evidence. These include photographs taken by accident witnesses, police reports, medical reports, X-rays from the forensic doctor, and a detailed estimate from the mechanic of the cost of repairing the vehicle.

3.3 HOLDING THE PROCEEDINGS

A. Statement of facts

The only roles not performed by students are those of the magistrate and court clerk, which are performed by lecturers to enable them to lead the session. The trial begins with the lecturer providing a brief summary of the background to the contents of the court file.

B. Arguments of the interested parties

After this summary, the lecturer gives the floor to the students. Their first activity is to defend their claims by presenting their facts and ending their intervention with a request for the defendant's conviction or acquittal depending on which procedural position they have adopted. In accordance with the rules on oral proceedings, the first student to intervene is the lawyer for the plaintiff followed by the lawyer for the defendant.

The roles of lawyers for the interested parties are played by students. The first of these is responsible for supporting the allegations and drawing their conclusions, while the second is responsible for presenting evidence. Both students ask relevant questions to defend the interests of their respective clients.

C. Presentation of the evidence

After the students have presented and defended their statements, the lecturer commences the trial's evidentiary phase. In this phase the student/lawyers present the documents to support the claim and response to the claim and explain which statements are verified by each document. In the next phase, the interested parties are questioned. Just as in forensic practice, the students playing the roles of plaintiff and defendant are called to the witness stand to be questioned by the lawyers and magistrates. The order in which the questions are presented is as specified in the Organic Law on the Judiciary, i.e. they are first put to the plaintiff and then to the defendant before the magistrate asks any questions they deem appropriate.

Next, three students playing the part of witnesses are called to testify. In this phase, which is carried out in the same order as above, the witnesses present to the court their knowledge of the case they have acquired directly or indirectly.

After the witnesses have been questioned, the documents provided by the experts are ratified. Our factual scenario comprises three fields of expertise. One of these is represented by students playing the role of police officers, who are questioned about the conditions and characteristics of the accident. The second field of expertise is represented by a student playing the role of forensic doctor. This intervention is limited to accrediting the plaintiff's injuries suffered due to the accident and assessing their financial cost. The third field is represented by a student playing the role of the mechanic who has determined the extent of the repairs needed by the vehicle involved in the accident.

Once the evidentiary phase is concluded, the floor is again given to the lawyers to formulate their conclusions. In this phase, the lawyers relate the facts to the statements they outlined at the beginning of the trial and contained in the documents they used to defend the claim or response to the claim.

D. End of the oral proceedings

After the students have conducted all stages of the oral proceedings, the lecturers take back control of the session to pass their judgement based on the arguments, motivation and strength of the claims defended by the student/lawyers, thus ending the trial.

4 CONCLUSIONS

On completion of this teaching activity, students acquire the following competences in agreement with the requirements of the European Higher Education Area:

a. Written competence: preparing the court file requires proficiency in drafting the various procedural papers that initiate a court process and knowledge of the documents that must be attached to these papers to support the statements contained therein.

b. Oral competence: this simulated courtroom trial demonstrates that students have acquired the theoretical knowledge imparted in the classroom, especially in relation to the defence of procedural positions, the phases of oral proceedings, and the interventions of those taking part in the trial. The fact that students perform the roles of lawyers, judges, court clerks, witnesses, experts and forensic doctors means they must know how a trial is conducted, understand the role of each participant, and recognise their importance in real practice. Moreover, this teaching activity also achieves another objective, which is to facilitate and improve the students' ability to express themselves orally.

Acquiring these competencies accounts for 10% of the student's final grade in *Introduction to Procedural Law*. Their mark for this activity is divided into two parts: evaluation of their written court file, and evaluation of their performance and oral legal argumentation on the day of the proceedings.

REFERENCES

- LASHERAS HERRERO, P. y OCÓN GARCÍA, J.C., “Una corta experiencia con vocación de futuro. Simulación de juicios en la asignatura de Derecho procesal”, in REDUR: Revista Electrónica del Departamento de Derecho de la Universidad de La Rioja, n.11, 2013, pp. 235-237; CERRATO GURI, E.,
- GIMÉNEZ COSTA, A., and MARIN CONSARNAU, D., “La metodología de simulación en una asignatura jurídica: guía de buenas prácticas”, in El aprendizaje del derecho procesal. Nuevos retos de la enseñanza universitaria (dir. PICÓ I JUNOY), J. M^a. Bosch, Barcelona, 2011, pp. 349-353; and
- GONZÁLEZ GRANADA, P., et altri, “Acción pedagógica de simulación de juicios. Metodología docente de derecho procesal en el EEES”, in REJIE: Revista Jurídica de Investigación e Innovación Educativa, n.2, 2010, pp. 81-92.
- CABRERA, DíEZ-SOMAVILLA y SANCHO, “Ejemplo de proyecto docente innovador: caso Comunica2”, in South Florida Journal of Development, v.1, n.4 (2020), pp. 258-267, provide another example of a teaching methodology involving the active participation of students.