LABOUR LAW II

IE University
Professor: ANTONIO ALOISI
E-mail: aaloisi@faculty.ie.edu

PREREQUISITES
It requires a basic knowledge of Labour Law and European Union Law.
SUBJECT DESCRIPTION

In line with Labour Law I, this course is aimed at providing students with the necessary tools, skills and knowledge on the main foundations, institutions, sources and mechanisms of labour law which are necessary to handle legal issues that arise at today’s global workplace and to tackle common day-to-day problems related to this area of practice. Specific themes and material aspects of European Labour Law will be explored in more detail. These include: Freedom of Movement of Workers, Atypical employment, Protection against Discrimination, Business Reorganisation, Transfer of Undertakings and Employee Involvement in the undertaking, to list but a few. Most of the topics will be covered from an international, European and comparative perspective. Where possible and useful, reference will also be made to the national systems of Labor Law of the EU member states.
OBJECTIVES AND SKILLS
The objective of the course is that students become familiar with the principles and institutions of labour law. More concretely, the student will:

- Acquire the necessary skills to master labour law, and to be able to apply it in connection with other relevant the areas of law (such as administrative, company and criminal law).
- Assess the role of international laws and EU law in governing workplace’s interactions and power relationships
- Be able to study, analyze and discuss common labour law issues on the basis valuable insights into employer strategies and practical options for dealing with such issues.
METHODOLOGY

The Professor will lead the learning process through lectures and presentations, students are expected to show a proactive attitude by participating in class discussion and activities.

Legal materials, cases and news reports will help students to investigate the key issues that labour law deals with and the solutions it provides.

Students will be asked to question what they already know and to think about a number of legal questions critically. They will be given elements to discuss work-related issues from a purely legal/technical perspective.

Active participation in class, presentations and debates are essential elements. Dynamic, informed and independent interaction in class will be positively rewarded in the final evaluation.

Students are encouraged to demonstrate a deep knowledge of the course topics (i) through an independent research activity and (ii) showing interest in employment related news/situations they come across during the course.

Note: All sessions are face to face.
<table>
<thead>
<tr>
<th>Teaching methodology</th>
<th>Weighting</th>
<th>Estimated time a student should dedicate to prepare for and participate in</th>
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<tbody>
<tr>
<td>Lectures</td>
<td>30.0 %</td>
<td>45 hours</td>
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<tr>
<td>Discussions</td>
<td>13.33 %</td>
<td>20 hours</td>
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<tr>
<td>Exercises</td>
<td>13.33 %</td>
<td>20 hours</td>
</tr>
<tr>
<td>Group work</td>
<td>20.0 %</td>
<td>30 hours</td>
</tr>
<tr>
<td>Other individual studying</td>
<td>23.33 %</td>
<td>35 hours</td>
</tr>
<tr>
<td>TOTAL</td>
<td>100.0 %</td>
<td>150 hours</td>
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PROGRAM

SESSIONS 1 - 2

Introduction. Syllabus presentation and quick recap.

What is going on here? The European Pillar of Social Rights, the ILO initiative on the Future of Work, towards a new social dimension?

R.A.: Flexibilization, Globalization and Privatization: Three Challenges to Labour Rights in Our Time

R.A.: The European Pillar of Social Rights: An Assessment of its Meaning and Significance


SESSIONS 3 - 4


Resources: Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States; Regulation 492/2011 on freedom of movement for workers within the Union.

Case Study: CJEU 15th December 1995, C-415/93, “Bosman”

SESSIONS 5 - 6

Freedom of establishment. Posted workers directive.

R.A.: Posted workers: single market or protection of national labour law systems

R.A.: One Step Forward, Two Steps Back? The Viking and Laval Cases in the ECJ

R.A.: The Court of Justice and the Social Market Economy: The Emergence of an Ideal and the Conditions for its Realization


SESSIONS 7 - 8

Scope of Employment. Employment contracts. Types. Content

R.A.: The Concept of ‘Worker’ in European Labour Law: Fragmentation, Autonomy and Scope

R.A.: The concept of ‘worker’ in EU law: status quo and potential for change

08th January 2020
SESSIONS 9 - 10

**Subcontracting and intermediaries in the labour market. Contractors.**


**Illegal lease of employees. Temporary employment agencies.**


R.A.: Casual Work beyond Casual Work in the EU
R.A.: Core and Contingent Work: a Theoretical Framework
R.A.: Independent contractors and the challenge of vertical disintegration to employment protection laws

SESSIONS 11 - 12

**The hiring process.**

Resources: ILO Convention 181 on Private Employment Agencies

**Working conditions. Minimum standards: wages and hours of work.**


Case Study: CJEU 21st February 2018, C-518/15, “Matzak”

SESSIONS 13 - 14
Health and safety.

Moore P. (2019), OSH and the Future of Work: benefits and risks of artificial intelligence tools in workplaces

Other typical clauses in employment contracts. Trial periods. Exclusivity and post-contractual non-compete clauses. Permanence agreements.


R.A.: OSH and the Future of Work: benefits and risks of artificial intelligence tools in workplaces

*Co-funded by the Erasmus+ Programme - Jean Monnet Activities - of the European Union

SESSIONS 15 - 16
Mid-term Exam

SESSIONS 17 - 18
Maternity/paternity/family related rights

Equality. Equal pay, equal treatment and types of discrimination

Case Study: CJEU 22nd January 2005, C-144/04, “Mangold”
Case Study: CJEU 10th July 2008, C-54/07, “Feryn”

R.A.: Solidarity and Conflict: European Social Law
R.A.: The EU Charter of rights and the right to equality

SESSIONS 19 - 20


R.A.: Artificial Intelligence is Watching You at Work, Digital surveillance, employee monitoring and
regulatory issues in the EU context

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SELECTIONS 21 - 22
Transfer of undertakings.
Case Study: CJEU 21st October 2010, C-242/09, “Albron”
Case Study: CJEU 6th March 2014, C-458/12, “Amatori”
R.A.: The Fissured Workplace: why work became so bad for so many and what can be done to improve it
T.N.: Transfer of Undertakings in Watson P., EU Social and Employment Law

SELECTIONS 23 - 24
Termination of employment. Termination by the employee. Termination by the employer. Post termination obligations.
Termination of employment. Objective dismissals, collective redundancies.
R.A.: European Labour Law

SELECTIONS 25 - 26
International and European Protection of Collective Rights.
Employee Involvement and collective bargaining in the EU
Resources:
Case Study: CJEU 12st September 1999, C-67/96, “Albany”
Case Study: CJEU 4th December 2014, C-413/13, “FNV Kunsten”
Velyvyte V. (2016), The Right to Strike in the EU after Accession to the ECHR: A Practical Assessment in Freedland M. and Prassl J. (Eds.), Viking, Laval and Beyond, London
T.N.: Workers without workplaces and unions without unity. Non-standard forms of employment and collective rights, Bulletin of Comparative Labour Relations
T.N.: The Right to Strike in the EU after Accession to the ECHR: A Practical Assessment
SESSIONS 27 - 28
Practice. Wrap up
Guest lecture

SESSIONS 29 - 30
Final Exam
BIBLIOGRAPHY

COMPULSORY

Title: EU Employment Law
Author: Catherine Barnard
Medium: PRINT

Title: European Labour Law
Author: Teun Jaspers, Frans Pennings and Saskia Peters (eds.)
Publisher / Edition / Year: [ Intersentia, 1th edition, 2019 ]
ISBN: [ 978-1-78068-704-9 ]
Medium: PRINT

Title: Handbook of Spanish Employment Law
Author: Francisco Javier Gómez Abelleira
Publisher / Edition / Year: [ Tecnos, 1st edition, 2012 ]
ISBN: [ 978-84-309-5519-0 ]
Medium: PRINT or ELECTRONIC

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RECOMMENDED

Title: Social justice as expressed in International Labour Standards: Documents and materials of the ILO.
Author: José Luis Gil y Gil and Tatsiana Ushakova.
Publisher: Juruá Editorial/1st. edition 2015.
Medium: PRINT

Title: EU Labour Law: A commentary.
Author: Monika Schlachter.
Publisher: Kluwer Law International/2015
Medium: PRINT

Title: EU Labour Law
Author: Ruth Nielsen
Publisher: Djof Publishing/2nd edition 2013
ISBN: 978-87-574-2566-6
Medium: PRINT

Title: EU Anti-Discrimination Law
Author: Evelyn Ellis and Philippa Watson.
Publisher: Oxford University Press/ 2014
Medium: PRINT
EVALUATION CRITERIA

GENERAL OBSERVATIONS
Each student has four attempts over two consecutive academic years to pass this course. Students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule will lose their 1st and 2nd chance, and go directly to the 3rd one (they will need to enroll again in this course next academic year). Students who are in third or fourth call should contact the professor during the first two weeks of the course.

RETAKE POLICY
In July’s retake the maximum final score would be of 8 out of 10. Grading for retakes will be subject to the following rules:
Students failing the course in the first regular period will have to do a retake in July (except those not complying with the attendance rules, which are banned from this possibility). Dates and location of the July retakes will be posted in advance and will not be changed.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Percentage</th>
<th>Comments</th>
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</thead>
<tbody>
<tr>
<td>Class Participation</td>
<td>20 %</td>
<td></td>
</tr>
<tr>
<td>Group Presentation</td>
<td>20 %</td>
<td></td>
</tr>
<tr>
<td>Mid-Term Exam</td>
<td>30 %</td>
<td></td>
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<tr>
<td>Final Exam</td>
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PROFESSOR BIO
Antonio Aloisi is full-time professor of European and Comparative Labour Law. Prior to joining IE University, Antonio was a Max Weber Postdoctoral Fellow at the European University Institute (EUI), Florence. In 2018 he defended his doctoral dissertation, entitled "Facing the challenges of platform-mediated labour. The employment relationship in times of non-standard work and digital transformation", at Bocconi University, Milan, where he was a Lecturer at the School of Law and the LLM of Internet Technology. Previously, he was a visiting researcher at the Saint Louis University School of Law. After graduating in Law from Bocconi University (2013), Antonio worked on a long-term policy framework for school reform in Italy at the Ministry of Education, Universities and Research.

Antonio’s interests span employment law and industrial relations. His research mainly focuses on the impact of digital technologies on labour regulation and social institutions. In particular, he studies non-standard forms of employment, automation, artificial intelligence, and new organisational arrangements and practices of collective action. He has been involved in several research projects, some of which were developed in consortium with or commissioned by international institutions or research centres (the Joint Research Centre and the Directorate-General for Employment of the European Commission, the Eurofound and the OECD). He has authored and co-authored a number of articles, book chapters and op-eds in international peer-reviewed journals, books and blogs.

OTHER INFORMATION