

International and European Labour Law

Master's Degree Course Giur.Inn.

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Presentation of the course

- The teaching of International and European Labour Law has as its object the study of labour law in the supranational and transnational dimension, with particular regard to the **multi-level system** of international, supranational and euro-united sources, and of the judicial protection of social rights provided by international and European courts and para-jurisdictional bodies.

The rationale for a choice

The topics selected, in line with the new Master's Degree Course "Legal Sciences for the internationalization and innovation of the enterprise (Giur. Inn.)", concern the **obligations and behaviors recommended** to companies operating **in transnational context**, resulting from international or supranational standards, concerning work directly employed or supplied through forms of outsourcing, with particular regard to **supply chains** and work performed through **digital platforms**.

Training goals

- The course aims to provide knowledge on the international and European regulatory framework in the field of work to enable students to be aware of the legal obligations on the company operating in the transnational dimension regarding the rights granted to its employees or to employees of supply and subcontracting companies linked by contractual relations with the client company.
- Economic globalisation, the processes of productive relocation to countries with lower labour costs and the use of digital technologies allow the company to use the work through forms of relocation and outsourcing, as well as remotely. The student is therefore encouraged to find the regulatory tools applicable to complex situations and to verify, through case studies and direct testimony of subjects operating on a transnational scale, problems and appropriate legal and organizational solutions.

Program

- Structure and functioning of the ILO: international sources between hard and soft law
- International labour law deriving from the fundamental conventions of the ILO, in particular the freedom of association as an enabling right and the right to collective bargaining
- The ILO Decent Work Agenda and the 2030 sustainable development goals
- European social law: origin and evolution in the Treaties
- The Charter of Fundamental Rights of the European Union and the case law of the Courts: multi-level protection
- Free movement of workers, services and transnational posting
- Anti-discriminatory Law
- Social dialogue and European and transnational collective bargaining
- The right to strike and the balance with fundamental economic freedoms
- European Works Councils and information and consultation rights
- Employees involvement within the European Company (SE)

Soft Law

The course also deals with Corporate Social Responsibility (CSR), which companies, particularly multinationals, adopt on a voluntary basis.

It is based on soft law instrument, such as the United Nations Global Compact, the OECD Guidelines, the ILO Tripartite Declaration and the UN Guiding Principles on Business and Human Rights.

It is adopted through unilateral charters and codes of conduct, or through international framework agreements negotiated with international trade unions, which provide for forms of monitoring and evaluation of the behaviour of companies in all countries of establishment and in global supply chains.

Case-study

- The case study concerns the application of human labour rights in the global supply chains of the fashion industry.
- Students are invited to carry out research and active discussion activities on documents, codes of conduct, international framework agreements (IFAs), supervision plans of multinational companies in the fashion sector.
- Seminars will be held in which cases of international best practices will be presented and discussed with their protagonists

Teaching methods

- The teaching is carried out through interactive frontal lessons, in which the teacher illustrates themes and problems that are the subject of discussion, also through the prior distribution of cases and materials, soliciting reactions and argued positions.
- Students are asked to report on judicial cases, transnational collective agreements, codes of conduct and to prepare specific dossiers. Active presence is strongly recommended.
- Part of the course is carried out through in-depth seminars and interviews with experts, social partners, companies operating in the transnational dimension.

Preliminary remarks

- Labour law was formed and developed within the nation-states mainly during the 20th century (the century of work)
- The structural features of labour law systems have been forged in the historical, economic, social and institutional context of each country
- The legislative regulation of employment relationships is the responsibility of the State
- The comparative method highlights similarities and differences between labour law systems, researching how different systems address the same challenges

Is labour law a national law?

- Labour law institutions have national roots: state regulation of the employment relationship, labour codes
- The collective dimension of work - trade union organisation, trade union action, representation in the workplace, collective bargaining, collective agreement, strike, dialogue between social partners and public authorities - was also born and developed in the territorial/national dimension.
- It is in the national dimension that the Welfare State systems typical of Western democracies originated in the 1940s to provide for the needs of the working class or, more generally, of citizens (employment, unemployment benefits, pensions, health care system, public education, maternity, illness, paid holidays, etc.).
- The social Constitutions of the twentieth century recognize and protect the rights of the person who works (in Italy: Articles 1, 2, 3, 4, 35, 36, 37, 38, 39, 40, 41, 46 Const.) affirming principles of dignity and equality.

Still today?

- Labour law is commonly perceived as national labour law
- The rules applicable to employment relationships are provided for by the laws of the State (or sub-State bodies) and by national, territorial or company collective labour agreements.
- Labour and social security disputes are submitted to national courts or extra-judicial bodies

BUT....

- In some areas of labour law, the competence of the national legislature is not exclusive **but concurrent** with that of the European Union (Article 153 TFEU).
- In the hierarchy of sources, affirmed the **primacy of EU law** over domestic law (with effect of interpretation in accordance with or disapplication of domestic law contrary to EU law)
- The Charter of Fundamental Rights is the **primary source of EU law**, as rights recognised in international sources and constitutional traditions common to the Member States (Article 6 TEU).
- National judge is also EU judge: **multi-level protection** of social rights

The European social model

Distinctive features common to the different European countries, which distinguish the continental tradition from that of other developed areas of the world:

- Existence of statutory labour law systems based on the employment contract
- Freedom of association and recognition of the role of the union
- Collective agreement as a source of employment regulation
- Existence of public welfare systems

questioned

- - EU enlargement to countries not having the same traditions
- - internal competition in the single market (social dumping): competition on labour costs and labour rules
- -the eruption of globalisation with the liberalisation of world trade
- -technological evolution and digitisation
- -economy based on the tertiary sector (trade, tourism, services, insurance)
- -financialisation of the economy and territorial uprooting
- -domain neo-liberalist unique thinking also in Europe
- -economic crisis and austerity measures

Effects

- Increasing job insecurity (spread of atypical or non-standard contracts)
- Derogations in pejus on central institutes of labour law
- Explosion also in Europe of the phenomenon of the “in-work poverty”
- Reduction of resources for welfare systems
- Social dumping and downward competition between countries even within the EU
- Relocation/externalisation, black/informal work
- Organisation of companies into groups, networks and global supply chains, breaking down the figure of the employer and his responsibility

New challenges for employment protection

- -global competition leads to competitive job devaluation
- -Decentralisation of work relations (company level becomes a priority)
- -Increased flexibility: input, output, functional
- -global value chains and protection of fundamental rights in third countries
- -climate change
- -migrations
- -population ageing and sustainability of welfare systems
- -digital economy, robotics, substitution effects of human work

The company in the international context

- -free movement of goods, services, labour, capital
- - Multinational enterprises: strategic and operational decisions (centre/periphery)
- - veil of the legal entity: autonomy and responsibility of the individual companies in the group/network
- - use of a myriad of contractual relationships with third party companies: contracts, supply, labour supply, etc.
- - temporary posting of workers to countries other than the country of usual employment (EU directive)
- -EU rules on transnational companies/groups: information and consultation obligations to workers' representatives at European level (EWCs); European Company and worker participation in SE bodies
- - non-binding guidelines on CSR (ILO, OECD, UN)
- - voluntary processes of social dialogue and transnational collective bargaining

