# Labour Law

## Prof. Vincenzo Ferrante

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The course aims to provide students with the knowledge of the essential institutions of employment law and trade union law, learnt in their practical relevance and in the context of living law.

The course aims to ensure that, at the end of the course, students can independently assess even the most complex issues concerning the individual employment contract and trade union law and propose solutions concerning them.

For the graduation purposes, students must include at least one additional subject in their degree curriculum, to be chosen between "Social Security Law" and "Advanced Labour Law", upon completion of this course.

***COURSE CONTENT***

1. *General introduction to the course (first lessons)*

– Historical evolution and sources of labour law.

– Employment relations in the civil code and in the Constitution.

– Labour relations and social policy in the EU; other international sources (overview).

– Public work and private work (overview).

2. *The subordinate employment contract: the discipline of the employment relationship*

– Subordination and hetero-direction.

– The protection of professionalism: duties, qualifications and categories.

– Diligence obligations, obedience, and fidelity.

– Working hours, holidays, and rests.

* *Part time* (overview).

– The protection of health and safety (overview).

– Remuneration and severance pay.

– Freedom and dignity of workers: controls on their activities.

– Protection against individual and collective dismissals.

– Illness and other cases of suspension of the employment relationship.

– Fixed-term work, temporary, intermittent; apprenticeship (overview).

– Protection against discrimination.

– The individual contract in public work (overview).

– Transfer of branch of business and contract regulation.

– The organisation of the labour market.

– The protection of employment credit.

3. *The trade union right*

– Freedom and trade union organisation.

– The collective agreement: nature and effectiveness.

– The mandatory part of the collective agreement. The rights to information and trade union consultation.

– Company union representatives.

– The repression of anti-union conduct.

– Collective bargaining in privatised public employment.

– The right to strike.

– The strike in essential public services.

The subject only addressed in broad outline will be examined and deepened in the “Advanced Labour Law” courses, while the subject of payroll subsidies will be resumed in the “Social Security Law” course, available to students to complete the degree curriculum.

***READING LIST***

1. *Manuals for the general part*

• M. Magnani, *Diritto sindacale*, IV edizione, Giappichelli, Torino, 2021

• *Il lavoro subordinato. Rapporto contrattuale e tutela dei diritti*, (a cura di V. Ferrante e con i contributi di M. Altimari, S. Bertocco, L. Calafà, M. Corti, O. Dessì, M. G. Greco, F. Malzani, M. Novella, F. Pantano, R. Pettinelli, F. V. Ponte, F. Ravelli, N. Rossi, A. Sartori, C. Serra), Maggioli, S. Arcangelo di Romagna, 2023

• O. Mazzotta, *L'estinzione del rapporto di lavoro (Artt. 2118-2119 e 2121 c.c.)*, Commentario al codice civile (già diretto da P. Schlesinger e continuato da F.D., Busnelli e G. Ponzanelli), Giuffré F. Lefebvre, Milano, 2023.

• In relation to the provisions referred to in Legislative Decree no. lgs. 81 of 2015 (fixed-term work, apprenticeship, part-time work, temporary work, payroll subdidies and employment relationship with public administrations, a specific course pack will be prepared and made available at the university copy centre).

Alternatively, for non-attending students, a manual chosen from the following:

– O. Mazzotta, *Manuale di diritto del lavoro,* X edition (or a more recent one), Wolters Kluwer CEDAM, 2022 (part relating to trade union law and the regulation of the employment relationship: p. 1-685).

– F. Carinci-R. De Luca Tamajo-P. Tosi-T. Treu, *Diritto del lavoro,* Utet, Turin, latest edition available for each volume (vol. I, *Il diritto sindacale*; vol. II, *Il rapporto di lavoro subordinato*).

2. *Single-subject part, compulsory for all students: one of the following options, chosen by the student:*

– V. Ferrante, *Libertà economiche e diritti dei lavoratori. Quaderno dell'Osservatorio sul lavoro sommerso, n.2*, Vita e Pensiero, Milan, 2020 (also available as an e-book).

– V. Ferrante (edited by), *A tutela della prospertà di tutti*, Giuffrè, Milan, 2019 (three essays of your choice, compulsory including one of the first two essays).

– V. Ferrante, *Direzione e gerarchia nell’impresa (e nel lavoro pubblico privatizzato); art. 2086,* in *Commentario al cod. civile*, edited by F. D. Busnelli, Giuffrè, Milan, 2012.

The readings are intended as an in-depth study of specific topics that are only partly covered in the manuals, and as a useful tool to support the lectures, which in many cases present their conclusions in class*.*

For the preparation of the exam, the use of any updated labour code is recommended (e.g. *Codice del lavoro Minor*, XXVII ed., Published by Simone, Naples). Students are also required to have knowledge, besides of the Constitution, also of the civil code and the workers' statute (law no. 300/70) and the following regulatory provisions: ll. no. 604/66; 146/1990; 428/90 (art. 47); 223/91 (articles 4, 5 and 24); 68/99 (articles 1-4; 10-11) and 183/2010 (articles 30 and 32); d. lgs. 165/2001 (articles 1-5, 51-55 bis; 63); dd. lgs. 66 (articles 1-15) and 276 (article 29) of 2003; dd. lgs. nos. 23 and 81 (articles 1-10; 19-31; 51) of 2015 (*Jobs Act*); articles 429/III and 545 CPC as well as the interconfederal agreement of January 2009, the so-called "Consolidated act" on trade union representation (a.i. of 10 January 2014) and art. 8 of the d.lgs. 138/2011.

***TEACHING METHOD***

Classroom lectures, with reference to practical cases and simulations. Conferences and study seminars on specific regulatory changes. For a successful attendance, a thorough knowledge of private law institutions is essential. The slides projected and the main legal regulations commented on in class are available on the lecturer's Blackboard page.

***ASSESSMENT METHOD AND CRITERIA***

Written and oral exams. The teacher administers a pre-selection written test for admission to the exam, including mainly multiple choice questions; as a rule, the correction takes place immediately after the delivery of the papers, so that the oral exam can begin during the same morning. A copy of some of the tests administered in the past sessions is available at the University copy centre (near the central entrance of the library) and among the "materials" on Blackboard. The questions are based on the content of the course and the cases presented in class. Failure to pass the preliminary test prevents access to the subsequent interview. The final mark usually results from the sum of the two tests with equal weighting. To provide an overall assessment, the following parameters will be taken into account in this order: consistency and speech argumentation, command of the legal language, accuracy of the answers to the topics addressed, independent judgment. Students are free to show up at each session.

***NOTES AND PREREQUISITES***

Course attendance is strongly recommended (to be understood as a requirement at least for the first lectures, during which point 1 of the programme is addressed).

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=ENG or on the Faculty notice board.