

## Droit social comparé

### Titulaires

Pieter Pecinovsky (Coordonnateur) et Daniel DUMONT

### Mnémonique du cours

DROI-C5112

### Crédits ECTS

5 crédits

### Langue(s) d'enseignement

Anglais et Français

### Période du cours

Deuxième quadrimestre

### Campus

Solbosch

## Contenu du cours

This course, Comparative Labour Law, will focus on comparative labour law. We often hear "clichés" which suggest that Belgian legislation makes it difficult to dismiss employees; that Belgians love to strike, partly thanks to a lack of regulation; that our trade unions are very powerful given their legal protection and special role as actors in social policy; and that our working time legislation is way more complicated than in other countries. But is this true? Are we really that different? And how exactly do we compare against other countries within the EU and outside?

This course will look at specific topics in which Belgian labour law will be compared with other legal systems (with a preference for other EU countries). This will allow us to see whether our system is unique or, to the contrary, similar to other countries. It also might show the impact of European harmonisation, as EU Directives lay down minimum standards, but the national implementation can have different results.

Next, it is interesting to study the exemplary value of labour law in our neighbouring states, by which our politicians might have gotten inspired when they regulated certain topics of labour law in the past. The influence of foreign legal systems on our labour law cannot be ignored, but this legislative method is not without its pitfalls. However, we will not merely look at the past, also hot topics like the on-demand economy or remote work (telework) can be studied from a comparative perspective. We will see if other systems have found a good or better solution to the difficult challenges which are posed by new developments in human resources, the economy and industrial relations.

Course topics that will be discussed (non-exhaustive):

- > Comparative labour law: uses and misuses
- > Dismissal
- > Right to strike
- > Collective labour law: collective bargaining
- > Working conditions and types of contracts

- > On-demand economy (platform economy) and the issue of bogus self-employment

To conclude, this course promises a topical approach to comparative labour law in which we will not study foreign labour law systems in their totality, but we will depart from interesting parts of Belgian labour law or actual topics which are still under development. In this way, we will learn which distinct choices other countries have made / are making and if we can find inspiration or better solutions in the other systems without forgetting the broader context of the distinct socio-economic situation the various legal systems.

## Objectifs (et/ou acquis d'apprentissages spécifiques)

This course will show the added value of a comparative legal approach as a legal research method. It will not only allow the students to have a look at the particularities of foreign labour law, but it will also give them a new and deeper understanding of the Belgian system in a broader, European and global context. The students will learn how to look at foreign labour laws in their own socio-economic and historical context, while taking into account external influences like the EU, the ECHR or the ILO. The method of comparative (labour) law research is an important tool for modern scientific legal research as well as for (social) policy making.

## Méthodes d'enseignement et activités d'apprentissages

The course will be given by Pieter Pecinovsky in English. The students are encouraged to interact in English or French. Depending on their availability, it is very likely that experts on foreign labour law will be invited to participate to the classes. Every class will be supported with a powerpoint presentation (in English) which will be uploaded on the Université Virtuelle. There is no real handbook but we will use English articles on comparative labour law or concerning foreign labour law, international overviews and a handbook on Comparative European Labour Law of prof. dr. Antoine Jacobs (Tilburg University). These texts will be provided on the Université Virtuelle. Next, we will also look at foreign case law. The original texts will be used when available in English or French. The lectures will be mostly classical (ex cathedra) but with interactive elements. The students might be asked to read an article or a case in order to discuss this during the class. There will also be a possibility to enter into dialogue with Erasmus students about their own labour law systems. Unlike the previous years, there will be no paper assignment.

## Références, bibliographie et lectures recommandées

- > O. Freund-Khan, "On uses and misuses of comparative law", *Modern Law Review* 1974, vol. 37, no.1, 1-27;

- > C.J. Whelan, "On uses and misuses of comparative labour law: a case study", *Modern law review* 1982, Vol. 45, no.3, p.285-300;
- > H.W. Arthurs, "Compared to what? The UCLA comparative labor law project and the future of comparative labor law", *Comparative labor law & policy journal* 2007, Vol.28, no. 3, 591-612.
- > R. L. Zahn, "The "Europeanisation" of labour law: can comparative labour law solve the problem?", *Northern Ireland legal quarterly* 2010, Vol. 61, no. 1, 79.

## Support(s) de cours

Université virtuelle

## Autres renseignements

### Lieu(x) d'enseignement

Solbosch

### Contact(s)

Courriel : pieter.pecinovsky@ulb.be

Bureau à la Faculté de droit et de criminologie : H3.216 (sur rendez-vous)

## Méthode(s) d'évaluation

Examen écrit

## Méthode(s) d'évaluation (complément)

- > Written open book exam on 20 points.
- > The exam will take 2 hours and will be in English. This means that the questions will be in English and you will be required to answer in English. However, the students will not be assessed on their knowledge of English grammar.
- > As the exam is "open book", the students will be able to use the slides, the provided doctrine, case law and legislation. Of course, it will not be allowed to use any electronic device.
- > The purpose of the exam is not to evaluate your ability to learn by heart, but it will test your deeper understanding of the discussed topics and your ability to make your own assessment or to make connections between different topics.
- > The exam will feature shorter questions which will request specific answers and open questions.

## Langue(s) d'évaluation principale(s)

Anglais

## Programmes

### Programmes proposant ce cours à la faculté de Droit et de Criminologie

MA-DROI | **Master en droit** | finalité Droit public et international/bloc 2, finalité Droit économique et social/bloc 2 et finalité Droit civil et pénal/bloc 2 **et** MS-DSOC | **Master de spécialisation en droit social** | bloc U