

Master Avanzado en Ciencias Jurídicas	
<b><i>Employment law and the crisis in the European constitutional perspective: the Italian and the Spanish cases compared</i></b>	Term: 3
	Credits: 4
	Language: English
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Course description
<p>The course intends analyze dynamically the changes of labour regulatory framework due to the great recession in the Eurozone, focusing on the Italian and Spanish cases, observed in comparison. In particular it will focus on the effects of institutional changes with regards, first of all, to the living dynamic of fundamental social rights (both individual and collective) in the jurisprudential discourse. The first part (4 hours) will consider the constitutional perspective in the light of new European economic and financial constraints. In particular the substantial and formal change of two Constitution, where fundamental social rights keep traditionally an important position, in front of European financial measures. Particular emphasis will be given to the relation between national constitution and European Chart of fundamental rights. The final reflection is whether or not we are in front of a radical change of European and national social models due to the structural changes induced by the great recession. The second part (12 hours) will focus on labour crisis legislation with regard to flexicurity paradigm and work contract. The third Part (4 hours) will treat the issue of exit flexibility: economic and subjective reasons of dismissal. The fourth Part (4 hours) will deal with some methodological and theoretical problems: the role of comparative method in the European context and the theoretical framework of labour law paradigm.</p>

Requirements
English.

Methodology
As method of teaching we will use dynamic tools as slides and other multimedial tools, interactive approach with the students will be privileged .

## Syllabus

Session 1	Economic crisis and fundamental social rights – analysis of the collocation of fundamental social rights in the Spanish and Italian constitutions, reviewed in light of the Charter of Nice
Session 2	Impact of the anti-crisis measures on the Constitution (fiscal compact regulatory and constitutional modifications) – fundamental social rights and markets - analysis of national and supranational high court judge made law on the relationship between the economic crisis, national regulatory provisions and relevant constitutional social rights
Session 3	European and National flexicurity – dualism in the employment market – the impact of the economic crisis and the modifications of the regulatory framework.
Session 4	The regulation of flexible tools in Italy and Spain ( fixed term contracts, training contracts, agency contracts) –
Session 5	Work and job insecurity, the permanent and existential aspect of job insecurity – subordinate and parasubordinate work : Regulation in Italy and Spain and the European perspective –
Session 6	The work contract: the transformation of the work contract and individual autonomy – the widespread (non) protection of semi-independent work – Individual protection through legislation and atypical work contracts
Session 7	The constitutionalisation of the work contract in the European perspective – The role of national and supranational judge made law
Session 8	Safeguarding atypical work through collective representation – contents of such safeguards – the problems of representation: conflict or integration with traditional representation of subordinate workers
Session 9	Flexibility on dismissal legislation in Italy and Spain in the European perspective – National and supranational constitutional provisions regarding dismissals and employment law; the right to work and economic freedom.
Session 10	Wrongful unlawful dismissal (discrimination), dismissal following disciplinary proceedings and Redundancy (dismissal for economic reasons) ; Sanction against unlawful dismissal Reforms and the prospective reforms in Italy and Spain – Towards an European standard of protection against dismissals

Session 11 The comparative legal method and labour law

Session 12 Theoretical issues: *capacitas* theory and labour law

## Activities

Reading and commenting the recommended bibliography. Some practical exercitation is also foreseen.

## Grading

Participation	60%	It is necessary to attend and participate 100% of the classes. Under a justified reason it's possible one absence.
Final paper	40%	Final paper.

#### Bibliography y materials

The recommended bibliography: After the standard contract of employment: innovations in regulatory design, H. Arthur and K. Stone (coord), Russell Sage Foundations, 2013.

Study on precarious work and social rights final report:

[http://csdle.lex.unict.it/Archive/LW/Data%20reports%20and%20studies/Reports%20%20from%20Committee%20and%20Groups%20of%20Experts/20120809-013329\\_Study\\_precarious\\_work\\_Jul12pdf.pdf](http://csdle.lex.unict.it/Archive/LW/Data%20reports%20and%20studies/Reports%20%20from%20Committee%20and%20Groups%20of%20Experts/20120809-013329_Study_precarious_work_Jul12pdf.pdf)