

‘HELP in the 28’ course on Labour Rights as Human Rights

Background and key concepts

In times of economic recession, the goal of full employment should go hand in hand with the protection of labour rights. Protecting labour rights benefits workers and their dependents and have a positive impact in their daily lives. It also benefits employers and society as it provides legal certainty in the workplace, protects the workforce and promotes sustainable growth. The benefits in terms of social cohesion and stability should not be underestimated either.

There are over 240 million workers in the European Union. EU labour law goes indeed hand in hand with the single market, where fair competition has to be promoted without lowering labour standards.

The European Social Charter (ESC) is a treaty of the Council of Europe (CoE) binding 43 states that guarantees fundamental social and economic rights as a counterpart to the European Convention on Human Rights (ECHR), which refers to civil and political rights. The ESC guarantees a broad range of everyday human rights related to employment, labour rights, housing, health, education, social protection and welfare. It provides extensive and complete protection of social rights and represents an essential component of the continent's human rights architecture.

The ESC also serves as a point of reference in European Union law; most of the social rights in the Charter of Fundamental Rights of the EU (the CFREU or EU Charter) are based on the relevant articles of the ESC. The EU complements policy initiatives taken by its Member States by adopting directives that set minimum standards on topics such as (i) working and employment conditions, (ii) informing and consulting workers, or (iii) health and safety at work.

A better understanding of the human rights' dimension of labour rights by legal professionals is therefore needed.

The ‘HELP in the 28’ course on “Labour Rights” covers in an interactive way the key concepts, the European system of protection of labour rights (stemming from the Council of Europe and the EU), the case law of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) as well as decisions of the European Committee of Social Rights (the ECSR). The latter is indeed an independent body of a quasi-judicial nature that oversees the situation in the contracting states and develops case law.

This course deals both with individual and collective labour rights, primarily on the basis of the ESC and the relevant articles of the ECHR. The course also makes comparisons and synergies with the EU Charter and presents the relevant EU labour law. It also considers the key ILO conventions.

It is important to emphasize the indivisibility of all human rights, be they civil, political, economic, social or cultural, and that there can be no human rights society without full respect off social human rights, including labour rights.

The ‘HELP in the 28’ course on Labour Rights offers a detailed and comprehensive curriculum which covers the key concepts, the legal framework of the CoE and the EU (directly applicable at national level), the case law of the ECtHR, the CJEU and the ECSR as well as specific areas of labour law.

In all these European treaties, the point of departure is the full respect on the fundamental rights of employees, defined by the ILO in 1998:

- The prohibition of forced labour
- The prohibition of the worst forms of child labour
- The prohibition of discrimination in employment
- Right to associate peacefully (i.e. trade unions) and collective bargain

Learning objectives

By the end of this course you will be able to:

- ✓ understand the scope of labour rights as well as their restrictions
- ✓ understand what binding legal instruments concerning labour rights are available under the CoE and EU legal systems
- ✓ understand the role of European actors (mainly the ECtHR, the CJEU and the European Committee of Social Rights - ECSR) and also national authorities (i.e. labour inspectorates, courts)
- ✓ refer to the relevant legal framework in your everyday work, as a legal professional in the EU

To achieve this goal you will have the opportunity:

- ✓ to put into practice the scope of labour rights as defined in the ESC, the ECHR and the EU law
- ✓ to learn about case law of the ECtHR, the CJEU and the ECSR
- ✓ to carry out exercises to identify situations of potential violations of the labour rights and interdependencies between the CoE and EU systems of protection

The course is also designed:

- ✓ to raise awareness on the fact that social rights are binding rights
- ✓ to strengthen your individual role as legal professional in human rights protection, as European standards on labour rights have to be primarily implemented at national level

Course outline

The introduction includes the following parts:

- the framework concept of social human rights,
- a presentation of the key European treaties,
- the labour rights of the European Social Charter,
- supervision and legal protection of them, and
- their relation to fundamental labour rights in EU law.

The course consists of the following seven substantive modules:

1. Right to work and employment relationship
2. Working time
3. Fair remuneration and protection of wages
4. Termination of employment
5. Equality and non-discrimination
6. Collective labour rights on all levels
7. Occupational safety and health



While the introduction is compulsory, and participants can go through all the other modules, it is enough to select four out of the seven ones to successfully pass the course.

Labour Rights in the European system of human rights protection– overview

Some –though not all- of the key provisions relevant to the core labour standards set in the ILO, CoE and EU systems are presented below.

	ILO Conventions	ESC	ECHR	CFREU
Prohibition of forced labour	29, 105	1.2	4	5
Prohibition of Child Labour	138, 182	7.1-3, 7.10	3, 4	32
Prohibition of discrimination	100, 101	1.2, 4.3, 19.4-5, 20	14 prot 12	21
Right to Associate	87, 98	5 and 6.1-2	11	12

Visit below links for updates:

CoE : www.coe.int/en/web/turin-european-social-charter

EU: <http://ec.europa.eu/social/main.jsp?langId=en&catId=82>

Scope and level of protection of the EU and CoE systems

The obligations established in the CFREU or EU Charter are addressed:

- ✓ To institutions and bodies of the EU
- ✓ To national authorities when they are implementing EU Law

The EU Charter does not apply to national authorities outside of the scope of EU Law. The protection of labour rights is then guaranteed under:

- ✓ The constitutions or constitutional traditions of EU countries
- ✓ International conventions they have ratified, such as the ECHR, the ESC or ILO Conventions

Target audience and access to the free online course

This free on-line course, developed under the EU-funded Programme “HELP in the 28”, is primarily addressed to legal professionals (judges, prosecutors, private attorneys, lawyers and senior court staff) but can be also useful for national labour authorities (i.e. inspectorates) and other persons working in the field of labour rights.

You can access the online course at <http://help.elearning.ext.coe.int> once you are logged in in your HELP account.

If you complete the course and scores over 50% in the multiple choice questions throughout it, you will be entitled to print a ‘statement of accomplishment’ from the HELP in the 28 Programme.