

Course manual
Joint Master's Programme in
International Humanitarian Action

University of
Warsaw

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**Financial and labour law in
humanitarian action**

Semester 2



**Module
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Credits awarded:

3 ECTS, equivalent to 75 work hours (1 ECTS = 25 hours)

Period:

Second semester, block 1.

Venue & hours:

Monday, 11:30 - 13:00, room 312, Collegium Iuridicum III

Introduction

The module is an element of the third component (Orientation Period, 30 ECTS) of the NOHA Joint Master's Degree in International Humanitarian Action to be completed during the second semester. It forms a recognised part of the curriculum and is a requirement for obtaining the NOHA Master's degree.

The aim of this module is that students learn about legal frameworks of providing humanitarian action abroad with focus on labour law and tax law. It provides students with knowledge about main legal instruments referring to applicable labour law, jurisdiction in labour cases, characteristic of the situation of posted workers. In addition students will learn about main regulations concerning taxation of humanitarian action with a focus on possible exemption.

Learning outcomes

In conformity with the learning outcomes set out by the NOHA network, students should achieve the following learning outcomes by the end of this module:

Knowledge

- Has a thorough knowledge about law applied to labour relations, with special focus on international instruments concerning choice of applicable law, jurisdiction and situation of posted workers; has and understanding of linkage between labour law and human rights law.

- Is aware of financial obstacles to provision of humanitarian assistance, including different types of taxes; is able to indicate main conventions concerning taxation of humanitarian assistance and average sums deducted by different actors.

Skills

- Has demonstrated the ability to indicate main legal instruments applied to transfer of humanitarian assistance, can adapt a budget to different legal conditions in order to comply with national regulations, and is able to justify exemption of humanitarian assistance from national taxation law.

Social competencies

- Has developed an open attitude towards acquiring new knowledge and understanding about professional developments in humanitarian action, is sensitive to different labour conditions and different cultures of work.

Course material

Basic literature:

- D. Gliksberg, "General Report: The Taxation of Non-Profit Organizations" in "The Taxation of Non-Profit Organizations" (IFA, KLUWER); available online: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2042819
- Frank Hendrickx, Foundations and functions of contemporary labour law, ELLJ 2012/2
- Regulating the employment relationship in Europe. A guide to Recommendation No. 198, Geneva 2013
- J. M. Servais, International labour law, Kluwer 2014
- U. Grusic, Jurisdiction in employment matters under Brussels I: A reassessment, ICLQ 2012/61
- U. Grusic, The European Private International Law of Employment, Cambridge 2015

Suggested readings:

- F. Vanistendael (ed.), The Taxation of Charities (IBFD, EATLP); national reports available online: <http://www.eatlp.org/index.php/documents/rotterdam-2012>
- S. Heidenbauer, Charity Crossing Borders. The Fundamental Freedoms' Influence on Charity and Donor Taxation in Europe (KLUWER)
- ILO's role in conflict and disaster settings: Guides and toolkit, Geneva 2010
- V. Mantouvalou, Are labour rights human rights? ELLJ 2012/2
- M. Rocca, Posting of workers and collective labour law, Intersentia 2015
- X. Yang, Contracts of employment in X. Yang, State Immunity in International Law, Cambridge 2012

Teaching and learning methodology

Lecture in classroom. Q&A sessions.
At the end of the course written exam.

Programme and training activities

Week 1

Introduction/overview

- General remarks and introduction to the course content

- Information about assessment criteria

Week 2

The Founding Principles of the ILO and their Relevance Today

- ILO Standards and Globalisation
- ILO Standards and National Laws
- ILO and humanitarian aid

Week 3

Basic concepts of labour/employment law (contract of employment)

- The idea of labour law
- Definition of a worker (an employee). A humanitarian worker.

Week 4

Human rights movement and labour law

- Origin and nature of human rights law and humanitarian law
- How does human rights discourse affects labour law?

Week 5

Jurisdiction in employment matters

- Labour law disputes – a humanitarian worker in a courtroom
- General principles of determining jurisdiction in transnational labour contract of humanitarian workers

Week 6

Law applicable in employment matters

- Labour law disputes – a humanitarian worker (still) in a courtroom
- General principles of determining law applicable in transnational labour contract of humanitarian workers

Week 7

Posted (humanitarian) workers

- determining law applicable to contract of employment of a humanitarian worker
- posted workers and social dumping

Week 8

Immunities and humanitarian workers employment disputes

- State as an employer of a humanitarian worker
- International organization as an employer of a humanitarian worker

Week 9

The income tax implications for organizations involved in humanitarian actions:

- exemption from income tax and its justification,

- scope of exemption and various models of the tax burden in the non-profit income tax regime.

Week 10

Income tax regime on donations for humanitarian activities:

- justification for the specific tax treatment of donations,
- types of incentives for donations and contributions,
- restrictions on tax benefits for donations.

Week 11

International income tax aspects of humanitarian actions:

- possibilities to obtain tax exemption by foreign NGOs involved in humanitarian actions,
- tax consequences of cross-border donations.

Week 12

The impact of EU law and ECJ case law on cross-border non-profit activities. Outcomes stemming from the work on the proposal to introduce the European Foundation Statute.

- ECJ judgements to be presented during the lecture: Stauffer (Case C-386/04), Persche (Case C-318/07) and Missionswerk WernerHeukelbach (Case C-25/10). Judgements could be found on: curia.europa.eu

- actions undertaken with respect to the proposal of the statute of a European Foundation could be found online on webpage of European Parliament:

[http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2012/0022\(APP\)#tab-0](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2012/0022(APP)#tab-0)

Week 13

Impact of VAT and other indirect taxes on humanitarian actions:

- VAT status of stakeholders involved in humanitarian actions,
- VAT implications relating to donations, e.g. through sending sms.

Week 14

Exam and grading

Workload

Attendance: 30h

Reading and study in order to prepare for lectures and for the exam: 45h

Total: 75 h = 3 ECTS

Assessment methods

Written exam (close-ended and open-ended questions) 80%.

Activeness during classess 20%.

Assessment criteria

90% of points - grade 5
80% of points - grade 4,5
70% of points – grade 4
60% of points – grade 3,5
Over 50% of points – grade 3

Appendices

None.