

## The Bottom Line of European Labour Law (Part I)

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*Maximilian Fuchs*

**Abstract:** When the Treaty of Rome entered into force in 1958, nobody would have dared prognosticate such dynamic a development of that body of legislation which we today are accustomed to calling European Labour Law. It is well known that the Founding Fathers did not take the line of an enhanced social policy on the European level and therefore assigned the area of labour law only a very limited role. But due to changes in the political and economic arena in the beginning of the seventies of the last century a social policy approach gained momentum which did not replace the dominant economic approach, but at least came alongside this model and had a strong impact on policy-making. It resulted in several pieces of legislation the nature of which was mainly crisis management (Directives concerning employer insolvency, collective redundancies, transfer of undertakings). The further development of European Labour Law is characterized by this tension between economic and social requirements and this tension explains the ups and downs of European Labour Law. The need of balancing economic and social necessities is mirrored also in the jurisprudence of the ECJ which in the shaping of European Labour Law was of the utmost importance. The same is true for the activities of the European social partners who finally became part of the law-making process on the European level. The European Employment Strategy constitutes a new challenge for labour legislation which might be forced to give preference to reducing protection standards in order to reach higher occupational levels. But so far the social rights approach - also realized in the Charter of Fundamental Rights - seems to continue its influence.

## Approaching Religious Discrimination at Work: Lessons from Canada

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*Lucy Vickers*

**Abstract:** This article contains an overview of the provisions of the Employment Equality (Religion or Belief) Regulations 2003, in force in the UK from December 2003, highlighting some of the difficulties which may face courts in dealing with religious discrimination in the workplace. It goes on to consider how such issues have been dealt with in Canada, where similar protection has been available for some time. Issues include how courts determine a person's religion, how much effort is required of employers to accommodate the religious needs of employees, and how to deal with occupational requirements of religious bodies, in particular where these create a clash between different types of discrimination rights.

## Interpreting Employment Contracts: Judges, Employers, Workers

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*Simon Deakin*

**Abstract:** This paper reports findings from a survey designed to estimate the numbers excluded from employment protection in the UK by the 'employee' test and to examine, through qualitative

research, perceptions of the process of employment contracting. The survey evidence shows that approaching one third of the labour force does not fit neatly into the categories of 'employee' and 'self-employed'. The case studies suggest that there is a considerable disjunction between the assumptions of choice, control and risk which underlie the legal tests, and the perception of these issues by workers whose employment status is most in doubt.

## The End of Labour Quiescence? Industrial Unrest in Contemporary Lithuania

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*Charles Woolfson and Matthias Beck*

**Abstract:** Current research tends to suggest that industrial relations in Central and Eastern Europe are characterised by a pattern of labour quiescence. Focusing on four recent industrial protests in Lithuania, this paper argues that high levels of material deprivation, the aggressive pursuit of neo-liberal policy agendas and repressive trade union legislation are now undermining this pattern of labour quiescence. The paper concludes that the emergence of a politicised class-orientation in industrial protests in Lithuania which is paralleling these developments, is offering opportunities to trade unions to reposition themselves in the context of the post-accession enlarged Europe.

## Challenges of European Enlargement: Regulation of Health and Safety in Hungary and Poland

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*Victoria Howes*

**Abstract:** One of the essential requirements in the Copenhagen criteria for the 10 acceding countries is full alignment with the Community *acquis communautaire*. A large number of EC laws, especially in the form of directives, in the area of social policy, and in particular in the field of health and safety, have been adopted by the Community and need to be implemented by the date of accession. Full and correct transposition of the EC directives into the national laws is the first vital stage towards correct implementation. This article concentrates in particular on Framework Directive 89/391 and examines the approaches of Hungary and Poland to meeting the criteria and adapting to Community requirements in the area of health and safety. It is argued that there are still deficiencies in meeting the true requirements of the Directive in both countries and that these must be resolved before accession.

## The Development of Labour Disputes and the Regulation of Industrial Relations in China

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*Yanyuan Cheng*

**Abstract:** Using the labour dispute mediation and arbitration data in the China Labour and Social Security Statistical Yearbook, this paper analyses and describes the development of labour disputes in China since the Labour Law came into effect. It shows that under the influence of many factors, labour disputes in China will continue to increase and be characterized by an increase in collective disputes and antagonism, and conflict between competing interests. This paper puts forward some suggestions and policy ideas for directing and regulating labour relations effectively and improving the labour dispute resolution system.

## Full Employment and Globalisation

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*Roger Blanpain*

13th World Congress of the International Industrial Relations Association (IIRA) Beyond Traditional Employment. Industrial Relations in the Network Economy

*Olga Rymkevitch*