

The Italian Labour Market after the Biagi Reform

Michele Tiraboschi

Abstract: This paper examines the reasons for the Biagi Reform, and identifies the low levels of labour market participation and the extensive hidden economy in Italy as key factors. With a focus on the objectives of the European Employment Strategy, the Biagi reform, first outlined by Marco Biagi in the White Paper on the Labour Market in October 2001 and enacted by means of Legislative Decree No. 276/2003 and subsequent decrees, aims to raise employment levels, increase the number of workers in stable employment, and promote labour market access for disadvantaged groups. The principle of subsidiarity leads to the allocation of certain tasks to the Regions and to collective bargaining, while maintaining the unitary structure of the reform, also for the purposes of creating the conditions for consolidated legislation in the form of a Work Statute. The paper provides a survey of the implementation of the reform so far, including the recent ruling by the Constitutional Court upholding the principles of the reform, and argues that a proper assessment will only be possible in a longer time frame, but that initial results are indicative of an increase in the level of stable employment.

Law and Labour Market Regulation in East Asia and Southern Africa: Comparative Perspectives

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Abstract: Recent work on East Asian labour law has taken comparative labour law scholarship beyond the question of whether legal ‘transplants’ may succeed. It has also deployed a framework that could be used to examine labour law in other developing regions of the world. We argue that there are significant similarities between East Asia and Southern Africa, including colonial histories, international influences, and a limited impact of law on labour markets. There are also important differences. These include the labour market effects of HIV/AIDS, Southern Africa’s long history of labour migration, and the impact of frameworks to facilitate regional economic integration.

Transfer of Undertakings in Australia and New Zealand: How Suitable is the European Regulatory Approach for Exportation?

Martin Vranken

Abstract: The transfer of undertakings has once again become a topical issue in Australia as well as New Zealand. Unlike the situation that prevailed in the (then) European Economic Community during the 1970s, the renewed interest in the consequences for employees of an employer’s decision to transfer all or part of the business is not really the result of a perceived need to address the social ramifications of economic restructuring in these countries. Rather, it is the flow-on effect of ongoing reform in their overall regulatory industrial relations frameworks. This article examines

how the shape of the new and proposed transfer of undertakings provisions in Australia and New Zealand is affected by this broader industrial relations context. In a comparative perspective an interesting picture then emerges. On the one hand, Australia updated its statutory regime on business 'transmission' in 2004 without reference to the European experience. On the other hand, current law reform proposals on business 'restructuring' in New Zealand are said to have been inspired more directly by the European experience as regards the transfer of undertakings.

How well do Industrial Relations and Social Policy Interact? Labour Law and Social Security Law in the Social Protection of Sole Parents

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Abstract: This paper examines the relationship between industrial relations and social policy, using an Australian case study of labour law and social security law in the social protection of sole parents. It finds that social security law on sole parenthood increasingly links itself with labour market developments, but labour law is significantly less effective at connecting with sole parents' dealings with the social security system. The overriding international lesson is that legislators and policy-makers should seek to better integrate the two legal spheres, but in doing so should consider the broader national policy pattern underpinning integration. Though closer interplay between labour markets and social policies is often assumed to enhance social protection, the Australian case demonstrates that it can equally be used by governments to advance neo-liberalism by alternate means.

The Issue of the Voile in the Workplace in France: Unveiling Discrimination

Katell Berthou

Abstract: There are numerous provisions in French legislation prohibiting discrimination on grounds of religion or belief. In 1989, the display of ostensive religious signs in schools was regulated and this was clearly aimed at the wearing of headscarves in the Islamic fashion (hijab) by female pupils. The debate has recently been fuelled further and resulted in an Act in 2004 banning all signs of religious affiliation in public schools. This article explores religious issues in the workplace in France, and in particular the wearing of headscarves. When it comes to religious practices and observance in the workplace, it is argued that the French courts fail to respect national anti-discrimination provisions and EU law. The article concludes that although French law has all the necessary provisions in place, it lacks a fundamental understanding of the concept of discrimination and negates the concept of difference. The right to be accommodated, which exists under EU law for other matters, could be a relevant approach for tackling religious discrimination and achieving a diverse workforce, which is necessary in the context of the ageing working population.

The Evolution of the European Social Dialogue Towards Greater Autonomy: Challenges and Potential Benefits

Ann Branch

Abstract: In recent years the European cross-industry social partners have stressed their desire to pursue a more autonomous social dialogue, and have therefore decided to implement their last two agreements – on telework and work-related stress – themselves, rather than via Council directive, as was the case for their three earlier agreements. Some European sector social partners are also pursuing autonomous initiatives. At the same time a parallel debate has been taking place on improving European governance, which has resulted in interest in the use of a broader range of instruments than just legislation. As a consequence, in research circles there is growing interest in the effectiveness of new forms of ‘soft’ law and alternative modes of governance. Against this background, this article examines both the challenges presented by autonomous implementation by the social partners, and its potential benefits.

Documentation

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