Volume 19, Issue 2, 2003

The Codification of Russian Labour Law: Issues and Perspectives

Olga Rymkevitch

Abstract: This article examines the new Labour Code of the Russian Federation adopted in February 2002. The main thesis of the paper is that the new Code undoubtedly contains many mechanisms intended to make labour relations and industrial relations in Russia much more flexible, so that, at least in broad terms, it can be considered deregulatory. By making labour law more flexible, the Russian Government has launched a legislative political platform aimed at recovering the effectiveness and efficiency of statutory rules, with a view to striking a 'sustainable' and 'realistic' balance between employee protection and companies' needs in the new socio-economic conditions.

The Role of the ILO in the Adoption of the New Russian Labour Code

Nikita Lyutov

Abstract: On February 1, 2002 the new Labour Code (*Trudovoy Kodeks*, further – LC 2001), came into force in Russia. In August 2001 the Government of the Russian Federation made a request to the International Labour Office (further – ILO) to comment on the draft Code (further – Draft) adopted by the State Duma (the lower house of Parliament) of the Russian Federation in the first reading. In response to this request, the ILO experts prepared a Memorandum (further – Memorandum), addressed to the Government. The purpose of this article is to analyse the influence of international labour standards on the new Code both by virtue of the existence of the international binding instruments and by the implementation of the proposals in the Memorandum, together with the views expressed by the Committee of Experts on the Application of Conventions and Recommendations (further – CEACR).

Has Social Modernisation a Future? Adventures and Misadventures of the French Act of 17 January 2002 on Social Modernisation

Jean-Pierre Laborde

Abstract: This paper traces the implementation of labour market reforms in France, with particular reference to the Social Modernisation Act approved by the centre-left government in January 2002. Whereas the new centre-right government elected in June 2002 has 'softened' earlier legislative provisions for the 35-hour week, case law has actually extended redundancy provisions. Significant parts of the Social Modernisation Act have been suspended by a sort of Sleeping Beauty measure for an 18-month period, and the Government's intention is for the social parties to negotiate the terms of new legislation, in spite of the employers' apparent reluctance to engage in such negotiations. Against this backdrop, the author outlines a possible scenario for the future of collective bargaining.

Following the U.S. Example: European Employment Discrimination Law and the Impact of Council Directives 2000/43/EC and 2000/78/EC

Gregor Thüsing

Abstract: European employment discrimination law has made a major step forward recently: Council Directives 2000/43/EC and 2000/78/EC aim to prohibit the employer from discriminating because of race or ethnic origin, religion or belief, disability, age and sexual orientation. Similar anti-discrimination provisions were enacted many years ago in the United States. In the light of the experience of the U.S. courts with these statutes, this article intends to explore possible consequences of the new Directive for the Member States` employment law.

Protection of Part-time Workers in the Case Law of the Court of Justice of the European Communities

Enrico Traversa

Abstract: The author examines 20 years of case law of the Court of Justice of the European Communities on part-time work. The 25 judgments are scrutinized on the basis of homogenous areas of the employment relationship such as pay, access to career advancement, access to vocational training, working conditions including conditions of dismissal, occupational pension schemes and statutory social security allowances. The Court has applied former Article 119 of the Treaty and provisions of Community Directives on equal treatment between men and women at work since it has consistently found that many more women than men are employed on a part-time basis. The overall picture which emerges from the cases brought before the Court of Justice appears to give rise to concern because discrimination relates to a wide range of working conditions, affecting mainly low-skilled workers, and derives from both national laws or regulations and collective agreements signed by trade unions representatives. As a result, detailed and enforceable Community rules appear to be indispensable to ensure
adequate legal protection for part-time workers

The Reform of Apprenticeship Contracts in Argentina

Juan Ángel Confalonieri

Abstract: The author outlines the terms of work-training and apprenticeship contracts in Argentina, highlighting the differences between these contractual forms and the range of temporary contracts that have recently been introduced. Quantitative limits on the number of temporary training contracts in an enterprise are defined by an engagement parameter, i.e. the number of apprentices, and an occupational size parameter, i.e. the number of workers. Certain obligations on the part of the employer are laid down by law and further defined by collective bargaining. There is a need for collective bargaining to deal with the matter of how much of the trainees' time should be given over to theoretical training, as this is currently not clearly stated. Other matters in need of further clarification include certification and the payment of wages. Employers failing to respect the terms of temporary training contracts face the sanction of conversion to permanent contracts.

Interaction between Labour Market and Social Protection Systems: Policy Implications and Challenges for the Social Partners

Hedva Sarfati

Abstract: This article highlights the major shifts that have taken place in the labour market and the broader socio-economic context over the past three decades in the OECD countries, bringing about major changes in the welfare state to ensure its sustainability. These ongoing reforms challenge a broad range of acquired rights and raise major policy issues for decision-makers and the social partners. They also provoke adverse effects and therefore require a broad social dialogue on the most effective policy mix. There are major obstacles to achieving consensus, but some countries have succeeded more than others, by adopting different strategies.