

**Thüsing**

**European  
Labour Law**

**C. H. Beck • Hart • Nomos**

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by

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C. H. Beck · Hart · Nomos

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## Preface

In the beginning Labour Law and Social Security Law were of little significance in the development of European Law. They only played a very minor role in the founding Treaties of the European Communities as their aim was primarily to harmonise economic, not social conditions. More than 50 years after the Rome Treaties the situation is completely different: There is more and more awareness that the only way to further develop European Law and the European Union as a whole is by not only getting rid of competitive constraints but also by making the citizens of Europe aware of its social dimension. The Saint Pope *John Paul II* once made the quite beautiful remark that Europe must breathe with both lungs, East and West. This image can be applied here: Both lungs, i. e. the economic as well as the social breath of air must feature in the future development of the law.

Therefore today is a good time for an outline of European Labour Law. This book was written mainly with students in mind that are specialising in Labour Law but it also gives practising labour lawyers an overview of the most important regulations and judgments on this subject. References were deliberately kept to a minimum, instead numerous examples and a summary of the most significant judgments of the ECJ illustrate vividly the contentious issues. This publication focuses on the key issues of the debate. Therefore, some points have been left out to make room for a more profound discussion of others.

This book is dedicated to the memory of my dear father, *Dr. Rolf Thüsing*, who first introduced me to European Labour Law.

Bonn, August 2013

*Gregor Thüsing*



# Table of Contents

Preface .....	V
Selected Abbreviations .....	XIII
<b>§ 1. Basics .....</b>	<b>1</b>
<b>I. What is European Labour Law? .....</b>	<b>1</b>
1. Concept .....	1
2. History .....	2
3. Distinguishing International Labour Law .....	3
<b>II. Development of European Labour Law .....</b>	<b>4</b>
1. The beginnings .....	4
2. The consolidation .....	5
3. The present .....	6
4. The future? .....	8
<b>III. To recap: The terms used in European Law .....</b>	<b>9</b>
<b>IV. To recap: Interpretation of European Law .....</b>	<b>13</b>
<b>V. What can the EU regulate in the field of labour law? .....</b>	<b>14</b>
<b>VI. Means of reviewing conformity with European Law .....</b>	<b>16</b>
<b>VII. Role of the social partners .....</b>	<b>16</b>
<b>§ 2. Freedom of movement for workers .....</b>	<b>21</b>
<b>I. Outline .....</b>	<b>21</b>
1. Objective .....	21
2. Guarantees .....	22
3. Justification .....	22
4. Direct effect .....	22
5. Beneficiaries .....	23
6. Relationship between secondary and primary law .....	23
<b>II. Scope of free movement for workers .....</b>	<b>23</b>
1. Workers .....	23
2. The exception of Art. 45(4) TFEU .....	25
3. Family members of migrant workers .....	26
4. Cross-border situation .....	26
5. Transitional provisions for nationals of the acceding states .....	27
6. Freedom of movement for nationals of other states .....	27
<b>III. Right to participate in the labour market (Art. 45(3) TFEU) .....</b>	<b>27</b>
1. Guarantees .....	27
2. Public Policy Exception .....	28
<b>IV. Prohibition of discrimination (Art. 45(2) TFEU) .....</b>	<b>29</b>
1. The basic idea and purpose of the prohibition of discrimination .....	29
2. Types of discrimination .....	29
3. Addressees of the prohibition of discrimination .....	30
a) Member States .....	30
b) Associations .....	30
c) Individual private persons .....	32
4. Justification possibilities .....	34
a) Discrimination by the state .....	34
b) Discrimination by private persons .....	35

## Table of Contents

V. Prohibition of restrictions .....	36
1. Basics .....	36
2. Addressees of the prohibition of restrictions .....	39
a) Member States .....	39
b) Associations .....	39
c) Private individuals .....	40
3. Justification possibilities .....	40
VI. Recognition of training and other qualifications .....	41
VII. Social law coordination and its effects on labour law (Art. 48 TFEU) .....	42
<b>§ 3. Protection against discrimination .....</b>	<b>45</b>
I. Introduction .....	45
II. Development .....	47
III. The implementation of Directives 2000/78/EC, 2000/43/EC and 2002/73/EC .....	48
IV. The different forms of unlawful discrimination .....	50
1. In general – the term “discrimination” .....	50
2. Direct discrimination .....	51
3. Indirect discrimination .....	52
a) Structure .....	52
b) Definition .....	52
4. Harassment .....	53
5. Instruction to discriminate as discrimination .....	53
V. The beginnings: sex discrimination .....	54
1. Development .....	54
2. Current problems of sex discrimination .....	55
VI. The Anti-Discrimination Directives 2000/43/EC and 2000/78/EC .....	58
1. Directive 2000/43/EC – Race and ethnicity .....	58
2. Directive 2000/78/EC – disability .....	60
a) Who is disabled? .....	60
b) When is a disabled person being discriminated against? .....	62
3. Directive 2000/78/EC: Religion and belief .....	64
a) What is religion? .....	64
b) When is it a case of discrimination on grounds of religion? .....	64
4. Sexual identity .....	65
5. Age .....	67
a) Justification of discrimination based on age .....	67
b) Particular issues: Remuneration levels .....	68
c) Particular issues: Age limit in hiring .....	70
d) Particular issues: dismissal and age; mandatory retirement .....	70
VII. Common problems in the directives .....	71
1. The forms of discrimination – Harassment .....	71
a) Harassment as discrimination .....	72
b) Why hostile environment? .....	72
2. Special equality protection as unjustified discrimination .....	73
3. Discrimination by discrimination protection – Affirmative action under Art. 5 of Directive 2000/43/EC and Art. 7 of Directive 2000/78/EC .....	74
VIII. Parallel development: US-American Law .....	76
<b>§ 4. Precarious Employment .....</b>	<b>79</b>
I. Category .....	79
II. Part-time employment .....	81
1. The Part-time Work Directive 97/81/EC .....	82
a) Discrimination .....	82
b) Scope <i>ratione personae</i> .....	83
c) Territorial scope .....	83
d) Comparative framework .....	84
e) Specifying equal treatment – <i>pro-rata-temporis</i> -principle and complete equality .....	85

## Table of Contents

f) More favourable treatment .....	86
g) Justification .....	87
h) Legal consequences .....	87
2. Extension and reduction of working time .....	88
3. Obligations to provide information .....	88
4. Promotional measures .....	89
5. Dismissal protection .....	89
<b>III. Fixed-term work .....</b>	<b>89</b>
1. Genesis and content .....	89
2. Regulatory content .....	91
a) Measures to prevent the use of successive fixed-term contracts .....	91
b) Discrimination prohibition .....	95
c) Duties to inform; access to training possibilities .....	96
<b>IV. Temporary agency work .....</b>	<b>97</b>
1. Origins and starting point in European law .....	97
2. Substantive regulations in the Temporary Agency Work Directive 2008/104/EC ..	98
a) Scope of application .....	98
b) Equal treatment principle – Prohibition of discrimination .....	99
c) Access to employment .....	101
d) Employee representation .....	102
e) Consequences of non-compliance .....	103
<b>§ 5. Transfer of undertakings .....</b>	<b>105</b>
<b>I. Objectives and development .....</b>	<b>105</b>
1. Objectives .....	105
2. Development .....	105
<b>II. Existence of a transfer of undertaking .....</b>	<b>106</b>
1. The terms “undertaking” and “business” .....	107
2. Retaining its identity .....	108
a) Type of undertaking or business .....	110
b) Transfer of tangible assets .....	110
c) Transfer of intangible assets .....	112
d) Taking over the workforce .....	112
e) Transfer of customer base .....	115
f) Degree of similarity between the activities .....	115
g) The period for which those activities were suspended .....	116
3. Transfer to the new employer .....	116
4. Legal transfer or merger .....	116
5. Transfer of undertakings in insolvency .....	117
<b>III. Legal consequences of a transfer of undertaking .....</b>	<b>118</b>
1. The individual employment relationship .....	119
a) Succession to the rights and obligations .....	119
b) Prohibition of dismissal .....	120
c) The employee’s right to object and to be informed .....	120
2. Collective agreements/Worker representation .....	122
a) Continuance in force of the collective agreements .....	122
b) Preservation of the legal status and function of the employee’s representation ..	124
c) Information and Consultation of the Workers’ Representation .....	126
3. Further liability of the transferor .....	127
4. Particularities in insolvency proceedings .....	128
<b>§ 6. Protection against collective redundancies .....</b>	<b>131</b>
<b>I. Collective redundancies as an issue of employment law .....</b>	<b>131</b>
<b>II. Definitions employed by the ECJ .....</b>	<b>132</b>
1. The term “establishment” .....	132
2. The term “redundancy” .....	134
3. Penalties in the event of non-compliance .....	135

## Table of Contents

§ 7. Working Time .....	137
I. General .....	137
II. Scope of application .....	138
III. Working time .....	141
IV. Organization of working time .....	142
1. Maximum weekly working hours .....	142
2. Rest periods .....	143
3. Breaks .....	143
4. Annual leave .....	143
V. Night and shift work .....	145
VI. Derogations .....	147
VII. Proposal for amendment .....	148
VIII. Comparative Law .....	148
§ 8. Proof of employment terms .....	149
I. Development of Directive 91/533/EEC .....	149
II. Scope of Application (Art. 1 of the Employee Information Directive) .....	150
III. Contents .....	151
1. Essential aspects of the employment relationship (Art. 2 of the Employee Information Directive) .....	151
2. Means of information for the employer (Art. 3 Employee Information Directive) .....	153
3. Legal effects of the written documents .....	153
4. Other instructions for implementation .....	154
IV. Implementation into national law .....	154
§ 9. Posting of Workers .....	157
I. Introduction .....	157
1. Description of the posting situation .....	157
2. Guarantees by virtue of the fundamental freedoms, particularly Art. 56 TFEU .....	157
3. Consequences for immigration and social law .....	159
II. Country-of-origin principle and place-of-work principle .....	160
1. Explanation .....	160
2. The law according to the general conflict of laws .....	160
3. Advantages and disadvantages .....	160
III. Posted Workers Directive (PWD) .....	161
1. Short outline of its origins .....	161
2. Approach: place-of-work principle regarding the “hard core” of work conditions .....	161
3. PWD’s compatibility with primary law .....	161
4. Posting workers and the Services Directive .....	163
IV. Rules that apply to all forms of posting .....	163
1. The term “worker” .....	163
2. Situations covered by the PWD .....	163
3. Minimum work conditions by law, regulation or administrative provision .....	164
4. Minimum work conditions in collective agreements .....	164
5. Exceptions .....	165
6. Redress .....	166
§ 10. Employee Representation and Unions .....	167
I. Collective Labour Law in the EU .....	167
II. European law governing collective agreements and labour disputes? .....	168
1. The Union’s competences for regulating the law of collective bargaining and labour disputes .....	170
2. The guarantee in Art. 28 CFREU .....	171
3. Political attempts .....	172
III. European Works Councils .....	173
1. Scope .....	174
2. Content .....	174
3. Competencies of the EWC .....	174

## Table of Contents

4. Purview of the right to information .....	174
5. Comparative Law .....	176
<b>IV. Co-Determination in the Societas Europaea .....</b>	<b>176</b>
1. The development prior to the finished directive .....	176
2. The SE's basic structure of codetermination against the backdrop of divergent national laws of codetermination .....	178
3. Objectives of employee participation in the SE .....	179
<b>V. The instrument of the “negotiation solution” .....</b>	<b>182</b>
1. Origin and forerunner .....	182
2. Scope .....	182
a) Waiver of notification and consultation rights .....	182
b) Extension of participation rights .....	183
3. Legal nature of the agreement .....	184
<b>VI. Information and Consultation Directive 2002/14/EC .....</b>	<b>184</b>
1. Generally .....	184
2. Genesis .....	185
3. Aims of the Directive .....	185
4. Framework Directive with minimum requirements .....	186
5. Scope of application .....	186
a) The terms “undertaking” and “establishment” .....	187
b) The term “employee” and threshold calculations .....	187
6. The participants in information and consultation .....	188
7. Participation rights .....	189
8. Negotiation solutions .....	189
9. Enforceability and sanctions .....	190
10. Protection of certain special interest undertakings .....	191
<b>VII. Excursus: Codetermination policies in the various European states .....</b>	<b>191</b>
<b>§ 11. International Labour Law .....</b>	<b>193</b>
<b>I. Internationalisation of the labour market .....</b>	<b>193</b>
<b>II. Applicable law in cross-border employment relationships .....</b>	<b>193</b>
1. Basic types of employment contracts .....	193
2. Determining the applicable law .....	194
a) The basic pattern .....	194
b) Choice of law under Art. 3 Rome I Regulation .....	194
c) Objective connecting factor under Art. 8(2) Rome I Regulation .....	196
d) Art. 8(1)1 Rome I Regulation – Comparing favourability .....	197
e) Change of applicable law .....	198
f) Art. 9 Rome I Regulation – Overriding mandatory provisions .....	198
g) Art. 12(2) Rome I Regulation – Having regard to the law of the country in which performance takes place .....	199
<b>III. Forum .....</b>	<b>200</b>
<b>IV. Unions and collective agreements .....</b>	<b>201</b>
<b>§ 12. How to Find the Law .....</b>	<b>205</b>
<b>I. European law .....</b>	<b>205</b>
<b>II. Comparative law .....</b>	<b>206</b>
1. British law .....	206
2. French law .....	206
3. Dutch law .....	207
4. Spanish law .....	207
5. Italian Law .....	208
<b>Index .....</b>	<b>209</b>



## Selected Abbreviations

ADA .....	Americans with Disabilities Act
ADEA .....	Age Discrimination in Employment Act
AGG .....	Allgemeines Gleichbehandlungsgesetz (German Anti-Discrimination Act)
Art. ....	article
AuR .....	Arbeit und Recht (German law journal)
BAG .....	Bundesarbeitsgericht (Federal Labour Court)
BetrVG .....	Betriebsverfassungsgesetz (Works Constitution Act)
BGB .....	Bürgerliches Gesetzbuch (German Civil Code)
BGBL. ....	Bundesgesetzblatt (Federal Law Gazette in Germany and Austria)
BGE .....	Entscheidungen des schweizerischen Bundesgerichts (Leading cases of the Swiss Federal Courts)
BGH .....	Bundesgerichtshof (Federal Court of Justice)
BUrlG .....	Bundesurlaubsgesetz (German Federal Leave Act)
BVerwG .....	Bundesverwaltungsgericht (Federal Administrative Court)
BVerwGE .....	Entscheidungssammlung des Bundesverwaltungsgerichts (decisions of the Federal Administrative Court)
C.M.L.R. ....	Common Market Law Review (journal)
Calliess/Ruffert/ <i>author</i> .....	<i>Calliess/Ruffert</i> , commentary EUV/AEUV, 3 <sup>rd</sup> ed., 2007
CEEP .....	European Centre of Enterprises with Public Participation and of Enterprises of General economic Interest
cf. ....	confer
CFREU .....	Charter of fundamental rights of the European Union
CMLR .....	Common Market Law Review (journal)
COM .....	Proposal by the Commission of the European Union
DB .....	Der Betrieb (German law journal)
E/A/S .....	<i>Oetker/Preis/Balze</i> , Europäisches Arbeits- und Sozialrecht – EAS, 174. Ergänzungslieferung
e. g. ....	exempli gratia
ECJ .....	European Court of Justice
ECR .....	European Court Reports
ECSC Treaty .....	European Coal and Steel Community Treaty
EEC Treaty .....	European Economic Community Treaty
ERA .....	Employment Rights Act
ESC .....	European Social Charter
ETUC .....	European Trade Union Confederation
EUROATOM Treaty	European Atomic Energy Community Treaty
EWiR .....	Entscheidungen zum Wirtschaftsrecht (journal)
EWS .....	Europäisches Wirtschafts- und Steuerrecht (journal)
H/S/W/ <i>author</i> .....	<i>Hanau/Steinmeyer/Wank</i> , Handbuch des europäischen Arbeits- und Sozialrechts, 2002

Selected Abbreviations

<i>v. Hoyningen-Huene/Linck</i> .....	<i>von Hoyningen-Huene/Linck</i> , Kündigungsschutzgesetz, 14 <sup>th</sup> ed., 2007
i. e. ....	id est
Ibid .....	Ibidem
ILJ .....	Industrial Law Journal
ILO .....	International Labour Organization
InsO .....	Insolvenzordnung (German Insolvency Act)
IRLR.....	Industrial Relations Law Reports
ITF.....	International Transport Workers Federation
KR/ <i>author</i> .....	<i>Etzel</i> , Gemeinschaftskommentar zum Kündigungsschutzgesetz und zu sonstigen kündigungsschutzrechtlichen Vorschriften, 8 <sup>th</sup> ed. 2007
KSchG.....	Kündigungsschutzgesetz (German Protection Against Dismissal Act)
LEBEP.....	Ley del estatuto básico del empleado público
MLR .....	Modern Law Review
NJW .....	Neue Juristische Wochenschrift (German law journal)
NZA .....	Neue Zeitschrift für Arbeitsrecht (German law journal)
OJ.....	Official Journal of the European Union
para. ....	paragraph
PWD .....	Posted Workers Directive (96/71/EC)
RdA .....	Recht der Arbeit (German law journal)
RRA.....	Race Relations Act
SAE .....	Sammlung arbeitsrechtlicher Entscheidungen (German law journal)
SDA.....	Sex Discrimination Act
SE.....	Societas Europaea
sec. ....	section
SNCF.....	Société nationale des chemins de fer français
Streinz/ <i>author</i> .....	<i>Streinz</i> (ed.), commentary EUV/AEUV, 2 <sup>nd</sup> ed., 2012
STSJ.....	Spanish Supreme Court of Justice
TFEU .....	Treaty on the Functioning of the European Union
TUPE .....	Transfer of Undertakings (Protection of Employment) Regulations 2006
TzBfG.....	Teilzeit- und Befristungsgesetz (German Part-Time and Temporary Employment Act)
UNICE.....	Union of Industrial and Employers' Confederation of Europe
WLR .....	Weekly Law Review
ZESAR.....	Zeitschrift für Europäisches Arbeits- und Sozialrecht (German law journal)
ZEuP .....	Zeitschrift für Europäisches Privatrecht (German law journal)
ZfA .....	Zeitschrift für Arbeitsrecht (German law journal)
ZZP .....	Zeitschrift für Zivilprozessrecht (German law journal)