

Thüsing

**European
Labour Law**

C. H. Beck • Hart • Nomos

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by

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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

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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 rd 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 th 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 th 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 nd 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)