



Jefferson, Review of Hepple & Veneziani (Eds) *The Transformation of Labour Law in Europe: A Comparative Study of 15 Countries 1945-2004* [2010] 3 *Web JCLI*
<http://webjcli.ncl.ac.uk/2010/issue3/jefferson3.html>

The Transformation of Labour Law in Europe: A Comparative Study of 15 Countries 1945-2004

Edited by Bob Hepple & Bruno Veneziani

Hart Publishing 2009 xvii + 393 £50

ISBN 978 1 84113 870 1

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First published in Web Journal of Current legal Issues

How many times have readers come across edited books and thought: ‘Why don’t editors edit? The essays overlap substantially and the same points are made five times in five different papers by five different hands.’ This work is not one of those. It is very well put together; the revisions of draft chapters, all originally written in English, even if the author was not a person with English as his first language, are smooth; and the work is overall a success. Each chapter has a theme and the author treats or the authors treat of that theme generally speaking in a chronological manner and across the then 14 E.U. member states. For example, one of the editors, Bob Hepple, has a chapter on equality at work and the chapter is divided into four time spans, while Antoine Jacobs has one on collective labour relations also divided into four periods but different ones. The editors see five periods from 1945-1950, the era of reconstruction, to 1990-2004, the European response to global capitalism, but as can be seen, those periods are not adhered to strictly. The whole is ably bookended by the editors’ introductory overview essay, outlining the contributions in the book and the influences on employment law, and by two appendices, one on the history of the countries studied during the period covered by the book and one on a summary of the principal changes in those countries’ labour laws during that time. There is a good bibliography and the book *qua* book is up to the usual standards of Hart Publishing.

The book is a successor to *The Making of Labour Law in Europe: A Comparative Study of Nine Countries up to 1945*, edited by Hepple and first published in 1986, which is helpfully reprinted at the same time as the work under review. The nine countries were the E.U. member states in 1986. Both books are the fruit of the European Labour Law Group. The end date of 2004 was chosen because that was when former communist states (and Cyprus and Malta) joined the European Union. Of the 15 countries it may be said that there were three models of labour law: the Nordic one with social security playing a large part (Norway is not a EU Member state so is omitted); the British one covering Ireland and the UK; and the continental one covering the other countries with Germany and France taking the lead until perhaps the reforms of the assassinated labour law professor Marco Biagi in Italy. E.U. labour law is in part a symbiosis of influences from the national laws e.g. the anti-discrimination directives are based on U.K. law, which in turn is based on U.S. law, whereas the Acquired Rights Directive, originally 77/187, has Germany as its main source. It should also be remembered that directives do not impose uniformity across the member states but instead allow those states to implement the directive as they wish in accord with national legal systems provided that the minimum level is obtained; therefore, the book under review does not deal with “legal transplants” but with an irregular, halting, development of labour law at both the national and E.U. level. The book seeks to explain why member states for instance adopted anti-discrimination laws at different times and how they reacted in different ways to e.g. the shift from manufacturing to service industries, the growth in the proportion of atypical workers, and the feminisation of the workforce. It also shows how in the jargon of comparative law ‘path dependence’ was transformed into ‘path departure’ in the period under study and there is a helpful list of 13 such departures on pp. 21-22 of the text. The 2004 terminus means that the reforms and attempted reforms in France to the working week and to the employment of young people fall outside the scope of the book. Similarly the riots in Greece at the time of writing are of course not in the book but perhaps they may be seen as one part of the European response to global capitalism, noted above? The starting date of 1945 is useful because it marks the new beginning in the former fascist states, though of course it must be remembered that the Iberian Peninsula did not become democratic until the 1970s and that Greece also had the dictatorship of the Colonels. There was no E.U. labour law then; trade unions in the democratic states had wide powers and were held on the whole to be the necessary counterbalance to the forces of capitalism; and the standard model of the male breadwinner working full-time in a permanent job and often doing physically demanding work and the female homemaker predominated: those women in work suffered from unequal pay, and indeed until the 1960s French air stewardesses had to be unmarried. Free market ideology had taken over in some places such as the United Kingdom under Thatcher, and 1989 was the year of the fall of the Berlin wall followed by the collapse of the Soviet Union. By 2004 the unions have been sidelined in places like the U.K. generally speaking, industrial action had become rare, and individual rights were taking the place of collective bargaining. By the end date too if the family consists, and many don’t, of two people, both of them often are in employment. Furthermore, in some respects there is common labour law across the E.U., though national law is largely unaffected in many areas such as dismissal, and the U.K. secured opt outs from the Maastricht Social Chapter and from (Nice) Charter of Fundamental Rights of the E.U. in the (Lisbon) Treaty on the Functioning

of the E.U. Indeed, the post-1945 era may be seen as one of the increasing juridification of industrial relations with laws on, for example, health & safety, equal pay, and the minimum wage replacing collective bargaining for the most part.

The book aptly emphasises the distinct character of each state's industrial relations law with some convergence being brought about at the E.U. level, but that convergence is not uniformity and the coverage of E.U. labour law is spotty in comparison with the employment law of a mature western country. The chapters are well executed and as a whole cover the 15 E.U. members states well (the chapter on wage labour and social security, however, does not deal with all 15 states). The sub-periods chosen are helpful bearing in mind the different states' different starting points. The reviewer would recommend the first, review, chapter by the editors and the chapter on 'Economic Policy and Labour Law' (ch. 2) for especial praise. Praise should also be accorded for the treatment of the European Employment Strategy and the Open Method of Coordination, both being matters rarely touched on by standard labour law texts. With the E.U.'s membership's now standing at 27, there would seem to be a gap in the market for a study of the extra 12 states from say 1985 to date.