

Newsletter EUSOCP project Issues XIV & XV – March/April 2019



UNIVERSITY OF AMSTERDAM

Erasmus+ Jean Monnet Action

European Labour Law Perspectives - Enhancing the Social Pillar

Project Reference: 587919-EPP-1-2017-1-NL-EPPJMO-PROJECT

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Within the Jean Monnet action EUSOCP, the Labour Law Departments at the University of Amsterdam and the University Carlos III-Madrid are issuing a monthly newsletter summarizing the development of the EU Pillar of Social Rights and including comments on EU legislation and case law in the field of Labour and Social Security Law. The newsletter is available via the following links:

- <https://aias-hsi.uva.nl/en/projects-a-z/jean-monnet-eusocp/european-labour-law-perspectives.html>

The European Pillar of Social Rights is divided into three main categories in the field of employment and social policies. Each of these categories contains a number of policy domains, to which different principles are attached. The three categories are:

- Equal opportunities and access to the labour market;

- Fair working conditions (adequate and reliable balance of rights and obligations between workers and employers);
- And adequate and sustainable social protection.

For a further description of the pillar see:

EN: https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en

NL: https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_nl

ES: https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_es

European Pillar of Social Rights

Commission works with the Western Balkans and Turkey to boost competitiveness, long-term growth and job creation

April 12, 2019

The European Commission published on April 2019 its assessments of the Economic Reform Programmes (ERP) of Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia and Turkey. The ERP assessments provide an analysis of each country's structural reform priorities, including economic, business and sectoral key challenges. The exercise mirrors the European Semester within the EU and has become one of the key components of the enlargement process in recent years.

For the first time, the European Pillar of Social Rights plays an integral role in the assessments, providing a framework for identifying key priorities.

The ERPs are a central element of the economic governance fundamentals first approach in the EU's enlargement strategy, preparing the partner countries for EU accession by meeting the economic criteria and building capacity to deliver results after accession.

The assessments identify a number of key economic and social challenges in the context of the European Pillar of Social Rights. These include:

- improving low labour force participation, especially for women,
- further targeting and strengthening of active labour market policies,
- reassessing the level and structure of social spending and
- overcoming persistence of structural skills mismatches and weaknesses in education systems.

The assessments will feed into an annual meeting between Ministers on 17 May 2019. This annual meeting produces jointly agreed country-specific policy guidance and its implementation is then followed up in the yearly ERP assessments.

Read on: https://ec.europa.eu/neighbourhood-enlargement/policy/policy-highlights/economic-governance_en

European Committee of Social Rights' conclusions on labour rights

March 25, 2019

The European Committee of Social Rights has published its annual conclusions on the articles of the European Social Charter relating labour rights. Some of the key conclusions of 2018 were that only a relatively low number of European countries have ratified the right of workers and their families to have a decent standard of living. In a number of States the statutory minimum wage is too low in comparison with the average wage. With regard to the

right to organise and the protection against sexual harassment at work the Committee concludes that several countries still have a long way to go in order to comply with labour rights. Conclusions per country are also provided.

Read on: <https://www.coe.int/en/web/european-social-charter/-/protection-of-workers-rights-in-europe-shortcomings-found-but-also-positive-developments-in-certain-areas>

Conference on automation and the future of work

March 19, 2019

The emergence of non-standard forms of employment has created challenges for decent work, in particular when employment in non-standard arrangements is not voluntary. In 2014, 62% of European workers replied that they were in non-standard employment because they could not find a permanent job. These developments were discussed at a recent Conference "Automation, jobs and the future of work: understanding political and economic consequences" organized by the New Direction Foundation. ILO offers an extensive interview on the future of work in relation to the emergence of non-standard forms of work with a link to some policy recommendations and further reading material.

Read on: https://www.ilo.org/budapest/whats-new/WCMS_677566/lang--en/index.htm

Job security and academic freedom

March 4, 2019

Higher Education trade unionists and representatives from 20 European countries gathered in February in Brussels 2019 for Higher Education and Research Standing Committee (HERSC) meeting. In this meeting they concluded that that the main threat to academic freedom is posed by precarious contracts which are preventing academics from carrying out independent research. Participants were also concerned that private sector funding was heavily influencing what research was being conducted. HERSC members proposed concrete examples of indicators and ways to measure academic freedom, namely gathering statistics on the percentage of lecturers and teachers on precarious contracts.

Read on: <https://www.csee-etu.org/en/news/archive/2981-job-security-is-basis-of-academic-freedom-say-higher-education-research-trade-unions>

European Reports/Studies

Report on new trade union strategies for new forms of employment

April 8, 2019

The ETUC published a report on trade unions strategies for new forms of employment that focusses specifically on the growth of forms of work that fall outside the protection of labour laws and social security. Making use of data from Austria, Belgium, France, Italy, Sweden, Spain, Germany and the UK the report identifies similarities and differences between the countries covered by the survey. The report furthermore focusses of the collective labour rights of self-employed workers in the above mentioned countries as well as legal obstacles to collective bargaining due to restrictive interpretation of antitrust law. Findings of the report show that the self-employed category is increasingly populated by a heterogeneous group of workers with a weak position in the labour market which prevents them from having a strong organisational autonomy or independence in the marketplace.

Read on: <https://www.etuc.org/en/document/report-new-trade-union-strategies-new-forms-employment>

EWCS data: European women still underrepresented in management

March 9, 2019

According to European Working Conditions Survey (EWCS) data, women are still underrepresented in management functions with just 36% of all managers in Europe being women. Even in female-dominated sectors such as education and health, women have a lower proportional representation in management. Furthermore, women that do work in management functions are more likely to be in a non-supervising managerial job than men. EWCS data also shows that women enjoy fewer of the advantages of being managers, such as autonomy, the power to influence change in the organisation. The authors believe that if we are serious about addressing this situation, and ensuring gender equality, we need to both address cultural hang-ups and structural issues in organisations and the broader labour market.

Read on: <https://www.eurofound.europa.eu/nl/publications/blog/women-in-management-if-we-want-to-get-serious-about-gender-equality-we-need-to-talk-about-job>

Annual WSI minimum wage report

March 1, 2019

The new WSI Minimum Wage Report provides an overview of current developments in minimum wages both in Europe and elsewhere. The report is part of a series that is published annually since 2009. It draws on the WSI Minimum Wage Database that holds time series data for 37 countries, including all 22 of the current 28 EU Member States with a statutory minimum wage. Data is also held on seven EU neighbours (Albania, Macedonia, Moldova, Russia, Serbia, Turkey and Ukraine) and eight developed and industrialising economies in the rest of the world (Argentina, Australia, Brazil, Japan, Korea, Canada, New Zealand and USA). The report shows that minimum wages in most EU countries were increased at the start of 2019, with a median increase of 4.8 % compared with the previous year, continuing the recent trends towards faster minimum wage growth.

Read on: <https://www.boeckler.de/5254.htm?produkt=HBS-007119&chunk=1&jahr=>

EU Case Law

Coordination of social security

March 14, 2019

Judgment in Case C-372/18 *Ministre de l'Action et des Comptes publics v Mr and Mrs Raymond Dreyer*

Facts

Mr and Mrs Raymond Dreyer are French tax residents insured under the Swiss social security scheme, since Mr Dreyer spent his career working in Switzerland. In 2016, the French tax authorities declared Mr and Mrs Dreyer subject, in respect of income from assets received in France in 2015, to contributions and levies apportioned, in particular, to the Caisse nationale de solidarité pour l'autonomie (National Solidarity Fund for Independent Living, 'the CNA').

On the basis that the benefits funded by the contributions and levies at issue administered by that body are social security contributions, Mr and Mrs Dreyer disputed their liability to those contributions and levies before the French courts on the ground that they are already insured under the Swiss social security scheme and cannot be required to contribute to the funding of the French social security scheme. The EU regulation on the coordination of social security systems provides that persons to whom that regulation applies are to be subject to the legislation of a single Member State only and, for those purposes, Switzerland is regarded as a Member State.

In the action brought by Mr and Mrs Dreyer against the French tax authorities, the Cour administrative d'appel de Nancy (Administrative Court of Appeal, Nancy, France) expressed doubts as to the nature of the benefits funded by the contributions and levies apportioned to the CNA. That court therefore asks the Court of Justice whether those benefits, namely the allocation personnalisée d'autonomie (personal independence allowance, 'the APA') and the prestation compensatoire du handicap (disability compensation allowance, 'the PCH'), may be regarded as social security benefits.

Considerations of the European Court of Justice

In this judgment, the Court notes that a benefit may be regarded as a 'social security benefit' in so far as it is granted to recipients without any individual and discretionary assessment of personal needs on the basis of a legally defined position (first condition) and provided that it relates to one of the risks mentioned in the regulation at issue (second condition). The Court also notes that taking into account a recipient's resources for the sole purpose of calculating the actual amount of benefits on the basis of legally defined, objective criteria does not involve an individual assessment of the recipient's personal needs. The Court considers that to be the case of the APA and the PCH, given that a recipient's resources are taken into account only in calculating the amount of those benefits, since the benefits must be granted if the applicant satisfies the conditions for their eligibility, irrespective of his resources. In that context, the Court adds that the need to assess, for the purposes of the APA and of the PCH, the degree of the applicant's loss of independence or disability also does not involve an individual assessment of that applicant's personal needs. The assessments of loss of independence and of the disability are made by a doctor or an expert from a socio-medical team or a multidisciplinary team as regards predefined scales, lists and guidelines, namely on the basis of legally defined, objective criteria which, if satisfied, confer entitlement to the corresponding benefit.

Lastly, the Court considers that, since it follows both from today's judgment and from the findings of the referring court that both conditions are satisfied and that the APA and the PCH are 'social security contributions', there is no need to ascertain whether either of the benefits are 'special non-contributory cash benefits' within the meaning of that regulation, since the Court has previously held that both concepts are mutually exclusive.

In sum, in this case the Court has ruled that welfare contributions aimed at funding social security benefits in France cannot be charged on income from the assets of French residents insured under the Swiss social security scheme.

Ruling

"Article 3 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems must be interpreted as meaning that benefits, such as the personal independence allowance and the disability compensation allowance, must, for the purposes of their classification as 'social security contributions' within the meaning of that provision, be regarded as granted without any individual assessment of a recipient's personal needs, since the recipient's resources are taken into

account for the sole purpose of calculating the actual amount of those benefits on the basis of legally defined, objective criteria.”

Read full text on:

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=211708&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=5361044>

Events of the Project

- **The seminar: *European Labour Law Perspectives – Enhancing the Social Pillar***, took place at the University Carlos III-Madrid on 18 & 19 January 2018, Madrid, Spain.

The recordings of the presentations at this Jean Monet Seminar are available at the following links:

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1. https://arcamm.uc3m.es/arcamm_3/item/show/5fd5d75416103ff3185db4aab0b7c357
 2. https://arcamm.uc3m.es/arcamm_3/item/show/a7262a469e9bff226605a8bc26a9b6b0
 3. https://arcamm.uc3m.es/arcamm_3/item/show/ea080356e304ed054ce60a231b0d7006
 4. https://arcamm.uc3m.es/arcamm_3/item/show/fb3050d315154d8ffe923d28d8107e18
 5. https://arcamm.uc3m.es/arcamm_3/item/show/6220166b54f76e83283bdfd1985bdc04
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- **The summer Course: *European Labour Law Perspectives – Enhancing the Social Pillar***, was held on 20-22 June 2018 at the Law Faculty - University of Amsterdam, the Netherlands. Venue: Nieuwe Achtergracht 166, 1018 WV, Amsterdam.

This course aimed at keeping employment specialists and labour law practitioners up -to -date by providing an overview of the latest policy developments, legislative initiatives and case law in the field of EU labour law.

Key topics discussed

The European Pillar of Social Rights

Workers protection in insolvency proceedings

Labour law and the on-demand economy

EU social security law

Update on the revision of the Posting of Workers legislation

Temporary agency work and flexible employment

Working time Directive

Workers involvement in the undertaking

EU Antidiscrimination Law and protection of atypical workers (fixed-term contracts, part-time workers), discrimination on grounds of gender, religion and age at work, etc.

Other recent legislative and policy developments at EU level: work -life balance and proposal on a Directive on transparent and predictable working conditions.

This conference is aimed at academics, lawyers specialised in employment and labour law, and other legal practitioners.

Keynote speakers

Prof. dr. Catherine Barnard

Prof. dr. Anthony Kerr

Prof. dr. Frank Hendrickx

Prof. dr. Manfred Weiss

Prof. dr. Jaap van Slooten
Prof. dr. Evert Verhulp
Prof. dr. Mies Westerveld
Prof. dr. Auke van Hoek

The recordings of the presentations at this Jean Monet Summer School are available at the following link: <https://aias-hsi.uva.nl/en/projects-a-z/jean-monnet-eusocp/multimedia/multimedia.html>

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