Editorial

Effectiveness of employment protection standards has always been a key issue in labour law and industrial relations. All over the world both scholars and practitioners know very well that a number of factors determine the implementation of rules, be they enacted under the form of legislation or collectively agreed upon. Brian Langille's article uncloses this issue by addressing the ILO's identity crisis which, at least in part, has been alleviated by the 1998 Declaration on Fundamental Principles and Rights at Work: a measure to make ILO rules more easily enforceable.

Representativity is a problem not simply confined to international organisations, but also affects social parties, mainly on a supra-national scale. Marlene Schmidt examines this theme from the angle of the European Union's decision-making process for social policy, where recently both management and labour have increased their power. When employers' associations and trade unions acquire a quasi-legislative role, they should then be able to represent their constituency adequately. Another element which might jeopardise the effectiveness of EU social policy is the consistently diversified national contexts of various Member States. Hans Sundberg presents a clear picture of the Danish situation in transposing the Acquired Rights Directive, emphasising how difficult it is to implement a principle ('employment relationship shall continue in transfer situations') which is contrary to the position taken by Danish law prior to the Directive.

Indeed, from the very top (i.e. international, community and national standards) down to the bottom of single enterprises, similar problems arise. The particular situation of small and medium-sized companies offers Amira Galin an ideal opportunity to challenge a number of stereotypes related to working conditions, at least in connection with the Israeli context. It is predominantly in smaller businesses that the effectiveness of employment protection standards greatly depends on the role played by the courts, above all specialist labour courts. This perspective is covered at length by Martin Vranken who maintains that a specialist judiciary is a prerequisite for the proper application of the substantive labour law. A conclusion

The International Journal of Comparative Labour Law and Industrial Relations, Volume 15/3, 227-228, 1999.

which surely cannot be confined to the New Zealand situation alone: Michael Lynk's commentary on the US Supreme Court's judgement affecting the notion of disabled persons shows the pivotal role the courts may play in effectively implementing statutory provisions.

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