Editorial

The issue opens with a paper by Tayo Fashoyin exploring the main changes in recent decades in Africa, Asia, and Latin America, arguing that two main driving forces have contributed to the shaping of employment relations, that is, the transition in many countries from dictatorship to democracy, and the globalization of national economies. The author stresses the phenomenal impact of these factors and their consequences, such as the increasing informalization of employment and the decline of trade union membership. Various public policy responses to these new challenges are highlighted. Such responses range from protective to flexible, but as the author notes, there is often an attempt to accommodate conflicting interests with 'middle-of-the-road' solutions. Attention is also paid to collective bargaining and national-level social dialogue as a potential tool for strengthening the role of the social actors in the context of changing labour market conditions.

In a comparative study, Silke Seeger examines legal responses to the unfairness of terms in employment contracts in the jurisdictions of Scotland and Germany, with particular regard to mobility and remuneration provisions. These matters are considered to be a crucial area of potential conflict between implied and express contractual terms. The author identifies some common approaches in the legal systems of Scotland and Germany, as well as drawing attention to differences. Particular attention is paid to the extent of judicial control, that is, the readiness of courts and tribunals to cut down or strike out express terms of employment contracts in these two jurisdictions.

David Cabrelli and Louise Floyd focus on the doctrine of the restraint of trade, which is particularly relevant to employment. In the authors' opinion, this doctrine is relevant to the laws of England, Scotland, and Australia and they argue that these jurisdictions can learn much from each other. The paper also highlights the approach of the courts to restraint clauses and intellectual property in light of the new challenges arising from globalization and the emergence of IT industries.

Koen Nevens provides a comparative analysis of homework and telework in Belgium and France, and the conceptual and regulatory problems these forms of employment engender. The author stresses in particular the adoption of the juridical notion of subordination as the distinguishing feature of the contract of employment, and its impact on the status of home workers and teleworkers. In this connection, the use of ICT becomes crucial as it enables an employer to control teleworkers almost ubiquitously. In the author's view, there is a need, at a regulatory level, to take the particular characteristics of telework into account, especially with regard to the regulation of working time, which turns out to

Rymkevich, Olga & Michele Tiraboschi. 'Editorial'. *The International Journal of Comparative Labour Law and Industrial Relations* 26, no. 2 (2010): 117–118.

be problematic especially for home-based telework, even more than for other types of telework.

Anna Alaimo examines the new Directive on European Work Councils 2009/38/EC resulting from a recast of the 1994 Directive. The author analyses the procedure followed during the revision process and the statutory role of the social partners, giving rise to important questions about the decline in institutional collective bargaining and the reduction in the collective autonomy of the social partners. She provides a critical overview of the main innovations and omissions in the new Directive, concluding that 'the mountain has brought forth a mouse'.

In the last paper in this issue, Martin Vranken explores the Australian labour law reform from the point of view of flexicurity in the context of globalization. He focuses on the Fair Work Act (2009) and examines it in terms of flexicurity. In the author's view, the need of the national economy to remain competitive in the globalized world affects the balance between economic flexibility and social protection in favour of the former. Such choices inevitably shape the labour law reform in Australia, and in the long run may compromise the traditional employee protection function of labour law.

Finally, after a decade of close association with the *Journal*, initially as Junior Managing Editor under the guidance of Marco Biagi, and since 2002 as a full Managing Editor, Marlene Schmidt has decided that due to her heavy professional caseload, she will no longer be able to contribute to the work of the *Journal* on a regular basis. Over the years, she has played a key role in selecting papers and managing the peer-review process, and her critical input has enabled many authors to improve the content and quality of their work. The Scientific Directors and all those who have worked with Marlene will join us in thanking her for her unfailing support, and wishing her well as she moves on to new challenges.

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