Editorial

This issue opens with a profile by Alan Neal, Founding Editor of the Journal, of Lord Wedderburn, a long-standing member of our International Advisory Board who recently passed away, paying tribute to his outstanding career and personal qualities, and his contribution to the development of comparative labour law as a discipline.

The papers in this issue are linked in different and complex ways to trends such as globalization, Europeanization, labour migration and flexibilization. They address, from a comparative and international perspective, important issues such as strike action, forced labour, protection for temporary agency workers, the recasting of national labour law and industrial relations systems in the light of the economic crisis, the importance of cooperation skills and employability in labour law, and the links between industrial relations systems and innovation and economic performance.

In a comparative study of Australian and UK labour legislation, Shae McCrystal and Tonia Novitz investigate legislative controls on the ability of workers and their organizations to take strike action. In the light of developments in democratic theory, they analyse legislative provisions in Australia and the UK that impose both majoritarian 'democratic' balloting requirements and deliberative preconditions for strikes, such as a requirement in Australia that a ballot applicant should haveo 'genuinely tried to reach agreement'. They argue that majoritarian 'democratic' balloting requirements in both countries have been motivated primarily by a desire to restrict access to industrial action. Although the introduction of deliberative democratic principles in the field of industrial relations could be beneficial, the authors argue that the 'institutionalisation of deliberative democratic precepts clearly requires more careful thought and attention than we have yet seen in the UK and Australia'.

The adverse employment conditions and exploitation in Sweden of seasonal migrant berry pickers, mainly from Thailand and other parts of Southeast Asia, but also from the newer EU Member States, are the focus of a study by Charles Woolfson, Petra Herzfeld Olson and Christer Thörnqvist, combining labour law, human rights law and industrial relations perspectives. The problems are viewed

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from the perspective of forced labour, and the case study of migrant berry pickers is analysed in the light of international legal norms, such as ILO Convention No 29, the European Convention on Human Rights, and Swedish law. The authors point to inadequate implementation and application of international legal norms in Swedish law, as well as to deficiencies in the application of criminal law and monitoring of wages and working conditions.

Issues of labour migration – in the form of the cross-border provision of labour within the EU – are the starting point for the paper by Monika Schlachter. She discusses the complex legal regulation of transnational temporary agency work in order to evaluate what kind of equality principle is applicable to temporary agency workers, and what sort of protection is actually provided by the application of the equality principle. In a detailed analysis of the intricate relationship between the Posting of Workers Directive and the Temporary Agency Work Directive, she points to the fact that the new equality concept laid down by the Temporary Agency Work Directive seems to add significantly to the protection of cross-border work. However, the exception clauses of the Temporary Agency Work Directive offer the Member States a wide margin of appreciation. Monika Schlachter argues, however, that in the interest of both limiting precariousness of temporary agency work and establishing a good reputation for temporary work agencies as employers, 'any acceptable exception to the general principle [of equality] must preserve an adequate level of protection, not merely low-key minimum standards'.

In a paper on a very topical theme Christos Ioannou analyses the recasting of Greek industrial relations for internal devaluation – by which a country seeks to regain competitiveness through lowering wage costs – in the light of the economic crisis and European integration. He discusses the content of the joint EC-ECB-IMF Programmes for Greece, and describes and analyses their impact on Greek labour law and industrial relations, by way of, *inter alia*, recent reforms of collective bargaining and deregulation of employment protection. Though the case of Greece is officially claimed to be 'unique and exceptional', Christos Ioannou argues that the radical changes introduced in Greece denote future directions of European integration for national systems of industrial relations under the Euro Plus Pact. In conclusion, he emphasizes that the legal initiatives incorporated in the EC-ECB-IMF Programmes for Greece 'challenge institutions and processes, labour regulation and labour law and the logic of collective action and bring under the EU level jurisdiction policy areas such as wage formation, collective bargaining and strike activity, than until recently have been excluded from EU level jurisdiction'.

The paper by Jenny Julén Votinius deals with the legal understanding of the demands in working life on employees' ability to cooperate. The notion of

cooperation is said to cover social and interpersonal skills, but also a general adaptability to changing conditions and expectations in the workplace. The aim of the paper is to survey and conceptualize the demands on employees' ability to cooperate in labour law, and to explore a number of important legal questions relating to employee's ability to cooperate, such as recruitment, direction and allocation of work, non-discrimination, health and safety, wage-setting and employment protection. As a starting point, the links between the ability to cooperate and the discourse on employability and employment policies and flexicurity within the EU are discussed. Jenny Julén Votinius highlighting how in the legal context the ability to cooperate seems to be categorized either as a matter of personal characteristics or as a matter of qualifications giving rise – in the Swedish context – to quite different results.

The perspective of flexicurity is also present in the final paper, by Jan Kees Looise, Nicole Torka and Stefan Zagelmeyer. They use the Dutch industrial relations system – generally linked to the flexicurity discourse – as a case study to discuss the (need for) change in industrial relations systems in coordinated market economics, and the links between industrial relations systems and innovation and economic performance. Theories on varieties of capitalism and small states form part of the background. They conclude that coordinated market economies are not necessarily less successful in radical innovation than liberal market economies. However, in order to promote innovation, the authors also emphasize the importance of collective capacity, and argue that Dutch trade unions need to innovate, both in terms of shop-floor organization and policies and practices.

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