

Introduction - Labour Market Policies and Labour Law Reform: Tensions and Opportunities

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The special issue is intended to assess labour law developments in major EU Member States by asking critical questions about the direction of labour law reforms initiated by the European Employment Strategy (EES). The EES has been a major if not the prime mover of change and adjustment of labour law in the European Union since it was launched in 1998, giving rise to both opportunities and tensions for labour law reform in the Member States. The contributions to this special issue provide insights into the results, impact and consequences of labour market policy-driven labour law reforms over the past two decades. The findings give rise to critical questions that are of importance for the future path of EU employment and social policies.

The special issue documents the results of an international conference organized by Ralf Rogowski in conjunction with Warwick Law School, Warwick Business School and the Warwick Network Connecting Research on Employment and Work (CREW). The conference took place in May 2018 at the Institute of Advanced Study (IAS) of Warwick University on the occasion of Riccardo Del Punta's stay as an IAS International Visiting Fellow. In addition to the five contributions included in the special issue, there were a number of contributions that unfortunately for various reasons could not be included. The additional contributions covered further theoretical aspects as well as country-specific developments in Poland and the US.

This issue opens with Ralf Rogowski's critical account of the impact of the EES on national labour market policies and labour law systems. It provides an overview of the development of the EES from the 1990s until the introduction of the European Social Pillar (ESP) and critically analyses its impact. It highlights the origins of the EES in debates about European Economic and Monetary Union (EMU) and comments on the importance and the specific nature of the new governance approach adopted by the EES and its significance for labour law reform

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in the Member States. The article argues that the latest stage in the development of European social policy, associated with the introduction of the ESP, has not changed direction. Despite its rights-based approach, the ESP merely constitutes the most recent stage in the development of the EES and continues in its implementation to prioritize labour market policy concerns in reforming labour law. However, the article also shows that the ESP has the potential of being the platform for a proper Social Union.

Günther Schmid's contribution provides a comprehensive overview of labour law reform in Germany since the beginning of the millennium, starting with the Hartz reforms (2003–2005), which Schmid calls the Schroeder reforms, and leading to the latest law on intermittent part-time work enacted in 2018. He analyses the development of German labour law and labour market policy from the innovative perspective of transitional labour market policy and uses as a benchmark of his evaluation the notion of inclusive growth. Schmid evaluates the impact of the German reforms both in quantitative and qualitative terms, coming to the conclusion that the reforms under discussion have promoted inclusion to a considerable extent, in particular for women and older workers, but mainly in the form of at-risk employment relationships leading to labour market segmentation, rising inequality and in-work poverty. The article concludes with the proposal to use the idea of inclusive growth for the design of an 'inclusive labour contract', combining new social rights and obligations that enable internal flexibility of standard employment, while making extensive provision for the new risks arising from an increase in labour market transitions. Particular emphasis is placed on the fact that the inclusive labour contract strategy should ensure the development of institutional arrangements that not only make workers fit for the market, but also make the markets fit for workers.

In the following contribution, Bernard Gazier reflects on the development and current state of labour market policy and labour law in France. He emphasizes the importance of the El Khomri Act of 2016, enacted during the Presidency of François Hollande, and the Order of 2017 and the 2018 Act, under the Presidency of Emmanuel Macron. Gazier argues that the 2018 Act reforming lifelong learning and apprenticeship institutions marked a real change in policy direction. He identifies in the French reforms four main policy agendas: flexibilization, decent work agenda, flexicurity, and protected transitions. He detects similarities with the German Hartz reforms of 2002–2005 (similar in scope and importance) and argues that the French reforms correspond to a particular version of flexicurity, characterized by strong state involvement in labour market policies but also a high degree of flexibility and individualization. However, in comparison to the German reforms, the French ones have been less successful in reducing unemployment. The limits of

the French strategy became evident in the context of the slow economic growth and social unrest in 2018–2019.

The article by Riccardo Del Punta analyses labour market reforms in Italy, describing the key waves of reform motivated by labour market concerns, beginning with the Treu Act of 1996 up to the legislative changes introduced in 2018. Del Punta highlights the impact of the reforms in the area of dismissal protection and assesses the erosion of the role of the standard employment contract in an increasingly dual labour market. He stresses the importance of measures aimed at enhancing functional flexibility and productivity, the changing interplay between law and collective bargaining, and the persistent shortcomings of security mechanisms. The intrinsic limits and flaws deriving from the neo-liberal inspiration of the most recent reforms (the 2015 Jobs Act in particular) and their inability to affect the structural problems of the Italian labour market are underlined. However, Del Punta also emphasizes that these reforms had the virtue of forcing labour law to come to terms with changing economic conditions, internalizing economic considerations in its discourse. The challenge, as he sees it, is how to go beyond the neoliberal approach of the previous reforms and establish a comprehensive new policy with regard to labour regulation, capable of responding to both production and distribution issues.

The final contribution in this special issue, by Noel Whiteside, analyses the development of employment policies in the UK. She adopts a historic perspective that looks at the transformation of waged work from permanent full-time jobs to precarious irregular task-based employment. Whiteside argues that, contrary to the official government view that irregular work is the route out of poverty, this type of employment was for long understood as a primary cause of poverty, not its cure. She criticizes the UK policies of labour market deregulation and the promotion of ‘flexibility’ for endorsing a positive image of irregular employment, thus undermining the achievements of the past in viewing open-ended employment as the goal of labour market policy. In her view the promotion of irregular employment exacerbates widening social inequalities and leads to multiple job-holding and unstable employment. The policy weakens legal frameworks governing employment rights and undermines public trust in the ability of the labour market to provide security.

We are extremely grateful to the authors for their willingness to contribute to this special issue. We feel fortunate to receive such thoughtful reflections on labour law reform and labour market policies from leading scholars in the field, who have been working on these issues successfully for many years. There can be no doubt that readers will find this issue stimulating, and the editors hope in particular that the arguments presented in this special issue will contribute to the rethinking of European labour market policies and their implications in developing a European Social Union.