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Alain Supiot

What does “reform the labour market“ mean?

Contrary to claims made in the debate on the reform of the labour market, legal regulation is not an obstacle to a functioning labour market, but rather an indispensable pre-condition. The framework conditions for regulation are however altered by the shifts in socio-economic development and globalisation. In this article changes are examined at three levels: the employees, the social partners and the system of law – i.e. the legislator and the system of labour courts. Lines of development of new regulation are examined from the juridical viewpoint as well as perspectives for re-regulation which could serve as a model for appropriate reforms of labour law.

Werner Sesselmeier

Deregulation and re-regulation of labour markets in the light of the insider-outsider-theory

Labour markets must be regulated in such a way that the chances for outsiders to get a new job are improved. As insiders have advantages based on their human capital which they actively employ, they are in a better position than outsiders. As a consequence, the general goal should be to improve the relative position of outsiders instead of protecting the relative position of insiders - as is currently the case. More jobs for outsiders would not only be more efficient in economic terms, but would also be fairer.

Ulrich Zachert

Protection against dismissal, fixed-term employment and the hiring-out of temporary workers in Europe.

Comparative examinations of the normative and factual situation in various European countries indicate that many of the arguments repeatedly put forward in the national debate against existing protection standards are either incorrect or indiscriminate. This article looks at protection against dismissal from the legal standpoint (for example the relationship between case law and statute law, the regulation of threshold values and forms of indemnity claims, the possibility of re-employment and the preventative function) and adds to this an examination of the legal regulations of fixed-term employment and the hiring-out of temporary workers. It is proposed that the atypical forms of employment can be used as avoidance strategy for the too rigid system of protection against dismissal or as a bridge to a permanent employment contract or can serve ‘the revolving door’ effect. One of the essential conclusions drawn in the article is that connection between labour market and the intensity of regulation of termination of employment is considerably overestimated in the public discussion carried out by specialists.

Marcus Bradtke/Nicole Fischer/Sabine Hübner/Florian Schramm/Ulrich Zachert

Personnel policy effects of labour law reforms

The controversy surrounding the Hartz Commission and the discussion on Agenda 2010 have almost fallen into oblivion since 1998 when the ruling government coalition (SPD/ the Greens) started to put forward a considerable number of proposals for changes to labour law. Such changes awaken in all political parties involved varying

levels of dread or hope. This is particularly true when in the public discussion it is labour law that is blamed for the desolate conditions on the German labour market, because it drastically holds back any positive employment effects which could result from personnel policy. In this article the results of a qualitative empirical study are presented in which the effects of recent changes to labour law are examined and which present a more differentiated picture. Results confirm that a key to understanding the effect of changes in labour law lies in the analysis of the attitudes and forms of behaviour of those involved at company level. At the same time certain orientations and behaviour patterns on the side of the company in their dealings with labour law are identified. It is shown that labour law regulations are only part of the picture as far as the framework conditions for determining the success or failure of labour market reforms are concerned.

Armin Höland/Ute Kahl/Karen Ullmann/Nadine Zeibig

The reform of the Protection Against Dismissals Act in Germany – hypotheses and research findings

After years of controversial debate Article 1 of the German Labour Market Reform Act of December 24, 2003, has amended the Protection Against Dismissal Act. The aim is to remove obstacles to the recruitment of new employees. The assumptions about the effects of labour law on labour markets are based largely on facts which have not been empirically confirmed. On the basis of available research and statistics the article discusses possible effects of the reform of the Protection Against Dismissal Act and identifies that reforms will not lead to additional employment effects. Due to the compensation that the employer can now offer to the employee if the dismissed person foregoes the right to take legal action and the restrictions to legal protection in the event of the workers' council agreeing to the dismissal of those employees presented in a so-called "name list" - the number of legal actions might decrease.

Ralf Rogowski/Ton Wilthagen

Deregulation and re-regulation of transitional labour markets

The article discusses possibilities for the legal regulation of transitional labour markets (TLM). The concept of TLM has three aims: to upgrade employment policy as a goal of economic policy that carries equal importance; to introduce a new definition of full employment that incorporates unpaid and alternative forms of employment alongside permanent employment; and to shift active labour market policy to become activating labour market policy by focusing on the creation of opportunities for transitions in order to support the mobility of employees and improve equal opportunities. TLM poses new challenges for the legal regulation of labour markets. It requires a reduction (deregulation) as well as a reform (re-regulation) of existing law. The article describes the limitations of law that curtail its regulatory capacity, such as legal complexity and the limits to detection, as well as normative boundaries such as discrimination and evaluation thresholds. The economic costs of legal regulations are also examined. In a central section the concept of reflexive deregulation is presented. Finally three examples of re-regulation are discussed: the introduction of vouchers or social drawing rights; the flexicurity strategy and the provision of training for agency workers.

Hedva Sarfati

Welfare and labour market reforms: A new framework for social dialogue and collective bargaining?

The article examines the main issues that underpin current and planned welfare reforms and the policy implications of the close linkage between these reforms and the shifts that have taken place in the labour market over the past three decades in the OECD region. It looks at the impact of the major changes in the socio-economic context which include: the prevalence since the 80s of a neo-liberal approach among policy-makers, the rapid economic globalisation, the accelerated pace of EU integration, the shift towards service economy, the demographic ageing and the dramatic change in the composition of families. The article argues that while these developments and the reforms to ensure the viability of welfare systems raise major challenges to the social partners, they also offer them an opportunity to play a role in a revitalised social dialogue and collective bargaining. Indeed, as successful reforms strategies have shown, the drastic reforms require a broad public consensus, and the social partners can offer a forum and an institutional conduit for such debate and consensus building.