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Giuseppe Palmisano

– *The Charter's challenges 20 years after its revision / Les défis de la Charte 20 ans après sa révision*

Short Biography

President of the European Committee of Social Rights (Council of Europe)

Director of the Institute for International Legal Studies (ISGI) of the National Research Council of Italy (CNR)

Giuseppe Palmisano completed a PhD in International Law at the University of Milan.

He worked as Assistant to the Special Rapporteur on State Responsibility (Prof. Gaetano Arangio-Ruiz) at the International Law Commission of the United Nations, from 1989 to 1996.

He was researcher in International Law at "Sapienza" University of Rome from 1993 to 2000, before becoming Associate Professor of EU Law from 2000 to 2002, and then Professor of International Law from 2002 to 2011 at the University of Camerino, where he also was Director of the Department of Legal and Political Studies from 2004 to 2008.

From 2004, he is Professor of International Law and International Organization in the Course of Advanced Studies in International Relations, organized in Rome by the SIOI (Italian Society for International Organization) and, from 2008, "chargé de cours" in International Law and International Jurisdictions at the University of Roma Tre.

From 2011, he is a member of the European Committee of Social Rights.

Selected bibliography

G. Palmisano (ed.), *Making the Charter of Fundamental Rights a Living Instrument*, Brill, 2015

G. Palmisano, The Protection of People with Autism within the Framework of the Council of Europe and the European Union, in V. Della Fina, R. Cera (eds), *Protecting the Rights of People with Autism in the Fields of Education and Employment*, Heidelberg-New York-Dordrecht-London, Springer, 2015, pp. 11-23.

G. Palmisano, Overcoming the limits of the European Social Charter in terms of persons protected: the case of third State nationals and irregular migrants, in M. D'Amico, G. Guiglia (eds), *European Social Charter and the Challenges of the XXI Century*, Napoli, Edizioni Scientifiche Italiane, 2014, pp. 171-191.

G. Palmisano, La tutela delle persone con disabilità nel sistema della Carta sociale europea, in C. Colapietro, A. Salvia (a cura di) *Assistenza, inclusione sociale e diritti delle persone con disabilità*, Napoli, Editoriale Scientifica, 2013, pp. 337-361.

G. Palmisano, Trattamento dei migranti clandestini e rispetto degli obblighi internazionali sui diritti umani, in *Diritti umani e diritto internazionale*, vol. 3 fasc. 3, 2009, pp. 509-539

Régis Brillat

– Chairperson for the 1st Part: *The Charter's system / Le système de la Charte*

Head of European Social Charter Department, Council of Europe

Executive Secretary of the European Committee of Social Rights (Directorate General of Human Rights, CoE)

Short Biography

Régis Brillat was trained as a lawyer and studied law at Lyon III University and at Paris II University, as well as political science at the Institut d'études Politiques of Paris. He entered the Council of Europe in 1983 and worked in the following Departments: Lawyer at the Registry of the European Court of human Rights (1983-1986), Department of the Legal Adviser (1986-1991), and European Commission for Democracy through Law ("Venice Commission") (1991-1993).

Since 1993, he is head of the Department of the European Social Charter and the European code of social security and (Executive Secretary of the European Committee of Social Rights).

He has published a series of Articles concerning mainly the European Social Charter.

Selected Bibliography

R. Brillat, L'acceptation à la carte de la Charte sociale européenne, in C. Mestre, C. Sachs-Durand, M. Storck (dir.), *Le travail humain au carrefour du droit et de la sociologie. Hommage au professeur Nikitas Aliprantis*, PUS, Strasbourg, 2014, p. 575.

R. Brillat, The European Social Charter and Monitoring its implementation, in N. Aliprantis, I. Papageorgiou (dir.), *Social Rights at European, Regional and International Level. Challenges for the 21st Century*, Bruylant, Bruxelles, 2010, p. 43/La Charte sociale européenne et le contrôle de son application, in N. Aliprantis, (dir.), *Les droits sociaux dans les instruments européens et internationaux. Défis à l'échelle mondiale*, Bruylant, Bruxelles, 2009, p. 37.

R. Brillat, The Supervisory Machinery of the European Social Charter: Recent Developments and their Impact, in G. De Burca and B. de Witte (ed.), *Social Rights in Europe*, OUP, 2005, p.31.

R. Brillat, La Charte sociale européenne, in C. Grewe et F. Benoît-Rohmer (dir.), *Les droits sociaux ou la démolition de quelques poncifs*, PUS, Strasbourg, 2003, p. 83.

R. Brillat, L'activité pré-conventionnelle et para-conventionnelle du Conseil de l'Europe dans le domaine des droits sociaux, in J.-F. Flauss (dir.), *Droits sociaux et droit européen. Bilan et prospective de la protection normative*, Bruylant, Nemesis, Bruxelles, 2002, p. 127.

R. Brillat, Le système de contrôle de l'application de la Charte sociale, in J.-F. Akandji-Kombé et S. Leclerc (dir.), *La Charte sociale européenne*, Bruylant, Bruxelles, 2001, p. 45.

Sylvaine Laulom

– Originalities and potential of the Charter's "system" / Originalités et potentialités du "système" de la Charte

Short Biography

Professor of labour law , University of Lyon 2

Après avoir début sa carrière à Saint-Etienne, Sylvaine Laulom est, depuis 2013, Professeure à l'Université Lumière Lyon 2 et directrice de l'Institut d'Études du Travail de Lyon.

Ses principaux champs de recherche sont le droit du travail, le droit social européen et le droit du travail comparé. Depuis 2009, elle a dirigé plusieurs recherches consacrées aux évolutions des droits du travail en temps de crise :

- Projet en cours : les évolutions de la négociation collective en temps de crise (Projet Inlacris, VS/2014/0532)
- Which security for workers in time of crisis? *European Labour Law Journal*, 2014 n° 3-4
- Quel droit social dans un Europe en crise, Larquier, 2012.

Selected Bibliography

« Actualités du droit social de l'Union européenne », *Semaine Sociale Lamy*, supplément déc. 2015, 61 p.

« *Which Securities for workers in times of crisis ?* », 2014, *European Labour Law Journal* n° 3-4. Dans ce numéro, «Dismissal Law under challenge: new risks for workers», pp 231-254.

« La réception par la Cour de cassation française des décisions des instances non juridictionnelles des organisations internationales », *Revue comparée de droit du travail et de la sécurité sociale*, 2014-1, pp. 58-68. Reception by the French Court of Cassation of the Decisions of the Non-Judicial Bodies of the International Organisations, 2014/3, p. 16.

« Le Comité européen des droits sociaux condamne la jurisprudence Laval », *Semaine Sociale Lamy*, 2013, n° 1616, p. 5-7.

« Les droits sociaux fondamentaux, rempart des déconstructions des droits du travail », *Revue de droit du travail*, 2013, p. 410.

Summary of the contribution : « Originalités et potentialités du système de la Charte »

Il s'agira de présenter ce qui fait l'originalité de la Charte Sociale Européenne par rapport à d'autres instruments internationaux de protection des droits sociaux, notamment dans le contexte de crise que connaît un certain nombre de pays européens. Mais certaines affaires comme l'affaire Laval ont également révélé les possibles divergences des interprètes des droits sociaux fondamentaux. La présentation s'attachera à présenter les voies possibles de résolution de ces conflits.

Klaus Lörcher and Stefan Clauwaert: *The Charter's monitoring mechanisms and the role of the ECSR*

Stefan Clauwaert

Senior researcher at the European Trade Union Institute (ETUI)

European Trade Union Confederation (ETUC) representative in the framework of the Social Charter activities

Short Biography

After graduating in Social Law from the University of Ghent (Belgium) in 1993, Stefan Clauwaert began work at the ETUI in October 1995. His main fields of research are European/comparative labour law and European social dialogue. His work also comprised the setting up and coordination of the ETUC trade union legal experts' network NETLEX (until 2007) as well as –since 1999– participation as expert to the ETUC delegation in all the EU cross-sectoral social dialogue negotiations.

He also represents the ETUC in the framework of the Council of Europe Social Charter activities, in particular by participating in the meetings of the Governmental Committee and also ensuring trade union observations/complaints in Collective Complaints Procedure.

Selected Bibliography

Clauwaert S. (2015): The country-specific recommendations (CSRs) in the social field. An overview and comparison Update including the CSRs 2015-2016, ETUI Background analysis 2015.03

Lang, C., Schömann I. and Clauwaert S. (2013): [Working time reforms in times of crisis](#) , ETUI Working Paper, 2013.04

Lang, C., Schömann I. and Clauwaert S. (2013): [Atypical forms of employment contracts in times of crisis](#), ETUI Working Paper, 2013.03

Clauwaert, S. and Schömann, I. (2013) The protection of fundamental social rights in times of crisis: A trade union battlefield, in Däubler, W. and Zimmer, R. (eds.) Arbeitsvölkerrecht. Festschrift für Klaus Lörcher, Baden-Baden: Nomos, pp 239 -256

Clauwaert, S. (ed. with Schömann, I.) The crisis and national labour law reforms: a mapping exercise, ETUI working paper, 2012.

Clauwaert, S. (with Warneck, W.) "Europese collectieve onderhandelingen: de Europese sociale dialoog, de Europese CAO en andere instrumenten" in Cox, G., Rigaux, M. en Rombouts, J. (eds.) (2006) "Collectief Onderhandelen", Reeks Collectief Arbeidsrecht, Mechelen: KLUWER

Klaus Lörcher

Co-coordinator of the Transnational Trade Union Rights Expert Network (TTUR)

Short Biography

During most of his professional life Klaus Lörcher worked as trade union lawyer at national and European level, i.a. as Legal advisor of the ETUC. He also worked as Legal Secretary of the Civil Service Tribunal of the European Union. Following his retirement, he advises the ETUC on human rights issues i.a. as observer in different bodies of the Council of Europe. He is co-coordinator of the TTUR.

Selected Bibliography

K. Lörcher (editor with N. Bruun and I. Schömann), *The Economic and Financial Crisis and Collective Labour Law in Europe*, Oxford, Hart Publishing, 2014; in this volume:

“Legal and Judicial International Avenues: The (Revised) European Social Charter”, pp 265-294

K. Lörcher (editor with F. Dorssemont and I. Schömann), *The European Convention on Human Rights and the Employment Relation*, Oxford, Hart Publishing, 2013; in this volume:

- “The New Social Dimension in the Jurisprudence of the European Court of Human Rights (ECtHR): The Demir and Baykara Judgment, its Methodology and Follow-up”, pp 3-46

- “The Future of the European Court of Human Rights in the Light of the Brighton Declaration”, pp 93-104.

K. Lörcher (editor with N. Bruun and I. Schömann), *The Lisbon Treaty and Social Europe*, Oxford, Hart Publishing, 2012; in this volume:

“Social Competences”, pp 165-234.

Lörcher K. (ed. with Bruun N. and Schömann I.), *Labour Law and Social Europe. Selected Writings of Brian Bercusson*. Introduced by the ETUI Transnational Trade Union Rights Experts Group., Brussels, ETUI 2009,

Summary of the oral contributions

The contribution will be divided into two parts.

First part: The monitoring mechanisms with a particular focus on the challenges ahead to further strengthen these mechanisms and the actors involved (Stefan Clauwaert)

Second part: The role of the ECSR in terms of interpretation of the Charter (Klaus Lörcher); the following issues will be presented:

- Methods of interpretation
- The controversies about some more recent cases
- Conclusions

Niklas Bruun

– Chairperson for the second Part: The Charter's relevance in a context of crises: Individual Employment Relations

Short Biography

Professor of Law, Hanken School of Economics, Helsinki and Stockholm University

Head of the Transnational Trade Union Rights Expert network (TTUR)

Niklas Bruun has a PhD in labour law from the University of Helsinki 1979. He is currently professor in law at the Hanken School of Economics in Helsinki. Since 1985 he has been a professor at University of Helsinki and/or Hanken. He is the Manager of the research programme "Regulating Markets and Labour - Nordic, European and Global Perspectives (ReMarkLab)", University of Stockholm. He was a researcher in the Finnish Center of Excellence in the Foundations of European Law and Polity Research, University of Helsinki 2010-2014. Niklas Bruun also serves as a member of UN Committee on the Elimination of Discrimination against Women (CEDAW, from 2009) and of the EU Corporate Governance Forum (from 2008-2012), after being member of the ILO Freedom of Association Committee for several periods (1996-98, 2006-2008). He is the author (or co-author) of several books and more than one hundred articles mainly in the fields of Intellectual property (IP) law, EU law, labour law and discrimination law.

Selected Bibliography

N. Bruun, K. Lörcher and I. Schömann (eds), *The Economic and Financial Crisis and Collective Labour Law in Europe*, Oxford, Hart Publishing, 2014; in this volume: "Legal and Judicial International Avenues: The ILO », pp 243-264

Bruun, Niklas – Johansson, Caroline, "Sanctions for Unlawful Collective Action in the Nordic Countries and Germany". *The International Journal of Comparative Labour Law and Industrial Relations (IJCLLIR)*, Vol 30 September 2014, Issue 3, ISSN 0952-617X, 2014 Kluwer Law International BV, The Netherlands, 252-273.

Bruun, Niklas, " Guest Editorial: Sanctions and Remedies for Unlawful Collective Action in an International and European Perspective". *The International Journal of Comparative Labour Law and Industrial Relations (IJCLLIR)*, Vol 30 September 2014, Issue 3, ISSN 0952-617X, 2014 Kluwer Law International BV, The Netherlands, 243-252.

"Prohibition of Discrimination under Article 14 European Convention on Human Rights », *in* F. Dorssemont, K. Lörcher and I. Schömann (eds), *The European Convention on Human Rights and the Employment Relation*, Oxford, Hart Publishing, 2013, pp 367-380

Bruun N. (ed. with Lörcher K. and Schömann I.), *Labour Law and Social Europe. Selected Writings of Brian Bercusson*. Introduced by the ETUI Transnational Trade Union Rights Experts Group., Brussels, ETUI 2009, 701 pp.

Bruun N. (together with Hepple B.), "Economic Policy and Labour Law", in Hepple B. and Veneziani B.), *"The Transformation of Labour Law in Europe" A Comparative Study of 15 Countries 1945-2004*, Hart Publishing 2009. 31-58. ISBN 978-1-84113-870-1

Simon Deakin

– *The right to work and the right to a fair remuneration*

Short Biography

Simon Deakin is Professor of Law at the University of Cambridge, where he teaches labour law, private law, and the economics of law (since 2006). He has been a member of the TTUR since 2009.

He is Director of the Centre for Business Research, co-Chair of the University's Strategic Research Initiative in Public Policy and a Fellow of Peterhouse. He has given the ILO Social Policy Lectures (Budapest 2002), the Tanner Lectures (Oxford, 2008), the Mike Larkin Memorial Lecture (Cape Town, 2009), the V.V. Giri Memorial Lecture (New Delhi, 2013), and the Innis Christie Lecture (Dalhousie, 2015). He has been Visiting Professor or visiting fellow in several European and Japanese Universities. In 2015 he gave a plenary address to the 21st World Congress of the International Society for Labour and Social Security Law, meeting in Cape Town. He is editor in chief of the *Industrial Law Journal* and currently a principal investigator on two ESRC-funded projects.

Selected Bibliography

Deakin, S., Fraser-Butlin, S., Polanska, A. and McLaughlin, C. (2015) 'Are litigation and collective bargaining complements or substitutes for achieving gender equality? A study of the British Equal Pay Act' *Cambridge Journal of Economics*, 39: 381-403

Deakin, S. (2012) 'The Lisbon Treaty, the *Viking* and *Laval* judgments, and the financial crisis: in search of new foundations for Europe's "social market economy"', in N. Bruun, K. Lörcher and I. Schömann (eds.) *The Lisbon Treaty and Social Europe* (Oxford: Hart)

Deakin, S. (2014) 'Social policy, economic governance and EMU: alternatives to austerity', in N. Bruun, K. Lörcher and I. Schömann (eds.) *The Economic and Financial Crisis and Collective Labour Law in Europe* (Oxford: Hart).

Deakin, S. and Morris, G. (2012) *Labour Law* (6th. ed.) (Oxford: Hart)

Deakin, S. and Wilkinson, F. (2005) *The Law of the Labour Market: Industrialization, Employment, and Legal Evolution* (Oxford: Oxford University Press)

Summary of the contribution

Prof. Deakin's contribution on the right to work and the right to a fair remuneration will examine the juridical nature of these rights, as they have been developed through the jurisprudence of the ECSR, and their foundational position in the overall architecture of the Charter. It will argue that these rights are emblematic of the Charter's attempt to justify and promote a role for social rights in a market setting, and, as such, remain highly relevant to contemporary debates on the place of labour law in capitalist economies.

Csilla Kollonay-Lehoczki

– *From the prohibition of discrimination to genuine equality / De l'interdiction des discriminations à une véritable égalité*

Short Biography

Former member of the European Committee of Social Rights (2001-2013)

Professor of the Legal Studies Department, Central European University, since 1992.

Through 2013 she was also at ELTE Faculty of Law (Budapest) as professor, the Head of the Labour and Social Law Department. Her teaching and research areas cover labour and social law, European labour law, gender, non-discrimination and equal opportunity law. Her international teaching experience covers USA and European universities. She served in expert and consultative bodies to the EU Commission or the Council. She is a member of the TTUR and other international and Hungarian academic networks, advisory and executive boards within her research and teaching area.

Her publications pay special attention to the specific problems of transition countries in the field of labour and social law as well as to issues raised by the EU integration process.

Selected Bibliography

"The Fundamental Right of Workers to Information and Consultation under the European Social Charter", in F. Dorssemont et T. Blanke (Ed.), *The Recast of the European Works Council Directive*, Social Europe Series, Intersentia, 2010, pp. 3-30.

"Development Defined by Paradoxes. Hungarian History and Female Suffrage", in Blanca Rodriguez Ruiz and Ruth Rubio Marin (eds), *Female Suffrage within the European Union: From Voters to European Citizens*, Brill, 2012, pp. 421-437

"The Lisbon Treaty and the Charter of the Fundamental Rights of the European Union", in N. Bruun, K. Lörcher, Klaus et I. Schoemann (eds.), *The Lisbon Treaty and Social Europe*, Hart Publishing, 2012, pp. 61-104.

"Une «troisième voie» en droit du travail ? Un panorama du nouveau code du travail hongrois : entre un libéralisme extrême et des réminiscences de l'économie planifiée centralisée", *Revue de droit comparé du travail et de la sécurité sociale* (COMPTRASEC UMR 5114 CNRS Université Montesquieu – Bordeaux IV) 2012/2, pp. 77-95.

"Who, Whom, When, How? Questions and Emerging Answers on Age Discrimination", *Equal Rights Review*, Vol. 11. 2013, pp. 69-98.

Summary of the contribution

Dynamic progress and transformative power - this is what the equality provisions of the Charter display and this is what the contribution will put in the focus. Starting with narrowly taken prohibition of discrimination coupled with paternalistic and discriminatory protection of women and disabled under the 1961 Charter, the changed provisions of the RESC and their interpretation have built up an advanced concept of equality. This concept is not only based on autonomy and dignity, but, indispensably, also involves the responsibility of states for taking positive account of relevant differences between persons and groups of persons and guarantee by effective measures that rights and opportunities are equally available for all.

Unlocking the potential of the European Social Charter

Strasbourg – 25 April 2016

Speakers' short biographies and bibliographies and summaries of contributions

The role of the synergy between the reporting and the collective complaint system in this evolution of equality jurisprudence of the Charter will be underlined in the presentation. Last but not least, the presentation will underline the notable parallel and interplay between the development of the concept of equality and the dynamic progress of the Charter itself towards becoming an instrument guaranteeing social rights as enforceable rights. This parallel is also alongside the gradual development of a "partnership" between the ECHR and the RESC – deserving mention.

Corinne Sachs-Durand

- chairperson for the third part: *The Charter's relevance in a context of crises: collective labour relations / La pertinence de la Charte dans un contexte de crises: Les relations collectives de travail*

Short Biography

Professor Emeritus in social law, University of Strasbourg

Corinne Sachs-Durand has a PhD in labour law (1982) from the University Robert Schumann of Strasbourg. She was Maître de conférences from 1983 to 2001 at the Institut du travail, before becoming Professor at the Universities.

Corinne Sachs-Durand particularly developed International activities in teaching as well as in her research projects. She is one of the founding members of the European Working Group of Labour Law (EWL, founded in 1998) and of the GEFACT (Groupe d'études franco-allemand sur le contentieux du travail, created in 2000). She was appointed "Chevalier de l'Ordre national du Mérite » (National Order of Merit) in 2010.

She is also member of the editorial board of the *Revue de droit du travail* (Daloz).

Selected Bibliography

« Syndicats et institutions représentatives dans l'entreprise; les prémices d'un nouveau système? », in *Des liens et des droits, Mélanges en l'honneur de Jean-Pierre Laborde*, Daloz 2015, p. 829.

C. Sachs-Durand (editor with C. Mestre and M. Storck), *Le travail humain au carrefour du droit et de la sociologie, Mélanges en l'honneur de Nikitas Aliprantis*, PUS, Strasbourg, 2014.

"Occupational Health and Safety in France: a good formal protection, but a problematic efficiency", in E. Ales (ed.), *Health and Safety at Work. European and Comparative Perspective*, Kluwer Law International, 2013, 35 p.

« Overview of the transfer of undertaking in France, the social point of view in a collective approach », *Neue Zeitschrift für Arbeitsrecht*, Beilage 1/2012 zu Heft 3/2012, p. 5, Verlag C.H. Beck, Frankfurt a. Main

«L'évolution de la prise en compte de la famille par le droit du travail français », in I. Schömann (ed.), *Mélanges en l'honneur de Yota Kravaritou*, ETUI, 2011, p. 425.

C. Sachs-Durand (ed. with E. Ales, T. Jaspers, P. Lorber, U. Wendeling-Schröder), *Fundamental Social Rights in Europe: Challenges and Opportunities*, Antwerp-Oxford-Portland, Intersentia 2009; and chapter on « The representativeness of Trade Unions in France: a substantial evolution » (pp. 1-12).

Filip Dorssemont

– *The right to collective bargaining and the right to strike / Le droit de négociation collective et le droit de grève*

Short Biography

Professor at the Université catholique of Louvain

Filip Dorssemont enseigne le droit du travail, le droit des relations collectives dans leurs dimensions nationale et européenne à l'Université Catholique de Louvain, après avoir été assistant (1993-2002) et chargé de cours (2002-2004) à l'Université d'Anvers et chercheur et chargé de cours à l'Université d'Utrecht (2002-2008). Il a également été Professeur invité à l'Université Robert Schumann de Strasbourg (2001) l'Université de Cassino (2002) et l'Universita statale di Milano (2008-2009- 2010) pour enseigner le droit du travail communautaire.

Filip Dorssemont est l'auteur et le coauteur de nombreux ouvrages et articles portant principalement sur le droit belge et européen du travail et, plus spécialement sur le droit de grève et l'ensemble du droit des relations collectives de travail.

Selected Bibliography

"Collective Action Against Austerity Measures », in N. Bruun, K. Lörcher and I. Schömann (eds), *The Economic and Financial Crisis and Collective Labour Law in Europe*, Oxford, Hart Publishing, 2014, pp 153-170

« Le droit d'avoir recours à l'action collective et la charte sociale européenne révisée: en revisitant les enseignements du Professeur Nikitas Aliprantis, in *Le travail humain au carrefour du droit et de la sociologie*, Presses universitaires de Strasbourg: Strasbourg, 2014, p. 625-642.

« Market rules and the right to strike: A different approach », in M. Rigaux, J. Buelens and A. Latinne (ed.), *From Labour Law to Social Competition*, Intersentia, Antwerpen, 2014, pp 67-106

Dorssemont, F. (editor with K. Lörcher and I. Schömann), *The European Convention on Human Rights and the Employment Relation*, Oxford, Hart Publishing, 2013; in this volume: "The Right to Take Collective Action under Article 11 ECHR », pp 333-366

"Article 12 (1) - Freedom of Assembly and of a Association », in S. Peers, et alli, *The EU Charter of Fundamental Rights*, Hart Publishing: Oxford, 2014, p. 341-366

« Values and objectives », in N. Bruun, K. Lörcher and I. Schömann, *The Lisbon Treaty and Social Europe*, Hart Publishing, Oxford, 2012, p. 45-59

Summary of the contribution

Le « droit à l'action collective » a été reconnu en vue d'assurer l'exercice effectif du droit de négociation collective. Dans l'exposé, on analysera jusqu'à quel point la formulation du droit à l'action collective dans la Charte sociale européenne, notamment sa finalité, est un vecteur de développement progressif ou risque de se retourner contre ce droit.

En filigrane, une comparaison avec la jurisprudence de la Cour européenne des droits de l'homme est opérée, la Cour européenne de Strasbourg ayant tendance à considérer le droit de grève comme étant indissociable de la liberté syndicale.

Isabelle Schömann

– *Recent national reforms in collective labour law and the Charter / Les réformes nationales récentes en matière de droit collectif du travail*

ETUI senior researcher

Short Biography

Labour lawyer. Since 2002, senior researcher at the European Trade Union Institute (ETUI). Her fields of research cover European labour law and European social dialogue, comparative labour law, fundamental social rights and corporate governance. Coordinator of the NETLEX, the ETUC network of trade union labour lawyers as well as of the TTUR, the Transnational Trade Union Rights Expert Network: <http://www.etui.org/Networks/The-Transnational-Trade-Union-Rights-Experts-Network-TTUR>

Since 2014, in charge of the ETUI Interdisciplinary and cross-unit mission on the impact of Better Regulation and REFIT Regulatory and Fitness Performance Programme Commission's Better Regulation Initiative on labour rights.

Former research fellow at the Wissenschaftszentrum Berlin für Sozialforschung, Research Unit of Prof. Dr. G. Schmid, on labour Market policy and Employment, Berlin. Post graduate Diploma (DEA) in social and labour law of the University of Paris I, Panthéon Sorbonne under the Direction of Prof. Dr. Pierre Rodière.

Selected Bibliography

Schömann I. (2016) National reforms of collective labour law in time of crisis: a new landscape in Europe In Brodie and Zahn (eds) *The Future of Regulation of Work: New Concepts, New Paradigms*. Palgrave Macmillan Publisher Ltd, UK.

Schömann I. (2015) Droit social européen : dessous alarmants de la simplification. Métis, 1ere partie : 28 novembre 2015 ; 2nde partie : 09 décembre 2015.

Schömann I. (2015) National labour law reforms in Europe in time of crisis: Do fundamental rights still matter? In A. Lechevalier and J. Wielghos (eds), *Social Europe: A dead End. What the Eurozone crisis is doing to Europe's social dimension* Djoef publishing, Copenhagen (Denmark): 193-214.

Schömann I. (2015) Union européenne. Austérité : quels enjeux pour les droits sociaux en Europe ? *Chronique internationale de l'IRES* - n° 150 - juin 2015. 39-52.

Schömann I. (2015) Le droit du licenciement en proie aux réformes en Europe. 1ere partie. *Revue du Droit du Travail* (France), no. 1, jan. 2015: 64-75.; 2ème partie. no. 2, fév. 2015: 134-146.

Schömann I. (2014) Analysis of the changes in the general framework. In Bruun N., Lörcher K. and Schömann I. (eds.) (2014) *Economic and Financial Crisis and Collective Labour Law in Europe*, Hart Publishing, Oxford: 11-24.

Summary of the contribution

Isabelle Schömann's contribution on the recent national reforms in collective labour law and the Charter will examine the relevance of the Charter for the protection of collective labour rights in particular in the member states of the European Union, as developed through the jurisprudence of the ECSR, protection of collective labour rights for which both the European Union and the

Unlocking the potential of the European Social Charter

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Speakers' short biographies and bibliographies and summaries of contributions

Court of Justice of the European Union seem to have abandoned them on the altar of austerity and competitiveness. The contribution will argue that the Charter appears to be one of the last resorts to protect EU member states from the attempt to deregulate industrial relations systems. As such, and despite its limited enforcement means, the Charter remains of utmost importance to secure labour rights in capitalist economies.

Florence Benoît-Rohmer

– chairperson for the fourth part: **The Charter's authority/ L'autorité de la Charte**

Short Biography

Professor of Public Law and Human Rights Law at the University of Strasbourg

President of the Université Robert Schuman (URS), Strasbourg, from 2003 to 2008, Florence Benoît-Rohmer is Professor at the Law Faculty in Strasbourg and Director of the Master programme in Human Rights at the University of Strasbourg. She has been acting as human rights expert for the Council of Europe and EU, was member of the European Network of Independent Experts on Fundamental Rights set up by the European Commission, and president of the Scientific Committee of the Fundamental Rights Agency of the EU.

Florence Benoît-Rohmer is Secretary General of the EUIC (European Inter-University Centre for Human Rights and Democratisation), as well as member of the scientific committees of several international journals specialised in human rights, and in particular minority rights. She is the author and co-author of numerous publications.

Selected Bibliography

« L'adhésion à la Convention européenne des droits de l'homme, un travail de Pénélope ? A propos de l'avis 2/13 de la Cour de Justice », *Revue trimestrielle de droit européen* n° 3/2015 p. 593-611.

« Les droits fondamentaux dans l'Union européenne » (chronique annuelle), *Revue trimestrielle de droit européen* n° 1/2015 p. 149-185.

« De l'impact de la CEDH sur la juridictionnalisation du Comité européen des droits sociaux », in N. Aliprantis, (dir.), *Les droits sociaux dans les instruments européens et internationaux. Défis à l'échelle mondiale*, Bruylant, Bruxelles, 2009, p. 235 s.

« Council of Europe Law: Towards a Pan-European Legal Area », edited with Heinrich Klebes, (Strasbourg 2005, re-edited in 2009).

Les droits sociaux ou la démolition de quelques poncifs, PUS, collection of the Robert Schuman University - Institut de recherches Carré de Malberg, Strasbourg, 2003 (edited with Constance Grewe).

« L'égalité dans la typologie des droits de l'homme », in E. Bribosia, L. Hennebel (dir.), *Classer les droits de l'homme*, Bruylant, Bruxelles, 2004.

Nicolas Moizard et Mélanie Schmitt

– *L'autorité interne et l'autorité externe de la Charte / Internal and External Authority of the Charter*

Nicolas Moizard

Short Biography

Professor of Law (French Labour Law and European Social Law) at the *Institut du travail*, University of Strasbourg, Nicolas Moizard is in charge of the Social Law team Leader (UMR-DRES). He is also Deputy Director of the Fédération de recherche "L'Europe en mutation" (University of Strasbourg) and board member of the French Association for Labour Law and Social Security Law (AFDT).

Selected Bibliography

Transferts d'entreprise. Droits de l'Union européenne et droit français, Larcier, coll. Paradigme – Hors-série, 2015

« L'approche européenne du dialogue social national », *Semaine sociale Lamy*, 2015, n° 1691, p. 8-12.

« Le droit d'action collective en droit de l'Union après la décision LO et TCO du comité européen des droits sociaux », *Revue trimestrielle des droits de l'Homme*, 2015, n° 103, pp. 603-622.

«The risks of invoking fundamental social rights», *European labour law journal*, 2014, vol. 5, n. 3-4, p. 322-333.

« L'action collective, aspects de droit européen », in *Actualité juridique de l'action collective – 40 après LIP !*, *Semaine sociale Lamy, supplément*, n° 1631, 19 mai 2014, p. 47-56.

« L'usage des conventions de l'OIT par la Cour européenne des droits de l'homme », *Droit social*, 2014, p. 365-372.

Mélanie Schmitt

Short Biography

Lecturer in European Social Law and French Labour Law at the University of Strasbourg (Faculty of Law), Mélanie Schmitt received the "Espoirs de l'Université de Strasbourg" Award in 2014 for her research in European social law. She is a member of the TTUR since 2011 and the scientific leader of the present conference.

Selected Bibliography

"Evaluation of EU responses to the crisis with reference to primary legislation", in F. Dorssemont, I. Schömann, K. Lörcher (eds.), *Economic and Financial Crisis and Collective Labour Law in Europe*, Hart Publishing, Oxford, 2014, pp. 195-241.

« Le rôle des partenaires sociaux dans la gestion de la crise économique et financière : prendre le Traité de Lisbonne au sérieux », in *C. Mestre, C. Sachs-Durand et M. Storck (dir.), Le travail humain au*

carrefour du droit et de la sociologie, Mélanges en l'honneur de Nikitas Aliprantis, PUS, Strasbourg, 2014, p. 733-745.

« Les contours de l'Europe sociale. Réflexions à partir de la participation financière des travailleurs et de l'actionnariat salarié », *Droit social* 2014, p. 556-560.

« L'influence de l'Union européenne sur les réformes françaises du marché du travail et de l'emploi », *Revue de droit du travail* 2014, p. 454-462.

« L'influence des conventions de l'OIT sur les jurisprudences européennes. Approche comparée en matière de droit de négociation collective », *Revue de droit du travail* 2013, p. 513-525.

Summary of the oral contribution

I. L'autorité « interne » désigne le système normatif de la Charte.

Elle se mesure à sa mise en œuvre concrète et effective par et dans les États, plus particulièrement au travers : 1) des politiques sociales mises en place, tant par les autorités publiques que par les partenaires sociaux ; 2) des décisions judiciaires assurant le respect de la Charte.

Au travers de la dialectique souplesse/autorité de la Charte, seront abordées les voies d'un renforcement des différents éléments de ce système :

- la voie politique : inciter les États à signer/ratifier la Charte révisée, ainsi qu'à accepter la procédure des réclamations collectives et reconnaître le droit pour les ONG nationales de présenter des réclamations ;
- la voie juridique : adapter le système des rapports et/ou aménager la procédure des réclamations collectives ; renforcer les pouvoirs et les moyens du CEDS

II. L'autorité « externe » désigne le rayonnement de la Charte hors de son système normatif.

Elle concerne l'utilisation de la Charte par la CourEDH dans son interprétation de la Convention EDH et les voies d'une synergie entre les deux instruments.

Seront traités également les rapports de la Charte avec d'autres ordres juridiques :

- Le droit de l'UE : il s'agit de voir à la fois l'autorité actuelle et potentielle de la Charte à l'égard des instruments actuels de l'UE, notamment la Charte des droits fondamentaux, et de s'interroger sur les moyens d'une meilleure prise en considération de la Charte sociale (adhésion de l'UE par exemple).
- Le droit international du travail (conventions de l'OIT principalement)

L'horizon qui se dessine est celui d'une mise en cohérence de l'ensemble de ces normes pour une autorité renforcée de la Charte.

Maren Lambrecht-Feigl

Secretary of the Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly, the Council of Europe

Short Biography

Maren Lambrecht-Feigl has trained as an Engineer in Urban and Regional Planning at the University of Dortmund (Germany) where she graduated in 1996. Starting her career as project manager of a major research project on Sustainable Development for the Swiss Federal Office of Regional Development at the University of St. Gall (Switzerland), she then worked many years for the former Alsace Development Agency (ADA) in the areas of economic promotion, foreign direct investment (in particular from Japan, Canada and Germany) and regional cross-border projects between France and Germany. She joined the Council of Europe in 2006, first working as Secretary to the European Committee on Local and Regional Democracy, then as of 2009 as Secretary of the Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly. In this function, she is in charge of files relating to children's rights, social rights more generally as well as local and regional democracy and governance.

Branko Lubarda

Judge at the European Court of Human Rights

Short Biography

Branko Lubarda is Full Professor of subjects Labour Law, International Law and Social Law at Belgrade University. He was elected a judge at the European Court of Human Rights in 2015.

President of the Board of Anticorruption Agency of Serbia (from 2013, elected member since 2009), he served as a member of numerous Serbian public committees and agencies and was an external collaborator-expert of International Labour Organization several times (2002, 2013). He was coordinator of the Council of Europe for harmonization of the Serbia and Montenegro's law with the Revised European Social Charter (2003-2005). He was also a member of the expert teams of the Serbian Ministry of labour and social policy for the reform of labour and social legislation in the period of transition (2004-2010).

Branko Lubarda is a member of the Scientific Committee Forum for the Regulation of a Social Europe (REGES) He delivered numerous invited guest lectures in English and French at international conferences and seminar and published numerous research papers focused on labour law, international labour law, social law, and fundamental social human rights.

Selected Bibliography

B.A. Lubarda, *Introduction to labour law, with elements of social law* (in Serbian), Pravni fakultet Univerziteta u Beogradu, 2013, 553 pages.

B.A. Lubarda, *Labour law – Treatise on dignity at work and social dialogue* (in Serbian), Pravni fakultet Univerziteta u Beogradu, 2012, 1123 pages; 2nd edition: 2013, 1141 pages.

B.A. Lubarda, *European labour law* (in Serbian), CID, Podgorica, 2004, 335 pages.

B.A. Lubarda et al. (eds.), *Harmonization of the law and practice of Serbia and Montenegro with the Revised European Social Charter*, European Council, Podgorica, 2005, 784 pages.

B.A. Lubarda, "International protection of social rights", in S. Devetak (ed.), *Balance of Transition*, Maribor - Beograd, 2004, pp. 181-202.

B.A. Lubarda, "Alternative ways of settling collective labour disputes in Serbia", in M. Rigaux et P. Humblet (eds.), *Conciliation, médiation et arbitrage - Vers une régulation européenne des modes alternatifs du règlement des conflits (collectifs) du travail*, Bruylant, Bruxelles, 2011, pp. 195-224.

Jean Mouly

– *General conclusions of the Conference / Conclusions générales du Colloque*

Short Biography

Professor of private law, University of Limoges

Jean Mouly est Professeur à l'Université de Limoges depuis 1989, après avoir occupé un poste de Maître de conférences à l'Université de Valenciennes et du Hainaut Cambrésis (1980), puis à l'Université de Limoges (1983).

Membre du Conseil scientifique de Droit Social, vice-président de la Faculté de droit de Limoges, il est responsable de l'organisation d'un cycle de colloques sur la dynamisation des droits sociaux par le Comité EDS (Izmir et Istanbul, puis Limoges) 2013-2014 (droit au logement, droit à un environnement sain, droits des enfants, droit du travail). Il est l'auteur de nombreuses chroniques, notamment à la revue Droit Social sur la jurisprudence de la Cour EDH relative au droit du travail depuis 2013.

Selected Bibliography

« Le Comité européen des droits sociaux : un laboratoire d'idées sociales méconnu », en collaboration avec Jean-Pierre Marguénaud, *Revue du droit public* 2011, p. 685.

« L'effet direct de l'article 24 de la Charte sociale européenne relatif à la légitimité du licenciement, note sous CE 10 février 2014 », *Droit social* 2014, p. 474

Communication aux Dixièmes journées du Pôle européen Jean Monnet de Metz sur « Les jurisprudences européennes et les droits d'action collective », en collaboration avec J-P Marguénaud, *La conciliation des droits et libertés dans les ordres juridiques européens*, Bruylant, 2012, p. 131.

« L'arrimage des droits sociaux à la Convention EDH. L'exemple de l'affaire Demir et Baykara c/ Turquie », Colloque du Istanbul 15 et 16 octobre 2009, Université de Marmara.

« Les libertés syndicales et le droit de grève : l'opposition des droits européens », Communication au colloque des 21 et 22 octobre 2010, Université Jagelone, Cracovie.

« Le licenciement et la Convention EDH », Communication au colloque de l'IDEDH, Montpellier 15 octobre 2015, in *L'entreprise et la Conventions EDH*, à paraître Bruylant Nemesys, juin 2016

« Les syndicats dans l'armée : une entrée au pas de charge ? », note sous Cour EDH 2 octobre 2014 (deux arrêts c/ France), *JCP G* 2014, n° 48, 1228, p. 2153, en collaboration avec J.-P. Marguénaud.