

Introduction

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There has been a paradigm shift in the global economy. The industrial revolution is long over, and its models are obsolete: we have entered the digital age. If we are looking for an answer as to how the actors have changed, we also need to look at the changes in the game, including the playing field and the rules of the game.

Labor law, like everything around us, is changing. In the 20th century, farming organizations were transformed into huge, vertically structured production systems that shifted to mass production. Employment relationships were created for full-time, indefinite periods, with the hope that the job would last for the rest of the worker's life. Of course, these jobs have not disappeared, but there are clear signs of change, which is weakening the employment model that was prevalent in the 20th century. People are changing jobs more frequently, with fixed-term contracts, seasonal work, temporary agency work, and more frequent job changes. More people are self-employed, working hours are more flexible, and the nature of work has become more varied and flexible. New forms of employment have therefore emerged.

In 2016, a quarter of all employment contracts were for 'non-traditional' forms of employment, and over half of all new jobs in the last ten years have taken a non-traditional form.¹

Digitalization has facilitated the emergence of new forms of employment, and demographic changes have led to a more diverse active population. The flexibility provided by new forms of employment has contributed significantly to job creation and labor market growth. More than five million jobs have been created since 2014, of which almost 20% correspond to new forms of employment. The ability of new forms of employment to adapt to economic change has enabled the emergence of new business models, including in the social economy, and has allowed people who were previously excluded to enter the labor market.² The EU currently has 236 million women and men in work, which means that employment levels in the EU are higher than ever before. In 2016, 14% of workers in the EU were self-employed, 8% were

1 Non-traditional forms include permanent part-time and temporary full-time and part-time employment. European Commission, 2017.

2 Here I note, among other things, the entry of equal opportunities policy recipients, which strongly discourages labor law from applying flexible rules.

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full-time temporary workers, 4% were part-time temporary workers, 13% were part-time permanent workers, and 60% had a full-time contract of indefinite duration.³

The prevalence of atypical work and self-employment varies widely across Member States, regions, sectors, and generations. The share of younger workers aged 20 to 30 working under temporary contractual arrangements or ‘on other contracts or without a contract’ is twice as high as in the other age groups. The gender distribution is also evident, with men predominating among the self-employed and women in temporary and/or part-time positions.⁴

The self-employed are also a heterogeneous group. Most people voluntarily choose to become self-employed with or without employees, embracing the risks of self-employed work, while around 20% become self-employed because they cannot find a job as an employee. Some enjoy good quality jobs and autonomy; others, less than 10% of self-employed workers, experience economic dependence and financial vulnerability. Among the new businesses created each year in the EU, the share of self-employment is at least 15% in Member States where that data were able to be analyzed. For newly created self-employed businesses, the survival rate is typically between 30% and 60% after the first five years.⁵

Within this changed playing field, labor law in Central Europe is examined in the interaction between political and economic systems, because if law were to be separated from other social subsystems, it would be impossible to ensure that social effects would be effective and less guaranteed. This is particularly true of labor law, which is assessed through its social and economic effects. It can therefore be seen as self-reflexive and self-perpetuating. It is closed in organizational terms, but open in cognitive terms. Organizational closure refers to the fact that law creates law, i.e., it can reproduce itself based on the feedback of its internal functioning. Cognitive openness, on the other hand, means that the system builds on external signals. Therefore law, politics, and economics interact. According to this reflexive theory of law, there is a certain degree of interdependence between systems, but this does not mean that law, politics, or economics are completely open to the influence of other systems. The implication is that law uses indirect regulatory techniques to influence, it is self-regulation and self-reflection. Indeed, legal regulation tells us little about how it is received by the actors of another system, which is why, in addition to analyzing internal processes, we need to understand the legal context of social science.⁶ In this way, labor law can be interpreted in a reflexive way.

3 European Commission, 2018, p. 1.

4 Ibid.

5 European Commission, 2018, pp. 3–4.

6 See Deakin and Rogowski, 2011, pp. 230–238. The open method of coordination (OMC), announced by the European Council in Lisbon in March 2000, is a model of reflexive labor law regulation. The OMC was subsequently incorporated into the Employment Strategy and provided a completely new direction for policy formulation and implementation, based on a non-legal mechanism. However, as it was introduced in so many areas, it was also necessary to coordinate its coordination in 2003. A broader involvement of actors was introduced at Member State level and the economic, employment and social open coordination mechanisms were linked to

Flexibility and security go hand in hand with addressing the problems of vulnerable groups entering and remaining in the labor market.⁷ This poses two main challenges for labor law: creating employment protection rules where necessary and enforcing them against employers' interests in flexibility. Social exclusion affects many groups that are unable to participate in the benefits of the labor market, which is why the aim is to increase employment rates through macroeconomic policies.⁸ New regulatory techniques are needed, as opposed to the previous system based on hierarchy and instruction. Examples include tax relief for employees and the self-employed; the operation of occupational pension programs; employee share ownership; or temporary support for business organizations when they employ long-term jobseekers. New information and consultation mechanisms are needed, favoring a partnership between employers and the community of workers. In addition, human rights struggles and globalization, which have been intensifying since the second half of the 20th century, have had a major impact on labor law. Human rights outcomes stand out as a bastion of labor law, such as equality, the right to work, and freedom of choice of employment.⁹

The challenges mentioned here all push the boundaries of labor law, creating internal tensions. We believe that as the trend in labor law has moved toward a less protective labor law regime, with parties increasingly disengaged from the protective institutions of the employment relationship, the need to maintain protection has persisted. This disengagement also works against integrationist efforts, as protective regulation is essential for (vulnerable) workers.

Labor law is based on contracts: employment contracts and collective agreements. We often forget that they are 'contracts.' In this book, we examine the evolution of employment regulation in Central Europe, and the power of employment contracts

increase their mutual effectiveness. The results of the fight against unemployment have also linked employment and economic policies. Reflections of the OMC can also be observed within social policy and have led to the linking of social and economic processes. Thus, national action plans were developed in an integrated way, bringing together social exclusion, pensions, and healthcare, and became known in 2007 as the Joint Social Protection Report. The OMC has certainly become a key player in EU policy-making. See Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, 2000; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Renewed Social Agenda, 2008, pp. 168–198.

7 In the integration of vulnerable groups – women, the elderly, parents, people with disabilities – into the labor market, private law, and labor law as part of it, conflicts with human and constitutional rights. György Kiss, in his academic dissertation entitled 'The Conflict of Fundamental Rights,' also points out the conflict between the prohibition of discrimination, freedom of contract and the freedom of disposal guaranteed by property law, which is also manifested in labor law.

8 The assessment of policies and institutions is determined by their ability to fulfill the potential of the individual. It is for this reason that those who have been outside the labor market for a long time have good reason to question the functioning of the labor market as to why it does not allow access to paid work. Deakin and Rogowski, 2011, pp. 238–241.

9 Hugh, Ewing and McColgan, 2012, pp. 38–44; Rogowski, Robert and Noel, 2011, pp. 229–242.

and collective agreements to shape the legal relationships between the parties. In this investigation, the following focus areas emerged while writing the chapters: the systemic positioning of labor law; the concept and characteristics of the employment relationship; the relationship between labor law and civil law; the status of collective labor law; and the liberalization of labor law.

As Mario Vinković points out, quoting Hepple, the Nordic countries have gone furthest because by maintaining collective co-determination, they have managed to ensure a balance between social protection and labor market reforms that they believe has improved productivity, while other countries must follow this path to compete globally. From this perspective, a look at post-transition and post-communist states, relatively new Member States, and non-Member States in the heart of Europe, can provide insight into the specifics of the development of national (collective) labor law and collective agreements and reflect the outstanding problems of their transformation and recent position.

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