

Labour Law between Change and Tradition

78

Liber Amicorum Antoine Jacobs

Editors

**Roger Blanpain
Frank Hendrickx**

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Notes on Contributors

Sonja Bekker is senior researcher and research coordinator at ReflecT, Tilburg University (The Netherlands).

Roger Blanpain is professor of labour law at the University of Leuven (Belgium) and at Tilburg University (The Netherlands).

Thomas Blanke is professor of labour law at the University of Oldenburg (Germany).

Niklas Bruun is professor of private law at the University of Helsinki (Finland). He is leader of the research program Regulating Markets and Labour, Stockholm University, and member of the research team of the Centre of Excellence in the Foundations of European Law and Polity, University of Helsinki.

Michele Colucci is professor of sports law at Tilburg University (The Netherlands) and professor of labour law at the College of Europe, Parma (Italy).

Wolfgang Däubler is professor of labour law at the University of Bremen (Germany).

Ronald Dekker is senior labour economist at ReflecT, Tilburg University (The Netherlands) and assistant professor of economics at Delft University of Technology (The Netherlands).

Filip Dorsemont is professor of labour law the University of Louvain-La-Neuve (Belgium).

Frank Hendrickx is professor of labour law at the University of Leuven (Belgium) and professor of European labour law at Tilburg University (The Netherlands).

Bob Hepple is Emeritus Master of Clare College and Emeritus Professor of Law, Cambridge University (United Kingdom).

Jonas Malmberg is professor of private law and specialized in labour law, at the Faculty of law, University of Uppsala (Sweden).

Ulrich Mückenberger is professor of labour law and social security law at the Centre of European Law and Politics, University of Bremen (Germany).

Antonio Ojeda-Avilés is full professor of labour law at the University of Seville (Spain).

Max Posthumus studied Law at Tilburg University (The Netherlands) and is currently lawyer at Loyens & Loeff.

Thilo Ramm was full professor of labour and civil law finally at the FernUniversität at Hagen (Germany).

Robert Rebhahn is full professor of labour law and social security Law at the University of Vienna (Austria) and was formerly Professor at the Humboldt University of Berlin.

Bruno Veneziani is professor of labour law at the University of Bari (Italy).

Manfred Weiss is professor of labour law at the Johann Wolfgang Goethe-Universität (Germany).

Preface

In 2011, the life of labour law at Tilburg University closes an important chapter. This is the year in which Antoine Jacobs becomes emeritus professor. Most likely, in view of a tradition maintained by many labour law scholars, this would not mean that Antoine will disappear from the academic scene. However, it is an excellent occasion to show him our appreciation for the work he has done in our field.

With this *Liber Amicorum* we want to pay tribute to a unique labour law scholar. We believe to have chosen a title for this book that characterizes quite well the scholarship and personality of Antoine Jacobs: 'Labour Law between Change and Tradition'. In our view, this accommodates rather well the critical research attitude that Antoine has always shown and promoted. He approached labour law as a discipline that evolves in a broader socio-political context, rather than seeing it as a series of static issues of positive law concerning workers and employers. In light of this, he has been a strong advocate for renewal and change of labour law, indicating new trends and developments, often in an opinionating way.

On the other hand, Antoine Jacobs also quite often emphasized the importance of traditional values in labour law. The role of inequality compensation in labour law and the role of the collective, were certainly part of his thinking.

This paradox in the work of Antoine, 'between change and tradition', is well reflected in the title of this book.

Antoine Jacobs is well known for his work in national and European labour law. He can be seen to attach much importance to the role of the European Union and a global approach, while stressing the relevance of national legal and industrial relations systems. His interest for comparativism is almost a natural consequence of this. He has been quite active in the field of collective labour law, but his span width goes much further and also includes individual employment law, labour market, and social security issues.

For this book, we also have opted to stay in line with the broad interest of Antoine Jacobs and, therefore, a wide range of issues in labour law is being dealt with. This is done by 'close' colleagues who are, or have been, involved in one of Antoine's many scientific undertakings or networks.

Antoine's list of publications is indeed impressive and characterizes him in full: a real comparativist, looking for the general principles as well as for the detailed picture, wanting to find out what is really going on. Antoine used his sabbaticals to study abroad, and spending there, teaching and in research, sometimes a whole year, like in Israel, the USA, and Italy (his Italian is fluent . . .). His stay in the USA would lead to an excellent book on the American Labour Law system, explaining to non-Americans, how the United States functions.

Antoine has, of course, published widely on Dutch law, labour law and social security law in general, but also on international law and, as mentioned, on European Law. He also dealt with German labour law. Topical are his studies on the right to work, discrimination, labour law and churches, bankruptcy, atypical work and especially on the 'European Constitution'.

And also on the right to strike, his chapter in our Comparative Labour Law Book¹ on *The Law of Strikes and Lockouts* is an example of his profound scholarly work. His analysis is historical and comparative – applying the system of distinctive models – looking at the right to strike vs. the freedom of strike, the limits of the right to strike, proportionality, the peace obligation, picketing, essential services, the effects of the (un)lawful strike . . . He compares international law, European law as well as national law, making use widely of the numerous monographs, published in the International Encyclopaedia of Labour Law and Industrial Relations.² It is the best and most complete study on the subject.

It is no wonder that Antoine is a much demanded colleague and expert. His collaboration with leading scholars lead to numerous collective publications, like the one by Bob Hepple & Bruno Veneziani: *The Transformation of Labour Law in Europe: A Comparative study of 15 Countries 1945–2004*³ and many others. Antoine is a member of the prestigious Research Network on Transnational Trade Union Rights of the European Trade Union Institute, and has worked regularly as an expert for the European Commission and the European Parliament. He is self-evidently a member of the International Board of the International Encyclopaedia of Laws and author of *Labour Law in the Netherlands*.

Antoine is above all a marvellous teacher. Students stand 'central'. Teaching is more than passing information, as above all it is about inspiring, supporting, coaching, leading, training of mind and spirit.

1. *Comparative Labour Law and Industrial Relations in Industrialized Market Economies*, Wolters Kluwer, The Hague, 2010, 659–720.

2. <www.IELaws.com>, now online.

3. Hart Publishing, 2009.

We hope that both Antoine Jacobs himself as well as many readers of this Bulletin will find good thoughts and inspiration for their further work, in the labour law field or beyond.

The Editors
Roger Blanpain & Frank Hendrickx

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Chapter 1
Discrimination on the Basis of Age
The EU: Only a Beginning
*Roger Blanpain**

Age plays an important role in our lives. That an eminent colleague like Antoine Jacobs is obliged to retire has to do with the mandatory retirement, which strikes most university professors when they get to the blessed age of 65 years. There are remarkable exceptions in this outdated rule, like in the United States. The European Union (EU) could do better.

1. A GROWING CONCERN

Age is omnipresent in our employment laws: relating to child labour, to minimum age before entering the labour market, to pay according to age or seniority, to the number of days of vacation an employee is entitled to, as well as the term of notice when being dismissed, and as said to retirement, to only give the most striking examples.

* Professor of labour law at the University of Leuven (Belgium) and at Tilburg University (The Netherlands).