Table of Contents

Forew	ord .		•	xi
Prefac	ce		COIL	xiii
List o	f Abbrevia	tions	abookshop.com	xvii
List o	f Case Stud	lies	2/3/10	xix
Part 1	[OF	
The N	Making of a	ın Approach	200	1
Снарт	ER 1		4.4	
Labou	ır Law and	l Transnationa	l Scope of Application	3
1.1	Concep	t of Transnatio	nal Labour Law	3
1.2	History	of Transnation	ial Labour Law	7
	1.2.1	Lex Mercati	oria	7
	1.2.2	Human Rig	hts	8
	1.2.3	Non-discrir	nination	10
	1.2.4	A Transnat	ional Risk Society	11
	1.2.5	Transnatio	nal Sports Law	12
1.3	Structure of Transnational Labour Law			13
	1.3.1	Procedural	Law	13
	1.3.2	Substantive	e Law	16
		1.3.2.1	Classification of Transnational Labour	
			Rules Based on Their Origin	16
		1 3 2 2	Application of Transpational Labour Rules	10

Table of Contents

PART II		1-		
Procedi	ural Tran	snational Law		27
Снартен	2			
		Rules in Labou	ır Law	29
2.1		Characteristics		29
2.2	National Conflict Rules			31
	2.2.1		les on Jurisdiction	32
	2.2.2	Conflict Rules on Applicable Substantive Law		36
		2.2.2.1	Predominance of Conflict Rules of the	
			Civil Code	36
		2.2.2.2	Conflict Rules on Employment Contracts	37
		2.2.2.3	Conflict Rules on Collective Relations	40
		2.2.2.4	Conflict Rules on Social Security	41
	2.2.3	Precedents		42
2.3	Conven	tional Conflict	Rules	50
	2.3.1	Bilateral Ag	greements	51
	2.3.2	_	Agreements	52
2.4	Instituti	onal Conflict R	tules	54
			and Case Law on Conflict Rules Rules greements Agreements cules	
Снартей	₹ 3			
Europe	an Union	Conflict Rules		57
3.1	Perspec			57
3.2	Conflict	Rules on Juris	diction: Erussels I	59
3.3	Conflict Rules on Applicable Law: Rome I and II			65
	3.3.1		(EC) 593/2008 (Rome I)	65
	3.3.2		(EC) 864/2007 (Rome II)	69
3.4	Ratione Materiae Community Conflict Rules			72
	3.4.1 Posting of Workers			72
	3.4.2	Employee R	Representation in Transnational Companies	79
		3.4.2.1	Conflict Rules on European Works Councils	79
		3.4.2.2	Conflict Rules for the Involvement of	
			Employees at European Companies and	
			Cooperative Societies	80
	3.4.3		nal Insolvency of Companies and Rights of	
		Employees		81
	3.4.4	Conflict Rul	les in EU Social Security	83
Part III				
		nsnational Law	I	85
Снартей	R 4			
Transna	ational R	ules on Emplo	yment Relations (I)	87
4.1 Concept			87	

4.2	Universal Standards		90		
	4.2.1	ILO Conve	entions	90	
	1,2,1	4.2.1.1	Engagement in Employment	91	
		4.2.1.2	Equality and Non-discrimination	93	
		4.2.1.3	Health and Safety at Work	94	
		4.2.1.4	Working Time	96	
		4.2.1.5	Wages	98	
		4.2.1.6	Termination of Employment	100	
	4.2.2		onal Impact of ILO Conventions	103	
	4.2.3		ts of the World Trade Organization	108	
4.3	Regional Standards			108	
	4.3.1		Europe Standards	108	
	4.3.2		and African Standards	110	
	4.3.3	Transnational Regulation via Generalized Systems of			
		Preference		111	
Снарті	ED 5		-OI		
		ıles on Empl	oyment Relations (II)	113	
5.1		_	n the European Union Directives	113	
5.2	Engagement			116	
	5.2.1		nformation	116	
	5.2.2		mployment Contracts	118	
		5.2.2.1	Joint Rules on Health and Safety	118	
		5.2.2.2	Part-Time Employment Contract	119	
		5.2.2.3	Fixed-Term Employment Contract	122	
		5.2.2.4	Temporary Agency Work Employment		
		\.	Contracts	126	
5.3	Working Time			129	
	5.3.1		ıle: Directive 2003/88/EC	129	
		5 3.1.1	Background	129	
		5.3.1.2	Standards and Exceptions	129	
		5.3.1.3	Opting out of the Forty-Eight-Hour Working		
			Week	132	
	5.3.2	Specific Di	rectives	134	
Снарті	er 6				
Funda	ımental Tra	ansnational R	tights in Employment Relationships	139	
6.1	Fundamental Transnational Rights			139	
	6.1.1	Introduction		139	
	6.1.2	Universal and Regional Rights		140	
	6.1.3	Fundamen	tal Rights of the European Union	141	
6.2	Non-discrimination in Employment in the European Union			142	
	6.2.1	Non-discrimination in the Free Movement of Workers			
	6.2.2	Gender Eg	uality	145	

		6.2.2.1 Article 157 of the TFEU 6.2.2.2 Directive 2006/54/EC on the Principle of Treatment of Men and Women in Matter	-		
		of Employment and Occupation (Recast)			
		6.2.2.3 Other Specific Directives	152		
	6.2.3	Non-discrimination for Other Reasons	152		
6.3	Right to	Health and Physical Integrity at Work	154		
	6.3.1	General Overview	154		
	6.3.2	Framework Directive 89/391/EEC	156		
	6.3.3	Specific Directives	161		
Снарт	er 7				
Comp	any Crises	and Offshoring	165		
7.1	Transna	ational Protection of Workers	165		
7.2	Collectiv	ve Redundancies	170		
	7.2.1	Background of Directive 98/59/EC			
	7.2.2	Background of Directive 98/59/EC The Concept of Collective Redundancy Subjective Scope of the Regulation			
	7.2.3	Subjective Scope of the Regulation			
	7.2.4	Collective Redundancy Procedure 1			
7.3	Transfe	ransfer of Companies			
	7.3.1	Background	177		
	7.3.2	Scope of the Directive	179		
	7.3.3	Effects of Transfers on Employment	183		
		7.3.3.1 Effects on Individual Employment			
		Relationships	183		
		7.3.3.2 Effects on Collective Employment			
		Relationships	187		
7.4	-	Company Insolvency			
	7.4.1	Background of Directive 2008/94/EC	190		
	7.4.2	Subjective and Objective Scope	191		
		7.4.2.1 Subjective Scope	191		
		7.4.2.2 Objective Scope	193		
	7.4.3	The Guarantee Institution	194		
	7.4.4	Transnational Situations	195		
Снарт					
Partic	-	Employees in Business Management	199		
8.1	Democr	emocratic Management of Decision-Making in Business			
	8.1.1	The Representation of Workers in Companies			
	8.1.2	ILO Conventions on the Representation of Workers			
		at Company Level	200		
	8.1.3	EU Directives on Representation of Workers in			
		Companies	2.03		

8.2		Framework of Participation in the European Union	205	
	8.2.1	Background of Directive 2002/14/EC	205	
	8.2.2	Scope and Arrangement of Information and Consultation Functions	206	
	8.2.3	Standards of Initiation of the Directive	210	
8.3		n Works Councils	210	
0.5	8.3.1	Background of Directive 2009/38/EC	212	
	8.3.2	Subjective and Objective Scopes	213	
	0.3.2	8.3.2.1 Subjective Scope	213	
		8.3.2.2 Objective Scope	215	
	8.3.3	Establishment of European Works Councils	216	
	8.3.4	Functions and Functioning of the European Works		
		Councils	219	
8.4	Involver	nent of Employees in European Companies	223	
Снарте				
		ollective Bargaining	227	
9.1		ictions of International Solidarity	227	
	9.1.1	Trade Union Localism and Economic Globalization	227	
	9.1.2	Collective Bargaining and Freedom of Association	229	
		9.1.2.1 The Hybrid Nature of Collective Bargaining	229	
		9.1.2.2 The Macro-concept of Social Dialogue and its	221	
2.2	01.1.1.0	Collective Instruments	231	
9.2	9.2.1	Collective Bargaining	232 232	
	9.2.1	The Negotiating Parties Legal Regulation	234	
	9.2.2	Global Collective Instruments	237	
9.3	Regional Collective Bargaining: The European Uniqueness			
7.5	9.3.1	Regional Collective Instruments	241 241	
	9.3.2	The European Social Dialogue	243	
	,.o. <u>_</u>	9.3.2.1 Dialogue Triangulation	243	
		9.3.2.2 Collective Bargaining: Legal Regulation and		
		Types	244	
9.4	Sectoral	and Area Collective Bargaining	249	
	9.4.1	Sectoral Instruments	249	
	9.4.2	Area Instruments	251	
		9.4.2.1 Central European Cooperation Processes	252	
		9.4.2.2 Baltic Cooperation Processes	253	
Снарте	ER 10			
		ollective Conflicts	255	
10.1		Concept and Legal Regulation		
	10.1.1	ot and Legal Regulation Basic Distinctions		
	10.1.2	Legal Regulation	257	

Table of Contents

10.2	Use of Conflict Measures		
	10.2.1	General Aspects	261
	10.2.2	Strike	262
	10.2.3	Boycott and Other Conflict Measures	268
		10.2.3.1 Two Opposed Approaches at Global Level	268
		10.2.3.2 Case History of Transnational Boycotts	270
		10.2.3.3 Other Conflict Measures	274
10.3	Settlement by the Courts		
	10.3.1	Jurisdiction on Collective Conflicts	275
	10.3.2	Class Actions in the United States	277
10.4	Alternati	ive Dispute Resolution: Arbitration	279
	10.4.1	Difficulties of a Transnational Arbitration Institution	279
	10.4.2	Characteristics of a Transnational Arbitration Institution	281
Снартег	R 11	^	
Corpora	ate Social	Responsibility and Codes of Conduct	285
11.1	Corporate Self-Regulation on Minimum Labour Standards		
	11.1.1	Concept	285
	11.1.2	Classifications, Real Situation and Motels	288
		11.1.2.1 Classifications	288
		11.1.2.2 Real Situation	290
		11.1.2.3 Models	293
11.2	Legal Effectiveness		
	11.2.1	Effectiveness of Corporate Social Responsibility Statements	295
	11.2.2	Especially, Effectiveness of Labour Codes of Conduct	298
Bibliog	raphy		301
Index			309