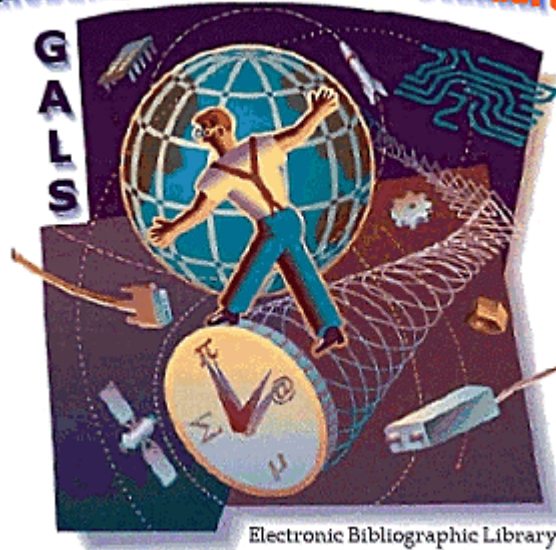


Globalization and Labor Standards



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European Union

Barnard, Catherine and Simon Deakin, "Negative and Positive Harmonization of Labor Law in the European Union", *Columbia Journal of European Law* v. 9 (Summer 2002) p. 389-415

Abstract:

Barnard and Deakin argue that the tension between the free markets and social policy aims of European integration has been alive since the communities early days in the 1950s. Free movement and undistorted competition in the single market are fundamental rights under the EC treaty, and therefore the European Court of Justice has brought an increasing number of topics

under its jurisdiction by implementing broad, effects-based tests to determine if national regulations interfered with the internal markets. The authors qualify this claim, however, with a series of cases in which judges showed awareness of the damage that such “negative” harmonization can have on the national social fabric. For example, the authors describe the Albany case, in which judges found that collective agreements had some immunity from market harmonization rules, since the drafters of the Treaty had not intended social policy to be insulated from the rules of the internal market. They then review numerous cases and other policy events marking the evolution of “positive” harmonization, from the early days of pure neoliberalism; through the “selective harmonization” of the 1970s and 1980s; the post-Maastricht phase of reflexive law or “regulatory learning within a hard law framework”; and the contemporary phase of an “open method of coordination” consisting of soft law drawing heavily on national law.

Subjects: [European Union](#), [Open Method of Competition](#)

Biagi, Marco, "Toward A New European Corporatism?- The Role of Social Partners in Europe: From Dialogue to Partnership.", *Comparative Labor Law & Policy Journal* v. 20 no3 (1999) p. 485

Abstract:

The author argues that labor and management must act as “social partners,” play a strong role in setting the direction of policy, and enhance their “representativeness.” Social partnership is especially important in the legislative process, because legislation agreed upon by the social partners could overcome a paralyzing set of alternatives in standard intergovernmental negotiations and therefore assist the reaching of compromises among member states. Labor and management federations have already played new roles in job creation in the 1998 Luxembourg summit. The author advocates a multi-level (national, European, and company) system of industrial relations with “mandatory topics” of collective agreements, including updating agreements to take into account new forms of work organization; reconciling work and family life; modernizing the legislative framework of employment regulation; and setting up the framework of participation and employee involvement itself. He argues that these proposals would promote social inclusion and economic competitiveness in Europe.

Subjects: [Employee Participation and Works Councils](#), [European Union](#)

Davies, Paul, "Workers on the Board of the European Company? ", *Industrial Law Journal* v. 32 no2 (2003) p. 75-96

Abstract:

This article provides a detailed overview of a core issue raised by the new European Company statute: employee participation in the new kind of firm, the *societas europaea* (SE), that the statute creates. Although the statute provides that within SEs, workers have a complex set of rights to participate at the corporate board level, the author argues that the statute may have little effect. This is because: (1) employee representation at the board level is not a requirement at all SEs; (2) firms may lack incentive to form SEs (other mechanisms exist in national law for cross-border mergers); and (3) much of the behavior of SEs is still regulated by company laws of

member states. The author provides an overview of the mandated employee involvement procedures for establishing an SE. The author then describes how the rules that specify when employee participation is mandatory and what the minimum acceptable level of participation is the product of a compromise between those countries that wanted to prevent “escape” from participation (Germany) and those that who wanted to prevent “export” of participation (Spain). The remainder of the article provides a detailed set of hypothetical scenarios to demonstrate how the tension between the “no export” and “no escape” position play out differently in different varieties of SEs. It concludes that the negotiations to establish an SE are likely to be complex, that the rules are generally tilted towards “exporting” participation. However, the author contends that the rules are considerably watered down and fragmented compared to the early expectations of the European commission in the 1970s to set up a single mandatory system of worker participation rules at large firms.

Subjects: [Corporate Accountability](#), [Employee Participation and Works Councils](#), [European Union](#)

Kellerhals, Andreas & Dirk Trüten, "The Creation of the European Company", *Tulane European & Civil Law Forum* no17 (2002) p. 83-112

Abstract:

Kellerhals and Trüten present an overview of the European Company Law statute, which allows European companies to move their residence throughout member states without dissolution and liquidation. This provision effectuates the “freedom of establishment” guaranteed in article 43 of the EC treaty. It also sets up mechanisms for employee participation in European-wide companies . The author provides an overview of difficulties that have been encountered because some national actors feared that European rules would water down strong national systems of co-determination. The compromise that was reached avoids this controversial issue by relying on national law. The authors conclude with an overview of possible reasons why firms would or would not use the rules in future rounds of restructuring.

Subjects: [Employee Participation and Works Councils](#), [European Union](#)

Villiers, Charlotte, "Workers and Transnational Corporate Structures: Some Lessons from the BMW-Rover Case", *International and Comparative Corporate Law Journal* v. 3 no2 (2001) p. 271-297

Abstract:

Villiers provides a detailed case study of BMWs 2000 sale of its British subsidiary Rover to argue for an overhaul of formal European corporate structures in a way that strengthens the power of employees. Despite the parent companys operation within an open, stakeholder-oriented system of corporate governance, and despite the existence of a European Works Council in the firm, news of the sale and concomitant layoffs came as a surprise to British workers and managers, violating expectations by the British for transparency. The article describes at length the historical, industrial relations, and institutional backdrop of the sale, and argues that a combination of mismanagement, exclusion of the British from German codetermination forums, and weak EU-level rules are to blame. It concludes that the outrage of the British government

and the mass demonstrations in Birmingham after BMWs announcement of the sale demonstrate that there is substantial political support exists for formal European rules that would protect jobs, and that the best solution would create a genuinely pluralistic structure of employee participation.

Subjects: [European Union](#)

Links to Related Projects

ETUI Labourline: <http://www.labourline.org/Etui>

ETUI Labourline is a database of European labor information resources covering European, international and comparative aspects of industrial relations and health and safety issues, developed by the Documentation Centres of the European Trade Union Institute and the European Trade Union Institute for Health and Safety (Brussels). The consolidated bibliographic database contains more than 20,000 references to documents focusing on industrial relations, and more than 15,000 references to documents on health and safety issues.

LabourWeb: <http://www.lex.unict.it/eurolabor/en/>

The Labour Web is a comprehensive documentation center for information about European labor law, social law, industrial relations and the welfare state. It contains up-to-date versions of European Union law, directives, pending directives, EU news, press releases, economic statistics and decisions of the European Court of Justice. It also contains a Working Papers series and subject matter reports (dossiers) on issues concerning European integration. The site also provides links to other websites that contain working papers, statistical reports, and other information about social, economic and industrial relations affairs in the European context. It is run by the Massimo D'Antona Centre for the Study of European Labour Law, at the Faculty of Law of the University of Catania.

Labor and Global Change Database: <http://www.ilir.umich.edu/lagn/>

The Labor and Global Change Database provides bibliographies, citation information and (where available) web links to the full text of research exploring connections between labor and globalization. The database aims to provide researchers with an easy means to make the results of their work widely available to other scholars and the interested public. The database is run by and continually updated by the Labor and Global Change Program of the University of Michigan.

Trade Unions and Labor Relations Database: <http://www.polwiss.fu-berlin.de/tu/english/>

The database, produced by the Institute of Labor Relations of the Otto-Suhr-Institute of the Freie University of Berlin, contains almost 7,000 citations of books, articles, working papers, brochures, proceedings etc. The bulk of the citations address aspects of labor relations in Germany, but there is a substantial body of literature in the database covering the EU and Eastern Europe.

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