

The Changing Law of the Employment Relationship

Comparative Analyses in the European Context

NICOLA COUNTOURIS
University of Reading, UK

ASHGATE

Contents

<i>Table of Cases</i>	<i>vii</i>
<i>Table of Legislation</i>	<i>xi</i>
<i>Preface</i>	<i>xix</i>
<i>List of Abbreviations</i>	<i>xxi</i>
Introduction	1
1. The aims of the book	1
2. Scope and methodology	2
3. Structure and summary of the book	12
1 The Employment Relationship and the Contract of Employment in Industrialised Societies	15
1. Introduction	15
2. The industrial revolution and the birth of the contract of employment	16
3. The unitary notion of contract of employment	25
4. The breakdown of the employment relationship	40
5. The contractual dimensions of the employment relationship	53
6. Conclusions	55
2 Reshaping the Personal Scope of Labour Law: An Analysis of Current Debates in Europe	57
1. Introduction	57
2. Stretching the notion of ‘employee’	58
3. The debate over the ‘grey zone’ between employment and self-employment	71
4. Re-targeting labour law	81
5. Conclusions	83
3 Atypical Employment Relationships: A Comparative Analysis of Fixed-term, Part-time and Temporary Agency Work in Europe	87
1. Introduction	87
2. Early legislation and the status of atypical workers	89
3. Regulation and unemployment: typical rights for atypical workers	105
4. Flexibility and special rights for ‘more and better’ atypical jobs in the 1990s: from social stability to social acceptance and normalisation?	121
5. Conclusions	141

4	The ILO Notion of the Worker and the Scope of the Employment Relationship	147
	1. Introduction	147
	2. The personal scope of application of ILO instruments	147
	3. The ILO regulatory instruments on atypical work	154
	4. The ILO initiative on the scope of the employment relationship	161
	5. Conclusions	168
5	The Personal Scope of Application of EC Social Legislation	171
	1. Introduction	
	2. The personal scope of application of EC social and employment law	172
	3. The directions of development of EC law	191
	4. Conclusions: a theoretical structure for the personal scope of EC social and employment law	197
6	EC Regulation of Atypical Forms of Work – Between Employment Law and Employment Policy	205
	1. Introduction	
	2. EC legislative measures on atypical work	207
	3. The EU notions of ‘flexibility’, ‘security’ and ‘flexicurity’	211
	4. Looking at the national employment policies through the distorting mirror of National Action Plans and Employment Recommendations	220
	5. Divergences between EES and EC employment law on atypical work and the European Court of Justice	227
	Conclusions	231
	<i>Bibliography</i>	237
	<i>Index</i>	247