

2021/4

## REVUE DE DROIT COMPARÉ DU TRAVAIL ET DE LA SÉCURITÉ SOCIALE

### STUDIES

- P. UPSON** How does brain-computer interface technology present challenges for labour law in New Zealand?  
**I. ZOPPOLI** How to overcome the paradoxes of redundancy in France and Italy?  
**H. BARRETTO GHIONE** The emergence of the concept of "due diligence" in labour law and the forms of its legal integration  
**M. MOHAN, M. BABU, S. PELLISSERY & K. BHARADKAR** The pensions system in Italy: a continuous reform  
**L. COMPA** The double standard at work: European Corporate investment and workers' rights in the American South

### THEMATIC CHAPTER

NATIONAL LABOUR LAW AND SOCIAL SECURITY SYSTEMS THROUGH THE LENS OF THE COVID HEALTH CRISIS. ADAPTATIONS OR FUNDAMENTAL CHANGES? (Coordinated by Loïc LEROUGE)

- P. Andersson & T. A. Novitz** Risk Assessment and Covid-19: Systems at work (or not) in England and Sweden  
**C. Marzo** A Franco-British comparison of attempts at social protection for platform workers in the light of the pandemic: towards a new balance between public and private actors?  
**G. Golding** Unfair dismissal and the coronavirus pandemic: Creative responses from Australia's Fair Work Commission  
**E. Ales** Social protection in Italy during the pandemic: A comprehensive and adaptive approach in the sign of continuity  
**C. Murphy & L. Ryan** National labour law and social security systems through the lens of the Covid health crisis. Adaptations or fundamental changes?  
**L. Lamarche** Unemployment in the age of Covid: Will the canadian unemployment insurance system survive the pandemic?

### COMPARATIVE LABOUR CASE LAW

JUDICIAL CREATIVITY PUT TO THE TEST IN THE FACE OF NEW HEALTH PROBLEMS AT WORK (Coordinated by Allison FIORENTINO)

- A. SALA** The creativity of the judge faced with new health-at-work problems: the Japanese case of karōshi and karōjisatsu  
**A. FIORENTINO** English case law to the test of mental health at work

### INTERNATIONAL LABOUR CASE LAW

- M. DOHERTY** The « worker », EU Law, and collective bargaining  
**M. D'APONTE** New technologies and respect for workers' privacy in the case law of the ECHR

### COMPARATIVE LABOUR LAW LITERATURE

- C. Carta & G.-F. Moraru** Labour law beyond national borders: major debates in 2018-2019-2020

### INTERNATIONAL LEGAL NEWS

**AMERICA:** USA - **ASIA-OCEANIA:** AUSTRALIA - **EUROPE:** REPUBLIC OF SERBIA / UNITED KINGDOM - **INTERNATIONAL ORGANIZATION:** UNITED NATIONS ORGANIZATION

### Scientific Committee Members

N. Aliprantis (Grèce), G.-G. Balandi (Italie), U. Becker (Allemagne), U. Carabelli (Italie), J. Carby Hall (Royaume-Uni), A. Cissé Niang (Sénégal), L. Compa (États-Unis), W. Däubler (Allemagne), P. Davies (Royaume-Uni), M. Dispersyn (Belgique), S. Gamonal C. (Chili), A. O. Goldin (Argentine), Z. Góral (Pologne), M. Iwamura (Japon), J.-C. Javillier (France), P. Koncar (Slovénie), M. Nasr-Eddine Koriche (Algérie), A.-M. Laflamme (Canada), R. Le Roux (Afrique du Sud), A. Lyon-Caen (France), A. Monteiro Fernandes (Portugal), A. Montoya Melgar (Espagne), A. Neal (Royaume-Uni), R. Owens (Australie), C. Papadimitriou (Grèce), P.-G. Pougoué (Cameroun), M. Rodríguez-Piñero (Espagne), J.-M. Servais (Belgique), A. Supiot (France), M. Sur (Turquie), G. Trudeau (Canada), C. Vargha (Bureau International du Travail), M. Weiss (Allemagne), A. Zheng (Chine).

### Director Editor

Philippe Martin, COMPTRASEC (UMR CNRS 5114), Université de Bordeaux.

### Editor in Chief

Isabelle Daugareilh, COMPTRASEC (UMR CNRS 5114), Université de Bordeaux.

### Associate Editor

Alexandre Charbonneau, COMPTRASEC (UMR CNRS 5114), Université de Bordeaux.

### Editor

Marie-Cécile Clément, COMPTRASEC (UMR CNRS 5114), Université de Bordeaux.

### Technical Realization / PAO

Corinne Blazquez, Maison des Sciences de l'Homme d'Aquitaine (MSHA).

### Editorial Committee Members

Pablo Arellano Ortiz (Organisation Internationale du Travail - Université Pontifica de Valparaiso PUCV - Chili), Jérôme Porta (COMPTRASEC - Université de Bordeaux - France), Eri Kasagi (CNRS - Université de Bordeaux - France), Risa L. Lieberwitz (Université de Cornell - États-Unis), Pascale Lorber (Université de Leicester - Royaume-Uni), Yuki Sekine (Université de Kobé - Japon), Achim Seifert (Université Friedrich Schiller de Iéna - Allemagne) et Ousmane O. Sidibé (Mali).

### International Legal News Correspondents

■ **AFRIQUES** : A. Govindjee et K. Malherbe (Afrique du Sud), C. Boukli-Hacène et Z. Yacoub (Algérie), B. Millefort Quenum (Bénin), P. Kiemde et H. Traoré (Burkina-Faso), P.-E. Kenfack (Cameroun), S. Yao Dje et D. Koffi Kouakou (Côte d'Ivoire), P. Kalay (République Démocratique du Congo - Congo Kinshasa), S. Ondze (République du Congo - Congo Brazzaville), I. Yankhoba Ndiaye et M. Gaye (Sénégal), N. Mzid et A. Mouelhi (Tunisie)

■ **AMÉRIQUES** : A. O. Goldin, D. Ledesma Iturbide et J. P. Mugnolo (Argentine), A. V. Moreira Gomes, S. Machado et J. Sarmiento Barra (Brésil), R.-C. Drouin, A.-M. Laflamme, L. Lamarche et G. Trudeau (Canada), P. Arellano Ortiz et S. Gamonal C. (Chili), C. Castellanos Avendano, A. N. Guerrero et V. Tobon Perilla (Colombie), R. L. Lieberwitz (États-Unis), P. Kurczyn Villalobos (Mexique), L. Gamarra Vilchez et M. K. Garcia Landaburu (Pérou), M. Ermida Fernández et H. Barretto Ghione (Uruguay).

■ **ASIE-OCÉANIE** : D. Allen, S. McCrystal et T. Walsh (Australie), A. Zheng (Chine), J. Park (Corée du Sud), G. Davidov (Israël), S. Dake, M. Iwamura, E. Kasagi, H. Nagano, Y. Sekine et Y. Shibata (Japon), S. Taweejamsup (Thaïlande) et Tuân Kiệt Nguyễn (Vietnam).

■ **EUROPE** : A. Seifert (Allemagne), A. Csuk et G. Löschnigg (Autriche), A. Lamine et V. De Greef (Belgique), A. Filcheva et Y. Genova (Bulgarie), C. Jacqueson (Danemark), I. Vukorepa (Croatie), J. L. Gil y Gil (Espagne), E. Serebryakova et A. Alexandrova (Fédération de Russie), M. Badel, J.-P. Laborde et M. Ribeyrol-Subrenat (France), C. Papadimitriou et A. Stergiou (Grèce), T. Gyulavári et K. Rúzs Molnár (Hongrie), M. O'Sullivan (Irlande), A. Mattei et S. Nadalet (Italie), B. Bubilaityte Martisiene et G. Tamašauskaitė (Lituanie), S. Burri et N. Gundt (Pays-Bas), M. Gajda, A. Musiała et M. Pliszkiwicz (Pologne), T. Coelho Moreira et A. Monteiro Fernandes (Portugal), M. Stefko et V. Štangová (République Tchèque), F. Rosioru (Roumanie), J. Carby-Hall et P. Lorber (Royaume-Uni), F. Bojić et L. Kovačević (Serbie), P. Koncar et B. Kresal (Slovénie), J. Julén Votinius (Suède) K. Pärli et A. Meier (Suisse), K. Doğan Yenisey et M. Sur (Turquie).

REVUE

ENGLISH ELECTRONIC EDITION

2021/4

DE DROIT COMPARÉ  
DU TRAVAIL  
ET DE LA SÉCURITÉ SOCIALE

REVIEW SUPPORTED BY THE INSTITUTE OF HUMAN AND SOCIAL SCIENCES OF THE CNRS

## International Association of Labour Law Journals - IALLJ

---

The Comparative Law Review of Labour and Social Security [Revue de Droit Comparé du Travail et de la Sécurité Sociale] is member of the «International Association of Labour Law Journals», the exchange network of publications, ideas, legal and economic developments.

### The other members of the association are:

Análisis Laboral (Peru)  
Arbeit und Recht (Germany)  
Australian Journal of Labor Law (Australia)  
Bulletin on Comparative Labour Relations (Belgium)  
Canadian Labour and Employment Law Journal (Canada)  
Comparative Labor Law & Policy Journal (United States)  
Derecho de las Relaciones Laborales (Spain)  
Diritto delle Relazioni Industriali (Italy)  
Diritti lavori mercati (Italy)  
E-journal of International and Comparative Labour Studies (Italy)  
Employees & Employers - Labour Law and Social Security Review: Delavci in delodajalci (Slovenia)  
Europäische Zeitschrift für Arbeitsrecht : EuZA (Germany)  
European Labour Law Journal (Belgium)  
Giornale di Diritto del lavoro e relazioni industriali (Italy)  
Industrial Law Journal (United Kingdom)  
Industrial Law Journal (South Africa)  
International Journal of Comparative Labour Law and Industrial Relations (The Netherlands)  
International Labour Review (OIT)  
Japan Labor Review (Japan)  
Labour and Social Law (Belarus)  
Labour Society and Law (Israel)  
La Rivista Giuridica del Lavoro e della Previdenza Sociale - RGL (Italy)  
Lavoro e Diritto (Italy)  
Pécs Labor Law Review (Hungary)  
Revista de Derecho Social (Spain)  
Revue de Droit Comparé du Travail et de la Sécurité Sociale (France)  
Revue de Droit du Travail (France)  
Rivista giuridica del lavoro e della sicurezza sociale (Italy)  
Russian Yearbook of Labour Law (Russia)  
Temas Laborales (Spain)  
Zeitschrift für ausländisches und internationales Arbeits- und Sozialrecht (Germany)

## STUDIES

- p. 6 Peter Upson**  
How does brain-computer interface technology present challenges for labour law in New Zealand?
- p. 16 Irene Zoppoli**  
How to overcome the paradoxes around worker dismissal in France and Italy?
- p. 28 Hugo Barretto Ghione**  
Emergence of the notion of «due diligence» in labour law and how it is integrated into the legal system
- p. 38 Mani Mohan, Mathew Babu, Sony Pellissery and Kavya Bharadkar**  
Ushering thin welfare regimes at the cost of thick labour jurisprudence: A tale of new labour codes in India
- p. 50 Lance Compa**  
The double standard at work: European corporate investment and workers' rights in the American south

## THEMATIC CHAPTER

### NATIONAL LABOUR LAW AND SOCIAL SECURITY SYSTEMS THROUGH THE LENS OF THE COVID HEALTH CRISIS. ADAPTATIONS OR FUNDAMENTAL CHANGES?

#### COORDINATED BY LOÏC LEROUGE

- p. 66 Peter Andersson and Tonia A. Novitz**  
Risk assessment and COVID-19: Systems at work (or not) in England and Sweden
- p. 80 Claire Marzo**  
Franco-British comparison of attempts to provide social protection for platform workers at the time of the pandemic: towards a new balance between public and private actors?
- p. 100 Gabrielle Golding**  
Unfair dismissal and the Coronavirus pandemic: Creative responses from Australia's Fair Work Commission
- p. 116 Edoardo Ales**  
Social protection in Italy during the pandemic: A comprehensive and adaptive approach in the sign of continuity
- p. 132 Caroline Murphy and Lorraine Ryan**  
National labour law and social security systems through the lens of the COVID health crisis. Adaptations or fundamental changes?
- p. 144 Lucie Lamarche**  
Unemployment in the age of COVID: Will the Canadian unemployment insurance system survive the pandemic?

# 2021/4 CONTENTS

## COMPARATIVE LABOUR CASE LAW

### JUDICIAL CREATIVITY PUT TO THE TEST IN THE FACE OF NEW HEALTH PROBLEMS AT WORK

COORDINATED BY ALLISON FIORENTINO

- p. 160 Adrienne Sala**  
The creativity of the judge faced with new health-at-work problems: the Japanese case of karôshi and karôjisatsu
- p. 170 Allison Fiorentino**  
English case law and the challenge of mental health at work

## INTERNATIONAL LABOUR CASE LAW

- p. 182 Michael Doherty**  
The « Worker », EU Law, and collective bargaining
- p. 192 Marcello D'Aponte**  
New technologies and respect for the worker's privacy in ECHR case law

## COMPARATIVE LABOUR LAW LITERATURE

- p. 204 Cinzia Carta and Gratiela-Florentina Moraru**  
Labour law beyond national borders: major debates in 2018-2019-2020

## INTERNATIONAL LEGAL NEWS

### AMERICA

- p. 230 UNITED STATES OF AMERICA** - Risa L. Lieberwitz, Cornell University, School of Industrial and Labor Relations

### ASIA - OCEANIA

- p. 234 AUSTRALIA** - Shae McCrystal, Faculty of Law, University of Sydney

### EUROPE

- p. 240 REPUBLIC OF SERBIA** - Filip Bojic, University of Belgrade
- p. 246 REPUBLIC OF SERBIA** - Ljubinka Kovačević, University of Belgrade
- p. 250 UNITED KINGDOM** - Jo Carby-Hall, University of Hull
- p. 256 UNITED KINGDOM** - Jo Carby-Hall, University of Hull

## INTERNATIONAL ORGANIZATION

- p. 262 UNITED NATIONS ORGANIZATION** - Elena Sychenko, Saint Petersburg State University

## CHANGES AND AMENDMENTS TO THE SOCIAL LEGISLATION OF THE REPUBLIC OF SERBIA

In the first half of 2021, the National Assembly of the Republic of Serbia adopted amendments to several laws in the field of social security. Amendments to the Law on Pension and Disability Insurance, the Law on Employment and Unemployment Insurance, as well as amendments to the Law regulating financial support to families with children were adopted. Amendments to the Law on Employment and Unemployment Insurance are not related to unemployment insurance, but concern the field of employment, and therefore will not be analyzed separately in this document.

In relation to the previous amendments to the Law on Pension and Disability Insurance, which finally provided, and under certain conditions, the right to a survivor's pension and extramarital partners, the newly adopted amendments were adopted in order to specify certain legal norms determining the amount of early old-age pension i.e. survivors' pensions. The institute of early old-age pension was reaffirmed in the law of the Republic of Serbia in 2014, and the Law on Pension and Disability Insurance precisely determines the conditions under which the insured can exercise the right to early old-age pension, and regulates the rules for determining early old-age pension<sup>1</sup>.

Regarding the amount of early old-age pension, the legislator has determined that the amount of early old-age pension is determined in the same way as the amount of old-age pension, with the amount of such determined pension being permanently reduced by 0.34% for each month before 65 years of life<sup>2</sup>. The amount of early old-age pension can be reduced to a maximum of 20.4%. This is a permanent reduction, and the insured person who decides to submit a request for exercising the right to an early old-age pension will receive the amount thus determined for the rest of his life. The aforementioned solution is not met with approval in public several times by representatives of various pensioners' associations and trade unions, and acquired the requirements for amending these provisions. Also, it should be borne in mind that according to the statistical data of the

- 1 More in the 2014 text: *Revue de droit comparé du travail et de la sécurité sociale*, 2014/1, p. 170.
- 2 Law on Pension and Disability Insurance of the Republic of Serbia, (*Official Gazette of RS*, no. 34/2003, 64/2004 - Decision of the Constitutional Court of RS, 84/2004 - Other law, 85/2005, 101/2005 - Other law, 63/2006 - Decision of the Constitutional Court of RS, 5/2009, 107/2009, 101/2010, 93/2012, 62/2013, 108/2013, 75/2014, 142/2014, 73/2018, 46/2019 - Decision of the Constitutional Court, 86/2019 and 62/2021), art. 70a.

Republic Fund for Pension and Disability Insurance, in the first few years a small number of insured persons decided to exercise the right to early old-age pension<sup>3</sup>.

As the main reasons for the above, there are too strict conditions, especially the condition regarding the previous length of insurance (40 years of service), but also the above-mentioned permanent reduction of the amount of early old-age pension, which differs from the solution present in socialist Yugoslavia, and when the impairment was of temporary character, a reduced amount paid is only until the user of early old-age pension fulfills the conditions for full old-age pension, or until such time as they reach the age stipulated for obtaining the old age pension (at the moment it is 65 years of age for insured men, or 63 years and two months for insured women). The novelty adopted this year did not meet the requirements of dissatisfied unions and pensioners' associations, because only an exception is provided, in connection with determining the amount of early old-age pension for those insured who before the application of Law on Amendments to the Law on Pension and Disability Insurance, in accordance with the Decision of the Government of the Republic of Serbia on determining the Program for resolving redundancies in the process of rationalization, restructuring and preparation for privatization, were the beneficiaries of the right to special financial compensation, i.e. beneficiaries of monetary compensation<sup>4</sup>. For these insured persons, the amount of early old-age pension is determined in the same way as the amount of old-age pension, and therefore this category will not be reduced in accordance with the rules for insured persons who decide to apply for early old-age pension. The explanation for the mentioned legal change is found in solving the problem that arose for the beneficiaries of early old-age pension, who due to the acceptance of the Government's social program for resolving redundancies were not able to exercise the right to old-age pension and due to changed conditions for the realization of this right of 2014<sup>5</sup>. The introduction of the institute of early old-age pension had a bad effect on the beneficiaries of the social program, who at the time of termination of employment and exercising the right to special benefits - cash benefits under these programs, lacked up to five years to meet one of the conditions when exercising the right to a pension, in accordance with the then valid regulations on pension and disability insurance<sup>6</sup>. This solves the problem for this category of beneficiaries, but the issue of permanent reduction of the amount of early old-age pension remains unresolved, as well as the issue of too strict conditions regarding the previous insurance period.

The second change worth noting refers to the determined amounts of the survivor's pension for a special category of holders of the right to a survivor's pension. These are the widows, i.e. the widowers of a professional military person who died during the action, and who will exercise the right to a family pension regardless of the legally prescribed years of life, but also under the condition that they have not remarried<sup>7</sup>. It should be noted that in the law of the Republic of Serbia, remarriage of a beneficiary of a survivor's pension does not constitute a ground for termination of the right to a survivor's pension, except in

3 In the period from 2014-2018, only 17,900 insured persons decided to exercise the right to early old-age pension.

4 Law on Pension and Disability Insurance, art. 70d.

5 Explanation of changes and amendments to the Law on Pension and Disability Insurance from 2021, p. 4: [http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi\\_zakona/2021/934-21.pdf](http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/2021/934-21.pdf)

6 *Ibid.*

7 Law on Pension and Disability Insurance, art. 30a.



the above case. The new legal changes introduced another exception for this category of beneficiaries, which, as stated, concerns the determination of the amount of the survivor's pension. Contrary to the rule according to which if it is a family member who will use the right to a survivor's pension, the amount of this benefit will be determined in the amount of 70% of the pension that would belong to the deceased insured at the time of death, the amount of survivor's pension for a spouse of dead professional member of the military, killed during the action, is determined in the amount of 100% of the pension that would have belonged to the insured at the time of death<sup>8</sup>. This novelty further strengthens the long-established concept of social compensation for the families of military personnel who lost their lives during their service.

Amendments to the Law on Financial Support to Families with Children were adopted due to great public dissatisfaction with the new legal solutions in the field of family and child protection. The Law on Financial Support to Families with Children was adopted in 2017, and began to be applied on 1 July 2018. Although the main goal of this regulation is to provide financial support to families with children, in order to improve the conditions for meeting the basic needs of children, harmonizing work and parenthood, encouraging birth rates, or encouraging and supporting parents to achieve the desired number of children, as well as improving the financial situation of families with children, families with children with disabilities and families with children without parental care, it was noticed that the text of the law contains a number of unfavorable solutions and that the basic goal for which this law was adopted is called into question. Also, the Constitutional Court of the Republic of Serbia, by its decisions, declared certain provisions of the Law unconstitutional, and it was necessary to harmonize these provisions with the text of the Constitution of the Republic of Serbia.

Therefore, certain amendments were made to this Law, and in order to, as stated in the explanation of the legislator, on the basis of the conducted analysis of the previous application in practice, the law be improved. Similar to the above-analyzed amendments to the Law on Pension and Disability Insurance, a number of novelties in the Law on Financial Support to Families with Children are related to determination of the amount of compensation for the earnings paid during maternity leave, leave from work to care for a child and absences from work for special child care. In terms of the maximum amount of the monthly base wage compensation is envisaged that the amount to be paid to the beneficiary, from January 1, 2022, cannot be greater than five times the average monthly salary in Serbia, according to the latest published data of the authority competent for statistics, and on the day of the beginning of the exercise of rights<sup>9</sup>.

It should be noted that this solution was provided in the previous Law on Financial Support to Families with Children and that the adoption of the new Law provided that the beneficiary of the right to cash benefits cannot be paid more than three average monthly salaries in the Republic of Serbia, by which the beneficiaries of the right to financial compensation were placed in a less favorable position, who had high incomes on the basis of work before the beginning of the use of the right to maternity leave, leave from work for child care and leave from work for special child care. It seems that the newly adopted amendments have corrected this shortcoming. It is similar with the second change, which refers to the

8 Law on Pension and Disability Insurance, art. 71.

9 Law on Financial Support to Families with Children, art. 13, § 4 (*Official Gazette of RS*, no. 113/2017, 50/2018, 46/2021 - Decision of the Constitutional Court of RS, 51/2021 - Decision of the Constitutional Court of RS, 53/2021 - Decision of the Constitutional Court of RS and 66/2021).

lowest amount of salary compensation, which is paid during the leave. It is envisaged that the full monthly amount of salary compensation during maternity leave cannot be less than the minimum salary determined on the day of the beginning of exercising the right. The amount of the minimum wage is determined when the minimum hourly wage, determined in accordance with the law, is multiplied by 184 hours and increased by the corresponding taxes and contributions.

This solution also represents a significant improvement of the previous solution, which put some beneficiaries at a disadvantage, and bearing in mind that the Law provided that « the full monthly amount of salary compensation during maternity leave may not be less than the minimum wage set at the day of submitting the request, if at least six lowest bases on which contributions to salaries that have the character of salary have been paid have been registered with the competent authority »<sup>10</sup>. The mentioned change was made on the basis of the above-mentioned Decision of the Constitutional Court of Serbia luz-247/2018, which established that this provision of the Law on Financial Support to Families with Children in the part that reads « if at least six lowest bases on which contributions to income have been paid which have the character of earnings were recorded » is not in accordance with the Constitution and the ratified international agreement. The Constitutional Court has determined that the said provision is in contradiction with the article of the Constitution, which guarantees special support to mothers before and after childbirth, but also with the ratified Convention of the International Labor Organization no. 183 on maternity protection, which stipulates that the amount of compensation should be such as to ensure the maintenance of good health of women and children with an appropriate standard of living<sup>11</sup>. Given that in some cases, and it was recorded less than six minimum base, the amount of wage compensation could be established, which would be lower than the minimum wage, it could not, as stated in the Convention provide appropriate standard of living, these amendments to the Law were necessary in order to eliminate this shortcoming in a timely manner.

Among other things, also an amendment of the law was made, by which the law is in compliance with the regulations in the field of social security, and regulating the payment of social benefits. This amendment stipulates that the beneficiary, to whom the payment to which he was not entitled was made, is obliged to return the received amounts to the ministry responsible for financial support to the family with children<sup>12</sup>. The same article also stipulates that the Ministry will be entitled to a refund of taxes and contributions paid for compulsory social insurance.

Finally, it should be noted at this point that from October 2020, the Law on Ministries provides for a special Ministry for Family Care and Demography, and the area of financial support for families with children is no longer under the jurisdiction of the ministry responsible for social affairs, which is corrected in all articles of the Law in which the competence of the ministry is mentioned.

10 Law on Financial Support to Families with Children, art. 14.

11 Decision of the Constitutional Court luz-247/2018. It should be noted that the Decision of the Constitutional Court determined the inconsistency of the provisions of the Law on Financial Support to Family with Children and with the provisions of the Labor Law and the Law on Health Insurance, which stipulate that the amount of salary compensation during temporary incapacity cannot be lower than the minimum wage.

12 Article 44a of the Law on Financial Support to Families with Children.

REVUE

DE DROIT COMPARÉ  
DU TRAVAIL  
ET DE LA SÉCURITÉ SOCIALE

Manuscripts submitted for publication in the **Comparative Law Review of Labour and Social Security** [Revue de Droit Comparé du Travail et de la Sécurité Sociale] should be sent by e-mail or by post before **February, the 1<sup>st</sup>** of each year (for the Studies, the Comparative Social Jurisprudence and the International Social Jurisprudence) and before **June, the 1<sup>st</sup>** of each year for the Thematic Chapter. About the contributions to the International Legal News, they must be sent before **February, the 1<sup>st</sup>** (for the first issue) and before **September, the 1<sup>st</sup>** (for the third issue).

The opinions expressed in the articles are the sole responsibility of the authors. When translation is carried out in French, it is under the responsibility of the Chief Editor and members of the Editorial Board.

Every manuscript is submitted, without mentioning the name of the author, to two readers for evaluation and publication notice.

A subsequent publication in another journal would require authorization express of the Direction of the Review.



**COMPTRASEC - UMR 5114**

Mme Marie-Cécile CLÉMENT

Université de Bordeaux

16, avenue Léon Duguit - CS 50057 - F 33608 PESSAC cedex

Tél : 33(0)5 56 84 54 74 - Fax : 33(0)5 56 84 85 12

marie-cecile.clement@u-bordeaux.fr

<http://comptrasec.u-bordeaux.fr/revue-de-droit-compare-du-travail-et-de-la-securite-sociale>

# GUIDELINES FOR AUTHORS

## Manuscripts

The article must be submitted preferably in French. English or Spanish are also admitted.

Texts should include:

- **40 000 characters** - including footnotes and spaces - for topics «**Studies**» and «**Thematic Chapter**» when submitted in French. The limitation is set at **30 000 characters** when submitted in English or Spanish;
- **25 000 characters** - including footnotes and spaces - for topics «**Comparative Social Jurisprudence**» and «**International Social Jurisprudence**» regardless of the language of submission of the article;
- **15 000 characters** - footnotes and spaces included - for the rubric «**International Legal News**» when submitted in French. The limitation is set at **12 000 characters** when submitted in English or Spanish.

In addition, all manuscripts must be accompanied by the following elements:

- 5 key words (in French and English) to identify the content of the article;
- the institution of attachment, the title, and the postal and electronic address of the author;
- the title of the article.

Manuscripts for the «**Studies**», «**Thematic Chapter**» and «**International Social Jurisprudence**» should also include:

- a summary, in French and in English (**400 characters** each);
- two publications to choose from.



## Notes and bibliographical references

The annotations and bibliographic references of the works and articles cited must be integrated within the article and placed in footnotes.

Their presentation will be as follows:

- For books: initial of the First Name, Name, Title of the book, place, publisher, «collection», date, p.
- For review articles: Initial of the First Name, Name, «Title of the article», Title of the review, no., date, p.
- For a contribution into collective books: Initial of the First Name, Name, «Title of article», in initial of the First Name, Name (dir.), Title of the book, place, publisher, date, p.

## IALLJ CALL FOR PAPERS ~ 2022 MARCO BIAGI AWARD

To stimulate scholarly activity and broaden academic interest in comparative labour and employment law, the **International Association of Labour Law Journals** announces a **Call for Papers** for the **2022 Marco Biagi Award**. The award is named in honor of the late Marco Biagi, a distinguished labour lawyer, victim of terrorism because of his commitment to civil rights, and one of the founders of the Association. The Call is addressed to doctoral students, advanced professional students, and academic researchers in the early stage of their careers (that is, with no more than three years of post-doctoral or teaching experience).



1. The Call requests papers concerning comparative and/or international labour or employment law and employment relations, broadly conceived. Research of an empirical nature within the Call's purview is most welcome.
2. Submissions will be evaluated by an academic jury to be appointed by the Association. Submitted papers should include an abstract.
3. The paper chosen as the winner of the award will be assured publication in a member journal, subject to any revisions requested by that journal.
4. Papers may be submitted preferably in English, but papers in French, or Spanish will also be accepted. The maximum length is 12,500 words, including footnotes and appendices. Longer papers will not be considered.
5. The author or authors of the paper chosen as the winner of the award will be invited to present the work at the **Association's 2021** meeting which is to be announced soon on the website of the Association. Efforts are being undertaken to provide an honorarium and travel expenses for the presentation of the paper. Until that effort bears fruit, however, the Association hopes that home institutional funds would be available to support the researcher's presentation.
6. The deadline for submission is **1 March 2021** (final date of submission). Submissions [and a short bio of the author] should be sent electronically in Microsoft Word both to Lavoro e diritto at [lavoroediritto@unife.it](mailto:lavoroediritto@unife.it) and to Frank Hendrickx, the President of the Association, at [frank.hendrickx@kuleuven.be](mailto:frank.hendrickx@kuleuven.be) and his secretariat: [iar@kuleuven.be](mailto:iar@kuleuven.be).

### Prior Recipients of the Marco Biagi Award

**2020 Harry Stylogiannis** (KU Leuven, Belgium), Platform work and the human rights to freedom of association and collective bargaining.

**2019 Giovanni Gaudio** (Bocconi University, Milan, Italy), «Dapting labour law to complex organisational settings of the enterprise. Why re-thinking the concept of employer is not enough».

**2018 Matteo Avogaro** (University of Milan, Italy), «New perspectives for worker organization in a changing techonological and social environment».

**2017 Nicolas Buenos** (University of Zurich, Switzerland, Insitute of Law), «From the right to work to the freedom from work».

**2016 Mimi Zou**, «Towards Exit and Voice: Redesigning Temporary Migrant Workers's Programmes».

**2015 Uladzislau Belavusau** (Vrije Universiteit Amsterdam, Pays-Bas), «A Penalty Card for Homophobia from EU Labor Law: Comment on Asociația ACCEPT (C-81/12)».

**2014 Lilach Lurie** (Bar-Ilan University, Israel), «Do Unions Promote Gender Equality?».

**2013 Aline Van Bever** (University of Leuven, Belgium), «The Fiduciary Nature of the Employment Relationship».

**2012 Diego Marcelo Ledesma Iturbide** (Buenos Aires University, Argentina), «Una propuesta para la reformulación de la conceptualización tradicional de la relación de trabajo a partir del relevamiento de su especificidad jurídica».

# ABBREVIATIONS LIST

(PUBLISHERS, JOURNALS, BOOKS)

AuR = Arbeit und Recht (Germany)  
AJLL = Australian Journal of Labour Law (Australia)  
AJP/PJA = Aktuelle juristische Praxis - Pratique juridique Actuelle (Suisse)  
BCLR = Bulletin of Comparative Labour Relations (Belgium)  
CLELJ = Canadian Labour & Employment Law Journal (Canada)  
CLLPJ = Comparative Labor Law & Policy Journal (United States)  
DRL = Derecho de las Relaciones Laborales (Spain)  
DLM = Diritti Lavori Mercati (Italy)  
E&E = Employees & Employers: Labour Law & Social Security Review (Slovenia)  
EuZA = Europäische Zeitschrift für Arbeitsrecht (Germany)  
ELLJ = European Labour Law Journal (Belgium)  
DLRI = Giornale di Diritto del Lavoro e delle Relazioni Industriali (Italy)  
ILJ = Industrial Law Journal (UK)  
IJCLLIR = Giornale di Diritto del Lavoro e delle Relazioni Industriali (Italy)  
ILR = International Labour Review (ILO)  
JLR = Japan Labor Review (Japan)  
JCP = Juris-Classeur Périodique (France)  
LD = Lavoro e Diritto (Italy)  
OIT = Revue internationale de travail  
PMJK = Pécsi Munkajogi Közlemények (Pecs Labour Law Journal) (Hungary)  
RL = Relaciones Laborales (Spain)  
RDS = Revista de Derecho Social (Spain)  
RDCTSS = Revue de Droit Comparé du Travail et de la Sécurité Sociale (France)  
RDT = Revue de Droit du Travail (France)  
RGL = Rivista Giuridica del Lavoro e della Previdenza Sociale (Italy)  
TL = Temas Laborales (Spain)  
ZIAS = Zeitschrift für ausländisches und Internationales Arbeits und Sozialrecht (Germany)

# SUBSCRIPTIONS AND RATES

## ABONNEMENTS ET TARIFS

## SUSCRIPCIONES Y PRECIOS

### 2021 RATES

REVUE DE DROIT COMPARÉ  
DU TRAVAIL ET DE LA SÉCURITÉ SOCIALE

(PRINT) ISSN 2117-4350  
(E-JOURNAL) ISSN 2262-9815

COMPTRASEC  
UMR 5114

Mme Marie-Cécile Clément  
UNIVERSITÉ DE BORDEAUX  
Avenue Léon Duguît - 33608 PESSAC cedex FRANCE  
Tél. 33(0)5 56 84 54 74  
Fax 33(0)5 56 84 85 12  
Email : revue.comptrasec@u-bordeaux.fr

PER YEAR

3 PRINT ISSUES PAPERS (FRENCH)  
1 ELECTRONIC ISSUE (ENGLISH)

		Price/Prix/Precio
Annual Subscription	<b>Print Journal</b> / Revue papier / Revista Impressa (3 numéros en français / 3 issues in french / 3 números en francés)	105 €
Abonnement Annuel	<b>E-journal</b> / Revue électronique / Revista Electrónica (1 numéro en anglais / 1 issue in english / 1 número en inglés)	70 €
Suscripción anual	<b>Printed copies &amp; E-journal</b> / Pack Revues papier et électronique / Revistas impresa y electrónica (3 numéros en français & 1 numéro en anglais / 3 issues in french & 1 in english / 3 números en francés & 1 en inglés)	145 €
Unit Price Prix à l'unité Precio unitario	<b>Print Journal</b> / Revue Papier / Revista Impressa	40 €
	<b>E-Journal</b> / Revue électronique / Revista Electrónica	70 €
	<b>Journal article</b> / Article / Artículo	6 €
<i>Postal charges included / Frais de port compris / Gastos de envío incluidos</i>		
VAT TVA IVA	2,10% France / 1,05% Outre-mer & Corse / 0% UE & hors UE	

### MODE DE PAYMENT / MODE DE RÈGLEMENT / FORMA DE PAGO

ONLINE PAYMENT / PAIEMENT EN LIGNE / PAGO EN LINEA

(Credit card - Carte de crédit - Tarjeta de credito) <http://comptrasec.u-bordeaux.fr/revue/abonnement>

PURCHASE ORDER / BON DE COMMANDE / ORDEN DE COMPRA

to / à / a : [revue.comptrasec@u-bordeaux.fr](mailto:revue.comptrasec@u-bordeaux.fr)

NB : Online payment is preferred. If you have any difficulty, please contact us at  
Le paiement en ligne est à privilégier. En cas de difficulté, veuillez nous contacter à  
El pago en linea se prefiere. Si tiene alguna dificultad, contáctenos a

[revue.comptrasec@u-bordeaux.fr](mailto:revue.comptrasec@u-bordeaux.fr)

Achévé d'imprimer en janvier 2022  
sur les presses de l'imprimerie Aquiprint  
Dépôt légal 1<sup>er</sup> trimestre 2022  
Imprimé en France



REVUE

2021/4

DE DROIT COMPARÉ  
DU TRAVAIL  
ET DE LA SÉCURITÉ SOCIALE

The Comparative Law Review of Labour and Social Security [Revue de Droit Comparé du Travail et de la Sécurité Sociale] has been published by COMPTRASEC, UMR 5114 CNRS of the University of Bordeaux since 1981. It is edited three times a year in order to contribute to the development of analyses and exchanges on labour and social security law around the world. The Comparative Law Review of Labour and Social Security is a member of the International Association of Labour Law Journals (IALLJ), an international network for the exchange of ideas and publications on labour law and social security.

For any correspondence or contribution proposal write to:

**Marie-Cécile CLÉMENT**

COMPTRASEC - UMR CNRS 5114 - University of Bordeaux  
16, avenue Léon Duguit - CS 50057 - 33608 PESSAC cedex - France

E-mail : [marie-cécile.clement@u-bordeaux.fr](mailto:marie-cécile.clement@u-bordeaux.fr)

Phone: +33 (0)5 56 84 54 74 - Fax: +33 (0)5 56 84 85 12

<http://comptrasec.u-bordeaux.fr>

The opinions expressed in the articles are the sole responsibility of the authors. When translation is carried out in French, it is under the responsibility of the Director Editor and members of the Editorial Board. Every manuscript is submitted, without mentioning the name of the author, to two readers for evaluation and notice before publication.

PREVIOUS ISSUE

2021/3

## THEMATIC CHAPTER

NATIONAL LABOUR LAW AND SOCIAL SECURITY SYSTEMS THROUGH THE LENS OF THE COVID HEALTH CRISIS. ADAPTATIONS OR FUNDAMENTAL CHANGES?

COORDINATED BY LOÏC LEROUGE

WITH THE CONTRIBUTIONS OF:

PETER ANDERSSON & TONIA A. NOVITZ (SWEDEN, UNITED KINGDOM), VALÉRIE FLOHIMONT (BELGIUM), ELIZABETH BLUFF & RICHARD JOHNSTONE (AUSTRALIA), GABRIELLE GOLDING (AUSTRALIA), CAROLINE MURPHY & LORRAINE RYAN (IRELAND), EDOARDO ALES (ITALY), VAGELIS KOUMARIANOS (GREECE), LUCIE LAMARCHE (CANADA), CLAIRE MARZO (UNITED KINGDOM), SILVIA FERNÁNDEZ MARTÍNEZ (SPAIN).

## INTERNATIONAL LEGAL NEWS

AFRICA: ALGERIA

AMERICA: ARGENTINA / CHILE / UNITED STATES

ASIA-OCEANIA : AUSTRALIA / JAPAN

EUROPE: RUSSIAN FEDERATION / REPUBLIC OF SERBIA / UNITED KINGDOM / SWISS

## FORTHCOMING

2022/1

STUDIES

INTERNATIONAL LEGAL NEWS

REVUE

DE DROIT COMPARÉ  
DU TRAVAIL  
ET DE LA SÉCURITÉ SOCIALE

REVUE DE DROIT COMPARÉ DU  
TRAVAIL ET DE LA SÉCURITÉ SOCIALE

4 numéros par an  
~3 éditions papier (en français)  
~1 édition électronique (en anglais)

2021/1

Études  
Actualités Juridiques Internationales

2021/2

Jurisprudence Sociale Comparée  
Jurisprudence Sociale Internationale  
Actualités des organisations  
internationales  
Chronique bibliographique

2021/3

Dossier thématique  
Actualités Juridiques Internationales

2021/4

Studies  
Thematic Chapter  
Comparative Labour Case Law  
Comparative Labour Law Literature  
International Legal News

Pour plus d'informations

<http://comptrasec.u-bordeaux.fr/revue-de-droit-compare-du-travail-et-de-la-securite-sociale>

Contact

[revue.comptrasec@u-bordeaux.fr](mailto:revue.comptrasec@u-bordeaux.fr)

**COMPTRASEC**

Centre de droit comparé du travail  
et de la sécurité sociale

université  
de **BORDEAUX**



70 euros

ISSN 2117-4350