Anne Meier

Dr en droit, avocate / Dr. iur., attorney-at-law

The New Employment Relationship

How "Atypical" Work Contracts Challenge Employment Law, Labour Law and Social Security Systems

A comparative legal research



Table of Contents

Intr	oduction: Towards a global flexibility of the employment relationship	1
A.	Evolution from the traditional male bread-winner model	8
B.	What shapes for the 'new' employment contract?	20
C.	Flexibility and Decent Work	24
Par	t One: Old Rules, New Collisions	27
Cha	pter One: New Forms of Work and Employment law	27
A.	The Traditional Conception of Employment	27
	1. The Dual Nature of Work: Dependent or Independent	27
	 A Status Broader than the Individual Employment Contract A Mandatory Status – the Primacy of Facts 	31 34
	 Subordination as the characteristic of the typical work contract 	35
B.	"New" Workers and the reduced scope of Employment Law	42
	1. The Obsolescence of Subordination	43
	2. Facilitated Misclassification	46
Cha	pter Two: New Forms of Work, Labour Law and the Role of Unions	50
A.	Classical functions of a union	51
B.	Underrepresentation of atypical workers by unions and failure of traditional strategies	53
Cha	pter Three: Typical Work and Social Security laws	58
A.	Unemployment insurance	60
B.	Old-Age Insurance	65
Par	t Two: The 'New' Employment Relationship	73
Cha	pter One: The legal classification conundrum	75
A.	Emergence of the economic and organisational integration	75
B.	Various strategies for similar results	87

C.	The implementation of the imperative nature of the employment relationship	t 98	
	1. Legal presumption of the existence of an employment relationship	98	
	2. Statutory qualification as employees for certain categories of workers	100	
Ch	apter Two: Shape and Contents of the Work Relationship	103	
A.	'Fundamental' rights for the individual worker	103	
B.	Collective bargaining rights	113	
C.	The right to social insurances	121	
Co	nclusion	129	
Bib	Bibliography		