

***Employment Policy in the European Union: Origins, Themes and Prospects*, Edited by Michael Gold, Basingstoke: Palgrave Macmillan, 2009, 326 pp., ISBN: 978-0-2305-1812-4.**

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Employment Policy in the European Union: Origins, Themes and Prospects

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The book edited by Michael Gold deals with what the editor and contributors consider as pertaining to “employment policy” at the European level. It is not often that collections of chapters address a widely diversified group of policies at this level that have an influence on, or rather, are in interaction with, policies that have remained, in principle, in the realm of national jurisdiction. This is the second, updated, edition of the book (a first version was published in 1993).

In his introduction, Michael Gold defines “employment policy” as: “policy governing the relationships between employers and workers, and their rights and responsibilities, as well as measures adopted at the EU level to assist those seeking to enter or re-enter the labour market, particularly the unemployed and the economically inactive” (p. xix). He contrasts this with “social policy” (here, the author enumerates a list of topics: family, general education, retired and disabled people, or the socially excluded). Furthermore, M. Gold lets us know that to him employment policy covers not only EU hard law, but all sorts of measures including the open methods of coordination and other types of interventions. This brings an advantage to the book, because it aims at dealing with types of policy that are often separately addressed in mainstream literature on European integration; more often than not, EU level interventions in the field of EU law and what is often referred to as “soft law” are treated without cross-reference to one another. However, a definition made on the basis of a list of topics will inevitably lack a firm theoretical basis. M. Gold explicitly acknowledges the fuzziness of the frontiers, but this fails to convince the reader entirely as to the justifications for dealing with the particular list of

topics and objects that were chosen for the collection of chapters. A further shortcoming of any attempt to work with a purely pragmatic list of types of policies is even more pertinent at the EU level, for two main reasons: (1) policies at the EU level are substantively different from policies at the national level, and (2) policies at the national level are not constructed homogeneously across the EU member states. For instance, there has never really been such a thing as “family policy” in Italy or in the UK, whereas France has claimed to have had such a policy since the early 1930s; another example is the traditional separation in Germany between *Arbeitsmarktpolitik* and *Beschäftigungspolitik*. In fact, numerous examples could be given of the complexity of concepts necessary to understand policies and their differences in-depth. At the EU level, the vagueness of the definition of the “borders” between policies is even greater when the EU only funds a minuscule part of them. The *special nature* of the EU is unfortunately not really addressed across the various contributions, except for the allusions made in Gold’s introduction to the book and the “overview” chapter 1, where he briefly discusses the distinction made by Giandomenico Majone. Hence, a constant ambiguity is running across the book: what exactly is the European Union and by what mechanisms can it influence various social situations in member states? The disadvantages of skipping the definition stage appear probably at their best in Anne Gray’s contribution. She documents in a rather detailed way the consequences of flexibilization strategies upon employment relationships and working conditions across the EU (including a substantial section on migrant workers and the consequences of enlargement) and she seems to assume that “flexicurity policies” are responsible for this. However, the very concept of “flexicurity”, that she rightly associates with the now less popular “Danish triangle” described by T. Bredgaard, F. Larsen and P.K. Madsen,

remains to be defined as a concept and not as only a political slogan, before assessing its “outcomes”.

Besides the introduction and the initial overview editor’s chapter, the book comprises nine chapters: Bernard Casey’s first essay is about what he calls “employment promotion”, essentially the European Employment Strategy; the second essay is by Anne Gray who writes about “flexicurity”; a third one, by Helen Badger deals with “equal opportunities” policies. One would expect that the four following chapters (5, 6, 7 and 8) would be grouped together to form a special section on Labour law, but this is not the case: Edward Benson first writes about “employment protection and the rights of workers”; he is followed by Phil James who deals with “occupational health and safety”, and Peter Cressey whose chapter 7 is about “employee participation”. This quasi-section on Labour law is concluded by Mark Carley who has a chapter on “social dialogue”. The final two chapters of the book are by Jason Hayes and Helen Rainbird (vocational education and training) and Philippa Watson on “social security”.

The variety of topics addressed in the book is no doubt an interesting aspect of it, and I will not be able to do justice to all the contributions in this respect. For lack of sufficient space for commenting on all the chapters, I will mention three among them. Note, however, that the selection of topics in the book, as well as the clarity of its analytical strategy, sometimes suffers from the fact that one aspect of EU policy is dealt with in more than one chapter, provoking some form of overlap. For instance, the chapter supposed to deal with “employment promotion” also has, maybe inevitably, a significant section on “flexicurity”, while the counterpart chapter supposed to deal with “flexicurity” really deals with many other things, including the European so-called “Lisbon strategy” with which the former chapter also deals.

In the introductory overview chapter, M. Gold chose to focus on a legal approach to the EU’s building of its jurisdiction in the area of “employment policy”. One expected to see more about its definition, but this was not the choice made, a decision that would have entailed the author to really confront the problem of what the EU is, as an institution and an organization, a theme that is only briefly addressed in the chapter, without reference to major literature (prominent authors are not in the reference list: Fritz Scharpf, Maurizio Ferrera are among the most important omissions). The text first deals with a systematic identification of legal provisions that *might or could* have some impact (the author contends that the impact is “incalculable” p. xviii, but this is not sufficient: an immense literature has dealt with the question of impact, especially in the domain of Europeanization) on the theme which the author previously (and idiosyncratically) considered as “employment policy”; then a chronological overview of the legal – hard and soft law – is covered. Despite the shortcomings in terms of the definition of the object of research, the chapter provides a very useful overview of the legal developments of the first fifty years of European integration in the social domain, but stops, however, at the most recent developments, *before the adoption of the Lisbon treaty*.

In the chapter about “employment promotion”, B. Casey does not say why he chose this label for his contribution; as an author who is generally attentive to the meaning of words, one would have appreciated his comments on this. However, he mainly mentions, in passing, two notions that he says were EU level additions to the English language, “employability” and “flexicurity” (p. 39). It is certainly a bit far-fetched to link the employment competence to the early 1951 European Coal and Steel Community, because there were so many breaks in the European integration trajectory, but this is in line with a teleologi-

cal approach that considers the integration development ex-post (see also chapter 1). One has to make the brave assumption that, because measures were taken at that time, including some funded programs, something like an “employment policy” existed from the early 1950s. The question can then be raised as to how to appreciate and assess the turning point of the Amsterdam treaty in this picture? B. Casey does not stress the fact that an employment policy was the outcome of intense and controversial political debate, especially with the role of key political entrepreneurs such as Allan Larsson and Jacques Delors (for more information and analysis of this, we would refer to the various publications of Caroline de la Porte, Mikkil Mailand, Milena Büchs, Sandra Kröger, Jean-Claude Barbier).

In her chapter about “social security”, Philippa Watson chose a triple focus: the social rights of migrant workers – a term labelling European citizens working abroad in the EU, the immense question of equality of treatment between men and women, and the relationship between “social security” and the internal market. Her chapter is very informative and contains very useful references and discussion of the main key decisions by the European Court of Justice (an appendix makes a list of them). However, it suffers from two shortcomings. Firstly, a significant area of the relationship of social protection schemes and the internal market is not covered: namely, pensions (the famous joined cases C-159/91 and C-160/91 *Christian Poucet v. Assurances générales de France and Caisse mutuelle régionale du Languedoc-Roussillon* are not analyzed, despite their key role as to the definition of “solidarity” as an exception to the principle of competition between services, and free movement legislation). Secondly, while the book was published in 2009, it has not been updated for integration developments linked to the new Lisbon Treaty. This applies across the book to all other chapters.

Finally, *Employment Policy in the European Union* is an interesting book in terms of the original scope of research that it opens up, but it also certainly suffers from the dominant focus of the authors – all British-based researchers – who adopt, with the implicit view of their UK system in the background, the rather easy acceptance of concepts used by EU experts, concepts that, with a view to their historical formation and their political content could be deconstructed and thus yield insights into the extreme variety of European social institutions of labour law and social protection.

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Le droit de l'emploi au Québec, 4^e édition

Par Fernand Morin, Jean-Yves Brière,
Dominic Roux et Jean-Pierre Villaggi,
Montréal : Wilson & Lafleur, 2010, 2030 p.,
ISBN : 978-2-8912-7919-2.

Moins de quatre ans après la parution de la troisième édition du livre *Le droit de l'emploi au Québec*, les auteurs Fernand Morin, Jean-Yves Brière et Dominic Roux, à qui s'est joint le professeur Jean-Pierre Villaggi, ont publié récemment une toute nouvelle mouture de cet impressionnant ouvrage traitant des multiples volets du droit de l'emploi au Québec. La courte période entre les deux publications n'est pas synonyme d'une simple réédition de l'ouvrage de 2006 puisque le nouveau manuscrit compte deux cents pages supplémentaires, ce qui permet de mesurer l'intensité et le vif intérêt de cette quatrième édition.

Il serait évidemment superfétatoire de présenter en détail cet imposant ouvrage tant il est maintenant bien connu de l'ensemble de la communauté juridique québécoise, canadienne et internationale. Tout en soulignant que les auteurs ont conservé la richesse de ce style qui rend la lecture de cet ouvrage toujours aussi stimulante, je me limiterai à signaler quelles sont les principales modifications qui ont été apportées dans cette édition de 2010.