

Labour Regulation in the 21st Century: In Search of Flexibility and Security

ADAPT LABOUR STUDIES BOOK-SERIES

International School of Higher Education in Labour and Industrial Relations

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Edited by

Tomas Davulis and Daiva Petrylaitė

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P U B L I S H I N G

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IN SEARCH OF FLEXIBILITY AND FLEXICURITY

TOMAS DAVULIS AND DAIVA PETRYLAITĖ

In modern society, labour relations are complicated and heterogeneous, as they reflect both the present state of the market economy and more general rules governing everyday life. Even the smallest social or economic changes may affect labour relations, which may inevitably give rise to antagonism, disagreement and conflict among the parties. Therefore, the increasing role of labour relations and that of the individual actors is characterised by new aspects determining contemporary social phenomena and processes, e.g. the definition of the social market economy.

Nowadays, the contemporary western world not only considers the relationships that take place within the market economy—which are based on the production and exchange of goods—but it also takes account of the adoption of certain principles—i.e. the freedom and initiative of economic activities and the right of private ownership—thus examining the social nature of such market relations.

At the end of the 21st century, new challenges for labour law have arisen. Increasing globalisation processes, the technological revolution, the establishment of new forms of employment, business relocation, and the nearly unlimited potential of the usage of information technologies in labour processes have resulted in a number of preconditions for the individualisation of labour relations.

Relevant issues resulting from the industrial revolution period and matters in terms of production have made room for technological innovation and new ways of handling relations in our consumer society. Therefore, today it is important to address not only the labour market relations and commitment of the state to ensure free economic activities, but also to deal with the social needs that require predetermined governmental measures to restrict free market relations, as a way of implementing shared objectives and values arising out of dialogue and cooperation of the social partners.

Besides free and independent, the relations within the market economy should also be socially motivated. The state has the opportunity—and the

duty—to limit the relations of the market economy so as to achieve certain social goals.

Both at a European and national level, striking the balance between security and flexibility of employment should be the core challenge of the labour market when developing relevant policy strategies. In considering the goal of the European Union to become the most competitive and dynamic knowledge economy in the world—capable of sustainable economic growth with more and better jobs and greater social cohesion—the mission of the Community should reflect the effort to strengthen both flexibility and security in the labour market. The commitment of EU employers and employees to adapt to the volatile labour market conditions leads to safeguard jobs. More specifically, this means to balance both flexibility and security to combine these two fundamental goals, with current theories on industrial relations and labour law that are called into question. While acknowledging the role of labour laws in protecting the rights and interests of employees, this function should be understood in a broader sense as a task to safeguard common interests, in order to benefit employers and employees, and all those individuals who have been forced out of the labour market.

CHAPTER ONE:

**LOOKING FOR FLEXIBILITY AND SECURITY
OF THE LABOUR MARKET**

TACKLING THE ECONOMIC CRISIS: LABOUR LAW IN LITHUANIA

TOMAS DAVULIS AND DAIVA PETRYLAITĖ

1. Introduction

The global financial crisis that erupted in 2008 had a profound impact in many industries. Once again, economic difficulties have demonstrated the close interdependence between labour law and the economic system. The scope of the commitments placed by labour law on the workforce can also be expressed in economic terms, because it directly affects the price of the services rendered and goods supplied in the global economy. During economic downturns, the set of labour market policy becomes not only an economic but also a fiscal instrument. If, for any reason currency devaluation is not possible, similar results could be achieved by labour law devaluation. Politicians following this logic undertook Europe-wide measures devised to enhance competitiveness of local employers through a reduction of workforce costs, especially those relating to the requirements set forth by labour law norms. It was also claimed that those measures were aimed at promoting employment and reducing unemployment rates.

At the current stage of economic development and when considering national realities, the response of labour law varies, though most legislations show a trend towards “loosening” the legal norms governing labour relations, by watering down mandatory legal norms or easing the standards of conduct required by these norms. On the basis of these considerations, the authors aim at providing a reply to the question of whether changes in labour law prompted by economic difficulties represent a new paradigm shift in Lithuanian labour law. This is because labour law norms arise not as a result of a targeted and politically-driven implementation of social policy—e.g. the measures liberalising labour relations, updating legal regulation and filling legal vacuum—but as a result of an adjustment of completely different interests and negotiations on the basis of mutual trade.

2. The Role of Labour Law in the Modern Social Market Economy

The search for social justice becomes apparent in the practice of the legal regulation of labour relations. While adopting labour laws and setting the limits of regulation of labour relations, the State should take into consideration societal basic expectations. That is why today, particular emphasis is placed on the possibility to resort to contractual regulation of labour relations, thus narrowing the limits of the imperative provisions. The international community also regards labour law as an undisputable regulator of the balance of power between capital and labour. For example, with the view to implementing the objectives of the Lisbon Strategy, the Communication from the Commission “Towards Common Principles of Flexicurity: More and Better Jobs through Flexibility and Security”¹ points out that the adaptation to the changed economic and social conditions requires a more flexible labour market combined with levels of security that address simultaneously the new needs of employers and employees. However, Europe is not adjusting to the shocks that are imposed on its economy as well as it could. This is also the case in Lithuania. Undoubtedly, the capability to adapt not only depends on the will of labour market entities themselves, but also on the opportunities they are provided with. The degree of optionality in regulating the labour market directly impacts on the opportunities for flexible adaptation to market changes in the manner of easing or aggravating such opportunities. Therefore in 2006, calling the society for a public debate about the future of labour law, the Commission of European Communities published the Green Paper “Modernising Labour Law to Meet the Challenges of the 21st Century”,² which states that:

The modernization of labour law constitutes a key element for the success of the adaptability of workers and enterprises. This objective needs to be pursued in the light of the Community’s objectives of full employment, labour productivity and social cohesion.

¹ European Commission. 2007. *Towards Common Principles of Flexicurity: More and Better Jobs Through Flexibility and Security*, (2007) 359 final. Brussels: European Commission.

² European Commission. 2006. *Green Book on Modernising the Labour Law in order to Cope with the Challenges of the 21st Century COM* (2006) 708 final. Brussels: European Commission.

The paper points out that collective agreements should play a major role in regulating the relationship between labour and the social environment, thus not just limiting them to complementing working conditions already defined by law. They serve as an important tool in adjusting legal principles to specific economic situations and dealing with particular circumstances of specific sectors. Developments in social dialogue at national, industry and enterprise level, geared towards introducing new forms of internal flexibility, have also demonstrated how workplace rules can be adapted to changing economic realities. Therefore, today's European society and decision-makers have to pay particular attention to the implementation of an innovative model of collective labour relations, i.e. in order to create an EU system of collective labour relations coordinated on a uniform basis, which—though not being unified—should be based on similar norms and values. On the other hand, individual Member States should also seek not to diverge from this integral European system of collective labour relations. Accordingly, Europe should act as a catalyst to unite different existing systems.

3. National Approach to Labour Law

With regard to this aspect, Lithuania appears to be still following the trends of the last decade, with the idea of individualism in labour relations being obtruded by all mass media. Unfortunately, this idea is getting more and more entrenched in the society. The theory and practice of collective relations are described as “out of style”, outdated and lagging behind social and economic changes of life.³ Changing Economic, social and political might inevitably be used in regulating particular issues related to labour relations, labour and social conditions in specific areas—e.g. in industrial branches and regions. Nowadays, we cannot any longer confine ourselves to the national relations of economic and social life. In the context of recent growth of flexibility of the labour market either at a local or global level, both separate enterprises and national legal systems must—in order to survive under the new conditions of competition—take over global trends in the legal regulation of labour relations, create certain working and business conditions that would ensure the implementation of and the balance between protective and economic functions of labour law, while acknowledging the independence of the parties to labour relations and creating the widest possible opportunity for taking autonomous

³ These neo-liberal ideas are particularly actively propagated by the Free Market Institute: www.lrinka.lt.

decisions on fundamental economic and social issues.⁴ Neo-liberal ideas, which are more and more loudly manifesting in Lithuania, suggest narrowing the ambit of collective agreements and promote leaving to the parties the discretionary power in terms of working hours, wages and other important conditions of work. Obviously, such a position negates the collective nature of labour relations in full and confronts itself with the very nature of labour law, by denying the basic function of this branch of law, i.e., its protective function. Without denying the role of labour laws in safeguarding the rights and interests of the employee, today this function should be understood on a wider scale: labour law is supposed to protect not only the interests of working staff on an individual basis, but assume a wider task of safeguarding all people involved in gainful employment as well as those who are unemployed. This can be done only by increasing the levels of flexibility of the regulation of labour relations, e.g. by reducing the role of regulatory control and increasing that of collective agreements. Yet, it should not be overlooked that legal regulation at a national level, though introducing some restrictions on business, conduct and other freedoms, serves for the implementation of the State's function as that of a public arbiter, i.e., certain restrictions are imposed with the view to securing the public interest. Therefore, it is necessary to support the principal requirement of trade unions to liberalise the area of collective labour relations in Lithuania, i.e., to extend the autonomy of the parties to labour relations and to provide them with wider opportunities of collective actions. This would create conditions for refusing excessively detailed statutory regulation of labour relations and for more flexible regulation of the specifics of labour relations. Collective agreements would be able to react more expeditiously to changes in labour relations and changing interests of employees and employers, as compared to the state's legal instruments. Such a shift in the regulation of labour relations from central control to autonomy of the social partners would considerably contribute to flexibility of labour relations, at the same time ensuring adequate social security of employees.

⁴ Petrylaitė, D. 2007. "Kolektyviniai darbo santykiai amžių sandūroje: uždaviniai ir galimybės [Collective Labour Relations in the Centuries Crossing: Tasks and Possibilities]," *Teisė*, No. 65:112.

4. Economic Crisis and Amendments to the Labour Code

After reforming national labour law by adopting the Labour Code on 22 June 2002, which became effective in 2003,⁵ the Government made an attempt to improve it. Although several articles were amended frequently, as few as two amendments to the Labour Code which are of a broad scope and cover a number of articles, namely, the amendment of 12 May 2005⁶ and the amendment of 13 May 2008,⁷ are worthy of mention. These amendments, which had been drafted by competent scholars, representatives of social partners formed by the Seimas Committee on Social Affairs and Labour, address the issues of improvement of the Labour Code from the inside, focusing on some inconsistencies of the legislator, the legal vacuum revealed by case law, and the harmonization of national law with EU Law. Therefore, the Labour Code actually preserved the original structure and reflected the “demarcation line”⁸ identified at the stage of adoption, thus balancing the interests of social groups. Hence, the regulation of labour relations remained as strict and inflexible as it was until 2002.⁹

The coalition of the right and centre party that came to power in autumn 2008 at the outbreak of the financial crisis faced a poor financial and economic situation. After almost half a decade of rapid growth of the economic and social standard, the deficit of the state budget and of the budget of the social insurance fund began to increase rapidly. The coalition viewed as the main instruments to improve the situation, the general tightening of spending (reduction of the social standard) and the creation of an economic environment favourable for employers. Therefore, the Programme of the Government of the Republic of Lithuania¹⁰ set the goal of taking urgent action to liberalize labour relations. Under the Programme, the Government assumed the commitment to observe the principles of the *flexicurity* (secure flexibility) strategy recently promoted

⁵ Official gazette *Valstybės žinios*, No. 64-2569, 2002.

⁶ Official gazette *Valstybės žinios*, 2005, No. 67-2400.

⁷ Official gazette *Valstybės žinios*, 2008, No. 63-2375.

⁸ Davulis, T. 2008. “Lietuvos darbo teisės modernizavimo perspektyvos,” *Jurisprudencija*, 29.

⁹ See Davulis, T. 2009. “The Fifth Anniversary of the New Lithuanian Labour Code: Time to Change?” in *The Modernization of Labour Law and Industrial Relations in a Comparative Perspective*, ed. Blanpain, R. (Alphen aan den Rijn: Kluwer Law International), 360-364.

¹⁰ Approved by Seimas of the Republic of Lithuania Resolution No. XI-52 of 9 December 2008. Official gazette *Valstybės žinios*, No. 146-5870, 2008.

by the European Commission on the example of Denmark and assist in creating a competitive workforce.

The Programme devoted considerable attention to this issue, but the main goal was given just a brief mention

modernise labour relations regulation and increase flexibility thereof, so that they would be in line with the current economic development needs yet not impair labour conditions. Improvement of labour conditions is a key prerequisite for the reduction of the number of work accidents and vocational diseases.¹¹

It remains unclear how flexibility and improvement of labour conditions, which are rather mutually incompatible, will be linked, but one could already suspect that high-sounding declarations conceal liberalisation plans.

In order to rescue the public finances of the state, the Government soon initiated the adoption of a package of ambivalently viewed amendments to laws cutting public spending and increasing a number of taxes, which were adopted almost overnight. The latter evolved into protests organised by social partners and resulted in the riot of 16 January 2009, which became an extraordinary event in a society which is not inclined towards protesting or holding strikes.¹² The control of public order, though lost only for a short while, was of crucial importance for the original plans of the Government to reform the legislation of the social sphere—the Government shifted from an ambitious one-sided rhetoric to more moderate proposals and dialogue with social partners. The standpoint of the Government in respect of liberal provisions was softened to the same extent as the willingness of political parties in power not to become involved in conflicts with social partners increased. Consequently, two laws amending the Labour Code were adopted over the period of two years and are very different both as regards the circumstances of their adoption, their term of validity, and the number of norms liberalising labour relations.

¹¹ Seimas of the Republic of Lithuania. 2008. *Resolution No. XI-52 on the Programme of the Government of the Republic of Lithuania*. Vilnius: Seimas of the Republic of Lithuania.

¹² Petrylaitė, D. 2010. “The Right to Strike in EU Member States: A Comparative Overview with Particular Reference to Lithuania,” *The International Journal of Comparative Labour Law and Industrial Relations* 26, No. 4:421-434.

5. Amendments to the Labour Code in 2009: Modest Initial Attempts to Liberalise Labour Relations

This amendment was intended as a provisional measure, because it was in force only until 1 January 2011, i.e., for 18 months. Such an unusual tactic reflects an attempt by initiators of the draft to please everybody. On the one hand, the new legal norms pursue the aim of ameliorating the situation of employers under the conditions of the economic crisis; on the other hand, employees are told that these are merely temporary norms which will remain in force until the “end of the crisis”. Therefore, the Government at this stage aims at maintaining social stability by provisional anti-crisis measures, rather than reforming or amending labour law provisions.

A point of departure for the proposals over regulation of labour relations offered by the Government was both the ranking of the country’s economic competitiveness (e.g., *Doing business*) and the criticism of inflexible regulation of labour relations imposing limitations on businesses repeated by Lithuanian employers over years. The latter particularly deteriorated during the period of the economic hardship, when the issues of termination of employment relations, modification of employment contracts, promotion of job creation, and restructuring became topical.

Specific proposals of the Government concerning amendments to the Labour Code aimed to achieve the following goals:

- 1) *reduce the costs of employees’ dismissal for employers*. It is not stability of labour relations, or support measures for preservation of workplaces, but facilitation of termination of such contracts that the Government viewed as likely to promote adaptation of the labour market. Lithuanian labour law traditionally stipulates a sufficiently broad protection of employees in the event of termination of employment contracts on economic grounds. Lacking willpower or political consensus on the issue of liberalisation of termination of employment contracts in individual labour relations, the Government offered to achieve this objective with the help of collective agreements. It was proposed to permit the reduction of the employee safeguards, but only if this is envisaged by the collective agreement. Thus, the collective agreement would be granted the power of regulating the terms of dismissal *in peius*, that is, reducing a strict imperative statutory regulation to the detriment of employees. This proposal was not a particularly drastic one, because it indirectly encouraged collective bargaining. Therefore, for trade unions it ought to have been even acceptable, but it was received with resistance and in the end it was implemented only partially—a collective agreement allows for reduction

by half only as regards the time limit of notification of dismissal, but not the amount of the severance pay;¹³

2) *to provide employers with the possibility of unilaterally modifying employment contracts*. The measures capable of directly reducing work costs could also be found in the area of part-time work. In the case of part-time working time, the accomplished work is remunerated for according to the principle of *pro rata temporis*, hence under the conditions of the economic crisis this saving policy seems to be highly attractive even in respect of the employees of the public sector. Although working time in part-time arrangements is considered to be a contractual provision, the Government of the Republic of Lithuania proposed that the Seimas envisaged the possibility of unilaterally amend the contractual provision on full-time daily working time. Again, it is not possible to speak about complete liberalisation, because the possibilities of amending the terms of employment must be provided for under a collective agreement rather than stipulated unilaterally. Moreover, it is proposed to empower the employer to terminate an employment contract with the employee who does not agree to part-time daily working time if this is necessary to ensure continuation of operation of an enterprise. Many serious doubts were raised over this proposal, especially in respect of its compliance with the provisions of EU Directive 97/81/EC concerning part-time work,¹⁴ which stipulates the principle of part-time work on a voluntary basis. Nonetheless, these proposals were not adopted, although it is these proposals that revealed the lack of dynamism in employment contracts—the mechanism of amendment of the terms of employment (terms of remuneration, work time, work time regime, and so on) is not prepared for structural changes;

3) *to permit conclusion of fixed-term employment contracts with permanent workers*. Liberalisation of conclusion of fixed-term employment contracts is often referred to as an incentive of creation of jobs. It should be noted that Art. No. 109 of the Labour Code strictly regulated this issue by prohibiting conclusions of fixed-term employment contracts with permanent workers at the request of the parties to the contracts. The only exceptions were non-permanent work and special provisions in laws as well as—the element of flexibility—in collective agreements. The Parliament viewed the proposal to abolish all restrictions regarding conclusion of fixed-term employment contracts as an excessively drastic

¹³ Employers were additionally granted the possibility of unilaterally deciding on periodical payment of the employees' severance pay where the severance pay exceeds five monthly wages (Art. No. 142 of the Labour Code).

¹⁴ Official Journal L 14, 20/01/1998, 9.

one. It was rejected also for the reason that the initiators of the proposal had not provided for a mechanism of prevention of abuse of fixed-term employment contracts, which is required by EU Directive 1999/70/EC on fixed-term work.¹⁵

4) *to permit overtime work*. The fate of the proposal to liberalise overtime work was similar, although the goals it pursued were linked more with the overall tendencies of liberalisation of labour relations rather than with the economic crisis. Prohibition of overtime work should help maintain employment or encourage employers to create jobs. In fact, overtime work is unreasonably prohibited in Lithuania (Art. No. 150 and 151 of the Labour Code), which creates preconditions for employers and employees to conceal it. The Government attempted to take account of the intention of employees, taking shape during the period of economic growth, to permit employees to work more hours if they request so. The permission to agree on overtime work under collective agreements existed previously, but the proposal to permit individual agreements was rejected by the Parliament in 2009. Instead, the permitted duration of overtime work was increased from four hours in two days up to four hours per day (par. 1 of Art. No. 152 of the Labour Code).

The 2009 amendments to the Labour Code implemented only a part of the proposals of the Government concerning liberalisation of labour relations. Instead of radical permanent decisions, only minor amendments were made to certain provisions and were expected to remain in force for a very short period. Their effectiveness was also diminished by the fact that responsibility for putting them into practice fell on the parties to a collective agreements. The practice showed that it was naïve to expect that a large number of such collective agreements would be concluded and they would change the way labour law is conceived of.

6. Amendments to the Labour Code in 2010: Outcome of Social Dialogue

The 2009 amendments to the Labour Code were of a provisional nature, hence the issue of liberalisation of labour law did not disappear from the reform agenda. At the end of 2009, a national agreement was signed with social partners, under which the Government, while seeking to secure support for its economic reforms, assumed the commitment not to submit any unilateral proposals to the Parliament until 2011, unless they were approved by the Tripartite Council. In 2010, the Government

¹⁵ Official Journal L 175, 10/07/1999, 43.

presented its proposals to social partners suggesting to negotiate an increase of flexibility in the field of working time and overtime work, promotion of youth employment, conclusion of fixed-term employment contracts, and guarantees to employees in the event of redundancy (notification time limits, severance pay, guarantees to specific categories of employees). The negotiations of 2010 attempted to rectify the failures of 2009. In exchange for the proposed liberalisation measures, the Government proposed to negotiate on a package of “compensation” provisions, that is, consolidation of the position of employees’ representatives in enterprises (including participation in management bodies of enterprises and holding of strikes), improvement of the mechanism of labour disputes, compliance with and control of labour legislation. Employers did not produce any significantly new proposals, because their standpoint was well represented by the Government itself. Trade unions agreed to negotiate and presented their own proposals. In light of the mentioned provision of the national agreement, it should be noted that it is only thanks to active use of the negotiations method that a compromise was reached, namely, to secure approval of a new reform law—the Law Amending and Supplementing the Labour Code of 22 June 2010. Due to the fact that the law is the outcome of the social compromise, some of its provisions are clearly more favourable for employers, and others—for employees as they compensate for the losses of the latter.

6.1 Measures of Liberalisation of Labour Relations

Working time. The most decisive victory of the employer’s interests can be noted in the regulation of working time. It should be pointed out that national labour laws used to regulate working time strictly. The tradition of five working days per week and eight-hour working day was inherited from Soviet labour law. It was very strict in regulating any deviations (work on rest days, overtime work, and so on). Additional restrictions were placed on employers also by the requirements of a minimum uninterrupted rest period stipulated by EU directives.¹⁶ The increased “density” of legal norms made labour organisation complicated as employers had to ensure both an uninterrupted rest period, and the duration of a working day not exceeding 8 hours as well as the duration of a working week not exceeding 40 hours, whereas tailoring of working time

¹⁶ See EU Directive 93/104/EC (Official Journal L 307, 13/12/1993, 18) and Directive 2003/88/EC (Official Journal L 299, 18/11/2003, 9) concerning certain aspects of working time.

to individual needs was limited. The 2010 amendments to the Labour Code introduce flexibility in respect of working time in a rather simple manner—by abolishing restrictions for the introduction of summary recording of working time in enterprises. Having regard to the opinion of representatives of employees, the employer is granted the right to unilaterally introduce summary recordings of working time in the enterprise. Certainly, such a possibility restricts the freedom of employees to plan their time (especially in respect of the employees working in several enterprises, the employees having obligations to their families), but it enables the employer to make rational use of the workforce, plan employment, and adapt to structural or seasonal fluctuations in the market.

Overtime work. Regulation of working time is also associated with another flexibility measure, namely, liberalisation of overtime work. While in 2009 employers failed to obtain permission to individually negotiate on overtime work with employees, the 2010 amendments to the law provided for such a possibility. Nevertheless, this novelty is not as liberal as it is in well-developed Western countries, as the employer is not granted the absolute right to unilaterally assign overtime work. Unless such overtime work is a *force majeure* case, it might be “subject to the request or consent of an employee”. Leaving the issue of the difference between the request of the employee and the consent of the employee open to discussion, it will be necessary to decide in practice whether an *ad hoc* or a long-term consent of the employee is meant here, whether such a consent may be withdrawn, whether it is possible to give consent on one occasion and refuse to work overtime on the subsequent occasion, and so on.

Fixed-term employment contracts. The repeated attempt to liberalise the conclusion of fixed-term employment contracts in the 2010 amendments to the Labour Code was successful only partially. Trade unions offered a stout resistance to the general permission to conclude fixed-term employment contracts, but agreed on the proposal to permit conclusion of such contracts temporarily (until mid 2012) in respect of newly created workplaces.

6.2 “Compensatory Package” for Employees

It should be pointed out that along with easing the burden of employers, the 2010 amendments to the Labour Code also attained certain achievements on part of employees. Among such achievements, mention could be made of some new provisions of the Labour Code obtained “in exchange” for the liberalising provisions. The most important provision is

related to strikes. In Lithuania, regulation of strikes is very stringent.¹⁷ Trade unions were successful in adapting this procedure to suit their own needs by forcing the adoption of the provisions permitting greater freedom in declaring strikes at the sector level. It should be pointed out that sectoral bargaining and collective agreements have been subject to regulation in the Republic of Lithuania since 1994, but until 2010 there were no special norms regulating the organisation of strikes at sector level. Therefore, the decision achieved by trade unions is indeed beneficial for them—the right to take a decision on calling a strike at the sector level is granted to the trade unions of the sector and, as opposed to declaration of strikes in enterprises, voting of neither employees, nor members of a trade union is mandatory under the law. The sole restriction is the requirement that such issues must be discussed by the Tripartite Council of the Republic of Lithuania before the strike. This regulation is a large step forward in ensuring development of social dialogue in Lithuania, because it is due to the complexity of the strike mechanism that collective bargaining continuously fails to shift from the dominant level of enterprises to the sector level.¹⁸

An interesting novelty is provided for also in the regulation of individual employment contracts. For the first time, Lithuanian labour law envisages the suspension of an employment contract in the cases when the employer fails to comply with its obligations in respect of the employees. Where the employer fails to regularly pay wages, violates laws, collective agreements or employment contracts, Lithuanian labour law previously provided just for the right of the employee to initiate termination proceedings. The 2010 supplement to the Labour Code provides for a new possibility, namely the right to unilaterally suspend an employment contract for a period of up to three months, subject to giving a written notice to the employer three days in advance. Interestingly enough, these norms are quite strict with regards to employers. Thus, the employer is required to pay the employee compensation in the amount of the minimum wage for each day. The true essence of this amendment may be completely different, e.g. to enable employees to use this instrument of individual self-defence in place of a collective sanction (namely, a strike). The procedure for calling a strike is rather long and complicated, hence a temptation

¹⁷ Petrylaitė, D. 2010. “The Right to Strike in EU Member States: A Comparative Overview with Particular Reference to Lithuania,” *The International Journal of Comparative Labour Law and Industrial Relations* 26, No. 4:421-434.

¹⁸ Davulis, T. 1999. “Kolektyviniai susitarimai: kolektyvinių darbo santykių reguliavimo problemos [Collective agreements: The Problems of the Regulation Collective Labour Disputes],” *Teisė* 33, No. 1:12-13.

arises to use co-ordinated suspension of an employment contract where the demands raised are of a legal nature.¹⁹

7. Conclusions

The new traditions of social policy decision-making and social dialogue taking shape over several decades since the re-establishment of independence determine, to a great extent, the dynamic possibilities of labour law. The Labour Code, which crowned the labour law reform carried out for over a decade and which entered into force in 2003, is viewed as a point of reference for every new legislative initiative. Therefore, any initiatives concerning amendments of the Labour Code are seen from the perspective of interests of one or another social group (employees or employers) as compared against the provisions of the Labour Code already in force. The measures focusing on liberalisation of labour relations or making them more flexible in respect of Lithuanian employers may be viewed positively taking into account a sufficiently high level of protection of employees in Lithuania inherited from the Soviet labour law, the changing factors of the economic environment, the tendencies of regulation of labour relations in other countries, and the social policy instruments of the European Union. So far, the will potential of political government determines whether the liberalisation measures implemented at the national level may be radical or moderate. The principles of advanced social dialogue are best reflected by application of the method of bargaining and exchanges with a view to ensuring changes in labour relations. The analysis of the situation in Lithuania has shown that it is evaluation of mutual proposals and a search for a compromise through negotiations alone that allow for reaching agreements on changing the current situation, which significantly facilitates passing of laws at the Parliament. The most important task in the future will be the search for measures offered in exchange, and the protection of employees' interests, rather than the identification of the labour law norms presenting an obstacle to employers and therefore requiring liberalisation. The labour law norms which are ineffective and which *de facto* worsen the legal situation of employees, as well as the provisions necessary to meet the present-day challenges of the working environment, namely, the

¹⁹ Lithuania's labour law permits strikes not only requiring conclusion of a collective agreement, but also with regards to violations of labour laws, collective agreements or employment contracts, provided that these violations are of a collective nature (Art. No. 68 of the Labour Code).

sustainability of qualifications and opportunities on the labour market, the possibility to participate in management of an enterprise, the adaptation to technological progress, the protection of private life, and so on, may be viewed as such measures.

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