Centre for European Law and Legal Studies (CELLS)

SCHOOL OF LAW

www.law.leeds.ac.uk/european

UNIVERSITY OF LEEDS

On-line papers

Ulrich Mückenberger

Towards a Post-Viking/Laval Manifesto for Social Europe

Volume 1, 2011-12

CELLS on-line papers are part-funded by the EU Commission's Jean Monnet Programme (via the Jean Monnet ad Personam Chair held by Dagmar Schiek). The support is acknowledged with gratitude.

Towards A Post-Viking/Laval Manifesto for Social Europe

Ulrich Mückenberger

1. The two „Manifestos for Social Europe“

The two manifestos Social Europe were elaborated by eight European labour law scholars and drawn up with the support of the European Trade Union Institute (ETUI- at that time directed by Reiner Hoffmann). They consisted of a ca. fifteen-pages proper manifesto (published in nearly all European languages and signed by some hundred European labour scholars) and a manifesto book (in numerous languages) which gave political-economic-legal background analyses (Bercusson et al. 1996; Mückenberger 2001).

Manifesto 1 (with a view to the IGC resulting in the Amsterdam Treaty) was meant to take a step against the EFTAisation of Europe and to strengthen a tendency which, in T. H. Marshall's words, was based on political, civil, and social European citizenship and tended towards a democratised Social Europe. It coincided with Tony Blair's victory in the UK which made it possible to end the "two-speed European labour law" by converting the social protocol into the social policy chapter and adding the employment chapter to primary law, in 1997. Manifesto 2 tried to go move beyond the Amsterdam Treaty by concretising it, still on the basis of the citizenship approach, through instruments of industrial citizenship (European collective bargaining), gender equality and the quest for legally binding fundamental rights combined with legal tools for their implementation and enforcement. Common to both manifestos was the idea that Europe needed a properly functioning "public sphere" allowing for political, social, and cultural discourse and dispute concerning Europe's future – a discourse carried out in an open, transparent and transnational way.

The vision of Europe which we developed in the Manifestos was a set of political and strategic choices which lead to the main focuses of a new manifesto – however, after the enlargement and re-marketisation of the EU and the anti-social change in ECJ jurisprudence.

2. An initial "founding pact" in Capitalist Society: social justice and productivity[1]

The first insight is that labour law in general – and European labour law in particular – is characterised by a certain tension between "the economic" and "the social" – a tension which is integrated in what Alain Supiot called the "founding pact" (2009). In postwar capitalist societies, the creation of employment has always been accompanied by a historic compromise. On the one hand, trade unions and left parties came to accept that, in both the socialist and the capitalist world, workers should be subjected to a scientific organisation of labour responding exclusively to the imperatives of efficiency, not of justice. On the other hand, big businesses eventually internalised the idea that improving the incomes and economic security of their employees was not only a legitimate goal, but brought increased efficiency in terms of productivity and market openings. This is why the issue of

[1] Some of the initial considerations take up issues raised by Alain Supiot and myself in a contribution in memory of Brian Bercusson: Mückenberger/Supiot 2009.

social justice has mainly been perceived as redistribution and as a sort of compensation of an inevitable alienation in the world of work.

A similar type of founding pact can be discerned on the European level, at least from the mid-1970s onward. Until recently, the distinguishing feature of the EC, compared to other customs unions, was that it did not confine itself to the free movement of goods and capital, but rather set itself the goal of creating a 'social Europe'. The Treaty of Rome stated that the free movement of people would go hand in hand with the "need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonisation while the improvement is being maintained" (art. 117 EEC). Despite the weakness and imperfections of this European social model, the EC remained faithful to the ideals of liberty and social justice of the postwar period, rejected from the outset by the Communist states as well as by the Anglo-Saxon countries and their continental epigones. In some respects, at least till the enlargement phase, this model has proved astonishingly robust.

There were five elements which Brian Bercusson and his co-authors agreed upon when working out the Manifestos for Social Europe – elements meant to be the cornerstones of a new founding pact of Europe: i. Citizenship implies civil, political and social rights and integration. ii. The legal concept of capability combines and orders the status security of the people with their capability to act freely. iii. Collective voicemeans autonomous collective bargaining structures and voluntary collective associations, in particular trade unions. iv. The subsidiarity principle should postulate, rather than policies of non-intervention and de-regulation, solidary vertical as well as horizontal proactive European intervention in favour of the weak. v. Europe provides for an equilibrium of the public and the private spheres as a precondition of Western European legal, social and state culture. The European public sphere underpins the development of "the societal" within the framework of a European civil society, and is not restricted to the link of "the public" to the Nation State.

In political terms, this original pact stems from the fact that Europe, with its sometimes tragic and bloody history, bears a heavy responsibility. Europe should learn from its mistakes and from an awareness of its own diversity, to find the means for making a different voice heard, and the ambition to become a crossroads of civilisations (rather than a bulwark against the "rest of the world"). One of the essential 'values' that have characterised Europe since the Age of Enlightenment has been the faith in the capacity of people to govern themselves, and to be the architects of their own destiny. The EU should remain faithful to this legacy by becoming a democratic arena in which it is possible to debate and choose between the different possible Europes.

3. The erosion of the founding pact

This founding pact has never been fully respected and has been constantly eroded in recent years. This was due partly to the free movement of capital and the resulting globalised competition among the workers of the North and between those of the North and the South. It was equally due to technical progress and its impact on the nature and the organisation of work.

The reasons for the failure of the founding pact were multifold.

i. The accession of the former Communist countries offered a historic opportunity to refound Europe on the basis of solidarity between its peoples, and give fresh impetus to the social model. In practice, the enlargement has simply meant the annexation of the East by the West. Whereas a reunification of Europe would have required the sealing of a new social and political pact, taking account of exist-

ing inequalities between the Member States and aiming to 'equalise upwards', the enlargement undermined the political foundations of an already fragile European social model.

ii. The neoliberal offensive has led to initiatives, facilitated by the European Commission and a number of academics in its environment, which allow investors and firms to escape from the laws of the countries they operated in and to chose others more favourable to them.

iii. The European Commission's promotion of a policy of 'flexicurity' in fact follows the opposite path to what we called the founding pact of social Europe – considering people as 'human capital' who need to ensure their 'employability'.

iv. The European Court has made a turn towards free market fundamentalism. Until recently characterised by sensible prudence in the social sphere, the ECJ has become a spearhead for enforcing downward competition between European workers since the appointment of several judges from ex-Communist countries. It has now set about allowing businesses in those countries to make full use of their 'comparative advantages' in the social sphere, mainly by banning strikes against relocations, exempting firms from the collective agreements of other countries in which they operate, and dismissing the right to national minimum wages and certain standards in working conditions (Viking 2007; Laval 2007; Rüffert 2008; France 2006; Luxembourg 2008).

This jurisprudence entails one capital mistake. The civil "freedoms" contained in European primary law – freedom of movement, of establishment, of services – are regarded as a given, as a "rule" and an absolute starting point for interpretation. The social "rights" newly introduced into primary law – right of association, right to bargain collectively, right to strike – are recognised, however, they are treated as an "exception from the rule" with only relative (relative to the absolute "freedoms") legal force. Social rights have to respect civil freedoms – not the other way round. This is a capital mistake of interpretation because both civil freedoms and social rights enjoy the same legal force as parts of European primary law.[2] They have to be interpreted in a mutually compatible fashion rather than in a "rule – exception" mode,[3] the latter being pre-democratic.

---

[2] This has recently been correctly stated by Advocate General Verica Trstenjak in her opinion delivered on 14 April 2010 in Case C-271/08 European Commission v Federal Republic of Germany. Cf. no. 81: "In the case of a conflict between a fundamental right and a fundamental freedom, both legal positions must be presumed to have equal status. That general equality in status implies, first, that, in the interests of fundamental rights, fundamental freedoms may be restricted. However, second, it implies also that the exercise of fundamental freedoms may justify a restriction on fundamental rights." That Trstenjak, in the *alternative*, takes a restrictive view within the proportionality test (nos. 175 ff.), cannot be discussed here.

[3] In the pre-enlargement jurisprudence, the ECJ seemed to be aware of that. In the Albany sequence, e. g. in the Brentjens' Handelsonderneming BV judgment of the Court of 21 September 1999 (Joined cases C-115/97 to C-117/97), the Court ruled that a collective agreement restricts competition, but, given the co-existence of antitrust provisions and social policy provision in European primary law, is not void because it does not fall within the scope of Art. 85 para. 1 of the EC-Treaty (nr. 62). So the Court recognized the equal primary law force of civil and social rights within the EC Treaty (cf. Bercusson 2009: pp 660 ff.). However, the Brentjens' and the Viking/Laval cases differed in that Brentjens' dealt with a problem of *"demarcation"* between coverage of civil rights and of social rights – whereas Viking/Laval dealt with the problem of *"conflict"* between rights of the two areas. If the Court in the latter case, too, would have chosen the approach of the Brentjens' judgment, it would have been obliged to mutually "weigh" und "reconcile" the two conflicting rights of equal legal force. Instead, however, the Court mistakenly introduced the criticised "rule – exception from the rule" approach between civil freedom and social right. This again has to be regarded and criticised as a breach of the original pact.

v. A further breach of the original contract seems to lie in the ominous „Protocol on the Internal Market and Competition", which was appended to the Lisbon Treaty overnight, so to speak. There, the High Contracting Parties considered "that the internal market as set out in Article 2 of the Treaty on European Union includes a system ensuring that competition is not distorted" and agreed that "to this end, the Union shall, if necessary, take action under the provisions of the Treaties, including under Article 308 of the Treaty on the Functioning of the European Union." It is true that this protocol took up the issue and wording of Article 3 para. 1 (g) EC: "For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein: <…> (g) a system ensuring that competition in the internal market is not distorted." It is equally true that this shift took place under pressure from the French President to eliminate free market and competition from the enumeration of EU objectives. However, whereas Art. 3 para. 1 EC contained all other Community objectives, the protocol isolated the free market objective and did not contain any other one. Actually, this protocol was hailed by Conservatives all over Europe as a legal document avoiding a plurality of objectives of the European Union by giving priority, over all other objectives, to that of achieving the internal market and protecting competition against any distortion. Here, too, the assumption was to declare the free market as a given "rule" and any other community objective as the "exception from the rule" which has to be narrowly interpreted and properly justified.

This assumption is based on the same capital legal mistake as observed in the Viking/Laval-decisions of the ECJ. A protocol to a Treaty, though of the legal force of primary law (Riley 2007), cannot, with legal force, set aside other norms of primary law expressing different policy objectives. The right to strike and the provisions of the Charter of Fundamental Rights, recognised throughout the Community, cannot be set aside and outlawed as "distortions of competition" by a protocol. They form equal parts of a unitary Treaty structure and have the same legal force as other freedoms and rights. This is why the competition protocol (as interpreted by its Conservative apologists) contains a legal error – but, again, the effort to prioritise free market over other primary law objectives has to be regarded and critisised as a breach of the original contract.

4. Outlines of a forthcoming Manifesto

Against the background of the multifold rupture of the original contract, the new manifesto has to reconsider the renewal of Social Europe. In my view this implies four steps. First, the democratisation process of Europe has to be promoted (see a. below) (against the German Constitutional Court). Second, "the social" has to be freed from the nature of an "appendix" to the economic, instead it has to be recognised as an integrative essential of "the political" and "the economic" (see b. below). Therefore, third, the European polity has to be construed from its humane constituency (see c. below). And, fourth, Europe has to be understood not in a "fenced-in" but rather in a cosmopolitan manner (see d below.).

a. Democratisation beyond the Nation-State: voice/entitlement nexus

Globalisation in general and Europeanisation in particular are challenging the democratic foundation which was hitherto focused on the nation-state. The implication of the traditional models of democracy is a nexus between voice (participation, representation) and entitlement (rights, duties, protection etc.) – viewed schematically for three groups of "centres": political (e. g. state, community), economic (e. g. work place, company) and socio-cultural (e. g. family, household, neighbourhood) (cf. Mückenberger 2008a and b). For a democratic reinvention of Europe, however, it is increasingly necessary to call this nexus into question. . The power of the national state is shifting and thereby bene-

fitting supranational agencies – and this implies a partial loss of sovereignty. And it is shifting to sub-national actors and agencies, resulting in – if not a loss of sovereignty – at least a decrease in central regulating powers (and law enforcement powers). In some instances the economic activities reach beyond the territory of state law and therefore escape its monopoly of power. In some cases, globalisation leads to competition among legal systems. Decentration of economy, occupation and work systematically weakens the state's regulatory powers over the economic actors. Self-regulating power, a fundamental prerequisite for the autonomy of the social partners, has lost many of its "centres": centralized companies and company-based industries as agents in charge of negotiations with respect to their employees and unions are increasingly being replaced by individual "regime hopping" of corporations or through individual negotiation results within the company – both of which are incompatible with traditional governance. This draws attention to the necessity of investigating the possibility and the implementation of universal basal rights and guarantees.

This leads to the conclusion that the creation of a social Europe requires a democratised Europe. Up to now, Europe is a «limited democracy» within which questions of wealth distribution are removed from the political discussion, to be governed by the 'spontaneous order' of the market. A return to "the political" is a precondition for posing the necessary question of how to oppose mass pauperisation. European democracy must cease to be an empty phrase. For example, rather than the European Parliament being elected on the basis of national constituencies, voting for MEPs should take place on a truly European scale. Party lists of candidates from all Member States should be pitted against one another, with each putting forward a project for Europe that would transcend national borders. Similar proposals have been made with a view to direct election of the President of the European Commission. It could be in this way that a new nexus between voice and entitlement could be established – re-inventing democracy on a European level.

Excursus: German Federal Constitutional Court: Too Much Democratisation of Europe A Breach of the German Constitution?

So far, whenever the democratic deficit of the European Union has been asserted, measures have been considered to bring about steps towards its elimination: a real Europeanisation of the mode of election of the European Parliament, direct election of the President of the Commission, etc. This is not the case with the Lisbon verdict issued by the German Federal Constitutional Court (Bundesverfassungsgericht - BVerfG) on 30 June 2009.4 The court did not reject the Lisbon Treaty. However, it made strict reservations concerning a further democratisation of Europe: If the Treaty of Lisbon had effectively eliminated the EU's democratic deficit, the court would have had to establish its unconstitutionality. It is the world turned upside down: how can it be that the democratic deficit – viewed with respect to the constitutionality of the Lisbon Treaty – does not constitute a weakness, but is in fact one of the EU's strong points?

The paradox results from the starting point assumed by the court. As 'an association of sovereign national states (Staatenverbund)', the EU is not a state by itself – it derives its sovereign authority exclusively from the legislative power of its Member States. Its powers depend on the sum of limited single conferrals of power through the Member States. Its law does not gain supranational scope because of the authority of its legislative bodies (Council, European Parliament), but because of the

4 Bundesverfassungsgericht, Az. 2 BvE 2/08, 2 BvE 5/08, 2 BvR 1010, 1022 and 1259/08, 2 BvR 182/09 -, Urteil vom 30. Juni 2009; English press release No 72/2009 of 30 June 2009 – in the following, verbatim citations are taken from the official English press release.

sum of acts of 'conferral exercised in a restricted and controlled manner by the Member States', by which EU legal measures gain legally binding effect. That is why the exclusive authority to evaluate whether or not ('ultra vires') the course of action adopted by the EU remains within the boundaries of the limited single conferrals of power granted by Germany and the other Member States – and to establish its constitutionality or unconstitutionality and possibly to suspend it in Germany – continues to lie exclusively with the BVerfG.

A democratic EU would not fit the court's concept. The Member States have to be democratic. They have to make sure that the EU is (and remains) compatible with their, the Member States', democratic nature. To the court, Europe does not have to be – in fact: must not be – more democratic than this. If the EU had been constituted as a democratic entity by a European sovereign, the EU would no longer be a union of states but a federal state with independent and underived authority ('competence-competence'). For this, however, constitutive action by the European sovereign peoples would be required. If the European actors were to make an effort to fully democratise the EU by making changes, they would position themselves outside of the scope of constitutional validity. The BVerfG would declare the ratification of such a treaty unconstitutional and might order the Federal Republic of Germany to leave the EU should it undergo such a change.

That way, the EU's weakness of not being democratic mutates into a strength. If the insistence on the continuity of the democratic deficit by the highest German court becomes a common perspective, the belief in a Europe constituting an area that is beyond the national concept of democracy is going to vanish. Why should the citizens of the Union cast their votes in elections for the European Parliament if they are confronted with the fact that the European citizenship is not a real citizenship status and the European Parliament is no real parliament?

Many people, including many politicians as well as economic, social and cultural associations, are in favour of overcoming the European democratic deficit – instead of its perpetuation. The BVerfG's Lisbon verdict states that such efforts and such a perspective are, in fact, misguided – an erroneous projection of a federalist concept onto Europe. Is this a constructive contribution to the debate regarding the European polity – and to the fight against the emerging indifference when it comes to Europe?

The very fact that the court reduces the democratic requirement to the equal electoral right of each citizen shows decisionistic features. Direct involvement of the citizens of the Union as well as their parliamentary representation becomes something that is 'added' to the national vote – an accessory that one could basically do without. Instead, the assumption has to be that there is a variety of democratic rights and practices of which the equal electoral vote of each citizen is a highly important part, but not the exclusive one. The court remains trapped in the concept of a 'Westphalian state' – i.e. a concept of states with only a single level of sovereignty and, hence, only a national requirement (and admissibility) of democracy. In this age of political multi-level systems such as Europe and new hybrid constellations in politics, economy and civil society, it is no longer possible to operate on the basis of a uniform understanding of nation-state sovereignty and democracy without disregarding reality. Today we cannot say that either Germany or Europe is the sovereign to whom democratic demands have to be addressed. Within multi-level systems, we have to learn how to deal with shared and cooperatively executed sovereignties as well as with the regulated cooperation of public and private exertion of power. It is no longer an option to turn back to the Westphalian understanding of sovereignty and democracy represented by the nation state.

b. The Social: not Epitheton but Essential Ingredient of Europe

On the basis of a democratized political Europe the issue of "Social Europe" can be addressed anew. Up to now, Social Europe has often meant something like an appendix. Europe is essentially a free-market order – to which certain social buffers have to be added to make it more acceptable to the people. This appendix can be or not be, can be improved or removed – but it always remains an appendix. Here we identify again the secret hierarchical order given by the ECJ to civil freedoms vs. social rights ("rule – exceptions from the rule"). Historically, this appendix theory may have to do with the origin of the European Economic Community as a free market, with the neofunctionalist hopes for a social spill-over; it may also have to do with a new emphasis on "the economic" after the EC enlargement.

Nevertheless, this understanding of the social as an epitheton has always been wrong and nowadays shows more weakness than ever before. Wealth and social cohesion have always had their sources in human activity and cooperation. Neoliberalism has caused two fundamental errors which are both responsible for the appendix-theory of the social. Markets are not – as neoliberal deregulators and market radicals would have us believe – autonomous and self-organising but an artificial product of political, legal, and social invention and intervention. And, therefore, "the economic" is not an independent dominant variable but rather an artefact of interdependently cooperating ingredients. These observations are incompatible with an externalized and de-valued view of "the social as an appendix" theory.

This is all the more true in our current state of affairs – in and after the financial crisis. High-wage and high-productivity economies like most of the European ones heavily depend on labour, cooperation, and innovation (which all forms part of "the social"). The recovery after the financial crisis seems to be due to and increase in high-quality commodity exports– which again underlines the importance of the humane in the economy.5

Only an integrated view on wealth production which recognises the social as a necessary lever and link of wealth is able to grasp this crucial character of "the social" and "social regulation". This is why we should not speak about a Europe to which a "social Europe" may or may not be appended. On the contrary, for her proper and sustainable existence, Europe has to be socially embedded – which implies a European polity construed from the humane, not an allegedly prioritarian "economic" or "market".

c. European Polity Construed from the Humane

With the described recent developments in mind, it is necessary to construct Europe from the humane. A new manifesto for Social Europe which takes this as a starting point implies a double perspective and a double opposition against current developments. From a personal point of view, it has to encourage and strengthen human dignity, capabilities and creativity and to defend them against fashionable concepts of "flexicurity". From a collective point of view, it has to strengthen the voice and self-regulation of working people – be it in a plant or in an enterprise, on the territorial level, or in the field of freedom of association, collective bargaining and strike – and to defend them against tendencies towards market supremacy, deregulation and privatization which are now hegemonic in the EU policies.

---

5 The expression „the humane in the economy" seems to be more accurate than the expression "human capital" which from the outset commodifies human capabilities. Nevertheless, the increasing interest of business studies in human capital also hints at the origin of wealth in social relations.

As a starting point, the construction of a European polity from the humane primarily refers to "work", not "labour". Labour is the commodified form of human productivity whereas work equally includes those human activities which do not go through the formal labour market and are therefore not gainful. Care for children or the elderly, but also the informal sector (particularly outside the OECD, cf. Teklè 2010) form essential parts of social well-being and cohesion, yet are not commodified (cf. Standing 2009). One of the short-comings of the labour society is to neglect this type of work. Construing Europe from the humane cannot ignore work which is societally necessary, but not recognised as labour. It would have to allow for statutes of working people which involve areas of paid and unpaid work and which ensure adequate recognition and remuneration (Supiot 2001).

Within the areas of work, the humane approach involves democratization at work, equal opportunities for both sexes, a time allocation which makes work-life-balance and sustainability feasible, and protection against social exclusion (cf. Mückenberger 2002). However, the protection and encouragement of human dignity is not limited to labour law (hence "labour"). It also covers areas of work which is not labour.

This involves a mainstreaming gender orientation. The labour society often takes the male breadwinner as the point of reference for regulation. This is why the standard employment relationship systematically excludes or discriminates against female work – in the developed and, still more so, in the less developed worlds. A new manifesto therefore would have to clearly establish where labour regulations discriminate against "work" and therefore have to be changed.

This humane approach is opposed to the European Commission's promotion of a policy of 'flexicurity'. Despite the charming title, flexicurity in fact follows the opposite path to what I have called a European polity construed from the humane. The practical consequence of flexicurity is that people are regarded as 'human capital', who need to ensure their 'employability' rather than their human dignity and creativeness.

From a collective point of view, the construction of a new European polity as envisaged by the manifesto would take "voice" as a basis for concepts and regulations. This will involve participation and self-regulation at all levels where work is being done. Given the interdependent and collaborative nature of work, participation will in most cases take the shape of a collective – direct or indirect - inclusion of stakeholders in decision-making. After the Viking/Laval earthquake the argument has to be put forward that, on the level of EU primary law, freedoms may not be allowed primacy over social rights, but that the latter are of equal status and even require predominance if "the economic" is understood in the embedded way (above c.). This has to be made precise and concrete in the areas of plant, enterprise, territory, sector where work is done. It was mentioned already that "voice" is equally the linkage between political participation and social rights and can, therefore, not be limited to the sphere of labour.

It goes without saying that this approach to a collective voice opposes many of the recent trends in Europe. Most obviously it criticises the subordination of social rights under economic freedoms as observed in the ECJ jurisprudence. But it would equally go against tendencies of the European Commission which in its recent governance approaches cares more about the "acceptance" than about the "transparency" of their politics.

d. Europe Embedded in Cosmopolitan Solidarity

Globalisation nowadays is oscillating between the utopia of a world which completely opens its borders for the free circulation of commodities and capital and the establishment of a "Fortress Europe" with barricades and "gated communities". We have to find a way out of this deadlock. Europe

should, simultaneously, protect and open itself. With a view to the non-OECD worlds it should play the role of a motor for re-thinking the relationships between the worlds in the light of the objective of international social justice as proclaimed by the Declaration of Philadelphia at the end of the Second World War. This cannot end with the mere proposition of universal social standards or human rights (a proposition which frequently has, even if unintended, protectionist implications). This proposition has to be accompanied by actions and measures encouraging the capabilities to implement and enforce universal standards everywhere in the world. This would be a credible cosmopolitan approach to life and work in the 21st century world.

References

Bercusson, B./Deakin, S./Koistinen, P./Kravaritou, Y./Mückenberger, U./Supiot, A.Veneziani, B., 1996: A Manifesto for Social Europe, Brussels: ETUI.

Bercusson, B., 2009: European Labour Law, 2nd ed., Cambridge, CUP.

Mückenberger, U. (ed.), 2001: Manifesto Social Europe, Brussels: ETUI.

Mückenberger, U. (ed.), 2002: Le travail au seuil du 21e siècle : Propositions pour un nouveau régime de travail, Bruxelles: Institut syndical européen.

Mückenberger, U. 2008a: Alternative Mechanisms of Voice Representation, in: B. Bercusson and C. Estlund (eds.): Regulating Labour in the Wake of Globalisation, Londond: Hart Publishing, pp. 227-252.

Mückenberger, U., 2008b: Civilising Globalism: Transnational Norm-Building Networks — A Research Programme, Hamburg: GIGA Working Paper, No. 90.

Mückenberger, U./Supiot, A. 2009: Europe – A Still Unfulfilled Promise. In Memory of Brian Bercusson, in: Zeitschrift für ausländisches und internationales Arbeits- und Sozialrecht, vol. 23 (p 2), pp. 171-181.

Riley, A., 2007: The EU Reform Treaty & the Competition Protocol: Undermining EC Competition Law CEPS Policy Brief no. 142 – September 2007.

Standing, G. 2009: Work after Globalisation. Building Occupational Citizenship, London: E. Elgar.

Supiot, A. 1999/2001: (French) Au delà de l'emploi. Transformations du travail et devenir du droit du travail en Europe, Paris: Flammarion 1999; (English) Beyond employment. Changes in work and the future of labour law in Europe, Oxford: OUP 2001.

Supiot, A., 2009: Possible Europe, interview with M.-O. Padis, in: New Left Review 57 (May-June 2009), pp 57-65.

Teklè, T. (ed.), 2010: Labour Law and Worker Protection in Developing Countries, Oxford et al.: Hart; Geneva: ILO.