



Newsletter No.7

September 1999

Technical Seminar on the Changing Workplace — November 1999, Spain

This Newsletter is primarily concerned with details of the Association's forthcoming technical seminar, organised by our Spanish colleagues, on "The Changing Workplace: New Forms of Employment and of Organising Work". The seminar, participation in which is limited to sixty places, will take place at the Hotel Gran Duque, Tenerife, between 11-14 November 1999, and will be followed by the annual general meeting of the Executive of the Association.

The full programme for the seminar is set out in the following pages, together with the Questionnaire which has been circulated to the national delegates for completion prior to the meeting. As with previous technical seminars organised by and for the Association, the general reports and conclusions emerging from the seminar will be prepared for publication — on this occasion in both English and Spanish language versions.

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Edited by Alan C. Neal

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Preparations for May 2000 Technical Seminar in Trier and Luxembourg

Work has also been progressing on next year's technical seminar of the Association, which is to take place in Trier, Germany, between 17-20 May 2000. This meeting is being hosted jointly by the Association and the Academy of European Law, Trier, and has been organised with the generous support of the European Court of Justice in Luxembourg.

This meeting will mark an important departure from the Association's practice to date of organising specialist events for a limited number of delegates. In this way, it is hoped that, by extending an invitation to all labour court judges throughout Europe to participate in the event, an opportunity can be created to promote the work and activities of the Association more widely amongst our practising colleagues.

1999 Technical Seminar – “The Changing Workplace: New Forms of Employment and of Organising Work”

Programme

THURSDAY 11 NOVEMBER

- 18.30 **Inauguration of the Seminar**
- The President of the Government of the Canary Islands
- The President of the Tenerife Council
- The Major of Adeje
- The President of the EALCJ
- The President of the Adecco Foundation
- 19:15 **Opening Session:
New forms of work contract**
- Philippe Foriel (*Chairman of Adecco*)
- Professor Miguel Rodriguez-Piñero y Bravo-Ferrer (*Member of the Spanish Council of State*)
- 20:45 Dinner by invitation of the Major of Adeje, Mr. José Miguel Rodríguez Fraga

FRIDAY 12 NOVEMBER

- 10:00 **First Technical Session:
Sub-contracting and out-sourcing**
- Introduction:
Professor Jesus Cruz (*Spain*)
- 11.00 Coffee
- 11.30 **Open forum discussion**
- 14.00 Lunch
- 16.00 **Second Technical Session:
Groups of Companies and Subsidiaries**
- Introduction:
Professor Alan C. Neal (*United Kingdom*)
- 16.45-
19.00 **Open forum discussion**
- 21:00 Dinner at the Oliver Club in Santa Cruz de Tenerife, hosted by The Tenerife Council (*Cabildo de Tenerife*).

SATURDAY 13 NOVEMBER

- 10:00 **Third Technical Session
Employment Agencies**
- Introduction:
Professor Rodriguez-Piñero Royo (*Spain*)
- 10.45 Coffee
- 11.15 **Open forum discussion**
- 13.15 Address by Rosendo Gonzales Borrego (*Director of Employment and Industrial Relations and Social Affairs, European Commission*)
- 14.00 **Formal Close of the Seminar**
- President of the Spanish National Court
- President of the EALCJ
- President of the Adecco Foundation
- Secretary General of the EALCJ

NOTICE

Following the end of the technical seminar on Saturday 13 November 1999, the Annual General Meeting of the Executive Committee of the European Association of Labour Court Judges will be held in the Hotel Gran Duque, Tenerife.

The final Agenda for this meeting will be circulated to Executive Committee members in advance. Would any member of the Executive Committee who wishes to raise an item during the course of the Annual General Meeting please notify the Convenor, Professor Neal, or the Secretary-General, Mr. Sara, not later than noon on Friday 12 November 1999.

1999 Technical Seminar: Preparatory Questionnaire

A. SUB-CONTRACTING AND "OUTSOURCING"

1. In your national law, do you have rules concerning entering into contracts, sub-contracts and "outsourcing" by businesses?

Indicate the nature, scope and categories of such rules with a brief reference to the relevant legislation.

2. Are there rules governing the employment relationships of employees of businesses who are directly contracted or are sub-contracted, as to responsibilities for wages, termination of contract, health and safety, or social security?
3. Do they establish responsibility (whether direct, shared, or by way of indemnity) of the principal business or of their clients, as regards the obligations of the business in direct contractual relationship with the workers, towards such workers?
4. Is it necessary, in particular, for there to be any similarity between the activities of the principal business and of their contractors or sub-contractors for the above-mentioned responsibilities to exist?

5. To give a practical example, show how you would, in your judicial system, resolve the following case:

A company is the developer of a building and contracts-out (a) the actual construction of the building, and (b) the security of the premises and of the building under construction. Is the first above-mentioned business responsible for the wages, the health and safety, and the social security of the employees of the two contracting businesses?

B. SUBSIDIARIES OF COMPANIES

1. In your national law, do you have rules concerning the creation of subsidiary companies and businesses and similar phenomena such as the hiving-off and division of businesses into separate business units, creation of franchises or the creation of groups of companies with a principal or mother company and other separate subsidiaries?

Indicate the nature, range and categories with a brief reference to the relevant legislation.

2. In your system, do you regulate any aspect of the employment relationships of the employees of the businesses involved in the above-mentioned phenomena in respects such as wages, termination of contract, health and safety, or social security?

3. Are there any special guarantees of stability and solvency for the workers affected by the above-mentioned phenomena?

4. In relation the above-mentioned phenomena, do you apply rules on the subrogation, transfer of undertakings, or indemnity of such businesses, in particular under European Community law?

5. Is there any responsibility, either direct, shared, or by way of indemnity, of all or any of the companies involved, in respect of the obligation to pay wages and the social security obligation both previous and subsequent to the business being split or a subsidiary being created or in any of the other above cases?

C. TEMPORARY WORK AGENCIES

1. Are there rules in your national law concerning "temporary work agencies" ("TWA"s)?

Indicate the nature, range and categories, with a brief reference to the relevant legislation, with special reference to whether the same conditions would be applied as to private employment agencies.

2. Indicate the necessary requirements for establishing a TWA in your legal system (capital requirements, guarantee requirements, administrative authorisation, *etc.*).

3. State the circumstances in which a company can use the services of a TWA by entering into agreement with it for the temporary supply of staff.

Is there a general freedom to do this or is there an open or closed list of permitted or prohibited circumstances for doing this?

4. Provide a quick overview of the system of employment relationships as they affect TWAs; the type of contract of the worker who is posted or supplied to another business; the remuneration to which he is entitled – in particular, whether this is on an equal footing with the workforce of the user undertaking with regard to health and safety, training, and trade union action, *etc.*

5. Is there any responsibility placed upon the user undertaking in relation to wage obligations, termination of contract, health and safety protection, or social security for workers supplied by a TWA?

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Immediate Past-President (1999-2000) Judge Alfonso Martinez Escribano (*Spain*)

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EALCJ Web Site

Information about the constitution, activities, and publications of the EALCJ can be obtained from the EALCJ Web Site. This includes all of the Newsletters of the Association, which may be downloaded in PDF format. The EALCJ site is accessible at:

<http://ic.law-web.co.uk/Neighbours/EALCJ.html>

The EALCJ Newsletter is the official organ of the European Association of Labour Court Judges, which is a Company limited by guarantee in the United Kingdom. The Newsletter aims to provide current news and information about the activities of the Association and its members. Contributors to the Newsletter express their personal views, and should not be taken necessarily to represent the official positions adopted by the Courts or Tribunals in which they sit, or the views held or expressed by the governments or any government agency of the Member States or legal systems in which they act.

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