

**EALCJ**

*The European  
Association  
of  
Labour Court  
Judges*

**Newsletter**

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**The Fourteenth Annual Conference of the European Association**

will be held at the Corte Suprema di Cassazione and Ripetta Residence  
([www.ripetta.it](http://www.ripetta.it)) Rome

**on Friday and Saturday, the 11 & 12 June 2010**

The subject of the conference will be:

“Protecting Marginal Workers – identifying who is a worker with particular reference to the scope of the Part Time Workers, Fixed Term Workers and Agency Workers Directive.”

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The Congress will be held in the historic buildings of Italy's Supreme Court, the Corte di Cassazione in Piazza Cavour, Rome. The Hotel will be the Residenza di Ripetta close to the Piazza del Popolo in the heart of Rome.



The various European Directives are intended to protect all workers working within the EU, but the precise definition of “worker” and “employment” is left to the national courts. There is no problem for the large majority of workers - they are protected - but there is a significant minority of people who are undoubtedly working in the EU, but are not protected.

The three Directives, of which the new Agency Directive has not yet

been fully implemented, aim to extend protection to further groups. But there are many employers who are keen to prevent their workers obtaining protection and there are many workers who do not want to accept the level of subservience required of an employee.

The object of the Congress is to assess the level of protection afforded by the various national laws and to see whether further action is required to address the shortcomings in implementation and enforcement of the three Directives, and the level of protection of workers who are economically dependent on a specific enterprise, but are not employed by that enterprise. This includes agency workers, employed by an employment agency, but also independent contractors and employees of sub-contractors. We will also look at the black economy and how this impacts on labour law.

We believe that this will be a rewarding and enjoyable Congress.

## Liverpool Congress – 26<sup>th</sup> and 27<sup>th</sup> June 2009.

Sitting in the elegant Cunard Building where first class passengers partied



the night away before leaving for America on the great Cunard liners, we faced up to the real conflicts between protecting the established rights of local workers and enabling migrant workers to work where they wish.

Coincidentally at the very time that the Congress was taking place, there were several high-profile industrial conflicts in the UK directly concerning this issue and Dr Brian Doyle led us expertly and elegantly through the social and legal issues arising where the right of collective bargaining conflicts with the free movement of workers. Charlotte O'Brien and Samantha Currie, both from the University of Liverpool then led a panel discussion on the effect of the recession on protectionism and mobility of labour. We heard, from direct experience, about the plight of migrant workers, the restrictions they face and their difficulties in enforcing their rights.

We moved from there to the restrictions on the freedom of collective action imposed by the European Court of Justice to protect

foreign workers, in the cases of *Laval*, *Viking* and *Rüffert*, relating to Sweden, Finland and Germany. There was then a passionate debate about the legitimacy of registration requirements made by individual member states for posted workers – *Commission v Luxembourg*.

The final technical session centred on the problems created by immigration controls and the problems of illegal immigrants and the “black economy”. The Final Report is still in preparation, but we know that this is an issue which is here to stay and which will challenge national courts as well as the ECJ.

Between the sessions we found time to sample the delights of Liverpool, including a traditional English dinner at the Athenaeum Club, which pre-dates the Club of the same name in London, is still owned by its members and is a fascinating time warp, together with tours on Saturday of the Beatles trail, the ferry across the Mersey and historic Liverpool.

### European Employment Law Cases

Gerrard Boot from the Netherlands distributed a complimentary copy of the first EELC reports ([www.eelc-online.com](http://www.eelc-online.com)) which provide an enlightening overview of employment cases throughout the EU, from national courts as well as the ECJ, reminding us that problems which we see addressed in our national courts are being faced elsewhere as well.

This publication, with a distinguished editorial team, promises to be an invaluable addition to European sources and we wish them well.

**Annual General Meeting,  
Cunard Building, Liverpool,  
Saturday 27<sup>th</sup> June 2009**

The AGM of the Association took place during the Annual Congress at the Cunard Building, Liverpool. Judge Helmut Zimmerman, President of the District Labour Court of Stuttgart, Germany, was elected as our President for 2010.

- President Helmut Zimmerman
- Secretary-general Colin Sara
- Convenor Prof Alan Neal
- Treasurer Michael Homfray-Davies

**National Representatives**

Austria	Judge Marleis Glawischnig
Belgium	Alain Simon
Czech Republic	Judge Zedenek Novotny
Denmark	Judges Per Soerrensen/Boerge Dahl
Estonia	Judge Mare Merimaa
Finland	Judge Pekka Orasmaa
France	Judge Michel Blatman
Germany	Judge Helmut Zimmerman
Hungary	Judge Hando Tunde
Ireland (EAT)	Kate O'Mahony
Ireland (Labour Court)	Kevin Duffy
Iceland	Judge Eggert Oskarrson
Italy	Judge Giovanni Mammone
Lithuania	Judge Diana Labokeite
Luxembourg	Judge Tom Moes
Malta	Judge Abigail Lofaro
Netherlands	Gerrard Boot
Norway	Judge Tor Mehl
Slovenia	Judge Janez Novak
United Kingdom	Judge John van Gelder

**Access to Justice**

In November 2009 Michael Homfray-Davies represented the EALCJ at a Conference sponsored by the Fundamental Rights Agency of the European Commission on Access to Justice. He was the only member of the judiciary present and he acted as rapporteur of one of the sessions.

It is a matter of concern to all judges that aggrieved parties should be able to take their cases before the court. Ignorance, fear, cost and lack of representation can all stand in their way.

The FRA are very interested in this issue and we are anxious to contribute to this debate. We are hopeful that this may be the subject of our 2011 Congress.

**Website**

Our Website [www.ealcj.org](http://www.ealcj.org) has been updated. It contains full information on our publications and Congresses and also a summary of the Labour Courts of most of the countries of the EU and EEA.

We regard this as a valuable resource which could and should be further developed. In particular there is an opportunity to set up a Europe-wide inter-active forum for discussion and information.

