

Table of Contents

The Author	3
List of Abbreviations	23
General Introduction	25
Chapter 1. The General Background	25
§1. GEOGRAPHY	25
§2. POPULATION	25
§3. POLITICAL SYSTEM	28
§4. EMPLOYMENT STATISTICS	34
§5. SOCIAL AND CULTURAL VALUES	39
§6. GLOBALIZATION AND THE ECONOMY: THE IMPACT OF THE CRISIS	40
I. Unofficial Strikes: 2007–2008	40
II. The Crisis (2008–2009)	41
A. Restructuring	41
B. Action by Government and Social Partners	42
C. Crisis Premium for Blue-collar Workers	42
III. The After Crisis (2010–)	43
A. In General	43
B. A Failed Intersectoral Agreement; the 2011 Act	43
C. The Reforms: the Governmental Agreement of 1 December 2011	45
1. Pension Reforms	45
a. Pre-pension	45
b. Early retirement	46
c. Earning income after retirement	46
d. Adaptation of the second and third pension pillars	46
2. Reforms of the Unemployment Benefit System	46
3. Radical Reform of Career Breaks and Leave Rules	47
	5

Table of Contents

4. Parental Leave	47
5. Individual Career Account	48
6. Fight against Social Fraud	48
D. Strikes against the Austerity Measures	48
E. The Crisis Goes on	48
F. Harmonization: Blue- and White-collar Workers	50
Chapter 2. Definitions and Notions	52
§1. SOCIAL SECURITY LAW	52
§2. LABOUR LAW	52
I. Individual Labour Law	54
A. Act of 27 December 2006	54
1. Neutral Criteria	55
2. General Criteria	55
a. The will of the parties	56
b. The freedom of the parties to organize the job	56
c. Hierarchical control	56
d. Specific criteria	57
e. Concourse of criteria and consequences	57
f. The administrative committee for the regulation of the employment relation	57
g. Entry into force	58
II. Collective Labour Law	58
III. Legal Nature	58
§3. CATEGORIES OF EMPLOYEES	59
§4. LEADING PERSONNEL – SUPERVISORS – ‘CADRES’	61
Chapter 3. The Role of the Government: Autonomy versus Intervention	63
§1. THE AUTONOMY OF THE SOCIAL PARTNERS	63
§2. GOVERNMENT INSTITUTIONS	63
I. Organization Chart	64
II. Social Inspection	64
III. Other Institutions	65
Chapter 4. Sources of Labour Law	67
§1. INTERNATIONAL AND EUROPEAN SOURCES	67
I. The International Labour Organization	67

Table of Contents

II. European Organizations	67
A. The Council of Europe	67
1. Rights Guaranteed by the Charter	67
a. Employment	67
b. Legal and social protection	68
c. Movement of persons	68
d. Non-discrimination	68
2. European Committee of Social Rights	69
3. A Monitoring Procedure Based on National Reports	69
4. A Collective Complaints Procedure	69
B. The European Union	69
1. The Reform Treaty (2007)	71
§2. NATIONAL SOURCES	74
I. Legislation	74
II. Labour Courts	76
III. Collective Bargaining Agreements and Rules of Work	78
§3. THE HIERARCHY OF THE SOURCES OF LABOUR LAW	81
Chapter 5. The Language Used in the Enterprise	83
§1. BACKGROUND AND ANTECEDENTS	83
§2. THE 1963 ACT	83
§3. THE DECREES OF 1973, 1978 AND 1982	84
§4. LANGUAGE AND FREE MOVEMENT OF WORKERS	86
I. The Opinion of the Advocate General	86
II. The Judgment of the European Court	87
III. Evaluation of the Judgment: Difficulties for all Member States	88
Chapter 6. Equality of Treatment of Men and Women	90
§1. THE PRINCIPLE OF 'EQUAL TREATMENT'	90
§2. EMPLOYMENT RELATIONS	90
§3. AFFIRMATIVE ACTION AND ENFORCEMENT AND REMEDIES	91
§4. THE PAY GAP	91
§5. THE INSTITUTE OF EQUALITY BETWEEN MEN AND WOMEN	92

Table of Contents

Chapter 7. Combating Certain Forms of Discrimination and Racism and Xenophobia	93
§1. CERTAIN FORMS OF DISCRIMINATION	93
I. Grounds	93
II. Scope of Application	93
III. Age Discrimination	93
IV. Affirmative Action and Enforcement and Remedies	94
§2. COMBATING RACISM AND XENOPHOBIA	94
§3. THE DECREE OF 8 MAY 2002 ON PROPORTIONAL LABOUR MARKET PARTICIPATION: A CAREER AGREEMENT (2012)	94
I. Careers and Competences	95
II. School Leavers without Qualifications	95
III. Older Workers and Active Ageing	95
IV. Job Quality and Training	96
Chapter 8. Equal Treatment during all Phases of the Employment Relation	98
Chapter 9. Employment of Foreign Workers	99
§1. FREEDOM OF MOVEMENT FOR EU-EEA NATIONALS	99
§2. THE REGULATION OF OTHER FOREIGN WORKERS, NON-NATIONALS OF A MEMBER COUNTRY OF THE EU-EEA	99
I. Visa	99
II. Work Permits	100
III. Work Permit A	100
IV. Employment Authorization and Work Permit B	101
V. Renewal of an Employment Authorization or of a Work Permit B	102
Chapter 10. International Private Labour Law: the Application of Belgian Law to Foreign Nationals	103
§1. THE COMPETENT JUDGE	103
§2. THE PROPER LAW OF THE CONTRACT	103
I. Contracts of Employment Made before 1 January 1988	103
II. Contracts of Employment Made after 1 January 1988	104
III. Contracts of Employment Concluded after 18 December 2009 (Rome I)	105
A. Scope	105
B. Freedom of Choice	105
C. Individual Employment Contracts	106

Table of Contents

D. Overriding Mandatory Provisions	106
E. Public Policy of the Forum	106
§3. THE ACT OF 5 MARCH 2002	107
I. Genesis	107
II. European Case Law	108
III. Adequate Protection	109
IV. Starting Points	110
V. Implementation of Directive 96/71	112
A. Definition of a Posted Worker	112
B. Terms and Conditions of Employment Applicable to a Worker Posted in Belgium	113
C. Exemptions	113
D. More Favourable Conditions	114
VI. The Posting Declaration and the Simplified System for Keeping Belgian Social Documents	114
A. Posting up to Six Months	114
B. After a Period of Six Months	115
C. The Posting Declaration	115
D. Equivalent Pay Documents	116
E. When the Posting Ends	116
VII. The LIMOSA Notification	116
Chapter 11. The Social Criminal Code	118
Part I. The Individual Employment Relation	119
Chapter 1. Definitions and Concepts	119
§1. DIFFERENT CATEGORIES OF EMPLOYEE	119
I. Blue-collar and White-collar Workers	119
II. Commercial Travellers	121
III. Temporary Work	122
A. Temporary Workers	122
B. Putting Workers at the Disposal of a User	125
IV. Apprentices	126
V. Start-jobs	126
VI. Professional Sportsmen	128
VII. Homeworkers – Teleworkers	130
A. Generalities	130
1. Telework on the Move	130
2. A Diversified Picture	131
3. Telework and HRM	132
4. Free and Transparent	132
5. Not for All Jobs	132
6. Not for Every Employee	133

Table of Contents

7. Integration	133
8. Clear Arrangements	133
9. Pay	134
10. Insurance: Structural and <i>Ad Hoc</i>	134
B. The Act of 6 December 1996	134
1. Definition	135
2. Form	136
3. Content of the Agreement	136
4. Conditions	136
a. Incapacity to work: guaranteed salary	136
b. Working time	137
C. Collective Agreement No. 85 of 9 November 2005	137
1. Purpose	137
2. Definitions and Scope	137
a. Teleworker	137
b. Place	137
c. Voluntary character	138
3. Nature of the Telework Contract	138
a. No homework	138
b. An employment contract for white collar workers	138
c. White collar	138
4. Form: a Written Agreement	138
a. Timing	138
(1) When hiring	138
(2) In the course of the employment contract	139
b. Content	139
c. Sanction	139
5. Working Conditions	139
a. Equal treatment	139
b. Specific conditions	139
c. Information	139
6. Organization of Telework	140
a. Working time	140
b. Work load and norms of efficiency	140
c. Prevention of isolation	140
d. Equipment	140
(1) Installation by the employer: technical support	140
(2) Costs	140
(3) Diligence and determined use	141
(4) Breakdown	141
7. Protection of Data	141
a. Measures for protection	141
b. Limitations on the use of IT equipment	141
8. Health and Safety	142
a. Policy, information and execution	142
b. Inspection of the work place of the teleworker, his home included	142

Table of Contents

9. Vocational Training and Career Development	142
a. Equal treatment	142
b. Vocational training	142
10. Collective Rights	142
a. Rights of teleworkers	142
b. Rights of employee representatives: information and consultation	142
11. Conclusion	143
D. The Act of 20 July 2006 on Telework	143
VIII. The Local Employment Agency Contract	143
IX. Promotion of Neighbour Services and Jobs	144
§2. THE DIFFERENT KINDS OF INDIVIDUAL LABOUR CONTRACT	145
I. The Individual Labour Contract for an Indefinite Period	146
II. The Individual Labour Contract for a Definite Period, for Precisely Indicated Work or for Replacement	146
III. Part-time Work	147
A. Concept	147
B. Formal Validity	148
C. Minimum Duration	148
D. Priority for Obtaining Employment	149
E. Equal Treatment	149
IV. The Individual Labour Contract for Temporary Work	149
§3. THE TRIAL CLAUSE, THE TRAINING CLAUSE AND WORKING ABROAD	151
I. The Trial Clause	151
II. The Training Clause	152
A. Notion	152
B. Scope of Application	152
C. Form	152
D. Duration of the Clause and Amount	153
E. Effect and Certificates	153
III. Working Abroad	153
§4. REQUIREMENTS NECESSARY TO CONCLUDE A VALID INDIVIDUAL LABOUR CONTRACT	154
I. The Legal Capacity to Conclude an Individual Labour Contract	154
A. Minors	154
B. Married Women	154
II. Consent	155
III. Object and Cause	155
A. In General	155
B. Authors	155
§5. SELECTION AND HIRING	155
I. Employers' Duties	156
A. Tests and Examinations	156

Table of Contents

B. Equal Treatment	156
a. General	157
b. Regarding search channels and search and selection procedures	157
c. Concerning the required qualifications	157
d. Concerning notes	158
e. Regarding the complaints of the job seeker	158
II. Seropositive Employees	158
III. Medical Examinations	158
A. Finality	159
B. Proportionality	159
C. Transparency	159
Chapter 2. Duties of the Parties in the Course of the Employment Relationship	160
§1. DUTIES OF THE EMPLOYEE	161
I. Duty to Work	161
II. Duty to Respect Professional Secrets	161
III. Liability	162
§2. DUTIES OF THE EMPLOYER	162
I. Duty to Employ the Worker	162
II. Provision of Decent Working Conditions	162
A. Temporary or Mobile Construction Sites	163
B. Workers	164
III. Reception of Workers	165
IV. Protection from Violence, Moral Harassment (Bullying) and Sexual Harassment at the Workplace	166
A. The Act of 11 June 2002	166
B. The Acts of 10 January 2007 and 6 February 2007	167
1. Increased Emphasis on Prevention	168
2. Improved Status for the Person of Trust	168
3. Clarification of the Employment Protection Clause	169
V. The Protection of Privacy; Video Surveillance	169
VI. Monitoring of On-line Communications: National Collective Agreement No. 81	172
A. Analysis of National Collective Agreement No. 81	173
1. Scope	173
2. Definition	174
3. Commitments Undertaken	174
4. Rules on the Monitoring of Electronic On-line Communications Data	174
a. General provisions	174
b. Principles	174

Table of Contents

(1) Legitimate purpose principle: objective of monitoring	174
(2) Proportionality	175
(3) Informing employees – transparency	176
c. Information when the monitoring system is being installed	176
(1) Nature of the information	176
(2) Quality of the information	177
(3) Good faith	177
(4) Consultation	177
(5) Individualization of on-line communications data	177
(a) Definition	178
(b) Principles	178
(c) Procedural conditions	179
B. Critical Assessment of National Collective Agreement No. 81	180
1. Validity	180
a. Only in the case of work-related use by employees	180
b. Other users	181
2. A Clear Conception of Privacy	181
3. Individualization: Overlapping Objectives	182
VII. Prevention of Theft and Exit-control of Employees	183
A. Measures Protecting Privacy	183
B. Preliminary Information and Consultation	184
VIII. Smoking at the Workplace	185
IX. Company Alcohol and Drugs Policy	185
X. Provision of a Certificate at the End of the Labour Contract	187
XI. Employment Plan for Older Workers	187
Chapter 3. Working Time and Leave; Sunday Rest; Annual Vacation; Holidays; Educational Leave	189
§1. WORKING TIME	189
I. Sources	189
A. Legislation	189
B. Collective Bargaining	190
II. Definitions	191
A. Working Time	191
1. Extensive	191
2. More Restrictive	191
B. Full-time – Part-time	191
C. Temporary Work	192
D. Leading Function or Confidential Post	192
III. Content of Limitations	193
A. Duration	193
1. Daily	193
a. In general (Labour Act, 1971)	193
b. Exceptions	193

Table of Contents

2. Weekly	194
a. In general	194
b. Exceptions	194
3. Annually	195
4. Compensatory Rest	195
5. Overtime	196
6. More Flexibility: the Act of 2013	196
a. Increase of the internal limit	196
b. Increase of the credit of overtime, which need not be recuperated	197
B. Certain Days – Periods	197
1. Sunday Rest	197
2. Holidays	199
3. Annual Vacation	199
4. Night Work	200
5. Maternity – Parental Leave – Paternity – Breastfeeding Breaks	202
6. Justified Leave of Absence	204
7. Leave for the Execution of a Political Mandate	205
8. Leave for Compelling Reasons	205
9. Time Credit	206
10. Palliative Care	206
C. Certain Persons	207
1. Children	207
2. Young Workers	207
3. Medical Staff and Students	208
D. Part-time	208
E. Shift Work	208
F. Continuous Work	208
IV. Measures Introducing Reorganization of Working Time	209
A. Annualization of Working Time (Social Recovery Act of 22 January 1985)	209
B. The 1987 Act (17 March) on the Introduction of New Working Arrangements	209
C. Collective Bargaining Agreement No. 46 of 23 March 1990 on Shift Work with Night Work	209
§2. PAID EDUCATIONAL LEAVE	211
Chapter 4. Remuneration	212
§1. THE NOTION: REMUNERATION	212
I. In General	212
II. Result-related Bonus	213
III. Corporate Governance, Top Wages and Golden Parachutes	214
A. Remuneration Report	214
B. Remuneration Committee	215

Table of Contents

C. Limits to Remuneration and Golden Parachutes	215
D. Shares and Stock Options	216
§2. FREEDOM OF DISPOSAL: REMUNERATION PAID BY, TO WHOM, WHERE, WHEN AND HOW?	216
§3. DEDUCTIONS, SEIZURE AND TRANSFER	217
§4. WAGE LEVELS	218
§5. MEAL AND ECO VOUCHERS	219
§6. EQUAL PAY	220
Chapter 5. The Suspension of the Execution of the Individual Labour Contract	223
§1. GUARANTEED DAILY WAGE	223
I. Being Late for Work or Not Arriving at Work	223
II. The Impossibility of Starting or Continuing Work	224
§2. SICKNESS AND ACCIDENTS	224
I. Guaranteed Wages	225
A. The First 14 Days	225
B. From the 15th to the 30th Day	225
C. Relapse	226
II. Guaranteed Monthly Wages	226
III. Duty to Inform and Control	226
§3. WORK ACCIDENTS AND OCCUPATIONAL DISEASES	227
§4. PREGNANCY AND MATERNITY; PATERNITY LEAVE; PARENTAL LEAVE; BREASTFEEDING	228
§5. JUSTIFIED LEAVE OF ABSENCE	230
§6. LEAVE OF ABSENCE FOR COMPELLING REASONS	230
§7. ANNUAL VACATION	230
§8. TECHNICAL DISTURBANCE OR ECONOMIC REASONS	231
§9. BAD WEATHER	232
§10. STRIKES	233
§11. AGREEMENT BETWEEN EMPLOYER AND EMPLOYEE	233

Table of Contents

§12. EMPLOYEE-JUDGES IN THE LABOUR COURTS	233
§13. LEAVE FOR THE EXECUTION OF A POLITICAL MANDATE	233
§14. PROVISIONAL DEPRIVATION OF FREEDOM (JAIL)	234
§15. ACT OF GOD	234
§16. PALLIATIVE CARE	234
§17. LEAVE FOR ADOPTION	234
Chapter 6. The Termination of the Individual Labour Contract	236
§1. JOB SECURITY IN GENERAL	236
§2. GENERAL WAYS OF TERMINATING THE INDIVIDUAL LABOUR CONTRACT	239
I. Termination of the Contract by Mutual Consent	239
II. The Dissolving Condition	239
III. Judicial Dissolution of the Contract	240
IV. The Death of One of the Parties	240
V. Act of God (<i>Force Majeure</i>)	240
VI. Failure or Insolvency of the Enterprise	241
§3. TERMINATION THROUGH THE SERVING OF A TERM OF NOTICE	241
I. The Notion: Notice	241
II. Manner of Termination by Means of Notice	241
III. The Term of Notice from 1 January 2014	242
A. Commencement of the Term of Notice	242
B. Length of the Term of Notice	242
IV. Rights and Duties of the Parties during the Term of Notice	245
V. Compensation	245
VI. Transitional Provisions	246
A. White-collar workers	246
B. Blue-collar workers	247
§4. ABUSIVE DISMISSAL AND ABUSE OF LAW; MOTIVATION OF THE DISMISSAL	247
§5. THE BREAKING OF THE INDIVIDUAL LABOUR CONTRACT	250
I. The Notion: Breaking	250
II. The Notion: Just Cause	250
A. Employees	251
B. Employers	251
III. Manner of Termination by Means of Breaking the Contract	252

Table of Contents

IV. The Remedy for Illegal Breaking of the Contract	252
§6. SPECIAL PROTECTION IN THE CASE OF PREGNANCY AND MATERNITY, INTRODUCTION OF NEW TECHNOLOGY, POLITICAL LEAVE, INTERRUPTION OF CAREER, EDUCATIONAL LEAVE, LEAVE FOR COMPELLING REASONS, PARENTAL LEAVE AND OTHERS	253
I. Pregnancy and Maternity	253
II. Introduction of New Technologies (NT)	253
III. Political Leave	254
IV. Paid Educational Leave	254
V. Leave for Compelling Reasons	254
VI. Parental Leave	254
VII. Other Cases	254
§7. OUTPLACEMENT	255
I. Generalities	255
II. Definition	256
III. Consent of the Employee	257
IV. Cost of Outplacement	257
V. Obligations of the Outplacement Bureau	257
VI. Information and Consultation	258
VII. A Generalized Right to Outplacement (2014)	258
A. In Case of Financial Compensation Covering at Least 30 Weeks	258
B. In Case of a Term of Notice of at Least 30 Weeks	259
§8. CLOSURE OF ENTERPRISES; COLLECTIVE DISMISSALS	259
I. Collective Dismissals; Collective Agreement No. 10 of 8 May 1973	261
II. Information and Consultation in the Case of Collective Dismissals; Collective Agreement No. 24 of 2 October 1975; Delay in Payment; Collective Agreement No. 27 of 27 November 1975	261
III. Follow up on the <i>Renault</i> Case: the Act of 13 February 1998	263
IV. An Active Policy for Restructuring (2009)	264
A. Scope of Application	265
B. Establishment of an Employment Unit	265
C. Procedure	266
D. Reinsertion Indemnity	266
Chapter 7. Covenants of Non-competition; Statute of Limitations; Settlement of Individual Disputes	267
§1. COVENANTS OF NON-COMPETITION	267
§2. STATUTE OF LIMITATIONS	269

Table of Contents

§3. SETTLEMENT OF INDIVIDUAL DISPUTES	269
Part II. Collective Labour Relations	271
Chapter 1. Trade Union Freedom	273
§1. THE ACHIEVEMENT OF TRADE UNION FREEDOM	273
§2. THE PROTECTION OF TRADE UNION FREEDOM	274
I. National Legislation	274
II. International Legislation	274
A. Conventions 87 (1948) and 98 (1949) of the ILO	274
B. The European Convention on Human Rights and Fundamental Freedoms of 1950 and the European Social Charter of 1961	275
C. Trade Union Freedom and the Free Movement of Labour within the EU	276
§3. TRADE UNION FREEDOM AND THE STATE	277
§4. TRADE UNION FREEDOM AND THE RELATIONS BETWEEN TRADE UNIONS	277
§5. INDIVIDUAL TRADE UNION FREEDOM	278
Chapter 2. The Trade Unions and the Employers' Associations	281
§1. ORGANIZATION AND STRUCTURE OF THE TRADE UNIONS AND THE EMPLOYERS' ASSOCIATIONS	281
I. The Trade Unions	281
II. The Employers' Associations	291
§2. LEGAL STATUS OF TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS	292
I. The Representative Organizations	292
II. Trade Unions: Lack of Corporate Capacity	294
Chapter 3. Institutionalized Relations between Employers and Trade Unions	297
§1. REPRESENTATION AT THE LEVEL OF THE ENTERPRISE	297
I. The Trade Union Committee	298
A. Leading Principles of Agreement No. 5	299
B. The Notion: Trade Union Committee	299
C. Establishment and Composition of the Trade Union Committee	300

Table of Contents

D. Competence of the Trade Union Committee	303
E. Functioning of the Trade Union Committee	306
F. Status of the Trade Union Committee Members	307
II. The Works Council	310
A. Establishment of the Works Council	310
B. Composition of the Works Council	312
C. Competence of the Works Council	314
1. The Content of the Competence	316
a. The economic competence	316
(1) The Royal Decree of 27 November 1973	316
(a) Basic information	318
(b) Annual information	320
(c) Periodic information	322
(d) Occasional information	322
(e) Possibilities for deviation	323
(f) Methods of dealing with the information	323
(2) Work organization and conditions of work output	324
(3) Opinions to the Central Economic Council	324
b. The social competence	325
(1) Drawing-up of work rules	325
(2) Supervision of labour standards	325
(3) Employment problems in the enterprise:	
Agreement No. 9	325
(a) Employment situation	325
(b) Vocational training and re-training	327
(c) Structural changes	327
(4) Closure of enterprises	327
(5) Criteria regarding dismissals and recruitment	328
(6) Personnel management	328
(7) Annual vacation	328
(8) Public holidays	329
(9) Management of the social services	329
(10) Use of language	329
(11) Performing the functions of the committee for prevention and protection at work	330
(12) Development of absenteeism	330
(13) Destination of fines	330
(14) Introduction of new technologies (NT)	330
(15) Planning of paid educational leave (Social Recovery Act 1985)	331
(16) Time credit	331
(17) Measures promoting employment (2006)	331
(18) Additional pensions (1995)	331
(19) Stress (1999)	331
(20) Electronic signature of employment contracts and storing of social documents (2007)	331
(21) Other competences	331

Table of Contents

2.	Dimensions of influence	332
a.	Information	332
b.	Advice and consultation	333
c.	Co-decision-making	334
d.	Self-management	334
3.	Auditors and Experts; Social Report	334
4.	Informing the Rank and File	336
a.	Functioning of the works council	336
b.	Status of the employees' representative	337
c.	Protection of the employees' representatives	338
(1)	Generalities	338
(2)	Duration of the period of protection	339
(3)	Dismissal for economic or technical reasons	339
(a)	Joint committee	340
(b)	Labour Tribunal	340
(4)	Dismissal for just cause	340
(a)	Notion	340
(b)	Proposal to dismiss	340
(c)	Negotiation	341
(d)	Provisional ruling	341
(e)	The Labour Tribunal	341
(5)	Transfer	341
(6)	Sanctions	342
(a)	Reinstatement	342
(b)	Compensation	342
D.	European Directive Establishing a General Framework for Informing and Consulting Employees	343
E.	The European Works Council	344
1.	Scope of Application	345
2.	Definition of a European Works Council	345
3.	Procedure	345
4.	Subsidiary Requirements	346
5.	Links between Works Councils and European Works Councils	347
6.	Extension of the European Works Council Directive 94/45/EC to the United Kingdom	347
7.	The EWC Directive 2009/38 of 6 May 2009	348
a.	Genesis	348
(1)	Changes	348
(2)	Definitions	348
b.	Implementation into Belgian law: the Collective Agreement No. 101 of 21 December 2010	350
III.	The Committee for Prevention and Protection at Work	351
A.	Establishment of the Committee	351
B.	Composition of the Committee	351
C.	Competence of the Committee	352
D.	Functioning of the Committee	353

Table of Contents

E. Status of the Employees' Representatives	354
IV. The Involvement in the European Company (SE)	355
V. The European Cooperative Society	356
VI. Cross-border Mergers of Limited Liability Companies	357
§2. RELATIONS AT THE BRANCH OF ACTIVITY: THE JOINT COMMITTEES	358
I. Establishment of the Joint Committee	358
II. Composition of the Joint Committee	359
III. Competence of the Joint Committee	360
IV. Functioning of the Joint Committee	361
§3. THE NATIONAL LABOUR COUNCIL	363
I. Composition of the National Labour Council	364
II. Competence of the National Labour Council	365
III. Functioning of the National Labour Council	368
Chapter 4. Collective Bargaining	370
§1. MAIN FEATURES OF COLLECTIVE BARGAINING	370
§2. THE ACT OF 5 DECEMBER 1968	372
§3. THE CONCLUSION OF THE COLLECTIVE AGREEMENT	373
I. Parties to the Collective Agreement	373
II. Accession; Publication	375
III. Institutionalization; Format; Obligatory Content; Deposition	376
A. Institutionalization	376
B. Format; Obligatory Content; Deposition	376
§4. SCOPE OF THE COLLECTIVE AGREEMENT	378
I. Scope of Application	378
A. Personal Scope of Application	378
B. Occupational and Territorial Scope of Application	379
II. Duration	379
§5. CONTENT OF THE COLLECTIVE AGREEMENT	380
I. The Normative Part	380
A. Individual Normative Stipulations	380
B. Collective Normative Stipulations	381
II. The Obligatory Part	381
A. Explicit Obligations	381
B. Implicit Obligations	381
1. The Peace Obligation	382
2. The Duty of Implementation	382
III. Statutory Restrictions on the Autonomy of the Partners	383
§6. BINDING EFFECT OF THE COLLECTIVE AGREEMENT	383

Table of Contents

I. Binding Effect of the Normative Part	384
II. Binding Effect of the Obligatory Part	385
III. Collective Bargaining Agreements (CBAs) and Transfer of a Business	386
§7. EXTENSION OF THE COLLECTIVE AGREEMENT	390
I. Legal Nature and Significance	390
II. Requirements	391
III. Consequences	392
§8. BEGINNING AND END OF THE COLLECTIVE AGREEMENT	393
§9. ENFORCEMENT OF THE COLLECTIVE AGREEMENT	393
Chapter 5. Industrial Conflict	395
§1. FACTS AND FIGURES	395
I. Strikes and Working Days Lost	395
II. Legal Injunctions: the ECSR and the ILO	400
III. More Facts	406
IV. Labour Disputes	407
§2. STRIKES	408
I. Definition and Types	408
II. Strikes and the Law	409
§3. LOCK-OUTS	411
§4. PROTECTION OF ESSENTIAL SUPPLIES AND SERVICES	412
§5. PREVENTION AND SETTLEMENT OF INDUSTRIAL CONFLICTS	413
Selected Bibliography	417
Index	419