

CONTENTS

Table of Cases and European Community Decisions

xvii

Table of Legislation

xxxv

List of Figures & List of Tables and Boxes

lv

PART I INTRODUCTION

1	THE EVOLUTION OF EU 'SOCIAL' POLICY	3
	A. Introduction	3
	B. The Development of EU Social Policy by the Union Institutions	4
	C. The Nature and Purpose of EU Social Policy	33
	D. Conclusions	44
2	(HARD) LAW-MAKING IN THE FIELD OF SOCIAL POLICY	47
	A. Introduction	47
	B. Adopting Union Social Legislation	48
	C. The Legislative Process	67
	D. Conclusions	87
3	THE EMPLOYMENT TITLE, THE LISBON AND EU2020 STRATEGIES, AND THE FINANCIAL CRISIS	89
	A. Introduction	89
	B. The Employment Title	90
	C. The Lisbon and EU2020 Strategies	111
	D. The Financial Crisis	127
	E. Conclusions	139

PART II MIGRANT WORKERS

4	FREE MOVEMENT OF WORKERS	143
	A. Introduction	143
	B. Personal Scope	144
	C. The Rights Conferred on Workers	156
	D. Employment in the Public Service	178
	E. Third Country Nationals and the Right to Work	182
	F. Conclusions	188
5	LABOUR LAW AND THE INTERNAL MARKET	189
	A. Introduction	189
	B. EU Competition Law meets National Labour Law	190
	C. The Four Freedoms Meet National Labour Law	200

D. Attempts at Reconciling the Internal Market with Labour Law and Policy: The Case of Public Procurement	240
E. Conclusions	249

PART III EQUALITY LAW

6 EQUALITY LAW: DEVELOPMENT AND PRINCIPLES	253
A. Introduction	253
B. The Development of EU Law and Policy on Equality	254
C. The Constitutional Use of the Equality Principle in EU Law	269
D. Non-discrimination on Prohibited Grounds	277
E. Formal and Substantive Equality	289
F. Conclusions	294
7 EQUAL PAY	297
A. Introduction	297
B. The Personal Scope of Article 157 TFEU	298
C. The Meaning of 'Pay'	299
D. The Scope of the Comparison	302
E. The Prohibition of Discrimination on the Grounds of Sex	311
F. Justifications	317
G. Enforcement of Equality Rights	326
H. Conclusions	335
8 EQUAL TREATMENT	337
A. Introduction	337
B. The Prohibited Grounds of Discrimination	337
C. The Personal Scope	346
D. The Material Scope	349
E. Prohibition of Discrimination	352
F. Derogations	360
G. Positive Action	375
H. Positive Duty to Promote Equality	387
I. Directive 2010/41 on Equal Treatment of the Self-Employed	388
J. Remedies	390
K. Conclusions	399
9 FAMILY FRIENDLY POLICIES	401
A. Introduction	401
B. Pregnancy, Maternity, and Beyond	403
C. Division of Responsibilities in the Family: The Balance between Work and Caring	416
D. Childcare	424
E. Atypical Workers: Part-Time, Fixed-Term, and Agency Work	426
F. Conclusions	453

10 EQUAL TREATMENT IN RESPECT OF SOCIAL SECURITY AND PENSIONS	455
A. Introduction	455
B. Directive 79/7: Equal Treatment in Social Security	456
C. Equality, Retirement, and Pensions	475
D. Conclusions	498

PART IV HEALTH AND SAFETY AND WORKING CONDITIONS

11 HEALTH AND SAFETY	501
A. Introduction	501
B. The Development of a Union Policy in Respect of Health and Safety	502
C. Framework Directive 89/391 on Health and Safety	511
D. The Daughter Directives	523
E. Conclusions	532
12 WORKING CONDITIONS	533
A. Introduction	533
B. Working Time	533
C. Young Workers	559
D. Working Conditions	564
E. Conclusions	573

PART V EMPLOYEE RIGHTS ON RESTRUCTURING ENTERPRISES

13 TRANSFERS OF UNDERTAKINGS	577
A. Introduction	577
B. Transfers of Undertakings: Overview	578
C. When is there a Transfer of an Undertaking?	581
D. Safeguarding Individual Employees' Rights	601
E. Collective Rights	615
F. Insolvency and Measures Falling Short of a Declaration of Insolvency	619
G. Implementation and Remedies	625
H. Conclusions	626
14 COLLECTIVE REDUNDANCIES AND EMPLOYEES' RIGHTS ON THE EMPLOYER'S INSOLVENCY	629
A. Introduction	629
B. The Collective Redundancies Directive	629
C. The Insolvency Directive 2008/94/EC	643
D. Conclusions	653

PART VI COLLECTIVE LABOUR LAW

15 WORKER INVOLVEMENT IN DECISION-MAKING: INFORMATION, CONSULTATION, AND WORKER PARTICIPATION	657
A. Introduction	657
B. Information, Consultation, and Participation: Setting the Scene	658
C. European Works Councils	663
D. European Company Statute	673
E. National-Level Information and Consultation Provisions	685
F. Worker Participation under Other Union Instruments	691
G. Financial Participation of Employees in a Company	695
H. Conclusions	698
 16 FREEDOM OF ASSOCIATION, COLLECTIVE BARGAINING, AND COLLECTIVE ACTION	 699
A. Introduction	699
B. Freedom of Association	699
C. The Right to Engage in Collective Bargaining	709
D. The Right to Take Collective Action	717
E. Conclusions	725
 <i>Index</i>	 727