

**INTERNATIONAL EMPLOYMENT LAW FOR BUSINESS**  
**PHASE ONE: IDENTIFICATION OF SOURCES AND ISSUES**  
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**BACKGROUND**

As a professor of Business Law within the Business Division of a small Midwestern university in the United States, I am interested in what my students of primarily Midwestern United States' origin need to know about international employment law to be able to operate as business professionals in the global economy. If my students were involved in a business that was expanding to a country other than the United States, what international employment law issues would they need to be aware of? If they went to work for a company that operates internationally, what international employment law do they need to know?

I also am interested in what my foreign students' experience with employment law will be. What is the employment law in their country and is it different than that of U.S. law? What knowledge did they bring to my classes and what do they need to know about international employment law? Finally, the United States has, this year (2004), struggled with the issue of gay (homosexual) rights. A provision for a Constitutional Amendment to ban homosexual marriage was just defeated in the U.S. Senate and several states have gay marriage bans on their ballots this summer and fall. Currently, in the United States, there are no federal laws that protect homosexuals from discrimination in employment practices. I was curious as to what employment discrimination rights homosexuals had in other countries. Thus, began my research into International Employment Law. I found the Labor and Employment Discrimination chapter in International Business Law and Its Environment<sup>1</sup> very helpful and have referenced it throughout and I have expanded my research from the core of knowledge they have compiled. I would also like to acknowledge the Letterman's Guide to International Business by G. Gregory Letterman.<sup>2</sup> The section on Immigration and International Labor Law was very helpful.

**PHASE ONE: IDENTIFICATION OF SOURCES AND ISSUES**

An individual, partnership, corporation or other business entity that wants to do business in a foreign country must concern itself with the following bodies of employment and labor law:

1. Foreign Law. Employment and labor laws of the foreign country where it wants to conduct business. For example, if a business currently operating in the United States wants to expand to do operations in Japan, they must be aware of what the Japanese employment laws are and they must abide by those laws, or be subject to prosecution in Japan.

2. Domestic Law. The laws of the country of the business' origin (its home country). The business' home country may impose employment laws on the company as it does business in the foreign country. For example, the United States Government imposes some employment discrimination law on U.S. companies as they operate in a foreign country. Is a U.S. corporation subject to prosecution by the U.S. for discrimination in employment practices

on the basis of sex, race, national origin, etc., as it does business in a foreign country? Do other countries impose domestic employment laws on businesses originated in their country, as they do business abroad?

3. Regional Laws. There may be regional laws, treaties, conferences, conventions or directives that a business may be subject to in a particular region of the world. For example, if a U.S. company wishes to do business in Germany, would it be subject to European Union employment law? Is it subject to European Courts of Justice case law?

4. International Employment Law. There may be international law, treaties, conferences, conventions or case law, etc., that the business may be subject to as it operates abroad. Has the company's country of origin, or the country where it wishes to transact business signed a treaty, or created international employment law that companies would be subject to in their business? For example, has the United States signed a treaty establishing how United States corporations/businesses will treat employees throughout the world as they engage in business? Has an International Court of Justice issued a decision on employment practices?

## **I. FOREIGN COUNTRY LAW**

A. Sources. A company that wishes to transact a business in a foreign country must find out what the domestic employment laws are in that foreign country. If the country has a constitution or similar document, they would look to the constitution to see if there are any issues of employment law that are dealt with in that country's constitution. Next, they would look to see if there is legislation. Are there written laws establishing how one deals with employees and what rights employees have? They would look to the courts of the foreign country where they wish to operate and look to the case law coming out of the courts of that country to determine what the status is on the law that relates to employment issues. They would also need to research administrative regulations regarding employment issues and find out if there are particular industry regulations in that foreign country. They would need to find out if there are customs that are routinely followed in that foreign country. And finally, they would need to find out if there are laws or regulations that apply in employment situations in particular states, provinces, and/or cities. With the Internet, some of these sources of laws, such as countries' constitutions, their legislations, their case law, and national regulations are available through some of the legal research services, such as Lexis/Nexis. The best, most reliable and most comprehensive information is available in the official language of a country and often only accessible in the foreign country. The American Association of Law Libraries recommends an English secondary source, International Encyclopedia for Labour Law and Industrial Relations,<sup>3</sup> that covers labor law in 50 countries. The American Association of Law Libraries explains that parts of the Encyclopedia are repackaged and published as separate volumes such as Labour Law and Industrial Relations in Austria. There are also a number of books on a particular foreign country's employment law such as Employment Law in Canada,<sup>4</sup> and Labor Law in China.<sup>5</sup> Business Guides for particular countries, such as French Tax and Business Law Guide,<sup>6</sup> may also contain employment law.<sup>7</sup>

B. Discharge

One of the areas in which employment law in other countries may be substantially different than that of the United States is in the area of discharging employees. In the United States, the law is “employment at will,” which also means discharge at will, as long as the discharge is not for a protected reason (i.e., discrimination on the basis of sex, race, color, national origin, age, religion or disability). In some other countries, employment is viewed as a property interest. One acquires a property interest by being employed and one’s property interest increases with time, as one continues to be employed. So, if a business wants to discharge an employee in a foreign country, they may have to compensate the employee for the loss of that job, and if that employee is a senior employee, that compensation may be substantial. If an employee is discharged for a “reason,” if the employee has done something improper and the employer wants to discharge them, in many countries the courts feel free to second guess the employer as to whether the reason for discharge was adequate. In a Japanese case, *Kochi Hoso (Broadcasting Co.)*,<sup>8</sup> being discharged for being tardy for work was struck down and the employee was ordered reinstated. Employers must also find out if there are specific procedures they must follow or whether there are unions, etc., that they must consult with before making a dismissal. They must also determine if there is any type of workers’ council or tribunal that they must submit their dismissal decision to prior to dismissing the employee. There may also be an appeals process to a labor court. The Global Competitiveness Report,<sup>9</sup> annually rates 75 countries by the impediments to hiring and firing employees. The 2001-2002 Report listed Romania as the easiest to hire and fire and Zimbabwe as the 75<sup>th</sup> hardest. France was the 74<sup>th</sup> hardest to hire and fire and the U.S. was the 6<sup>th</sup> easiest to hire and fire.

C. Management Participation.

Another area of foreign countries’ law where there may be substantial difference from U.S. practice is in the area of employee participation in corporate decision making. In the United States, there is no provision for employees to participate in decision making by a business. Corporations are specifically managed for the benefit of the shareholders, and shareholder profits are the primary concern of the board of directors and the management team who make decisions. Other nations may require employee consultation or participation in management decision making. Some countries may require representation by employees on the board of directors of a corporation to participate in strategic decision making. In some countries, workers have the right of consultation about decision making. Germany tends to be particularly generous in this area.<sup>10</sup> Each plant has to have a Works Council to represent the plant’s interests. These are independent from trade unions. They represent the interests of plant employees regardless of their participation in a trade union. Under the German Works Constitution Act, the employer has to inform the Works Council about any changes that might result in substantial disadvantages for employees and consult with it on such proposals. If there is to be a layoff, the employer must consult with this Works Council on its methods of selecting persons to be terminated. If the employer and the Works Council cannot reach an agreement, then the impasse is submitted to arbitration. In Germany, if an employer has 2,000 or more workers, the employer must have 50 percent worker representation on the board that is equivalent to the board of directors. If they have 500 or more workers, they have to have one-third employee representation on the board of directors. This provision for employee representation in decision making has been adopted by

some of the former Soviet Union countries. Coming from a background of philosophical Marxisms, “Rights of the Worker,” this scheme has been particularly attractive to the former Soviet Countries.<sup>11</sup>

D. Terms and Conditions.

Countries vary on their mandated terms and conditions. They vary as to what is the minimum age for employment, or whether there can be a maximum age for employment. That is, whether there can be mandatory retirement and, if so, at what age? Law can vary as to who can be employed, the minimum wages that must be paid, minimum benefits, and other conditions such as breaks during work, length of the work day, required vacation, etc. Many countries have longer vacation period than the United States. In Australia, some employers provide sabbatical for renewal and travel after employment for a certain length of time. There are also varying safety and health regulations that come to bear in dealing with employees.<sup>12</sup> In Hong Kong, a law provides for ten weeks maternity leave at two-thirds of the woman’s salary. India requires six weeks leave at full pay.<sup>13</sup> Ukraine allows ten weeks pre-birth and eight weeks post-birth salaried maternity leave. Some countries have specifically granted nursing rights to employed women. The Global Competitiveness Report (2001-2002) rates Romania as the #1 easiest country to cut workers’ hours and get overtime without extra cost. France and Costa Rica rate as the hardest. The U.S. is rated as the 4<sup>th</sup> most favorable for employers.

E. Discrimination.

Some foreign countries may be broader in their protections against employer discrimination in employment practices. South Africa and many other countries provide employment discrimination protection for homosexuals and transsexuals.<sup>14</sup> The U.S. does not. On the other hand other, some countries may allow discrimination. For example, Kuwait and Jordan have enacted laws that exclude Palestinians from key jobs and properties.<sup>15</sup> Pro-discrimination laws may be encountered in countries where there is no distinction between religion and law as in some Muslim dominated countries. Pro-discrimination statutes may also exist where atheism is the state religion (e.g., Cuba and North Korea). One may also encounter pro-discrimination laws where countries were once occupied by foreign countries. Estonia has citizenship based employment laws that provides for prejudice against ethnic Russians.<sup>16</sup>

Countries vary as to what types of discrimination they protect their citizens from. Some countries protect individuals from employment discrimination on the basis of sex. Some do not. Those countries that provide protection from discrimination on the basis of sex may also provide protection on the basis of sexual preference. Some of the questions an employer should ask are:

- Do homosexuals or transsexuals enjoy protection from employment discrimination?
- Does protection from discrimination on the basis of sex also include protection from discrimination on the basis of pregnancy and related issues?

- Do the laws provide protection for a woman to breastfeed her child in the workplace, or to take breaks to breastfeed her child?
- If a country provides for discrimination on the basis of age, at what age are they protected?

The U.K. provides protection from age discrimination from age 18 on. The United States provides protection from discrimination on the basis of age from age 40 on. Some countries protect people from employment discrimination on the basis of political party, or political belief, while other countries specifically allow discrimination in the workplace on the basis of political party or belief.<sup>17</sup> Some countries provide protection from discrimination in employment on the basis of social class or caste. If a country has had an indigenous population, they may also have provisions that give indigenous people preferences in employment situations. Employer should also ascertain if laws that provide for protection for employment discrimination also include allowance for or a mandate for affirmative action to correct past discrimination? Of course, an employer will also need to find out how the courts have interpreted the law and how strictly they are enforced.

## **II. DOMESTIC LAW**

What comes as a surprise to many is that a business' country of origin may impose employment laws on companies as they do business abroad. For example, a U.S. company that is transacting business in a foreign country will be held to the employment discrimination laws of the United States. This was a controverted issue. In 1991, the United States Supreme Court ruled in *Equal Employment Opportunity Commission v. Arabian American Oil Company*<sup>18</sup> that federal law does not preclude U.S. companies from engaging in employment discrimination working abroad. Bourseslan was hired by the Arabian American Oil Company in 1979. He was a U.S. citizen. He was transferred to Saudi Arabia and he was discharged in 1984. He filed suit under the Civil Rights Act. He alleged he was discharged by the Arabian American Oil Company on account of his race, religion and national origin. The Supreme Court decided that the Civil Rights Act did not provide protection to U.S. citizens working abroad, that there was no extra territorial protection for U.S. citizens. One rationale was that Title VII of the Civil Rights Act did not have any provisions for dealing with conflicts where U.S. law on discrimination would be in conflict with the law of the foreign nation. They contrasted the Civil Rights Act to the Age Discrimination Act of 1967, where Congress had specifically put in a conflict provision that made it legal for a U.S. corporation to violate U.S. Title VII of the Civil Rights Act if it would be in direct conflict with the law of the foreign country where they were operating and found no Congressional intent for extra territorial application of the Civil Rights Act. They also cited the provision in Title VII that gives U.S. employers an exemption from applying U.S. employment discrimination laws to aliens. In response to the Supreme Court's decision, Congress came back later in 1991 and specifically amended Title VII of the Civil Rights Act to include extraterritorial protection from discrimination on the basis of sex, race, color, national origin, religion for U.S. citizens employed by U.S. employers or corporations abroad. Whether a foreign company is a "de facto U.S. employer," hinges on whether the U.S. company controls the foreign company, as determined on the following basis. Is there (a) an interrelation of

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operations; (b) common management; (c) centralized control of labor relations; and (d) common ownership or financial control of the employer and the U.S. company.<sup>19</sup> Congress added a conflicts provision. It provides: “It shall not be unlawful for an employer with respect to an employee in a workplace in a foreign country to take any action otherwise prohibited, if it would be in violation of the foreign country’s law.” This exemption has been termed the “Foreign Compulsion Defense.”

While U.S. law seems to limit protection to U.S. citizens from discrimination by U.S. companies, companies would be advised to check each nation’s law to see if there is similar application. The United States Age Discrimination Employment Act of 1967 was specifically amended in 1984 to apply to foreign employment of U.S. citizens abroad by employers that are U.S. citizens or U.S. entities incorporated in the United States.<sup>20</sup> The Americans with Disability Act of 1999 applies to U.S. companies and U.S. citizens doing business abroad.<sup>21</sup> The Fair Labor Standards Act of 1938 (which establishes the minimum age, wage and conditions for employment) was held by U.S. courts to apply to U.S. businesses doing business abroad giving extraterritorial effect until the Act was amended by the Overseas Fair Labor Standards Amendment. With the Amendment, coverage was specifically excluded for any employees whose services during the workweek are performed in a foreign country. However, in *Wirtz v. Healy*,<sup>22</sup> the court upheld the Wage and Hour Division of the Department of Labor’s interpretation of the Act to apply when any part of the employee’s service is done within the United States within the workweek.<sup>23</sup>

A. Foreign Compulsion Defense. In 1995, Radio Free Europe and Radio Liberty, a U.S. corporation, tried to use the Foreign Compulsion Defense when they ran afoul of the Age Discrimination and Employment Act. In 1982, Radio Free Europe had entered into a collective bargaining agreement with union representatives of its employees in Munich, Germany. One of the provisions of the labor contract modeled after a nationwide agreement in the German broadcast industry, required employees to retire at age 65. Radio Free Europe thought that with the U.S. Age Discrimination Act applied that it could not mandate that American employees in Europe retire at age 65, as the collective bargaining agreement provided. In order to implement the law’s restriction, the company applied to the Works Council for limited exemptions from its contractual obligation. The Works Council determined that allowing only those employees who were American citizens to work past the age of 65 would violate the mandatory retirement provision and the collective bargaining agreement provision prohibiting discrimination on the basis of nationality. Radio Free Europe appealed the Works Council decision to the Munich Labor Board and lost. The Labor Court agreed with the Works Council that Radio Free Europe must uniformly enforce the mandatory retirement provisions, because exemptions would unfairly discriminate against German workers. The Labor Court also held that companies retaining employees after the age of 65 despite the collective bargaining agreement would be illegal. The company terminated plaintiff DeLon in 1987 and plaintiff Mahoney in 1988. Both plaintiffs were working for the company in Munich, both were U.S. citizens, and both were discharged pursuant to the labor contract because they had reached the age of 65. In *Mahoney and RFE/Room Locater, Inc.*,<sup>24</sup> they sued Radio Free Europe. Radio Free Europe claimed the Foreign Compulsion Defense. The U.S. Federal Circuit Court in the District of Columbia agreed with Radio Free Europe and said that they recognized that Radio Free Europe’s collective bargaining agreement was legally enforceable, and that it would mean breaching the agreement

in order to comply with the Age Discrimination Act; and therefore, under the Foreign Compulsion Defense provision of the Age Discrimination Act, the employer was exempt from those provisions providing protection from discharge based on age. The Federal Court of Appeals in D.C. disagreed with the Circuit Court and remanded the case back to the Circuit Court.

B. Bonafide Occupation Qualification Defense. Another defense that employers have tried with respect to the application of the U.S. anti-discrimination laws abroad is the Bonafide Occupation Qualification Defense. Under the Bonafide Occupation Qualification Defense, an employer may engage in discrimination if it is reasonably necessary to the normal operation of the particular business or enterprise. This is the same defense that in the U.S. allows Hooters Restaurants to hire only women as waitresses. However, in the case of U.S. employers using the Bonafide Occupation Qualification Defense, it has been held that an American hospital that refused to send Jewish anesthesiologists to Saudi Arabia was in violation of Title VII of the U.S. Civil Rights Act.<sup>25</sup> The court found that the employer had not made necessary efforts to determine the Saudi policy regarding the entry of Jewish doctors into the country and that the Saudi government had never directed the employer that American Jews could not participate in the program.<sup>26</sup>

In another decision, the Bonafide Occupation Qualification Defense did not justify a U.S. company's refusal to promote a woman to a senior position in Latin America. The employer argued that business people in Latin America believe that women belong in the home.<sup>27</sup>

### **III. REGIONAL ORGANIZATION REGULATION**

Areas of the world have organized themselves into regional governments or regional organizations for economic benefit. The most well known regional organization, that was established by treaty, is the European Union. Also well known is the North American Free Trade Agreement (NAFTA), but there are a number of other regional agreements or regional organizations that exist. They include:

- Organization of American States (OAS)
- US-Canada Free Trade Agreement
- North American Agreement on Labor Cooperation
- Southern Common Market (MERCOSUR)
- Andean Common Market (ANCOM)
- Central America Common Market
- African Economic Community (AEC)
- Common Market for Eastern and Southern Africa (COMESA)
- Southern African Development Community (SADC)
- Asian Pacific Economic Cooperation Group (APEC)
- Association of South East Asian Nations (ASEAN)
- Caribbean Community (CARICOM)
- Gulf Cooperation Council (GCC)
- Arab League

A company wishing to do business in a foreign country would need to find out whether the country of their origin or the country where they are intending to do business in is a member of a regional organization, or if the countries have entered into an agreement on a regional basis. Accessing these regional agreements and the regulations and directives from these regional groups can be difficult.

Access to the Articles of the European Union's (ECC) Treaty and directives is available on Lexis/Nexis. A business wishing to do business in a member state of the European Union would need to study the Treaty of the European Union, the directives from the European Union to their member countries, and the cases that have come out of the European Courts of Justice in Luxembourg are available on Lexis/Nexis on the CELEX database and the International Legal Materials of the American Society of International Law, Washington, D.C. The European Union has dealt with several issues of discrimination. The European Union has issued directives all of their member states to change their laws to be in compliance with the European Union Treaty and principles that disallow discrimination on the basis of sex, race, colour, ethnic or social origin, religion or belief, genetic features, language political or any other opinion, membership property, birth, disability, age or sexual orientation. When the European Union provides protection from sex discrimination, they mean gender, sexual preference, transsexual and sex-related issues (i.e., maternity and its related issues). In *K.B. v. National Health Service Pension Agency*,<sup>28</sup> the European Union recognizes the principle of "comparable worth," which is controversial in the U.S., and in the case of *Douglas Harvey Barber v. Guardian Royal Exchange Assurance* (1990),<sup>29</sup> said European Union companies must grant the same employment terms to women as granted to men.

The European Union Treaty has also been held to allow for freedom of travel of workers within the European Union. This has also been held by the courts to allow the family members of the citizens of the European Union to reside with the European Union member worker in another state, even if that family member is not a citizen of one of the European Union nations. In *Secretary of State v. Hacene Akrich*,<sup>30</sup> the European Court of Justice struck down the High Court of England's holding that a transsexual husband was not entitled to his wife's death benefits. In *Gerhard Kobler v. Republik Osterreich* (Austria),<sup>31</sup> a college professor was granted his special length of service (15 years) increment provided by the Austrian University System even though part of the 15 years was served in other states of the European Union. The court found to deny this benefit would impede freedom of workers within the European Union. In *Christine Goodwin v. The United Kingdom*,<sup>32</sup> a transsexual was awarded reparation to be paid by the United Kingdom for the U.K.'s failure to change their laws and policies to protect Ms. Goodwin from transsexual discrimination in employment and other issues. Member states of the European Union make periodic reports to the European Union on their progress in meeting their commitment to the Common European Values. These reports are available in English on the International Legal Materials from the American Society of International Law, Washington, D.C. via Lexis/Nexis.

The European Union provides for freedom of association, the right to collective bargaining, the right to strike, prohibition on forced labor including prison labor, prohibition

against child labor, and has adopted resolutions dealing with working conditions and the prevention of accidents and occupational disease.

In 2001, the Organization of American States (OAS) adopted the International American Democratic Charter. Article 9 calls for the elimination of ALL forms of discrimination, especially gender, ethnic and race discrimination, as well as diverse forms of the intolerance, the promotion and protection of human rights of indigenous peoples and migrants and respect for ethnic, cultural and religious diversity in the Americas. Article 10 provides for the promotion and strengthening of democracy by the full and effective exercise of workers' rights and the application of core labor standards, as recognized by the ILO's Declaration of Fundamental Principles and Rights at Work.

#### **IV. INTERNATIONAL REGULATION OF EMPLOYMENT AND LABOR PRACTICES**

International law is created by treaty, conferences, conventions, and case decisions from the International Courts of Justice. There are a number of international organizations that exist who encourage the formation of treaties, conferences and conventions on a variety of issues. The most well known international organization is the United Nations. In the area of Employment Law, the International Labor Organization (ILO) is the primary international organization. This organization was created by the Constitution of the International Labour Organization treaty at the end of World War I as part of the Versailles Peace Treaty. Since 1945, the ILO has operated as a specialized agency of the United Nations. Other organizations that may be involved in issues that deal with employment are the following:

World Trade Organization (WTO)  
Organization for Economic Cooperation and Development (OECD)  
World Investment Organization (WIO)  
International Money Fund (IMF)

The issues that are dealt with at an international level through the United Nations and the International Labor Organization are:

- freedom of association, so that people may talk to each other about employment issues
- right to collectively bargain
- abolition of child labor
- elimination of compulsory labor, including prison labor
- work conditions
- employment discrimination
- gender issues (e.g., the right to nurse, equal pay and maternity)
- workers' representation in government entities
- social origin or caste discrimination
- discrimination on the basis of political opinion
- issues dealing with indigenous or tribal people

- social insurance
- social protection
- sexual and labor trafficking

In the last two years, the ILO has also dealt with employment practices and government policies that have impacted on occupied territories or countries. The United Nations has adopted regulations for Multi National Entities (MNEs), corporations and other legal entities that do business on a multinational level. The ILO and United Nations also deal with issues of jurisdiction and harmonization of laws. The ILO meets annually in Geneva, Switzerland to hear reports from individuals, countries and committees and to consider adopting additions to the International Labour Standards and Principles Statements of Workers' Rights. The database of these Standards and Principles and the annual conference reports are available on CD ROM from the ILO.<sup>33</sup> The ILO web site also contains copies of reports submitted to the ILO by countries and the many ILO committees.

## **V. OTHER**

Increasing numbers of companies and industries have adopted voluntary codes of conduct in dealing with employees abroad. Governments are also issuing non-binding guidelines to encourage certain employment practices and governments are also tying lifting trade restrictions to voluntarily adopt employment practices.

### **PHASE ONE: CONCLUSION**

I have presented my Phase One: Issues and Sources research findings at the Montreux, Switzerland ABAS 2004 International Conference. I appreciate the information and ideas that the business professionals and the other business and economics professors provided at the Conference and look forward to continuing my research with their input.

If a reader of my research has corrections, sources, ideas and/or information to share with me, please contact me at [gibbsja@mail.avila.edu](mailto:gibbsja@mail.avila.edu).

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<sup>23</sup> Wage and Hour Division of the Department of Labor (interpretation of the Act), *Letterman's Guide to International Business*, G. Gregory Letterman, 2<sup>nd</sup> Ed., Clark, Boardman, Callaghan, Deerfield, Illinois (1996).

<sup>24</sup> *Mahoney and RFE/Room Locater, Inc.*, 47 F.3d 447 (1995).

<sup>25</sup> Schaffer, Earle and Agusti, *International Business Law and Its Environment*, 6th Ed. (West Thomson South-Western Publishing Company 2005).

<sup>26</sup> Schaffer, Earle and Agusti, *International Business Law and Its Environment*, 6th Ed. (West Thomson South-Western Publishing Company 2005).

<sup>27</sup> Schaffer, Earle and Agusti, *International Business Law and Its Environment*, 6th Ed. (West Thomson South-Western Publishing Company 2005).

<sup>28</sup> *K.B. v. National Health Service Pension Agency*, 2003 ECJ CELEX LEXIS 650.

<sup>29</sup> *Douglas Harvey Barber v. Guardian Royal Exchange Assurance* (1990), reported in *Letterman's Guide to International Business*, G. Gregory Letterman, 2<sup>nd</sup> Ed., Clark, Boardman, Callaghan, Deerfield, Illinois (1996).

<sup>30</sup> *Secretary of State v. Hacene Akrich*, 2003 ECJ CELEX LEXIS 396.

<sup>31</sup> *Gerhard Kobler v. Republik Osterreich* (Austria), 2003 ECJ CELEX LEXIS 441.

<sup>32</sup> *Christine Goodwin v. The United Kingdom*, 41 I.L.M. 1285 (2002).

<sup>33</sup> ([www.ilo.org/organizations/pubins](http://www.ilo.org/organizations/pubins)).