The missing stone in the Cathedral
Of unfair terms in employment contracts and coexisting rationalities in European contract law
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The missing stone in the Cathedral

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In its notorious "arrêt sabots" from 1866, the French Cour de Cassation quashed a decision by the Prud'hommes of Saint Etienne which had imposed a penalty of 10 Francs on a factory worker for having worn their wooden sandals inside the plant. The fine, we know from the Prud'hommes' decision, corresponded to almost half the worker's monthly salary. It was set in the factory's règlement d'atelier, which was hung somewhere within the factory and was binding between the parties on a contractual basis. The Cassation considered the Prud'hommes, who had decided in equity, to be in breach of article 1134 of the Code civil – in other words, they had failed to properly honor the binding force of contract. This was one of many cases through which, towards the end of the 19th century, contract law rules came to be seen as an instrument of workers' oppression.
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Table of Contents

**CHAPTER 1** INTRODUCTION: CORRECTING THE NARRATIVE ON UNFAIR TERMS CONTROL 1
  1.1. Introduction 1
  1.2. A Prequel: background and terminology 2
  1.3. Private (or contract) law and regulation 12
  1.4. Methodology 19
  1.5. Final remarks 23

**PART I** THE “POLICY” DISCUSSION IN EUROPEAN CONTRACT LAW AND ITS LIMITATIONS 26

  *Introduction* 26
  
  **CHAPTER 2** DIRECTIVE 93/13, JUSTIFICATION AND AIMS 29
  2.1. Justification and aims of the Unfair Terms Directive 29
  2.2. European private law and the rise of “aims” discussions 48
  2.3. Conclusion: unfair terms control for whom? 51

  **CHAPTER 3** THE DIRECTIVE “IN ACTION”, A THREE-PRONGED ANALYSIS 53
  3.1. The unfairness test: substantive unfairness and transparency 57
  3.2. Consequences of unfairness 73
  3.3. Ex officio control and the relationship between individual and collective proceedings 82
  3.4. Conclusions 87

**PART II** THE APPEARANCE OF UNFAIR TERMS CONTROL IN LABOUR LAW AND THE CONTRACTUALISATION OF EMPLOYMENT RELATIONS 90

  *Introduction* 90
  
  **CHAPTER 4** THE ROAD TO UNFAIR TERMS CONTROL 92
  4.1. Similar stories, different paths 92
  4.2. Germany 94
  4.3. France 119
  4.4. Conclusions 137

  **CHAPTER 5** CONTRACTUALISATION AND EMPLOYMENT RELATIONS 142
  5.1 Introduction 142
  5.2. The contractualisation of employment relationships in historical perspective 142
  5.3. Contractualisation as a tool: contract terms in employment practices 153
  5.4. Contractualisation in practice and judicial responses: analysing certain contentious terms 161
  5.5. Conclusions 195

  6. **CONCLUSIONS AND OUTLOOK** 200

**BIBLIOGRAPHY** 208

**CASE LAW** 227

**LEGISLATION** 232

**SUMMARY** 237

**SAMENVATTING** 239

**ACKNOWLEDGEMENTS** 243