

## ABSTRACT

This thesis analyses in depth the seminal cases of the Court of Justice, namely C-341/05 *Laval*, C-438/05 *Viking Line* and C-346/06 *Ruffert*. The analysis starts with description of the decisions. Those are laid out both from the perspectives of the Advocates General and of the Court of Justice (chapter 2).

Central aspects of the decisions are analysed in chapter 3. First, it is the decision to apply Community law (now EU law) to national social policy. This is not new in itself, but it is taken to unusual depth. Second, the Court of Justice decided to apply Community law to trade unions. This horizontal application of Community law has crucial implications on the human rights discourse of the Court. Third, we analyse how the Court viewed the issue whether the strike action violated the Treaty, and the issues of justification and proportionality.

Chapter 4 focuses on human rights aspect of the decisions. The very use of human rights in Community law is briefly sketched. In more detail the implications of the likely accession of the European Union to the European Convention on Human rights are considered. Finally, the human rights discourse of the Court of Justice in the *Laval* and *Viking* cases is put to critical scrutiny.

One of the determining elements in *Laval* and *Viking* is application of the Treaty vis-à-vis trade unions. This feature is further explored in Chapter 5. While this is not an isolated case of a horizontal application of Treaty rules, there are several arguments why applying the free movement provisions to trade unions in the context of collective actions warrants particular caution. It is argued that the Court of Justice did not choose such a particularly cautious approach.

In chapter 6 the issues of *Laval* and *Viking* are considered in a larger context of balancing between economic freedoms and social rights. While the Community has been founded as a tool to promote economic efficiency via a common market, there is a clear need to balance those economic freedoms with social entitlements. However, it is argued, social rights need not be

considered as contrary to the goals of common market, and indeed they may enhance the ultimate efficiency of market based decisions.

Chapter 7 elaborates on the main implications of the approach chosen by the Court of Justice in *Laval* and *Viking*, and it also formulates questions that the Court of Justice did not answer in those decisions. Chapter 8 concludes.