

Van: ETUC - CES MEDIA <media@etuc.org>

Aan: veerle.solia@amsab.be

Datum: 06/19/2008 05:56 PM

Onderwerp: ECJ further limits scope for Member States to demand respect for national labour law and industrial relations by foreign service providers

Brussels, 19/06/2008

The European Court of Justice (ECJ) in Luxembourg today issued its judgement in a case brought to the Court by the European Commission. The ECJ upheld the Commission's complaint on all points, considering that the way in which Luxembourg has implemented the Posting Directive is an obstacle to the free provision of cross border services. The European Trade Union Confederation (ETUC) considers that this is another hugely problematic judgement.



**European Trade Union Confederation [ETUC]
Confédération européenne des syndicats [CES]**

This judgement is another one in the series Laval and Rüffert, showing that the ECJ and the European Commission are on a consistent track to narrow down the scope for Member States and social partners to ensure a proper functioning of their labour markets when it comes to foreign service providers posting workers to their territory. It confirms the ECJ's narrow interpretation of the Posting Directive in the previous cases, allowing only for a limited number of host country rules to apply. In this case, the ECJ does not recognize the autonomous right of Luxembourg to define which national public policy provisions are so important, that they should apply to national and foreign service providers on an equal footing, to counter unfair competition on wages and working conditions of workers by cross border service providers.

The ECJ judgement may have an enormous impact, far beyond the Luxembourg borders, as it challenges the scope for Member States - acting in the general interest - to secure decent wages for all workers on its territory, demand respect for collective agreements and devise effective mechanisms for the monitoring and enforcement of the workers' rights provided for in the Posting Directive.

John Monks, General Secretary of the ETUC said:

"This is another hugely problematic judgement by the ECJ, asserting the primacy of the economic freedoms over fundamental rights and respect for national labour law and collective agreements. It turns the Posting Directive from an instrument that was intended to protect workers, companies and labour markets against unfair competition on wages and working conditions into an aggressive internal market tool. This is unacceptable and must be repaired as soon as possible by the European legislators, notably by a revision of the Posting Directive to clarify and safeguard its original meaning. In addition, the ETUC urges the European institutions to adopt a Social Progress protocol at the next Treaty revision, confirming the primary goal of the EU as being the improvement of living and working conditions of its workers and citizens, and not a race to the bottom. After the Irish 'no' to the Lisbon Treaty this is more crucial than ever".

The ETUC exists to speak with a single voice, on behalf of the common interests of workers, at European level. Founded in 1973, it now represents 82 trade union organisations in 36 European countries, plus 12 industry-based federations.

For more information :

Patricia Grillo.

ETUC Head of Press and Communications

+ 32 (0)2 224 04 30

+ 32 (0)477 7 7 0 1 64

E-mail : Pgrillo@etuc.org

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