



For a fair workers' mobility in Europe

Declaration of PES Ministers for Social Affairs and Employment Brussels - 11 December 2014

The right to free movement of citizens and of workers is a core value of EU citizenship and a fundamental right. It is also a pillar of the success of the European Union's single market and a vital tool to end the economic and social crisis. Intra-EU mobility benefits individuals, economies and societies as a whole. As part of our fight against social dumping and to reinforce the posting of workers directive, we as PES ministers of social affairs and employment are determined to defend this fundamental right, which must go hand-in-hand with the equal treatment of all workers. Fair mobility is the way to ensure that our societies and all our citizens can reap all the benefits that freedom of movement brings.

The legal framework in Europe therefore needs to be improved. We want to close loopholes in the system that have allowed unscrupulous employers to undermine the right for equal treatment in order to increase their profits. An urgent revision of the Posting of Workers Directive should address these challenges and better protect workers.

Unequal treatment and unequal pay for equal work of mobile workers and domestic workers is unacceptable. Such abuses harm all workers, both mobile and domestic. They deprive mobile workers of basic social and labour rights, and they create unfair competition against local workers. They also give competitive advantages to exploitive companies against those that abide by the rules. This form of unfair competition is especially harmful to small and medium-sized enterprises that are the backbone of the European economy and job creation. The rights and freedom of trade unions and workers and the role of collective agreements across Europe should be strengthened. They should also be integrated at the time of the next Treaty revision, in line with relevant international agreements, such as the ILO conventions and the European Convention on Human Rights.

We, the Social Affairs and Employment ministers of the Party of European Socialists, reaffirm our commitment to reinforce existing rules and to establish high social and labour standards for all workers in Europe. We need a new settlement which is fair to both the mobile workers and the workers of the host countries. Our principles to make the right to free movement work in the interest of all workers are clear:

1. No unfair competition between workers
2. No unfair competition between companies
3. No room for abuse
4. Yes to the respect of strong social dialogue mechanisms
5. No discrimination, whether on origin, gender, or any other basis

We want to support all the steps that can contribute to those ends. Our priorities include:



- We need to ensure that no worker is left uncovered by social and labour rights protection. We should converge towards a common understanding of the term "employee" to ensure they can fully access their rights. It would ensure all employees, including bogus or dependent self-employed persons obtain their social and labour rights. This would also benefit people in rehabilitative employment, part-time workers, child or elderly care in private households, where particularly women are exposed to the risk of not being properly protected.
- Enterprises shall not be able to move abroad on paper and continue their activities in their own country, only with substantially lower labour costs. We therefore need core requirements and more precise factual elements characterising genuine activity of an undertaking to address the problem of letter box companies.
- In the framework of the Posted Workers Directive, supply chain liability needs to be extended. All companies in a sub-contracting chain shall be made potentially liable for breaches of contracts. We will aim at applying joint and several liability beyond the construction sector.
- The possibility of cross-border enforcement of financial administrative penalties and/or fines imposed on a service provider established in a Member State, for failure to comply with the applicable rules on posting of workers in another Member State, shall be used to its full extent.
- We want an ambitious EU platform against undeclared work to share information and best practices between government agencies and social partners. Undeclared work leaves workers without protection and creates unfair competition. Undeclared work is also detrimental to gender equality because it is mostly women that are pushed to work in the informal sector without social protection. The platform shall also cover bogus self-employment, letter box companies and posted workers and participation shall be binding for all Member States.
- National supervisory authorities must be given room for manoeuvre to strengthen to adapt their control measures to the ever changing and creative methods of unfair employers to circumvent minimum social and labour standards. Economic freedoms shall not outweigh social rights in assessing the proportionality of Member States' control measures.
- All EU labour law must fully respect and protect the diversity of national systems of industrial relations. European legislation shall neither preclude the host member state nor the social partners from setting up non-discriminatory social and labour standards that go beyond mandatory minimum requirements, including wage rates.
- Public procurement should never lead to a race to the bottom in terms of pay and working conditions. Public tenders must ensure that all their tenderers and sub-tenderers adhere to strong social and labour standards.
- We will support national equality bodies that inform migrant workers about their rights and duties and that assist them in seeking redress against discrimination. These must be easily accessible. The social partners shall be involved in the design and delivery of these services.
- We want strong legal systems that effectively prosecute abuses. Claims of social and labour rights deprivation must be reviewed on a case-by-case basis by the courts, ensuring that every individual's situation will duly be taken into account, and their rights defended.

For us Social Affairs and Employment ministers of the Party of European Socialists, high social and labour standards are a top priority. The fundamental right to freedom of movement of workers has contributed positively to the economic development in Europe. But we need the right protection mechanisms for workers. We cannot allow populists to exploit the issue of social dumping and unequal treatment to undermine the legitimacy of this fundamental right.

We are determined that the solution is not to contest this fundamental right but to make the system more solid and more protective. We are committed to combating fraud and exploitation of all EU workers. The principle that equal working conditions apply for equal work in the same workplace, irrespective of the worker's gender and nationality, is the one that benefits all workers, national and mobile alike.

