

EU threatens right to strike

Early next month the European Court of Justice (ECJ) will effectively decide if workers within the European Union have a fundamental right to strike.

The ECJ will hear two separate test cases on January 9 and 10 brought by Finnish shipping company Viking Line and Latvian building firm Laval against trade unionists who dared to take strike action.

Viking Line took legal action against the International Transport Workers Federation (ITF) after Finnish seafarers struck when the company tried to register a liner in Estonia to take advantage of 60 per lower wage costs. Laval is claiming Swedish trade unions broke EU law when they held a strike after the Latvian company brought in lower paid Latvian workers to build a school in the Swedish town of Vaxholm.

Both cases will determine whether businesses can relocate to take advantage of cheap Eastern European labour without the threat of strike action and whether EU law overrides national laws protecting workers from exploitation.

It is no coincidence that these cases have been brought after the European parliament rubberstamped the services directive, which is designed to create a single market in services across the EU and undermine national laws on pay and conditions for workers. Not surprisingly, in a submission to the ECJ, the British government claims that collective action – which includes strikes – is not a fundamental EU right and that rights guaranteeing free movement within the single market are more important.

EU internal market commissioner Charlie McCreevy has also made clear that the European commission fully backs the Latvian company and the social dumping that it had created. ‘If member states continue to shield themselves from foreign company takeovers and competition, then I fear that the internal market will begin to dissolve. The question here is whether or not Sweden has implemented Article 49 in the treaty on free movement’ he says.

However, Swedish congress of trade unions (LO) vice-president Wanja Lundby-Wedin points out that industrial action is, by its very nature, an obstacle to the activities of a company and free movement. ‘The right to collective action is, together with freedom of association and the right to negotiate and conclude collective agreements, recognised as a fundamental right in international conventions’ she says. As a result, if the ECJ finds that the industrial action taken in Vaxholm is against EU law, it would have serious

consequences and not just for Nordic industrial relations systems. ‘What, until now, have been regarded as fundamental rights of workers in all democratic states would be undermined in the name of free movement’ says Lundby-Wedin.

For countries such as Finland, Denmark and Sweden, which have constitutional protection for trade union rights, a ruling in favour of Viking or Laval would make EU law incompatible with their domestic rules. As a result, LO has indicated that it would withdraw support for Swedish EU membership altogether if the court rules against national collective bargaining legislation. Even leading Europhile, European TUC general secretary John Monks, argues that a court decision in favour of Viking and Laval would have serious consequences with voters in the Nordic countries. ‘It would be very, very serious for them. It would tip opinion very much against the EU’ he says.

However, the EU is founded on the so-called ‘four freedoms’ – the freedom of movement of goods, services, capital and labour (meaning people) – and these are enshrined in all EU Treaty provisions. The discredited EU constitution also contained these four ‘freedoms’, although not the fundamental right to take strike action. However, it did enshrine the right for employers to lock out workers.

Whatever the outcome of these test cases, EU institutions have a clear agenda of giving big business the absolute freedom to do what it likes, when it likes and where it likes regardless of laws democratically decided by national elected parliaments.

Moreover, it gives a clear indication of how obscure and thoroughly anti-democratic EU institutions like the European Court of Justice can decide laws for over 500 million people without the knowledge of most citizens.