

EU Threatens Right to Strike

Earlier this month the European Court of Justice effectively moved to decide if workers within the European Union have a fundamental right to strike. The EU court heard 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 percent 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 rubber-stamped 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. EU internal market commissioner Charlie McCreevy has made it 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. Meanwhile, not surprisingly, in a submission to the European Court of Justice, the British Labour 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.

However, Swedish trade union congress (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 ETUC 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' of employers to lock out workers.

It is notable that the use of industrial agreements to implement EU legislation was accepted at the time of Sweden's accession in 1995 – as was acknowledged by the European Commission in its submission to the ECJ in January 2006. The Swedish Building workers Union in a statement confirmed 'its commitment to a labour market model based on principles of openness, equality and flexibility. As was made clear to the ECJ today, our overriding aim is to prevent inequality between European workers'.

Following the hearing, the ECJ decided to defer a ruling in the dispute until later this year, but 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.