

## Enough is enough – Safe and healthy workplaces for all workers!

**EFBWW Emergency motion** at the occasion of the deadly accident that occurred on 18 June on a construction site in Antwerp, Belgium. Five construction workers were killed and nine were severely injured when a school building under construction collapsed. The deceased workers had the Portuguese and Romanian/Moldovan nationalities, and the injured included Ukrainian and Russian nationalities. All workers concerned were posted, working for companies in a subcontracting chain. The main contractor was a Belgian company.

### **The European Commission has been fighting the wrong battle**

In the last two decades, the European Commission has been fighting the wrong battle. All too often Member States have been attacked because measures to protect workers and to fight fraud were interpreted as an obstacle in the internal market. Some Member States had strong measures in place that were functional, that protected workers' rights, and that were developed in a specific national context to better regulate the construction industry. An industry that is very fraud sensitive.

Despite all the evidence that the Posting of Workers Directive is abused on a massive scale, despite all the evidence that the Posting of Workers Directive hides many forms of exploitation, fraud and social dumping, posting has become the standard business model to provide cheap and precarious labour in the construction industry. At the same time, it becomes more and more difficult to enforce the rights of workers. Throughout Europe labour inspectorates are suffering a shortage of financial and human resources, which has been exacerbated by the application of EU and national austerity policies. Despite all this knowledge, not enough has been done.

In the last two decades, the European Commission and many national governments have been more concerned about protecting business interests than providing strong tools to fight fraud and protect precarious workers. The so-called Single Market Enforcement Task force of DG Grow is another example in this regard.

Social security coordination as foreseen by EU Regulation 883/2004 only provides minimal social protection – if any – for posted workers, especially when they are third-country nationals. What is the compensation a worker posted from Romania will receive in case of invalidity after a work accident in Belgium? What can an incapacitated Ukrainian worker expect who was posted from Poland or elsewhere and returns to his home country outside the EU? What is the liability of the owners of the letterbox companies who hire these workers, what is the liability of main contractors and clients?

The time for symbolic actions has long passed. The European Union must deliver for workers. Direct employment with collectively bargained wages, strong social protection and safe working conditions are key. Construction workers demand real and effective change:

- Safe and healthy workplaces for all workers:
  - Enforcement of EU OSH regulation is crucial to protect workers' lives and health and to guarantee that EU law related to OSH is applied across the EU;
  - A new European framework for decent and high-quality working conditions for all workers with special regard to the protection of posted, migrant and other vulnerable workers; An improved European framework for trade union safety representatives including the right to inspect sites of other employers than their own, serve improvement notices, and request work ceases in dangerous circumstances;
  - New initiatives to increase OHS for posted workers, taking into account their specific working and living conditions;
  - A European OHS certificate and skills passport;
  - Set up a European financial support fund to assist posted and migrant workers and their families including third-country nationals in case of fatal accidents, severe injuries, as well as in case of occupational diseases resulting from their activity. No one can be left in the cold.
- Digital solutions to identify workers and companies:
  - Introduction of a European Social Security Number (ESSN) enabling real-time access to data for labour inspectorates and other enforcement agencies, with respect for GDPR rules;
  - Adoption of a European framework for labour cards/social ID cards in the construction industry, including facilities to interconnect already existing sectoral social ID cards and support for sectoral social partners aiming to introduce such a card;
  - New digital tools to monitor in real time the presence of workers and self-employed on construction sites and to verify their employment relationship;
  - Make EESSI quickly and finally operational.
- Regulate the subcontracting chain:
  - Direct wage liability of the main contractor to guarantee the payment of the posted worker's wages in case of default of the subcontractor;
  - Promote and facilitate new initiatives to limit the subcontracting chain and enforce clear and effective rules for chain liability;
  - Stop CSR initiatives that merely serve as window dressing;
  - Promote direct jobs as a means to enhance the attractiveness of the construction industry;
  - Ban labour supply through intermediaries in posting;
  - Set up national registers of companies and other tools to effectively ban letterbox companies and companies that have been convicted for fraud or other malpractices, and interconnect those national registers on European level.

- Onsite inspection by relevant inspection services and other enforcement agencies must be regularly carried out to make sure all workers on the site are receiving their full legal entitlements.
- Public clients need to set the example:
  - Stronger rules for socially responsible and progressive tendering processes;
  - Set clear standards in public procurement processes for social upward convergence and full equal treatment: apply the most favourable labour conditions of the collective bargaining agreements in the subcontracting chain.
- New initiatives to promote correct posting practices and ban irregular posting:
  - Adopt the revised EU Regulation 883/2004 including strong new measures to protect mobile workers and combat cross-border social fraud;
  - Posting of workers must only be allowed in a strictly controlled and enforced environment, based on equal rights for workers and clear obligations for the companies; Intermediaries, such as temporary work agencies, must be excluded from posting workers;
  - New clarifications and enforcement tools to ensure that posting is only an exceptional temporary activity, as foreseen in the PWD;
  - A fair European cross-border employment system with optimal cooperation between all national inspection services and trade unions. The European Labour Authority (ELA) should become operational as soon as possible; The ELA should make extra financial funds available to strengthen the capacity of labour inspection on MS level;
  - The frequency and quality of inspections must be improved. Inspection services in the host Member State need more support, more manpower AND more discretionary powers; The EU should take ambitious steps to reach the ILO objective of minimum one labour inspector for every 10.000 workers; In case of fraud, the inspection service in the host Member State should be able to autonomously requalify workers and self-employed according to the rules in the host Member State, the main contractor shall be held liable; Sectoral social partners play an important role in the prevention and sanctioning of social fraud: they need political, logistical, and financial support for social dialogue on company and sectoral level in Member States and on EU level.
- Increase attractiveness of the industry through direct and quality jobs:
  - Reverse the downward spiral of low wages, deteriorating working conditions, less social protection provoked by posting, outsourcing and subcontracting, and support drivers for direct and quality employment;
  - Support sectoral collective bargaining for good remuneration and social protection;
  - Public money that will be made available in the context of the Renovation Wave and the EU Recovery Strategy should go to decent companies, providing decent jobs. A company without a collective bargaining agreement should not be eligible for public funding.

**The free movement of services and the free movement of companies can NEVER be more important than the protection of workers' lives and their livelihoods!**

The Conference on the Future of Europe has started. European leaders want to regain the trust of workers in the EU project. The EFBWW has very clear demands: Safe and healthy workplaces; social protection; equal treatment and the fight against social fraud needs to be recognised as more important than the free movement of services. No more blabla. No more symbolic actions. Real change. The social needs must take precedence over narrow business interests, the social progress protocol must come into force. Now!

This is the lesson the Antwerp accident is teaching us.