

## **ILO: Swedish Laval Legislation Violates Freedom of Association**

In its annual report, the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) has found the legislation that Sweden adopted as a result of the EU Court of Justice's ruling in the Laval case to be in violation of fundamental trade union rights.

The limitations imposed on Swedish trade unions' right to take industrial action in order to convince a foreign service provider posting workers to Sweden to sign a collective agreements are found to be in violation of ILO Convention no 87 on the freedom of association and the right to organise. The Committee therefore requests the Swedish government to review the legislation so as to ensure that trade unions "are not restricted in their rights simply because of the nationality of the enterprise".

Further, the Committee is deeply concerned by the fact that the Swedish Building Workers Union and the Electricians' Union were obliged to pay damages to the Latvian company Laval, despite the fact that the strike action was lawful under national law at the time. It therefore requests that the Swedish government review the matter and compensate the two unions.

The Committee's report was prompted by observations made to the Committee by the Swedish Trade Union Confederation (LO) and the Swedish Confederation of Professional Employees (TCO).

- That the ILO has found Swedish legislation to be in violation of fundamental human rights in the workplace is a very serious matter. It is now the Swedish government's responsibility to ensure that Swedish law is in conformity with international law. We therefore urge the government to do as requested by the ILO, and urgently review with the social partners the relevant parts of Swedish legislation, says Karl-Petter Thorwaldsson, president of LO and Eva Nordmark, president of TCO in a joint statement.
- The ILO also expresses a general concern about the development regarding trade union rights in Sweden and asks the government to supply additional information regarding a number of issues, says Karl-Petter Thorwaldsson and Eva Nordmark.

The observations of the Committee of experts regarding Sweden also include a number of more principled statements which are relevant beyond the Swedish context and with important ramifications for EU law. The Committee notes that "when elaborating its position in relation to the permissible restrictions that may be placed upon the right to strike, it has never included the need to assess the proportionality of interests bearing in mind a notion of freedom of establishment or freedom to provide services. The Committee of experts also, indirectly, questions the whole minimum character of the Posting of Workers Directive by stating that trade unions should always be able defending their members' interests, including by industrial actions, no-matter the nationality of the enterprise. Further, the Committee "recalls that imposing sanctions on unions for leading a legitimate strike is a grave violation of the principles of freedom of association."

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