

# Social dumping in the European Union

2015/2255(INI) - 14/09/2016 - Text adopted by Parliament, single reading

The European Parliament adopted by 458 to 199 with 34 abstentions a resolution on social dumping in the European Union.

Members recalled that the **growth in abusive practices and the increasing exercise of social dumping** weaken support for the principle of the internal market and the competitiveness of businesses, in particular SMEs, undermine the rights of European workers and confidence in European integration.

Posted workers make up about **0.7 %** of the entire EU labour force. Agriculture, building, construction, catering and food, transport, health, care and domestic services are the main sectors concerned.

**Reinforcing controls and coordination between and by Member States:** Parliament recalled that, while there is no legally recognised and universally shared definition of social dumping, the concept covers a wide range of intentionally abusive practices and situations which can have an impact as regards three main dimensions:

- **the economic aspect:** the use by certain economic actors of illegal practices such as undeclared work or of abusive practices such as bogus self-employment can lead to major market distortions which are detrimental to bona fide companies, in particular SMEs;
- **the social aspect:** social dumping could lead to a situation of discrimination and unfair treatment between workers in the EU and deprive them of the effective exercise of their social and labour rights, including in respect of pay and social protection;
- **the financial and budgetary aspect:** the non-payment of due social security contributions and taxes as a result of social dumping represents a threat to the financial sustainability of social security systems and the public finances of the Member States.

Faced with this situation, Members stated that it is crucial to ensure a level playing field and fair competition across the EU and **to eliminate social dumping**. They called on the Member States to:

- increase efficiency and to secure appropriate staffing levels and resources for their **control bodies** (including social and/or labour inspectorates), through the exchange of best practices and through meeting the benchmark of one labour inspector for every 10 000 workers;
- **improve cross-border cooperation between inspection services** and the electronic exchange of information and data, with a view to mandatory cooperation and mutual assistance between Member States;
- draw up Union-wide in-service **training programmes** for inspectors, to identify new techniques used to circumvent the rules, and to organise cross-border cooperation;
- create, where applicable, ad hoc bilateral **task forces** and, where needed, a multilateral task force including national competent authorities and labour inspectors, to carry out, subject to the approval of all the Member States concerned, on-the-spot cross-border checks, in accordance with the national law of the Member States in which the controls take place, in suspected cases of social dumping;
- establish legal frameworks allowing the lawful employment of **domestic workers and carers**, in order to provide legal certainty for employers and fair terms of employment as well as decent working conditions for workers;
- improve considerably **information exchange** concerning social security for posted workers, with a view to improving the enforcement of existing legislation.

Parliament recommended that, in the case of posting, it should be made mandatory in all Member States to submit a **declaration** when the provision of services commences, at the latest, and that such declarations should be entered in a **European register**. It also called for an **EU-wide list of enterprises**, including letterbox companies, responsible for serious breaches of European labour and social legislation to be drawn up – after they have received prior warning – which can be consulted only by the relevant authorities. It called for these enterprises to be denied access to public contracts, public subsidies and EU funds for a statutory period.

**Addressing regulatory gaps:** Members called on the Commission to;

- monitor carefully the implementation of [Directive 2014/67/EU](#) and the effectiveness of the Platform Tackling Undeclared Work in combating the phenomenon of letterbox companies by applying more generally the principle that each company should have one main corporate headquarters and ensuring that in cases of free provision of services using posted workers, each service provider involved should perform a 'genuine activity' in the Member State of establishment, and therefore be a **genuine undertaking**;
- monitor carefully the application of the obligation placed on Member States by that directive to provide for measures ensuring that, **in the construction sector**, posted workers in subcontracting chains can hold the contractor of which their employer is a direct subcontractor liable as regards respect for their rights as workers;

As regards **mobile workers**, Parliament called for the stepping-up of checks in relation to compliance with work, standby, driving and rest times in all relevant sectors, such as construction, catering, health and transport (road), and for the imposition of penalties for serious non-compliance. It called on the Commission to: consider creating a **European Road Transport Agency** to ensure proper implementation of EU legislation and promote standardisation and cooperation among all Member States as regards road transport. Furthermore, it rejected any **further liberalisation of cabotage** until the implementation of the current legal framework has been strengthened.

Members also:

- stressed the need for the Commission and the Member States to monitor and ensure proper enforcement of national social legislation and collective agreements for airlines having operational bases on EU territory;
- recalled the importance of tying the **development of the digital and sharing economy to the protection of workers** in this new sector, where more flexible working practices may result in more precarious and less regulated employment.

**Towards upward social convergence:** recalling the Commission's commitment to establishing a pillar of social rights, Members stressed the need for upward social convergence in order to achieve the objectives set out in Article 151 TFEU. The adoption of a pillar of social rights should not lead to the lowering of existing labour and social standards. They recommended the establishment of wage floors in the form of a **national minimum wage**, with the objective of gradually attaining at least 60 % of the respective national average wage, if possible, so as to avoid excessive wage disparities.

The Commission should also examine the possibility of establishing an instrument whereby companies can be subject to a **greater duty of care** for which they may be held liable, in respect of both their subsidiaries and their subcontractors operating in third countries, in order to prevent human rights violations, corruption, severe physical injury or environmental damage and the violation of ILO conventions.