



Collective bargaining and social dialogue conference

Brussels, 30 November-1 December 2006

Migrant workers, collective bargaining and the public services A draft policy document

Background

The resolution on collective bargaining at the 2004 Congress committed EPSU to formulate its collective bargaining policy in a number of key areas. The recruitment, retention and integration of migrant workers was one of these themes and it was first discussed at EPSU's 2005 collective bargaining conference where some of the main issues were highlighted. The conference agreed that further work would be carried out and a more detailed document presented to the 2006 conference.

EPSU's collective bargaining conference has an advisory role within the Federation. It allows trade union officers and researchers involved in collective bargaining to come together to debate issues and discuss the potential for co-ordinating policy. It also provides guidance to the Secretariat when they draw up policies for presentation to the Executive Committee. The aim of this document is to set out the background and identify the key elements that could go to make up EPSU policy on collective bargaining and migrant workers. Taking account of the views expressed at the conference, the Secretariat will then draw up a revised draft policy to put to the EPSU Executive Committee for adoption in the first half of 2007.

This document firstly gives an indication of the scale of migrant working across Europe and how it impacts on different economies and labour markets, both those of the receiving countries, and those of the countries experiencing significant emigration. It then looks at the broad elements that could make up a collective bargaining policy on migrant workers. The conclusions will outline the key points of a draft policy for submission to the Executive Committee.

Broader political issues

The issue of migrant workers has moved up the trade union agenda in the last five years and has become a key political theme in the light of the 2004 enlargement and the imminent accession of Romania and Bulgaria to the European Union. The ETUC published a major report on migrant and ethnic minority workers in 2003 along with an action plan covering a range of issues. Some of these issues are political and are being dealt with through lobbying and campaigning of national and European institutions in order to achieve changes in policy and legislation on migration and discrimination. An important issue, for example, is the regularisation of undocumented workers, a process that has been carried out in Spain, Italy and Greece, which have seen large numbers of unofficial migrants from North Africa and Albania.

The social partners at national level may be in a position to tackle these matters or put pressure on governments to introduce appropriate legislation. The 2003 European Commission Communication on Migration gives the example of Spain where the social partners are involved in estimates of labour shortages and how immigration can be one of the policies to deal with these. In Finland labour market organisations are involved in advisory bodies that deal with integration of migrants while in Denmark there is a national

agreement between the social partners allowing for local variations to sectoral agreements to allow for increasing integration of migrants into labour market.

In a memorandum to the Austrian EU Presidency at the beginning of this year the ETUC said that it was: “convinced that – in the interest of Europe’s current and future population – it is time to adopt a more pro-active EU policy on migration and integration which is based on the recognition of fundamental social rights of current citizens and newcomers and which is embedded in strong employment and development policies. Such a policy is necessary to help to overcome the demographic challenges facing the EU on the one hand and to tackle the challenges of integration and cohesion in increasingly diverse and mobile societies on the other.”

Contribution of migrant workers

Migration can be a controversial issue and so it is worth emphasising the invaluable contribution that migrant workers make to the economies of the countries they move to. This is not just in the specific skills they bring but also their contribution to overall economic growth. This was highlighted in a joint statement by the social partners in Finland in 2001 where they emphasised that foreign labour was a positive resource and not a threat and that joint measures must be found to change people’s attitudes and behaviour towards non-nationals.

The 2003 European Commission Communication on migration argued that: “Studies from across the world ... generally confirm that immigration has a number of positive economic effects” and that “In terms of employment opportunities, there is little evidence that immigration has led to higher unemployment”.

Recent analyses include that of the National Institute of Economic and Social Research in the UK. The Institute published new findings in October 2006 that indicate that immigration since 1997 has increased total UK output (GDP) by about 3%. It also points out that: “Since adult immigrants do not draw on public spending as children they are likely to make a net lifetime contribution to the exchequer (public finances) and thus contribute to the welfare of the rest of the population.” A report by the Caixa Catalunya bank in Spain earlier this year estimated that without migrant workers the GDP per head in Spain would have fallen by 0.6% over the last 10 years. Instead it has grown by 2.6%.

As a report on labour migration from the UNISON public services union in the UK notes: “Migrant workers make a huge contribution to the economy, but measures to protect them from unscrupulous employers are conspicuous by their absence.” This is crucial as the European Commission Communication points out that: “immigrants are over-represented in risky sectors of employment, in undeclared work of low quality, and in population segments particularly exposed to health risks and social exclusion.”

Scale of migrant working across Europe

According to official statistics, there are large numbers of migrant workers in virtually all European Union member states and in some cases these figures will be significantly higher if the number of undocumented migrant workers could also be included. The latest figures from Eurostat for the number of non-nationals in each population give an impression of migration over time, with a total of 25 million non-nationals in with nearly three quarters of these concentrated in the five largest member states – Germany, UK, France, Italy and Spain. Since the enlargement of the European Union in 2004 there has been a marked rise in the number of migrants moving within the EU but historically migration for a number of countries has often been from non-EU countries. For example, Germany’s largest non-national population group is Turkish; in Portugal most migrants come from Cape Verde, Brazil and Angola while the biggest migrant community in Greece is Albanian. While the new member states in central and Eastern Europe account for a lot of the recent increase in internal EU migration, they are themselves also receiving countries for migrants from their closest non-

EU neighbours – Ukrainians to the Czech and Slovak Republics, for example and Bosnians to Slovenia.

While some of these communities are well established – the Turkish in Germany, and immigrants from the Caribbean and the Indian sub-continent in the UK, for example – they are likely to face discrimination at work or in the process of trying to get work. In many cases this discrimination against minority ethnic groups is already addressed in legislation. Laws at European level, for instance, provide protection against discrimination for migrant workers in as far as they are regarded as they may face unfair treatment because of their ethnic or national origin. Directive 2000/43/EC implemented the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78 established a general framework for equal treatment in employment and occupation protect all Union citizens and third-country nationals and both cover employment and working conditions, including dismissals and pay. The challenge for trade unions is to ensure that workers are aware of these protections and make use of them when necessary.

Sectors

Although migrant workers cover a wide range of industries and occupations they are particularly numerous in five sectors – agriculture, construction and domestic services and most importantly for EPSU in health and social services, particularly social care. Many migrant workers, often undocumented, initially look for work in sectors where casualisation and unofficial work are widespread. This is the case in some cases in social care provision. However, the picture is different with healthcare where large numbers of migrants move abroad in search of better pay and conditions. The European Commission Communication of 2003 points out: "...nearly half the immigrants entering the EU every year are now female and that an increasing percentage are coming in their own right to work, many as nurses or in the caring professions..." It goes on to argue that: "Immigrant women may suffer from double discrimination due to their gender as well as to their ethnic origin. Special attention is therefore needed to ensure equal access to the labour market and adequate education and training and in particular access to lifelong learning."

In its labour migration report UNISON explains that: "Overseas countries are being used to fill a personnel gap in the UK's health service. Of the 34,627 additional nurses and midwives joining the register in 2003-04, 14,122 came from outside the UK." The union's view is that: "This is having a devastating effect on developing countries where life expectancy is much lower than the UK." The report cites the case of South Africa, which, according to the International Organisation for Migration has spent \$1 billion on training health workers who have migrated.

The response

The 2003 ETUC report on migrant and minority ethnic workers said that: "the overwhelming majority of confederations recognise that recent migrants and their descendants face particular problems on the labour market and that they are acting to address these problems. Confederations are also acting to involve recent migrants and their descendants in their own structures and in some cases are making major changes to take account of their concerns." The report went on to say that the problems "were explained in most countries by a combination of factors. Although language difficulties, was the most frequently cited factor, no confederation thought it was the only reason for the difficulties migrants and ethnic minorities faced. The other reasons identified most frequently were lack of accepted qualifications, prejudice in the host country and problems in understanding the system."

Collective bargaining in the countries affected by emigration

One of the main reasons for emigration is the desire for a better paid job or need for work and so migrant workers are escaping regions of high unemployment or low-paying sectors. In some cases EPSU affiliates will already be campaigning for national government and EU action to tackle unemployment and economic development issues and EPSU and its

affiliates from other countries can certainly lend their support to this campaigning. More specifically the need at sectoral level will be to improve pay and working conditions to try to reduce the scale of emigration of particular groups of workers.

This has been one of the issues for negotiators in a number of countries in central and Eastern Europe where health unions have been pushing hard for substantial pay increases in recent years. In fact, a similar case can be made even in richer countries like the UK. While recruitment of health workers from developing countries has become a controversial issue, a contributing factor has been that the UK itself loses workers to the USA and Australia. The argument of health unions in the UK is for better pay and conditions for all workers in the sector in order to reduce the loss of workers overseas but also to make health sector employment more attractive to the existing local labour force.

Collective bargaining in receiving countries

The ETUC action plan on migration makes two specific points on collective bargaining, arguing that member organisations (at the relevant level) should:

- “Conclude collective agreements that incorporate issues referring to the situation of migrant workers irrespective of racial and ethnic origin and religion.”
- “Ensure that collective agreements and employment policies in general take up and are consistent with issues of migration, inclusion and equal treatment of all workers irrespective of their origin or status.”

In its earlier report on migrant and ethnic minority workers the ETUC provides a number of examples of action at national level, such as the FGTB/ABVV in Belgium that had called for collective agreements to “Include workers of foreign origin among the ‘groups at risk’ who can benefit from specific funds for training at sectoral level”. In Spain, the UGT confederation had included in its collective bargaining guidelines “time off to deal with issues such as renewing work permits; extra days of leave when they need to return home for issues such as bereavement; health and safety – information in other languages; reduction or elimination of temporary contracts”.

Policies on migrant workers were debated in hearings held by the European Union’s Economic and Social Committee in June 2006, where the Italian federation CGIL pointed out that national, territorial and company agreements contain the following specific elements:

- Oral and written information on prevention of accidents and occupational illnesses, using bilingual material with suitable international symbols;
- Negotiated management and planning of holidays and leave to take account of trips back to home countries;
- Recognition of the right to the observance of the main religious holidays;
- Diversification of meals served in the workplace canteens;
- Negotiation of monthly pay advances to be paid back or use of severance pay shares in special cases.

This list of issues is similar to the policies identified by the ETUC’s 2003 report that found that national confederations or their member organisations had negotiated policies covering:

- General statements on equality, discrimination and harassment;
- Access to training, promotion and other workplace benefits;
- Outlawing harassment;
- Language training;
- Recognition of foreign qualifications;
- Organising leave;
- Special training for migrants;
- Religious practices and food in canteen;
- Religious practices and working time; and
- Religious practices and uniform or dress.

Languages, information and advice

Help with languages is of vital importance for many migrant workers and it may be something that can be provided by the employer or at least paid for by the employer if public provision is not available. The European Commission Communication argues that: "Special efforts are needed to assess and up-grade immigrants' skills, including language ability, to enable them to enter the labour market and to make sure that they then have access to ongoing training on an equal footing with nationals."

In a number of countries, such as Germany and Austria, there is specific state provision for this. In Denmark the social partners agreed a statement in January 2002 calling for immigrants to have rapid access to Danish language courses, which could take place during working hours and should be at the place of employment or near to it. Unions can also negotiate with employers to provide more general information about employment and other rights and support on housing, finance and social services as part of any induction of new workers.

Recruiting migrant workers

There is a risk that migrant workers may be less visible working for example for sub-contracting companies, doing shift and/or part-time work. This could mean they are cut off from constant or regular contact with other workers and trade union reps and officials. In terms of collective bargaining this will make it important to have an agreement that ensures that the union gets access to all new employees to give them information about the union and a proper chance to recruit them. Clearly this may not be possible in respect of workers employed by sub-contractors and in this case it will be important to address this in the negotiations with the main employer to call them to account over their use of contractors and sub-contractors and ensure that the agreements that cover outsourced workers have similar provisions as those covering the core workforce.

Employment and training opportunities

Unemployment can be high among some migrant communities and it may be possible, particularly in respect of larger employers and sectoral agreements that initiatives can be taken to help integrate migrant workers into the labour market. In 2002 unions, employers and the municipal authorities in Denmark agreed a three-stage process to integrate migrant workers into the labour market. The first stage of induction lasts between 13 and 26 weeks when immigrants, who will be financially supported by the state get Danish language training at work, paid for by the municipal authorities. Although at a workplace they do not have employment status during this period. During the second period, the individual will be taken on by the employer and trained to improve their skills, although payment will only start when the individual begins work. The third period is normal employment when the individual enjoys the same rights as any other Danish worker.

In the Danish state sector an agreement makes it possible to employ workers with a shortage of language skills and/or professional competences and/or workplace experience for up to one year in special integration and training positions. The target groups are ethnic minorities and descendants (as well as young ethnic Danes) who have not managed to find employment or education courses through the normal guidance and educational system. There is an obligation for training and upgrading of qualifications for on average 20% of the working time. Wages according to the relevant agreement are paid for the actual working time (equivalent to 80% of 37 hours).

The Key Elements of Collective Bargaining Policy on Migrant Workers

Below are some of the main points a policy would cover. Apart from policies specifically implemented in the workplace it is also ensuring that the relevant legislation is understood and applied in the workplace:

- clarification that legislation and collective agreements outlawing discrimination and harassment clearly apply to migrant workers;
- provision of, or access to, language courses and other courses or advice and information that would help migrant workers integrate into society;
- employment rights and health and safety information provided in other languages where practicable;
- take account of religion in terms of diet, working time and dress requirements;
- take account of any special needs of migrant workers to take their leave entitlement in ways that help them return to visit their families;
- negotiate, where possible, employment and training initiatives to improve migrant worker opportunities in the labour market;
- ensure that any agreements allowing trade unions access to new recruits clearly include agency and temporary workers among whom there may be significant numbers of migrant workers;
- get an agreement to monitor the activities of sub-contractors to prevent exploitation of migrant workers who are not directly employed by the main employer;
- take up the issue of qualifications and try to ensure that the employer is not refusing to recognise appropriate qualifications.

There are important issues specific to the health sector where the issue of improving pay and conditions for most workers could have a significant impact on emigration and the loss of many trained staff to other countries. Linked with this is the possibility that the social partners could agree an ethical approach to recruitment to restrict the damage being done to poorer countries, particularly non-EU countries.

Main references

Communication from the Commission on immigration, integration and employment, June 2003 COM (2003) 336 final

International labour migration – a UNISON discussion paper, 2006

Migrant and ethnic minority workers – challenging trade unions, ETUC 2003