

Barroso steps into Swedish collective bargaining controversy

Last weekend (16 October) European Commission President Jose Manuel Barroso stepped into the controversy created by Commissioner for the Internal Market, Charlie McCreevey. McCreevey had been quoted a week earlier apparently declaring his support for court action by a Latvian company challenging the collective bargaining system in Sweden ([>click here for the facts of the case](#)).

- *This is how McCreevey's comments were reported by one news website* [> eubusiness](#)

Barroso claimed that McCreevey's comments had been misunderstood and that neither he nor the Commission were critical of Sweden's social model. However, both of them then went on to warn about the importance of the internal market and the need to respect traditions as long as they didn't conflict with European guidelines.

- *Read the report on Barroso's response at* [> euobserver](#)

McCreevey is reported to have expressed regret over his earlier comments. However, there is still concern about the outcome of the Vaxholm court case and the extent to which the Services Directive poses a threat to national labour standards.

The European Parliament voted 189-157 in favour of a Socialist Group motion to invite both Barroso and McCreevey to appear before it to explain the statement and clarify the Commission's position.

The ETUC also called for clarification from the Commission. General secretary John Monks said: "Recently, the EU and social partners celebrated 20 years of European Social Dialogue. Now, however, we find that the very basic tools for proper social dialogue, i.e. collective bargaining and industrial action, are put into question."

- *Read the press release at* [> ETUC](#)

The Swedish Minister for Trade Thomas Östros wrote to McCreevey pointing out that: "Sweden has one of the most flexible labour markets in the EU and has very

few working requirements overall. The right to provide Services is even concluded in our constitution.”

Östros went on: “In the Swedish case we have a model for the labour market which has been in force for decades and which is based on collective agreements between employers and trade unions...Preserving our model was a prerequisite when we joined the EU in 1995 and where we got assurances that it did not constitute any problems.”

He emphasised that competition has to be on equal terms and that: “This is a fundamental right which is clearly stated in the Posted Workers Directive and also is at the core of the European cooperation.”

Östros said he found it remarkable and unacceptable that the Commission would support such a move against a member state who has regulated its labour market in a different way than most other member states.

In the meantime, ardent supporters of the internal market have been trying to mobilise their supporters. Christopher Beazley, conservative MEP from the UK and chair of the Baltic Europe group of MEPs has been circulating a request from Latvian MEP Valdis Dombrovskis to support his position on the Laval case expressed in a letter to Barroso.

The Swedish unions also report that the Latvian Minister for Economics, Krisjanis Karins, told the press during a recent visit to Sweden that trade unions there are fighting for artificially high wages. He allegedly added that they have not understood that the idea behind EU is to create a common market.

Karins is also reported to have said that the industrial action taken by the Swedish construction union in Vaxholm was shocking and against the interest of the EU.

Karins represents Latvia in the Internal Market Council, which is the Council responsible for the Service directive.

The Swedish union confederation, LO, has written a detailed memorandum on the issue ([click here for full versions in Swedish, English and French](#)). This argues that: “Everybody should be aware of the fact that the result will not only affect trade unions in Sweden; a failure would be a hard blow to all who hope and believe that an internal market without social dumping is possible.”

EPSU general secretary Carola Fischbach-Pyttel said: “This case highlights how important the Services Directive is for Europe's unions. Collective agreements and labour law, like public services should be excluded from the scope of this directive.”

The dispute in Vaxholm

In June 2004 Laval un Partneri, a Latvian construction company started work on refurbishing an school for the Vaxholm local authority, north of Stockholm. The work was carried out by some 35 Latvian building workers posted in Sweden.

The local branch of the Swedish building workers' union (Byggnads) approached the company about concluding a collective agreement and the first of several negotiations took place on 9 June 2004.

On 14 September, the day before the fourth negotiations meeting between Byggnads and Laval, the company concluded a Latvian collective agreement, applying only to members of the Latvian building workers' union. Nevertheless, in line with Swedish practice, Byggnads maintained its demand that the company should conclude a Swedish collective agreement.

The company refused and so on 19 October, Byggnads gave notice of industrial action at starting on 2 November. The action included a total work stoppage and strike, as well as a boycott of all jobs and blockade of the workplace.

The day after the notice of industrial action, Laval extended the Latvian collective agreement to all the posted workers, not only those who are members of the Latvian building workers' union. Moreover it the Swedish union confederation LO said that the revised agreement appeared to state that the company could not sign any other collective agreement regulating the conditions of work for the posted workers.

The industrial action began on 2 November and on 3 December the Swedish Electricians' Union took sympathy action in the form of a boycott of all electrical work performed at the sites where Laval un Partneri was working in the Stockholm area.

On 7 December, the company applied for a summons from the Swedish Labour Court arguing that the industrial action taken by Byggnads and sympathy action taken by the electricians' union were illegal and should be stopped. The company also submitted a claim for damages from the unions.

On 22 December, the Swedish Labour Court, in an interim decision, rejected the claims and following this decision several other unions joined the sympathy action.

The same day as the Labour Court announced its interim decision, work was stopped at Vaxholm school site and the Latvian building workers went home for Christmas. The work has not been resumed since then and the municipality of Vaxholm has cancelled the contract.

The Labour Court examined the other items in the summons application at the main hearing on 11 March 11. One of these items concerns the company's reference to Article 3.1.c of the Posted Workers. Laval claims that this article implies that Member States of the European Union shall ensure that a minimum rate of pay is laid down in national legislation or in a generally applicable collective agreement. As Sweden does not have a statutory minimum wage or general collective agreement, the company maintained it had no obligation to pay a minimum rate.

The company also based its arguments on articles 12 (prohibition of discrimination on the ground of nationality) and 49 (restrictions on freedom to provide services within the Community shall be prohibited in respect of nationals of Member States who are established in a State of the Community other than that of the recipient of services) of the EU Treaty. The Swedish trade unions maintain that neither article outweighs other EU legislation or relevant national law.

However, at the main hearing the Labour Court decided that a preliminary decision would be obtained from the European Court of Justice. In fact, one member of the court protested against this decision, arguing that there was no reason to accept the company's demand for preliminary decision, as EU legislation does not cover

the right to take industrial action in any respect. In addition, he considered that the blockade against Laval could in no way contravene articles 12 and 49 in the EU Treaty or the Posted Workers Directive.

The proceedings in Sweden have been stayed, pending the ruling of the European Court of Justice.

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