

Social dumping in the European Union

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The Committee on Employment and Social Affairs adopted the own-initiative report by Guillaume BALAS (S&D, FR) 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 and make genuine social convergence essential. 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: Members 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, agencies and liaison offices), including for interpretation and translation, inter alia through the exchange of best practices;
- improve cross-border cooperation between inspection services and the electronic exchange of information and data, in order to improve the efficiency of controls intended to combat and prevent social fraud, bogus self-employment and undeclared work, while recognising the importance of data protection, and 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;
- improve considerably information exchange concerning social security for posted workers, with a view to improving the enforcement of existing legislation and to cooperate across borders in relation to enforcement information.

The report 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.

As regards mobile workers, the report 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;
- draw up a national collective agreement in all Member States, in cooperation with the social partners, in order to guarantee certain rules on rest times and suitable social safeguards, above all in the event of acquisitions by airlines outside the EU.

Members also 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 forms of employment with lower standards as regards social security, working time, working location, training, worker participation and employment protection.

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 Commission urged the Commission, in the specific recommendations it makes to the Member States as part of the European Semester, to incorporate opinions on social issues with a view to enhancing worker protection through convergence.

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.