

European court leads the assault on working conditions and union rights

The European Court of Justice is leading the assault on working conditions and union rights that we are now being subjected to. The race to the bottom is real and is now being written into European law by the ECJ. Its judgements have made the rights of big business and the priority of the EU internal market superior to workers' rights throughout the European Union.

A number of its most recent rulings on the provision of services between member-states—the Vaxholm, Laval, Rüffert and Luxembourg judgements—seriously undermine the ability of trade unions to represent their members and the ability of member-states to legislate to protect working people and drives a race to the bottom dangerously linked to the nationality of workers in a country.

These rulings are based on existing European treaties and become case law within the European Union, meaning that member-states must ensure that they do not breach them, just as they must for any of the existing treaties. These are not rogue judgements by a few rogue judges: they are delivering what the treaties set out to achieve.

In each of these cases the ECJ ruled that the right of companies to provide services across borders free from restrictions is superior to the protection of all workers, regardless of nationality or domicile. “Restrictions” can include, among other things, legislation or agreements on pay, working hours, health and safety, pension rights, and overtime payments.

These rulings divide workers on the grounds of their domicile and allow for a two-tier work force to operate in any member-state, thus driving working conditions down to the lower level.

In the most recent of these issues the European Commission brought a case against the government of Luxembourg on the grounds that legislation in Luxembourg protecting foreign workers is an obstacle to the free provision of cross-border services. The unelected EU Commission won its case against the elected Luxembourg government that was attempting to legislate to provide minimum working conditions for all workers in Luxembourg.

The thrust of the judgements in the Vaxholm, Laval, Rüffert and Luxembourg cases is to subordinate trade union rights to the European Union's internal market. The Lisbon Treaty, if they succeed in forcing it through, will copperfasten these judgements.

This is not just our party's interpretation or one opinion of the European Union. This, in fact, is what the European Union is.

The reality that workers and the trade union movement face is stark.

For some EU member-states the social reforms and gains won over many decades, resulting from very bitter struggles to protect themselves against the worst excesses of capitalism, are at best unworkable and at worst illegal.

The implications are grave for the trade union movement in every jurisdiction. If the European Round Table of Industrialists is pushing for closer integration, workers have serious questions to ask themselves. They should consider the fact that these rulings

- limit even further a trade union's right to strike
- limit the ability of trade unions to protect all workers, regardless of nationality or domicile
- make more difficult the trade unions' vital role in combating racism and fascism
- appear to be in breach of ratified International Labour Organisation conventions (Conventions 87, 94, and 98)
- create a two-tier work force that will drive all conditions down to the lowest level.

Workers need to resist these attacks. We need to campaign against and vote against the Lisbon Treaty. We need to build links throughout the EU countries with other workers and trade unions that are willing to resist and have shed the illusion that the EU will save workers from the EU itself.



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