



EUROPEAN PARLIAMENT

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Committee on Employment and Social Affairs

2013/2078(INI)

6.12.2013

OPINION

of the Committee on Employment and Social Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the situation of fundamental rights in the European Union (2012)
(2013/2078(INI))

Rapporteur: **Ádám Kósa**

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SUGGESTIONS

The Committee on Employment and Social Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas Article 18 of the Treaty on the Functioning of the European Union prohibits discrimination of any kind on the basis of nationality, whether direct or indirect;
- B. whereas, pursuant to Article 151 of the Treaty on the Functioning of the European Union, the Union has as its objective the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion;
- C. whereas the right of freedom of assembly and of association is laid down in Article 12 of the Charter of Fundamental Rights, and whereas the autonomy of the social partners must be respected at all times pursuant to Article 152 of the Treaty on the Functioning of the European Union;
- D. whereas everyone residing and moving legally within the European Union is entitled to social security benefits and social services pursuant to Article 34 of the Charter of Fundamental Rights;
- E. whereas the right to collective bargaining and action is a fundamental right pursuant to Article 28 of the Charter of Fundamental Rights;
 - 1. Recalls its resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 calling for full respect for the Charter of Fundamental Rights of the European Union;
 - 2. Points out that it is necessary to strengthen the protection of fundamental rights in order to safeguard the credibility of the European Union institutions; stresses that the Union has to contribute to the preservation and development of these common values in compliance with the Treaties and the Charter of Fundamental Rights; stresses that a clear and systematic evaluation process should be pursued in order to ensure compliance with the Treaties;
 - 3. Points out that the Court of Justice of the European Union has jurisdiction in matters relating to the Treaties and to the secondary legislation, including application of the Charter of Fundamental Rights and the area of employment¹, and that it must proceed in dispute hearings in a way which is appropriate, transparent and fair ('right to a fair trial'); emphasises that the Court of Justice of the European Union is required to use the Charter of Fundamental Rights as an interpretative guide in litigation concerning social and labour rights and that such litigation may take the form of legal action by means of preliminary

¹ Article 16 and 22 of the Charter of Fundamental Rights of the European Union in the case of C-202/11, judgment of the Court of 16 April 2013 Anton Las v PSA Antwerp

references by national courts (Article 267 TFEU) challenging Member States' implementation of Union law which they believe violates the fundamental social rights of workers as laid down in the Charter of Fundamental Rights; welcomes the Commission's proposal to create a new mechanism to promote the values set out in Article 2 of the Treaty on European Union;

4. Believes that in order to make full use of the potential of the Treaties, there is a need to carry out objective and comparative assessments of finely balanced individual and collective labour rights by reflecting on national legislation while respecting national competencies;
5. Stresses that the financial and economic crisis and the measures taken to tackle it have had a serious impact on the poorest and most deprived sections of the population, rather than on those whose irresponsible actions caused the crisis; calls for more incisive measures to be taken to remedy the situation and to prevent it ever occurring again;
6. Points out that Parliament itself has stressed that the Treaties currently in force already grant the EU extensive competence in the area of fundamental rights²; notes that the provisions of the Charter of Fundamental Rights, in accordance with Article 51 thereof, are addressed to the Member States with regard to any matter in which they are implementing Union law, including matters concerning anti-discrimination, health and safety, social inclusion and the right to social and housing assistance;
7. Reminds the institutions of the European Union that in order to safeguard and apply human rights we need guarantees enshrined in the Treaties, as well as appropriate procedures laid down in EU law, including in secondary legislation;
8. Recalls its resolution of 4 July 2013 on the impact of the crisis on access to care for vulnerable groups, in which it called on the Member States to carry out impact assessments to ensure that measures which might impact the most vulnerable are in compliance with the principles laid down in the Charter of Fundamental Rights and in conformity with Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, as well as with Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation; considers that austerity measures should not under any circumstances deprive citizens of access to basic social and health services and fundamental rights;
9. Stresses the need for common horizontal anti-discrimination legislation to remove barriers to free movement; calls on the Council to end its blockade of the proposal tabled by the Commission;
10. Notes that the Troika has pushed programme countries into deep recession by bringing pressure to bear to freeze salaries; stresses that the autonomy of the social partners has to be protected and promoted at all times in accordance with the Treaty;
11. Recalls its resolution of 14 September 2011 on an EU Homelessness Strategy, urging the EU Agency for Fundamental Rights (FRA) to enhance its work on the implications of

² Working document II on the situation of fundamental rights in the European Union in 2012, rapporteur Louis Michel, page 2.

extreme poverty and social exclusion in terms of access to and enjoyment of fundamental rights, bearing in mind that the exercise of the right to social and housing assistance is critical for the enjoyment of a full range of other rights, including political and social rights; calls on the Commission to closely monitor whether fundamental rights such as human dignity are being upheld in the Member States and to do its utmost to urgently end the criminalisation of homeless people;

12. Recalls its resolution of 15 December 2011 on the mid-term review of the European strategy 2007-2012 on health and safety at work, in which it stated that the right to access to health is a fundamental right and that all workers should enjoy a legal guarantee of working conditions which respect their health, safety and dignity;
13. Underlines the right of workers working in another EU country to equal treatment with national workers concerning employment, remuneration and other working conditions without having to apply for a work permit, as well as regarding tax benefits, the right to portability of social security benefits, family reunification and the right of their children to education;
14. Urges the Commission to monitor the implementation of the Employment Equality Directive 2000/78/EC, including the provisions of Article 9 thereof on remedies and defence of rights, and to launch infringement procedures against Member States which fail to enforce it; calls on the Commission to strengthen the right to legal representation in employment disputes;
15. Stresses that the coordination of social security is a precondition for free movement; calls on the Commission to bring forward a proposal for reform of Regulation (EC) No 883/2004 in order to extend the export of unemployment benefits to a mandatory six months instead of three;
16. Notes that cross-border labour markets and intra-EU mobility in general are becoming increasingly important; points out, however, the lack of information on rules and regulations applying to the workplace, including labour rights, working conditions and social security; stresses that the appropriate provision of information (e.g. the preparatory action to establish information centres for posted workers) is a precondition for these workers to be able to enjoy their right to free movement;
17. Underlines the need for a European quality framework for traineeships setting out the rights and obligations of both sides, enabling mobility and protecting trainees from exploitation;
18. Deplores the fact that in some Member States transitional rules on free movement of workers are still in place; stresses that fears of negative impacts of labour migration are unfounded; points out that estimates show a long-term increase of almost 1 % in the GDP of the EU15 countries as a result of post-enlargement mobility (in 2004-09)³;
19. Notes that the recent labelling of free movement as migration to benefit from social

³ Employment and social developments in Europe 2011, chapter 6: Intra-EU labour mobility and the impact of enlargement, p. 274.

security systems is not based on facts⁴; emphasises that discrimination is a major obstacle preventing European citizens from enjoying fundamental rights; stresses that EU citizens residing permanently in another Member State enjoy the right to equal treatment regarding social security pursuant to Regulation (EC) No 883/2004;

20. Emphasises the need for the Commission and the Member States to strengthen their work on developing and guaranteeing labour rights and fundamental social rights as a crucial step towards ensuring that equal treatment, decent jobs and living salaries are obtained in the European Union;
21. Calls on the Commission and the Member States to recognise victims of all forms of labour exploitation, undeclared work, forced labour, labour trafficking and any other form of labour rights violation as victims of exploitation in violation of workers' fundamental human rights;
22. Stresses the need for the Member States to strengthen labour inspections in order to fight effectively against labour trafficking, forced labour, exploitation of workers, undeclared work and other forms of violation of workers' fundamental human rights;
23. Calls on the Commission and the Member States to recognise that the right of workers to safe and healthy working conditions, as set out in Article 3 of the European Social Charter, is essential for workers to have the opportunity to live a decent life and to ensure that their fundamental rights are respected;
24. Highlights the importance of the social partners' role in collective bargaining for safeguarding the fundamental rights and equal treatment of workers, particularly with regard to young people, women, persons with disabilities and other socially disadvantaged groups in the labour market.

⁴ See 'A fact finding analysis on the impact on the Member States' social security systems of the entitlements of non-active intra-EU migrants to special non-contributory cash benefits and healthcare granted on the basis of residence', DG Employment, Final report submitted by ICF GHK in association with Milieu Ltd., 14 October 2013.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	5.12.2013
Result of final vote	+: 33 -: 1 0: 0
Members present for the final vote	Regina Bastos, Edit Bauer, Heinz K. Becker, Phil Bennion, Vilija Blinkevičiūtė, Alejandro Cercas, Ole Christensen, Minodora Cliveti, Emer Costello, Frédéric Daerden, Richard Falbr, Thomas Händel, Marian Harkin, Stephen Hughes, Ádám Kósa, Jean Lambert, Patrick Le Hyaric, Verónica Lope Fontagné, Olle Ludvigsson, Elisabeth Morin-Chartier, Csaba Óry, Siiri Oviir, Licia Ronzulli, Elisabeth Schroedter, Joanna Katarzyna Skrzydlewska, Gabriele Stauner, Jutta Steinruck, Traian Ungureanu, Inês Cristina Zuber
Substitute(s) present for the final vote	Georges Bach, Sergio Gutiérrez Prieto, Anthea McIntyre, Evelyn Regner, Csaba Sógor