

WRITTEN QUESTION E-3899/08
by Sahra Wagenknecht (GUE/NGL)
to the Council

Subject: Impact of the 'Viking' and 'Laval' judgments of the European Court of Justice

The 'Viking' and 'Laval' judgments have far-reaching consequences for the right to take industrial action in the European Union. To lessen the legal uncertainty for trade unions and individual Member States, the Council is asked to answer the following questions:

1. At what point, in the Council's opinion, can industrial action be categorised as no longer proportionate and therefore result in actions for damages against trade unions?
2. What is the Council's appraisal of the European Court of Justice's conclusion in the 'Laval' judgment that the minimum protection laid down in Article 3 of the Posted Workers Directive, as regards terms and conditions of employment, is the most that can reasonably be required of cross-border undertakings? To what extent is that conclusion compatible with Article 3(7) of the Posted Workers Directive, under which more favourable national terms and conditions of employment are not precluded by what is set out in paragraphs 1 to 6?
3. What scope do Member States still have to ensure comprehensive social protection and pay for posted workers which go beyond the minimum conditions given in Article 3 of the Posted Workers Directive?
4. Does the Council see a need for amendments to the Posted Workers Directive because of the 'Viking' and 'Laval' judgments and, if so, what amendments?
5. What is the Council's position on the call by the European Trade Union Confederation for a social progress clause, or social protocol, to be added to the EU Treaties?