

**FREE MOVEMENT,  
YES!  
SOCIAL DUMPING,  
NO!**

★ ★ ★  
★ WORKERS IN EUROPE  
★ ARE SUFFERING  
★ FROM SOCIAL DUMPING  
★ ★ ★



## SOCIAL DUMPING

- Social dumping occurs when businesses abuse free movement in the single market to undercut or evade existing labour standards and regulations, gaining a competitive advantage over bona fide companies.
- Social dumping takes place because of gaps and loopholes in EU legislation. Companies are able to artificially reorganise their corporate structures to take advantage of the freedom to provide cross-border services. For instance, EU law is not clear on letterbox companies. A company is able to register its place of establishment in another Member State than where it conducts its commercial activities. The company can then evade the legal obligations (labour law, tax, social security etc.) that would normally be applicable in the country where workers are performing their tasks.
- Social dumping can also occur as a result of weak enforcement. When workers are hired in a different Member State from where the work is performed, and when the host Member State does not, or is not allowed to, have proper inspections, it is difficult to check that employment standards are met. EU labour law relies on national enforcement, but Member States do not invest enough in labour inspections. In addition, poor enforcement results from the EU legislator itself which too often considers national inspections tools as potential barriers to free movement of services, rather than as a necessary guarantee for fair competition.

*Free movement of workers is a fundamental principle in the European Union. It stimulates the economic, social and cultural cohesion of the Union. However, workers are not "merchandise" that can be moved around and exploited at the cheapest price, in defiance of national legislation and collective bargaining systems. This will drive down wages and working conditions, increase xenophobia and anti-European sentiment, and destroy any hope of sustainable employment and economic growth. It will deny workers from all over Europe the right to equality and dignity.*

### **The ETUC says social dumping is unacceptable:**

- Workers are not commodities. The EU Treaties set social objectives: the single market should serve citizens, not just companies.
- Social dumping creates unfair competition and generates a downward spiral in wages, and employment conditions.
- Social dumping also leads to lost tax revenue, less funding for national social security schemes, and workers with no welfare, sickness or accident insurance suffering significant risks and financial losses.

**The ETUC calls for fair rules of play. The single market must develop within a social framework, and not the other way round.**

## THE ETUC DEMANDS A COMPREHENSIVE RANGE OF SOLUTIONS, INCLUDING:

- A Social Progress Protocol (to be annexed to the Treaties), stating that fundamental social rights have priority over economic freedoms;
- Revision of the Posted Workers Directive to end discrimination between workers at the same workplace;
- Strong EU legislation to tackle letterbox companies;
- Rules to establish joint and several liability in subcontracting chains;
- Rules to end precarious work (e.g.: zero hour contracts, fake self-employment);
- A Directive on minimum standards for labour inspection (based on ILO Convention 81).

# THE REALITIES OF SOCIAL DUMPING

## Companies make savings through posting

A worker posted from Portugal or Poland to the Netherlands, earning the same net income, can save an employer up to 25% on labour costs through the difference in social security payments.

Dutch worker		Portuguese worker		Polish worker	
Net salary	1600	Net salary	1600	Net salary	1600
-/- soc. sec in NL	496	-/- soc. sec in Portugal	81	-/- soc. sec in Poland	350
-/- taxes in NL	81	-/- taxes in NL	81	-/- taxes in NL	81
gross salary	<b>2177</b>	gross salary	<b>1762</b>	gross salary	<b>2032</b>

Source: Berntsen and Lillie, 2015

## More subcontracting and temporary agency work in the French building industry

Between 1990 and 2000, construction companies with more than 500 employees reduced the number of directly employed manual workers by 60%. The main motive was cost-cutting. By paying subcontractors a fixed price for their services, firms could obtain services at prices they could not achieve themselves – despite higher productivity – if applying the industry's applicable social norms.

The number of temporary agency workers in construction rose considerably – from 56,613 in 1994 to 117,364 in 2013 – while overall employment has remained relatively stable.

Source: Kahlmann, 2015

## Fake self-employment at Ryanair

At least 220 self-employed pilots work for Ryanair in Ireland. When they pass the company selection test, they become directors of their 'own' Irish micro-enterprise, which is a client of an interim agency (Brookfield aviation) that supplies pilots to Ryanair.

Ryanair selects an accountant to handle the micro-enterprise and gives the pilot instructions. The company pays Brookfield, which pays the pilot's micro-enterprise.

Ryanair has been regularly condemned for non-respect of labour legislation in Belgium, Spain, France, Italy and Norway

Source: Capital, January 2014

## Wage competition

In the ECJ Rüffert judgment (C-346/06), 53 posted workers on a building site in Lower Saxony were paid only 46.57% of the applicable minimum wage (laid down by national law on the basis of a national collective agreement in the construction sector). The ECJ ruled that equal treatment with local German workers in this case would constitute a barrier to free movement of services.

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