

WHY WE NEED A SOCIAL PROTOCOL

An explainer

"...neither economic freedoms nor competition rules shall have priority over fundamental social rights and social progress..."

ETUC Proposal
for a Social Protocol

Background

What happens when the profit of businesses clash with the social rights of workers? According to a seminal ruling of the European Court of Justice (CJEU), economic interests take precedence over the social rights of workers.

The [Laval case of 2004](#) brought head-to-head the Latvian construction company Laval Un Partneri Ltd and a Swedish Building Workers' Union. Laval refused to sign a collective agreement that would have seen improved the condition for Latvian workers posted at a construction site in Sweden compared to what is guaranteed by Union law.

In response to the refusal, the trade unions blockaded the construction site. The case eventually reached the CJEU, which in 2007 considered that the union's industrial action had gone too far and forcing Sweden to change its law to restrict union action.

This ruling de facto gave precedence to the company's freedom to provide cross-border services in the internal market, anchored in the European treaties, over the workers' rights to strike and to equal pay for equal work, anchored in the Charter of Fundamental Rights of the EU.

While this dispute was local, its implications were European. It brought into question the nature of the European project and the true beneficiaries of European integration.



What our MEPs say

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"The Laval case illustrated how the EU treaties place companies before workers, and the internal market - with its neoliberal logic - before social rights. A social protocol would help change this, as it would bind the European Court of Justice to put workers' rights first. It is an important and much needed step in the right direction."

Economic crisis and austerity

The Laval ruling took place on the eve of the 2008 economic crisis, which saw EU-directed austerity implemented across Europe and growing unemployment.

Neoliberal governments and bosses intensified the exploitation of workers during this period. Precarious work became more common, inequality was accentuated and poverty levels increased.

Aggressive austerity led to widespread discontent with EU governance and a backlash that was felt in electoral terms. The economic crisis in Europe was a vivid example of the letter and spirit of the Laval ruling put into practice.

A neoliberal Europe where businesses and their interests come before the social rights of people and workers. A Europe where the social net is weak, salaries are low, and businesses can treat workers as mere commodities.

The Social Protocol

The European Trade Union Congress (ETUC), representing workers from across Europe, has called on the EU to enshrine a Social Protocol in the EU Treaties. This Protocol should state [in clear and unambiguous terms](#) that "neither economic freedoms nor competition rules shall have priority over fundamental social rights and social progress" and that "in case of conflict fundamental social rights shall take precedence."

The Social Protocol would be a binding affirmation of the European social model at a time this model is under unprecedented threat. This would [mean that](#) "the indissoluble link between economic performance and social progress, in which a highly competitive social market economy is not an end in itself, but should be used to serve the welfare of all."

The Social Protocol would be binding and influence the decisions of the European Court of Justice. This would give security to citizens and workers that their rights to take collective action, including their right to strike, are protected and can never be sacrificed again, especially in times of economic crisis as experienced recently.

The view of the Left

We support the demands of workers for a Social Protocol to the EU Treaties. Recognising the extreme damage to the social fabric of European society from austerity policies, the EU introduced in 2017 the so-called [European Pillar of Social Rights](#). This was an attempt to commit the EU to protect social rights such as fair wages, healthcare, education, decent standards of living, among others.

However, the Pillar of Social Rights does not clarify nor revert the hierarchy between companies' economic freedoms and workers' rights to social protection. In practice, the EU has continued to advance the same neoliberal logic that has led to the economic crisis, such as deregulation and promotion of precarious work.

This is why our MEPs are leading the effort in the European Parliament for the EU to make a binding commitment to social rights through a Social Protocol.



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