



# ETUC

## NEWSLETTER

EUROPEAN TRADE UNION  
CONFEDERATION

N°7  
April - May 2006



Dear Readers,

April has been a very important month for European trade unionism.

In France, the massive workers' mobilisation and trade union solidarity in opposing the new recruitment contract (contrat première embauche - CPE) forced the French government to withdraw the measure. We hope that this decision will mark the start of a new approach to improving young people's access to the labour market, which cannot be achieved through increasing insecurity. In Germany, the trade unions have negotiated a very important agreement in the metalworking sector, improving conditions for a large number of workers.

Through these successes, the European trade union movement has shown its ability not only to mobilise, but also to move forward with constructive proposals.

Developments surrounding the Services Directive are a further step in this direction. At the beginning of the month, the European Commission published its revised version of the directive, which incorporates almost all of the European Parliament compromise proposal that we supported. In putting forward this new version, the Commission stated that it wishes to take account of the current political reality. This proves that our demands and our campaign aimed in the right direction from the outset. During the month of May, the Council will have to take a position on the first reading of this directive. We hope very much that EU leaders will listen to the voice of European workers and respect the compromise provisions!

On 1 May we celebrated workers' day. This anniversary is always very important for the trade union movement, and particularly in this European Year of Workers' Mobility. Since 2004, 1 May has also been the anniversary of the historic enlargement of the European Union to include the countries of central and eastern Europe. We are convinced that maintaining transitional arrangements restricting the free movement of workers acts against European integration. Some countries have already announced that they will withdraw these measures, and we hope that others will soon follow suit.

John Monks  
General Secretary

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## EU News

### **Services Directive: the ETUC values the European Commission's efforts to respect the main provisions of the European Parliament's compromise – 04/04/2006**

The European Commission today published [its amended version of the Services Directive](#). Commission President **José Manuel Barroso** had **promised to respect the European Parliament's compromise**, adopted by a large majority on 16 February.

**The European Council has also recently supported the compromise text.**

**The European Trade Union Confederation (ETUC) values the Commission's efforts** to respect the essential elements of that compromise.

John Monks, General Secretary of the ETUC, commented: *"we appreciate the fact that the Commission has respected its commitment, although we will need to check the various changes in more detail. At first sight, some amendments appear incomplete, confusing or even inaccurate. The ETUC will ask the Council to examine these points closely."*

[ETUC press release](#)[Commission press release](#)

### **Commission is sending out contradictory messages on enforcement of posting directive – 04/04/2006**

The European Commission published the [document on the implementation of the Posting of Workers Directive](#) and the [Communication](#) providing guidance to Member States on the instruments that can be used to monitor and enforce the Directive.

**For the ETUC, these documents seem to send out confusing and contradictory messages.**

In a period in which transnational provision of services and mobility of workers is more and more common within the EU 25, **the Posting of Workers Directive plays a key role in ensuring fair competition** by guaranteeing respect for workers' rights, labour law and industrial relations systems in Member States.

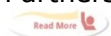
The European Parliament's vote [last February](#) on the Services Directive reaffirmed the provisions laid down in the [Posting of Workers Directive](#).

On that occasion, **the Commission promised to come up with a Communication** providing guidance for Member States on how to simplify administration, summarising the European Court of Justice (ECJ) jurisprudence in this context.

The ETUC welcomes the emphasis in today's Commission documents on the need for Member States to strengthen moves to monitor compliance and take effective steps in case of non-compliance. However, the Commission at the same time calls into question the very mechanisms and instruments that Member States are currently using.

**The ETUC strongly warns the European institutions and Member States not to confuse legitimate claims to administrative transparency and simplification with questioning the validity of requirements** that - in the framework of complex regulatory systems that exist at national level - are **necessary** to monitor and enforce the Posting Directive properly.

**The ETUC regrets that the document has not been subject to prior consultation**, calls on the Commission to take a more balanced approach on this issue, and demands that the document should be reviewed on the basis of proper consultation with the Social Partners and the European Parliament.

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## **Viking case: a crucial test of Europe's commitment to workers' rights – 20/04/2006**

In 2003, the Finnish Viking shipping line decided that it **could gain a competitive advantage** by re-flagging its passenger and cargo ferry *Rosella* as an Estonian vessel, and **replacing the crew with lower-paid seafarers**. Dissatisfied with how the situation was resolved in Finland, **Viking subsequently went to court in England** seeking an injunction to prevent the Finnish Seamen's Union (FSU) taking industrial action at some time in the future in order to protect its members' jobs.

In November 2005, as the case is related to European law, **the British court referred it to the European Court of Justice (ECJ)**.

**The case focuses on whether a company can deprive workers of the basic right to collective action, by formally relocating its assets in a country where salaries and benefits are lower.**

The **European Commission** must submit **its views** on the case to the ECJ before the end of April. **The ETUC has written to Commission President José Manuel Barroso calling for a carefully "balanced approach"** that reflects its obligation to promote social dialogue and the basic social rights laid down in the Charter of Fundamental Rights. Moreover, the ETUC warns that whilst this dispute has arisen in the context of the maritime industry, **its resolution will have consequences throughout Europe, and not merely in the maritime sector or the EU Member States most closely concerned.** *"This case represents a mirror image of the [Laval \(or Vaxholm\) case in Sweden](#), which attracted a lot of public attention and concern,"* said John Monks.

**The stated aim of the employers in these cases is to undermine successful social models and shift the balance of power between the social partners** in countries where trade unions have a recognised role in defending workers' interests. **A finding in favour of the employers would have a damaging impact in parallel circumstances in Germany, France and many other EU Member States.**

The **Commission's submission to the ECJ** and the outcome of this case are of **great political importance** to the future direction of the EU and to trade union and workers' support for Europe. As to the right to collective action, the Commission should respect the international commitments of all the Member States, notably to the International Labour Organisation (ILO)'s core Conventions. They also bind the Member States of the EU.

[ETUC press release](#)[Full background on the Viking case](#)

## **Communication on Social Services of General Interest: "A necessary but inadequate first step" - 26/04/2006**

The European Commission published its [Communication](#) on **Social Services of General Interest**. **The publication certainly indicates progress towards recognition of such services**, and of the need to clarify the conditions for applying certain Community rules. **The ETUC** is happy to note the intention of setting the procedure for monitoring and dialogue within the framework of the open method of coordination, and **stresses the need to consult the European social partners.**

Yet while the ETUC considers that this first step is necessary, it is still inadequate. **The Commission must go further with its proposals** in this regard, in order to establish greater legal certainty, through a framework directive on services of general interest (SGI), which should also make it possible to take account of the specific character of social services. **Since these services are designed to serve people, they cannot be subject merely to market forces, based on the law of commercial competition alone.** The ETUC will continue to **work actively**, together with other relevant partners, to win measures for social Europe that are worthy of the name.

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## ETUC News

### ● **3<sup>rd</sup> European Union, Latin America, Caribbean Trade Union Summit – 05/04/2006**

The [European Trade Union Confederation](#) (ETUC), the [International Confederation of Free Trade Unions](#) (ICFTU), the [World Confederation of Labour](#) (WCL), the [Inter American Regional Workers Organization](#) (ORIT) and the [Latin American Workers Center](#) (CLAT), in cooperation with the [Austrian Trade Union Federation](#) (ÖGB), organised the **3<sup>rd</sup> European Union, Latin America, Caribbean Trade Union Summit**.

The trade union leaders adopted a **declaration** directed to the European and Latin American political leaders at the forthcoming 4<sup>th</sup> European Union, Latin America, Caribbean Summit to be held on 12-13 May.

[Trade Union summit final declaration](#)[Speech by John Monks, ETUC General Secretary](#)

### ● **The ETUC congratulates its French affiliates on the withdrawal of the new recruitment contract – 11/04/2006**

The ETUC has welcomed their victory in achieving the **withdrawal of the new recruitment contract (Contrat première embauche - CPE)**.

From the outset, [the ETUC has maintained its support for the French trade unions](#) in their battle to block the CPE: this strong action also demonstrates the ETUC's determination to oppose the job insecurity that is affecting young people throughout Europe.

The victory over the CPE shows that not only trade unions but also young people want to live in a modern and democratic society, where there is no place for social dumping.

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## EU Agenda

### April – May 2006

	3-6/04/2006	Plenary session at European Parliament (Strasbourg)	<a href="#">Plenary Session Agenda</a>
	7-8/04/2006	Informal ECOFIN Meeting (Vienne)	<a href="#">Meeting Agenda</a>
	10-11/04/2006	General Affairs and External Relations (with Development Cooperation Ministers) Council (Luxembourg)	<a href="#">Council Agenda</a>
	20-21/04/2006	Plenary session at European Economic and Social Committee (Brussels)	
	21-22/04/2006	Informal Meeting of Competitiveness Ministers (Graz)	<a href="#">Meeting Agenda</a>
	25-26/04/2006	Informal Meeting of Health Ministers (Vienne)	<a href="#">Meeting Agenda</a>
	26-27/04/2006	'Mini-plenary' session at European Parliament (Brussels)	<a href="#">Ordre du jourPlenary Session Agenda</a>
	03/05/2006	EU – USA Troika	<a href="#">Meeting Agenda</a>
	05/05/2006	ECOFIN Council (Brussels)	<a href="#">Council Agenda</a>
	11-13/05/2006	4 <sup>th</sup> Eu – Latin American – Caribbean Summit (Vienne)	<a href="#">Summit Agenda</a>
	15-16/05/2006	General Affairs and External Relations (with Defense Ministers) Council (Brussels)	<a href="#">Council Agenda</a>
	15-18/05/2006	Plenary session at European Parliament (Strasbourg)	<a href="#">Plenary session Agenda</a>
	17-18/05/2006	Plenary session at European Economic and Social Committee (Brussels)	
	18-19/05/2006	Education, Youth and Culture Council (Brussels)	<a href="#">Council Agenda</a>
	19-21/05/2006	Informal Meeting of Environment Ministers (Eisenstadt / Rust , Austria)	<a href="#">Meeting Agenda</a>
	25/05/2006	EU – Russia Summit	<a href="#">Summit Agenda</a>
	29-30/05/2006	Competitiveness Council (Brussels)	<a href="#">Council Agenda</a>
	31/05/2006	'Mini-plenary' session at European Parliament (Brussels)	<a href="#">Plenary session Agenda</a>

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## ETUC Agenda

### April - May 2006

	05/04/2006	III European Union, Latin American and Caribbean Trade Union Summit (Vienna, Autriche)	
	7-8/04/2006	CMK OS Congress (Prague, Czech Republic)	<a href="#">Congress programme</a>
	21/04/2006	Employees Group Meeting at the European Economic and Social Committee (Brussels)	
	24-28/04/2006	CGT Congress (Lille, France)	<a href="#">Congress programme</a>
	04/05/2006	ETUC Steering Committee (Brussels)	
	17/05/2006	Employees Group Meeting at the European Economic and Social Committee (Brussels)	
	22-26/05/2006	DGB Congress (Berlin, Germany)	<a href="#">Congress programme</a>

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## Communications



### **Publications- recent Commission documents**

The following reports are now available:

- [Services Directive revised proposal](#) (04/04);
- [Report on implementation of the « Posting of workers » Directive](#) (04/04);
- [Communication on Social Services of General Interest](#) (26/04);

The European Commission plans to issue these publications in May 2006:

- Commission to adopt preliminary draft budget for 2007 (03/05);
- Spring Economic Forecast (08/05);
- Communication on the Future of Europe (10/05)

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## Interview

**We talk to Catelene Passchier and Jozef Niemiec, ETUC confederal secretaries**



Catelene Passchier and Josef Niemiec were elected as ETUC confederal secretaries at the Prague Congress in May 2003. Their responsibilities include the 'Services' directive.



### Questions to Catelene Passchier.

**1 - Following the European Parliament's vote on 16 February on the Services Directive, the European Commission recently published an amended version that was submitted to the Council. What response do you expect from the Council now?**

#### **Catelene Passchier (CP):**

Through the vote on the Services Directive, the trade union movement has obtained a lot more influence. This has become very clear around Europe. Governments see that maybe they need to pay a little bit more attention to the trade unions, and nobody would have expected that two years ago. The effect is not just that we have made improvements in the Directive – although there is still a lot to do – but the 'ripple' effect is far more important.

We made a difference for a combination of reasons: visibility on the streets, widespread public concern, and persistence: the issue has not gone away. And we made the effort to be involved in all the technical debates, with realistic proposals for improvements that could be taken seriously.

After the Parliament vote, the major issue was what the Commission would do. The more the Commission diverged from the EP compromise, the more room the Council would have to do the same. Eventually, I think people in the Commission were also convinced: they preferred the compromise to another five years' debate. In the end they changed very little, and that gave a very strong combination of the Commission and the Parliament on the same track.

The Member States have technical concerns and questions about what it means. But my impression is that there is a general understanding in the Council that if they want things to move forward they will have to agree on this compromise. If they diverge on key points, everybody will want to diverge on everything.

The most contentious issue is the scope: what services are in and what are out. It is good that the Commission left temporary agencies out, but there are some Member States that would like the scope extended to more social services and public services. Therefore the question is how far they can stay together to get a qualified majority. Another key issue is what rules apply: country of origin or host country. You can expect that there will be debate on this.

It would be good for the Austrian Presidency to get a political agreement, as they want to stick to the compromise. They are giving Member States very little scope for making problems.

The difficulty for us is that some Member States could bring forward changes that are in our favour, while others could endanger the compromise. So we are caught in a dilemma, because we don't like all the details and are still working for some improvements. The more everybody is convinced that this is the only way forward, the more everybody becomes a prisoner to the existing formula. There is little scope for



anybody either to improve or to weaken it.

Council meetings are planned in May and the end of June. We hope to see the Council stick to the broad framework of the compromise. At the moment there's a momentum that we need to maintain.

**2 – On 4 April the Commission published both the amended version of the Services Directive and a Communication on the implementation of the Posting of Workers Directive. Is there a link between the two? In the debate about services and the internal market, what is the role of the Posting of Workers Directive?**

**CP:** The Posting of Workers Directive gives guidance on sending workers to another country as part of a services activity. So it is about the cross-border provision of services, which is the issue dealt with in the second part of the Services Directive. The Posting Directive is based on general European rules, and tries to clarify that when workers move, the legal or collectively agreed *minimum* standards of the host country apply.

The host country decides what 'minimum standards' are. They could be only legal standards, or only collectively agreed standards – which must be enforced through generally binding collective agreements as in Sweden and Denmark – or both.

So there's a very strong link between the two directives. The Services Directive initially said it excluded everything regulated by the Posting Directive, but the Posting Directive doesn't cover all aspects of cross-border working. For example, if a service provider hires staff in another country they are not posted workers. Therefore it is not enough just to respect the Posting Directive, but all aspects of labour law must apply.

While the Services Directive said it would not touch the way the Posting Directive deals with working conditions, it wanted to change all the bureaucracy and administrative requirements Member States use to implement it. Trade unions immediately asked how this would be possible. For example, what if Belgium requires companies to register, in order to apply its rules on the minimum wage?

The famous articles 24 and 25 in the Services Directive therefore took a very contradictory approach. But the fight was won in the EP compromise because those articles were deleted. The new Member States were dissatisfied, because they say that bureaucracy makes it impossible for them to work outside their countries.

So under the compromise, the Commission agreed to issue a paper outlining what requirements are acceptable. The ETUC was unhappy about this Communication, which shows contradictions at European level. Everybody says we need more open borders, and in that case we need tighter rules, but whatever Member States use to enforce their minimum rules is questioned as an obstacle.

You cannot ask people to accept more open borders if you don't show them you are ready to enforce local minimum standards. That is why some trade unions are focusing on campaigns for equal pay for all, including immigrants, because if companies are not established in another country, it is very easy for them to avoid the rules if there are no additional instruments.

The Commission Communication is simplistic, and we were not consulted. This fight is not over yet, and it will continue in the Council. The next battle for the ETUC is how we defend the right of Member States to have proper enforcement mechanisms in place. Another question is whether there is a need to improve the Posting Directive, and a lot of our affiliates would say yes.

## **Questions to Jozef Niemiec.**

**1 – One of the key elements in the compromise on the Services Directive has been the exclusion of services of general interest, better known as public services. On 26 April, the European Commission presented its Communication on Social Services of General Interest: what is your reaction?**

**Jozef Niemiec (JN):** This publication certainly indicates progress towards recognition of social services of general interest, and of the need to clarify the conditions for applying certain Community rules. From this point of view, we are happy to note the intention of setting the procedure for monitoring and dialogue within the framework of the Open Method of Coordination, while stressing the need to consult the European social partners.

We are convinced that this first step is necessary, but it is still inadequate.

Social services are designed for people, and they arise from systems of solidarity aimed at fulfilling a mission of general interest in order to contribute to the objectives of social and territorial cohesion and to guarantee the effective implementation of fundamental rights. So they cannot be subject merely to market forces, based on the law of commercial competition alone.

At the same time, these services are not provided only to the poor or the excluded, they often have to meet the needs and expectations of all individuals. We know from experience that focusing on policies for the poor leads too often to the implementation of poor policies.

We will continue to mobilise, together with the other relevant partners, to win measures for social Europe that are worthy of the name.

**2 – Several MEPs consider it necessary to set in place a directive entirely governing services of general interest, whether economic or otherwise. What is the ETUC's position on this issue?**

**JN:** We think that even though the decisions on their organisation and their financing remain matters for the Member States, services of general interest are faced with problems linked to the application of the European rules, in particular with regard to the internal market and competition.

From that point of view, there is a need for a legislative framework at the European level, and not only at the level of the Member States. The ETUC began debating this question in the 90s: since then, we and the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP) have asked for the introduction of a framework directive governing this area.

We are convinced that the 'Services' directive demonstrates the need for this type of instrument, in order to provide greater legal safety for services of general interest. To drive matters forward, we are anxious to collaborate with all the institutions and organisations which share that view. In particular, as we have seen recently with the 'Services' directive, the role of the European Parliament is extremely important. The Committee of the Regions has also called for a legislative initiative by the Commission along those lines. We think it is high time to get things moving on this issue.

### **Editorial team**

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