



## **Ensuring fair mobility**

### **Declaration adopted by the PES Presidency on 22 April 2016**

The PES' priority is for all Europeans, women and men to have a decent job and adequate social protection that allows a good quality of life. This should be the core objective of European policies. We want the European Union to create growth and decent jobs, to resolve the problems of its people. It should allow prosperity and freedom of movement for Europeans, it should treat all citizens equally, without discrimination and it should ensure fairness and solidarity. This is the fair mobility we want to promote. The current revision of the Posted Workers' Directive and the upcoming opening of the regulation on the coordination of social security in June 2016 give us the opportunity to do so.

Social dumping as the practice of undermining or evading existing wage, working conditions or social regulations, with the aim of gaining a competitive advantage, clearly contradicts this vision and is becoming a business model for deceitful companies. It generates unfair competition, undermines social security systems as well as social and labour rights and puts workers' health and safety at risks. We are determined to combat such fraud and exploitation of workers.

In our view, freedom of movement is a core value of EU citizenship and a fundamental right. It is also a pillar of the success of the European Union's single market, which has contributed positively to our economic development and benefitted individuals and the society as a whole. At the same time all workers in the Single market must have the right to the highest level of social protection regardless of the size of the company which employs them, the place of employment or the underlying contract. Therefore, we want to reinforce existing rules and further promote high social and labour standards to ensure all workers' rights are respected across Europe.

Contrary to populists, who are trying to twist the facts and transform one of Europe's main achievements into an instrument of fear, we are convinced that the answer to social dumping is to make the system more solid and more protective for all workers, rather than contesting citizens' freedom of movement. To this end, we are determined to restore fairness and upwards social convergence in the EU.

### **Fair and equal treatment of all workers in Europe**

Fairness means that we want decent working conditions, including social protection, and equal treatment of respectively posted, mobile and local workers.

We want to ensure that equal pay and equal working conditions apply for equal work in the same workplace, irrespective of the worker's gender and nationality. This is essential in an open, single market, where the free movement of services allows for the posting of workers based in another country, and this is why this principle should be included in the nucleus mandatory rules of the Posted Workers' Directive. Different treatment between posted and domestic workers is unacceptable to us. It creates unfair competition, it deprives posted workers of social and labour rights. Hence we need a new settlement, which protects posted workers and is fair to the workers of the host countries.



However, unfair competition is not only at the expense of workers, it is also at the expense of companies that abide by the rules. It is especially harmful to small and medium-sized enterprises (SMEs), which are the backbone of the European economy and job creation.

We strongly engaged in the process that led to the adoption of the Enforcement Directive in 2014, we will remain vigilant until its full transposition into national laws by June 2016. We took clear action to ensure a better implementation of the rules, stronger national means for better control and more effective prosecution of abuses. We now want to close the remaining loopholes that allow unscrupulous employers to undermine the right for equal treatment in order to increase their profits.

The long-awaited revision of the 1996 Posting of Workers Directive is an essential step in this endeavour. We want it to better protect workers, to ensure equal treatment between posted and local workers and to prevent social dumping. Emphasising the temporary nature of posting, the extension of 'hard core' working conditions to posted workers in all sectors, equal treatment of posted temporary agency workers to their domestic counterparts and the rules that apply through the contracting chain, it gives us the opportunity to redress issues we have long identified as problematic. We want to strengthen the Directive on these specific points and their control in Member States. Furthermore, we expect this revision to address the question of remuneration beyond the bare minimum. We insist on a full engagement of the social partners in this process. We strongly support furthering fair employment conditions through socially responsible procurement, collective industrial action and effective collective bargaining. Now is the moment to reach together a fairer mobility that better combines the freedom to provide services with the respect of workers' rights. The posting of workers is not only about service provision in the Single Market, it is likewise about the social protection of workers.

Non-discrimination and the equality of all EU citizens should also be the ruling principles in the wider context of freedom of movement. They should not be affected by the fact that EU citizens and their families decide to move to another Member State. We are determined to combat all kinds of fraud and abuse and we want to ensure no one is left uncovered by social and labour rights protection. We are therefore convinced of the need to further coordinate welfare provisions and to ensure a real portability of rights. We reaffirm non-discrimination as a core principle to guarantee all EU citizens, including mobile workers in a host state, equal access to social security and social assistance. At the same time, Member States should be given the means to take measures against abuses of rights and fraud, in accordance with EU law. We expect these points to be addressed in the review of the European regulation on social security coordination to start in June 2016. To prevent abuses, we want the authorities of both the sending and hosting countries, in particular social and labour inspection services, to cooperate more closely and mutually assist each other. The exchange of information and data should become mandatory and enabled by a single digital system of declaration of posting and social security coverage.

### **Addressing the root causes of social dumping**

Upwards social convergence is a way to fight social dumping, by reducing the advantage gained from applying the lowest standards. It is the very existence of growing disparities between Member States' economic development, social standards, social security, working conditions and wage levels that have encouraged legislation shopping, the circumventions of social rules and of collective agreements. These practices have created tensions between Member States and increased the risk of a competition to the lowest standards, a race to the bottom. Against this trend, we want to address social dumping at its roots by reinforcing common rules and rights.



For us, protecting employees and SMEs is paramount. Companies should not be allowed to move abroad on paper while continuing their activities in their own country, only with lower labour costs and less worker's protection. This is why we want clear rules for establishment, clear rules against flags of convenience, letter box companies, and bogus self-employment. In particular, the principle of performing genuinely substantial activities in the sending Member State should be defined more specifically and hosting countries given stronger means of control, a fortiori in the transport sector and for posting by temporary work agencies. No company can be allowed to escape its fiscal and social responsibility, just as no employee can be denied their social and labour rights. In this light, the recent proposal for a European single member limited liability company should be considered as a proposal to create new loopholes and therefore be rejected.

A set of ambitious social standards should be identified and adopted in EU law, to ensure fair treatment of all across Europe and a level playing field for all companies. Without lowering those set at national level, such social standards should cover the issues of working conditions, in particular living wages, equal pay, decent jobs, working time, health and safety at work, maternity, paternity, parental and carers' leave. Similarly, a common objective in terms of minimum wage, expressed in relations to national wage levels and to be reached either by law or through collective bargaining could be set, de facto reducing possibilities for wage dumping.

Social dumping forces lower standards and generates social imbalances. These put at risk the economic, financial, as well as political, stability and solidarity within the Union. To counter this trend, EU law must put social rights on an equal footing with economic freedoms. In this context the development of a European pillar of social rights is important. We want to strike a new balance for a new progressive Europe. We are ready to fight this tough battle and to show progress at the Social Summit in Sweden in 2017.

