



Denmark: Court says Ryanair workers entitled to collective bargaining

A DANISH LABOUR court has upheld the right of the Danish trade union LO to take industrial action to obtain a collective agreement for Ryanair staff employed in Denmark. "We are very pleased with the ruling of the Labour Court. Now it's up to Ryanair. I hope we will succeed in concluding a collective agreement", said LO-Vice President, Lizette Risgaard.

LO hopes that Ryanair comes back to the negotiating table instead of triggering an industrial dispute. The Ryanair dispute is just one case in a much wider problem of the EU single market being exploited to drive down workers' pay and conditions. In many cases workers from other EU countries are offered jobs with lower pay than local workers. Ryanair were claiming that workers based in Denmark could be employed under Irish law because that is where the company is based, and therefore refused to negotiate terms and conditions with the Danish trade union.

#Kill The Bill surges

BY CAROLYN JONES

THE GOVERNMENT has moved with indecent haste to add yet more anti-trade union legislation to the UK's restrictive framework of labour laws.

The Trade Union Bill was published on 15 July, swiftly followed by consultation papers covering the use of agency workers during strike action, ballot thresholds and protest tactics during strikes.

The response from the labour movement was strong and immediate. Just two weeks after publication, trade unionists gathered in their hundreds to

discuss how best to resist the Bill. Using the theme "#Kill The Bill"

CTUF joined the Institute of Employment Rights (IER), the Centre for Labour and Social Studies (CLASS), the People's Assembly and the Trade Union Coordinating Group to kick-start the fight back. UNITE, PCS, UNISON, RMT, CWU, FBU, TUC and Keep our NHS Public joined John Hendy, Keith Ewing and John McDonnell to express opposition to the Bill.

Since then the Bill has passed its third reading in the House of Commons and is now on its way to the Lords. But the battle is by no means over. Kill the Bill may be an old slogan, last used against

the Industrial Relations Bill of 1971. That Bill was similarly pushed through Parliament but failed as an Act to control and weaken unions.

Why? As John Hendy and Keith Ewing say in their new publication, this latest Bill will not be defeated in court rooms or lecture theatres but in the political and industrial arenas. We now have a labour leader pledged to repeal this legislation and a labour movement determined to win.



CAROLYN JONES IS DIRECTOR OF THE INSTITUTE OF EMPLOYMENT RIGHTS

ILO says collective bargaining is in decline

NEW DATA provided by the International Labour Organisation (ILO) says collective bargaining is still in decline and that coverage varies significantly between countries, from just about 1% to 2% in Ethiopia, Malaysia, the Philippines and Peru to nearly 100% in France, Belgium, Austria and Uruguay.

The ILO looked at a sample of 48 countries and showed that, on average, there was a 4.6% drop in

collective bargaining coverage between 2008 and 2013, compared with an average decline in union density for the same group of countries of 2.3%.

In countries in which coverage declined, this was mainly due to the cessation of national general agreements, a roll-back in policy support for multi-employer bargaining and policy induced decentralisation. The sharpest declines (by an average of 21 per

cent) were seen in countries hardest hit by the crisis, such as Cyprus, Greece, Ireland, Latvia, Portugal and Romania.

But while many countries experienced a decrease in coverage, there were ten countries that advanced in the opposite direction and extended coverage. This was the case in Finland, where the social partners signed a national general agreement, and the Netherlands, where collective

bargaining expanded and collective agreements were extended in new sectors.

Then there is a small group of countries – France, Italy, Canada, Austria and Belgium where bargaining coverage remained stable. These are countries where collective bargaining was a key element of the crisis response, including through the negotiation of "job saving agreements".



TTIP, CETA, TiSA unholy trinity

BY ADRIAN WEIR

THE DISCLOSURE by New Zealand of the text of the Trans Pacific Partnership (TPP) and the realisation that it was actually worse than many commentators believed – a corporate manifesto – opens a new chapter in the European campaign against the unholy trinity of TTIP, CETA and TiSA.

In a statement the largest industrial union in the United States said: “the USW is unalterably opposed to the TPP ...” and cited the Wall Street Journal predicting that TPP “would cause a massive trade deficit in manufacturing which would result in hundreds of thousands of job losses.”

The text of both TPP and CETA are now in the public domain, there can be no reasonable doubt that TTIP will be more of the same.

Maude Barlow of the Council of Canadians, recently in the UK, makes the very sound point that 20 year NAFTA treaty has allowed the 1% in Canada to get even wealthier at the expense of everyone else. CETA will accelerate this process.

But the recent demonstration of a quarter of million people in Berlin indicates that public opinion is more than moving in our direction. The other remarkable European achievement has been the collection of over 3 million signatures on the self-organised European Citizens’ Initiative, a huge demonstration of public rejection of TTIP and CETA.

It is clear that public opposition is making EU Trade Commissioner Malmström wobble. Public opposition to TTIP and CETA is particularly focused on the Investor State Dispute Settlement (ISDS) procedure that gives rights to corporations to sue national governments should a government act on its democratic mandate and change the terms of trade to the apparent detriment of the corporation.

Malmström proposes to take ISDS out of TTIP and replace it with an Investment Court System (ICS). However, despite the trapping of a proper

court system, the ICS is fundamentally flawed.

It still gives rights to corporations not granted to countries or citizens and it only covers TTIP not CETA, eighty percent of US corporations have subsidiaries in Canada from where they could launch claims against European governments under the unreconstructed ISDS still in CETA.

But perhaps the killer blow to the ICS is that it has been rejected by US business. The American Chamber of Commerce says: “[we] cannot in any way endorse [ICS] ... [the] proposal is deeply flawed.”

The European Trade Union Confederation in its 4 year Action Plan adopted at its recent congress in Paris opposes both CETA and TTIP because of the ISDS provisions “which privilege foreign investors above all others and amounts to the privatisation of justice.”

The Action Plan also contained three further important points; to oppose the “negative list” approach and the inclusion of public services; to oppose “regulatory co-operation boards” and to “insist that all EU trade agreements must include enforceable labour protections.”

The question of enforceable labour protections could become an issue. The official European line is that the TTIP labour chapter must include the core ILO Conventions, which would include Conventions 87 and 98 on the right to join a union, to organise and to bargain collectively.

But can we really believe that the US, where twenty-four of the fifty US states are “right to work” states; the European Commission that was party to dismantling labour standards in Greece, Portugal and Ireland as part of the troika bail out; and, the UK’s Cameron who has just introduced the anti-Trade Union Bill would all sign up to enforceable labour rights?



ADRIAN WEIR IS THE ASSISTANT NATIONAL SECRETARY OF CTUF

Keith Ewing and John Hendy highlight how unworkable are the government’s planned restrictions on trade unions

DURING THE Second Reading debate on the Trade Union Bill, right wing Tory backbencher David Davis attacked the picketing provisions of the Bill as violating the right to freedom of association, having previously described them as reminiscent of Franco’s Spain.* It is not often that we agree with Tory MPs, but on this occasion Mr Davis is right.

The government amended the Bill very slightly in relation to picketing in November but:

- trade unions will still be required to appoint a picket supervisor, and supply that supervisor with a letter of authorisation stating no more than that the union authorises the picketing;
- ‘the picket supervisor must wear a badge, armband or other item that readily identifies the picket supervisor as such’;
- either the union or the supervisor must take reasonable steps to tell the police the picket supervisor’s name and how he or she can be contacted and where the picketing is to take place; and the picket supervisor ‘must’, if asked, as soon as reasonably practicably, show the letter of authorisation to the employer or someone on its behalf . Failure to comply with any of these obligations will mean that the union loses legal protection for the picketing. In consequence an injunction can be granted to stop the picketing or damages can be claimed subsequently to cover any losses caused by the picketing.

So what are the legal problems? Here are ten, which continue to give rise to concern even after the amendments made to clause 9 in the Commons:



PICKETING AND THE TRADE UNION BILL

1 What happens if, the employer learns (perhaps from the police) that the union has failed to provide the picket supervisor's name, thereby empowering the employer to seek an injunction to have the picketing stopped? Will the constable be required to give evidence on behalf of the employer? Are there any other examples of the police being used to take sides in civil litigation in this way?

2 Conversely, what happens if the police fail to inform the employer that this information has not been provided? As a result the employer is unaware of the breach of the law and so unable to have the picketing stopped, which he or she then claims has caused economic loss. Can the employer then sue the police authority? Will police officers be disciplined?

3 Assuming the name and contact details of the picket supervisor are given to the police, what will happen to that information? The information will presumably be recorded on a police database - for how long will it be retained? Will the information be recorded on other databases (such as Special Branch files)?

4 If a police database of picket supervisors is to be created (and it will be easy to obtain the address and other personal details from the supervisor's name and phone number), for what purposes may the information be used? What, if any, restrictions will there be on the sharing of that information between police forces and other State bodies, or between the police and employers?

5 If the trade union supplies the supervisor's name to the police, is there a risk (perhaps an obvious risk) of trade unions being required to act as intelligence gathering agencies on behalf of the police and the security service? Is such a role compatible with the government's obligations under the European Convention on Human Rights, Article 8, which contains safeguards against State surveillance?

6 If trade unions are being required to act in breach of Article 8 by acting as State agents, will the unions in question be exposed to the risk of litigation by those members whose Convention rights the union is required to violate? To say that this would be a cruel irony is to state the obvious.

7 Is a police database of picket supervisors compatible with the letter and spirit of the Blacklist Regulations 2010, which are designed to stop the compiling of lists of trade union activists? The exception that the list is 'required or authorised' by statute would not apply here.

8 The picket supervisor's armband will usually enable the employer to identify the supervisor as a union activist amongst the workforce, and a request to see the letter of authority will permit a close-up encounter in cases of doubt. Can the employer keep a list of the picket supervisors it has thus identified without breaching the Blacklisting Regulations?

9 What happens if the supervisor forgets his or her armband or letter of authority or is unavailable through sickness or arrest? Presumably, the union and the remaining pickets will be liable to face an injunction or a claim for damages unless and until another armband and letter of authority can be provided or another fully equipped supervisor appointed?

10 Finally, the Bill requires each union to appoint its own supervisor except where the picket is organised or encouraged jointly. Where unions are not acting jointly each union's picket will require its own supervisor. Since the police will only tolerate a picket of six, will this mean multiple supervisors and fewer 'ordinary' pickets?

Where in the last scenario unions are acting jointly, the legal protection of those that have not appointed the supervisor will be dependent on the appointing union's supervisor being compliant with the various statutory requirements. There are strong reasons why even in the case of joint action, each union may feel the need to have its own supervisor.

That being the case, the London Underground dispute throws up an important practical issue. There are 270 separate stations on the Underground and dozens of depots, offices and other workplaces. RMT, for example, balloted members across 445 workplaces. Many workplaces (such as central London stations) have several entrances.

If each entrance to each workplace is picketed (a real likelihood because of the threat of agency workers being hired during strike action), will each union appoint a picket supervisor for each picket line, necessitating the appointment of hundreds of picket supervisors and the delivery of hundreds of letters of authority?

* In the debate on the Second Reading, 14 September 2015, col 799 he said: 'I am particularly offended by the idea that a picket organiser needs to give his name to the police force... This is a serious restriction of freedom of association. There is all the difference in the world between 500,000 people clogging up London and half a dozen pickets shivering around a brazier while trying to maintain a strike.'



KEITH EWING IS PROFESSOR OF PUBLIC LAW AT KING'S COLLEGE LONDON AND JOHN HENDY QC IS CHAIR OF THE INSTITUTE OF EMPLOYMENT RIGHTS

US unions vow to fight on over TPP

THE US-PACIFIC RIM Trade Deal known as TPP is "worse than we thought," said Lori Wallach, director of Public Citizen's Global Trade Watch, after examining the secret full text of the TPP Trade Deal unveiled in early November.

U.S. unions who had already voiced opposition to the deal, said the agreement contained weak, poorly worded or unenforceable provisions. "There are improvements, but we do not believe those improvements are significant or meaningful for workers," said Celeste Drake, of the AFL-CIO.

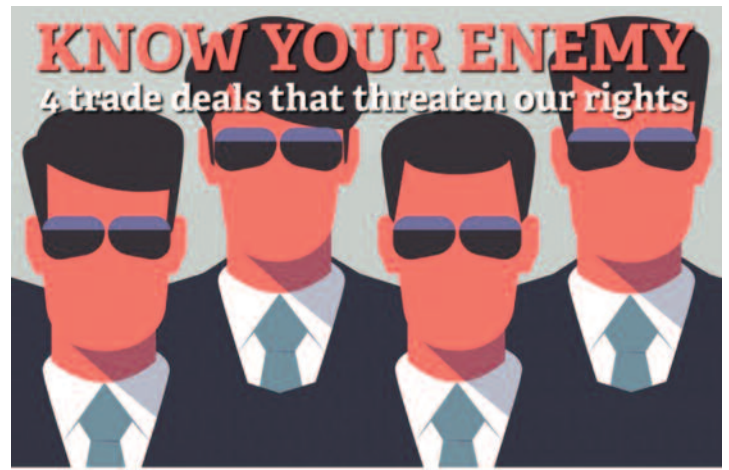
U.S. President Barack Obama, who championed the deal and needs to muster support among moderates in Washington to ensure ratification, says that he intends to sign the deal.

The United Steelworkers union, America's biggest manufacturing union said: "The TPP provides incentives for U.S. companies to outsource production and offshore jobs – and that is far from the kind of trade policy America needs. The TPP may gain the United States brownie points with other countries, but at the cost of American economic strength and

national security.

"In section after section, this agreement compromises America's economic future and inflicts enormous damage. Workers, like our members, have been on the losing end of trade agreements for far too long, and this deal fails to change that. That is because it does nothing to stop international rule breakers – and countries like China will once again be the winners.

"The USW says TPP's hundreds of pages of text, side agreements and sweetheart deals would dramatically increase job loss in manufacturing; would allow China to provide a majority of a car's parts; the deal will not stop currency manipulation, will fail to stop state-owned enterprises (SOE's) from receiving state support and protection, and the new chapter would create a legal quagmire and would result in foreign workers continuing to suffer violations of their rights since protection provisions are still limited. The plan negotiated with Vietnam would allow them to receive up to seven years of reduced tariff benefits while still violating worker and human rights.



CETA	TPP	TTIP	TISA
Comprehensive Economic and Trade Agreement Between Canada and EU	Transpacific Partnership Between US and 10 other countries (but not EU)	Transatlantic Trade and Investment Partnership Between US and EU	Trade in Services Agreement Between US, EU and 21 other countries
STATUS: European Parliament will vote early 2016	STATUS: Awaiting votes by national parliaments	STATUS: Under negotiation	STATUS: Under negotiation

...and the four threats they have in common

- 1 Corporate courts for investors to sue governments (aka ISDS)*
- 2 ...but no enforcement of workers' rights
- 3 Public services open to privatisation
- 4 Threaten regulation on environment, health and safety, and working conditions

*ISDS = investor-state dispute settlement. TISA doesn't include this but will use the courts created by the other three agreements.

Find out more: bit.ly/tradethreat

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goingtoWork

"The USW says the US negotiators failed to get Mexico to agree to specific and much-needed reforms in its labour laws. There is no formal plan to ensure that U.S. engagement and enforcement in this critical area would change at all and finally would do nothing to

ensure that any of the provisions would, in fact, be enforced.



TONY BURKE IS CHAIR OF THE CAMPAIGN FOR TRADE UNION FREEDOM

The Campaign for Trade Union Freedom is sponsored by 25 national trade union organisations and over 200 branches, trades councils and individuals and financed solely by supporters fees from trade union bodies and individuals. By becoming a supporter you or your organisation show your agreement with the call to repeal the anti-trade union laws, and aid the Campaign's fight. Please make cheques payable to Campaign, for Trade Union Freedom and send to the CTUF, 4th Floor, 1 Islington, Liverpool, L3 8EG Donations gratefully received.

Campaign for Trade Union Freedom

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