

Church Cooperation for the Yearbook on Social Justice (2010): Poor Rich Europe. Overcoming the New Split Between East and West. Church Yearbook on Social Justice IV, Oberursel<sup>1</sup>, Part I:

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*A Church Contribution to the Discussion*

## **A PRIORITY FOR SOCIAL INTEGRATION IN EUROPE – NOT TO SACRIFICE THE COMBATING OF POVERTY TO COMPETITION**

A Church Contribution to the Discussion for the European Year 2010 For Combating Poverty and Social Exclusion



The European Parliament and the EU Commission have declared 2010 to be the European Year for Combating Poverty and Social Exclusion, because “the strengthening of social solidarity as well as the removal of poverty and social exclusion” must “become a priority for the European Union”. This is indeed a major task. The increase in poverty and the simultaneous concentration of wealth are enough to pose the question of the structural preconditions for a sustained combating of poverty. One of these conditions is that the social integration of Europe must no longer be subordinated to an economic integration which is determined by competition.

A sustained combating of poverty in the European Union therefore requires decisions in the politics of integration for the strengthening of the social union. This has become more obvious than ever since the expansion of the EU to the East: On the one hand this is an important step towards the realisation of the vision of a “Common House of Europe”, whose core the European Union could build. On the other it has led to the fact that the economic and social divide between the member states of the EU is greater than ever before. This divide has exposed the national social and economic models to the sharp wind of internal European competition between the states. For the member countries of the EU did not combine the expansion to the East with measures of political integration adequate to serve the fight against poverty. However, for the sake of social solidarity the “Common House of Europe” needs decisive and sustainable combating of poverty. It demands an architectural plan for the entire house that takes account of the rights of even its poorest inhabitants.

Churches, church organisations and groups remind us of this in the light of the biblical insight that justice is indispensable for social coherence. On the basis of their daily grappling with poverty, they know at the same time that market economy structures do not by themselves ensure social justice. Just as every market needs rules to enable social justice, so too does the common European market require rules to strengthen national social models and develop a common European social order. Precisely because churches, church organisations and groups decidedly welcome European unification, they also engage themselves for a building plan for social integration.

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<sup>1</sup> Kirchlicher Herausgeberkreis Jahrbuch Gerechtigkeit (2010): Vorrang für die soziale Integration Europas – Armutsbekämpfung nicht dem Wettbewerb opfern. Ein kirchlicher Diskussionsbeitrag zum Europäischen Jahr 2010 gegen Armut und soziale Ausgrenzung, in: Kirchlicher Herausgeberkreis Jahrbuch Gerechtigkeit: Armes reiches Europa. Die neue Spaltung von Ost und West überwinden. Jahrbuch Gerechtigkeit IV, Oberursel, S. 12-22 (Teil I des Jahrbuches Gerechtigkeit V).

## **I. After the Eastward Expansion of the EU: A new European Division of Labour Puts Pressure on National Employment and Social Arrangements**

The European Union has changed radically through its eastward expansion: in no previous round of accessions had the community been joined by so many countries whose economic strength and welfare levels lay so far below the previous EU average as is the case with the new central and eastern European members, if we leave Slovenia out of account. The gigantic economic and social divide between the old and new member states results in the fact that the European Union today is no longer a unified economic and social area. At the same time, however, unified rules of competition hold sway, to which the EU and its member countries largely gave priority over the prescriptions of national economic and social orders. There has thus arisen a new European division of labour which puts pressure on national patterns of work and society:

- *Displacement of jobs:* By displacing jobs, companies take advantage of the lower working standards, for instance in terms of wage levels, associated costs and length of holidays, in the new EU member countries: In 2007 the Finnish shipping concern Viking announced its intention to transfer the flag of one of its ferries to Estonia in order step by step to replace the expensive Finnish workers with cheaper Estonians. In 2008 Nokia transferred its factory from Bochum, Germany, to Romania. Over against the sharp protests of the Bochum workers and the trade union IG Metall stood the jubilant reactions of the Romanian public. The immediate impact of such displacements on the national economies has not so far been very incisive. However, firms are attempting through threatening such displacements to push through lower standards in the old EU member countries; in addition they must scarcely reckon with worker solidarity across national boundaries.
- *Export of workers:* Companies from the new EU member countries use their freedom of establishment to send workers under their own homeland conditions to the old EU member countries. Thus in 2008 the Latvian building company Laval sent Latvian workers to Sweden to build schools there – for wages at the usual Latvian level and under Latvian tariff conditions. If companies with factories in the old EU member states wish to remain competitive in the face of such undercutting, they will attempt to lower wages and other working standards. Here too it is still the case that it is not so much the immediate impact on the local economy of the sending of such workers from the new EU member countries that puts national working conditions under pressure; much more is it the possibility this opens up for firms to make such threats.
- *Labour migration:* With the eastward expansion of the EU a new East-West migration has come about. While seasonal or longer term workers came mainly from Poland, Romania and Bulgaria to the Western parts of the EU, the gaps they left at home were filled by workers from East European countries outside the EU, who sometimes had no work permits. Since as a rule both groups of immigrant workers accepted lower standards than were normal in their host country, this has led to an East-West pressure on national working conditions. This development will accelerate with the expiry in a few years of the short-term limits which some of the old EU member states imposed on free movement of workers from the new EU members.

Thus in general the danger exists that the new division of labour within the EU will lead to a sinking of wage levels and other work standards, for example by loosening of job protection, further increases in short-term employment or continued expansion of the low-wage sector. This is significant for the search for ways of sustainably combating poverty, for a secure and adequately rewarded place of work is still the best protection from it. That is why it is alarm-

ing that ever more people in the EU are no longer in a position to escape poverty by working. Although the average unemployment figures in the old EU member states declined up to 2007, poverty levels increased. This increase in poverty thus cannot be explained by unemployment; it has other causes. A factor here is that ever more people are relatively poor in spite of working. Against this background it is also a challenge for the fight against poverty if the new European division of labour intensifies the trend to lowering of wages and other working standards.

## **II. No Priority for “Fundamental Freedoms” at the Expense of National Work and Social Arrangements**

The considerable social and economic divide between the old and new EU member states could only lead to the development of a new division of labour at the expense of social orders because the member countries and the organs of the EU had not combined with the eastern expansion new initiatives for political integration, such as for example a strengthening of national social systems and work regulation or the creation of European framework guidelines to secure social standards. Instead the EU organs and the governments of most member countries substituted competition in wages and other significant working conditions for the goal of adapting living standards upwards. This has meant that the member states of the EU have lost more in control over their own social policies than the EU has gained in new possibilities for shaping society and politics.

With that an historically conditioned development with significant social and political consequences was carried further: In the face of the failure of attempts at a social and political integration of Western Europe the Treaties of Rome of 1957 had limited themselves to economic integration through the four so-called “fundamental freedoms” (free movement of goods, services, capital and labour); only the institutions of the EU are responsible for maintaining these. Welfare and work systems, however, remained largely in the responsibility of the member countries. This means that the central social-state responsibilities of the member lands find their limits in the specification of European Competition Policy through the institutions of the EU.

This disparity is by no means unavoidable, as the history of the EU shows. In spite of the considerable differences in the national economic and social models which had made their comprehensive harmonisation impossible, the community had responded to the challenge of its southwards expansion (1986) with the Posting of Workers Directive (1996). In view of the threatened undercutting of work standards by cheap labour from Spain and Portugal, it was laid down that the minimal conditions in the host country would hold good for workers sent to EU member countries if they were regulated by legal and administrative prescription or by collective labour agreements declared to be generally binding. Thus the Posting of Workers Directive did indeed touch upon national competences for social and political structuring, but precisely thereby strengthened them. When now following the eastern expansion the EU institutions dispense with similar framework conditions of social protection, and justify this in part by reference to the responsibility of nation states for the structuring of welfare and work systems, they actually restrict these precisely by the fact that their social-political restraint runs together with a deregulatory politics of competition. Yet precisely the example of the Posting of Workers Directive shows that EU secondary legislation, which is developed by the EU institutions on the basis of the treaties of the EU member states and thus is derived from these treaties, already offers possibilities of strengthening national welfare and work systems.

In principle, European primary legislation offers such possibilities to an even greater extent, since the EU member states can drive the social integration of Europe forward by mutual

treaties. Corresponding initiatives have been missing, however, since the eastern expansion of the EU. A consequence of that was that the European Court of Justice continued its concentration on the guaranteeing of the four “fundamental freedoms”. It is true that the Court has indeed also strengthened social rights so far as it saw an adequate basis for that in European primary legislation; but since it regards itself as the protector of the European treaties, it sees itself as bound to push through the core of these treaties – and these are after all the “fundamental freedoms” and the competition rules along with the provisions of the economic and monetary union. In this context the court interpreted the “fundamental freedoms” from the start as individual rights, not as political goals. Since in the 1960s it also developed the principles of the autonomy of European law and its priority over national law, it was consequently concerned to maintain the “fundamental freedoms” even against national welfare and work systems.

- In the case mentioned above of the Finnish shipping company Viking, the responsible Finnish trade union threatened to strike against the transfer of the flag, and called the relevant Estonian trade union not to agree with Viking a labour agreement for the new Estonian workers under poorer conditions than the Finnish. The European Court of Justice judged that the right to strike is limited by the right to freedom of establishment and may only then be exercised if work places in Finland are actually threatened.
- In another case mentioned above, the Latvian building company Laval refused to conclude with the relevant Swedish trade union a labour agreement for the Latvian workers sent from Latvia to Sweden which would involve upholding the minimum wage conditions regulated by labour agreements. The union called a strike. The European Court of Justice ruled that the strike constituted an impermissible hindrance of freedom to provide services – impermissible, because not covered by the Posting of Workers Directive. For this directive does prescribe the observance of host country minimum wages for labour sent there, but only if the minimum wages in the host country are legally regulated or if their fixing by collective labour agreements has been declared generally binding. However, the Swedish system of wage regulation exclusively by collective labour agreements is not covered by the Posting of Workers Directive. Thus the court stood the intention of the Posting of Workers Directive on its head – where it was originally meant to protect minimum standards, the judges’ interpretation made of it a final enumeration of maximum standards. In this way a central element in Swedish work regulation is set in contradiction to European secondary legislation, and this by appeal to primary legislation. In this sense too the region of Lower Saxony was forbidden by the court to make the granting of a public contract conditional upon the observance of minimum wages as regulated by collective labour agreements, for European freedom to provide services may not be restricted by protective provisions which go beyond minimum standards. It is also along this line that the European Court criticised the Luxembourg posted workers directive because it visualised the application of provisions valid in Luxembourg to, e.g., minimum wages for labour sent abroad.

In view of this restriction of national socio-political regulations through the judgements of the European Court of Justice, national protective provisions for work and social order can only then be protected if a further development of primary and secondary legislation is carried through. This requires initiatives both by the EU member states and by the EU institutions. It is therefore problematic in terms of social politics that most governments of the new EU member states incline – because of scepticism towards the state arising from state socialism – to neo-liberal views, and are attempting in the mean time to push these through decisively. In their perspective both the state and the EU have to exercise restraint in the shaping of social order. At the same time they are hoping for national advantages through the emer-

gence of the new European division of labour if the old EU members make their economic and social orders more flexible.

### III. Initiatives of Integration Politics for Combating Poverty

As early as 1981 the first poverty programme of the European Community observed: "If the member states would stand together in the struggle against poverty, progress would be less hindered by fears about maintaining competitive ability." The struggle against poverty will indeed be hindered if the EU gives the maintenance of free competition priority over social-political goals. The belief in the positive social effects of deregulation politics has proved mistaken; that is shown by the EU eastern expansion as well as the most recent global financial and economic crisis. What is good for a society must be worked out socially in a democratic discussion and cannot be expected merely from economic growth, much less from particular economic interests. This means for the EU that European primary and secondary legislation must be so further developed that it advances European social integration. Such a contribution of integration politics to the removal of structural obstacles to sustainable combating of poverty is more urgent than ever.

- The social dimension must be given the same weight in the European treaties and thus in European *primary legislation* as the realisation of the "fundamental freedoms", the competition and the conditions of economic and monetary union. Since a comprehensive harmonisation of national economic and social models is neither desirable nor possible, primary legislation must guarantee that European minimum standards for the combating of poverty and social exclusion can be defined and put into effect – from the enforcing of minimum wage prescriptions to rules for the level of social benefits. In view of the clearly different welfare levels it will thereby be a matter above all of rules for the national definition of minimum standards and the protection of the same before the competition rules. Primary legislation must therefore give priority to the protection of basic rights and fundamental labour standards – including such social rights as freedom of association and collective bargaining – over the maintenance of the "fundamental freedoms". Thus it should be tested whether primary legislation can be brought to include a social impact assessment of regulations for economic integration. Not least must harmonisations of primary legislation be striven for where they are constitutionally possible; this applies e.g. with regard to minimum levels for company taxes or for ecological standards.
- To the necessary further development of the *secondary legislation* derived from the European treaties belongs an amendment of the Posting of Workers Directive and the Directive on Services to ensure that the minimum standards established in directives may be exceeded upwards by the EU member states.
- *European regional policy* needs a new pattern in view of the structural divide between West and East. The aim cannot be to make the new EU member countries transfer-dependent, but instead to encourage the integration of the national economies of these countries in the European economic and monetary union. This integration should not be limited to a complementary incorporation – where the form of the economic development is determined by the national economic requirements of the old EU member countries – with a resultant drifting apart of winning and losing regions.
- The EU needs a new *migration policy* to strengthen the rights of migrants. Internal migration may not lead to a lowering of social standards. Migrants not coming from a member country of the European Union should have the right to an unrestricted resi-

dence permit after five years legal residence. Refugees must have access to asylum procedures.

#### IV. Civil Societies and Churches are Challenged

Such a further development of European primary and secondary legislation to create the basis for a sustainable combating of poverty requires the mobilization of public support and thus of civil society in all the EU member countries. This includes reaching a fundamental agreement in civil society about the mandate, structure and resource equipping of the welfare state. In this regard there are still considerable differences between the old and the new EU member states. The danger exists that competition between the EU countries and the marginal economic position of the new EU members will be reflected in an East-West split in the civil society. Thus organisations of civil society in the old EU countries are pressing for the protection of achieved social standards and their further development, while some agents in the civil societies in the new EU member states are hoping for better development prospects for their country through a lowering of standards in the old member countries. However, initiatives in civil society will only then be able to encourage political integration reforms for the combating of poverty if the national civil societies develop a comprehensive European perspective which is not subordinated to the rules of the new European division of labour, but instead seeks to overcome them.

Such a European exchange between civil societies is still only at the beginning. Its development demands a European network of agents. The churches belong here. They have available institutional resources as well as both structured and informal multilateral dialogues, which can be built upon. To that end the corresponding structures – as for example the European Ecumenical Commission on Church and Society of the Conference of European Churches – must be strengthened. For an extension of the European ecumenical exchange throughout the social architecture of the shared European house is urgently needed. It is already necessary for the reason that different historical experiences have led to the churches in the old and new EU member states having frequently varying conceptions of the structures and functions of the welfare state: In many churches, church institutions and groups in the old EU member states the insight has won through that the state as a welfare state has to protect and guarantee social justice and with it people's economic and social rights. In the new EU member states, however, many churches tend to a distancing from the state which is also widespread elsewhere in their society on the basis of negative experiences with state performance in the times of the socialist state, for the socialist state was anything but a trustee of the common good. The churches must take these very different perspectives seriously and bring them into dialogue with each other.

Such a dialogue must clarify the question how the churches in the old and new EU member countries can join together for the *biblical understanding of freedom and justice*. In this understanding the legal dimension of justice combines with the question of successful social relations between people in a social community. It is thus a matter of the social enabling of social justice and thereby of the structures of the welfare state. Christian ethics can contribute in this to a new evaluation of the action of the state. If social justice is to become the standard, we need a democratic and rights-based welfare state in European perspective and a positive ethical evaluation of the activity of the state for the common good, for humanity and for justice. The churches in Europe ought therefore to be encouraged towards a new assessment and further development of the nature of a European welfare state.

For this, the churches must involve themselves in the discussion and reorientation of the goals of the European Union. These include a debate on the character and limits of the so-called “fundamental freedoms”. The application of the term already falsifies the *concept of freedom* and suggests that fundamental human freedoms are involved. Yet the so-called

“fundamental freedoms” apply solely to the free movement of goods, services, capital and labour. However, the emphasising of such economic freedoms in dealing with property and capabilities benefits only those people who possess precisely these possibilities and in terms of social politics disadvantages those who are threatened by poverty.

Freedom is, however, on the biblical understanding not a collection of “freedoms”, but liberation from forces and powers which oppress people. The freedom to sell one’s labour throughout the EU must not be valued more highly than the freedom from economic need which is laid down in human rights instruments.

Freedom is not primarily freedom from something, but freedom for the unfolding of life. On the biblical understanding it is fulfilled precisely in the furthering of the life of others. Freedom involves the obligation to social justice and to orientation on the needs of the poorest. Liberation from slavery in Egypt must be proved by keeping the social laws of the Torah. The strength of those liberated in Christ shows itself in their service for the weak. Thus it is the task of the churches throughout the EU to join together in support of the political and juridical priority of social equality and ecological protection over economic freedoms.

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