

Case C-341/05 Laval [2007] ECR I-11767

Facts: A Latvian construction company established a subsidiary and posted Latvian workers to that subsidiary in order to carry out renovations to a school in Sweden after it had won a government contract. While the company had been in negotiations with a Swedish union for workers, those negotiations had fallen through. The union began collective action in the form of a blockade at all Laval's building sites in Sweden. The effects of this were severe: the subsidiary was declared bankrupt and the workers were returned to Latvia. The question was whether the construction company could rely directly on Art. 56 TFEU against the trade union.

Held: The Court held firstly that Directive 96/71/EC, concerning the posting of workers to another Member State in the framework of the provision of services, permitted the host Member State to pre-condition the provision of services in its territory by posted workers on the observance of a set of terms and conditions. The rate of pay imposed under Swedish law was impermissible under this Directive.

Furthermore, Art. 56 TFEU applied to rules which were not public in nature but which were designed to regulate collectively the provision of services. The right to take collective action constitutes a fundamental right which forms an integral part of the general principles of Community law, but that that right must nevertheless be reconciled with the fundamental freedoms guaranteed by the Treaty, with the result that the exercise of that right may be subject to certain restrictions, in accordance with the principle of proportionality. To this effect, the Single Market would be imperilled if private associations exercising their legal autonomy raised obstacles, and so the company could rely on the provision against the union. The union's action was a restriction on the freedom to provide services and was therefore disproportionate.