



Press release

Team Power Europe case: CJEU decision is a strong victory for workers

The European Federation of Building and Woodworkers (EFBWW) applauds the [final ruling](#) published today by the European Court of Justice (CJEU) concerning the emblematic Team Power Europe case. The CJEU decided to dissociate itself from the opinion of its advocate general in Case C-784/19 involving a temporary employment agency (TEA) based in Bulgaria and posting workers to Germany.

EFBWW general secretary, Tom Deleu, states: “The CJEU decision is an important victory for the workers, for the trade union movement and for the European values. In [December 2020](#) and again in [May 2021](#), we had warned that, if the court ruled in favour of the advocate general’s opinion, it would give an important incentive to fraud and to set up letterbox companies, acting as temporary work agencies and posting cheap labour to other Member States.”

The European Court of Justice confirms that “the performance of the activities of selecting and recruiting temporary agency workers in the Member State in which the temporary-work agency is established is insufficient for it to be considered that that undertaking [performs] ‘substantial activities’ there.”

The CJEU heard our claims, considering that the contrary decision would likely encourage companies “to engage in forum shopping by establishing themselves in the Member States with social security legislation that is the most favourable to them. Ultimately, such a solution might lead to a reduction in the level of protection offered by the Member States’ social security systems. Furthermore, the Court noted that to grant such a benefit to those undertakings would have the effect of creating a distortion of competition between the various possible modes of employment in favour of recourse to temporary agency work as opposed to undertakings directly recruiting their workers, who would be affiliated to the social security system of the Member State in which they work.”

The final decision sends the right signals to workers and citizens at a moment when European legislators are trying to fix the many loopholes in the EU legislation regarding social security payments for posted workers.

However, this is not the last stop and there is still a long way to go: rules on social security and subcontracting need to be strengthened. Intermediaries and TEAs must be banned from posting!

The case

Case C 784/19: The Bulgarian national court must rule on which social security legislation is applicable to a Bulgarian worker who has been placed temporarily with a German employer by the TEA Team Power Europe (established in Bulgaria). Since there were no substantial activities in Bulgaria, the Bulgarian authorities have refused to consider that the employee was subject to Bulgarian legislation during the period of assignment. To clarify this issue, the Bulgarian court asked the European Court of Justice to interpret the applicable legislation.

On 10 December, the CJEU advocate general issued his opinion on the subject. The advocate general considered that it is not necessary that a substantial part of a company's employee placement activity be performed in the same Member State where it is established, to consider this Member State as the place where it normally carries out its activities. Fortunately, the CJEU decided today not to follow the opinion of the advocate general.

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The European Federation of Building and Woodworkers (EFBWW) is the European Workers' Industry Federation for the following sectors: building, woodworking, forestry and allied industries and trades. The EFBWW has 76 affiliated unions in 34 countries and represents a total of 2,000,000 members.