

# LABOUR AND SOCIAL RIGHTS

## KNOW

The Treaty on the Functioning of the European Union and Treaty on European Union, the two core EU treaties, list a number of requirements with respect to labour and social rights, including the overall objective to protect social rights and the obligations to improve working conditions, public health and to combat social exclusion.

The European Charter of Fundamental Rights<sup>1</sup> includes the rights to social security, unemployment assistance, pensions, social and housing assistance and healthcare, in certain circumstances. The European Convention on Human Rights does not cover social rights, however the European Court of Human Rights has given a number of judgements on social rights where they relate to other rights, such as the rights to family life and the prohibition on torture<sup>2</sup>.

EU law mostly leaves the determination of who can apply for social protections and benefits to national rules however and focusses on trying to harmonise and ensure equal treatment for EU citizens accessing social rights outside their country of nationality.<sup>3</sup>

In the wake of the financial crisis and the austerity measures introduced in many European countries since 2009, social rights and protections have been negatively affected in many European countries.

In 2015 a report prepared for the European Parliament found that austerity in the EU is having a fundamentally negative effect on the protection of both economic, social and cultural, and civil and political rights.

In Cyprus, Greece, Ireland, Italy, Spain and Portugal it found there was an increase in job losses, part-time and temporary employment and working hours, and a decrease in unemployment protection and wages. All of these affected the right to engage and remain in employment under fair conditions, particularly for women, young workers, people with disabilities, migrants, Travellers, low-paid workers, retired and single people.

It also found that measures such as the reduction in the number of teachers and schools, and the restriction of some services for vulnerable groups, such as children with disabilities, Roma children and children of migrants, had negatively affected the right to education.

Austerity measures in the same countries had affected the right to healthcare, particularly in Greece and Cyprus, according to the report. These measures led to reduced access to healthcare, including preventative medicine, increased costs and waiting times, and shortages in supplies of medicine. The report found that a number of groups were disproportionately effected by the measures, including: poor and homeless people, older people, people with disabilities and their families, women, and undocumented migrants.

Pensions have also been negatively affected, according to the report, particularly in terms of decreased state spending on pensions and decreased living standards for pensioners.

---

<sup>1</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12010P&from=EN>

<sup>2</sup> [http://www.echr.coe.int/Documents/FS\\_Health\\_ENG.pdf](http://www.echr.coe.int/Documents/FS_Health_ENG.pdf)

<sup>3</sup> <http://ec.europa.eu/social/main.jsp?catId=850&langId=en>

## **UNDERSTAND**

Art. 3 of the Treaty on European Union (TEU) states that the Union should combat social exclusion and discrimination, promote social justice and protection, equality between women and men, and solidarity between generations.

Art. 151 of the Treaty on the Functioning of the European Union (TFEU) sets out that the Union and its Members shall have as their objectives the promotion of employment, improved living and working conditions, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment, and the combating of exclusion.

The European Charter of Fundamental Rights includes recognition of an entitlement to social security and social assistance benefits, including maternity leave, unemployment assistance and pensions, for EU citizens, wherever they live, according to EU and national laws. It includes the rights to social and housing assistance for all who lack sufficient resources, of access to preventative health care and to benefit from medical treatment.<sup>4</sup>

Despite the treaties and charter articles listed above, EU regulations and directives (laws) have not translated these into detailed rules that are binding on EU member states. Rather these are left to the national governments, with the EU focussing on ensuring that there is no discrimination based on nationality in employment and when member states provide social protections and on policies and actions to promote the protection of these rights.

## **DECENT WORKING CONDITIONS AND UNEMPLOYMENT PROTECTION**

Art. 153 of the TFEU sets specific obligations for the Union to implement Art. 151, including improving working conditions and social security, improving the conditions for non-EU passport holders and combatting social exclusion. Arts. 27-31 and 34 of the Charter of Fundamental Rights contains a number of workers' rights, including the rights to information and consultation in the workplace, to collective bargaining, to protection from unfair dismissal and to fair and just working conditions, including maximum working hours, daily and weekly rest and annual paid leave. It includes recognition of the entitlement to social security assistance in cases of loss of employment.

Under EU rules, if you move from one EU country to another, you are entitled to the same unemployment benefits<sup>5</sup> as persons with the nationality of that country. While the rules are not the same in each country for how long you should work to qualify for unemployment benefits and often there are different time periods that people must work before qualifying for those benefits, the country you move to must consider the time you have worked in other EU countries as part of that time period. EU rules also allow citizens to continue receiving unemployment benefits for 3-6 months in another EU member country, while they look for a job in that country.

---

<sup>4</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12010P&from=EN>

<sup>5</sup> <http://ec.europa.eu/social/main.jsp?catId=862&langId=en>

EU rules, however, are not aimed at taking measures to address unemployment, precarious employment and low paid work across the EU, all of which represent challenges to the right to fair and just working conditions.

In May 2015, Eurostat<sup>6</sup> estimated that the unemployment rate in the EU-28 was at 9.6 % and 10.3% in the Eurozone. Youth unemployment (under 25) stood at 20.6% in the EU-28 and 22.1% in the Eurozone. In Greece however, youth unemployment stood at 49.7 %, in Spain at 49.3 %, in Croatia at 43.6 % and in Italy at 41.5 %.

A 2012 report<sup>7</sup> prepared for the European Commission noted a rise in precarious work – particularly involuntary part-time work and fixed term contracts across the 12 member states it assessed, which included both older and newer EU countries. It also highlighted that informal work appears to be growing in Greece, Spain, Italy, Latvia and Bulgaria. The use of temporary agency work, creating an intermediary between the employer and employee also appeared to be increasing, with hospitality, construction, agriculture, retail and cleaning the sectors most perceived to employ people precariously and undocumented migrants, women and young workers most at risk of precarious employment.

## HEALTHCARE

Art. 168, TFEU requires the Union to take action directed towards improving public health and Art. 35 of the Charter of Fundamental Rights includes the right of access to preventive health care and the right to benefit from medical treatment under conditions established by national laws and practices.

The EU doesn't directly intervene to set national healthcare policy, rather it takes a coordination role<sup>8</sup> in ensuring that EU citizens exercising the right to freedom of movement are protected under the same conditions of nationals when they move to a different member state.

In 2014 the European Council<sup>9</sup> noted with concern that the financial crisis was affecting the ability of EU countries to provide access to healthcare and social protections, particularly in light of Art. 168 of the Treaty on the Functioning of the European Union. In addition to the issues highlighted in the report to the European Parliament (above), a 2014 report by EuroFound<sup>10</sup> highlighted that austerity measures are introducing new groups who are vulnerable to poor healthcare due to increased unemployment, changes in the system and increased discrimination and xenophobia. It also found that cuts of services in one part of healthcare systems were leading to strains on other parts – such as increased use of inpatient care as families become increasingly unable to care for family members at home and increased use of emergency care as a cheaper or more available option than a GP visit.

---

<sup>6</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment_statistics)

<sup>7</sup> <https://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=>

<sup>8</sup> <http://ec.europa.eu/social/main.jsp?catId=859&langId=en>

<sup>9</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/lisa/143283.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lisa/143283.pdf)

<sup>10</sup> [https://www.eurofound.europa.eu/sites/default/files/ef\\_publication/field\\_ef\\_document/ef1442en.pdf](https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1442en.pdf)

## EDUCATION

Article 165(1), TEU states that the Community shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity. Art. 14 of the Charter of Fundamental Rights states that everyone has the right to education and to have access to vocational and continuing training. As in the other areas discussed here, the EU has not introduced rules within the field of education that would influence national policy, rather it has focussed on coordinating education mobility and developing education policy<sup>11</sup> across member states, this includes areas such as the ERASMUS programme, ensuring that member states do not discriminate on the basis of nationality in education for EU citizens and addressing recognition of qualifications between member states.

In addition to the problems mentioned with realising the right to education in the European Parliament report (above), funding for universities<sup>12</sup> in many EU member states has been cut since 2008, while tuition fees have risen.

## PENSIONS

Art. 34 of the Charter of Fundamental Rights recognises the entitlement to social security benefits and social services providing protection in old age. The EU has introduced rules to set out how persons who have worked in multiple EU countries can claim their pensions and how people can claim their pensions when retiring in another EU country, however does not directly intervene in national pension rules.



This project is funded by the Fundamental Rights and Citizenship programme of the European Union

**CITIZENRIGHTS**  
A project by European Alternatives

---

<sup>11</sup> [http://ec.europa.eu/education/policy/index\\_en.htm](http://ec.europa.eu/education/policy/index_en.htm)

<sup>12</sup> <https://www.timeshighereducation.com/news/how-is-austerity-impacting-on-europes-universities/2016464.article>