Note from the editor: [trade - procurement - labour standards]

Cremers, J.M.B.

Published in:
CLR News

Citation for published version (APA):
Trade - procurement - labour standards
Contents

Note from the Editor........................................................................................................................................... 4

Subject articles......................................................................................................................................................... 7
Jan Cremers, *EU public procurement and social clauses – an overview.* ......................................................... 7
Penny Clarke and Christine Jakob, *The new EU Directives on public procurement: a step forward for green and social public procurement.* ................................................................. 16
Vasco Pedrina and Zoltan Doka, *Switzerland-China Free Trade Agreement and Labour Rights.* 33

Report:....................................................................................................................................................................... 39
UK local authorities take action against unfair and unequal employment and training practices,
Linda Clarke................................................................................................................................................................. 39

Reviews: ...................................................................................................................................................................... 43
SYNERGY, *Lung cancer risk among bricklayers in a pooled analysis of case-control studies.* ...... 45

CLR News 4/2014 3
The basic principle of the European social model as formulated by the founders of the European Economic Community was respect for the well-balanced regulatory framework for social policy, including social security and labour standards that existed in the member states. This regulatory framework was characterised by a mixture of labour legislation and collective bargaining and, as this mixture was different in every country, European social policy was also about how to live and deal with that diversity. The introduction of economic freedom principles in the European Union created an attractive open market for businesses. Along with the removal of the internal borders, the member states and the European Commission started to work out an unrivalled deregulation agenda. After the introduction of the internal market principles, some Member States had clear rules regarding the working conditions that applied for everyone working on their territory, other Member States had rules with regard to the applicable labour standards and legislation that did not necessarily apply to a temporary foreign workforce. But, although former president of the European Commission Jacques Delors was a firm promoter of European unification, the European Union had to strike in his view a balance between economic integration and social cohesion. In recent interviews, Delors has deplored the fact that the primacy in Europe has completely shifted to a primacy of the economy.

One of the first items as the internal market project got off the ground, back in the late 1980s, to be taken up by the European building workers unions was the inclusion of a social clause in the European public procurement Directives which were completely renewed. And, although it was possible to reach a majority in the European Parliament for a firm social clause that said that labour legislation and collective agreements had to be respected in the country where the work was pursued, this majority did not obstruct the European Council of Ministers from watering down the relevant articles that were dedicated to the social clause. Instead of prescribing to all tenderers the applicable working conditions that belong to the regulatory framework in the host country, the Directives stated ‘The
contracting authority may state in the contract documents, or be obliged by a Member State to do so, the authority or authorities from which a tenderer may obtain the appropriate information on the obligations relating to the employment protection provisions and the working conditions which are in force in the Member State, region or locality in which the works are to be executed and which shall be applicable to the works carried out on site during the performance of the contract’. The tenderers or those participating in the contract procedure had the duty to indicate, when drawing up their tender, that they had taken into account the obligations relating to employment protection provisions and the working conditions in force in the place where the work was to be carried out. From the very beginning, the trade unions had serious problems with this unbinding procedure. This has led to a lobby for stronger social and environmental clauses. In this issue of CLR-News we report on the long track that was necessary to improve the procurement rules, in order to get rid of the lowest price dogma. Public procurement is about spending public money, and that is not a technical thing, as the business lobbyist are used to arguing, but a political decision with social and environmental implications that are not only worth considering but should be an integral part of the decision-making. The issue starts with an historical overview that I have written, followed by a larger account of the lobby work carried out by the trade union movement in strong and fruitful cooperation with a large group of social and environmental non-governmental organisations (NGOs). The account is written by Penny Clarke and Christine Jakob from the European public sector trade union federation EPSU. EPSU coordinated the lobby work and worked closely with the EFBWW in this area.

Recently the global dimension of trade agreements and labour clauses became a prominent political item because the European Union is pursuing a policy to conclude new or revised free trade agreements with numerous countries and continents around the world. Representatives from the AFL-CIO and ETUC concluded in May 2014 that increasing transatlantic trade could create new jobs and share
prosperity, but must be done in a way that helps all working people. According to the American and European unions, trade agreements, such as NAFTA, have helped boost the corporate bottom line, but they have suppressed wages and workplace rights. The agreements regulate many areas which interfere with subjects such as trade in goods and services, intellectual property rights, investment protection and public procurement. Therefore, we include in this issue also a Global Labour Column dedicated to the issue of trade agreements and labour standards that was written by Vasco Pedrina and Zoltan Doka and published in the autumn of 2014. The EC-president Juncker promised a reasonable and balanced free trade agreement with the United States; we have to wait and see if this will lead to trade clauses that are less problematic for human rights protection and workers’ rights.

To illustrate what the impact of procurement rules can be at the local level, Linda Clarke reports on what local authorities have done in Britain, including a firm position that the London local authority Islington has taken with regard to companies that have blacklisted workers in the past.

Finally, you will find two reviews that are related to earlier issues of our Quarterly and that we take on board because of the topicality of their content. As usual any input from your side is welcome.