

(English version)

**Priority question for written answer P-001413/24
to the Commission
Per Clausen (The Left), Li Andersson (The Left), Jonas Sjöstedt (The Left)
(24 July 2024)**

Subject: Posting of foreign workers to Tesla service centres facing industrial action

On 27 October 2023, the Swedish trade union IF Metall took industrial action against the car manufacturer Tesla following several failed attempts to engage in collective bargaining negotiations covering mechanics employed at Tesla's service centres in Sweden.

Since then, other federations have joined the strike with secondary actions in both Sweden and neighbouring countries.

However, according to *Arbetsmiljöverket* (the Swedish posting register), the posting of foreign workers by Tesla to replace striking workers has recently skyrocketed from zero in 2023 to 41 postings since February 2024.

1. Having regard to the spirit of the 'Monti' clause of Directive 2014/67/EU ⁽¹⁾ on the enforcement of Directive 96/71/EC ⁽²⁾ and the revised Directive (EU) 2018/957 ⁽³⁾ concerning the posting of workers in the framework of the provision of services, does the Commission agree that Tesla's action to post workers to service centres in Sweden, which face legal industrial action, undermines the specific Swedish industrial relations system as well as the fundamental right to collective bargaining and the right to take collective action, including the freedom to strike?
2. What steps will the Commission take to ensure that transnational and subcontracting measures involving the posting of workers are not misused by companies facing industrial action to break strikes and to limit the fundamental right to strike?

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Submitted: 24.7.2024

**Answer given by Mr Schmit on behalf of the European Commission
(13 September 2024)**

The right to strike does not fall under EU competence (TFEU, Article 153(5)). However, the Charter of Fundamental Rights of the European Union recognises the right to negotiate and conclude collective agreements and take strike action.

The recommendation on strengthening social dialogue in the EU ⁽¹⁾ recommends Member States to ensure that workers and trade unions are protected when exercising their right to collective bargaining.

It is the responsibility of Member States to ensure the proper functioning of national social dialogue as well as correct application of national provisions and fundamental rights.

With the introduction of the 'Monti clause' in Directive 2018/957 ⁽²⁾ the co-legislators confirmed the equality of fundamental rights and the freedoms of establishment and provision of services.

However, for this clause to have effect at national level, Member States have to transpose it into their law. A recent report on the application and implementation of the Posting of Workers Directive and accompanying Staff Working Document ⁽³⁾ analyses this transposition.

In the same report, the Commission notes the challenges related to subcontracting. It intends to work with the European Labour Authority to map subcontracting liability in Member States.

¹ <http://data.europa.eu/eli/dir/2014/67/oj>.

² <http://data.europa.eu/eli/dir/1996/71/oj>.

³ <http://data.europa.eu/eli/dir/2018/957/oj>.

⁽¹⁾ Council Recommendation of 12 June 2023 on strengthening social dialogue in the European Union (C/2023/1389) — https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202301389

⁽²⁾ Article 1(1)b, second subparagraph of Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services, OJ L 173, 9.7.2018, p. 16-24.

⁽³⁾ Staff Working Document accompanying the report on the application and implementation of Directive (EU) 2018/957: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023SC0357>

Report on the application and implementation of Directive (EU) 2018/957 (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2024%3A320%3AFIN>).