

Summary Report

A strategy to reduce precarious work

8th Asia Europe Labour Forum
AELF8

Milan, 16-17 October, 2014

The AELF participants were welcomed by Noriyuki Suzuki, General Secretary, ITUC-AP, and the Representative of the President of Lombardy, Valentina Aprea, Benedetto Della Vedova, Undersecretary of State at the Ministry of Foreign Affairs and International Cooperation of Italy addressed the forum on the second day. Also, Danilo Margaritella, General Secretary of UIL Lombardia and Elena Lattuada, General Secretary of CGIL Lombardia addressed the forum on the second day.

Lukas Bauer, Programme Manager of the Friedrich-Ebert-Stiftung Office for Regional Cooperation in Asia introduced the session chaired by Jeffrey Vogt, Deputy Director of Human and Trade Union Rights, ITUC, on ***“Putting precarious work on ASEM’s radar”***.

Evidence from the ILO show that almost half of the world’s working population is employed in ‘vulnerable’ jobs that include, among other forms of work, jobs that are precarious and informal. In some countries, well over 1/3 of the workforce is labouring under precarious work arrangements. Forms of precarious employment are most often temporary work, on-call work, involuntary part time work and all forms of disguised employment relationships with the participation of employment agencies. The publication “Precarious work in the Asia Pacific Region: A 10 country study by the International Trade Union Confederation (ITUC) and ITUC Asia-Pacific 2014” that was presented to the participants showed different forms of precarious work in Asian countries.

A common characteristic is that precarious workers do not enjoy job security, social security or a decent wage and rights at work. Precarious workers consistently earn far less than workers in a direct, long-term employment relationship and do not enjoy most of the social welfare benefits. The discount ranges between 30—50%. Persons with precarious jobs usually do not have a long-term employment relationship, even if they are employed in the same job for years: workers would not join or form a union out of fear of not having their contract renewed, or immediate dismissal. Further, precarious forms of work are more common in the service sector than in the manufacturing sector.

In the discussion, representatives of trade union centres underlined that precarious work has grave repercussions on livelihoods, and economic and social inequality. European participants in particular stressed that precarious work has started becoming a characteristic of the European labour markets: a trend that started in some countries before the financial crisis of 2008 and

aggravated by the following recession. For instance, in Italy, 70% of new job contracts in 2013 were precarious (part-time, fake consultancies, short-term).

In Asia and Pacific, legislative frameworks enable enterprises to make use of precarious forms of work and offer minimal to no protection for their workforce. Another problem is the statutory exclusion from labour laws of domestic workers and, often, farm workers and other trades which leave parts of the labour force completely exposed to precariousness. Where law is in place to protect, the application of law by labour inspectorates is often poor.

Precarious work affects usually low-skilled workers chiefly because of the abundance of such workers and the high levels of competition among them. Women and migrant workers are disproportionately represented in the low-skilled labour force and so, they are most commonly affected by precarious forms of employment.

Although there is very limited progress in addressing the problem of precarious work, it is not all hopeless. The participants discussed action that is taken, and can be taken, to reduce and eliminate precarious work. An illustrative video by JTUC-RENGO showed the problems of precarious work and also union action to reduce it. In Japan unions achieved a reform to the Labour Contract Act that stipulates the conversion of short term contracts to indefinite contracts after 5 years and prohibits unreasonably different wages, and encourages employment by the beneficiary employer after the dispatch contract ends. Vietnam included an article on dispatch labour in the 2012 Labour Law reform. Korea imposed a 2-year limit on employment under short-term contracts; Indonesia limited outsourcing to the five sectors catering, security, driving, cleaning and support services in mining sites; in the Philippines a legislative Order prohibits or substantially limits most labour outsourcing. Most notably, Russia will introduce a ban on all agency labour from 1/1/16.

Union action discussed included the following recommendations:

- Trade unions should put an emphasis on organizing workers in precarious work. Participants from India, China, Vietnam, and other countries noted that this is already on their union's agenda
- Incentives should be given to undocumented workers and migrant workers to unionise with lower fees
- Using collective bargaining in organized enterprises and sectors to limit the use of precarious work for the work covered by the collective agreement
- Pressing their government to amend the legislation
- Using the courts to challenge employers using precarious work
- The ILO is highly under-utilized in challenging precarious work and its impacts: pushing for an ILO Standard on aspects of precarious work will enable the recognition of the issue and create an international norm that is aspired to drive national laws to the right direction.
- A strategy of ASEAN unions is being discussed with unions from the Philippines, Malaysia and Singapore. Indonesian and Belgian participants proposed an ITUC framework of action on precarious work.

Proposed non-specific forms of action:

- promotion of works councils in Asia;
- trade agreements with enforceable labour rights;
- EU-Asia solidarity actions;
- promotion of instruments like the Bangladesh accord and the EU-Cambodia instrument (under discussion);
- a social pillar in regional integration processes (ASEAN Economic Community (AEC) and its weak interlinkage to the ASEAN Socio-Cultural Community (ASSC) was mentioned in particular);
- mobilisation and demonstrations puts pressure (in particular the "Six-pack Regulations" of the EU that include fiscal and macroeconomic measures were mentioned as a target);
- quality management of production chains with union involvement;
- include a goal on reduction of precarious work in the Sustainable Development Goals;
- and departure from austerity policies.

AELF8 organised a follow-up session on the **ASEM Project, 'Social dialogue for working conditions'** chaired by Stijn Sintubin, ACV-CSC and Christian Vancoppenolle, FGTEB and with the participation of François Vandamme, Counsellor, Ministry of Labour and Employment of Belgium, Youcef Ghellab, Head of the Social Dialogue and Tripartism Unit and Rudi Delarue, Deputy Head of Unit, External Relations, Neighbourhood Policy, Enlargement, IPA, EC, from DG Employment.

All three speakers highlighted their full support to the cause of institutionalising the AELF.

Mr Vandamme explained the mandate for ASEM projects from the Labour and Employment Ministers Conference (LEMC) and noted that these projects increase ownership and inclusiveness. Noting the high-level participation of the ILO in the Belgium-Indonesia project on 'social dialogue for working conditions' (Ms Sandra Polaski, Deputy Director General of the ILO), he underlined that the involvement of unions and employers' organisations is imperative for ASEM projects. The aim of the project is to empower social dialogue and improve both workers' and employers' capacity to improve conditions. The project conducted research and input is to be contributed to the preparatory work of the International Labour Conference on informal work, as informality was one of the elements discussed. More to this, SMEs in supply chains were of particular focus. Mr Vandamme also mentioned that the International Organisation of Employers (IOE) wanted tailor made answers and tried to hold back some of the work done.

The project concluded that social dialogue:

- increases productivity, participation and industrial peace;
- can enhance human capital;
- is important to be held on different levels: from enterprises to national and sectoral level, and across the supply chain;
- is a key responsibility of governments: the creation of legal frameworks for social dialogue (who is entitled to represent, who bargains and other issues) – otherwise

there is uncertainty and social dialogue does not take place or it does not create clear and binding results;

- needs an effective system of collective bargaining agreements including global framework agreements (GFAs);
- a system of dispute settlement is necessary in order for social dialogue to work – specific proposals to this end were made;
- working conditions in the plants were discussed and special attention was paid to Better Work programmes.

Mr Delarue said that there are ASEM projects that have not been held yet and the efforts made to convince the government of Germany to organise the next LEMC. Asian partners have increasing interest in Decent Work, and in particular the elements of social protection and social dialogue. In the 2010 LEMC, there was not much work on these policy areas but they become increasingly important. Most of ILO instruments are in the area of EU competence and therefore the EU promotes the ratification of ILO instruments. The EU takes action to promote ILO instruments in trade agreements: core labour standards are included in and EU's Generalised System of Preferences and in the trade agreements with Korea, Colombia, as well as in bilateral investment treaties with Myanmar and China with a special cooperation chapter. Furthermore, special mentions were made to the Rana Plaza disaster and the instruments and action that were produced with the involvement of the ILO and social partners for better labour standards. The EU also supports the G20 work on Occupational Safety and Health, and the Development Cooperation includes Decent Work in the "governance issues".

Mr Ghellab said that for social dialogue to be meaningful, (i) Freedom of Association is a prerequisite, (ii) an enabling environment for social dialogue, with the necessary legal frameworks is needed, (iii) and resourceful institutions to hold social dialogue are imperative. Social dialogue leads to productivity increases, social peace, political stability and better livelihoods. The ILO embraces the multi-level approach to social dialogue with centralised national dialogue producing a floor of rights and entitlements and enterprise-level dialogue dealing with enterprise-specific issues that workers and employers face. There are good examples of social dialogue to be found in the UK, Indonesia and other countries that provided solutions to atypical forms of employment and extended social protection and collective bargaining coverage. The outcome document of the ASEM project did not mention the impact of the EU crisis on social dialogue, the decentralisation and focus only on enterprise level, and there is the risk that Asia takes wrong messages on social dialogue.

On supply chains, Mr Ghellab stressed that the 1977 Declaration on Multinational Enterprises should be the guide on social dialogue approaches. The Better Work programmes aim at bringing together unions and employers, and other stakeholders, in the supply chains together to find ways to improve occupational safety, and address all other issues. However, these programmes alone are not enough to solve the problems workers face in supply chains and they need to be understood as supplements to the Freedom of Association, legal frameworks and institutions that govern social dialogue. Supply chains will be the main focus of the ILC in 2016. On informality, Mr Ghellab mentioned that in 2015 the ILC will work on an instrument to promote formalisation and explained the preparations made to this end.

The session **“ASEAN towards a full Economic Community”** was chaired by Noriyuki Suzuki. Mr Suzuki presented trends from ASEAN on collective bargaining, minimum wages, inequality and public spending. Mr Suzuki also presented the joint ILO-ADB study **“ASEAN Community 2015: Managing integration for better jobs and shared prosperity”**¹ that finds that if the ASEAN Economic Community (AEC) does not address the existing labour market deficits, inequality will increase together with vulnerable and informal employment, and working poverty. The study recommends stronger wage setting institutions and social protection as immediate measures to tackle the increasing inequality. As a measure of comparison, it was mentioned that EU pays 25% of GDP in SP, and ASEAN only 5%. Although minimum wages increase slowly, productivity and wages in the region are grossly disconnected. In the discussion that followed it became clear that there are very poor, if any really, plans for the social dimension in ASEAN.

The AELF8 organised an informative session on **“Organising workers in Asia and in Europe”** chaired by Thomas Thampan, Vice-President of HMS and former MP.

The Italian unions CGIL, UIL and CISL organised an informative session on **“Decent work, precariousness and internationalization. Achievements and challenges in the European Union and Asia”** moderated by Silvana Cappuccio, ILO Governing Body Member.

A discussion with Maris de la Cruz and Christina Ebro of the Asia-Europe People’s Forum was organised to seek ways of tighter cooperation between the 10th People’s Forum and the Labour Forum. The two representatives were invited by the AELF Secretariat to explore potential cooperation in various fields. Ms De la Cruz informed that the 10th Asia-Europe People’s Forum was attended by 400 activists and civil society members from Asia and Europe and that it was the first time to be officially invited to the Leaders’ Summit. Ms Ebro explained the topics of the AELF10 that included focused on social protection, climate change, trade and the social crisis. The participants discussed with the two AEPF organisers on potential cooperation and decided that the AELF will continue having a presence in the AEPF and that it was useful to hear from the AEPF on the priorities discussed and messages conveyed to the Leaders.

Rosa Crawford, International Policy Officer of the TUC-UK and Yorgos Altintzis, Coordinator of AELF, presented an informative session of the investment-to-state dispute settlement (ISDS) mechanism in bilateral investment treaties. The opportunities of MNCs to take legal actions within the ISDS mechanism may limit governments' ability in implementing social policies and the threat of legal sanction may lead to “chilling effects”. The ISDS which is contained in the EU-Canada trade agreement (CETA) and the mandate for the Transatlantic Trade and Investment Partnership, allows corporations to sue governments for any policy that is regarded as a threat to their future profits. This poses a serious threat to the ability of governments to pass policy around health, education and workers’ rights – in the past Egypt has been sued by the French company Veolia investors through ISDS contained in the France-Egypt Bilateral Investment

¹ http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_300672.pdf

Treaty for raising the minimum wage. They outlined ongoing campaigns by unions in Britain, the EU and internationally to oppose the inclusion of ISDS in trade agreements.

Michael Matthiessen, Principal Advisor ASEM/Alternate Senior Official of EU in ASEM of the European External Affairs Service (EEAS) addressed the closing remarks of the AELF8. Mr Matthiessen mentioned the outstanding high level of representation from 51 countries, EU and ASEAN. In this Leaders' Summit ASEM welcomed Croatia and Kazakhstan enlarging ASEM membership to 53 countries. The theme of the Summit was "Responsible partnership for sustainable growth and security". The Summit focused on various forms of security, including water, food, energy, social and other forms of security. The Summit also talked about the disappearance of Sombath Somphone, a Laotian activist, last year and asked the government of Laos to shed light on the events that led and followed Mr Somphone's disappearance.

For first time in ASEM's history, the Summit invited the Asia Europe People's Forum (AEPF), the Asia Europe Business Forum (AEBF) and the Asia Europe Parliamentary Partnership (ASEP) to address the Leaders. Although AELF is not recognized in parity with the three other fora, many of the AELF's views have been brought up by the AEPF. Michael Matthiessen found it to be "a short but politically important moment". The President of the European Commission, Jose Manuel Barroso, responded that it is important to hear from AEPF and civil society and stressed the importance of the freedom of speech.

The Business Forum was well attended this year. In his address to the AEBF, Van Rompuy, President of European Council talked about Decent Work and social cohesion and stressed that business needs to be in partnership with unions in order to be sustainable. The governments of Vietnam, Italy, Japan, and Malaysia addressed the AEBF.

The Chair's Statement mentioned financial and economic cooperation, and focused on different aspects of an interconnected world (transport, internet, supply chains, people-to-people, tourism, student exchanges). The Statement also mentioned promoting cooperation on employment and labour issues. Michael Matthiessen also informed of the resolution among European Leaders including president Van Rompuy to get the AELF recognised and shared his full support to the cause of the AELF. In 2016, ASEM will celebrate its 20th birthday and Mr Matthiessen expressed the hope that the inclusion of the AELF to be the completion of the people-to-people dialogue on this landmark date. He called the AELF participants to work together with the EEAS for the recognition. A potential new partner could be an Asia Europe Youth Forum as this year observed the first Model ASEM with the participation of 120 students from 49 ASEM. The common document produced was handed to President Van Rompuy.

The next seat of ASEM is decided to be Mongolia in 2016.

Lukas Bauer, Programme Manager of the Friedrich-Ebert-Stiftung Office for Regional Cooperation in Asia Pacific, and Yorgos Altintzis, Coordinator of the AELF, thanked and informed Mr Matthiessen of the AELF's outcomes. They also conveyed the message that the AELF will follow up with the colleagues from countries that do not recognise the AELF. The AELF is resolved to continue engaging the LEMC and put precarious work more firmly on the agenda of

ASEM. AELF is determined to follow up with action all ASEM projects mandated but not-organised and seeks to cooperate with the Italian government on youth employment. It also seeks to have the project on social dialogue continued as a workstream instead of isolated one-time events.