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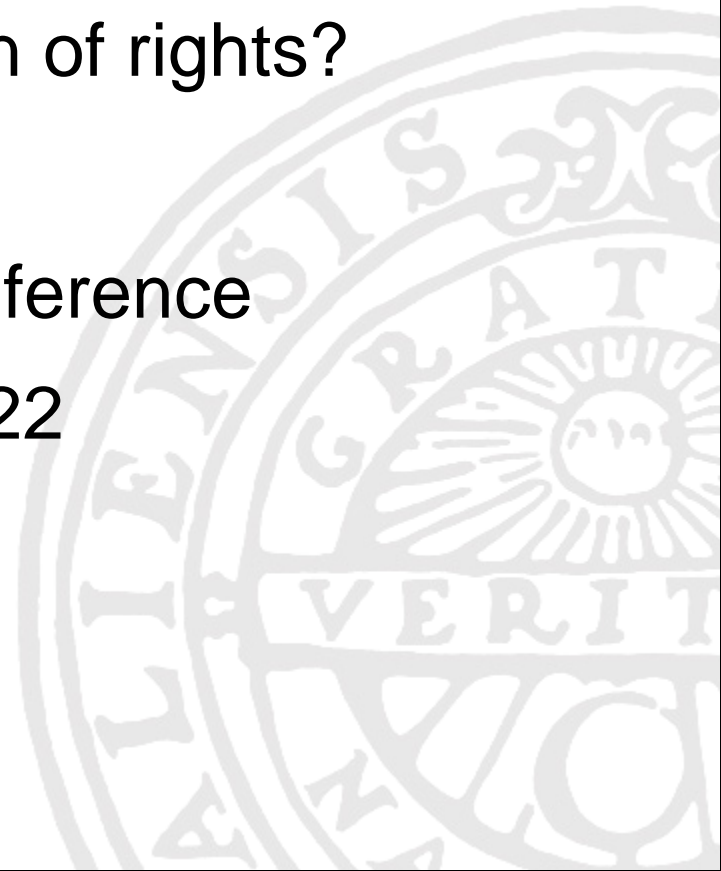
Monitoring Compliance with Labour Standards

Restriction of economic freedoms or
effective protection of rights?

FORMULA-conference

2012-03-22

Jonas
Malmberg

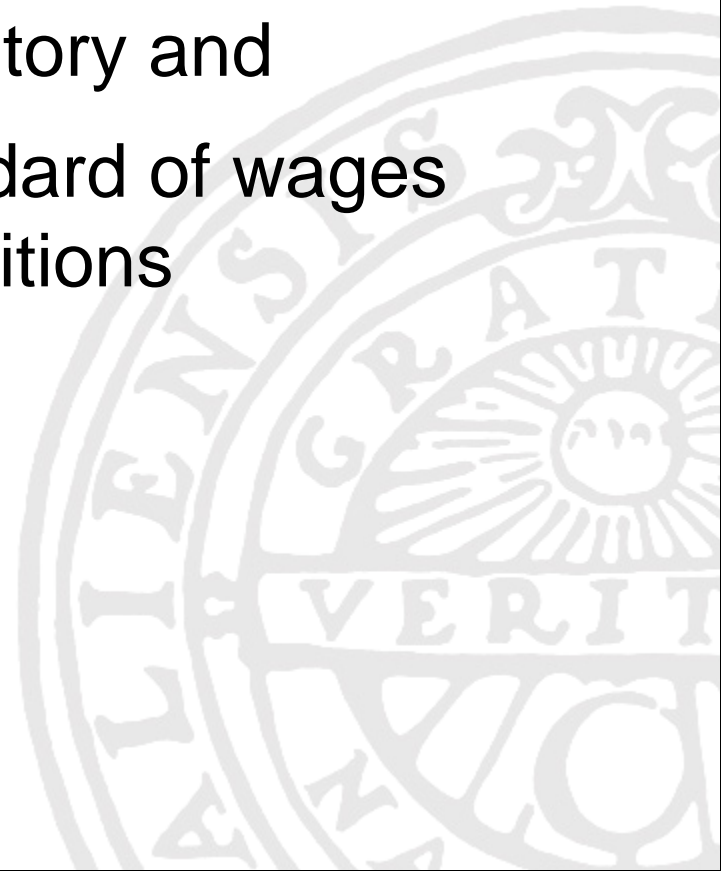




The Posting of Workers Directive and Art 56

Member states shall

- give posted workers access to work temporally in their territory and
- ensure minimum standard of wages and employment conditions





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Aims of the Posting of Workers Directive

Protect
posted
workers





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Aims of the Posting of Workers Directive

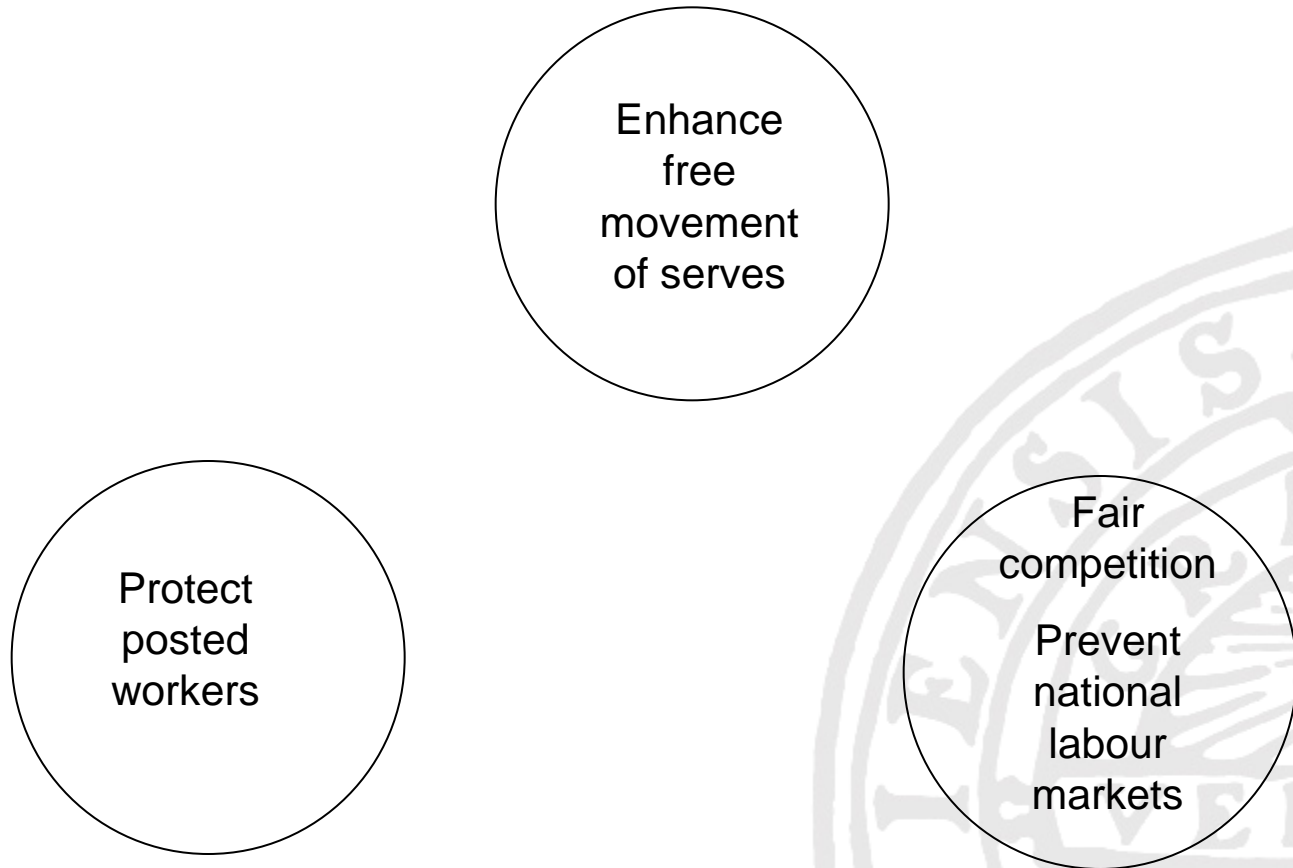
Enhance
free
movement
of serves

Protect
posted
workers





Aims of the Posting of Workers Directive





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EU law perspective on national monitoring measures

Restriction
of
economic
freedoms





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EU law perspective on national monitoring measures

Restriction
of
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freedoms

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Member State perspective on national monitoring measures



Protect
national
labour
markets



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Member State perspective on national monitoring measures

Protect
posted
workers

Protect
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market





Tentative conclusion

EU law has mainly focused on enhancing free movement of services

National law has mainly focused on protecting national labour markets

Neither EU nor Member States has properly addressed the protection of posted workers



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COM(2012) 131 final

Proposal for

**DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL**

on the enforcement of Directive
96/71/EC concerning the posting of
workers in the framework of the provision
of services



A stricter definition of posting

1. Where is the service provider established?
2. Is the worker temporarily carrying out work in a Member State other than the one in which he or she normally works?



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Access to information

Measures for improved access to information to foreign service providers.





Administrative cooperation and monitoring compliance

- The Member State of establishment shall continue to control, monitor etc employment conditions of workers posted to another Member State.
- Host state may request information from Member State of establishment
- The state of establishment shall also on its own initiative give the host relevant information concerning the service provider, if that Member State is aware of facts indicating “possible irregularities.”



National control measures

Member States may only impose the following administrative requirements and control measures:

- A simple declaration
- Keep social documents during posting + translation
- Designate a contact person to negotiate



Joint and several liability

The Member State shall ensure a system for joint and several liability in the construction sector.

