

European Court rules governments can refuse migrants social welfare

Martin Kreikenbaum
15 November 2014

The European Court of Justice (ECJ) ruled on Wednesday that Germany could refuse to provide social welfare to migrants from other European Union (EU) states if they are not actively seeking work. The case involved a Romanian who lived with her five-year-old in Leipzig. The 25-year-old woman was refused social welfare to meet basic necessities by the local job centre, because in the three years she had spent in Germany she had not had a job.

The fact that the woman had only been able to attend school for three years in Romania, meaning that she had obtained neither educational nor professional qualifications, was ignored. This made it virtually impossible for her, with the additional burden of being a single parent, to find an adequate job to make ends meet. But in its ruling, the grand chamber of the ECJ in Luxembourg argued that the ban on discrimination within the EU did not apply to social welfare claims, and that as a result EU foreign nationals could be excluded from claiming social welfare.

With its judgement, the ECJ has once again revealed the EU's reactionary character. If the fundamental social rights of workers can be eliminated, the right to freedom of movement, a central building block in the process of European unification, is nothing more than a mechanism to impose unrestricted exploitation. Although workers from poorer EU states are welcomed in Germany as a source of cheap labour, they are effectively second class citizens with no democratic or social rights. If they are not required on the labour market, or if they simply can't find a job, they will be compelled to return to their country of origin. For them, the right of freedom of movement exists merely on paper.

The Luxembourg-based court's ruling was eagerly anticipated. A racist debate has been led for months in the EU about alleged abuse of social welfare by migrants, particularly those from Bulgaria and Romania. The restriction of freedom of movement for so-called economic migrants is being ever more openly considered. The judges of the ECJ have fed this nationalist propaganda with their ruling. They have made clear that the principle anchored in EU law of equal treatment for EU migrants throughout the

entire bloc is a secondary matter in relation to national regulations on the claiming of social welfare.

The judgement explained that the "EU citizens' guidelines", which allegedly grant EU citizens the right to move freely and reside within the territorial area of the member states, do not apply to migrants dependent on social welfare to secure the basic necessities of life. Although the judges ruled that the claiming of social welfare need not mean immediate expulsion from the country, it permitted the member state to refuse to extend the right to reside.

The judgement also significantly weakened the ban on discriminating against individuals based on their nationality. In the opinion of the judges, migrants from other EU countries could be treated differently when claiming social welfare as nationals of that particular state. The ruling stated that the member states "have the option of denying social welfare in cases where economically inactive EU citizens use their freedom of movement for the sole purpose of benefiting from social welfare in another member state."

The grand chamber thereby essentially adopted the argument of the general prosecutor at the ECJ, Melchoir Wathelet. He declared in his report on the case in May this year that migrants "who use their freedom of movement and don't want to integrate become a burden for the social welfare system." The refusal of social welfare benefits would therefore prevent "abuses and a certain type of social tourism."

That the ECJ has followed the arguments in Wathelet's report plays directly into the hands of those seeking to deny EU citizens basic social rights and vilify them as social tourists. Appropriately enough, they have celebrated the judgement in Luxembourg.

An EU commission spokesperson in Brussels declared that the meaning of the principle of freedom of movement was "not the right to freely access the social welfare system in other member states." The European Parliament deputy for Germany's right-wing Christian Social Union, Markus Ferber, whose party will benefit from the ruling, was even more explicit, saying, "It creates clarity for the German

courts and establishes a rule on the intentional migration to use Europe's social welfare systems."

The German government saw the ruling as a confirmation of its stance. Germany's parliament has recently passed strengthened regulations to combat economic migration that was proposed by the grand coalition of the Christian Democratic Union and Social Democratic Party (SPD). The adopted regulations contain plans for the deportation of unemployed EU nationals and a ban on re-entry to Germany, as well as the elimination of the right to social welfare for migrants seeking work.

Birgit Sippel, an expert on domestic affairs for the SPD in the European Parliament, viewed the ECJ decision as entirely in keeping with the strengthened regulations. She stated that "people who obviously do not want to integrate into the labour market can be denied access to social welfare benefits."

The opposition parties also joined in the reactionary chorus. Anton Hofreiter, leader of the Green Party fraction in the German parliament, turned the judgement into its opposite. He was cited in Britain's *Guardian* with the absurd remark that the ECJ had "confirmed the right of freedom of movement." It had been made clear "that people who are seeking work throughout Europe are entitled to social welfare." The interior spokesman for the Left Party parliamentary fraction wrote in a press release that the judgement merely referred to "extremely rare cases" and left "central issues open."

In Britain, where Prime Minister David Cameron is leading a witch hunt against the alleged abuse of social welfare by workers from Eastern Europe, the judgement was warmly welcomed. The governing Conservatives and opposition Labour Party both praised the ruling for what it is: a green light for governments to intensify welfare regulations and to exclude EU migrants seeking work from social welfare benefits.

Things are no better in the Netherlands and Belgium. *Spiegel Online* reported that the governments in both countries had sent letters to unemployed migrants in which they were described as a "burden" and called upon them to leave the country.

Neither the British nor German governments, who are the most vehement in regularly accusing migrants of welfare abuse, have to date presented figures to back up their claims. In fact, workers from Bulgaria and Romania appear no different in the statistics to workers from Germany or Britain. Their level of unemployment is only marginally higher than the national average. The welfare benefits they claim in Germany are mainly made up of top-ups because the starvation wages they are paid are insufficient to feed their families.

In addition, they are often denied access to social welfare, even though they are entitled to it. For example, in German job centres it is common practice not to hand out forms to workers who cannot speak German and decisions on benefits are often drawn out over months.

Even new figures from the Nuremberg-based Institute for Employment Research (IAB) published by the *Süddeutsche Zeitung*, which allegedly show a rise in the claiming of Hartz IV welfare by Romanian and Bulgarian migrants, merely expose the shocking levels of poverty and misery in particular regions and cities in Germany.

According to the IAB, although the number of Romanians and Bulgarians claiming Hartz IV rose from 38,000 to around 66,500 in the year to July 2014, the number of active workers from the two southeastern European countries has risen at a similar rate. Additionally, the rise in claimants of Hartz IV is especially noticeable in areas where the poverty and unemployment rates are already astronomically high, such as in Berlin or Duisburg. The claim that intentional migration into the social welfare system is taking place is nothing more than a cheap statistical trick to fan the flames of a racist propaganda campaign.

The ECJ ruling will have devastating consequences for migrants seeking work. Cut off from social rights and without the means to secure their existence, searching for a job will be made practically impossible. The consolidation of already precarious living conditions—in apartments ready for demolition, without heat and power, and with no secure access to the health care system or education—will increase among migrants, as well as exploitative and irregular working conditions for poverty wages.

The ECJ's ruling that unemployed migrants or those seeking work have no right to social welfare benefits in other EU states is a serious warning to the working class. Basic social rights to secure the necessities of life are by no means guaranteed in Europe, but are systematically being destroyed by the EU and national governments.



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact