

Dear Editor,

In Saturday's exchange with Pat Cox, Joe Higgins MEP quoted selectively from Article 52 of the Charter of Fundamental Rights and proposed that the Charter and the Treaty is "institutionalising the rights of business to exploit workers in the name of the social market". In a statement on 18 June he claimed that the EU Treaties and the Charter give priority to the rights of business to make a profit. Both claims are factually incorrect.

The quote that Joe Higgins uses from Article 52 which covers the Scope of guaranteed rights, and states that "Rights recognised by the Charter which are based on Community Treaties, shall be exercised under the conditions and within the limits defined by those Treaties" is the second of three paragraphs in this Article. This paragraph simply states that Charter Articles that derive from the Treaty have the same purpose as they have in the Treaty. It would be rather odd if they meant something different to the Treaty. The first paragraph of Article 52 states that any limitation on Charter rights must be provided by law and respect the essence of those rights, while the final paragraph states that rights that derive from the European Convention on Human Rights have the same meaning as laid down by the Convention.

Some Charter Articles have the Treaty as their sole source. Article 36 on protection for public services derives solely from Treaty Article 16, and the paragraph of Article 52 that Joe Higgins quotes simply states that they have the same purpose. The main sources of the Charter Articles that relate to workers' rights are the European Social Charter and the Community Charter of the Fundamental Social Rights for Workers. In a number of Charter Articles such as Article 23 on Equality between men and women, the Treaty is an additional source in this case Article 141 on the right to equal pay. There is not a shred of evidence to present any of this as a negative in terms of workers' rights. In fact it was the European Court of Justice in a 1976 ground breaking judgment that gave real force to the fight for equal pay for women.

The statements by Joe Higgins that the Ruffert European Court judgment allowed for payment of only 50% of the agreed pay rate, and that the Luxembourg judgment ruled that it was illegal for that country to insist on social protections for posted workers are not correct. The main issue in both judgments was that the European Court of Justice ruled that both Luxembourg and Germany had failed to properly transpose the Posting of Workers Directive into their domestic law. However there are some concerns for trade unions arising out of the approach taken by the European Court of Justice in some of these judgments. The Declaration on Workers' Rights secured by the Irish Government last June will assist the ongoing process to address these concerns. The current Treaty provides in Article 43 a right of establishment (business) and in Article 49 a right to provide services in any Member State, and this has given rise to a concern that these 'economic freedoms' may take precedence over workers' rights. The Lisbon Treaty in Article 6 would give the Charter the same legal value as the current Treaty Articles thus giving workers' rights a new and enhanced status. This represents a rebalancing of rights in favour of workers which future European Court of Justice judgments will then have to take account of.

All of the Treaty revisions since we joined in 1973 have added new Articles that protect and promote workers' rights, and the Lisbon Treaty with the Charter of Fundamental Rights is a further significant advance. All of the evidence shows that the advancement of workers' rights in this country is almost

singlehandedly due to our membership of the European Union. This evidence can be viewed on our website at [www.thechartergroup.ie](http://www.thechartergroup.ie)

Yours Sincerely

Blair Horan

Secretary

The Charter Group

11 Marley Avenue

Rathfarnham Dublin 16 Phone 087 2561888.