

European Commissioners deny 9.8 million workers EU legal minimum standards on information and consultation rights

(Brussels 7 March 2018 joint press release)

The Commission has informed the European central government social partners yesterday that it will not bring their agreement to the European Council for implementation as a directive. The agreement seeks to plug a gap in EU legislation that excludes workers in central government administrations from the EU right to information and consultation.

Four months after the European Pillar of Social Rights was proclaimed which sets out rights for all workers in the EU to information and consultation, the European Commission refuses to propose legislation to the European Council on these rights for 9.8 million employees in central government despite being requested to do so by the European social partners. The social partners, reached this landmark agreement on information and consultation rights on 21 December 2015.

After years of imposed cuts in jobs, wages and trade union rights in public administrations, the trade union priority has been to regain fundamental workers' rights to information and consultation and to rebuild trust in social dialogue as a key tool to improve the quality of public administration in the EU. This agreement responded to these concerns by bringing EU-level minimum standards on information and consultation rights in legislation. Social partners acted in line with the procedure spell out in the EU Treaty that started with a Commission consultation in April 2015.

In an unprecedented decision, the Commission has refused to forward the social partner agreement to the EU Council, preempting the possibility for the Council to publicly state its position.

Britta Lejon, President of the EPSU National and EU Administration (NEA) committee and chief negotiator of the Agreement and President of TUNED, added *"The Commission welcomed the Agreement two years ago and Commissioner Thyssen informed us that an impact assessment of the agreement would be carried out. Since then it has moved from no transparency on the decision-making process to a rejection. Just four months after the EU Social Pillar was agreed, this decision is extremely disappointing."*

Jan Willem Goudriaan, EPSU General Secretary, states: *"It is an affront to social partners' rights as co-legislators and the Commission's and Council's duty in relation to social dialogue as enshrined in the treaties since 1993. The decision has been done without evidence and in an arbitrary manner. They have neglected its internal rules including Better Regulation. It is the behaviour of public administration at its worst, it undermines the work of those civil servants working for Europe's future. This is shameful of Thyssen and Juncker"*.

Klaus Heeger, CESI General Secretary declares: *"This is a double attack. It is an attack on the EU principle of equal treatment of workers. Why should public administration workers not enjoy the same EU legal protection for information and consultation rights as other workers? And it is an attack on the right to a transparent decision-making process. The implications are very damaging for trade unions and the future of sectoral social dialogue at EU level"*.

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EPSU is the European Federation of Public Service Unions. It is the largest federation of the ETUC and comprises 8 million public service workers from over 260 trade unions; EPSU organises workers in the energy, water and waste sectors, health and social services and local, regional and central government, www.epsu.org

CESI is the European Confederation of Independent Trade Unions, composed of 38 trade union organizations and 4 European trade union organizations, with a total of more than 5 million workers. CESI's affiliates are employed in the field of central, regional and local administration, security and justice, education, training and research, healthcare, postal services and telecommunications, defense and transport.

Notes to editors

TUNED (Trade Unions' National and European Administration Delegation) brings together the European Federation of Public Service Unions (EPSU) and the European Confederation of Independent Trade Unions (CESI - Confédération Européenne des Syndicats Indépendants), which represent government employees in 27 of the 28 EU Member States. EUPAE (employers) represents 88% of the total workforce in EU central governments

The Agreement is available here <https://www.epsu.org/article/landmark-agreement-information-and-consultation-rights>

There is a long legacy of workers' rights to information and consultation rights with no distinction between public and private sector employees, with the exception of the armed and police forces, enshrined in ILO conventions (151 on labour relations and 154 on collective bargaining that apply to everyone employed by public authorities), the EU charter of fundamental rights (articles 27 and 28), TFEU (Articles 151 and 153.e) and in EU health and safety, gender equality and anti-discrimination directives. Most recently, the European Pillar of Social Rights that was proclaimed last November states that "Workers or their representatives have the right to be informed and consulted in good time on matters relevant to them..",

There are however legal shortcomings, as recognised by the Commission itself with regard to public administrations that are not covered by the EU directives on information and consultation on restructuring and collective redundancies including the 2002/14 General Framework directive. As called for by the ETUC and EPSU, the European Parliament sought to extend the scope of the 2002 directive to the 'public sector' but this was not accepted by the Council. Parliament reiterated its call in its resolution of 19/02/ 2009 as a matter of equal treatment of all employees.

Since the financial crisis in 2008, the depth and scale of restructuring in governments have been huge with no or very little information and consultation rights for workers and their trade union representatives. At the same time, the Commission has taken on new initiatives that impact directly the quality of and access to public administrations especially in the context of the EU semester (economic governance). Amid austerity coordinated at EU level, the absence of EU social standards on information and consultation rights has become all the more of a concern.

In line with EPSU Congress decision of 2014, the agreement seeks to close the legal loophole in the EU directives in line with the principle of equal treatment between all workers, whilst taking into account the specificities of public administrations.

It follows on the Commission's social partners' first stage consultation in line with TFEU article 154 of 10 April 2015 on the possible consolidation of three directives on information and consultation rights. The Consultation raises the question as to whether public administrations should be covered by the EU directives which was welcomed by the ETUC in its response to the Consultation. In their response, the social partners in central governments, informed the Commission of their intention to reach a legally binding agreement through negotiations as provided for in the Treaty

The Commission's Consultation was itself preceded by an EC "fitness check" on EU law in the area of information and consultation of workers of July 2013¹ which invites social partners in central governments to address the exclusion of public administrations from the scope of directives, which is exactly what the social partners did.

Equal treatment between workers is amongst the key principles set at EU level (Art. 20), non-discrimination (Art. 21 par.2).

The TFEU social dialogue provisions 154 and 155 come from an Agreement concluded by the European social partners (UNICE,CEEP and ETUC) on 31 October 1991.

Since these provisions were introduced in the Treaty (1993), the Commission has never rejected any social partners' requests for a legislative implementation of their agreements under these provisions.

Likewise, it would be unprecedented for the Commission to recommend EU social partners to implement "autonomously" their own agreement. Had we sought to negotiate an autonomous agreement, we would not have needed the Commission to do so, and the content of the Agreement would have been different.

¹ EC staff Working Document, SWD (2013) 293 Final

Given the exceptional nature of the decision, you would expect a thorough, well-argued analysis of the legal motivation, the procedural steps, the political significance and impact. This is called a proportionate impact assessment. Commissioner Thyssen informed the employers and unions in March 2016 it would do so This has not happened.

The Commission decision to reject a request for legislative implementation of a social partner agreement concluded under Art. 155, is all the more of concern when this agreement results from negotiations triggered by a consultation process under Art. 154, generates uncertainty about future negotiations, discouraging EU social partners to enter into any such negotiations.

About the EU Social Dialogue Committee for Central Government Administrations

The European Sectoral Social Dialogue Committee for Central Government Administrations (SDC CGA), brings together representatives of trade unions (TUNED coordinated by EPSU) and employers (EUPAE) from this sector.

It was founded in 2010 with the support of the European Commission with the objectives of improving the functioning of administrations and standards on working conditions and promoting social dialogue at national and European levels.

EUPAE (European Public Administration Employers) consists, as of today, of 17 Member States including observers (Belgium, France, Spain, Greece, Italy, Lithuania, Luxembourg, Romania, Czech Republic, UK and Slovakia, Germany, Austria, Hungary, Malta, Portugal).

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