

## Highly disappointing EU Court ruling



(24 October 2019) Today the EU General Court released a ruling in the EPSU Vs European Commission case regarding information and consultation rights of workers in governments.

The Court concludes that the Commission's right of initiative means it can decide on whether or not to make social partner agreements legally binding in all EU member states.

EPSU General Secretary, Jan Willem Goudriaan says: *"The ruling is a blow to 9.8 million government workers who are denied the same EU legal protection for information and consultation rights as private sector workers on restructuring."*

*"This is a major issue for the future of social dialogue at EU level. What is at stake is the real weight social partners have in the development of EU minimum social standards. The right of autonomy of social partners is put into question. The ruling leaves huge uncertainty over future EU social partner agreements."* concludes Mr

Goudriaan.

EPSU will now study the judgment carefully before taking a decision with its Executive Committee on the next steps, including whether to appeal to the European Court of Justice.

EPSU has just over two months to make an appeal against the [Court's verdict](#).

ends

For more info **please contact** Pablo Sanchez [psanchez@epsu.org](mailto:psanchez@epsu.org) 0032 (0) 474626633

### **Notes for editors**

The EPSU Vs EC judgment (T310/18) of 24 October 2019 follows a four-hour public hearing at the EU General Court on 23 May 2019, Luxembourg.

The case was filed in May 2017 by EPSU, the European Federation of Public Service Unions, one of the 10 federations of the ETUC. It is the first time that a European trade union federation bring a lawsuit against the Commission.

In December 2015, TUNED, the trade union delegation led by EPSU in cooperation with CESI, and EUPAE for the Employers, reached an agreement that all workers in central or federal governments should enjoy the same or similar EU information and consultation rights on restructuring as in the private sector.

The Agreement seeks to plug a gap in the EU directives on information and consultation rights that do not apply to public administrations.

It comes in response to a Commission's consultation of social partners carried out in first half of 2015 in line with art.154 of the EU treaties

In line with EU Treaty article 155.2, unions and employers jointly asked, in February 2016, the Commission to forward their agreement via a directive to the Council for adoption by Qualified Majority Voting.

It took almost three years for the Commission to inform social partners, in a very short letter, that it will not be proceeding with a legislative transformation of the agreement into a directive on grounds of subsidiarity.

It is the first time that the Commission refused to implement a social partner request to apply an agreement via a proposal for a directive in the social policy area.

The European Commission argued that social partner agreement cannot be translated into a binding EU directive because central government administrations are placed under the authority of national governments and exercise the powers of a public authority – which means that their structure, organisation and functioning are entirely a matter for the respective national authorities of Member States.

Moreover, according to the European Commission, the organisation of central government authorities varies widely between Member States so that a binding EU Directive transposing the social partner agreement into EU law would result in significantly different levels of protection depending on how centralised or decentralised the central administrations of the Member States are.

For the signatories of the agreement, it is exactly because central government administrations are diverse that EU common minimum standards are needed to set a level playing field.

Furthermore, the Commission's argument does not have grounds in the face of the many initiatives in the area of public administrations, not the least the Commission's Country Specific Recommendations in the European Semester on the very functioning of public administrations. With the exception of information and consultation rights, all social directives be it on gender equality, against discriminations at work or on fixed-term contracts do apply to public administrations.

In the face of such an unprecedented decision by the Commission and in the absence of political alternatives, EPSU has filed a complaint with the General Court to annul the Commission's decision in May 2018.

*For more information, please see [here](#)*

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