



**European Federation of Public Service Unions (EPSU)
And Confédération Européenne Syndicats Indépendants (CESI)**

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

(Brussels 7 March 2018 joint press release)

The European Commission informed on 5 March last the European central government social partners that it will not bring their agreement to the European Council for implementation as a directive.

The social partners' landmark agreement, adopted in 2015, seeks to plug a gap in EU legislation on information and consultation rights that currently excludes central government administrations.

Four months after the proclamation of the European Pillar of Social Rights, which includes the rights for all workers to information and consultation, the Commission refuses to propose EU legislation on these rights for 9.8 million employees and civil servants, despite the social partners' request to do so.

After years of imposed cuts in jobs and wages in public administrations, the trade union priority has been to regain the fundamental rights of workers and their representatives to information and consultation and rebuild trust in social dialogue as a key tool to improve the quality of public administrations. The agreement responds to this objective by establishing EU-wide minimum standards on information and consultation rights on restructuring, amongst other issues.

Social partners acted in line with the procedure as provided for in the EU Treaties in response to a Commission's social partner consultation on a possible review of the information and consultation directives in April 2015. In an unprecedented, untransparent move, the Commission's refusal to forward the social partner agreement to the EU Council preempts the latter to publicly state its position.

Britta Lejon, President of the EPSU National and EU Administration (NEA) committee, chief negotiator of the Agreement and President of TUNED, states *"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, adds: *"It is an affront to social partners' rights as co-legislators and the Commission and Council's duty in relation to social dialogue as enshrined in the treaties since 1993. The decision has been taken 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 and civil servants in 27 of the 28 EU Member States as well as in the EU institutions.

EUPAE (European Public Administration Employers) represents 88% of the total workforce in EU central governments. As of today, it consists of 17 Member States (Belgium, France, Spain, Greece, Italy, Lithuania, Luxembourg, Romania, Czech Republic, UK, Slovakia, Germany, Austria, Hungary, Malta, Portugal, Slovenia).

The Agreement is available in 9 EU languages 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.

The agreement 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, TUNED and EUPAE, informed the Commission of their intention to reach a legally binding agreement through negotiations as provided for in the Treaties.

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 TUNED and EUPAE did.

Equal treatment between workers is amongst the EU key principles as set out in the Treaties (Art. 20), non-discrimination (Art. 21 par.2).

The TFEU social dialogue provisions 154 and 155 stem 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 cross-sectoral or sectoral agreements under these provisions.

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

Likewise, it would be unprecedented for the Commission to recommend EU social partners to implement “autonomously” their own agreement. Had TUNED and EUPAE 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.

Given the exceptional nature of the decision, one 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 the Commission would carry out such an impact assessment. This was not done.

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

About the EU Social Dialogue Committee for Central Government Administrations – SDC CGA

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.

The most recent representativeness study carried out by Eurofound in November 2017 found that both TUNED and EUPAE are the most representative EU social partners for the sector of central governments with a strong capacity to negotiate agreements on behalf of their members.

All the meetings of the SDC CGA take place with the funding and participation of the European Commission.

For more information on the work of the SDC CGA please see here https://www.epsu.org/search/sectors/national-and-european-administration/policies/social-dialogue?mefibs-form-autocomplete-search_api_views_fulltext=&mefibs-form-autocomplete-mefibs_block_id=autocomplete