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Branimir STRUKELJ



5, Bd du Roi Albert II, 9th
1210 Brussels, Belgium
Tel +32 2 224 06 91/92
Fax +32 2 224 06 94
secretariat@csee-etuce.org
<http://www.csee-etuce.org>

European Director

Martin RØMER

Treasurer

Mike JENNINGS

ETUCE

European Trade Union Committee for Education EI European Region

Statement

on the Transatlantic Trade and Investment Partnership

Adopted by the ETUCE Committee on 15 April 2014

The European Trade Union Committee for Education (ETUCE)* is deeply concerned about the consequences of the Transatlantic Trade and Investment Partnership which is currently being negotiated by the EU and the US.

ETUCE calls upon the European Commission and Member States to carve-out education from the negotiations, as has been done with audio-visual services. ETUCE would like to remind the European Commission and Member States that education is a human right and a public good. It is the responsibility of governments to provide free quality public education for all.

ETUCE welcomes the European Commission's public consultation on the controversial proposals on investment and investor-state dispute settlement in the Transatlantic Trade and Investment Partnership. Investor-state dispute settlement provisions are contentious because they enable foreign investors to directly sue states before arbitration panels. As a result, foreign investors are given legal rights to challenge any regulatory or policy measure of the host-state which it feels violates its rights to access a market or affects its future profits. The extraordinary cost of defending investor-state dispute settlement cases is likely to deter governments from pursuing policy goals or taking regulatory measures that may have an impact on foreign investors. Previous investor-state dispute settlement cases have caused serious concerns both about the ability of states to maintain domestic regulatory space, but also about the accountability of foreign investors for damage caused by investment operations in the host state.

The Transatlantic Trade and Investment Partnership is mainly an attempt to promote deregulation and regulatory convergence. As such, it poses significant risks to public education by restricting public policy space and could have the effect of locking in and intensifying the pressures of privatisation and commercialisation. Proposed exceptions for "services supplied in the exercise of governmental authority" are weak and open to conflicting interpretations as they would apply only to services that are provided on a non-commercial basis and not in competition with other suppliers. In other words, if any part of a country's education system is provided on a commercial or for-fee basis, or if private schools operate, education may not benefit from the general exclusion. In education systems throughout the EU some elements of fees are common, e.g. students fees and school books.

The broad reach of the Transatlantic Trade and Investment Partnership could capture education in other ways. The adoption of a "negative list" approach to scheduling commitments means all measures and regulations are covered unless specifically excluded. This stands in stark contrast to the process under the General Agreement on Trade in Services (GATS) in which parties create a "positive list" of commitments thereby avoiding the need to list all non-conforming measures. Similarly, the adoption of a

“ratchet” clause, as in the Canada-EU Comprehensive Economic and Trade Agreement (CETA), would expand the coverage of the Transatlantic Trade and Investment Partnership by requiring the parties to automatically bind any autonomous liberalisation. This means that if a government were to experiment with liberalising its education sector in whole or in part, future governments would be unable to undo this without paying significant compensation.

We believe this is fundamentally at odds with democratic decision-making. Governments must maintain the right to establish, preserve, and expand public services like education. We urge the European Commission, the European Parliament and Member States to consider in consultation with social partners the potential impacts on education and other vital services of including negative list schedules and a ratchet clause in the Transatlantic Trade and Investment Partnership. The negotiations on the Transatlantic Trade and Investment Partnership continue to take place in complete secrecy. It is crucial that trade unions and civil society are involved in an appropriate way. ETUCE will continue to make representations in concert with Education International’s member organisations in North America who share our commitment about the importance of safeguarding the democratic basis of public education and the pursuit of quality public education as an entitlement for all children, young people and adults.

We are also aware of a proposal to establish a Transatlantic Regulatory Cooperation Council (TRCC). This body would bring together representatives of regulatory agencies in the EU and US to monitor the implementation of commitments made and consider new priorities for regulatory cooperation including joint development of future regulations. While it is not clear with which particular powers this Cooperation Council will be entrusted, ETUCE insists that regulation is and must continue to be the responsibility of democratically elected governments.

Given the risks posed to education and other public services in the Transatlantic Trade and Investment Partnership, ETUCE demands that public education in particular and public services in general be excluded entirely from the negotiations. Education is simply too important to be subjected to the narrow commercial rules of trade agreements.

**The European Trade Union Committee for Education (ETUCE) represents 132 Teacher Unions and 11 million teachers in all countries of Europe, 4.5 million teachers in the EU, from all levels of the education sector. ETUCE is a Social Partner in education at the EU level and a European Trade Union Federation within ETUC, the European Trade Union Confederation. ETUCE is the European Region of Education International, the global federation of teacher unions.*