



**Report from the training seminar
“Challenging the liberalisation of public services in TTIP and beyond”**

organised by EPSU, ETUCE, AK and ÖGB

15-16 January 2015, ÖGB offices, Vienna

This report gives a summary of the main points of discussion. The report is available on the EPSU/ETUCE websites together with the background papers and presentations.

Opening session

Penny Clarke (EPSU), Agnes Roman (ETUCE), Nikolai Soukup (AK) and Thomas Kettinig (GdG-Kmsb/ÖGB) welcomed all participants. Penny Clarke explained that the aim of the seminar was to develop policies and strategies to prevent the further liberalisation of public services in trade agreements (in particular CETA, TTIP and TiSA) and to take stock of what is happening in the different countries. Agnes Roman commented on the potential negative impact of trade agreements giving the example of adult education and the difficulty of separating public from private. Nikolai Soukup touched upon the complexity of trade agreements and that a political – not technical - debate is needed on the future of public services. Thomas Kettinig elaborated on the negative impacts of trade agreements on labour protection and workers rights.

Why trade policy important for workers and public services

Thomas Fritz from Power Shift Germany gave an overview (see ppt) of important issues for public services within free trade agreements (FTAs) and liberalisation. Currently, TTIP, TiSA and CETA are being negotiated, but Europe has a long history of trade agreements that affect public services with the GATS as the most significant. The consolidated text for CETA is published, which makes it possible to see what TTIP might look like as it is widely regarded as the template for TTIP. The CETA text is not ratified yet and has to be agreed by the European and possibly also the national Parliaments. Referring to the CETA text, Fritz went over some examples of how CETA, and potentially TTIP, opens up for privatisation through multiple loopholes. In his unravelling of the text, Fritz outlined the problems related to the different parts of the agreement, such as the ‘core obligations’, ISDS, negative/positive list approaches and weak approach on human rights, including workers rights. Examples of ‘loopholes’ in CETA include:

- In Annex I (existing measures) the EU’s reservation for postal services is very limited (only placing of letter boxes)
- In Annex II (future measures) there is a reservation for telecommunications, and a narrow reservation for water (not sewage)
- The ISDS provisions may apply to part of the public procurement chapter (even if EU says it does not).
- At national level, reservations vary widely between countries. Some (Belgium) have taken out comprehensive reservations in energy services, but others have not. The same is true for social protection, where Germany is one of the few countries to have broad reservations. However, no Member State has included investment in its reservations.

In the discussion we said that more 'technical' work is needed at EU and national level to further identify the problems and loopholes in the CETA text that may result in further liberalisation of public services, in contravention of SGI Protocol 26, Article 4 on local autonomy, and also other policy objectives (for example the Member states and the European Commission have agreed that long-term care should be guaranteed in the framework of social protection systems - see recent joint report on long-term care - but many Member States have committed long-term care in CETA). We also need to think about how to 'trade-proof' public services, for example national laws to protect certain services from privatisation, or that protect water as a common good / human right.

Trade union responses to trade policy

Nikolai Soukup (AK) facilitated a panel debate on trade union approaches. In the introductory remarks:

- Jürgen Buxbaum (PSI) underlined the importance of translating the technical language of the FTAs into common language. The production of publications and folders are essential to spread the word on all levels. PSI rejects such agreements as long as the risks are not removed. The public must be mobilised through awareness-raising. PSI is informing members.
- Louise Høj Larsen (ETUCE) argued that the consequences for education are great as it becomes tradable. Furthermore, it can be difficult to distinguish between public and private education, which opens up for potential pitfalls. The FTAs are in essence very political for which reason they should be discussed publicly. The ETUCE monitors the situation as closely as possible and disseminates information to members, the public and politicians. Raising public awareness is essential.
- Larry Brown (NUPGE) argued for the importance of understanding the true nature of FTAs. NAFTA turned out to a disaster, even though it was supposed to be fantastic. CETA and potentially TTIP are fundamentally undemocratic deals. One danger lies in the fact that when something is done, it cannot be undone again. Larry called for awareness raising campaigns and for approaching local and regional authorities as well as MPs/MEPs.
- Angela Pfister (ÖGB) explained that national and regional governments need to be aware of the fact that the EU is making way for privatisation and thus limiting governments' policy space. Angela remarked that trade unions must take different approaches to have success. A network of trade unions and NGOs at EU level coordinates a common strategy. Furthermore, lobbying is an ongoing activity. Trade unions need to take a clear stand on FTAs as they are not made for the purpose of protecting workers and public services.

In the discussion the on-going efforts of the EC to maintain ISDS in spite of growing opposition was raised. In the many eastern European countries that have bilateral ISDS agreements with Canada (and the US), governments say that the CETA ISDS text would be an improvement. However, it was stressed that there are other ways of dealing with these bad agreements, and that 'two wrongs do not make a right'. The joint paper on ISDS in CETA gives good arguments why ISDS should not be supported in CETA or TTIP (and the paper is in most EU languages). ISDS can be a good 'entry point' into the trade debate that can generate interest among members, but it is certainly not the only problem.

The link between the current trade negotiations and the Services Directive was also mentioned. Here the higher education sector in Slovenia is being challenged by the EC for its accreditation system. Like the FTAs, the services Directive is about removing obstacles to cross-border trade and there is no long-term guarantee that existing exemptions will be maintained. The leaked EC paper on regulatory cooperation in TTIP has many parallels with the Services Directive as well as the REFIT / Better Regulation agenda. The EC is likely to revise the Services Directive in the near future

and also to take other measures to further the Single Market, as referred to in the recent Council conclusions on the Single Market.

Like CETA and TTIP, the Services Directive takes a 'negative list' approach to liberalisation (all that is not excluded is covered) which we argue is complex; but a 'positive list' approach to making market access commitments (TiSA and GATS) also generates a 'one way' liberalisation process.

What are the key concerns of EPSU/ETUCE members?

Participants explained the national situation in and concerns of the 25 countries represented. FTAs and specifically TTIP are being discussed in many countries. Some trade unions have, either individually or at national level, made joint positions, meetings and other activities about FTAs. Furthermore, many trade unions are also cooperating with national NGOs and other civil society organisations in order to assert their influence more forcefully. In some countries unions are also exploring legal ways to challenge aspects of trade agreements that are in contradiction to national constitutions.

Many participants stated that they find it difficult to deliver the message to national governments as they are not listening or paying attention. A few trade union representatives reported that virtually nothing is happening in terms of debate. In some countries other issues dominate, e.g. austerity measures, lost tax revenue, and restrictions on public spending (and also cuts in education and healthcare) and it is a challenge to show the links between the different problems. In other countries trade unions have taken a positive attitude towards FTAs and/or are focusing on the labour provisions of the agreements. Regarding TTIP most unions have expressed however concerns about ISDS and the liberalisation of public services. Here it was said that CETA provides a benchmark to assess these concerns and to 'revisit' national positions.

The majority of representatives noted that as concerns national governments, they are with very few exceptions overwhelmingly positive towards the FTAs. The arguments that governments put forward in support of FTAs – more growth and jobs – are not sufficiently challenged, especially since the same governments are depressing growth and cutting jobs at home. Only a few national governments have expressed some concerns over certain parts of FTAs (ISDS, regulatory cooperation).

Next steps on CETA

Larry Brown (NUPGE) reminded that the current FTAs are not really about trade: only 1% is focused on trade. Experts are needed to decipher the texts. Moreover, ISDS is nothing more than privatised justice for corporations. Things become unequal by law as corporations are given supernatural powers. The 'ratchet clause' prevents liberalisation being reversed and limits policy space. Could we have 'positive' gains in FTAs (high labour standards, binding CSR (corporate social responsibility), measures against climate change or tax evasion)? Larry argued that first the current problems with trade must be fixed. The FTAs must be stopped altogether - not just amended. Trade unions need to translate the difficult language into something that members and the public easily understand and also to challenge the language itself. There is no excuse for not doing anything and unions have to start acting now – even if they do not have all the technical capacity. Larry also noted that it is a huge advantage that trade unions can work across the Atlantic to help each other out and cooperate with academics.

Daniele Basso (ETUC) explained that ETUC General Secretary Bernadette Ségol will meet later this afternoon with Trade Commissioner Cecilia Malmström with whom they have an ongoing dialogue. Moreover, the ETUC works closely with their Canadian and US counterparts (CLC and AFL-CIO)

and demands a strong enforceable labour chapter, the exclusion of ISDS and a positive list for public services. In October 2014, the ETUC rejected CETA and called on all members to do the same. Basso ended his presentation by pointing to the link between CETA and TTIP and noting that they are equally dangerous. ETUC cooperates with EPSU/ETUCE and other federations and has coordinates joint approaches from affiliates.

Strategies to safeguard quality public services in trade agreements

Pablo Sanchez (EPSU), facilitated a panel discussion lobbying and campaigning ideas for future work:

- Jörg Leichtfried (MEP, S&D) outlined the process of concluding trade agreements in the EU. The final text has to be accepted by The Council and Parliament. Finally, the European Court of Justice (ECJ) possibly has to make a decision if it is a mixed agreement. If a trade agreement is mixed (i.e. involving the competences of the Member States and the European Commission), national governments also have to accept it. Trade unions and civil society must make sure that the FTAs are recognized as mixed agreements. Commenting on the process status of CETA and TTIP, Jörg said that the CETA text is currently undergoing legal scrubbing and the TTIP has its next round of negotiations in February 2015. In the EU Parliament, the EPP and ALDE are in favour of both agreements. The Greens and GUE are against. The votes of the S&D group will be decisive for the outcome of the vote on the trade agreements.
- Daniele Basso (ETUC) recalled the common declarations with AFL-CIO and called for a strong and enforceable labour chapter. The US has not ratified six out of eight ILO core conventions. Furthermore, it would be interesting to know how many jobs will actually be created or lost as studies predict very different scenarios. Most studies are very sceptical about job growth. Sanctions must also be included in the chapter of sustainable development to safeguard trade union rights.
- Alexandra Stickner (ATTAC Austria) said that ATTAC Austria has built a platform, which acts against CETA, TTIP and TiSA. ISDS must be excluded from the FTAs and the climate perspective needs to be included. ATTAC Austria has strong collaboration with trade unions and civil society, and considers it to be crucial to involve the public in the opposition to the FTAs. There will be a transatlantic day of action on 18 April 2015. A map will be created showing where actions will take place. Austria now has a first ISDS case brought against it.

Developing our action plan(s) to safeguard public services in trade agreements

Pablo Sanchez (EPSU) introduced the discussion arguing that we need to work in parallel at national and EU level. A map should be made over MEPs and their positions. There are other organisations with whom collaboration would be possible e.g. EPHA (healthcare), BEUC (consumers) and FoEE (environment).

The discussion stressed the need of informing all citizens and taking action at all levels, i.e. locally, nationally and internationally. The coming year will be very important and trade unions must take advantage of the current momentum. The continued development of research and materials is crucial in the regard. It was suggested that:

- EPSU/ETUCE should engage to build up a coordinated European-wide actions on FTAs, making the link with ETUC on CETA/TTIP and with EI/PSI on TiSA
- Technical and political debates need to work in parallel. We should identify useful national and other studies. Some EPSU members have commissioned legal advice on the impact of CETA/TTIP.

- National trade unions should map their respective MEPs to see what their positions are for the FTAs
- National governments need also to be mapped on the different issues. In particular affiliates should contact health, education, and other Ministries to see if they have more nuanced or critical approaches to FTAs and to explore possible cooperation.
- Furthermore, national trade unions should send letters to their MEPs. EPSU/ETUCE can provide templates for this.
- There should be more contacts and mobilisation of local / regional politicians
- In our approach we should focus on all three of general concerns expressed by ETUC (labour standards, public services, and ISDS). Regulatory cooperation can be added to this list.
- EPSU/ETUCE will do more to support affiliates with simple briefings. Both websites already have many resources that can be used.
- Intensified networking and cooperation between national trade unions (sectors and confederations), NGOs and others (e.g. local government) will strengthen our impact
- We should also mobilise students
- Engaging members and citizens on trade and public services issues could help to tackle democratic apathy
- Beyond 'fixing the problem', we should reflect on a longer-term agenda to shape the type of trade and development policies that are needed to address today's problems

Conclusions

Penny Clarke (EPSU) and Louise Høj Larsen (ETUCE) closed the conference and said that they will pool out all thoughts and ideas from the past two days together. Moreover, they stressed that the cooperation between unions and confederations will continue.

As well as the report of the meeting a draft action plan will be drawn up proposing national and European initiatives. Participants and other EPSU/ETUCE members will be asked to indicate what they are able to commit to in terms of letter writing, events, and lobbying / campaigning activities, in the first instance linked to April 18 (proposed European action day) and June 23 (quality public services day).