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EUROPEAN FEDERATION OF FOOD, AGRICULTURE AND TOURISM TRADE UNIONS

Meeting of the EFFAT Executive Committee BRUSSELS, 17 and 18 December 2018

Agenda item **16:**

UPDATE ON EU ISSUES

Decision: The Executive Committee takes note of the reports and endorses the documents presented.

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Update on EU issues

a) International trade

Mercosur: No breakthrough during September round. Brazilian elections in October 2018: negotiations unlikely to resume before 2019.

Australia and New Zealand: First round of negotiations: July 2018. Second round: November 2018. High risk for sugar, dairy and meat.

Indonesia: An opportunity for EU exports, both of sugar as such and high sugar-containing products. Indonesia is defensive on sugar.

b) Written Statement Directive - Directive on Transparency and Predictability of Working Conditions

The proposal for a Directive on transparent and predictable working conditions published on 21 December 2017 is currently being discussed before the European institutions. Both the Parliament and the Council have adopted their reports. During the last plenary meeting of the EP the EPP and ECR challenged the mandate to go to trialogue. Also, thanks to the efforts of the Trade union movement the mandate for trialogue was adopted with 398 votes in favour and 208 votes against. The text adopted in the EMPL Committee on 26 October introduces new minimum rights on working conditions, including the length of the probationary period, working hours and restrictive contracts. The text adopted in the Parliament covers among others, platform workers, voucher-based workers, freelancers trainees. In the recital there is also a specific reference to domestic-workers. The rules would also require that all new employees, including those on atypical contracts and in non-traditional jobs, would get an extended information package on their responsibilities, rights and working and employment conditions on the 1st day of work. Information about the length of the standard working day and, where the work schedule is variable, the number of guaranteed paid hours and the remuneration for work performed in addition to those guaranteed hours shall also be included. Moreover, the text adopted in the EMPL Committee ensures that posted workers and workers sent abroad have the right to information on their remuneration and working condition before leaving their home country.

trialogue'As the draft is of great importance to the EFFAT sectors for the fight against illegal employment, EFFAT has developed a common position with the ETUC and communicated it to the relevant rapporteurs in the various institutions.

c) European Labour Authority and Access to Social Protection

LabourThe Report on the Regulation establishing the European Labour Authority was adopted in the EMPL Committee of the European Parliament on 20 November with a large majority. Quite some important Trade Union demands were included in the text. The objective of the Authority shall be to contribute to ensuring fair labour mobility in the framework of freedom of movement for workers and the freedom to provide services in the internal market, as well as to the coordination of social security systems within the Union.

Its tasks will be multiple and will include the exchange of information among national authorities, the coordination of concerted and joint inspections and the mediation of disputes among Member States on the application of relevant Union law.

The main achievements of the Report adopted in EMPL are the following:

- National social partners may now bring complaints directly to ELA
- The Board now includes six European social partner representatives equally representing employers' organisations and trade unions.
- The Stakeholder Group would be composed of two representatives of the Commission and ten (instead of six) representatives of Union-level social partners equally representing trade unions and employer's organisations. This would include recognised EU sectoral social partners representing sectors particularly concerned by labour mobility issues. If this amendment will be confirmed, EFFAT should definitely be represented in the stakeholder Group.
- Joint inspections will ensure the involvement of national social partners if national legislation provide so.

At the same time, after quite some months of impasse due to the lack of political will of the Austrian Presidency, the Council has adopted its general approach at COREPER level. Such text includes some shortcomings with respect to the text adopted at Parliament level. Among those, the fact that the European Labour Authority would be an agency, a weak Monti clause and a weak wording concerning social partners' involvement.

The mandate to go to triadialogue may be challenged at the next plenary session of the European Parliament. Nevertheless, we see a quite a wide support and we expect the triadialogue to start in the upcoming weeks.

d) European Globalisation Fund

We are exploring with the European Commission and the European Parliament whether the notion of a "job fund" or the extension of the scope of the European Globalisation Fund in case of people losing their jobs because of major structural changes in trade patterns due to Brexit for example could be set up, with supporting measures. The European Commission published a proposal for the future EGF framework. EFFAT is in contact with the European Parliament Committee on employment and social affairs. The EGF should support workers with the possibility of reintegrating them into the occupational sector of their former employment, where a major restructuring event has created a need for new or supplementary skills, and where existing skills can be utilised most efficiently.

e) Posting of Workers Directive

The transposition process at national level of the the new revised posting of workers directive is currently taking place. At the same time, the Hungarian and the Polish governments have recently submitted two actions for annulment (263 TFEU) in front of the CJEU [cases C-620/18 (Hungary against the EP and Council) and C-626/18 (Poland against the EP and the Council)]. The legal arguments included in the complaints are mainly the following:

- The legal basis
- The revised directive would violate paragraph 5 of art 153 TFEU that precludes the legislative regulation at EU level on pay, right of association, right to strike and lock-outs.



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- The revised directive would be contrary to art 56 TFEU (freedom to provide services) since it introduces restrictions and obstacles.
- In situation of long posting the directive would violate the principle of *lex loci laboris* enshrined in the Rome I regulation (art 8,2). This is because all terms and conditions of the host country (and not the sending country) should apply in the case of postings exceeding 12 (or 18) months.

It will take more or less one year for the CJEU to take a final decision on the two proceedings.

At the same time, we must say we do not see any concrete risks for the new revised Directive. The EC has underlined that the transposition should proceed as planned.

f) European Service E-card

The Internal Market Committee of the European Parliament rejected last March the Commission's proposal for an E-card by 21 votes to 14. This is a victory for the European trade union movement that a legislative initiative which could facilitate social dumping has been stopped. For strategic reason, the IMCO decided not to confirm its rejection by a plenary vote. This means that the E-card is not fully off the table yet, and the Council still has the possibility to act.

g) Work-Life Balance

After the withdrawal of the Maternity Leave Directive, the Commission has published on 26 April 2017 the Proposal for a Directive on work-life balance for parents and carers. The initiative aims at modernising the existing EU legal framework in the area of family-related leaves and flexible working arrangements and includes e.g. the introduction of paternity leave, the strengthening of parental leave, the introduction of carers' leave for workers caring for seriously ill or dependent relatives, and the extension of the right to request flexible working arrangements. On 20 June 2018, the EPSCO Council adopted the General Approach. On 12 September 2018, the European Parliament adopted their position, and the file went into the inter-institutional negotiations (trialogue).

EFFAT is actually cooperating in the ETUC Project "REBALANCE-Trade unions' strategies and good practice to promote work-life balance" which aims at improving shared knowledge on how collective agreements are used (and could be used) to promote the work life balance of working families and care-givers, collecting good practices in promoting work-life balance through collective bargaining and developing trade union strategies, including proposals and guidelines aiming at improving work-life balance. EFFAT member organisations have been asked to provide examples of good practices in the field.

h) Platform on Undeclared Work

The plenary meeting of the European Platform on undeclared work in October 2018 was centred on under-declared work. Furthermore, the Platform's Work Programme 2019-2020 was approved, foreseeing – amongst others – sector-specific seminars for agriculture and Horeca; and a new Platform Bureau was elected: Member States' representatives from Portugal and Latvia will be the Co-Chairs of the Platform.



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i) Company Law Package

The Employment and Social Affairs Committee (EMPL) of the European Parliament voted on the 15th of November its Opinion on the proposal for a Directive on Cross-border conversions, mergers and divisions (part of the company law package).

The overall result of the votes was very positive.

Worker information, consultation and participation rights were strengthened for cross-border conversions, mergers and divisions, both during the restructuring process and in the resulting companies. With regard to the fight against letterbox companies, the EMPL Committee introduced stronger definitions and checks against artificial arrangements and inserted the real seat principle for cross-border conversions.

After the votes on the Opinions in the ECON and EMPL Committees, it is now up to the Legal Affairs (JURI) Committee to vote on the Report on the proposal for a Directive on Cross-border conversions, mergers and divisions. This vote will take place on the 6th of December and will be a decisive step in the decision-making process.

The key aspects for EFFAT are: safeguarding and strengthening employee information, consultation and participation rights, including the escalator and the effective involvement of European Works Councils, and the fight against letterbox companies.