



## EUCIS-LLL POSITION

### Why Education should be excluded from the TTIP

February 2015

In 2013, the European Union started negotiations for a free trade agreement, the [Transatlantic Trade and Investment Partnership \(TTIP\)](#), with the United States (US). This partnership agreement is aimed at reducing barriers and harmonising systems between the two actors. The 8<sup>th</sup> round of **TTIP negotiations** took place from 2 to 6 February 2015 in Brussels. EUCIS-LLL is deeply concerned by the possible consequences of the negotiations on our European education and training sectors. EUCIS-LLL promotes a comprehensive approach to education where bridges are made between non-formal and formal education. Without a clear exemption system, the agreement could represent a threat to most educational sectors and in turn be a threat to our European social model. **EUCIS-LLL thus wants to firmly underline that education is a public good and asks the European Commission and the Member States to exclude education from the negotiations** as it did for the audio-visual sector based on the public interest in preserving and promoting cultural and linguistic diversity. EUCIS-LLL also shares the views of stakeholders in the field who are concerned about the **transparency of this process** and demand to stop closed-doors negotiations. This position paper reflects the views of our members as regards the ongoing TTIP negotiations.

#### EDUCATION IS A PUBLIC GOOD: IT CANNOT BE TRADED

EUCIS-LLL strongly believes that education is **a public good and a human right** and, as such, cannot be treated as an economic good. This would dismiss the multiple purposes of education, endanger access and contribute to the commodification of education.

We are aware that this agreement is being pursued to facilitate economic recovery but the social dimension of education must not be left aside, and must rather be considered as the **core of our European social model**. **Facilitating market access to “pure” private providers**, who only seek a short-term goal of raising profits that are not reinvested for the sake of the public good, is not improving our social model.

If education is included in the TTIP, multinational companies would have the right to bid for educational contracts in the EU Member States. It could entrench privatisation, as governments which attempt to regain public control could risk being sued by multinational companies through the Investor-State Dispute Settlement mechanism – and this is already happening in the US. A sovereign **government’s power to protect its citizens would thus be limited**; private investors could for instance contest the implementation of quality standards and accreditation systems as "disguised barriers to trade" or "more burdensome than necessary" under the ISDS (see ETUCE statement)<sup>1</sup>. The ISDS is an unnecessary and potentially dangerous mechanism which could lead to jeopardising national standards as a result of pressure of private interests and influences under threat of costly and lengthy trials. EUCIS-LLL thus **warns against the pressure of private lobby groups** that pursue

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<sup>1</sup> “Only public authorities are entitled to speak on behalf of the public interest and can therefore decide to set up public services, define their scope, impose obligations on undertakings providing them, grant such undertakings any special rights required and establish appropriate regulatory bodies”, Public undertakings and services in the European Union, European Parliament, Economic Series W21

commercial interests that are detrimental to the European citizens' general interest in the current negotiations.

Member States must provide education as a **public good**, and the inclusion of any educational services would undermine the democratically legitimate decision-making in the sector. Namely, according to the Lisbon Treaty (Protocol 26), the EU and the Member States share common values when it comes to general services: **a high level of quality, safety and affordability, equal treatment, the promotion of universal access and the promotion of user rights**. Moreover, according to the Treaty of Maastricht of 1992, "*The Community shall contribute to the development of **quality education** by that encouraging cooperation between Member States and the activities of the Member States, while fully **respecting the responsibility of the Member States for the content and organisation of education systems and the diversity their cultural and linguistic support and supplement***" (Article 165). Europe has a strong need to invest in education and to clearly push for a common framework for quality education. Opening up TIPP negotiations to education would be detrimental to this goal.

#### **ALL SECTORS ARE CONCERNED...**

In the Commission [factsheet on services in TTIP](#), the Commission states that "*the EU doesn't take any commitments for publicly funded health, education or social services*" – this only concerns primary and secondary schools, colleges and universities. This definition excludes important sectors such as adult education. Besides there is not an agreed definition of these concepts (what is covered under "universities"?) at EU level which creates a lot of confusion. Educational actors are very diverse with **important cultural differences across EU Member States especially as regards to their funding**. The EU and the Member States have been pushing for more and more public-private partnerships in the educational sector. "*The problem is that in many jurisdictions, the line between what is public and what is private education is blurring so that any exemption for public education may prove to be inadequate,*" said Fred van Leeuwen, General Secretary of Education International which represents 30 million teachers worldwide.

The **adult education sector** (popular education, workers' education, etc.) is particularly diverse in Europe reflecting different realities and cultures. The organisations providing such services have different legal constitutions, are financed via public and private funds and are sometimes recognised as being of "public utility". **Including adult education in the TIPP could be very disruptive in a sector that is already suffering from severe budgetary cuts**. "*The European benchmark on adult education has decreased and stagnated instead of growing, which shows that it is already difficult to provide affordable adult education for learners. In many countries, this can only be achieved by very cheap, free-lance trainers or through volunteers – any added pressure through US companies would further undermine the provision of adult education*" explained Gina Ebner, European Association for the Education of Adults which represents 123 member organisations in 42 countries and represents more than 60 million learners Europe-wide.

The same applies for the inclusion of "private" youth work in the agreement. If private non-formal education is not specifically excluded in the negotiations, the **trading rules could limit the scope of public services and accelerate the commercialisation and privatisation of the youth sector**. This tendency can have a detrimental effect on the provision of important and sensitive services especially those targeted at disadvantaged groups. This could **affect the quality and affordability of youth work**.

Many concerns are also expressed in higher education where **public and private inputs are inextricably linked**. This could lead to American for-profit institutions opening branches in

Europe; and the cultural differences between higher education systems in Europe and the US could **alter our educational model**. *"In the US they aim for profit, and divide the money between the shareholders. In Europe, private institutions do not aim for profit and use tuition fees for educational or similar purposes,"* said Rok Primozic, ESU former chairman, which represents 47 National Unions of Students from 39 countries. A commercialisation and privatisation of our educational systems leading to opening EU doors to for-profit schools and institutions is to be avoided.

For privately funded education, the EU's position has differed from one EU country to another. In the Trade in Services Agreement or [TiSA](#) – as in all EU trade negotiations – each EU Member State is free to decide whether to allow companies from outside the EU to provide education services in its territory and if it does so, the conditions these companies have to meet. Whatever each country decides, it is still free to devise its own education policy and programmes.

**Education should thus be entirely and formally excluded from the negotiation on the TTIP.**

#### THE EXEMPTION SHALL BE SPECIFIC AND CLEAR

Negotiation documents have been quoted to state that *"services supplied in the exercise of governmental authority"* will be excluded from the negotiations. This **formulation is weak** especially for the education sector, as it opens the floor to various, and sometimes contradicting, interpretations. If we take the example of distance learning provided by universities where a specific fee can apply, education may not benefit from the general exclusion. The formulation of exemption shall be much more specific.

Additionally, recently it has been confirmed that both the EU and the US will look at the source of funding in order to determine if the service shall be excluded or not. EUCIS-LLL believes that we should focus instead **on the nature of the service** and not on the source of funding when determining the identity of the service. There should be **no distinction between private and publicly funded services of general interest**.

Last but not least, EUCIS-LLL agrees with ETUCE that the "negative list approach" is dangerous and should be replaced by a "**positive listing**". Indeed, the latter is much clearer and will not lead in the future to conflicting interpretations. Other trade agreements have chosen this approach in the past that should be the one of all trade agreements, as it is safer for all parties and will avoid potential future disputes.

**EUCIS-LLL supports the full exemptions of services of general interest that are provided on a non-commercial basis from the TTIP. Because education is at the core of our social model and of our cultural identity reflecting a rich variety of traditions, EUCIS-LLL thus asks the European Commission and the Member States to entirely and formally exclude education and other public services from the TTIP negotiation.**

#### TRANSPARENCY AND CIVIL SOCIETY INVOLVEMENT ARE TO BE STRENGTHENED

The TTIP negotiations have so far taken place **behind closed doors**, and civil society positions have not been included. On December 4<sup>th</sup> 2014 EU Commissioner for Trade Cecilia Malmström agreed with the concerns of stakeholders in saying *"we need to open up the TTIP talks further"*. She has also called for a fresh start in TTIP for **more transparency and bigger engagement of civil society**. EUCIS-LLL thus strongly welcomes the publication of [EU negotiating texts in TTIP](#) on 7 January 2015. **A specific briefing on the status of negotiations in the field of education could clarify the position of the EU in that area.**

EUCIS-LLL calls upon negotiation teams from both sides to open up their talks and consider the concerns of stakeholders. More generally the EU needs to be more transparent as regards TTIP, notably in relation to its contacts with business representatives.

***We, teachers, learners, educators, school heads, youth workers and leaders, parents do not want to see an agreement which is likely to undermine our social standards. We utterly call decision-makers to exclude education from the trade agreement.***

**Read our members and partners positions on the topic:**

EAEA [Letter](#) to the Commissioner Malmstrom and online [article](#) on TTIP

SOLIDAR [recommendations](#); [briefing note](#) and [press release](#) on TTIP

OBESSU's [Political Platform](#)

ESU General Assembly [statement](#) and ESU and Education International Joint [statement](#)

FEECA statement on TTIP

ETUCE [statement](#) on the ISDS and [statement](#) on TTIP

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## Who is EUCIS-LLL?

*The European Civil Society Platform on Lifelong Learning (EUCIS-LLL) is an umbrella association that gathers 36 European organisations active in the field of education and training, coming from all EU Member States and beyond. Currently these networks represent more than 45 000 educational institutions (schools, universities, adult education and youth centres, etc.) or associations (involving students, teachers and trainers, parents, HRD professionals, etc.) covering all sectors of formal, non-formal and informal learning. Their members reach out to several millions of beneficiaries. Download our brochure in 23 languages!*

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