

Brussels 30 June 2020
IS/LR/em

Mr Nicolas Schmit
Commissioner for Jobs & Social Rights European Commission
Sent by e-mail to: CAB-SCHMIT-ARCHIVES@ec.europa.eu

Dear Commissioner Schmit,

On behalf of 45 million workers we represent, the ETUC and the ETUF reiterate their call for the European Commission to ensure compliance and enforcement of information, consultation and participation rights as anchored in the EU *acquis communautaire*.

We want to thank you for the availability of Ms Pereira and Mr Pokorny for the meeting held on 15th of June as a follow-up to the letter we sent to you. We appreciated the constructive discussion very much and the exchange was productive with crucial information and suggestions for swift follow-up actions, given the urgency of the situation.

Three months after the COVID-19 health crisis, the European Union is now dealing with the massive social and economic consequences brought by the pandemic. Across all sectors of the economy, restructuring processes are on the rise. There is no single day without private or public sector companies announcing massive job cuts.

Despite the existing human rights instruments and legislation establishing the right for workers and unions to be informed and consulted in restructuring processes, **too often managements are not respecting EU and national legislation on this matter. The consequence is that in practice workers' and trade union representatives' involvement in strategic decision is very limited or even inexistent. Restructuring processes are not carried out equally and information, consultation and participation rights are not respected across the European Union.**

We could provide a range of examples of restructuring processes where EU law on workers' information and consultation has not been respected, like the Nissan case recently discussed between IndustriAll and your services. In a nutshell, and across sectors, violations amount to launching information and consultation processes with European works councils after the decision is made; using travel bans and social distancing as grounds to call off any dialogue with EWC, while announcing restructuring that should normally trigger EWC information and consultation; revising the scale of previously foreseen restructuring plans because of the Covid-19 crisis, without involving national or European level worker representatives; limiting the role of EWCs to information only on social and economic measures taken to mitigate the Covid-19 crisis' impact in a company, without consultation on the cost-saving measures envisaged by the company in different countries, included wage freezing.

Fundamental workers' rights stemming from EU law are being breached, every day. When it comes to access to justice or dissuasive sanctions to ensure that managements respect their legal obligations, robust evidence is on the table that the current legal frame is not delivering. We kindly refer to the evaluation done by the European Commission as well as to the excellent presentation ETUI researchers made on the difficulties for EWCs to access court and the overview of patchy sanctions at the meeting of the EC expert group on European works councils (E01899) organised by DG EMPL on 8 October 2019.

As you rightly stated, "we can only overcome the crisis if we do it together". It is unacceptable that – in this dramatic crisis – companies and management do not respect their legal obligations to inform and consult workers' representatives before taking decisions which will impact jobs and working conditions. Time is running. We therefore insist on the urgency to ensure that workers' information, consultation and participation rights are complied with and enforced – something which all parties agreed on during last week's meeting.

We call on the European Commission to publish an official Communication reminding member states, companies and management of the obligation to comply with and enforce workers' rights of information and consultation before taking any decision likely to lead to substantial changes in work organisation and employment, and recalling the EU directives on information and consultation rights which must apply in the context of Covid-19 related restructuring plans. *Inter alia*, the following should be highlighted:

1) Meaningful workers' information and consultation must take place before decisions are taken with a view to shape sustainable and socially acceptable restructuring. 2) Disregarding information and consultation rights must be met with serious and effective sanctions and make any restructuring decision null and void. 3) It must also be clarified that the socio-economic impact of the COVID-19 crisis sparks the obligation for management to launch national and transnational information and consultation processes with worker representatives at the earliest convenience.

We also believe that restructuring processes and the compliance with information, consultation and participation rights in that context should be discussed by the next EPSCO Council meeting. We call on the Commission to take action to ensure that this discussion takes place.

Implementing the EU social partners' agreement on information and consultation rights for workers and civil servants in central government administrations by a Directive has also become all the more urgent.

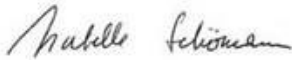
We are eager to discuss further initiatives which could be undertaken to ensure that existing legislation on information, consultation and participation is fully respected in restructuring processes. Taking action urgently is of paramount importance!

We very much welcome the initiative of your services to liaise with other EC directorates, starting with DG GROW, to explore how the European Commission resources can be pulled together to support workers and companies during restructuring and insolvencies processes. You can count on our full support during that unprecedented economic turmoil, including by sharing with your services regular information on critical restructuring cases coming up.

Reiterating our recommendations during the meeting last week, and given the urgency to act, we would kindly propose a follow-up meeting within the next 2 weeks.

We look forward to hearing from you.

Yours sincerely,



Isabelle Schömann
ETUC
Confederal Secretary



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Europe**
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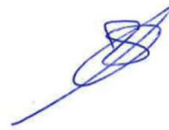
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