



*To the attention of the MEPs*

*Paris, 11<sup>th</sup> April, 2016*

**Subject : To preserve our freedoms, the rejection of the “Trade Secrets” is necessary !**

Dear members of Parliament,

On the 14<sup>th</sup> of April you will be voting upon the directive concerning the “protection of the Trade secrets” which aims to bring forth a common definition for the secrets of the Trade in order to protect the different economic actors from unfair competition.

However, we consider that this directive which was written by the European Commission in all opacity due to the lobbying of some multinationals without even consulting the employees' unions, is an important threat towards freedoms. Indeed, after reading the terms we immediately emitted several reservations concerning its content. As a consequence, several unions as well as non governmental organizations mobilized against it. In March 2015, a call from 63 organizations from 11 European countries denounced the dangers of that directive and the DGB - The German union confederation – has just called all the MEPs to a rejection of the text.

On the 12<sup>th</sup> of May, 2015, during the conference of Audrey Linkenheld - member of the European Affairs Committee of the National Assembly and in charge of the communication of the directive – we highlighted the lack of clarity surrounding the definition of “Trade secret”. Her wording implies a vast amount of information concerning the rights of information that belong to the employees representatives and the unions, or allows an easier sanctioning towards an employee who would disclose a piece of information about his acquired skills while working for a company or about a superior interest than the company's, such as the right to healthcare or the protection of his private life. Besides, absolutely no exceptions are made to protect journalists.

We have also reminded that this project confounds on the same level expertise, economics information, confidential data about a procedure or a product, corporate strategies or a company's marketing techniques.

Furthermore, this project can also restrict the employees mobility by allowing the companies to prosecute their employees during a period of six years which imposes to them a clause of non-competition preventing the use of their skills in a new company. This is even more the case for managers and engineers.

Last but not least, if the directive is brought upon court by civil or criminal proceedings, the text



stipulates a restriction concerning the access to the files or hearings whether it is before, during or even after legal actions in order to protect the Trade secrets.

In other words, the project gives to the companies extra legal procedures in order to prosecute union activists. The definition of Trade secret is so broad that almost every internal information can relate to it which directly threatens not only the union activists but also the journalists and their sources as well as whistle-blowers.

If we believe that the fight against the risks and violations of the companies' material and immaterial patrimonial is a real challenge, we must consider first and foremost that its efficiency comes from a public policy of “economic intelligence” displayed before the judiciary sphere and that it is not a matter of threatening fundamental rights and the freedom of the unions. We must remember that this directive implies that the Trade secrets is a general rule which makes the right to information an exception.

If the motion passes, it will encourage all of the multinationals to prosecute the union representatives because of their role as whistle-blowers. It is a threat which not only targets journalists in every European country but also men and women who dedicate their lives giving warnings for the sake of the common interest. At a time when the “Panama Papers” scandal is shaking the whole world, it would be absolutely paradoxical that the European Parliament adopts this directive in order to silence those who revealed the scandal to the world and therefore drastically slow down our fight against tax fraud.

Finally, our assembly has chosen to award the European citizen prize to Antoine Deltour for his revelations concerning the LuxLeaks scandal. However, you must all know that Antoine Deltour and Edouard Perrin will be judged for trade secrets revelations on the 26<sup>th</sup> of April in Luxembourg.

We are solemnly asking you to reject the motion for the sake of freedom of speech, the right to information and union freedom.

Eric PERES  
*General secretary of FO-Cadres*