

TTIP and Education

One of the most alarming aspects of the TTIP negotiations is the possible inclusion of education in the trade deal, the entrance of a large number of for-profit providers of so-called education 'services' and the impact this would have on education as a public good in the sovereign control of a democratic power. But how alarming is the situation? It is well known, of course, there are already commercial providers of education in the higher, adult and training education sectors and this has, interestingly perhaps, not resulted in alarm. The escalation and the fright comes, however, in the realisation, as yet poor, that some of the proposals suspected in the TTIP, perhaps certain omissions, and even lack of definitional clarity mean that *no sector of education can be excluded* from possible impact as a result of these negotiations and their expected outcomes.

What kind of problems are to be expected?

As with other services covered by the agreement, the key issue for education is the way in which the TTIP removes the power of regulation from democratically elected bodies. A liberalisation of the rules governing access to markets could restrict the ability of EU states to determine entry and to regulate the quality and the governance of private and for-profit schools, colleges and other institutions. For instance, any measure adopted by a government or ministry to set quality standards could be interpreted as a 'disguised barrier to trade' or 'more trade burdensome than necessary.'

Already some of the problems can be anticipated. In the US where there is already a liberalisation of the provision of education and a large proprietary and for-profit education sector, there is clear evidence of alarming tendencies in for-profit education: poor academic, teaching and learning quality, high drop-out rates [64% in some degree programmes], poor post-education employment rates with graduates earning on average less than high school graduates, and high costs [an associate degree programme at a for-profit college costs at least four times as much as a comparable programme at a public community college, \$35K vs \$8,300] with the consequent equity problems.

A 2012 report by the US Senate's Health, Education, Labour and Pensions Committee showed that on average for-profit educational institutions spend only 17.7% of revenue on teaching and learning whereas 22.4% went on marketing and recruiting and 19.4% to profit distribution. It also showed that huge amounts of taxpayer money went on financing these institutions [\$36 billion p.a.].

Disturbingly, the path to the inclusion of education in the trade deal is already been smoothed even by the European Commission. A clear example is the case taken by the Commission against a Slovenian piece of higher education legislation in 2011. This law decreed that transnational higher education institutions had to go through national accreditation and registration procedures before they could operate in Slovenia. The Commission opened an infringement procedure against the law arguing that it was 'incompatible with freedom of establishment and freedom to provide services' guaranteed by the EU's 'Services Directive'. This move is alarming as it seems to disregard the provisions of the 'Services Directive' that explicitly exclude education as 'a service of general interest and special meaning'. It also

is in conflict with a number of EU treaties which have repeatedly made clear that the content of teaching and the organisation of education systems belong strictly to the jurisdiction of member states.

To date, there are proposals in the TTIP negotiations to exclude certain services from the provisions of the deal and reassurances have been given that public education would not be part of the deal, but the crucial definitions of a *service of general interest* and a *service of general economic interest* are not precise enough to avoid overlap and they are open to conflicting interpretations. For instance, the definition of services provided on a non-commercial basis and not in competition with other suppliers [however this might be interpreted] which is the definition of a service of general interest might not apply to schools who even charge for school books, never mind schools fees. Even unwittingly, then, exclusion clauses planned the TTIP, and planned for the consolation of politicians and publics, might not protect education from capture within its remit.

In addition to the problematic nature of definitions and the scope for challenge, two further aspects of the current proposals could, again perhaps unwittingly, bring education under the umbrella of the TTIP. The first is the 'negative list' approach to commitments which means that all measures and regulations are covered unless they are specifically excluded [different from GATS] and the adoption of a 'ratchet' clause which would mean that if a government were to experiment with a partial liberalisation of its education sector, future governments could not undo these experiments, even if they were shown to be failing, without paying considerable compensation to any provider affected by the change.

Finally, and this pertains more generally and not only to education, the proposal to establish the Transatlantic Regulatory Cooperation Council [TRCC] to adjudicate alone on regulatory disputes places the 'regulation of regulation' outside of the remit of democratically elected governments and is simply unacceptable as such. National laws and regulations to protect workers, consumers, small business and the environment, to name just a few beneficiaries, exist because markets do not produce these outcomes.

The argument of the European Trade Union Committee for Education [ETUCE] and Education International is and has always been that education is a human right and a public good and that it is the responsibility of elected governments to provide free quality education for all. This claim is now widely undermined and even challenged and its underlying ideas are threatened already in many areas of education. The TTIP, despite all reassurances, remains a threat to publically funded, nationally sovereign education provision unless it is clearly and specifically excluded in the text of any agreement. This is the very least that not only trade unions but all citizens should demand. Stronger and better still is the legitimate demand that these negotiations be halted completely.

Aidan Seery, Irish Federation of University Teachers [IFUT], TEEU 'School on TTIP', October 2015.