

**Mr. Korte Joost**

Director General, European Commission, DG EMPL,

**Cc: Mr. Tagger Jörg**

Head of Unit, European Commission, DG EMPL A.2 – Social Dialogue

**Mr. Matzke Sven**

Deputy Head of Unit, European Commission, DG EMPL A.2 Social Dialogue,

**Mrs. Lucas Raquel**

Head of Unit, European Commission, DG EMPL.01 – Coordination,

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Policy Coordinator, European Commission, DG EMPL.01 – Coordination

**Mr. Tholoni Luc**

Cabinet of Commission President

[Letter sent by e-mail]

**Ref: ETUC Preliminary Position on the Commission's initiative for the enhanced used of Qualified Majority Voting (QMV) in the social field (the "Passerelle clause")**

Dear Mr. Korte,

Dear Joost,

Following intense discussions, the ETUC Executive Committee adopted at its meeting of 27-28 June 2019 a preliminary position on the Commission's initiative for the enhanced used of Qualified Majority Voting (QMV) in the social field (the "Passerelle clause"; COM(2019) 186 final of 16.04.2019) (see attached).

The main reason why the ETUC adopted this position only on a preliminary basis is that, despite several encounters and discussions with the concerned Commission services, the ETUC did still not get satisfactory replies to its repeated requests for receiving clarifications, assurances and guarantees on important aspects of the operation and impact of the 'passerelle clause' both in general and concerning the role of social partners and the implementation of their framework agreements.

The ETUC would indeed like to receive clarification and assurances on the following matters:

- Firstly, we want clarification about how the new procedure will operate in practice, in particular whether the triggering of the 'passerelle clause' will operate on a case-by-case basis or rather by a "one off decision" and whether once a decision to use the 'passerelle clause' is adopted it can be reversed/revoked;
- Secondly, will every draft decision to use the 'passerelle clause' in the social policy field be referred for consultation to the social partners (as required in the framework of Articles 154-155 TFEU);
- Thirdly, what extra steps and in particular delays do the triggering of the 'passerelle clause' (both the one in Article 48 TEU and Article 153(2) TFEU) imply;
- Fourthly, and in order to avoid the negative consequences on existing national regulatory protection by the (implementation of the) eventually adopted EU legal act, can a non-regression clause be included in the Council decision that triggers the use of the 'passerelle clause' in Article 153 (2) TFEU and what guarantees would that provide;
- Finally, and most importantly, ETUC would like to receive an assurance that the clause does not change the role of social partners and the procedure for adopting

and implementing Social Partner Framework Agreements in the form of a Directive; specifically we want to know if changing from the 'Special legislative procedure' to the 'Ordinary legislative procedure' will mean that the European Parliament gets the role accorded under the ordinary legislative procedure (i.e. compared to the mere information role it has now) and will be able to amend our Social Partner Framework Agreements?

For ETUC, all the above are reservation points and even red lines, that need to be satisfactorily clarified by the Commission before the ETUC can support the use of the 'passerelle clause' for social security and employment rights matters as enshrined in Article 153(2) TFEU.

It is important to underscore that there are numerous other 'passerelle clauses' contained in the EU Treaty for example, in respect of taxation, environment and common foreign and security policy (CFSP). These 'passerelle clauses' can be triggered without triggering the one in Article 153(2) TFEU. This means that a decision for or against the use of the 'passerelle clause' in the social policy field does not impact on our support for the use of the 'passerelle clauses' to move to QMV in other fields.

ETUC thus looks forward to receiving soon the requested clarifications and assurances in order to allow us to adopt our final position on this Commission's initiative at our next Executive Committee meeting of 20 September 2019.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Luca Visentini', written in a cursive style.

Luca Visentini  
ETUC General Secretary