

Information and consultation of employees: establishment of a European Works Council or a procedure in Community-scale undertakings and groups of undertakings. Recast

2008/0141(COD) - 17/11/2008

The Committee on Employment and Social Affairs adopted the report drafted by Philip **BUSHILL-MATTHEWS** (EPP-ED, UK) and made some amendments to the proposal for a directive of the European Parliament and of the Council on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (recast).

The main amendments adopted in committee (in 1st reading of the codecision procedure) can be summarised as follows:

Transnational issue: MEPs consider that matters which concern the entire undertaking or group or at least two Member States, or which exceed the powers of the decision-making bodies in a single Member State in which employees who will be affected are employed, are considered to be transnational.

Definitions: MEPs clarify the terms “information” and “consultation. “Information” shall mean the transmission of data by the employer to the employees' representatives in order to enable them to acquaint themselves with the subject matter and to examine it. It shall be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare consultations with the competent body of the Community-scale undertaking or Community-scale group of undertakings in question. “Consultation” shall mean the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion, on the basis of the information provided, about the proposed measures to which the consultation relates, without prejudice to the responsibilities of the management.

Special Negotiating bodies: deletion of the 50 worker threshold for the setting up of a Special Negotiating Body: MEPs consider that the introduction by the Commission of the 50 worker threshold in setting up Special Negotiating Bodies is discriminatory against smaller Member States which will find it difficult to reach this threshold. The number of 50 employees as a threshold is random, and according to the committee, it does not represent an indicator for the output of the particular undertaking. MEPs have deleted this measure.

Dissolution of previously existing Works Councils: MEPs do not consider it necessary to dissolve previously existing European Works Councils when the new European Works Council is established. They have deleted the paragraph concerning this issue.

Revision of the Directive: MEPs consider that 3 years (and not 5 as suggested by the Commission) after the date of entry into force of this Directive, the Commission shall present a full revision of this Directive to the European Parliament and the Council.

Penalties for non-compliance: a new recital is added stipulating that Member States should ensure that measures taken in the event of a failure to comply with this Directive are adequate, proportionate and dissuasive.

Annex: changes have been made to the Annex to enable the European Works Councils to have a say in the economic and financial future of their company rather than just being passively informed about it.

Comment on the recast of the Directive: in addition to the aforementioned amendments, the committee considered the issue of recasting the directive. Following the opinion of the Legal Service, whose representatives participated in the meetings of the Consultative Working Party examining the recast proposal, and in keeping with the recommendations of the draftsman, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such in the proposal and that, as regards the codification of the unchanged provisions of the earlier acts with those changes, the proposal contains a straightforward codification of the existing texts, without any change in their substance. As a consequence, the Committee on Employment and Social Affairs, with the support of the Committee on Legal Affairs, calls on the Parliament to approve the proposal as adapted by the recommendations made by the Consultative Working Group of the Legal Services of the Parliament, Council and the Commission.