Implementation of Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community

2008/2246(INI) - 19/02/2009 - Text adopted by Parliament, single reading

The European Parliament adopted, by 598 votes to 21 with 32 abstentions, a resolution on the implementation of Directive 2002/14/EC Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community.

The resolution recalls that there are 23 million undertakings with fewer than 250 employees (accounting for 99% of undertakings and employing over 100 million people) in the European Union. According to the Parliament, the EU institutions have a duty to guarantee and enhance the right of employees to be informed and consulted.

Gradual strengthening of the process of informing and consulting employees within the EU: acknowledging that the transposition of Directive 2002/14/EC has been significantly delayed in some Member States and that more time will therefore be needed for its evaluation, Parliament those Member States which have not yet correctly transposed Directive 2002/14/EC to do so as soon as possible.

Noting that some Member States, in their measures transposing Directive 2002/14/EC, have failed to take account of some young workers, women working part-time or workers employed for short periods on fixed-term contracts, Parliament urges the Member States to bring their provisions governing the calculation of workforce numbers into line with the spirit and the letter of the directive.

Member States are called upon to pay attention to a certain number of main elements of the Directive such as the conditions and restrictions concerning confidential information (Article 6 of the Directive). Parliament urges those Member States which do not have **effective, proportional and dissuasive sanctions**, which they can impose in the event of non-compliance with the rules governing the exercise of workers' information and consultation rights to introduce such sanctions. It calls on all Member States which do not possess a system for the protection of employees' representatives to establish such a system.

Implementing and improving the measures transposing Directive 2002/14/EC: Parliament considers that a range of possible sanctions that Member States could take against employers who fail to comply with the right of employees to be informed and consulted.

Parliament considers that the transposition measures adopted by the Member States must:

- define precisely the term 'information', leaving no scope for alternative interpretations, at the same time and complying with the spirit of Directive 2002/14/EC by enabling workers' representatives to scrutinise the information provided, without waiting for the end of the information procedure, if decisions by undertakings have direct implications for workers;
- ensure that the right of employees' representatives to be informed and consulted remains an automatic right;
- lay down arrangements governing performance of the duties of employees' representative in such a way that those duties can be carried out during working hours and remunerated accordingly;

- guarantee that representatives of public administration employees and employees in the public and financial sector enjoy the same rights to information and consultation as are granted to other employees;
- review the scope for employing direct consultation in cases where an elected or trade union representation structure exists, thereby ensuring that employers do not use direct consultation to intervene in matters covered by the right of trade unions to conduct collective bargaining, such as pay.

Parliament calls for consideration to be given to the need to revise the workforce thresholds triggering the application of Directive 2002/14/EC so that **only micro-undertakings are excluded** from its scope.

According to the Parliament, other issues should be given special consideration at the time of transposition, such as the provisions and national practices concerning the calculation of workforce numbers and the safeguards to be applied in connection with the confidentiality clause.

The Parliament also invites the Commission to:

- submit an evaluation report on the results achieved through the application of Directive 2002/14/EC as regards strengthening the social dialogue;
- ensure that the rules laid down in national and Community law concerning the information and consultation of workers are complied with when decisions on mergers and takeovers are taken;
- advocate improvements to the right of employees to be informed and consulted and to place this issue on agendas for the European Social Dialogue;
- consider the need to coordinate Directives 94/45/EC, 98/59/EC, 2001/23/EC, 2001/86/EC, 2002/14 /EC and 2003/72/EC and Regulation (EC) No 2157/2001 with a view to determining what changes may be required in order to eliminate duplications and contradictions in these texts.