Revision of European Works Councils Directive

2019/2183(INL) - 14/12/2022 - Committee report tabled for plenary, single reading

The Committee on Employment and Social Affairs adopted the initiative report by Dennis RADTKE (EPP, DE) with recommendations to the Commission on Revision of European Works Councils Directive.

Context

The report notes that around 1 200 EWCs currently exist in the Union, with 18 000 individual representatives. There is evidence that early consultation can have a substantial impact on job security during restructuring processes and worker consultation and participation is essential in ensuring workers' well-being. Moreover, EWCs play a crucial role in the Europeanisation of industrial relations.

However, gaps and the lack of enforcement of Directive 2009/38/EC 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 employee contributes to a **fragmented uptake** of workers' rights of information and consultation on transnational matters across the Union.

Recommendations for the revision of Directive 2009/38/EC

Members call on the Commission to carry out the long-awaited revision of Directive 2009/38/EC with a view to clarifying its objectives, definitions and procedures, strengthening the right of employee representatives to information and consultation, particularly during restructuring processes. They believe that it is essential to strengthen EWCs and their ability to exercise their information and consultation rights, as well as to increase the number of EWCs, while taking into account the different industrial relations systems in the Member States.

The awareness and visibility of EWCs and their potential benefits among employee and management representatives should be increased. In this context, Members calls on the Commission to gather data on the undertakings falling under the scope of Directive 2009/38/EC and organise a high-level conference in 2023 to mobilise undertakings falling under the scope of Directive 2009/38/EC, EWCs, social partners within various sectors as well as national labour market institutions on the importance of EWCs in order to put this topic high on the policy agenda.

The Commission is requested to submit, by **31 January 2024, a proposal for a revision of Directive 2009/38/EC**.

Ensuring timely and meaningful consultation

The EWCs still face major difficulties to enforce their rights, especially on timely information and prior and effective consultation on matters of transnational character that could have an impact on jobs and working conditions of the workforce in Europe, including changes deriving from the green and digital transitions.

It is recommended that the Commission and the Member States promote the strengthening of information and consultation rights, and meaningful consultation processes. A revision of the definition of the term 'consultation' in Directive 2009/38/EC is called for in order to ensure that the EWC's opinion is taken into account in the decisions of undertakings and that opinion is delivered before the completion of the consultation at the relevant level, before the governing bodies of the undertaking come to a decision.

EWC members should have timely access to meaningful and up-to-date information about envisaged decisions of a transnational character.

Given the fragmented implementation of confidentiality provisions, the report also calls for a clear definition of confidential information.

Introducing effective, dissuasive and proportionate penalties

Concerned about the insufficient compliance with Directive 2009/38/EC, the report notes that the provisions governing Member State penalties needs to be strengthened in order to improve compliance with Directive 2009/38/EC, while at the same time ensuring that it does not create a burden to the business.

Ending the exemption of pre-Directive agreements

More than 25 years after the adoption of the first EWC Directive, many pre-Directive agreements are still in force and have not been adapted to the requirements of Directive 2009/38/EC. It is essential that all EWC agreements are governed by the same rights and obligations, in order to ensure equal treatment of workers, access to the application of high Union standards, and legal certainty. The Commission and the Member States are recommended to put an end to the exemption for the so-called voluntary pre-Directive agreements and revise the relevant provisions of Directive 2009/38/EC with the view to participation rights and the revision of the European Works Council Directive, creating a regulatory level-playing field governing the functioning of EWCs.

Ensuring access to justice

The report highlights the importance of EWCs having access to courts or national competent labour authorities. Member States are called on to ensure facilitated administrative and legal proceedings for an effective access to justice for EWCs and special negotiation bodies, and for the specification of legal status, including granting legal personality, of EWCs.