

Information and consultation of employees: general framework

1998/0315(COD) - 11/11/1998 - Legislative proposal

PURPOSE: to establish a general framework for informing and consulting employees in the European Community. **CONTENT:** the proposal is a result of the unwillingness of the social partners to negotiate an agreement in this area. Its essential elements, based on the Protocol on Social Policy, are as follows: 1) purpose and field of application: the legislative framework should be applied to public and private undertakings carrying out an economic activity, whether or not operating for gain, which are located within the territory of the Member States and have at least 50 employees. The proposal for a directive will not affect other employee information and consultation rights, such as those arising from Council directive 94/45/EEC on the establishment of a European Works Council or information, consultation and participation rights accorded to workers by existing national legislation. Member States may lay down particular provisions applicable to undertakings which pursue directly and essentially political, professional organisation, religious, charitable, educational, scientific or artistic aims, as well as aims involving information and the expression of opinions; 2) provision for informing and consulting workers will cover the following areas: - information on the recent and reasonably foreseeable development of the undertaking's activities and its economic and financial situation; - information and consultation on the situation, structure and reasonably foreseeable developments of employment within the undertaking and, where the employer's evaluation suggests that employment within the undertaking may be under threat, the anticipatory measures envisaged (Member States may exclude undertakings with fewer than 100 employees from these obligations); - information and consultation on decisions likely to lead to substantial changes in work organisations or in contractual relations; 3) confidential information: the proposal authorises Member States to provide that: - the employees' representatives and any experts who assist them are not authorised to disclose any information which has been expressly provided to them in confidence (this obligation shall continue to apply even after the expiry of their term of office; - in certain cases, the employer is not obliged to communicate information or undertake consultation when its nature is such that, according to objective criteria, it would seriously harm the functioning of the undertaking or would be prejudicial to it; 4) protection of employees' representatives: when carrying out their functions, employees' representatives shall enjoy adequate protection and guarantees to enable them to properly perform their duties; 5) sanctions: Member States are required to provide for appropriate measures in the event of non-compliance with this Directive by the employer or the employees' representatives. In the case of serious breach by the employer of the information and consultation obligations with regard to decisions which would have direct and immediate consequences in terms of substantial change or termination of the employment contracts or employment relationships these decisions shall have no legal affect on the employment contracts or employment relationships of the employees affected. Within the meaning of these provisions, the Commission defines serious breaches as the total absence of information and/or consultation of the employees' representatives prior to a decision being taken or the public announcement of that decision, or the withholding of important information or provision of false information rendering ineffective the exercise of the right to information and consultation. It is proposed that the directive enter into force two years after its adoption.