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## **Proposal to review legislation on European Works Councils**

### **What are European Works Councils for?**

European Works Councils are bodies representing the European employees of a company. Through them, workers are informed and consulted by management on the progress of the business and any significant decision at European level that could affect their employment or working conditions.

### **How many European Works Councils are there?**

There are about 2,200 companies, employing a total of 24 million workers falling within the scope of the existing legislation on European Works Councils. Most of these companies are headquartered in Germany, in the USA (for their activities in Europe), in the United Kingdom and in France but their activities and workers are spread throughout Europe.

Of these companies, the approximately 820 European Works Councils that operate involve 19,000 employee representatives and affect the lives of almost 15 million workers.

### **What are the rules governing European Works Councils today?**

The 1994 Directive (94/45/EC) requires Member States to provide for the right to establish European Works Councils in companies or groups of companies employing at least 1000 people in the European Union and the other countries of the European Economic Area (Norway, Iceland and Liechtenstein), with at least 150 employees in each of two Member States.

A request of 100 employees from two countries or an initiative of the employer triggers the process of creating a new European Works Council. The precise composition and functioning of each European Works Council is adapted to the specific situation of the company under an agreement signed by management and workers' representatives of the different countries involved.

Those companies which already had an agreed mechanism in place for informing and consulting their workforce on transnational issues when the Directive took effect in 1996 are excluded from this provision.

### **Why does the Commission want to change the legislation?**

The intention of the Directive was to give employees access to information and consultation at the transnational or European level where, with the completion of the

internal market and globalisation, key decisions were increasingly being taken. This objective has only partially been met.

While European Works Councils have been successful in many areas, they cannot fully play their role in anticipating and properly managing change and in developing genuine cross-border social dialogue. Indeed, European Works Councils are not properly informed and consulted in half of the transnational restructuring cases and the take-up of European Works Councils needs to be increased.

The 1994 legal framework on European Works Councils therefore needs to be adapted to changes in the legislative, economic and social context, where the cross-border dimension proves more and more important, and to be clarified on different aspects.

### **How will the proposal improve EWCs?**

The proposed amendments to legislation are aimed at:

- Further specifying the concepts of information and consultation;
- Defining the competences of European Works Councils and linking the national and European levels of information and consultation;
- Adapting the fall-back rules, which are used as benchmarks in defining negotiated and adapted rules at company level;
- Providing for the training of employee representatives, introducing a duty for them to report back to the workers and recognising the role of trade unions;
- Adapting European Works Councils in the event of significant change in the structure of companies;
- Simplifying the legislation, replacing three different directives (94/45/EC 97/74/EC and 2006/109/EC) with a unique recasted updated directive.

### **Who will benefit?**

Workers from large multinationals will benefit from a better dialogue with management and with workers from other countries. They will be in a position to anticipate companies' evolution, and to have a voice in defining accompanying measures, particularly in cases of corporate restructuring.

Companies will benefit from legal certainty, better dialogue with their employees, better understanding and acceptance of their decisions as well as more capacity to adapt to changes.

Countries and regions in which the multinationals operate will be able to better anticipate and face the consequences of their decisions.

### **What will change for existing European Works Councils?**

European Works Councils which are working well should not have to change anything to their practice but will operate under increased legal certainty with better links to information and consultation procedures at national level.

The revision does not introduce a *one size fits all* approach, will continue to give priority to tailored solutions through company agreements and there will be no need to renegotiate existing agreements establishing European Works Councils, however:

- Where no rules are in place to cope with changes in the structure of the company, such as mergers, the new rules would provide for adaptation mechanisms;

- National and European levels of dialogue will be linked under coherent and clear concepts of information and consultation;
- Where workers at present have no access to training, they will have.

### **Will the proposal allow efficient decision-making in companies?**

The operation of European Works Councils needs to contribute to efficient decision-making allowing companies to adapt as rapidly as necessary so they can compete in the global economy. This need is fully taken into account in the legislative proposal and should be achieved through the better interplay between national and European levels of consultation under the new rules.

### **How much will it cost?**

A detailed assessment of the impact of the proposal on set-up, operational, dispute-related and non-financial costs of the proposal has been carried out and is made available to the public in the impact assessment report accompanying the proposal. In a nutshell, the amendments will reduce costs rather than increasing them, as they bring legal certainty, provide for better anticipation and accompanying measures likely to diminish social unrest and disputes.

There should be no additional direct costs for companies, unless for training employee representatives in the present 20% of European Works Councils not providing for it already.

### **How did we get here?**

The Commission issued a report on the implementation of the Directive, consulted the social partners and carried out an extensive impact assessment of the initiative.

More specifically, the European social partners have been consulted on the orientation of the initiative in 2004, on the promotion of best practices in 2005 and on the envisaged content of the legislative proposal in 2008. The European social partners jointly identified best practices (*lessons learned*) on European Works Councils but did not enter into negotiations to determine themselves the scope of the legislative review to the directive. Their contributions and interests have however been taken into account in the legislative proposal issued by the Commission, as detailed in the impact assessment report.

### **Is it enough to change the legislation?**

A legislative review cannot replace awareness raising and promotion of best practice and needs to be complemented by other, non-regulatory measures. The EU has allocated EUR 8.1 million to projects aimed at exchanging practices among social partners. These efforts will not only be continued but further developed, notably through increased communication.

Legislation also has to be properly implemented. The present problems are not caused by shortcomings in enforcement as the Directive has been transposed properly in all Member States. It is the directive itself that has to be clarified and adapted to needs. Proper monitoring of the implementation of the renewed legislation, once adopted, will nevertheless be crucial.

### **What's next?**

The proposed directive is to be examined by the European Parliament and the Council in the coming months.

**Where do I find more information?**

Further information can be found on the following websites of the European Commission:

**Labour Law:** [http://ec.europa.eu/employment\\_social/labour\\_law/](http://ec.europa.eu/employment_social/labour_law/)