



**OVERVIEW OF EMPLOYEE
INVOLVEMENT IN EU**

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The Legal Basis in Title X (Arts 151-161) of the Lisbon Treaty

- Article 156 calls on the Commission to **encourage co-operation between the Member States** on social policies, particularly in employment; labour law; vocational training; occupational health and safety; collective bargaining, etc.

Social Dialogue at three levels:

- ❑ At the enterprise / organisation level**
- ❑ At the sectoral level**
- ❑ At the European Union level**

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ENTERPRISE / ORGANISATION LEVEL

27 EU Directives on Information, Consultation and Employee Participation - for example:

- Health and Safety Framework Directive (89/391/EEC)
- Information and consultation on Collective Redundancies (98/59/EC)
- Protecting the rights of workers in the event of transfers of undertakings or businesses (2001/23/EC)
- European Works Council Directive
- National Level Information and Consultation Directive
- Employee Involvement in European Companies (SE)
- European Co-operative Societies (SCE)

European Works Councils and SE Works Councils

EWC

- 1048 EWCs
- Nearly all on the basis of an agreement
- Workers' initiative
- Up to 3 years of negotiations

SE-WC

- 51 SE-WC (out of 2125 and 289 'normal' SEs)
- EBLR in 55 SEs
- Employers' initiative
- I, C & P agreements as precondition under company law (SNB)
- SNBs set up in 2050 SEs

European Works Councils and SE Works Councils

- **European Commission estimates that some 14.5 million workers in the EEA are represented by an EWC (2008)**
 - **ETUI estimate is 18 million!**
- **75% of all workers in companies that are covered by EWC and SE legislation are represented by an EWC or a SE-WC**

1 European Works Councils

- Directives 94/45/EC, 97/74/EC and 2006/109/EC & *Recast* in 2009/38/EC (In force in Member States since June, 2011)
 - 1048 EWCs representing 18 million workers (approx)
 - Eight main business sectors
 - Most in
 - Metal (400)
 - Chemicals (225)
 - All Services (240)
- Almost 150 transnational agreements in at least 90 MNCs

European Works Councils

- **Key changes in Recast Directive:**
 - **New definitions of 'Information' and 'Consultation' (Art 2.1.f & 2.1.g)**
 - **Social partners to be informed when Special Negotiating Body (SNB) is set up (Art 5.2)**
 - **Recognition of trade unions' access to SNB (Art 5.4)**
 - **Enterprises must provide training for EWC members (Art 10.4 & R33)**
 - **Rules on confidentiality**

European Works Councils

- **Key changes in Recast Directive:**
 - There should be a link between the EWC and the national/local I&C procedures (Art 10.2 & R33)
 - Adaptation Clause (Art 13) sets out how EWCs can adapt efficiently to significant changes to the company structure (e.g. mergers, acquisitions, division)

European Works Councils

Information is defined as:

... 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; information 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 for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings

European Works Councils

Consultation means:

*... 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 is related, **without prejudice to the responsibility of the management**, and within a reasonable time, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings*

2 European Company (SE)

Four ways to set up an SE:

- **Merger of two or more existing companies**
- **Formation of a Holding Company**
- **Formation of a Subsidiary of an existing company**
- **Conversion of an existing company to an SE**

European Company (SE)

Regulation 2157/2001/EC provides company law for a European public limited-liability company (Societas Europaea - SE)

Directive 2001/86/EC sets out rules for employee involvement in the affairs of a SE

Directive defines:

- **Involvement**
- **Information**
- **Consultation**
- **Participation**

DEFINITIONS

Directive defines:

- **Involvement as**
- **Information**
- **Consultation**
- **Participation**

DEFINITIONS

Involvement of employees

... any mechanism, including information, consultation and participation, through which employees' representatives may exercise an influence on decisions to be taken within the company

LEGAL BASIS

Directive defines:

- **Involvement**
- **Information as**
- **Consultation**
- **Participation**

DEFINITIONS

Information

The informing of the body representative of the employees and/or employees' representatives by the competent organ of the SE on questions which concern the SE itself and any of its subsidiaries or establishments situated in another Member State or which exceed the powers of the decision-making organs in a single Member State **at a time, in a manner and with a content** which allows the employees' representatives **to undertake an in-depth assessment of the possible impact** and, where appropriate, **prepare consultations** with the competent organ of the SE

LEGAL BASIS

Directive defines:

- **Involvement**
- **Information**
- **Consultation as**
- **Participation**

DEFINITIONS

Consultation

the establishment of dialogue and exchange of views between the body representative of the employees and/or the employees' representatives and the competent organ of the SE, **at a time, in a manner and with a content** which allows the employees' representatives, on the basis of information provided, to **express an opinion** on measures envisaged by the competent organ **which may be taken into account** in the decision-making process within the SE

LEGAL BASIS

Directive defines:

- **Involvement**
- **Information**
- **Consultation**
- **Participation as**

DEFINITIONS

Participation means the influence of the body representative of employees and/or the employees' representatives on the affairs of a company by way of:

- the right to elect or appoint some of the members of the company's
 - supervisory board (two tier structure)
 - board of directors (single tier structure)
- the right to recommend and/or oppose the appointment of some or all of the members of the company's supervisory board or board of directors

SPECIAL NEGOTIATING BODY

A Special Negotiating Body (SNB) must be set up to draft arrangements for the involvement of the employees

SPECIAL NEGOTIATING BODY

IMPORTANT:

- Interpretation for all meetings
- Training rights
- Ensure that no SNB member or SE-WC member is appointed by management

SE-Works Councils

- **At least one meeting with management a year**
- **Pre-meetings of employee representatives**
- **Who chairs?**
- **Agenda items - set out in Directive**
- **Setting up a Select Committee**
- **Facilities and resources**
- **Communications to national/local level**

Information and Consultation in SEs

Agenda items (Standard Rules):

- **Economic and financial situation**
- **Probable development of the business**
- **Production and sales data**
- **Probable trends in employment**
- **Investment**

Information and Consultation in SEs

- **Substantial changes in organisation**
- **Introduction of new working methods or production processes**
- **Transfers of production**
- **Mergers**
- **Cut-backs or closures of sites (or parts)**
- **Collective redundancies**

STANDARD RULES - INFORMATION AND CONSULTATION

Part 3 (b) states that:

Following the 'information and consultation' process, if the SE management

*decides **not to act** in accordance with the opinion express by the representative body (i.e. the SE-WC), this body shall have the right to a further meeting with the competent organ of the SE **with a views to seeking agreement***

European Company (SE)

Four ways to set up a SE:

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SE Directive and CBM Directive - *Standard Rules apply only ...*

SE Directive Article 7.2 (b):

In the case of an SE established by merger
*- if, before registration of the SE, one or more forms of participation applied in one or more of the participating companies covered at least **25% of the total number of employees in all the participating companies***

Cross-border Mergers Directive (Article 16.2 (e):

*.... percentages required by Article 7.2 ...shall be raised from 25% to **33 1/3%***

3 Board-level Employee Representatives

ETUC Reflection Group:

- **A general right to representation and participation in company boards - either a supervisory board or an administrative board**
- **Key issues:**
 - **Legal basis**
 - **Number of EBLRs**
 - **Status of EBLRs**



www.europa.eu/pol/socio/index_en.htm

www.etuc.org

www.etui.org

www.worker-participation.eu

www.eurofound.europa.eu



благодаря

Thank You

Go Raibh Maith Agat

InfPreventa Conference
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