



Procedure file

Basic information		
SYN - Cooperation procedure (historic)	1994/0113(SYN)	Procedure completed
European Works Council or procedures for informing and consulting employees in Community-scale undertakings		
Repealed by 2008/0141(COD)		
Subject 4.15.10 Worker information, participation, trade unions, works councils		

Key players			
European Parliament			
Council of the European Union			
	Council configuration	Meeting	Date
	Social Affairs	1784	22/09/1994
	General Affairs	1778	18/07/1994

Key events			
12/04/1994	Legislative proposal published	COM(1994)0134	Summary
27/04/1994	Vote in committee		Summary
26/04/1994	Committee report tabled for plenary, 1st reading/single reading	A3-0330/1994	
02/05/1994	Committee referral announced in Parliament		
03/05/1994	Debate in Parliament		
04/05/1994	Decision by Parliament	T3-0408/1994	
02/06/1994	Modified legislative proposal published	COM(1994)0228	Summary
17/07/1994	Council position published	07584/1/1994	Summary
22/07/1994	Committee referral announced in Parliament, 2nd reading		
06/09/1994	Vote in committee, 2nd reading		Summary
05/09/1994	Committee recommendation tabled for plenary, 2nd reading	A4-0002/1994	
15/09/1994	Debate in Parliament		
15/09/1994	Decision by Parliament, 2nd reading	T4-0009/1994	Summary
19/09/1994	Modified legislative proposal published	COM(1994)0406	
	Act adopted by Council after consultation		

22/09/1994	of Parliament		
22/09/1994	End of procedure in Parliament		
30/09/1994	Final act published in Official Journal		

Technical information

Procedure reference	1994/0113(SYN)
Procedure type	SYN - Cooperation procedure (historic)
Procedure subtype	Legislation
	Repealed by 2008/0141(COD)
Legal basis	EC before Amsterdam E 000
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/3/05697

Documentation gateway

Legislative proposal	COM(1994)0134 OJ C 135 18.05.1994, p. 0008	13/04/1994	EC	Summary
Committee report tabled for plenary, 1st reading/single reading	A3-0330/1994 OJ C 205 25.07.1994, p. 0007	27/04/1994	EP	
Text adopted by Parliament, 1st reading/single reading	T3-0408/1994 OJ C 205 25.07.1994, p. 0148-0173	04/05/1994	EP	
Economic and Social Committee: opinion, report	CES0753/1994 OJ C 295 22.10.1994, p. 0064	01/06/1994	ESC	Summary
Modified legislative proposal	COM(1994)0228 OJ C 199 21.07.1994, p. 0010	03/06/1994	EC	Summary
Council position	07584/1/1994 OJ C 244 31.08.1994, p. 0037	18/07/1994	CSL	Summary
Commission communication on Council's position	SEC(1994)1181	19/07/1994	EC	
Committee recommendation tabled for plenary, 2nd reading	A4-0002/1994 OJ C 276 03.10.1994, p. 0004	06/09/1994	EP	
Text adopted by Parliament, 2nd reading	T4-0009/1994 OJ C 276 03.10.1994, p. 0010-0014	15/09/1994	EP	Summary
Modified legislative proposal	COM(1994)0406	20/09/1994	EC	
Follow-up document	COM(2000)0188	04/04/2000	EC	Summary

Final act

[Directive 1994/45](#)
[OJ L 254 30.09.1994, p. 0064](#) Summary

European Works Council or procedures for informing and consulting employees in Community-scale undertakings

The proposal for a directive incorporated, within the context of the social protocol, a proposal put forward in 1990 which sought to establish a

European Works Council for Community-scale undertakings or groups of undertakings with a view to informing and consulting the workers. The proposal covered undertakings with more than 1,000 employees, with at least two establishments employing more than 100 persons in two or in several Member States. It was also aimed at undertakings based outside the Community or in the United Kingdom, if they met the above criteria. The establishment of the Works Council would be a matter of negotiation between the company management and the workers' representatives. In the absence of an agreement, a certain number of minimum provisions, which were defined in the proposal, would be applied in respect of the scope of the information and consultation process and the conditions under which the Works Council would operate, thereby ensuring that workers were informed and consulted. ?

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Adopting the report by Mr MENRAD, the European Parliament called for the directive to apply to undertakings employing at least 500 workers in the Member States (rather than the Council's 1000) and 100 workers (in each Member State) in at least two different Member States (rather than the Council's 150). It is up to the Member States to determine how the members of the special negotiating group are to be locally elected by the workers or appointed by the representatives of the workers in the undertaking. The European Parliament called for the deadline for starting negotiations on the establishment of the European Works Council to be reduced to one and a half years from the three years proposed by the Council. Finally, the European Parliament called for the Commission to examine the application of the directive and propose any changes needed to Council and the European Parliament five years after it enters into force.

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The changes made by the Commission follow on from Parliament's amendments, many of which were accepted, in a bid to clarify and strengthen the initial text. They relate mainly to: - the introduction of a reference to "objective criteria" for justifying the withholding of confidential information which might seriously prejudice the undertakings in question, in order to reinforce guarantees against abuse on the part of the central management in the exercise of this right; - the re-examination of the application of the directive after 5 rather than the 7 years initially proposed; - the fact that the right of the members of the European Works Council to notify the local representatives of workers or the workers themselves of the content and results of the information and consultation procedure has been changed to an obligation; - the introduction of the right for the central management of the undertaking to convene the whole European Works Council, not just the local council, in the stated cases.?

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As well as introducing editorial amendments which were aimed at clarifying and specifying the objectives and content of the proposal, the common position of the Council made a number of basic changes to the text, namely: - Member States would have the option not to apply national rules for the transposition of the Directive to personnel from the merchant fleet; - the second threshold for the number of employed workers, the purpose of which was to define the Community-scale undertaking or group of undertakings, was raised from 100 to 150; - Member States would be able to lay down the budget rules which governed the functioning of the special negotiating group and European Works Council, including restricting the financial responsibility to a single expert; - the time limit for negotiations between the special negotiating group and the central management was extended from 2 to 3 years, in order that an agreement might be reached; - Member States would be able to introduce special measures on behalf of the central management of those undertakings and establishments which directly and essentially pursued an ideological objective with regard to information and opinions; - Member States would be able to adopt regulations designed to safeguard the non-disclosure of information relating to disputes being heard before administrative or judicial authorities; - the time limit for the Commission to re-examine the modalities for the application of the Directive was reduced from 7 to 6 years; - the maximum number of members of the limited council group of the European Works Council was reduced from 5 to 3; - Member States would be able to lay down the rules governing the chairmanship of the information and consultation meetings, thereby allowing the Directive to be adapted to all national systems. Finally, the Council adopted almost all of Parliament's amendments which had been accepted by the Commission in its modified proposal. ?

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The Committee adopted the draft recommendation by Mr Menrad (PPE, D) by proposing three important amendments: - Community-scale undertakings only had to employ 500 workers, instead of the 1,000 proposed by the Council, and 100 workers rather than 150 (Council proposal) in each of at least two different Member States; - the 3-year deadline for the opening of negotiations on the setting up of the Works Council was reduced to 18 months; - special provisions were introduced for undertakings with an "ideological objective", provided that these already existed in national legislation (as with the German Tendenzschutz legislation). At the conclusion of the vote, Chairman Hughes called

on Commission Member Flynn to give his opinion on the amendments which the Committee had just adopted. The latter, having recalled that quite a few of Parliament's amendments were already contained in the text of the proposal, stated that he was going to support the three amendments in question when they came before the Commission. However, he expressed the reserve that if the Commission were to adopt them, it would have to be convinced that there was no risk of them jeopardizing the adoption of the text as currently proposed by the Council. ?

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The European Parliament approved the Council's common position subject to 11 amendments to the proposed text. It extended the scope of the directive by including undertakings or groups of undertakings with more than 500 workers established in two or more Member States with more than 100 workers in at least two of these Member States. It decided that the members of the works council should be appointed or elected by the workers or the workers' representatives, taking account of the need to represent the various groups of workers employed in the undertaking (no such provision was made in the draft). The representatives of establishments or undertakings belonging to a group located outside the Community may be authorized to join the special negotiating group. As far as the application of the principle of autonomy of the special negotiating group is concerned, the deadline for reaching an agreement (before subsidiary requirements laid down in the legislation of the Member State in which the central management is located applies) has been reduced from three to one and a half years. Parliament also limited the facility to introduce specific provisions for the benefit of the central management of undertakings with an ideological objective regarding information and opinions where such provisions already existed in national legislation, as is the case with German legislation ("Tendenzschutz"). It strengthened the guarantees protecting the activities of workers' representatives within the framework of the council, with a ban on any discrimination and protection from redundancy or any other sanctions as the result of acting and intervening in their official capacity. The Commission is required to submit changes to the application of the directive to the Council and the European Parliament five years after it enters into force.

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OBJECTIVE: to improve workers' right to information and consultation in Community-scale undertakings and groups of undertakings by establishing a works council or a procedure for informing and consulting workers in this type of undertaking. **COMMUNITY MEASURE:** Directive 94/45/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings for the purpose of informing and consulting workers. **CONTENT:** the directive makes the following provisions: . **Definitions:** a Community-scale undertaking is: * an undertaking which employs at least 1,000 workers in the Community as a whole and, in at least two Member States, at least 150 workers in each state; * a group of undertakings: - with at least 1,000 workers in the Community; - with at least two undertakings in different Member States and - with at least one undertaking which employs 150 workers in another Member State. . **Establishment of a European Works Council or a procedure for informing and consulting workers in the undertakings or group of undertakings:** this council is set up under the responsibility of the central management of the undertaking in a Member State or, where there is none, by the representative of the central management in the Member State (or even by the management of the undertaking which employs the largest number of workers in a Member State). The council is established either at the initiative of the central management itself or at the request of at least 100 workers employed in at least 2 enterprises in two different Member States. A special negotiating group is set up in order to start negotiations on the establishment of this council. The directive describes the designation and composition of this special negotiating group. . **Content of the agreement:** the agreement should define the procedures for informing and consulting workers and must state in writing: * the undertakings affected by the agreement, * the composition of the works council, the distribution of seats and the terms of office, * the attributions and the procedure for informing and consulting workers, * the frequency, duration and venue of council meetings, * the financial resources allocated to the council, * the term of the agreement. The central management and the special negotiating group may decide to set up one or more procedures for informing workers instead of establishing a works council. These procedures must provide information on transnational issues which seriously affect workers' interests. . **Subsidiary requirements set out in the legislation of the Member State in which the central management is established will apply:** * if the central management and special negotiating group so decide; * if the central management refuses to start negotiations within 6 months of the initial request to convene the special negotiating group; * if, within 3 years of the request, they are unable to conclude an agreement establishing a European Works Council or an information and consultation procedure and if the special negotiating group has not decided not to start or to cancel negotiations. . **Confidentiality clause:** the members of the special negotiating group and of the European Works Council must not divulge confidential information given to them to third parties. Special provision may be made for undertakings which directly or fundamentally pursue an ideological objective regarding information or opinions. . **Protection of workers' representatives:** the workers' representatives and the members of the works council will have the same protection and the same guarantees in the exercise of their duties as workers' representatives acting at national level. . **Sanctions:** provision is made for sanctions in the event of failure to comply with the present directive. - **Transposition by the Member States:** 22 September 1996, except in the United Kingdom, which has opted out of the social chapter of the Maastricht Treaty. - **Review:** the Commission will review the provisions of this directive and propose any amendments needed by 22 September 1999.?

European Works Council or procedures for informing and consulting employees in Community-scale undertakings

PURPOSE : to present a report from the Commission on the application of the Directive 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 employees (Council Directive 94/45/EC). **CONTENT :** this report deals only with the status of transposition of Directive 95/45/EC which relates to 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 employees. This Directive applies to all the Member States of the European Community except the United Kingdom of Great Britain and Northern Ireland. This Directive was due to be transposed by the Member States with the exception of these two countries by 22 September 1996. The report states that the vast majority of countries made a major effort not

only in meeting the deadline for implementation but also to integrate the Directive faithfully into their national law. Five countries met the deadline for transposition (Denmark, Finland, Sweden, Ireland, and (partly) Belgium), all of which adopted a transposition text which took effect on 22 September 1996. They were closely followed by Austria (17 October 1996), Italy (partial transposition 6 November 1996), France (12 November 1996) and Germany (1 November 1996) and Germany (1 November 1996). Transposition in the Netherlands (5 February 1997), Greece (1 March 1997) and Spain (24 April 1997) came somewhat later. Portugal was very late in adopting a transposing act (it was published on 9 June 1999 and entered into force on 9 July 1999). The Luxembourg text is currently being implemented. Furthermore, this report draws attention to a number of minor discrepancies between the Directive and the transposing acts (method of counting part-time workers, number of representatives in the SNB (Special Negotiating Body) higher than the limit laid down in the Directive) or aspects where there is a lack of detail (preparatory meetings). In any event, these discrepancies must be interpreted as being in the spirit of the Directive. On the other hand, it should be noted that there were no difficulties in integrating the Directive into domestic legal orders, firstly, because the Directive very often refers to internal mechanisms in each Member State, and secondly because it has enshrined the principle of collective autonomy which in many cases is at the basis of employment law in the European Union. In conclusion, clearly it is very difficult to produce a genuine summary of how the Directive has been implemented in practice, as this took place very recently. However, up to now it is clear that the Directive has been smoothly integrated in the industrial relations systems of the different countries. The trade union organisations have been recognised as key players. Therefore, there is every reason why the representation body should fit well with the existing structures of workers representation. It is hoped that the EWC (European Works Council) will give a new impetus to consultation and that a fresh dialogue will begin between the elected bodies, the trade union organisations and the "European" bodies. ?