

# WORKERS' RIGHT TO INFORMATION, CONSULTATION AND PARTICIPATION

The European Union complements the Member States' activities with regard to the right of workers to information and consultation by adopting minimum requirements by means of directives or through measures designed to encourage cooperation between the Member States. A number of EU directives protect the rights of workers to information and consultation by establishing rules for both the national and transnational levels.

## LEGAL BASIS

Articles 5, 114, 115, 151 and 153 of the Treaty on the Functioning of the European Union (TFEU).

## OBJECTIVES

The EU supports and complements the Member States' activities relating to employee involvement with a view to achieving the core objectives of European social policy (Article 151 TFEU). These objectives include improved living and working conditions, proper social protection, lasting high employment and combating exclusion.

## ACHIEVEMENTS

### A. Background

The right of workers to information, consultation and participation has been a key theme in European debate since the first social action programme in 1974. The 1989 Community Charter of the Fundamental Social Rights of Workers stressed the desirability of promoting employee participation. However, the Commission's proposals in this area often encountered resistance. A proper legal basis for Community legislation did not exist until the Agreement on Social Policy was incorporated into the Treaty of Amsterdam in 1997. In 2009, the Charter of Fundamental Rights of the European Union was incorporated into Article 6(1) TEU. Article 27 of the Charter recognises workers' right to information and consultation.

As regards employee involvement, Article 153 TFEU entrusts Parliament and the Council with the power to adopt:

- Measures designed to encourage cooperation between Member States;
- Directives setting out minimum requirements for gradual implementation.

The ordinary legislative procedure applies, with prior consultation of the European Economic and Social Committee and the European Committee of the Regions.

**B. Legislation in force**

A first group of directives deals with the right of workers to be informed of conditions applicable to the contract or employment relationship and the right to be informed and consulted on redundancies or transfers:

- Council Directive 75/129/EEC on collective redundancies, as amended by Council Directives 92/56/EEC and [98/59/EC](#), requires employers to enter into negotiations with workers in the event of mass redundancy;
- [Council Directive 2001/23/EC](#) on the safeguarding of employees' rights in the event of transfers of undertakings stipulates that workers must be informed of the reasons for any transfer and its consequences;
- [Directive 2002/14/EC](#) establishing a general framework for informing and consulting employees in the European Community lays down minimum procedural standards.

The Commission carried out a fitness check in 2013, which concluded that the directives are broadly fit for purpose and their benefits outweigh the costs, but that some gaps remain – notably their application to public service workers, seafarers and small and medium-sized enterprises. A recast of the information and consultation directives was contemplated in 2015 and the Commission launched a [public consultation](#), but there has been no follow-up.

In January 2018, a [Council directive transposing an agreement between social partners in the maritime transport sector](#) was adopted, putting an end to the exclusion of seafaring workers from the directives on information and consultation of workers.

As regards public sector workers, none of the directives concerning the right of workers to be informed and consulted applies to public administrations (see Court of Justice of the European Union Cases C-583/10, Nolan and C-108/10, Scattolon). In December 2015, the Sectoral Social Dialogue Committee for Central Government Administrations signed a sectoral agreement on common minimum standards of information and consultation rights for central administration workers and requested implementation by way of a Council directive. On 5 March 2018, the Commission informed the social partners that it would not propose this agreement to Council for implementation. Following legal action by the European Public Service Union, the Court of Justice of the European Union ruled on 24 October 2019 that the Commission's right of initiative entitled it to decide whether or not to make social partner agreements legally binding in all EU Member States.

A second group of directives encompasses the rights of workers to be informed and consulted in situations with a transnational component.

- Council Directive 94/45/EC, as revised by [Directive 2009/38/EC](#) on the introduction of European Works Councils (EWCs). EWCs bring together central management and employee representatives across Europe to discuss matters such as a company's performance, prospects and employment, restructuring and human resources policies. EWC legislation covers multinational companies with at least 1 000 workers in the EU/EEA and at least 150 staff in two or more Member

States. A [dedicated database](#), maintained by the European Trade Union Institute, provides data on EWCs.

- [Directive 2004/25/EC](#) on takeover bids, under which the employees of the companies concerned, or their representatives, should be given an opportunity to state their views on the foreseeable effects of such a bid on employment. The usual rules on informing and consulting employees also apply.
- [Directive \(EU\) 2017/1132](#) on certain aspects of company law, amended by [Directive \(EU\) 2019/2121](#) as regards cross-border conversions, mergers and divisions. The amended directive strengthens the position of employees and their representatives in terms of information, consultation and rights to participation prior to a cross-border conversion. It places a duty on management to respond to and consult trade unions and workers' organisations on the effect of the planned conversion.

A 2018 [REFIT evaluation](#) of the European Works Council Directive concluded that information for workers had improved in terms of quality and scope, but that the directive had not increased the number of new EWCs.

In January 2024, the Commission proposed a [revision of the European Works Council Directive](#) with the aim of:

- Making the creation of EWCs easier;
- Clarifying the provisions on information and consultation and ensuring that they are meaningful;
- Ensuring that EWCs have the resources (financial, material, expertise or training) to do their work;
- Improving gender balance.

Interinstitutional negotiations on the proposal are in progress.

A third group of directives aims to lay down rules applicable to situations with a transnational component, granting partial rights to participation in decision-making:

- [Council Directive 2001/86/EC](#) supplementing the Statute for a European company with regard to the involvement of employees establishes rules on worker participation in decisions on the strategic development of the company;
- [Council Directive 2003/72/EC](#) supplementing the Statute for a European Cooperative Society with regard to the involvement of employees ensures that employee representatives can exercise influence over the running of European Cooperative Societies;
- [Directive \(EU\) 2019/2121](#) amending [Directive \(EU\) 2017/1132](#) as regards cross-border conversions, mergers and divisions requires the rules of the destination state to be applied to employee participation, i.e. the company resulting from the cross-border merger is subject to the rules in force on employee participation, if any, in the Member State where it has its registered office.

The fourth group consists of: two cross-sectoral agreements between social partners (implemented by [Council Directive 97/81/EC](#) on part-time work and [Council Directive 1999/70/EC](#) on fixed-term work), [Directive 2008/104/EC](#) on temporary

agency work, and the Framework Agreements on telework (2002), work-related stress (2004), harassment (2007) and digitalisation (2020).

Information and consultation provisions are also included in the health and safety directives and in recent directives that focus on emerging forms of work where employee representation and collective bargaining structures may not be well established. These include [Directive \(EU\) 2019/1152](#) on transparent and predictable working conditions, which establishes new rights for all workers participating in all forms of work, including non-standard and new forms of work, such as platform work, and the directive on improving working conditions for platform work, which gives platform workers and their representatives the right to be informed and consulted about the use of algorithmic management.

### C. Other initiatives

Companies and workers' representatives may also conclude transnational company agreements (TCAs), a form of social dialogue in multinational companies. TCAs take various forms and are drawn up jointly for application in more than one Member State by company representatives and workers' organisations. However, this kind of practice can raise legal and political issues regarding the relationship between the different vertical levels of social dialogue (international, European and national) and the horizontal spheres of application (cross-sectoral, sector-specific and company-level). Furthermore, TCAs may clash with national norms and references, and few dispute resolution mechanisms are in place.

The Commission maintains a [database](#) on transnational company agreements.

On 25 January 2023, the Commission presented a [communication](#) and proposed a [Council recommendation on strengthening social dialogue in the European Union](#). The recommendation stresses the importance of 'access to relevant information to participate in social dialogue' as one of the enabling factors for well-functioning social dialogue.

## ROLE OF THE EUROPEAN PARLIAMENT

Parliament has adopted a number of resolutions calling for workers to have the right to be involved in company decision-making and for this right to apply in both national and transnational companies, irrespective of their legal status. Back in 2009, Parliament called in its [resolution of 19 February](#) on the implementation of Directive 2002/14/EC for public-sector workers to be included in the scope of the information and consultation directives.

In its [resolution of 17 December 2020 on a strong social Europe for Just Transitions](#), Parliament called on the Commission to introduce a new framework directive on workers' information, consultation and participation for European company forms, including subcontracting chains and franchises. It also called for the revision of the European Works Council Directive.

In its [resolution of 17 December 2020 on sustainable corporate governance](#), Parliament underlined the need for greater employee involvement in company decision-making processes in order to better integrate long-term objectives and impacts. It invited the Commission to consider revising the European Works Council

Directive and to establish a new framework for informing, consulting and involving employees in European companies. In another [resolution of 10 March 2021 on corporate due diligence and corporate accountability](#), Parliament called for the information and consultation directives to be used to guarantee rights for trade unions and workers' representatives to be involved in establishing and implementing due diligence strategies in their companies.

In its [resolution of 16 December 2021 on democracy at work: a European framework for employees' participation rights and the revision of the European Works Council Directive](#), Parliament highlighted the importance of workers' participation and insisted that before management decisions are made, workers' representatives should have access to adequate information in order to assess the implications of such decisions. Parliament also called for the introduction of a new framework directive on workers' information, consultation and participation for European companies in their various forms.

In its [resolution of 2 February 2023 on the revision of the European Works Council Directive](#), Parliament repeated its call for a revision of the Directive. The revision should clarify the objectives, definitions and procedures, and strengthen the right of employee representatives to information and consultation, particularly during restructuring processes.

In response to the Commission's communication and proposal for a Council recommendation on strengthening social dialogue in the European Union, Parliament adopted its [resolution of 1 June 2023 on strengthening social dialogue](#), which called on the Commission to analyse any labour reforms, in particular those related to working conditions and information and consultation of workers in the Member States' national recovery and resilience plans. The Commission should engage with national authorities on these issues in order to help them address any possible shortcomings. The resolution also calls on the Commission, as part of its forthcoming evaluation of Directive (EU) 2019/2121, to take account of existing good practices and studies and assessments of the positive socioeconomic effects and consequences of employee representation in corporate bodies. The resolution also urges the Commission and the Member States to take urgent and decisive action to ensure that Union-scale undertakings respect workers' information, consultation and participation rights. Given the increasing digitalisation of workplaces, the resolution underlined the need for timely and meaningful information and the consultation of workers' representatives, including trade unions.

For more information on this topic, please see the [website](#) of the Committee on Employment and Social Affairs.

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