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# PARTICIPATION & RIGHTS LETTER



WORKER'S INFORMATION AND CONSULTATION RIGHTS IN EUROPE

## TAKING ACTION FOR EFFECTIVE WORKER REPRESENTATION



Dear Readers,

the European Commission has started to review the body of EU legislation in selected policy fields. This operation is called a "fitness check". It aims at assessing whether the current regulations are 'fit for purpose' in the context of the Commission's policy of better, smarter regulation. Such an exercise of *ex-post* evaluation should in fact produce concrete findings on the effectiveness, efficiency, relevance and added value of the *acquis* in the areas under review. One of the main policy areas under scrutiny is the EU legislation on worker involvement. A thorough review of the family of three Directives associated with information, consultation and participation of workers is currently on-going (Directive 98/59/EC on collective redundancies; Directive 2001/23/EC on transfers of undertakings; Directive 2002/14/EC providing a general framework).

In view of the forthcoming publication of the assessment report, the ETUC has recently reasserted its scepticism about the 'fitness check' and a "better regulation" based on the cost-benefit-approach adopted. The idea behind this approach is to ask if the procedures for information and consultation established by the EU Directives, or already in place, are worth the money they cost.

The outflow of such a cost-benefit approach is that the conclusions of the review do not look at the effectiveness of EU rights, but only at the purely formal aspects.

The ETUC is relieved that the review concludes that the three directives are 'fit for purpose'. However, clearly problematic content-related aspects linked to the implementation of the EU legislation in the field of information and consultation are still not being addressed in any substantial way.

Existing gaps and incoherencies have not been detected, although they actually jeopardize and weaken the effectiveness of the rights stemming from the existing legislation. In the course of the consultation launched by the Commission, both employer and employee representatives have raised the need for rationalization, more certainty, greater consistency.



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Even additional legislation has been required. The crisis has highlighted the disappointment in particular about the inefficiency of the collective redundancies directive. Important loopholes mainly concern the definitions of information, consultation, transnationality, and cross-border activity, which are not the same for the three Directives mentioned above. The ETUC has repeatedly called at concretely addressing this issue by considering a revision of the EU legislation. An upward alignment of the crucial definitions of information and consultation with the better ones in the EWC or SE Directive would actually represent a positive step forward!

An in-depth monitoring of the efficiency of the Directives should imply detecting their real impact in the Member States, and the real reasons behind it. Beyond the mere 'transposition', for a check to be useful it should look at concrete ways of implementing the legislation in line with its original purpose: to serve democratic and socially fair decision-making processes within companies.

In our view, instead of collecting more examples, redundant reporting systems and even more formal 'fitness checks', coherent support for EU legislation on worker involvement should focus on substantial aspects and consequent concrete actions for ensuring that the fundamental rights to information and consultation are enjoyed all over Europe.

Claudia Menne

*ETUC Confederal Secretary in charge of the worker involvement dossier*

The ETUC's comments on the study conducted within the "Fitness check" in the area of Information and Consultation of Workers are available on the [ETUC webpage](#)

For further information on the "Fitness check" in the field of worker information and consultation, you can consult the bottom of the [European Commission webpage on Employee Involvement](#)

## **NEWS ON EWCS**

### **THE GEORGIA PACIFIC EWC: EMPLOYEES USE NEW LEGISLATION TO HOLD THEIR EMPLOYER TO ACCOUNT**

The Georgia Pacific European Works Council, governed by UK legislation, is the first known EWC to successfully hold their company to account by using the new European Works Council Directive.

American owned multinational packaging firm Georgia Pacific is currently considering a binding offer from Svenska Cellulosa Aktiebolaget (SCA) for its European operations, which employs almost 5,000 employees. The Georgia Pacific EWC was informed of the situation in early December and on the advice of UNITE the Union, immediately used the new UK legislation to request the services of an independent Expert to conduct an in-depth assessment of the potential impact of this proposal on the company's workforce. Following negotiations between the company, its EWC reps and officers from UNITE, the Company agreed to cover the full costs of the in-depth assessment, which are rumoured to have been in the region of 40,000 euro's.

The in-depth assessment was carried out by the French company Syndex who have recently established an office in the UK, after realising the massive potential to support EWCs and British trade unions arising from the new UK legislation.

Based on the Syndex report the Georgia Pacific EWC gave its formal opinion to the company at an Extraordinary Meeting on 4th January, which stated that the EWC had

been 'frustrated at the overall lack of meaningful information provided by GP and SCA and the unnecessary difficulties [it] had in obtaining the company's agreement for the Syndex study.' However they went on to state 'that the final report by Syndex has given the EWC a greater understanding of the reasons behind the proposed sale of GP EMEA and its possible consequences for the GP EMEA workforce.'

There was not an overall consensus from the representatives on whether the sale was good or bad for the GP employees, which was reflected in their final opinion: 'While the majority of GP EWC representatives feel that the acquisition may offer future opportunities for current employees of GP EMEA, this is not a unanimous position due to the uncertainty felt by the EWC'. They did conclude however that '...its acquisition by SCA may be the only viable option'.

This breakthrough by the GP EWC demonstrates the significant new consultation rights that EWC representatives are now entitled, and the lengths to which UK employers must now go to ensure employee representatives are provided with sufficient information on transnational issues in order to make an assessment of their consequences on the workforce.

Simon Dubbins, UNITE International and Research Director, commented that 'while employment rights, especially consultation rights, are being attacked by the current government, these new EWC rights give us more access to information and consultation than we have ever had. The fact that the companies now have to provide in-depth information to EWC representatives, and cover the costs of doing so, is a new opportunity we must utilise as trade unions.'

The new UK Transnational Information and Consultation of Employee Regulations 2010, which came into force in June 2011, are as a result of a revision to the previous EWC Directive. The UK legislation has been considerably improved in a number of key areas including, new information and consultation definitions, new legal rights to training that include the requirement for the employer to cover all training cost, new legal rights to report back more comprehensively to the employees, and most significantly (and controversially) the 'means required' to fulfil their duties to represent collectively the interests of the employees, which implies financial procurement to fulfil the EWC's responsibilities and associated costs and to protect the interests of the employees.

The success of the Georgia Pacific EWC will undoubtedly encourage other European Works Council's to utilise and maximise these new legal rights. For further information, advice or guidance contact: [jonathan.hayward@unitetheunion.org](mailto:jonathan.hayward@unitetheunion.org)

## THE "VOLKSWAGEN ITALIA" SUPPLEMENTARY AGREEMENT ON PARTICIPATION AND ECONOMIC DEMOCRACY

The FISASCAT-CISL Verona and FILCAMS-CGIL recently signed an important agreement that, in addition to renewing the supplemental agreement, charts a new and innovative course in labour relations, marked by a principle of "active contribution and participation" of workers in the development process of VOLKSWAGEN GROUP SPA ITALY. (VOLKSWAGEN GROUP SPA ITALY, headquartered in Verona, manages 9,000 employees). The new agreement, called Supplementary Agreement on participation, is based on the application of the observations of a "Charter" "(a kind code of conduct for labour relations) produced within the European and World Work Council of the Volkswagen Group. The "Charter" seeks to combine the preservation and increase of competitiveness and profitability together with the development of employment in all industrial and commercial realities of the Volkswagen Group, regardless of the country where they are. This, through a consistent and forward-looking policy within the entire Group and a personnel policy centered on the culture of "active contribution" and "participation". By "active contribution" is intended the mutual commitment of employees, union representatives and business leaders to the success of the company while maintaining the respect of workers' rights in high regard. [Read more](#)

For more information about this, please contact Andrea Sabaini, CISL Verona [andrea.sabaini@cisl.it](mailto:andrea.sabaini@cisl.it) and Floriano Zanoni, CGIL Verona, [floriano.zanoni@cgilverona.it](mailto:floriano.zanoni@cgilverona.it).

## NEWS FROM ETUFs



### TRANSNATIONAL COMPANY AGREEMENT IN GDF-SUEZ ON GENDER EQUALITY

In June 2012, GDF Suez, the France-based energy and utilities multinational, signed a European agreement on equality between women and men with three European-level trade union federations. The company hopes the groundbreaking agreement will make a significant contribution to ensuring equal pay for work of equal value for men and women at every level of the company, increase the proportion of women on permanent contracts, and give all workers a better work-life balance. [Read more](#)

The agreement was negotiated with EPSU and EMF/EMCEF (now IndustriAll) on behalf of the unions with membership in the company. It followed the [internal rules](#) of the Federations.

For a full record of the progress with the negotiations please go to: [www.epsu.org/r/260](http://www.epsu.org/r/260)

The text of the agreement is available in several languages:

[EN-FR-DE-ES-IT-NO-SV-FI-CZ-HU-NL-PL](#)

For more information contact Pablo Sanchez, +32 474 62 66 33, [psanchez@epsu.org](mailto:psanchez@epsu.org)

For further information: [www.epsu.org/a/8767](http://www.epsu.org/a/8767)

The agreement is available at the [Epsu webpage](#).



### UNI FINANCE AND BNP PARIBAS SIGN A "EUROPEAN SOCIAL CHARTER EMPLOYMENT MANAGEMENT" AGREEMENT



On 11th July 2012 in Paris, France, BNPPARIBAS, represented by Human Resource Director Frédéric LAVENIR and UNI Finance, represented by Sébastien Busiris and Ana Andrade, Secretary of the European Works Council, as well as a delegation of members of the Bureau and FECEC, have signed the "European Social Charter Employment Management" agreement, which will apply within the BNPP group Europe-wide as of 1st September 2012, with a validity of 3 years.

This agreement is the outcome of 18 months of negotiations between the BNPP management, the European Works Council and the European Trade Unions. At the end of June this text was unanimously endorsed by the European Works Council. It

defines social management of employment issues for the BNP Paribas Group entities in the 20 countries that constitute the European Works Council. The main objective of this agreement, which does not intend to substitute itself to national legislation and national or enterprise collective agreements, is the development of social dialogue at the European level. Amongst other, it must allow improved information of representative instances and staff delegates, or of employees themselves when applicable, about the various developments and restructuring plans of the company. The agreement marks its commitment to the principle of joint management of employment and the priority given to social dialogue.

This agreement also recalls the obligations of the BNPP group in terms of:

- Motivations and justifications of reorganisations
- Evaluation of consequences in terms of employment (jobs)
- Presentation of envisaged accompanying measures
- Implementation schedule

The text aims for greater transparency for staff representatives in particular in countries where laws are somewhat less binding in terms of information and consultation. For UNI Finance, the objective in signing this agreement is to further develop and build social dialogue at European level within Banks. This agreement is the first part of a European Social Charter, and UNI FINANCE will strive to complete it with others on the following issues:

- Professional equality between women and men
- Prevention and monitoring of psycho-social risks

UNI Finance will participate in these negotiations with the aim to create a “European Social Pact” for its affiliates within BNPP .

Sébastien BUSIRIS

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**ETF**

On Tuesday 9 October 2012, the European Transport Workers' Federation (ETF) organised a demonstration and lorry convoy in the heart of the European Quarter in Brussels. More than 700 delegates from ETF affiliates of 9 different European countries gathered together in Place du Luxembourg, in front of the European Parliament, and then marched to Place Schumann, where the European Commission and the European Council have their headquarters, to protest against the decline in wages and working conditions for professional drivers in Europe.

This action day is part of the ITF International Action Week for Road Transport and it is just the start of an ETF campaign for better working conditions in road transport. The ETF action is aimed as a wake-up call addressed to the European Institutions and national governments. Policy makers are urged to adopt legal measures meant to restore respect towards professional drivers and act against degrading jobs and working conditions in Road Transport. For more information please check the [ETF campaign webpage](#) and contact Cristina Tilling [c.tilling@etf-europe.org](mailto:c.tilling@etf-europe.org) or Inga-Lena Heinisch, [i.heinisch@etf-europe.org](mailto:i.heinisch@etf-europe.org).

## EUROPEAN PROJECTS AND EVENTS



### **ETUI-ČMKOS CONFERENCE: “THE FUTURE OF EMPLOYEE INVOLVEMENT IN CZECH CORPORATE GOVERNANCE”**

On the occasion of the September 2012 meeting of the [SEEurope network](#) in Prague, the European Trade Union Institute (ETUI) and the Czech-Moravian Confederation of Trade Unions (ČMKOS) co-organised a conference which addressed the recent challenges to the stakeholder model of corporate governance in Czech Republic. Presentations by experts in labour law and company law as well as a panel discussion with high-level speakers from the ETUC and the Czech trade unions (see [agenda](#)) provided a good opportunity for the ca. 70 participants to debate about the worrying developments taking place in this Member State. Indeed, the revised Companies Act adopted in March this year (and said to enter into force in January 2014) merely abolishes the obligation for companies to have one third of their supervisory board composed of employee representatives.

Moreover, the numerous European Companies (SEs) established in Czech Republic (which is the European 'top host country' of SEs) are, in their very great majority, characterized by a lack of employee involvement, and especially participation rights. Although the Czech trade unions and Czech board-level employee representatives are strongly opposed to the elimination of national participation rights, participants and speakers acknowledged the low probability of a reversal of the situation. They however received the support and encouragement from the ETUC which is currently campaigning for a strengthening of employee involvement rights at company level throughout Europe.

For more information about the national and European developments related to employee participation rights in Member States see the ETUI Policy Brief devoted to this issue.



### “SCER – REVIEW ON EUROPEAN CO-OPERATIVE SOCIETIES”

The European Project “SCER-Review on European Co-operative Societies” will officially start on 17th October 2012, in Brussels.

On the basis of the existing experiences, this EU co-funded project (BH 04.03.03.03) intends to provide a contribution in terms of knowledge and awareness on the phenomenon of the European Cooperative Societies and in particular on the role that employee involvement plays in the “transnationalisation” of the activities in the specific 'cooperative'.

Partners aim at:

- Identifying established and in the process of being established SCEs, contributing to attempt to have a clear picture of the number and nature of SCEs existing in Europe
- Collecting relevant public documents (Statutes, arrangements for employee involvement, where existing) to be stored
- Drawing an in depth 'mapping' of a selection of SCEs with regards to their external (form, composition, economic activities, geographical scope, performance) and internal (purposes, expectations, mechanisms of decision making, employee involvement) characteristics
- Finding links and positive relations among those characteristics, especially as far as employee involvement is implied
- Putting into light the deep interrelations among different economic, organizational, governance features with workers involvement in decision making at the transnational level

Partnership: The partnership sees Diesis as an applicant, and is composed of Employers' Organisations-Confederation of cooperatives, Research Centers and Trade Unions, including the ETUC, both at European and national level (ETUC, DIESIS, IAFP, CGSCOP from France, IRES Emilia Romagna, AGCI, LEGACOOP SERVIZI, LEGACOOP SOCIALI, ELABORA (CONFCOOPERATIVE) from Italy, COCETA and CONFESAL from Spain). For further information please contact: [info@diesis.coop](mailto:info@diesis.coop)



### EUROPEAN PROJECT VITE: “VALORISATION OF INFORMATION AND CONSULTATION PRACTICES AT LOCAL LEVEL TO BOOST COMPETITIVENESS OF SMEs”

Information and consultation rights ought to create a positive environment in which SME business can proliferate in line with the needs of the territory, in the full respect of people as citizens and workers. The project VITE aimed at verifying in which terms information and consultation of employees have enhanced social dialogue in SMEs in the aftermath of the crisis in order to encourage and spread innovative practices.

Information and consultation rights - in an anticipatory approach towards the change - are often a pillar, a precondition for larger plans for the development of the territory. Employees, trade unions, public actors and other stakeholders are all involved in an enlarged dialogue, to enhance policies aimed at the formation of risk capital, and establishment of infrastructures and services (including credit capital), fair working conditions and adequate safety nets. Examples are already detectable in France, Spain, Slovakia, but they are not well known and not well analyzed yet. Some countries like Spain, France, and Belgium have already advanced experiences in this field, some others, like Bulgaria, Slovenia, or Hungary will follow.

The final European Conference took place on 15th may 2012 in Madrid.

You will find [here](#) a brief description of the project as well as some extract of the final study which will be available very soon on the [project promoter website](#).

For further information please contact: [info@diesis.coop](mailto:info@diesis.coop)

## PUBLICATIONS AND LINKS



### **DOUBLIN FOUNDATION REPORT: RECESSION AND SOCIAL DIALOGUE IN THE BANKING SECTOR: A EUROPEAN PERSPECTIVE - EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITONS**

The worldwide banking system is at the heart of the greatest economic crisis for at least 70 years. The crisis has strongly affected a sector that had already experienced significant changes in the preceding 30 years. Structural changes in the world economy, caused by globalisation processes and technological development, transformed the banking system internationally. On top of these global developments, the European banking system faced challenges caused by the European integration process and the creation of the European Single Market. An [executive summary](#) is available. The report is available at this [webpage](#).



### **ILO PAPER: PROMOTING GENDER EQUALITY THROUGH SOCIAL DIALOGUE: GLOBAL TRENDS AND PERSISTENT OBSTACLES** BY LINDA BRISKIN AND ANGELIKA MULLER

This paper is part of a comparative research project whose objective is to demonstrate that gender equality and social dialogue are mutually beneficial and their promotion should go hand-in-hand. This study highlights the great potential of tripartite social dialogue and collective bargaining as tools for promoting gender equality. The paper has two focuses: issues of participation and representation in tripartite bodies, as well as within government units, trade unions and employers' organisations; and the promotion of gender equality. This study concludes the advancement in these two areas is inextricably linked.

[www.ilo.org/ifpdial/information-resources/publications/WCMS\\_172636/lang--en/index.htm](http://www.ilo.org/ifpdial/information-resources/publications/WCMS_172636/lang--en/index.htm)



### **CECOP-CICOPA EUROPE NEW STUDY** "THE RESILIENCE OF THE COOPERATIVE MODEL"

Europe must overcome the consequences of the biggest financial, economic and employment crisis in the history of European integration, and must prove that fair globalization and social Europe are the guidelines for the twenty-first century. A cultural reform, along intelligent and inclusive lines, appears necessary in order to meet the main challenges: growth and economic development on the one hand and social and environmental sustainability on the other. The financial and economic crisis is a direct result of unbridled deregulation and liberalization policy in recent decades. While the internal market is gaining shape, its social dimension risks falling behind, with fundamental economic freedoms such as the freedom to provide

services and the freedom of establishment taking precedence over fundamental social and workers' rights in Europe. Europe needs to show that it is focused on its citizens and working population. The aim of European integration must be to improve working conditions and standards of living. Employment and environmental policy, oriented towards quantitative and sustainable growth, must go hand in hand with innovative answers to our production model and respect for fundamental principles and rights in the workplace. Decent work must be protected from unfair competition in the internal market through higher minimum standards on working time, working conditions and wages. Supply and demand must be directed in Europe, so as to provide environmental and sustainable development, with high levels of growth and employment, and fewer inequalities. Small and medium-sized businesses are structurally linked to sustainability. They are often based on real value as opposed to shareholder value. In order to maintain real value, SMEs must often make faster changes of direction and actively involve their staff. A strategic change to a company's self image in the direction of sustainability requires a broad involvement of the staff. There is the biggest interest in sustainability. Thus social growth becomes possible.

In this sense, the cooperative experience, more vibrant than ever, offers original contributions. As key actors in the "social economy" they have proved that it is possible to validate issues relative to inclusive, socially fairer and environmentally sustainable growth, whilst at the same time remaining economically successful.

The examples given in this publication, and the experiences of the project on the success of co-operatives in times of crisis, are important contributions, which point the way to new directions. The ETUC firmly supports this work and looks forward to further cooperation with CECOP CICOPA-Europe in the future.

[www.cecop.coop/IMG/pdf/report\\_cecop\\_2012\\_en\\_web.pdf](http://www.cecop.coop/IMG/pdf/report_cecop_2012_en_web.pdf)

European  
trade union institute

## **etui.** ETUI POLICY BRIEF - ARE EMPLOYEE PARTICIPATION RIGHTS UNDER PRESSURE? TRENDS AT NATIONAL AND EU LEVEL

Just a few weeks before the launch of a new Action Plan on Company Law and Corporate Governance by Internal Market Commissioner Michel Barnier, this Policy brief seeks to review the stakeholder model of corporate governance that prevails in Europe by looking at the evolution of board-level employee representation rights in the light of national and European developments. In 2001, the adoption of the European Company Statute was based on a unanimous political compromise according to which EU company law should not jeopardise but should safeguard existing national rights of employee participation at board level. Although these rights have since then undergone changes in most of the 17 Member States where they exist, employee representation in the boardroom, including the right to vote, remains a widespread phenomenon throughout Europe. However, loopholes in the current EU legislation and the emergence of an EU legal approach promoting regulatory competition are putting these rights under pressure. This Policy Brief is both a summary and an updated version of a more extensive ETUI report published in November 2011.

[Download](#) this Policy Brief in English, [Télécharger](#) le Policy Brief en français.

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