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*Committee on Employment and Social Affairs*

**2008/0414(COD)**

30.10.2008

## **AMENDMENTS 9 - 55**

**Draft report**  
**Philip Bushill-Matthews**  
(PE412.214v01-00)

on the proposal for a directive of the European Parliament and of the Council 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 (recast)

Proposal for a directive  
(COM(2008)0419 – C6-0258/2008 – 2008/0414(COD))



**Amendment 9**  
**Elisabeth Schroedter**

**Proposal for a directive**  
**Recital 9**

*Text proposed by the Commission*

(9) This Directive is part of the Community framework intended to support and complement the action taken by Member States in the field of information and consultation of employees. This framework should *keep to a minimum the burden on undertakings or establishments while ensuring* the effective exercise of the rights granted.

*Amendment*

(9) This Directive is part of the Community framework intended to support and complement the action taken by Member States in the field of information and consultation of employees. This framework should *ensure* the effective exercise of the rights granted.

Or. en

**Amendment 10**  
**Jan Cremers, Stephen Hughes on behalf of the PSE group, Ria Oomen-Ruijten, Gabriele Stauner, Elisabeth Schroedter**

**Proposal for a directive**  
**Recital 16**

*Text proposed by the Commission*

(16) The transnational character of a matter should be determined by taking account of both the scope of its potential effects, and the level of management and representation that it involves. For this purpose, matters which concern the entire undertaking or group or at least two Member States are considered to be transnational.

*Amendment*

(16) The transnational character of a matter should be determined by taking account of both the scope of its potential effects, and the level of management and representation that it involves. For this purpose, matters which concern the entire undertaking or group or at least two Member States, *or which exceed the powers of the decision-making bodies in a single Member State in which employees that will be affected are employed*, are considered to be transnational.

Or. en

## *Justification*

*Following the judgements in the Vilvoorde, British Airways and Marks & Spencer cases, the definition of transnationality needs to be adapted accordingly. This means that cases where the decision of closure or restructuring is taken in one Member State but affects the workers in an other need to be considered transnational and the European Work Council needs to be informed and consulted in accordance with the Directive.*

### **Amendment 11**

**Elisabeth Schroedter**

#### **Proposal for a directive**

##### **Recital 16**

###### *Text proposed by the Commission*

(16) The transnational character of a matter should be determined by taking account of both the scope of its potential effects, and the level of management and representation that it involves. For this purpose, matters which concern the entire undertaking or group or at least two Member States are considered to be transnational.

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Or. en

### **Amendment 12**

**Marie Panayotopoulos-Cassiotou**

#### **Proposal for a directive**

##### **Recital 16**

###### *Text proposed by the Commission*

(16) Il convient que le caractère transnational d'une question soit déterminé en prenant en compte tant l'étendue des effets potentiels de celle-ci, que le niveau de direction et de représentation qu'elle implique. A cette fin, sont considérées

###### *Amendment*

(16) Il convient que le caractère transnational d'une question soit déterminé en prenant en compte tant l'étendue des effets potentiels de celle-ci, que le niveau de direction et de représentation qu'elle implique. A cette fin, sont considérées

comme transnationales les questions qui concernent l'ensemble de l'entreprise ou du groupe *ou* au moins deux États membres.

comme transnationales les questions qui concernent l'ensemble de l'entreprise ou du groupe, au moins deux États membres *ou, le cas échéant, directement les travailleurs d'un seul État membre.*

Or. fr

*Justification*

*Les questions d'intérêt commun pour l'entreprise ou pour le groupe d'entreprises, qui ont une influence directe sur les travailleurs d'un seul Etat-Membre, devront revêtir un caractère transnational.*

**Amendment 13**

**Jan Cremers, Stephen Hughes on behalf of the PSE group, Ria Oomen-Ruijten, Gabriele Stauner, Elisabeth Schroedter**

**Proposal for a directive**

**Recital 35 a (new)**

*Text proposed by the Commission*

*Amendment*

*(35a) Member States should ensure that measures taken in the event of a failure to comply with this Directive are adequate, proportional and dissuasive.*

Or. en

*Justification*

*It is important to underline that, as this is the case for all European legislation, Member States need to introduce measures that stimulate compliance with the Directive.*

**Amendment 14**  
**Elisabeth Schroedter**

**Proposal for a directive**  
**Recital 37**

*Text proposed by the Commission*

(37) This Directive should be without prejudice to the information and consultation procedures referred to in Directive 2002/14/EC of the European Parliament and of Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community and to the specific procedures referred to in Article 2 of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies and Article 7 of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

*Amendment*

(37) This Directive should be without prejudice to the information and consultation procedures referred to in Directive 2002/14/EC of the European Parliament and of Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community, ***in particular Article 9 thereof***, and to the specific procedures referred to in Article 2 of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies and Article 7 of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

Or. en

**Amendment 15**  
**Jan Cremers, Stephen Hughes on behalf of the PSE group, Ria Oomen-Ruijten,**  
**Elisabeth Schroedter**

**Proposal for a directive**  
**Recital 39**

*Text proposed by the Commission*

(39) Where the structure of the undertaking or group of undertakings changes significantly, for example, due to a merger, acquisition or division, the existing European Works Council(s) must be adapted. This adaptation must be carried

*Amendment*

(39) Where the structure of the undertaking or group of undertakings changes significantly, for example, due to a merger, acquisition or division, ***or a substantial change in its influence on the market***, the existing European Works Council(s) must

out as a priority pursuant to the clauses of the applicable agreement, if such clauses permit the required adaptation to be carried out. If this is not the case and a request establishing the need is made, negotiations, in which the members of the existing European Works Council(s) must be involved, will commence on a new agreement. In order to permit the information and consultation of employees during the often decisive period when the structure is changed, the existing European Works Council(s) must be able to continue to operate, possibly with adaptations, until a new agreement is concluded. Once a new agreement is signed, the previously established councils must be dissolved, and the agreements instituting them must be terminated, regardless of their provisions on validity or termination.

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Or. en

#### *Justification*

*Recent evolutions in financial markets operations show that the change of the dominant influence in company due to a leveraged buy-out or financial acquisition can have a similar effect as a merger and therefore the European Works Council needs to be adapted accordingly.*

#### **Amendment 16** **Elisabeth Schroedter**

#### **Proposal for a directive** **Recital 39**

##### *Text proposed by the Commission*

(39) Where the structure of the undertaking or group of undertakings changes significantly, for example, due to a merger, acquisition or division, the existing European Works Council(s) must be adapted. This adaptation must be carried

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Or. en

#### **Amendment 17**

**Jan Cremers, Stephen Hughes on behalf of the PSE group, Ria Oomen-Ruijten, Gabriele Stauner, Elisabeth Schroedter**

#### **Proposal for a directive**

#### **Article 1 – paragraph 4**

##### *Text proposed by the Commission*

4. Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States.

##### *Amendment*

4. Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States, *or where they exceed the powers of the decision-making bodies in a single Member State in which employees that will be affected are employed.*

Or. en

### *Justification*

*Following the judgements in the Vilvoorde, British Airways and Marks & Spencer cases, the definition of transnationality needs to be adapted accordingly. This means that cases where the decision of closure or restructuring is taken in one Member State but affects the workers in an other need to be considered transnational and the European Work Council needs to be informed and consulted in accordance with the Directive.*

#### **Amendment 18** **Dimitrios Papadimoulis**

##### **Proposal for a directive** **Article 1 – paragraph 4**

###### *Text proposed by the Commission*

4. Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, *or at least two undertakings or establishments of the undertaking or group situated in two* different Member States.

###### *Amendment*

4. Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, *or one undertaking or establishment in a* different Member State.

Or. en

### *Justification*

*To differentiate between the area of competence of a European Works Council and that of national bodies it is useful to state that the Directive is on international matters going beyond the powers of decision-making bodies of a single Member State.*

#### **Amendment 19** **Dimitrios Papadimoulis**

##### **Proposal for a directive** **Article 2 – paragraph 1 – point a**

###### *Text proposed by the Commission*

(a) ‘Community-scale undertaking’ means any undertaking with at least **1000** employees within the Member States and

###### *Amendment*

(a) ‘Community-scale undertaking’ means any undertaking with at least **500** employees within the Member States and

at least **150** employees in each of at least two Member States;

at least **100** employees in each of at least two Member States;

Or. en

*Justification*

*This was already proposed by the European Parliament in 1994.*

**Amendment 20**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) 'Community-scale group of undertakings' means a group of undertakings with the following characteristics:

- at least **1000** employees within the Member States,
- at least two group undertakings in different Member States and
- at least one group undertaking with at least **150** employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State;

*Amendment*

(c) 'Community-scale group of undertakings' means a group of undertakings with the following characteristics:

- at least **500** employees within the Member States,
- at least two group undertakings in different Member States and
- at least one group undertaking with at least **100** employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State;

Or. en

*Justification*

*This was already proposed by the European Parliament in 1994.*

**Amendment 21**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point f**

*Text proposed by the Commission*

(f) 'information' means 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 take place at such time, in such fashion and with such content as are appropriate and which will enable employees' representatives, in particular, to carry out an appropriate examination and to prepare the consultation, where necessary;*

*Amendment*

(f) 'information' means the transmission of data to the *employees, by the competent organ of the Community-scale undertaking or group of undertakings, through the European Works Council, on questions which concern the Community scale undertaking or group of undertakings itself and any of its establishments/subsidiaries or establishments situated in another Member State or which exceed the powers of the decision-making organs in a single Member State, in good time and at regular intervals, with a content which allows the employees' representatives to undertake an in-depth assessment of and to formulate an opinion on the possible impact and, where appropriate, prepare consultations with the competent organ of the undertaking or group of undertakings, with the right to veto when these conditions have not been met.*

Or. en

*Justification*

*Although the joint advise of the social partners is an improvement compared to the Commission proposal, for reasons of transparency and clarity the definitions of information and consultation should be in line with Directive 2001/86/EC. The last part on the right to veto brings the definition in line with the Resolution on the role of woman in industry approved by European Parliament 27 January 2008 (2007/2197(INI)).*

**Amendment 22**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point g**

*Text proposed by the Commission*

(g) '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 that, on the basis of the information provided, enables employees' representatives to express an opinion to the competent organ of the Community-scale undertaking or Community-scale group of undertakings;*

*Amendment*

(g) 'consultation' means the establishment of dialogue and exchange of views between the *European Works Council or the employees' representatives and the competent organ of the undertaking or group of undertakings, in good time, in a manner and with a content which allows the European Works Council or employees' representatives, on the basis of conclusive written information, to express an opinion on measures envisaged by the competent organ which may be taken into account in the decision-making process within the undertaking or group of undertakings;*

Or. en

*Justification*

*Although the joint advise of the social partners is an improvement compared to the Commission proposal, for reasons of transparency and clarity the definitions of information and consultation should be in line with Directive 2001/86/EC.*

**Amendment 23**  
**Jan Cremers, Stephen Hughes on behalf of the PSE group, Ria Oomen-Ruijten, Gabriele Stauner, Elisabeth Schroedter**

**Proposal for a directive**  
**Article 5 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees in each Member State by the Community-scale undertaking or Community-scale

*Amendment*

(b) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees in each Member State by the Community-scale undertaking or Community-scale

group of undertakings, by allocating in respect of each Member State ***in which at least 50 employees are employed*** one seat per portion of employees employed in that Member State amounting to 10%, or a fraction thereof, of the number of employees employed in all the Member States taken together;

group of undertakings, by allocating in respect of each Member State one seat per portion of employees employed in that Member State amounting to 10%, or a fraction thereof, of the number of employees employed in all the Member States taken together;

Or. en

#### *Justification*

*The introduction by the Commission of the 50 worker threshold in setting up Special Negotiating Bodies is discriminatory against smaller Member States which will find it difficult to reach this threshold. The number of 50 employees as a threshold is random, and above all no indicator for the output of the particular undertaking.*

#### **Amendment 24** **Marie Panayotopoulos-Cassiotou**

#### **Proposal for a directive** **Article 5 – paragraph 2 – point b**

##### *Text proposed by the Commission*

b) les membres du groupe spécial de négociation sont élus ou désignés en proportion du nombre de travailleurs employés dans chaque État membre par l'entreprise de dimension communautaire ou du groupe d'entreprises de dimension communautaire, en allouant pour chaque État membre ***dans lequel au moins cinquante travailleurs sont employés***, un siège par tranche de travailleurs employés dans cet État membre qui représente 10 % du nombre de travailleurs employés dans l'ensemble des États membres, ou une fraction de ladite tranche;

##### *Amendment*

b) les membres du groupe spécial de négociation sont élus ou désignés en proportion du nombre de travailleurs employés dans chaque État membre par l'entreprise de dimension communautaire ou du groupe d'entreprises de dimension communautaire, en allouant pour chaque État membre un siège par tranche de travailleurs employés dans cet État membre qui représente 10 % du nombre de travailleurs employés dans l'ensemble des États membres, ou une fraction de ladite tranche;

Or. fr

## *Justification*

*Les travailleurs dans les Etats membres doivent être, de manière équitable, représentés indépendamment du nombre total de travailleurs au sein de l'entreprise européenne.*

### **Amendment 25**

**Udo Bullmann**

#### **Proposal for a directive**

#### **Article 5 – paragraph 2 – point b**

##### *Text proposed by the Commission*

(b) Die Mitglieder des besonderen Verhandlungsgremiums werden entsprechend der Zahl der in jedem Mitgliedstaat beschäftigten Arbeitnehmer des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden Unternehmensgruppe gewählt oder bestellt, so dass pro Mitgliedstaat, ***in dem mindestens 50 Arbeitnehmer beschäftigt sind***, für jeden Anteil der in diesem Mitgliedstaat beschäftigten Arbeitnehmer, der 10 % der Gesamtzahl der in allen Mitgliedstaaten beschäftigten Arbeitnehmer entspricht, oder für einen Bruchteil dieser Tranche Anspruch auf einen Sitz besteht.

##### *Amendment*

(b) Die Mitglieder des besonderen Verhandlungsgremiums werden entsprechend der Zahl der in jedem Mitgliedstaat beschäftigten Arbeitnehmer des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden Unternehmensgruppe gewählt oder bestellt, so dass pro Mitgliedstaat für jeden Anteil der in diesem Mitgliedstaat beschäftigten Arbeitnehmer, der 10 % der Gesamtzahl der in allen Mitgliedstaaten beschäftigten Arbeitnehmer entspricht, oder für einen Bruchteil dieser Tranche Anspruch auf einen Sitz besteht.

Or. de

### **Amendment 26**

**Dimitrios Papadimoulis**

#### **Proposal for a directive**

#### **Article 5 – paragraph 2 – point c**

##### *Text proposed by the Commission*

(c) The central management and local management and the competent European workers' and employers' organisations shall be informed of the composition of the special negotiating body and of the start of

##### *Amendment*

(c) The central management and local management and the competent European ***and national*** workers' and employers' organisations shall be informed ***in advance*** of the composition of the special

the negotiations.

negotiating body and of the start of the negotiations ***and shall be entitled to attend the meeting of the special negotiation body as observers.***

Or. en

*Justification*

*The role of the trade unions and industry branches should not only be limited to the European level but also allow the national levels to participate.*

**Amendment 27**

**Elisabeth Schroedter**

**Proposal for a directive**

**Article 5 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

Before and after any meeting with the central management, the special negotiating body shall be entitled to meet, using the necessary means for communication, without representatives of the central management being present.

*Amendment*

***Following that meeting, the central management shall convene further meetings with the special negotiating body, on a regular basis and without unnecessary delay, until an agreement is reached.*** Before and after any meeting with the central management, the special negotiating body shall be entitled to meet, using the necessary means for communication, without representatives of the central management being present.

Or. en

**Amendment 28**

**Dimitrios Papadimoulis**

**Proposal for a directive**

**Article 5 – paragraph 6 – subparagraph 2**

*Text proposed by the Commission*

In compliance with this principle, Member States may lay down budgetary rules

*Amendment*

In compliance with this principle, Member States may lay down budgetary rules

regarding the operation of the special negotiating body. *They may in particular limit the funding to cover one expert only.*

regarding the operation of the special negotiating body.

Or. en

**Amendment 29**

**Jan Cremers, Stephen Hughes on behalf of the PSE group, Ria Oomen-Ruijten, Elisabeth Schroedter**

**Proposal for a directive**

**Article 6 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. The information provided to, and consultation of, the European Works Council shall relate to the matters referred to in point 1(a) of Annex I.***

Or. en

*Justification*

*For the internal logic of the Directive, it should be self-evident that the content of the agreements negotiated by the Special Negotiating Bodies includes at least the items listed in paragraph 1 of the annex.*

**Amendment 30**

**Elisabeth Schroedter**

**Proposal for a directive**

**Article 6 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. The information provided to, and consultation of the European Works Council shall relate to the matters referred to in point 1(a) of Annex I.***

Or. en

**Amendment 31**  
**Udo Bullmann**

**Proposal for a directive**  
**Article 7 – paragraph 1 – indent 3**

*Text proposed by the Commission*

– wenn binnen **drei Jahren** nach dem entsprechenden Antrag keine Vereinbarung gemäß Artikel 6 zustande kommt und das besondere Verhandlungsgremium keinen Beschluss nach Artikel 5 Absatz 5 gefasst hat.

*Amendment*

– wenn binnen **anderthalb Jahren** nach dem entsprechenden Antrag keine Vereinbarung gemäß Artikel 6 zustande kommt und das besondere Verhandlungsgremium keinen Beschluss nach Artikel 5 Absatz 5 gefasst hat.

Or. de

*Justification*

*Diese Forderung soll einer Verzögerung von Verhandlungen zur EBR-Gründung durch Arbeitgeber vorbeugen und zu einer schnellen Errichtung von EBR beitragen.*

**Amendment 32**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Article 7 – paragraph 1 – indent 3**

*Text proposed by the Commission*

– where, after **three years** from the date of this request, they are unable to conclude an agreement as laid down in Article 6 and the special negotiating body has not taken the decision provided for in Article 5(5).

*Amendment*

– where, after **one year** from the date of this request, they are unable to conclude an agreement as laid down in Article 6 and the special negotiating body has not taken the decision provided for in Article 5(5), **unless the parties agree to extend negotiations for a period of up to six months;**

– **where no meeting with the special negotiating body has taken place for a period of more than four months.**

Or. en

**Amendment 33**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Article 10 – paragraph 1**

*Text proposed by the Commission*

1. Without prejudice to the competence of other bodies or organisations in this respect, the *members* of the European Works Council shall collectively represent the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings **and shall have the means required to apply the rights stemming from this Directive.**

*Amendment*

1. Without prejudice to the competence of other bodies or organisations in this respect, the *employees' representatives* of the European Works Council **shall have the means required to apply the rights stemming from this Directive and** collectively represent the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings.

Or. en

**Amendment 34**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Article 10 – paragraph 2**

*Text proposed by the Commission*

2. Without prejudice to Article 8, the *members* of the European Works Council shall inform the representatives of the employees of the establishments or of the undertakings of a Community-scale group of undertakings or, in the absence of representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure carried out in accordance with this Directive.

*Amendment*

2. Without prejudice to Article 8, the *employees' representatives* of the European Works Council shall inform the representatives of the employees of the establishments or of the undertakings of a Community-scale group of undertakings or, in the absence of representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure carried out in accordance with this Directive.

Or. en

**Amendment 35**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Article 10 – paragraph 4**

*Text proposed by the Commission*

4. In so far as this is necessary for the exercise of their representative duties in an international environment, the members of the special negotiating body and of the European Works Council shall be ***permitted to attend training without loss of wages.***

*Amendment*

4. In so far as this is necessary for the exercise of their representative duties in an international environment, the members of the special negotiating body and of the European Works Council shall be ***entitled to receive training. Time spent travelling to and from a European Works Council training events as well as time participating in the training shall be considered as working time.***

Or. en

*Justification*

*Entitlement to training is an important precondition for an effective exercise of rights by members of an European Works Council.*

**Amendment 36**  
**Jan Cremers, Stephen Hughes on behalf of the PSE group, Ria Oomen-Ruijten, Gabriele Stauner, Elisabeth Schroedter**

**Proposal for a directive**  
**Article 11 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall provide for any decision taken by the central management that breaches the information and consultation obligations laid down in this Directive to have no legal effect until the central management has fulfilled those obligations or, if this is no longer possible, adequate redress has been established, in accordance with arrangements and procedures to be determined by the***

*Justification*

*The wording of the amendment follows closely the Vilvoorde and the Gaz de France case-law, where the decision of the central management was declared to have no legal effect as long as the obligations under this Directive have not been fulfilled. The ECJ has thus defined the ultimate persuasive sanction (in a worst case scenario).*

**Amendment 37**

**Udo Bullmann**

**Proposal for a directive**

**Article 11 – paragraph 2**

*Text proposed by the Commission*

2. Für den Fall der Nichteinhaltung dieser Richtlinie sehen die Mitgliedstaaten **geeignete** Maßnahmen vor; sie sorgen insbesondere dafür, dass Verwaltungs- oder Gerichtsverfahren vorhanden sind, mit deren Hilfe die Erfüllung der sich aus dieser Richtlinie ergebenden Verpflichtungen durchgesetzt werden kann.

*Amendment*

2. Für den Fall der Nichteinhaltung dieser Richtlinie sehen die Mitgliedstaaten **wirksame** Maßnahmen vor, **die geeignet sind, die Einhaltung der Richtlinie zu verbürgen**; sie sorgen insbesondere dafür, dass Verwaltungs- oder Gerichtsverfahren vorhanden sind, mit deren Hilfe die Erfüllung der sich aus dieser Richtlinie ergebenden Verpflichtungen durchgesetzt werden kann.

**Amendment 38**

**Dimitrios Papadimoulis**

**Proposal for a directive**

**Article 11 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall provide for appropriate measures in the event of failure to comply with this Directive; in particular, they shall ensure that adequate

*Amendment*

2. Member States shall provide for **effective**, appropriate **and dissuasive** measures in the event of failure to comply with this Directive; in particular, they shall

administrative or judicial procedures are available to enable the obligations deriving from this Directive to be enforced.

ensure that adequate administrative or judicial procedures are available to enable the obligations deriving from this Directive to be enforced.

Or. en

**Amendment 39**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Article 11 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall, in situations involving, inter alia, restructuring, mergers or takeovers, in which the application of a decision may have major negative effects on employees, provide for the suspension of the adoption of the final decision for an appropriate period at the request of the employees' representatives if they violate information or consultation rights with a view to continuing the negotiations in order to reach an agreement and avoid or alleviate the negative effects of the situation.***

Or. en

**Amendment 40**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Article 11 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. The Member States shall introduce measures at national and European level in the event of a failure by employers or employees' representatives to comply with this Directive. In particular, Member***

*States shall ensure that there are administrative and legal procedures which can be used to enforce compliance with the Directive, including procedures whereby employers and employees' representatives may seek legal redress, either administratively or through the courts, if they consider that the other party is failing to fulfil its obligations.*

Or. en

**Amendment 41**  
**Elisabeth Schroedter**

**Proposal for a directive**  
**Article 12 – paragraph 4**

*Text proposed by the Commission*

4. This Directive shall be without prejudice to the information and consultation procedures referred to in Directive 2002/14/EC and to the specific procedures referred to in Article 2 of Directive 98/59/EC and Article 7 of Directive 2001/23/EC.

*Amendment*

4. This Directive shall be without prejudice to the information and consultation procedures referred to in Directive 2002/14/EC, *in particular Article 9 thereof*, and to the specific procedures referred to in Article 2 of Directive 98/59/EC and Article 7 of Directive 2001/23/EC.

Or. en

**Amendment 42**  
**Jan Cremers, Stephen Hughes on behalf of the PSE group, Elisabeth Schroedter**

**Proposal for a directive**  
**Article 14**

*Text proposed by the Commission*

*Five years* after the date specified in Article 15 of this Directive, the Commission shall **report** to the European Parliament, the Council **and the European Economic and Social Committee on the**

*Amendment*

*Three years* after the date specified in Article 15 of this Directive, the Commission shall **present a full revision of this Directive** to the European Parliament **and** the Council.

***implementation of this Directive, making appropriate proposals where necessary.***

Or. en

*Justification*

*In the working documents and the preparations of this recast several areas for improvement have been defined by the Commission. Based on meetings with stakeholders it is clear that the functioning of the EWC's could improve if facilities are adapted and enlarged. A full revision is therefore needed. The recast procedure is acceptable for the EP if it leads to a modification of the Directive in line with recent jurisprudence.*

**Amendment 43**  
**Elisabeth Schroedter**

**Proposal for a directive**  
**Article 14**

*Text proposed by the Commission*

***Five years*** after the date specified in Article 15 of this Directive, the Commission shall ***report*** to the European Parliament, the Council ***and the European Economic and Social Committee on the implementation of this Directive, making appropriate proposals where necessary.***

*Amendment*

***Three years*** after the date specified in Article 15 of this Directive, the Commission shall ***present a full revision of this Directive*** to the European Parliament ***and*** the Council.

Or. en

**Amendment 44**  
**Jan Cremers, Stephen Hughes on behalf of the PSE group, Ria Oomen-Ruijten, Elisabeth Schroedter**

**Proposal for a directive**  
**Annex I – point 1 – point a – paragraph 2**

*Text proposed by the Commission*

The information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and

*Amendment*

The information ***and consultation*** of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development

sales of the Community-scale undertaking or group of undertakings. ***The information and consultation of the European Works Council shall relate in particular to*** the situation and probable trend of employment, investments, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.

and production and sales of the Community-scale undertaking or group of undertakings, the situation and probable trend of employment, investments, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.

Or. en

### *Justification*

*European Works Councils need to have a say in the economic and financial future of their company rather than just being passively informed about it. The distinction between information and consultation in this part of the annex is artificial.*

#### **Amendment 45** **Elisabeth Schroedter**

#### **Proposal for a directive** **Annex I – point 1 – point a –paragraph 2**

##### *Text proposed by the Commission*

The information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. ***The information and consultation of the European Works Council shall relate in particular to*** the situation and probable trend of employment, investments, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or

##### *Amendment*

The information ***and consultation*** of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings, the situation and probable trend of employment, investments, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.

important parts thereof, and collective redundancies.

Or. en

**Amendment 46**  
**Udo Bullmann**

**Proposal for a directive**  
**Annex I – point 1 – point a – paragraph 2**

*Text proposed by the Commission*

Die Unterrichtung des Europäischen Betriebsrats bezieht sich insbesondere auf die Struktur, die wirtschaftliche und finanzielle Situation sowie die voraussichtliche Entwicklung der Geschäfts-, Produktions- und Absatzlage des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden Unternehmensgruppe. Die Unterrichtung und Anhörung des Europäischen Betriebsrats bezieht sich insbesondere auf die Beschäftigungslage und ihre voraussichtliche Entwicklung, auf die Investitionen, auf grundlegende Änderungen der Organisation, auf die Einführung neuer Arbeits- und Fertigungsverfahren, auf Verlagerungen der Produktion, auf Fusionen, Verkleinerungen oder Schließungen von Unternehmen, Betrieben oder wichtigen Teilen dieser Einheiten und auf Massenentlassungen.

*Amendment*

Die Unterrichtung **und Anhörung** des Europäischen Betriebsrats bezieht sich insbesondere auf die Struktur, die wirtschaftliche und finanzielle Situation sowie die voraussichtliche Entwicklung der Geschäfts-, Produktions- und Absatzlage des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden Unternehmensgruppe. Die Unterrichtung und Anhörung des Europäischen Betriebsrats bezieht sich insbesondere auf die Beschäftigungslage und ihre voraussichtliche Entwicklung, auf die Investitionen, auf grundlegende Änderungen der Organisation, auf die Einführung neuer Arbeits- und Fertigungsverfahren, auf Verlagerungen der Produktion, auf Fusionen, Verkleinerungen oder Schließungen von Unternehmen, Betrieben oder wichtigen Teilen dieser Einheiten und auf Massenentlassungen.

Or. de

## **Amendment 47**

**Jan Cremers, Stephen Hughes on behalf of the PSE group, Ria Oomen-Ruijten, Gabriele Stauner, Elisabeth Schroedter**

### **Proposal for a directive**

#### **Annex I – point 1 – point c**

##### *Text proposed by the Commission*

(c) The members of the European Works Council shall be elected or appointed in proportion to the number of employees in each Member State by the Community-scale undertaking or Community-scale group of undertakings, by allocating in respect of each Member State *in which at least 50 employees are employed* one seat per portion of employees employed in that Member State amounting to 10%, or a fraction thereof, of the number of employees employed in all the Member States taken together;

##### *Amendment*

(c) The members of the European Works Council shall be elected or appointed in proportion to the number of employees in each Member State by the Community-scale undertaking or Community-scale group of undertakings, by allocating in respect of each Member State one seat per portion of employees employed in that Member State amounting to 10%, or a fraction thereof, of the number of employees employed in all the Member States taken together;

Or. en

##### *Justification*

*The introduction by the Commission of the 50 worker threshold in setting up Special Negotiating Bodies is discriminatory against smaller Member States which will find it difficult to reach this threshold. The number of 50 employees as a threshold is random, and above all no indicator for the output of the particular undertaking.*

## **Amendment 48**

**Udo Bullmann**

### **Proposal for a directive**

#### **Annex I – point 1 – point c**

##### *Text proposed by the Commission*

(c) Die Mitglieder des Europäischen Betriebsrats werden entsprechend der Zahl der in jedem Mitgliedstaat beschäftigten Arbeitnehmer des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden

##### *Amendment*

(c) Die Mitglieder des Europäischen Betriebsrats werden entsprechend der Zahl der in jedem Mitgliedstaat beschäftigten Arbeitnehmer des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden

Unternehmensgruppe gewählt oder bestellt, so dass pro Mitgliedstaat, *in dem mindestens 50 Arbeitnehmer beschäftigt sind*, für jeden Anteil der in diesem Mitgliedstaat beschäftigten Arbeitnehmer, der 10 % der Gesamtzahl der in allen Mitgliedstaaten beschäftigten Arbeitnehmer entspricht, oder für einen Bruchteil dieser Tranche Anspruch auf einen Sitz besteht.

Unternehmensgruppe gewählt oder bestellt, so dass pro Mitgliedstaat für jeden Anteil der in diesem Mitgliedstaat beschäftigten Arbeitnehmer, der 10 % der Gesamtzahl der in allen Mitgliedstaaten beschäftigten Arbeitnehmer entspricht, oder für einen Bruchteil dieser Tranche Anspruch auf einen Sitz besteht.

Or. de

**Amendment 49**  
**Marie Panayotopoulos-Cassiotou**

**Proposal for a directive**  
**Annex I – point 1 – point c**

*Text proposed by the Commission*

c) les membres du comité d'entreprise européen sont élus ou désignés en proportion du nombre de travailleurs employés dans chaque État membre par l'entreprise de dimension communautaire ou du groupe d'entreprises de dimension communautaire, en allouant pour chaque État membre *dans lequel au moins cinquante travailleurs sont employés*, un siège par tranche de travailleurs employés dans cet État membre qui représente 10 % du nombre de travailleurs employés dans l'ensemble des États membres, ou une fraction de ladite tranche;

*Amendment*

c) les membres du comité d'entreprise européen sont élus ou désignés en proportion du nombre de travailleurs employés dans chaque État membre par l'entreprise de dimension communautaire ou du groupe d'entreprises de dimension communautaire, en allouant pour chaque État membre un siège par tranche de travailleurs employés dans cet État membre qui représente 10 % du nombre de travailleurs employés dans l'ensemble des États membres, ou une fraction de ladite tranche;

Or. fr

*Justification*

*Les travailleurs dans les Etats membres doivent être, de manière équitable, représentés indépendamment du nombre total de travailleurs au sein de l'entreprise européenne.*

**Amendment 50**  
**Elisabeth Schroedter**

**Proposal for a directive**  
**Annex I – point 2**

*Text proposed by the Commission*

2. The European Works Council shall have the right to meet with the central management once a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly.

*Amendment*

2. The European Works Council shall have the right to meet with the central management once a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly. ***Before and after any meeting with the central management, the employee representatives shall be entitled to meet, using the necessary means for communication, without representatives of the central management being present.***

Or. en

**Amendment 51**  
**Udo Bullmann**

**Proposal for a directive**  
**Annex I – point 2**

*Text proposed by the Commission*

2. Der Europäische Betriebsrat ist befugt, einmal jährlich mit der zentralen Leitung zum Zwecke der Unterrichtung und Anhörung, auf der Grundlage eines von der zentralen Leitung vorgelegten Berichts, über die Entwicklung der Geschäftslage und die Perspektiven des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden Unternehmensgruppe zusammenzutreten. Die örtlichen

*Amendment*

2. Der Europäische Betriebsrat ist befugt, einmal jährlich mit der zentralen Leitung zum Zwecke der Unterrichtung und Anhörung, auf der Grundlage eines von der zentralen Leitung vorgelegten Berichts, über die Entwicklung der Geschäftslage und die Perspektiven des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden Unternehmensgruppe zusammenzutreten. Die örtlichen

Unternehmensleitungen werden hiervon in Kenntnis gesetzt.

Unternehmensleitungen werden hiervon in Kenntnis gesetzt. ***Vor und nach jeder Sitzung mit der zentralen Leitung ist der Europäische Betriebsrat berechtigt, in Abwesenheit der Vertreter der zentralen Leitung zu tagen und dabei die erforderlichen Kommunikationsmittel zu nutzen.***

Or. de

#### *Justification*

*Dieser Absatz entspricht Art. 5 der Richtlinie. Wenn das Recht auf Nachbereitungssitzungen dem "Besonderen Verhandlungsgremium" zustehen soll, gibt es keinen Grund, dieses dem EBR zu verweigern*

#### **Amendment 52** **Udo Bullmann**

#### **Proposal for a directive** **Annex I – point 2**

##### *Text proposed by the Commission*

2. Der Europäische Betriebsrat ist befugt, ***einmal*** jährlich mit der zentralen Leitung zum Zwecke der Unterrichtung und Anhörung, auf der Grundlage eines von der zentralen Leitung vorgelegten Berichts, über die Entwicklung der Geschäftslage und die Perspektiven des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden Unternehmensgruppe zusammenzutreten. Die örtlichen Unternehmensleitungen werden hiervon in Kenntnis gesetzt.

##### *Amendment*

2. Der Europäische Betriebsrat ist befugt, ***mindestens zweimal*** jährlich mit der zentralen Leitung zum Zwecke der Unterrichtung und Anhörung, auf der Grundlage eines von der zentralen Leitung vorgelegten Berichts, über die Entwicklung der Geschäftslage und die Perspektiven des gemeinschaftsweit operierenden Unternehmens oder der gemeinschaftsweit operierenden Unternehmensgruppe zusammenzutreten. Die örtlichen Unternehmensleitungen werden hiervon in Kenntnis gesetzt.

Or. de

**Amendment 53**  
**Dimitrios Papadimoulis**

**Proposal for a directive**  
**Annex I – point 2**

*Text proposed by the Commission*

2. The European Works Council shall have the right to meet with the central management *once* a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly.

*Amendment*

2. The European Works Council shall have the right to meet with the central management *twice* a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly.

Or. en

**Amendment 54**  
**Jan Cremers, Stephen Hughes on behalf of the PSE group, Elisabeth Schroedter**

**Proposal for a directive**  
**Annex I – point 3 – paragraphs 1 and 2**

*Text proposed by the Commission*

3. Where there are exceptional circumstances or *decisions* affecting the employees' interests to a considerable extent, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council shall have the right to be informed. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, so as to be informed and consulted.

*Amendment*

3. Where there are exceptional circumstances or *proposed measures* affecting the employees' interests to a considerable extent, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council shall have the right to be informed. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, so as to be informed and consulted.

Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned by the circumstances or *decisions* in question shall also have the right to participate where a meeting is organised with the select committee.

Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned by the circumstances or *proposed measures* in question shall also have the right to participate where a meeting is organised with the select committee.

Or. en

### *Justification*

*For consistency in the text the wording in this article should be in line with the wording used in the Social Partners' joint-advice on art 2(g). If a consultation process is to be genuine, the text should refer to 'proposed measures' rather than 'decisions' which already imply the end of the process. The suggested wording is in line with judgement in the Beiersdorf case and the statement of the European Commission in the De La Rue Case.*

### **Amendment 55** **Elisabeth Schroedter**

### **Proposal for a directive** **Annex I – point 3 – paragraphs 1 and 2**

#### *Text proposed by the Commission*

3. Where there are exceptional circumstances or *decisions* affecting the employees' interests to a considerable extent, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council shall have the right to be informed. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, so as to be informed and consulted.

Those members of the European Works

#### *Amendment*

3. Where there are exceptional circumstances or *proposed measures* affecting the employees' interests to a considerable extent, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council shall have the right to be informed. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, so as to be informed and consulted.

Those members of the European Works

Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned by the measures circumstances or *decisions* in question shall also have the right to participate in the where a meeting is organised with the select committee.

Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned by the circumstances or *proposed measures* in question shall also have the right to participate where a meeting is organised with the select committee.

Or. en