

INFORMATION AND CONSULTATION OF WORKERS REPRESENTATIVES ON A EUROPEAN BACKGROUND OF CHANGE AND RESTRUCTURING

Luc Triangle

Chair EMF Company Policy Committee SWP



1. The road to transnational information and consultation rights :

The EWC directive 1994

- Directive 94/45 approved on 22/09/94
- For transnational companies (+ 1000 employees) in the European Economic Area (EEA)
- Right for workers' representatives to be informed and consulted at transnational level
- 280 companies in metalindustry have an agreement
- Total : 800 EWC agreements, 15000 rep's



2. EWC KEY-ISSUES AND EXPERIENCES

- Information and consultation (what with negotiation)
 - weak definition on consultation
 - consultation : when and with which purpose ?
- Transnational
- Frequency of meetings : one to two / year
- Additional to national level
- Facilities : select committee, translation, expert, ...
- Exceptional circumstances



3. REVISION OF THE EWC DIRECTIVE



- Original timeframe : 1999
- 'Renault- case' (1997 – 1998) : introduction by case law of the idea of “information et consultation pre-alable” (prior information and consultation)
- New directives accepted this new view of information and consultation
 - . Workers' involvement directive in the framework of the European Company Statute (2001)
 - . National Information and Consultation Directive (2002)
- But EWC Directive revision is blocked by political reality in Europe

4.Challenges for Information and Consultation : ...new definitions



4.1. European Company Statute (SE)

- 10/2004 : possibility for one legal company statute
- Directive on workers' involvement in the SE : new definition on 'Consultation'
- Consultation :
 - * 'establishment of dialogue and exchange of views... at a time, in a manner and with a content which allows employee rep's, on the information provided, to express an opinion on measures envisaged by the company, which may be taken into account in the decision-making process within the SE'
 - * also rights for written information, right for a second meeting with the view of seeking an agreement, ...

4.Challenges for Information and Consultation : ... new definitions



4.2. Framework for informing and consulting employees in the European Community (Directive 2002/14)

Art. 4, 3

Information shall be given at such time, in such fashion and with such content as are appropriate to enable, in particular, employee representatives to conduct an adequate study and, where necessary, prepare for consultation

4.Challenges for Information and Consultation : ...new definitions



4.3. Participation in the board of the European Company (SE)

- To improved information and consulation rights, but also... participation rights for employee representatives
- SE – directive on workers' involvement provides also the right/possibility for workers' representatives to be represented in the board of directors, or in the supervisory board.

5. EMF Policy approach towards socially responsible company restructuring



- Corporate restructuring is a permanent feature
- Only viable companies can create good and stable jobs, but change must include workers' involvement and anticipation rights
- Accompanying social measures must be negotiated in case of job losses
- Pressure of employers and companies to get more concessions of the workers / unions can and will only result in more social dumping and a downward spiral on salaries/working conditions

5. EMF Policy approach towards socially responsible company restructuring



- Transnational restructuring needs a (transnational) European Trade union / EWC response
- Strong European Trade Union / EWC coordination can avoid that workers are played off against each other
- We have to look beyond national borders in order to develop coordinated strategies and actions at European level
- National legal tools can be used, but are not enough. Only a strong European response, can change European transnational restructuring proposals and can save jobs.

5. EMF Policy approach towards socially responsible company restructuring

- Learning from company cases (GM, Arcelor, AREVA, ...)
- EWC in cooperation with Trade Unions as central point to develop this common European strategy.
- Are we able to work within a framework of prior consultation, knowing that the short term interest of employees / countries might be different in a concrete restructuring case ?

> 10 EMF Principles for transnational restructuring



5. EMF Policy approach towards socially responsible company restructuring



The 10 EMF Principles for transnational restructuring :

- Develop an early warning system
- Secure the right for information and consultation at national and European level
- Set up of a European Trade Union Coordination Group
- Guarantee the transparency of information
- Develop a common platform
- Envisage to negotiate common acceptable solutions
- Develop a communication strategy
- Envisage cross border activities
- Explore legal possibilities to ensure that workers are heard
- A binding European strategy for all

5. EMF Policy approach towards socially responsible company restructuring



How to succeed ?

- EWCs / Trade Unions must be convinced that a European approach is the only answer to internal competition and downwards concession bargaining
- Develop and use the rights for prior consultation at European level within EWCs
 - > first European, before national and local
- Use external expertise to develop a counter proposal vis à vis the company restructuring plan
- Set up a European Trade Union Group for European Coordination
- Key role for the EMF Coordinator