



Impact of the information and consultation (I&C) directive on industrial relations

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Outline

- I. Implementation measures**
- II. Level of application / thresholds**
- III. Employee representatives**
- IV. Mandatory or triggered?**
- V. Enforcement**
- VI. Social partners involvement**
- VII. Impact on IR**
- VIII. Conclusions**
- IX. New Studies**



I. National measures required to implement Directive 2002/14/EC

- **no change or virtually no change**
 - ▶ **AT, FR, DE, NL, PT, SI**
- **minor changes**
 - ▶ **CZ, DK, FI, EL, HU, LV, LT, NO, SK, SE**
- **major changes**
 - ▶ **BG, CY, EE, IE, IT, MT, PL, RO, UK**



I. Key transposition issues

- **establishment or undertaking level?**
- **identity of the employee representatives?**
- **is I&C mandatory or triggered?**
- **scope for agreement-based I&C departing from the statutory provisions**
- **enforcement procedures and sanctions**



II. Level of application

- **establishment**
 - ▶ **AT, DE**
- **establishments and undertakings**
 - ▶ **BG, EL, PT**
- **undertakings**
 - ▶ **majority of MS**



II. Thresholds

- **50 employees**
 - ▶ 13 MS
- **less than 50**
 - ▶ rest
- **irrespective of size**
 - ▶ LT, LV, SE, SI



III. Identity of the employee representatives

- **works councils or elected employee representatives**
 - ▶ **largest category**
- **trade union structures**
 - ▶ **CY, CZ, FI, EL, HU, LT, MT, NO, RO, SE, SK**



III. Identity of the employee representatives

- **IE and UK**
 - ▶ **enterprise-specific agreements/direct I&C methods**
 - ▶ **statutory fallback provisions to apply in the event employees trigger negotiations + these fail**
 - ▶ **IE: fallback is an elected or appointed I&C forum, to include representatives from TU that represent at least 10% of the workforce**
 - ▶ **UK: fallback is for the election of I&C representatives**



IV. I&C > mandatory or dependent on employee initiative?

- **mandatory (irrespective of presence employee representatives)**
 - ▶ **CY, CZ, DK, EE, ES, FI, FR, IT, LV, LU, MT, NL, NO, PT, RO, SE, SK**
- **mandatory (if WC or emp reps exist)**
 - ▶ **AT, DE, LT, SK**
- **I&C to be triggered by employees**
 - ▶ **BG, DE, EL, IE, PL, SI, UK**



V. Enforcement

- **labour inspectorates**
 - ▶ **BG, CZ, LT, NO, RO, SK**
- **arbitration**
 - ▶ **DK, NO, SI, UK**
- **labour courts/specialist tribunals**
 - ▶ **DE, IE, MT, UK**
- **ordinary courts**
 - ▶ **NL**



VI. Involvement of social partners (SP)

- **SP agreement taken up by governments**
 - ▶ BE, BG, DK, IT, NO, PL, UK
- **minor concessions to SP**
 - ▶ CY, CZ, HU
- **non-event**
 - ▶ FI, FR, EL, NL, PT, SE
- **high consensus among SP**
 - ▶ LT, LV, RO
- **heated debate**
 - ▶ EE, IE



VI. Irish case

- **employers concerns**
 - ▶ **recognise existing direct forms of I&C and methods of direct employee involvement**
 - ▶ **employee representatives should be from the organisation concerned**
 - **excluding a role for external trade union officials**
 - ▶ **avoid restrictions on business and management prerogatives**
 - ▶ **ensure a trigger mechanism**
 - ▶ **deter foreign inward investment**
 - ▶ **American Chamber of Commerce Ireland lobbied on the concerns listed above**



VI. Irish case

- **trade unions**
 - ▶ **strong support for collective representation in the implementation**
 - ▶ **statutory fallback mechanism should not be watered down**
 - **employers might simply opt to take no action until the fallback mechanism was triggered**
 - ▶ **key issue was to maintain the traditional single channel of collective representation through trade unions**
 - ▶ **implementation could act as a catalyst for the diffusion of enterprise-level union-management partnership**



VII. Impact on IR practice

- **in most countries little impact on established practice is reported**
 - ▶ **AT, CY, CZ, FR, DE, FI, LV, MT, NL, PT, SE, SI**
 - ▶ **even in IE and UK**
- **too early to be fully assessed**
 - ▶ **CY, EE, EL, IT, PL**
- **some impact**
 - ▶ **BG, DK, HU, RO, SK**



VIII. Conclusions

- **too early for a measured assessment to be made of the overall impact**
- **does a persistent ‘implementation gap’ emerges between the statutory framework and actual practice on the ground**
- **adequacy of the directive’s approach to promoting I&C**



IX. New comparative report: 2010

- **incidence of I&C bodies since the implementation of the directive**
- **procedures for the establishment of I&C bodies**
- **sources of I&C bodies' constitutional provisions**
 - ▶ **legal requirements or organisation-specific agreements/arrangements**
- **impact of I&C**
 - ▶ **particularly in the context of the recession**
- **relationship between I&C bodies and other forms of employee representation/ consultation**



IX. New study: 2011

- **desk research & case studies on company practices on I&C**
- **map, analyse and assess the practice of I&C and interactions with other directives at national level**
 - ▶ **collective redundancies and transfers of undertakings**
 - ▶ **interactions between the European level of I&C (EWCs) and national level**



X. further information

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