

SENATE OF REPUBLIC

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RESOLUTION OF THE 4TH STANDING COMMITTEE

(European Union Policies)

(Rapporteur MURELLI)

adopted at the sitting of 22 May 2024

ABOUT

**PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL AMENDING DIRECTIVE 2009/38/EC AS REGARDS THE
ESTABLISHMENT AND FUNCTIONING OF EUROPEAN WORKS COUNCILS
AND THE EFFECTIVE IMPLEMENTATION OF TRANSNATIONAL
INFORMATION AND CONSULTATION RIGHTS (COM(2024) 14 FINAL)**

pursuant to Rule 144(1a) and (6) of the Rules of Procedure

Communicated to the Presidency on 23 May 2024

The Commission,

examined the proposal for a regulation (COM(2024) 14 final) amending Directive 2009/38/EC on the establishment and operation of European Works Councils (EWCs) in companies with more than 1,000 employees operating in at least two EU countries;

noted that through EWCs the objective of informing and consulting employees on transnational company issues is realised;

considered the involvement of workers in companies as important, in a context of change in the world of work, in order to contribute to the ability to anticipate and manage change, to reduce job losses, to maintain employability and to mitigate the impact on social security systems and related adjustment costs;

Taking into account the report transmitted by the Government pursuant to Article 6 of Law No. 234 of 2012 and the document approved on 10 April 2024 by the XIV Commission of the Chamber of Deputies

considers that the principle of subsidiarity is respected, given the cross-border nature of the undertakings and groups of undertakings, which fall within the scope of the directive, and the transnational nature of the issues covered by the transnational information and consultation requirements;

considers, however, that the principle of proportionality is only partially respected, due to the following considerations.

The concrete effects resulting from the strengthening of information and consultation procedures within the EWC system could result in an increased burden, both in terms of time and cost, in the management of the company, which could affect the competitiveness of the European companies concerned.

In particular, the generic reference in Article 1(4) of Directive 2009/38/EC, as amended by the proposal, to transnational issues "which may reasonably be expected to affect the company", could lead to a broad range of issues to be dealt with in EWCs, also in view of the high incidence of direct or indirect transnational effects for many business decisions.

This would result in an aggravation of many procedures, on issues that are in fact of purely national relevance, with

consequent overlap with consultation and information procedures already provided for in internal regulations.

It is therefore suggested to better circumscribe the definition of transnational issues covered by the legislation, by introducing some quantitative or economic criteria, in order to bring the comparison back to issues of real and important transnational relevance.

With reference to the amendments to Article 5(6), it is considered appropriate to provide for a more precise definition of 'reasonable expenses', relating to legal assistance and the assistance of experts, incurred by the special workers' delegation, and to provide for their approval by the company administration, as already provided for in numerous existing agreements.

With reference to the amendments to Article 8 and to the new Article 8-*bis*, concerning the disclosure of confidential information, it is suggested, with regard to the provision allowing undertakings not to disclose confidential information, that only the objective criteria be provided for and that the requirement of the risk of creating serious difficulties for the operation of the undertaking be deleted.

The latter element could exclude from the notion of confidential information those whose disclosure, while not immediately detrimental to the operation of the company, could otherwise create difficulties in the management of the company.

With reference to the amendments to Article 9 of the directive, concerning the information and consultation procedures of workers, in order to guarantee certainty and predictability in the information and decision-making processes of the company, it is suggested to expressly refer to the constitutive contract of the EWCs the identification of the deadlines within which the information on transnational issues is to be transmitted and the consultation is to be initiated, and the deadlines, prior to the adoption of the decision, within which the opinion is to be expressed.

With reference to the deleted Article 14 and the new Article 14-*bis*, concerning the adaptation of existing agreements on employee consultation to the new regulation, it is considered appropriate to stipulate that, in the event that the existing agreement already provides for revision procedures, respect for the general principle of bargaining autonomy between the parties is nevertheless ensured.

