

# EUROPEAN PARLIAMENT

1999



2004

---

*Session document*

FINAL  
**A5-0026/2002**

24 January 2002

## **\*\*\*III REPORT**

on the joint text approved by the Conciliation Committee for a European Parliament and Council directive establishing a general framework for improving information and consultation rights of employees in the European Community  
(PE-CONS 3677/2001 – C5-0687/2001 – 1998/0315(COD))

European Parliament delegation to the Conciliation Committee

Rapporteur: Fiorella Ghilardotti

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

## CONTENTS

	<b>Page</b>
PROCEDURAL PAGE .....	4
DRAFT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT .....	6

## PROCEDURAL PAGE

At the sitting of 14 April 1999 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive establishing a general framework for improving information and consultation rights of employees in the European Community (COM(1998) 612 – 1998/0315 (COD)).

At the sitting of 5 December 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Employment and Social Affairs (9919/1/2001 – C5-0388/2001).

At the sitting of 23 October 2001 Parliament adopted amendments to the common position.

By letter of 12 December 2001 the Council stated that it was unable to approve all Parliament's amendments.

The President of the Council, in agreement with the President of Parliament, convened a meeting of the Conciliation Committee on 17 December 2001.

At the meeting the Conciliation Committee considered the common position on the basis of the amendments proposed by Parliament.

At the same meeting it reached agreement on a joint text.

At the meeting of 12 December 2001 Parliament's delegation to the Conciliation Committee approved the outcome of the conciliation unanimously.

The following were present for the vote: Renzo Imbeni, vice-president and chairman of the delegation; Michel Rocard, chairman of the Committee on Employment and Social Affairs; Fiorella Ghilardotti, rapporteur; Sylviane H. Ainardi, Theodorus J.J. Bouwman (for Hélène Flautre), Luigi Cocilovo (for Ingo Friedrich), Anne-Karin Glase (for James L.C. Provan), Marie-Thérèse Hermange, Stephen Hughes, Anne Elisabet Jensen, Winfried Menrad, Bartho Pronk, Miet Smet and Anne E.M. Van Lancker.

On 23 January 2002 the co-chairmen of the Conciliation Committee established that the joint text had been approved, pursuant to paragraph III.8 of the Joint declaration on practical arrangements for the new co-decision procedure<sup>1</sup>, and forwarded it to Parliament and the Council in all the official languages.

The report was tabled on 24 January 2002.

---

<sup>1</sup> OJ C 148, 28.5.1999, p. 1.

## DRAFT LEGISLATIVE RESOLUTION

### **European Parliament legislative resolution on the joint text approved by the Conciliation Committee for a European Parliament and Council directive establishing a general framework for improving information and consultation rights of employees in the European Community (PE-CONS 3677/2001 – C5-0687/2001 – 1998/0315(COD))**

#### **(Codecision procedure: third reading)**

*The European Parliament,*

- having regard to the joint text approved by the Conciliation Committee and the relevant Council, Commission and Parliament joint statement (PE-CONS 3677/2001 – C5-0687/2001),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(1998) 612<sup>2</sup>),
  - having regard to the amended Commission proposal (COM(2001) 296<sup>3</sup>),
  - having regard to its position at second reading<sup>4</sup> on the Council common position<sup>5</sup>,
  - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2001) 701 - C5-0603/2001)<sup>6</sup>,
  - having regard to Article 251(5) of the EC Treaty,
  - having regard to Rule 83 of its Rules of Procedure,
  - having regard to the report of its delegation to the Conciliation Committee (A5-0026/2001),
1. Approves the joint text and confirms the joint statement thereon;
  2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
  3. Instructs its Secretary-General duly to sign the act and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Communities;
  4. Instructs its President to forward this legislative resolution to the Council and Commission.

---

<sup>1</sup> OJ C 219, 30.7.1999, p. 230 and OJ C 54, 25.2.2000, p. 75.

<sup>2</sup> OJ C 2, 5.1.1999.

<sup>3</sup> OJ C 240, 28.8.2001, p. 133.

<sup>4</sup> Texts adopted, 23.10.2001, point 10.

<sup>5</sup> OJ C 307, 31.10.2001, p. 16.

<sup>6</sup> OJ C not yet published.

## **EXPLANATORY STATEMENT**

### **Introduction**

The existence, at Community and national levels, of legislation designed to ensure that employees are involved in the running of their firms and decisions concerning them has not always prevented decisions with serious implications for workers being taken and made public without proper information and consultation procedures having first been put in place.

The Community and national legal frameworks that do exist for informing and consulting workers are often overly geared to managing change after the event, neglect the economic aspects of decisions and do not contribute to any real anticipation of employment trends within the undertaking or risk prevention.

Developments in the political, economic, social and legislative environment make it necessary to change these frameworks so as to provide legislative and practical instruments that will allow employees to exercise the right to be informed and consulted, particularly about the economic and financial position of the undertaking, employment, the organisation of work and work contracts.

The aim of the new general framework is to establish minimum requirements applying throughout the Community while leaving Member States free to adopt provisions that are more favourable to employees. The Member States will have to adapt the Community provisions to their specific national situations, giving the social partners a leading role which enables them to define freely, by way of agreement, the information and consultation arrangements that best suit their needs and aspirations.

In order to avoid constraints which would create obstacles to the setting-up and development of small and medium-sized firms, the scope of application of the directive is restricted to undertakings employing at least 50 workers and establishments employing at least 20 workers.

### **First and second reading**

The report by Mrs Ghilardotti (PSE, I), adopted at first reading on 14 April 1999 examined this proposal for a directive. The vote was then confirmed on 16 September 1999. The report tightened up the provisions of the initial text by removing certain exemptions allowed by the Commission, clarified and added a number of definitions, called for the directive to apply to the public sector and for social dialogue to be promoted within small and medium-sized undertakings, strengthened the measures to protect employees' representatives and defined the scope of consultation more precisely.

The Commission amended its original proposal on 23 May 2001. Several of the amendments adopted at first reading were accepted, in particular those concerning the exemptions, some definitions and the minimum requirements for consultation. The Commission did not accept other amendments to avoid making it more difficult to reach agreement or secure an adequate majority in the Council. Finally, the Commission introduced a number of changes in response to the discussions in the Council and, in particular, the concerns expressed by the Member

States because of particular national situations.

The difficulties facing a number of national delegations became evident during the discussion in the Council. Nevertheless, a majority of the Member States expressed agreement in principle to the main elements of the proposal, in particular the aim of establishing a general framework laying down minimum requirements and recognition of the importance of collective bargaining and the role of the social partners in compliance with national practice, the scope of application of the directive and the broad lines of the framework (benefits of the procedures and spirit of cooperation between the social partners, leaving it up to the Member States to adopt more detailed provisions, and protection of confidentiality of sensitive information).

The Council adopted its common position on 23 July 2001 incorporating, first of all, the change in the legal basis necessitated by the Treaty of Amsterdam. The new text included a number of amendments adopted by Parliament at first reading and incorporated by the Commission in its amended proposal. It also made various other changes, in particular relating to the benefits of consultation procedures, the definitions, a second threshold of 20 employees for establishments and the phasing-in of obligations.

At second reading on 23 October 2001 Parliament adopted the Ghilardotti report containing 13 amendments to the Council's common position relating in particular to penalties, definitions, the social dialogue in SMEs, arrangements for informing and consulting employees, implementation of the directive in public administrations and abolition of the transitional arrangements for Member States that do not have any legislative framework in this sphere.

### **Conciliation**

The constituent meeting of the delegation took place on 13 November 2001 and the Commission gave its opinion on Parliament's amendments at second reading on 27 November 2001. The Commission accepted only a few of these amendments as they stood, the majority being rejected or redrafted.

The Commission was instructed by Parliament and the Council to draw up compromise texts, which were examined at the Trialogue of 5 December 2001. The outcome of the Trialogue was then validated and finalised at the Parliament delegation's meeting of 12 December 2001. The Conciliation Committee finally approved the new text at its meeting of 17 December 2001.

In substance, the agreement is based on inclusion of the following provisions in the joint text:

- recital concerning administrative or judicial procedures and effective penalties which must be applied in the event of any breach of the obligations under the directive,
- recital relating to other measures to promote the social dialogue in undertakings not covered by the directive, and in public administrations,
- shortening of the transitional period to one year (two years in the common position) for undertakings employing at least 100 workers or establishments employing at least 50 workers,

- finally, a joint statement by Parliament, the Council and the Commission on worker representation referring to a number of judgments of the Court of Justice.

### **Conclusions**

In the circumstances and given the extremely sensitive nature of this matter in some Member States, highlighted by the problems in reaching agreement on the common position, the adoption of the present text following the conciliation procedure can be seen as a highly satisfactory outcome from the point of view of Parliament.

It represents a significant step forward in the creation of a social Europe and we therefore recommend that it be approved by the Plenary at third reading.