

Amendment 1**Guido Reil, Elena Lizzi, Dominique Bilde, Stefania Zambelli, France Jamet, Nicolaus Fest**

on behalf of the ID Group

Report**A9-0331/2021****Gabriele Bischoff**

Democracy at work: a European framework for employees' participation rights and the revision of the European Works Council Directive (2021/2005(INI))

Motion for a resolution (Rule 181(3) of the Rules of Procedure) replacing non-legislative motion for a resolution A9-0331/2021**European Parliament resolution on democracy at work: a European framework for employees' participation rights and the revision of the European Works Council Directive***The European Parliament,*

- having regard to Article 5 of the Treaty on European Union,
- having regard to Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 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)¹
- having regard to the report from the Commission of 14 May 2018 on the implementation by Member States of Directive 2009/38/EC 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) (COM(2018)0292),
- having regard to the Commission proposal for a Directive of the European Parliament and of the Council on adequate minimum wages in the EU (COM(2020)0682),
- having regard to the Commission proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM(2012)0614),
- having regard to the Commission communication of 11 December 2019 on the European Green Deal (COM(2019)0640),
- having regard to the briefing of its European Added Value Unit in the European

¹ OJ L 122, 16.5.2009, p. 28.

Parliamentary Research Service of January 2021 on European Works Councils (EWCs),

- having regard to the non-paper by Austria, Bulgaria, Denmark, Estonia, Finland, Ireland, Latvia, Lithuania, Malta, the Netherlands and Sweden, submitted in advance of the Porto Social Summit of May 2021,
 - having regard to the Katholieke Universiteit Leuven Centre for Sociological Research working paper of May 2016 entitled ‘European Works Councils on the move: management perspectives on the development of a transnational institution for social dialogue’,
 - having regard to the joint letter of Better Finance, ecoDa, European Family Businesses, European Issuers, the Federation of European Securities Exchanges, Invest Europe and SME United of 3 May 2021 regarding the Commission proposal for a directive on sustainable corporate governance,
 - having regard to the reasoned opinions and/or comments submitted by January 2013 of the Czech Chamber of Deputies and Senate, the Danish Folketing, the Dutch Senate and House of Representatives, the Estonian Parliament, the French Senate and National Assembly, the Polish Sejm and Senate, the Swedish Riksdag, the Romanian Chamber of Deputies and the UK’s House of Commons and House of Lords on the Commission proposal for a directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures,
 - having regard to the reply of the Danish, Icelandic, Norwegian and Swedish trade union federations of 4 September 2020 on the second phase consultation of social partners under Article 154 of the Treaty on the Functioning of the European Union (TFEU) on a possible action addressing the challenges related to fair minimum wages,
 - having regard to the letter of the Swedish Labour Market Council for EU Affairs of 10 December 2020 providing legal analysis of the proposal for a directive on adequate minimum wages in the EU,
 - having regard to the opinion of the European Economic and Social Committee of 20 March 2013 on employee involvement and participation as a pillar of sound business management and balanced approaches to overcoming the crisis²,
 - having regard to the study of the International Labour Organisation of February 2010 entitled ‘A comparative overview of terms and notions on employee participation’,
 - having regard to Rule 54 of its Rules of Procedure,
- A. whereas democracy at work aims to strengthen relations among workers and the relationship between employees and employers, boost employees’ work ethic and job satisfaction, encourage participation at work, make more effective problem-solving possible and lead to a higher level of commitment; whereas various studies have shown that workplace democracy enhances productivity and has positive effects on business

² OJ C 161, 6.6.2013, p. 35.

longevity;

- B. whereas there is a general view across the EU that democracy at work and employee representation contribute to the success of companies in many different sectors, ranging from capital-intensive industries to the services sector; whereas evidence suggests that involving employees has helped many companies to overcome tough decision-making processes and transitions; whereas studies have shown that including employees on boards brings a different perspective and is a positive experience for the company as a whole;
- C. whereas the voices of workers and employees and democracy at work are, among other things, expressed through social dialogue, workers' participation and consultation, collective bargaining, employee representation on boards and health and safety representation;
- D. whereas democracy at work based on social dialogue, collective bargaining and employee participation is a defining feature of the corporate governance in the Member States, in comparison to other regions of the world, which mostly rely on the market or the state;
- E. whereas there is a large variety of employee representation and participation models across the EU; whereas in all Member States, employees are represented at company or establishment level; whereas in some Member States, this representation is provided by trade unions and in other countries employees are represented by works councils; whereas the relative importance and responsibilities of trade unions and works councils varies between Member States; whereas participation rights, which consist of information, consultation and co-determination, are also structured differently in the Member States; whereas in Member States where enforceable co-determination rights do not exist, other instruments allow workers to exert influence, such as strikes and collective bargaining policy; whereas both the levels of trade union density and the proportion of employees covered by collective bargaining vary widely across the Member States; whereas workplace representation and board-level representation also differ from one Member State to another;
- F. whereas regarding sustainable corporate governance, many national corporate governance codes already include recommendations for companies to follow and integrate a stakeholder-oriented perspective; whereas sustainability is already part of national company law; whereas many companies already conduct sustainability reporting in line with different international, national and even regional frameworks and standards;
- G. whereas future EU legislation may risk making private companies responsible for any disruptive events in the supply chain, even those beyond their control;
- H. whereas there is growing unease in European and national industry and among EWCs about the implications of the Green Deal; whereas the European trade union federation IndustriALL, which represents 50 million workers, fears that 11 million jobs in the extractive, automotive and other energy-intensive industries will be directly affected by the Green Deal, whereas the workers potentially affected currently have no prospects;

- I. whereas EWCs are bodies for information and consultation on matters such as trends in employment or investment, the introduction of new working methods, cutbacks, closures and collective redundancies; whereas the negotiation of collective issues through EWCs was and is not envisaged in the recast EWC Directive;
- J. whereas the number of active EWCs has increased significantly over the years, from 62 in 1994 to 636 in 1998; whereas EWCs have reached approximately 1 200 EWCs and SE (European company) councils in 2020, covering over 17 million employees; whereas this is approximately 50 % of an estimated 2 400 companies that meet the threshold for the establishment of an EWC or SE council;
- K. whereas according to the Commission, the recast EWC Directive has improved the quality and scope of information for workers, but has been less effective as regards consultation; whereas in the Commission's view, the current text of the directive, which obliges Member States to put in place 'effective, proportionate and dissuasive' sanctions for violation of its requirements, is sufficient;
- L. whereas the Commission has released a controversial proposal for a directive on adequate minimum wages;
1. Notes that the arrangements and legislation regulating collective employment relationships and democracy at work differ from one Member State to another; notes that the different arrangements and legislation regarding participation and representation of employees in the governance of employment relationships have gradually come into being and are closely related to collective culture and mentality; is of the opinion that, because of the diversity of national models, it would be harmful to impose a 'one-size-fits-all' solution and create a single European model for employee participation, consultation and board-level representation; emphasises that there is no legal basis that allows for the further development of collective labour law at EU level;
 2. Encourages the Member States to refine and improve the government of employment relationships regarding employee autonomy, representation, participation and influence in line with their specific national situations;
 3. Is worried that the Green Deal, the EU Climate Law³ and the 'Fit for 55' package⁴ will further undermine the competitiveness of European industry and that this will put additional pressure and strain on the representation and participation models in different Member States;
 4. Notes that the EU Statute for a European Company⁵ may enable companies to circumvent national legislation, particularly on board-level employee representation; encourages the Member States concerned to adapt their legislation to counter this development;
 5. Emphasises that good corporate governance is essential for companies to make a profit and expand and create jobs; is worried that prescriptive regulating of corporate

³ OJ L 243, 9.7.2021, p. 1.

⁴ COM(2021)0550.

⁵ OJ L 294, 10.11.2001, p. 1.

governance structures will do more harm than good; is worried that initiatives regulating sustainability pressure companies to comply with rules and regulations at the expense of long-term value; is of the opinion that the imposition of ‘one-size-fits-all’ requirements by definition do not take into account the unique circumstances and diversity of companies;

6. Is of the opinion that the existing national corporate governance codes provide private companies with useful guidance on governance, while allowing shareholders to make fundamental strategic decisions; encourages the Member States to improve and further develop sustainable corporate governance within the framework of their national codes;
7. Is of the opinion that the proposal for a corporate sustainability reporting directive⁶ has a disproportionately large scope and introduces extensive aspects on which companies need to report, including mandatory standards; is worried that the proposal introduces obligations on companies to reconcile conflicting interests, and that the liabilities related to these obligations could create legal uncertainty and risk paralysing the functioning of a company; emphasises that the reporting requirements of this directive would place European companies at a disadvantage globally and undermine their competitiveness;
8. Is of the opinion that a directive on binding due diligence requirements could have a negative impact on the business activities, supply chain relationships and global competitiveness of EU companies; is worried that, in particular, the introduction of binding due diligence requirements would generate increased administrative and procedural burdens, penalise smaller companies with few resources, place EU companies at a competitive disadvantage vis-à-vis their counterparts in non-EU countries and make them liable for damage outside their control;
9. Is of the opinion that board members of companies should be chosen and appointed because of their professional competence;
10. Takes the view that it is not up to the EU to regulate and dictate how companies organise their boardrooms; encourages the Member States to adopt and implement a business-led model for self-regulation;
11. Notes that the main argument of the Commission for its proposal for a directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures is that increasing women’s representation improves corporate financial performance; points out that this argument is supported by insufficient evidence; notes that the Commission has used Article 157 TFEU instead of Article 19 TFEU as the legal basis for its proposal for the directive in order to escape the unanimity required from the Council;
12. Points out that running an EWC is a learning process and that cooperation between employers and employees has improved over the years in the companies concerned; notes that reports have shown that employers and employees have found ways to solve problems and overcome operational difficulties in running EWCs; notes that evidence suggests that the provisions of the recast EWC Directive were largely built on already

⁶ COM(2021)0189.

existing practices within multinational companies;

13. Is of the opinion that the quality of information and consultation processes is closely related to corporate trust and mutual trust between employers and employees; emphasises that new legislation and new standards would create uncertainty and pressure for employers and employees to change well-functioning EWCs;
14. Calls on the Commission to analyse why management and employees in some companies that meet the thresholds of the recast EWC Directive have opted not to establish an EWC;
15. Encourages the Member States to provide, in their national laws implementing the recast EWC Directive, sanctions that are sufficiently dissuasive and proportionate;
16. Encourages the Member States to ensure that employed people receive a wage that allows them a decent life in their country; believes that minimum wages may raise wages at the bottom level of the wage distribution thereby ensuring that workers earn an acceptable minimum wage for their work; recalls, in this regard, that any decision on setting minimum wages is the prerogative of the Member States; reiterates that competitive wages can be adequately achieved through collective bargaining;
17. Instructs its President to forward this resolution to the Council, the Commission, and the governments and the parliaments of the Member States.

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