



2024/0006(COD)

18.3.2024

COMPROMISE AMENDMENTS 1 – 16, A – L

Draft report
Dennis Radtke
(PE758.777v01-00)

Amending Directive 2009/38/EC as regards the establishment and functioning of European Works Councils and the effective enforcement of transnational information and consultation rights

Proposal for a directive
(COM(2024)0014 – C9-0012/2024 – 2024/0006(COD))

Amendment 1
Dennis Radtke

Compromise amendment replacing Amendments 14-17, 94-126, 259

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2009/38/EC

Article 1 – paragraph 4

Text proposed by the Commission

“4. Matters shall be considered to be transnational where they can reasonably be expected to concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States.

Those conditions shall be deemed to be met where:

(a) the measures considered by management *of* the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect workers in undertakings or establishments in more than one Member State;

(b) the measures considered by management *of* the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect workers in an undertaking or establishment in one Member State, and workers in an undertaking or establishment in another Member State can reasonably be expected to be affected by the consequences of those measures.”;

Amendment

“4. Matters shall be considered to be transnational where they can reasonably be expected to concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States.

Those conditions shall be deemed to be met where:

(a) the measures considered by management *in* the Community-scale undertaking or Community-scale group of undertakings affect workers in undertakings or establishments in more than one Member State; *or*

b) the measures considered by management *in* the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect workers in an undertaking or establishment in one Member State, and workers in an undertaking or establishment in *at least* another Member State can reasonably be expected to be *substantially* affected by the consequences of those measures.”; *or*

(ba) the measures considered by central management of the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect workers in a Member State other than that in which those measures are being considered;

Or. en

Amendment Alternative 1
Renew, ECR

Compromise amendment replacing Amendments 14-17, 94-126, 259

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2009/38/EC

Article 1 – paragraph 4

Text proposed by the Commission

“4. Matters shall be considered to be transnational where they **can reasonably be expected to** concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States.

Those conditions shall be deemed to be met where:

(a) the measures considered by management of the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect workers in undertakings or establishments in more than one Member State;

(b) the measures considered by management of the Community-scale undertaking or Community-scale group of undertakings **can reasonably be expected to** affect workers in an undertaking or establishment in one Member State, and workers in an undertaking or establishment in another Member State **can reasonably be expected to be** affected by the consequences of those measures.”;

Amendment

“4. Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States.

Those conditions shall be deemed to be met where:

(a) the measures considered by management of the Community-scale undertaking or Community-scale group of undertakings affect workers in undertakings or establishments in more than one Member State; **or**

b) the measures considered by management of the Community-scale undertaking or Community-scale group of undertakings affect workers in an undertaking or establishment in one Member State, and workers in an undertaking or establishment in **at least** another Member State **are substantially** affected by the consequences of those measures.”; **or**

(ba) the measures considered by central management of the Community-scale undertaking or Community-scale group of undertakings substantially affect workers in a Member State other than that in which those measures are being considered;

Amendment 1

Dennis Radtke

Compromise amendment replacing Amendments 14-17, 94-126, 259

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2009/38/EC

Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. In order to determine the transnational character of a matter, the scope of its possible effects on the workforce and the level of management and representation involved shall be taken into account. This includes matters which are of concern to workers in terms of the scope of their potential impact in two or more Member States, as well as matters which involve the transfer of activities between two or more Member States.

Or. en

Amendment Alternative 1

Renew, ECR

Compromise amendment replacing Amendments 14-17, 94-126, 259

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2009/38/EC

Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. In order to determine the transnational character of a matter, the scope of its possible effects on the workforce and the level of management and representation involved shall be taken into account. This includes matters which are of concern to workers in terms of the scope of their potential impact in two or

more Member States, as well as matters which involve the transfer of activities between two or more Member States.

Or. en

Amendment 2

Dennis Radtke

Compromise amendment replacing Amendments 18 – 20, 127, 130-137

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2009/38/EC

Article 2 – paragraph 1

Text proposed by the Commission

“in Article 2(1), points (f) and (g) are replaced by the following:

(c) ‘Community-scale group of undertakings’ means a group of undertakings with the following characteristics:

— at least 1 000 employees within the Member States,

— at least two group undertakings in different Member States,

and

— at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State;

(d) ‘employees’ representatives’ means the employees’ representatives provided for by national law and/or practice;

“(f) ‘information’ means transmission of data by the employer to the employees’

Amendment

“in Article 2(1), points **(c), (d)**, (f) and (g) are replaced by the following:

(c) ‘Community-scale group of undertakings’ means a group of undertakings with the following characteristics:

- at least 1 000 employees within the Member States,

- at least two group undertakings in different Member States,

and

- at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State;

For the purposes of this paragraph, employees of controlling and controlled undertakings as defined in Article 3(2)(ca) of this Directive shall also be taken into account;

(d) ‘employees’ representatives’ means ***trade unions or*** the employees’ representatives provided for by national law and/or practice;

“(f) ‘information’ means transmission of data by the employer to the employees’

representatives in order to enable them to acquaint themselves with the subject matter and to examine it;

(g) ‘consultation’ means the establishment of dialogue and exchange of views between employees’ representatives and central management or any more appropriate level of management;”

representatives in order to enable them to acquaint themselves with the subject matter and to examine it; ***information shall be given at such time, in such fashion and with such content as are appropriate to enable employees’ representatives to undertake an in-depth assessment of their possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings;***

(g) ‘consultation’ means the establishment of dialogue and exchange of views between employees’ representatives and central management or any more appropriate level of management ***at such time, in such fashion and with such content as enables employees’ representatives to express a prior opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which is to be taken into account within the Community-scale undertaking or Community-scale group of undertakings. Consultation shall take place in such a way as to enable employees’ representatives to obtain a reasoned written response in due time from the central management prior to the adoption of the decision provided the employee representatives expressed their opinion within a reasonable time in accordance with the first sentence;***”

Or. en

Amendment 3 Dennis Radtke

Compromise amendment replacing Amendments 56, 128, 129, 138-144, 155-157

Proposal for a directive
Article 1 – paragraph 1 – point 2 a (new)
Directive 2009/38/EC
Article 3 – paragraph 1

Present text

1. For the purposes of this Directive, ‘controlling undertaking’ means an undertaking which can exercise a dominant influence over another undertaking (the controlled undertaking) by virtue, for example, of ownership, financial participation or the rules which govern it.

Amendment

1. For the purposes of this Directive, ‘controlling undertaking’ means an undertaking which can exercise a dominant influence over another undertaking (the controlled undertaking) by virtue, for example, of ownership, financial participation, **decision control** or the rules which govern it.

Or. en

Amendment 3
Dennis Radtke

Compromise amendment replacing Amendments 56, 128, 129, 138-144, 155-157

Proposal for a directive
Article 1 – paragraph 1 – point 2 a (new)
Directive 2009/38/EC
Article 3 – paragraph 2

Present text

2. The ability to exercise a dominant influence shall be presumed, without prejudice to proof to the contrary, when an undertaking, in relation to another undertaking directly or indirectly:

Amendment

2. The ability to exercise a dominant influence shall be presumed, without prejudice to proof to the contrary, when an undertaking, in relation to another undertaking directly or indirectly:

Or. en

Amendment 3
Dennis Radtke

Compromise amendment replacing Amendments 56, 128, 129, 138-144, 155-157

Proposal for a directive
Article 1 – paragraph 1 – point 2 a (new)
Directive 2009/38/EC
Article 3 – paragraph 2 – point c a (new)

Present text

Amendment

In Article 3(2), a new point (ca) is added:

(c a) operates directly or indirectly in the internal market selling goods or providing services through franchise or license agreements concluded with independent third-party companies in return for royalties where these agreements ensure a common identity, a common business name and/or concept and the application of uniform business methods.

Or. en

Amendment 4
Dennis Radtke

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/38/EC

Article 5 – paragraph 1

Present text

Amendment

1. In order to achieve the objective set out in Article 1(1), the central management shall initiate negotiations for the establishment of a European Works Council or an information and consultation procedure on its own initiative or at the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States.

1. In order to achieve the objective set out in Article 1(1), the central management shall initiate negotiations for the establishment of a European Works Council or an information and consultation procedure on its own initiative or at the ***either joint or separate*** written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States.

Or. en

Amendment Alternative 4
Renew, ECR

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2009/38/EC
Article 5 – paragraph 1

Present text

1. In order to achieve the objective set out in Article 1(1), the central management shall initiate negotiations for the establishment of a European Works Council or an information and consultation procedure on its own initiative or at the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States.

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Or. en

Amendment 4
Dennis Radtke

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2009/38/EC
Article 5 – paragraph 2

Present text

2. For this purpose, a special negotiating body shall be established in accordance with the following guidelines:

Amendment

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Or. en

Amendment Alternative 4
Renew, ECR

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2009/38/EC
Article 5 – paragraph 2

Present text

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Or. en

Amendment 4

Dennis Radtke

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/38/EC

Article 5 – paragraph 2 – point b

Text proposed by the Commission

“(b) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or the Community-scale group of undertakings, in a manner that strives to achieve a gender-balanced representation, by allocating in respect of each Member State one seat per portion of employees employed in that Member State, amounting to 10 %, or a fraction thereof, of the number of employees employed in all the Member States taken together;”;

Amendment

“(b) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or the Community-scale group of undertakings, in a manner that strives to achieve a gender-balanced representation, ***whereby women and men each hold at least 40% of the posts of member of the special negotiating body***, by allocating in respect of each Member State one seat per portion of employees employed in that Member State, amounting to 10%, or a fraction thereof, of the number of employees employed in all the Member States taken together. ***If this objective is not reached, the reasons should be explained in written by the special negotiating body***;”;

Or. en

**Amendment Alternative 4
Renew, ECR**

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2009/38/EC
Article 5 – paragraph 2 – point b

Text proposed by the Commission

“(b) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or the Community-scale group of undertakings, in a manner that strives to achieve a gender-balanced representation, by allocating in respect of each Member State one seat per portion of employees employed in that Member State, amounting to 10 %, or a fraction thereof, of the number of employees employed in all the Member States taken together;”;

Amendment

“(b) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or the Community-scale group of undertakings, in a manner that strives to achieve a gender-balanced representation, ***whereby women and men each hold at least 40% of the posts of member of the special negotiating body***, by allocating in respect of each Member State one seat per portion of employees employed in that Member State, amounting to 10%, or a fraction thereof, of the number of employees employed in all the Member States taken together. ***If this objective is not reached, the reasons should be explained in written by the special negotiating body;***”;

Or. en

Amendment 4
Dennis Radtke

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2009/38/EC
Article 5 – paragraph 4 – subparagraph 3

Present text

For the purpose of the negotiations, the special negotiating body may request assistance from ***experts of its choice which can include*** representatives of competent recognised Community-level trade union organisations. Such experts and such trade union representatives may be present at negotiation meetings in an advisory

Amendment

For the purpose of the negotiations, the special negotiating body may request assistance from representatives of competent recognised Community-level trade union organisations ***and, if needed, further experts***. Such experts and such trade union representatives may be present at negotiation meetings in an advisory

capacity at the request of the special negotiating body.

capacity at the request of the special negotiating body.

Or. en

**Amendment Alternative 4
Renew, ECR**

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/38/EC

Article 5 – paragraph 4 – subparagraph 3

Present text

For the purpose of the negotiations, the special negotiating body may request assistance from ***experts of its choice which can include*** representatives of competent recognised Community-level trade union organisations. Such experts and such trade union representatives may be present at negotiation meetings in an advisory capacity at the request of the special negotiating body.

Amendment

For the purpose of the negotiations, the special negotiating body may request assistance from representatives of competent recognised Community-level trade union organisations ***and, if needed, further experts***. Such experts and such trade union representatives may be present at negotiation meetings in an advisory capacity at the request of the special negotiating body.

Or. en

**Amendment 4
Dennis Radtke**

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/38/EC

Article 5 – paragraph 6

Text proposed by the Commission

“These expenses shall include reasonable costs of experts, including for legal assistance, insofar as necessary for that purpose, as well as reasonable costs of legal representation and participation in administrative or judicial proceedings.

Amendment

“These expenses shall include reasonable costs of experts, including ***a representative of a recognised Community-level trade-union***, for legal assistance, insofar as necessary for that purpose, as well as reasonable costs of legal representation and

Expenses shall be notified to central management before they are incurred.”;

participation in administrative or judicial proceedings. Expenses shall be notified to **and approved by** central management before they are incurred.”;

Or. en

**Amendment Alternative 4
Renew, ECR**

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

**Proposal for a directive
Article 1 – paragraph 1 – point 3**
Directive 2009/38/EC
Article 5 – paragraph 6

Text proposed by the Commission

“These expenses shall include reasonable costs of experts, including for legal assistance, insofar as necessary for that purpose, as well as reasonable costs of legal representation and participation in administrative or judicial proceedings. Expenses shall be notified to central management before they are incurred.”;

Amendment

“These expenses shall include reasonable costs of experts, including for legal assistance, insofar as necessary for that purpose, as well as reasonable costs of legal representation and participation in administrative or judicial proceedings. Expenses shall be notified to **and approved by** central management before they are incurred.”;

Or. en

**Amendment 4
Dennis Radtke**

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

**Proposal for a directive
Article 1 – paragraph 1 – point 3**
Directive 2009/38/EC
Article 5 – paragraph 6 – subparagraph 2

Text proposed by the Commission

– in the second subparagraph, the second sentence is deleted;

Amendment

– in the second subparagraph, the second sentence is deleted;

Or. en

Amendment Alternative 4
Renew, ECR

Compromise amendment replacing Amendments 21-24, 147-154, 158-173

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/38/EC

Article 5 – paragraph 6 – subparagraph 2

Text proposed by the Commission

– in the second subparagraph, the second sentence is deleted;

Amendment

– in the second subparagraph, the second sentence is deleted;

Or. en

Amendment 5
Dennis Radtke

Compromise amendment replacing Amendments 26, 174, 176-214

Proposal for a directive

Article 1 – paragraph 1 – point 4

Directive 2009/38/EC

Article 6 – paragraph 2

Text proposed by the Commission

(d) the format, venue, frequency and duration of meetings of the European Works Council;”;

“(f) the financial and material resources to be allocated to the European Works Council, including at least with respect to the following aspects:

– the possible use of experts, including legal experts, to assist the European Works Council in the discharge of its functions;

– legal representation and participation of the European Works Council, or of its members on its behalf, in administrative or judicial proceedings;

– the provision of relevant training to the members of the European Works Council, without prejudice to the minimum

Amendment

(d) the format, venue, frequency and duration of meetings of the European Works Council;”;

“(f) the financial and material resources to be allocated to the European Works Council, including at least with respect to the following aspects:

– the possible use of experts, including legal experts, to assist the European Works Council in the discharge of its functions;

– legal representation and participation of the European Works Council, or of its members on its behalf, in administrative or judicial proceedings;

– the provision of relevant training to the members of the European Works Council, without prejudice to the minimum

requirement in Article 10(4), first subparagraph;”;

The requirement to determine the elements listed in the first subparagraph, as amended by [OP: insert reference to this amending Directive], shall apply also with respect to European Works Council agreements concluded before [OP: insert date laid down in the second subparagraph of Article 2 of this amending Directive].*

* [OP: insert OJ reference to this amending Directive.]”;

requirement in Article 10(4), first subparagraph;”;

deleted

deleted

Or. en

Amendment 5

Dennis Radtke

Compromise amendment replacing Amendments 26, 174, 176-214

Proposal for a directive

Article 1 – paragraph 1 – point 4

Directive 2009/38/EC

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

“2a. The central management and the special negotiating body, when negotiating *or renegotiating* a European Works Council agreement, shall agree and lay down the necessary arrangements for attaining, *as far as possible*, and without prejudice to national laws on electing workers representatives, the objective of gender balance whereby women and men each comprise at least 40 % of European Works Council members, and where applicable, at least 40 % of select committee members.”;

Amendment

“2a. The central management and the special negotiating body, when negotiating a European Works Council agreement, shall agree and lay down the necessary arrangements for attaining, and without prejudice to national laws on electing workers representatives, the objective of gender balance whereby women and men each comprise at least 40 % of European Works Council members, and where applicable, at least 40 % of select committee members.”;

Or. en

Amendment 6

Dennis Radtke

Compromise amendment replacing Amendments 27-29, 215-225

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/38/EC

Article 7 – paragraph 1

Present text

1. In order to achieve the objective set out in Article 1(1), the subsidiary requirements laid down by the legislation of the Member State in which the central management is situated shall apply:

Amendment

1. In order to achieve the objective set out in Article 1(1), the subsidiary requirements laid down by the legislation of the Member State in which the central management is situated shall apply ***with immediate effect***:

Or. en

Amendment 6

Dennis Radtke

Compromise amendment replacing Amendments 27-29, 215-225

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/38/EC

Article 7 – paragraph 1 – indent 2 a (new)

Present text

Amendment

in Article 7 (1), a new indent is inserted between the second and the third indent:

“— where the special negotiating body is not convened on a regular basis,

Or. en

Amendment 6

Dennis Radtke

Compromise amendment replacing Amendments 27-29, 215-225

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/38/EC

Article 7 – paragraph 1 – indent 3

Present text

— where, after **three years** from the date of **this** request, they are unable to conclude an agreement as laid down in Article 6 and the special negotiating body has not taken the decision provided for in Article 5(5).

Amendment

— where, after **24 months** from the date of **such a** request, they are unable to conclude an agreement as laid down in Article 6 and the special negotiating body has not taken the decision provided for in Article 5(5).

Or. en

Amendment 6

Dennis Radtke

Compromise amendment replacing Amendments 27-29, 215-225

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/38/EC

Article 7 – paragraph 1 – indent 3 b (new)

Present text

Amendment

in Article 7(1), the following indent is added:

— where an agreement as laid down in Article 6 has been terminated and no new agreement has been concluded within 24 months after the last day of validity of that agreement.

Or. en

Amendment 7

Dennis Radtke

Compromise amendment replacing Amendments 30-32, 226-236

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2009/38/EC

Article 8

Text proposed by the Commission

Amendment

1. Member States shall provide that members of special negotiating bodies,

1. Member States shall provide that members of special negotiating bodies,

members of European Works Councils or employees' representatives in the framework of an information and consultation procedure, and any experts who assist them, are not authorised to reveal information which has expressly been provided to them in confidence by central management. In addition, central management may set up adequate information transmission and storage arrangements to help safeguard the confidentiality of information provided in confidence.

2. When central management provides information in confidence in accordance with paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the **reasons** justifying the provision of information in confidence.

3. The obligation referred in paragraph 1 shall continue to apply, wherever the persons referred to in paragraph 1 are, even after the expiry of their terms of office, until, **in agreement with central management**, the justification provided is considered to have become obsolete.”;

members of European Works Councils or employees' representatives in the framework of an information and consultation procedure, and any experts who assist them, are not authorised to reveal information which has expressly been provided to them in confidence by central management ***within the conditions and limits laid down by Union and national law and subject to objective criteria***. In addition, central management may set up adequate information transmission and storage arrangements to help safeguard the confidentiality of information provided in confidence.

2. When central management provides information in confidence in accordance with paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the ***objective criteria*** justifying the provision of information in confidence ***and shall determine the duration of the confidentiality requirements***.

3. The obligation referred in paragraph 1 shall continue to apply, wherever the persons referred to in paragraph 1 are, even after the expiry of their terms of office, until the justification provided is considered to have become obsolete.”;

Or. en

**Amendment Alternative 7
Renew, ECR**

Compromise amendment replacing Amendments 30-32, 226-236

**Proposal for a directive
Article 1 – paragraph 1 – point 6**
Directive 2009/38/EC
Article 8

Text proposed by the Commission

1. Member States shall provide that members of special negotiating bodies, members of European Works Councils or employees' representatives in the framework of an information and consultation procedure, and any experts who assist them, are not authorised to reveal information which has expressly been provided to them in confidence by central management. In addition, central management may set up adequate information transmission and storage arrangements to help safeguard the confidentiality of information provided in confidence.
2. When central management provides information in confidence in accordance with paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the *reasons* justifying the provision of information in confidence.
3. The obligation referred in paragraph 1 shall continue to apply, wherever the persons referred to in paragraph 1 are, even after the expiry of their terms of office, until, in agreement with central management, the justification provided is considered to have become obsolete.”;

Amendment

1. Member States shall provide that members of special negotiating bodies, members of European Works Councils or employees' representatives in the framework of an information and consultation procedure, and any experts who assist them, are not authorised to reveal information which has expressly been provided to them in confidence by central management ***within the conditions and limits laid down by Union and national law and subject to objective criteria***. In addition, central management may set up adequate information transmission and storage arrangements to help safeguard the confidentiality of information provided in confidence.
2. When central management provides information in confidence in accordance with paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the ***objective criteria*** justifying the provision of information in confidence ***and shall determine the duration of the confidentiality requirements***.
3. The obligation referred in paragraph 1 shall continue to apply, wherever the persons referred to in paragraph 1 are, even after the expiry of their terms of office, until, in agreement with central management, the justification provided is considered to have become obsolete.”;

Or. en

Amendment 7
Dennis Radtke

Compromise amendment replacing Amendments 30-32, 226-236

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2009/38/EC
Article 8 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Paragraph 1 shall not apply to members of the European Works Council who reveal information to national or local work councils that may affect the situation of workers where such information has been provided to them in confidence and is subject to national rules on confidentiality.

Or. en

Amendment 8
Dennis Radtke

Compromise amendment replacing Amendments 33, 237-248

Proposal for a directive
Article 1 – paragraph 1 – point 7
Directive 2009/38/EC
Article 8 a (new)

Text proposed by the Commission

Amendment

1. Member States shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory is not obliged to transmit information to members of special negotiating bodies or European Works Councils, or employees' representatives in the framework of an information and consultation procedure, and any experts who assist them, when its nature is such that, according to objective criteria, it would seriously harm the functioning of the undertakings concerned.

A Member State may make such dispensation subject to prior administrative or judicial authorisation.

. When central management does not

1. Member States shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory is not obliged to transmit information to members of special negotiating bodies or European Works Councils, or employees' representatives in the framework of an information and consultation procedure, and any experts who assist them, when its nature is such that, according to objective criteria, it would seriously harm the functioning of the undertakings concerned.

Member States shall make such dispensation subject to prior administrative or judicial authorisation.

. When central management does not

transmit information on the grounds referred to in paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the reasons justifying the non-transmission of information.”;

transmit information on the grounds referred to in paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the reasons justifying the non-transmission of information.”;

Or. en

**Amendment Alternative 8
Renew, ECR**

Compromise amendment replacing Amendments 33, 237-248

Proposal for a directive

Article 1 – paragraph 1 – point 7

Directive 2009/38/EC

Article 8 a (new)

Text proposed by the Commission

1. Member States shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory is not obliged to transmit information to members of special negotiating bodies or European Works Councils, or employees' representatives in the framework of an information and consultation procedure, and any experts who assist them, when its nature is such that, according to objective criteria, it would seriously harm the functioning of the undertakings concerned.

A Member State may make such dispensation subject to prior administrative or judicial authorisation.

. When central management does not transmit information on the grounds referred to in paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and

Amendment

1. Member States shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory is not obliged to transmit information to members of special negotiating bodies or European Works Councils, or employees' representatives in the framework of an information and consultation procedure, and any experts who assist them, when its nature is such that, according to objective criteria, it would seriously harm the functioning of the undertakings concerned.

Member States may make such dispensation subject to prior administrative or judicial authorisation.

. When central management does not transmit information on the grounds referred to in paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and

consultation procedure of the reasons justifying the non-transmission of information.”;

consultation procedure of the reasons justifying the non-transmission of information.”;

Or. en

Amendment 9
Dennis Radtke

Compromise amendment replacing Amendments 34-37, 249-265

Proposal for a directive
Article 1 – paragraph 1 – point 8
Directive 2009/38/EC
Article 9 – paragraph 2

Text proposed by the Commission

2. Information on transnational matters shall be given at such time, in such fashion and with such content as are **appropriate** to enable employees’ representatives to undertake an in-depth assessment of their possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings.

Amendment

2. Information on transnational matters shall be given at such time, in such fashion and with such content as are **necessary and sufficient** to enable **the European Works Council to consult relevant** employees’ representatives **at national and local level**, to undertake an in-depth assessment of their possible impact, and, where appropriate, prepare for **meaningful** consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings.

Or. en

Amendment 9
Dennis Radtke

Compromise amendment replacing Amendments 34-37, 249-265

Proposal for a directive
Article 1 – paragraph 1 – point 8
Directive 2009/38/EC
Article 9 – paragraph 3

Text proposed by the Commission

3. Consultation shall take place at such time, in such fashion and with such

Amendment

3. Consultation shall take place at such time, in such fashion and with such

content as it enables employees' representatives to express an opinion prior to the adoption of the decision and based on the information provided in accordance with paragraph 2, without prejudice to the responsibilities of the management, and within a reasonable time taking into account the urgency of the matter. The employees' representatives shall be entitled to a reasoned written response from the central management or any more appropriate level of management prior to the adoption of the decision on the measures in question, provided the employee representatives expressed their opinion within a reasonable time in accordance with the first sentence.

content as it enables employees' representatives to express an opinion prior to the adoption of the decision and based on the information provided in accordance with paragraph 2, without prejudice to the responsibilities of the management, and within a reasonable time taking into account the urgency of the matter. The employees' representatives shall be entitled to a reasoned written response from the central management or any more appropriate level of management prior to the adoption of the decision on the measures in question, provided the employee representatives expressed their opinion within a reasonable time in accordance with the first sentence.

Or. en

Amendment 9
Dennis Radtke

Compromise amendment replacing Amendments 34-37, 249-265

Proposal for a directive
Article 1 – paragraph 1 – point 8
Directive 2009/38/EC
Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In duly justified and exceptional cases, where the adoption of a decision requires urgency, management and employees' representatives shall carry out an effective information and consultation process in accordance with paragraphs 2 and 3 as quickly as possible. When appropriate and agreed upon, digital means of communication and coordination can be used for this purpose.

Or. en

Amendment 9
Dennis Radtke

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Compromise amendment replacing Amendments 34-37, 249-265

Proposal for a directive

Article 1 – paragraph 1 – point 8

Directive 2009/38/EC

Article 9 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. If there is a dispute between the central management and the European Works Council or employees' representatives as to whether an information and consultation procedure is to be carried out, the central management shall provide duly substantiated grounds in writing for the reasons why the information and consultation requirements under this Directive or under agreements concluded pursuant thereto do not apply, including the reasons that justify the absence of transnational issues.

Or. en

Amendment 9

Dennis Radtke

Compromise amendment replacing Amendments 34-37, 249-265

Proposal for a directive

Article 1 – paragraph 1 – point 8

Directive 2009/38/EC

Article 9 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. In so far as it is necessary for the European Works Council to carry out its tasks, the European Works Council or the select committee may request assistance from experts of its choice. Such experts may include representatives of competent recognised Community-level trade union organisations. At the request of the European Works Council, such experts shall be present at meetings of the European Works Council and meetings

with the central management in an advisory capacity.

Or. en

Amendment 10

Dennis Radtke

Compromise amendment replacing Amendments 38 – 44, 267-276

Proposal for a directive

Article 1 – paragraph 1 – point 8

Directive 2009/38/EC

Article 10

Text proposed by the Commission

1. Without prejudice to the competence of other bodies or organisations in this respect, the members of the European Works Council shall have the means required to apply the rights arising from this Directive, to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings.

2. Without prejudice to Articles 8 and 8a, the members of the European Works Council shall have the right and necessary means to inform the representatives of the employees of the establishments or of the undertakings of a Community-scale group of undertakings or, in the absence of representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure, in particular before and after the meetings with the central management.

3. Members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions under the procedure referred to in Article 6(3) shall,

Amendment

1. Without prejudice to the competence of other bodies or organisations in this respect, the members of the *special negotiating body, the members of the* European Works Council *and the employees' representatives* shall have the means *and legal capacity* required to apply the rights arising from this Directive, to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings.

2. Without prejudice to Articles 8 and 8a, the members of the European Works Council shall have the right and necessary means to inform the representatives of the employees of the establishments or of the undertakings of a Community-scale group of undertakings or, in the absence of representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure, *and whenever it deems it necessary to perform its tasks deriving from this Directive*, in particular before and after the meetings with the central management.

3. Members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions under the procedure referred to in Article 6(3) shall,

in the exercise of their functions, enjoy protection and guarantees equivalent to those provided for employees' representatives by the national legislation and practice in force in their country of employment.

This shall apply in particular to attendance at meetings of special negotiating bodies or European Works Councils or any other meetings within the framework of the agreement referred to in Article 6(3), the payment of wages for members who are on the staff of the Community-scale undertaking or the Community-scale group of undertakings for the period of absence necessary for the performance of their duties, and protection against retaliatory measures or dismissal.

4. In so far as this is necessary for the exercise of their representative duties in an international environment, the members of

in the exercise of their functions, ***including the right to form and join trade unions***, enjoy protection and guarantees equivalent to those provided for employees' representatives by the national legislation and/or practice in force in their country of employment.

This shall apply in particular to attendance at meetings of special negotiating bodies or European Works Councils or any other meetings within the framework of the agreement referred to in Article 6(3), the payment of wages for members who are on the staff of the Community-scale undertaking or the Community-scale group of undertakings for the period of absence necessary for the performance of their duties, and protection against retaliatory measures or dismissal.

A member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, shall be entitled to participate in a meeting of the special negotiating body or of the European Works Council, or in any other meeting under any procedures established pursuant to Article 6(3), where that member or alternate is not at sea or in a port in a country other than that in which the shipping company is domiciled, when the meeting takes place.

Meetings shall, where practicable, be scheduled to facilitate the participation of members or alternates, who are members of the crews of seagoing vessels.

In cases where a member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, is unable to attend a meeting, the possibility of using, where possible, new information and communication technologies shall be considered.

4. In so far as this is necessary for ***and linked to*** the exercise of their representative duties in an international

the special negotiating body and of the European Works Council shall be provided with training without loss of wages.

Without prejudice to agreements concluded pursuant to Article 6(2), point (f), the costs of such training and related expenses shall be borne by the central management, provided that the central management has been informed in advance.

environment, the members of the special negotiating body and of the European Works Council shall be provided with training without loss of wages.

Without prejudice to agreements concluded pursuant to Article 6(2), point (f), the costs of such training and related expenses shall be borne by the central management, *or any other appropriate level of management*, provided that the central management *or any other appropriate level of management*, has been informed in advance.

Or. en

Amendment 11

Dennis Radtke

Compromise amendment replacing Amendments 45-53, 277-306

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point a

Directive 2009/38/EC

Article 11 – paragraph 2

Text proposed by the Commission

2. Member States shall provide for appropriate measures in the event of failure to comply with the national provisions adopted pursuant to this Directive. In particular, they shall ensure that:

(a) adequate procedures are available to enable the rights and obligations deriving from this Directive to be enforced in a timely and effective manner;

Amendment

2. Member States shall provide for appropriate measures in the event of failure to comply with the national provisions adopted pursuant to this Directive. In particular, they shall ensure that:

(a) adequate *administrative and judicial* procedures are available *and easily accessible* to enable the rights and obligations deriving from this Directive to be enforced in a timely and effective manner, *to apply for and terminate including the possibility to request a preliminary injunction for the temporary suspension of decisions of the central management where such decisions are challenged on the basis that there has been an infringement of the information and consultation requirements under this Directive or under agreements concluded pursuant thereto. The effects of the*

(b) penalties that are effective, dissuasive and proportionate are applicable in cases of infringement of the rights and obligations deriving from this Directive.

In the event of failure to comply with the national provisions transposing the obligations under Article 9(2) and (3), Member States shall provide for pecuniary sanctions, to be determined considering the criteria listed in the third subparagraph of this paragraph, without prejudice to the possibility to provide for other types of sanctions in addition.

For the purposes of point (b), of the first subparagraph, Member States shall take into consideration, when determining penalties, the gravity, duration, consequences, and the intentional or negligent nature of the offence, and in respect of pecuniary sanctions, also the size and financial situation of the sanctioned undertaking or group, and any other relevant criteria.”;

challenged decisions on employment contracts or employment relationships of the affected employees shall be suspended accordingly;

(b) penalties that are effective, dissuasive and proportionate are applicable in cases of infringement of the rights and obligations deriving from this Directive.

The penalties referred to in point b) of this paragraph shall include:

(i) financial penalties that are proportionate to the nature, gravity and duration of the undertaking’s infringement and which shall increase in amount according to the number of affected employees;

(ii) orders excluding the undertaking from an entitlement to some or all public benefits, aids or subsidies, including Union funds managed by the relevant Member States, for a period of up to three years;

(iii) orders excluding the undertaking from participating in a public contract as defined in Directive 2014/24/EU of the European Parliament and of the Council^{1a}.

In the case of infringements as referred to in point (b), of this paragraph, which are not committed intentionally, the financial penalties referred to in point (a) of this paragraph, shall be substantive and equivalent to those provided for in Article 83(4) of Regulation (EU) 2016/679^{1b}.

In the case of infringements as referred to in point (b) of this paragraph which are committed intentionally, the financial penalties referred to in point (a) of this paragraph shall be substantive and equivalent to those provided for in Article 83(5) of Regulation (EU) 2016/679.”;

^{1a} *Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).*

^{1b} *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).*

Or. en

**Amendment Alternative 11
Renew, ECR**

Compromise amendment replacing Amendments 45-53, 277-306

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point a

Directive 2009/38/EC

Article 11 – paragraph 2

Text proposed by the Commission

2. Member States shall provide for appropriate measures in the event of failure to comply with the national provisions adopted pursuant to this Directive. In particular, they shall ensure that:

(a) adequate procedures are available to enable the rights and obligations deriving from this Directive to be enforced in a timely and effective manner;

(b) penalties that are effective, dissuasive and proportionate are applicable in cases of infringement of the rights and obligations deriving from this Directive.

Amendment

2. Member States shall provide for appropriate measures in the event of failure to comply with the national provisions adopted pursuant to this Directive. In particular, they shall ensure that:

(a) adequate **administrative and judicial** procedures are available **and easily accessible** to enable the rights and obligations deriving from this Directive to be enforced in a timely and effective manner;

(b) penalties that are effective, dissuasive and proportionate are applicable in cases of infringement of the rights and obligations deriving from this Directive.

The penalties referred to in point b) of

this paragraph shall include:

(i) financial penalties that are proportionate to the nature, gravity and duration of the undertaking's infringement and which shall increase in amount according to the number of affected employees;

(ii) orders excluding the undertaking from an entitlement to relevant Union funds, for a period of up to three years;

(iii) orders restricting the undertaking from participating in a public contract as defined in Directive 2014/24/EU of the European Parliament and of the Council^{1a}.

^{1a} *Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).*

Or. en

Amendment 11

Dennis Radtke

Compromise amendment replacing Amendments 45-53, 277-306

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point b

Directive 2009/38/EC

Article 11 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

the following subparagraph is inserted after the first subparagraph of paragraph 3:

"The central management shall bear the judicial costs incurred in carrying out the procedures, the costs of legal representation and subsidiary costs such as subsistence and travel expenses for at least one employees' representative;"

Amendment 11

Dennis Radtke

Compromise amendment replacing Amendments 45-53, 277-306

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point c

Directive 2009/38/EC

Article 11 – paragraph 4

Text proposed by the Commission

the following paragraph 4 is added:

“4. Where Member States make access to legal proceedings conditional upon the prior implementation of an alternative dispute resolution, that procedure shall neither result in a decision which is binding on the parties concerned, nor otherwise prejudice their right to bring legal proceedings.”;

Amendment

the following paragraph 4 is added:

“4. ***Member States are encouraged to develop out-of-court mediation procedures enabling both parties to find acceptable solutions.*** Where Member States make access to legal proceedings conditional upon the prior implementation of an alternative dispute resolution, that procedure shall neither result in a decision which is binding on the parties concerned, nor otherwise prejudice their right to bring legal proceedings.”;

Or. en

Amendment Alternative 11

Renew, ECR

Compromise amendment replacing Amendments 45-53, 277-306

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point c

Directive 2009/38/EC

Article 11 – paragraph 4

Text proposed by the Commission

the following paragraph 4 is added:

“4. Where Member States make access to legal proceedings conditional upon the prior implementation of an alternative dispute resolution, that procedure shall neither result in a decision which is binding on the parties concerned, nor otherwise

Amendment

the following paragraph 4 is added:

“4. ***Member States are encouraged to develop out-of-court mediation procedures enabling both parties to find acceptable solutions.*** Where Member States make access to legal proceedings conditional upon the prior implementation

prejudice their right to bring legal proceedings.”;

of an alternative dispute resolution, that procedure shall neither result in a decision which is binding on the parties concerned, nor otherwise prejudice their right to bring legal proceedings.”;

Or. en

Amendment 12

Dennis Radtke

Compromise amendment replacing Amendments 266, 307-309

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/38/EC

Article 12 – paragraph 2

Present text

2. The arrangements for the links between the information and consultation of the European Works Council and national employee representation bodies shall be established by the agreement referred to in Article 6. That agreement shall be without prejudice to the provisions of national law and/or practice on the information and consultation of employees.

Amendment

2. The arrangements for the links between the information and consultation of the European Works Council and national employee representation bodies shall be established by the agreement referred to in Article 6 ***in order to ensure a good coordination between information and consultation processes within the European Works Council and those established at national level.*** That agreement shall be without prejudice to the provisions of national law and/or practice on the information and consultation of employees.

Or. en

Amendment 12

Dennis Radtke

Compromise amendment replacing Amendments 266, 307-309

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/38/EC

Article 12 – paragraph 6

(10) in Article 12, the following paragraph is added:

deleted

“6. Each Member State may lay down particular provisions for the central management of undertakings in its territory which pursue directly and essentially the aim of ideological guidance with respect to information and the expression of opinions, on condition that, at the date of adoption of this Directive such particular provisions already exist in the national legislation.”;

Or. en

Amendment 13

Dennis Radtke

Compromise amendment replacing Amendments 54-55, 310-324

Proposal for a directive

Article 1 – paragraph 1 – point 12

Directive 2009/38/EC

Article 14 a

1. Where, **following the transposition of [OP: insert reference to this amending Directive]**, a European Works Council agreement or agreement on an information and consultation procedure concluded before [OP: insert date from which the transposing provisions are to apply, set out in the Article 2(1), 2nd subpar. of this amending Directive] in accordance with Articles 5 and 6 of Directive 94/45/EC or Articles 5 and 6 of this Directive **is not in conformity with any of the requirements applicable to that agreement as a consequence of the amendments provided for in [OP: insert reference to this amending Directive]**, central management shall initiate negotiations **to adapt that agreement at the written request of at least 100 employees or their**

1. Where a European Works Council agreement or agreement on an information and consultation procedure concluded before [OP: insert date from which the transposing provisions are to apply, set out in the Article 2(1), 2nd subpar. of this amending Directive] in accordance with Articles 5 and 6 of Directive 94/45/EC or Articles 5 and 6 of this Directive **does not determine all the elements listed in Article 6(2), as amended by [OP: insert reference to this amending Directive]** central management shall initiate negotiations **within one year from the entry into force of this Directive for the establishment of an addendum, determining the elements not determined by the existing European Works Council agreement or agreement on an information and consultation**

representatives in at least two undertakings or establishments in at least two different Member States. Central management may also initiate such negotiations on its own initiative.

2. Where the European Works Council agreement or agreement on an information and consultation procedure contains procedural arrangements for its adaptation ***or renegotiation***, the ***adaptation*** may be negotiated pursuant to those arrangements. Otherwise, the ***adaptation*** shall follow the procedure set out in Article 5 in conjunction with Article 13, second and third paragraphs.

3. Where an adaptation procedure does not lead to an agreement within two years ***from the date of the respective request by employees or their representatives***, the subsidiary requirements set out in Annex I shall apply.”;

procedure.

2. Where the European Works Council agreement or agreement on an information and consultation procedure contains procedural arrangements for its adaptation, the ***establishment of the addendum*** may be negotiated pursuant to those arrangements. Otherwise, the ***establishment of the addendum*** shall follow the procedure set out in Article 5 in conjunction with Article 13, second and third paragraphs.

3. Where an adaptation procedure ***initiated pursuant to paragraph 1-a*** does not lead to an agreement ***on the addendum*** within two years ***following the initiation of the negotiations***, the subsidiary requirements set out in Annex I ***in respect of the elements not determined in the existing European Works Council agreement or agreement on an information and consultation procedure*** shall apply.”;

Or. en

Amendment 14

Dennis Radtke

Compromise amendment replacing Amendments 325, 326

Proposal for a directive

Article 1 – paragraph 1 – point 12 a (new)

Directive 2009/38/EC

Article 15 a (new)

Text proposed by the Commission

Amendment

The following Article 15a is inserted:

Article 15a

Monitoring

1. To ensure the correct application of the Directive and to address and resolve

practical problems arising from its implementation, a monitoring committee shall be established.

2. The monitoring committee shall be composed by one representative per Member State, three representatives of each of the European social partners, and the European Commission.

3. The monitoring committee shall meet twice per year and shall be chaired by the Commission (Greens/EFA 325, The Left 326).

Or. en

Amendment 15

Dennis Radtke

Compromise amendment replacing Amendments 57, 327-332

Proposal for a directive

Article 2 – paragraph 1

Text proposed by the Commission

1. Member States shall adopt and publish, by [OP: insert date one year from the entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from [OP: insert date two years from the date set out in the first subparagraph].

Amendment

1. Member States shall adopt and publish, by [OP: insert date one year from the entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from [OP: insert date two years from the date set out in the first subparagraph].

Or. en

Amendment 15

Dennis Radtke

Compromise amendment replacing Amendments 57, 327-332

Proposal for a directive
Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

After paragraph 2, the following paragraph is added:

“2a. Member States shall notify the Commission of the measures taken referred in Article 11(2).”

Or. en

Amendment 16

Dennis Radtke

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive

Annex 1 – paragraph 1 – point 1 – point a a (new)

Directive 2009/38/EC

Annex 1 – point 1 – point a – subparagraph 2

Present text

Amendment

The information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, *investments*, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.

The second subparagraph of point (a) of paragraph 1 is amended as follows:

The information of the European Works Council ***on transnational matters*** shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, ***working conditions, skills and training policies including in franchise networks***, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.

Amendment Alternative 16**Renew, ECR**

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive**Annex 1 – paragraph 1 – point 1 – point a a (new)**

Directive 2009/38/EC

Annex 1 – point 1 – point a – subparagraph 2

Present text

The information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, *investments*, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.

*Amendment****The second subparagraph of point (a) of paragraph 1 is amended as follows:***

The information of the European Works Council ***on transnational matters*** shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, ***working conditions, skills and training policies including in franchise networks***, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.

Or. en

Amendment 16**Dennis Radtke**

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive**Annex 1 – paragraph 1 – point 1 – point c**

Directive 2009/38/EC

Annex 1 – point 1 – point d a (new)

Text proposed by the Commission

Amendment

“(dd) *as far as possible*, women and men shall each comprise at least 40% of European Works Council members and of select committee members;”;

“(dd) ***European Works Council members and those of select committee shall represent the diversity of the workforce and*** women and men shall each comprise at least 40% of European Works Council members and of select committee members.

Or. en

**Amendment Alternative 16
Renew, ECR**

Compromise amendment replacing Amendments 333-349, 58-59

**Proposal for a directive
Annex 1 – paragraph 1 – point 1 – point c**
Directive 2009/38/EC
Annex 1 – point 1 – point d a (new)

Text proposed by the Commission

Amendment

“(dd) *as far as possible*, women and men shall each comprise at least 40% of European Works Council members and of select committee members;”;

“(dd) ***European Works Council members and those of select committee shall represent the diversity of the workforce and*** women and men shall each comprise at least 40% of European Works Council members and of select committee members.

Or. en

**Amendment 16
Dennis Radtke**

Compromise amendment replacing Amendments 333-349, 58-59

**Proposal for a directive
Annex 1 – paragraph 1 – point 2**
Directive 2009/38/EC
Annex 1 – point 2

Text proposed by the Commission

Amendment

“2. The European Works Council shall

“2. The European Works Council shall

have the right to meet with the central management twice a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly.”

have the right to meet *in person* with the central management *at least* twice a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly. *When appropriate and agreed upon and while ensuring meaningful information and consultation, digital means of communication and coordination can be used in exceptional cases without replacing ordinary meetings.*”

Or. en

**Amendment Alternative 16
Renew, ECR**

Compromise amendment replacing Amendments 333-349, 58-59

**Proposal for a directive
Annex 1 – paragraph 1 – point 2**

Directive 2009/38/EC

Annex 1 – point 2

Text proposed by the Commission

“2. The European Works Council shall have the right to meet with the central management twice a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly.”

Amendment

“2. The European Works Council shall have the right to meet *in person* with the central management *at least* twice a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly. *When appropriate and agreed upon and while ensuring meaningful information and consultation, digital means of communication and coordination can be used without replacing ordinary meetings.*”

Or. en

Amendment 16

Dennis Radtke

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive

Annex 1 – paragraph 1 – point 3

Directive 2009/38/EC

Annex 1 – point 3

Text proposed by the Commission

“Where there are exceptional circumstances or decisions which are likely to affect the employees’ interests to a considerable extent, and urgency does not allow for information or consultation to take place at the following scheduled European Works Council meeting, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council, shall have the right to be informed in a timely manner. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, in order to be informed and consulted.

Amendment

“Where there are exceptional circumstances or decisions which *may or* are likely to affect the employees’ interests to a considerable extent, and urgency does not allow for information or consultation to take place at the following scheduled European Works Council meeting, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council, shall have the right to be informed in a timely manner. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, in order to be informed and consulted.

Or. en

Amendment Alternative 16 Renew, ECR

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive

Annex 1 – paragraph 1 – point 3

Directive 2009/38/EC

Annex 1 – point 3

Text proposed by the Commission

“Where there are exceptional

Amendment

“Where there are exceptional

circumstances or decisions which are likely to affect the employees' interests to a considerable extent, and urgency does not allow for information or consultation to take place at the following scheduled European Works Council meeting, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council, shall have the right to be informed in a timely manner. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, in order to be informed and consulted.

circumstances or decisions which **may or** are likely to affect the employees' interests to a considerable extent, and urgency does not allow for information or consultation to take place at the following scheduled European Works Council meeting, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council, shall have the right to be informed in a timely manner. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, in order to be informed and consulted.

Or. en

Amendment 16

Dennis Radtke

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive

Annex 1 – paragraph 1 – point 3

Directive 2009/38/EC

Annex 1 – point 3 – subparagraph 2

Text proposed by the Commission

Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned or can reasonably be expected to be **directly concerned** by the circumstances or decisions in question shall also have the right to participate where a meeting is organised with the select committee.”;

Amendment

Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned or can reasonably be expected to be **affected** by the circumstances or decisions in question shall also have the right to participate where a meeting is organised with the select committee.”;

Or. en

Amendment Alternative 16

Renew, ECR

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive

Annex 1 – paragraph 1 – point 3

Directive 2009/38/EC

Annex 1 – point 3 – subparagraph 2

Text proposed by the Commission

Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned or can reasonably be expected to be directly concerned by the circumstances or decisions in question shall also have the right to participate where a meeting is organised with the select committee.”;

Amendment

Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned or can reasonably be expected to be directly concerned by the circumstances or decisions in question shall also have the right to participate where a meeting is organised with the select committee.”;

Or. en

Amendment 16

Dennis Radtke

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive

Annex 1 – paragraph 1 – point 3 a (new)

Directive 2009/38/EC

Annex 1 – point 4 a (new)

Present text

Amendment

4a. Information and consultation procedures within the European Works Council shall be carried out without prejudice to those taking place at the national level. When a procedure is already taking place at the national level, the European Works Council and the central management shall ensure that those procedures can complement each other with respect to the content and the timing of the procedures.

Or. en

Amendment Alternative 16
Renew, ECR

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive

Annex 1 – paragraph 1 – point 3 a (new)

Directive 2009/38/EC

Annex 1 – point 4 a (new)

Present text

Amendment

4a. Information and consultation procedures within the European Works Council shall be carried out without prejudice to those taking place at the national level. When a procedure is already taking place at the national level, the European Works Council and the central management shall ensure that those procedures can complement each other with respect to the content and the timing of the procedures.

Or. en

Amendment 16

Dennis Radtke

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive

Annex 1 – paragraph 1 – point 4

Directive 2009/38/EC

Annex 1 – point 5

Text proposed by the Commission

Amendment

“Such experts may include representatives of recognised Union-level trade union organisations. At the request of the European Works Council, such experts shall have a right to be present at meetings of the European Works Council and meetings with the central management in an advisory capacity. The central management shall be informed in advance.”;

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Amendment Alternative 16**Renew, ECR**

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive**Annex 1 – paragraph 1 – point 4**

Directive 2009/38/EC

Annex 1 – point 5

Text proposed by the Commission

“Such experts may include representatives of recognised Union-level trade union organisations. At the request of the European Works Council, such experts shall have a right to be present at meetings of the European Works Council and meetings with the central management in an advisory capacity. The central management shall be informed in advance.”;

Amendment

“Such experts may include representatives of recognised Union-level trade union organisations. At the request of the European Works Council, such experts shall have a right to be present at meetings of the European Works Council and meetings with the central management in an advisory capacity. The central management shall be informed in advance.”;

Or. en

Amendment 16**Dennis Radtke**

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive**Annex 1 – paragraph 1 – point 5**

Directive 2009/38/EC

Annex 1 – point 6 – subparagraph 3 a (new)

Text proposed by the Commission

(a) the following subparagraph is inserted between the third and fourth subparagraphs:

“The operating expenses of the European Works Council shall include reasonable costs of legal assistance, representation and proceedings. Operating expenses shall be notified to central management before they are incurred.”;

Amendment

(a) the following subparagraph is inserted between the third and fourth subparagraphs:

“The operating expenses of the European Works Council shall include reasonable costs of legal assistance, representation and proceedings, **and relevant training to members of the European Works Council.** Operating expenses shall be notified to

central management before they are incurred.”;

Or. en

Amendment Alternative 16
Renew, ECR

Compromise amendment replacing Amendments 333-349, 58-59

Proposal for a directive

Annex 1 – paragraph 1 – point 5

Directive 2009/38/EC

Annex 1 – point 6 – subparagraph 3 a (new)

Text proposed by the Commission

(a) the following subparagraph is inserted between the third and fourth subparagraphs:

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Amendment

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“The operating expenses of the European Works Council shall include reasonable costs of legal assistance, representation and proceedings, **and relevant training to members of the European Works Council.** Operating expenses shall be notified to central management before they are incurred.”;

Or. en

Amendment A
Dennis Radtke

Compromise amendment replacing Amendments 1, 66

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) Evidence shows that legal uncertainty regarding the concept of transnational matters has led to differences in interpretation and disputes. In order to ensure legal certainty and reduce the risk of such disputes, it is necessary to clarify that concept. To this end, it is appropriate to

Amendment

(5) Evidence shows that legal uncertainty regarding the concept of transnational matters has led to differences in interpretation and disputes. In order to ensure legal certainty and reduce the risk of such disputes, it is necessary to clarify that concept. To this end, it is appropriate to

clarify that this Directive should not only cover cases where measures considered by management can reasonably be expected to affect employees in more than one Member State, but also cases where such measures can reasonably be expected to affect workers in only one Member State, but the consequences of those measures can reasonably be expected to affect workers in at least one other Member State. This is necessary to cover cases where undertakings envisage measures, such as lay-offs and redundancies, which do explicitly target establishments in only one Member State but nevertheless can reasonably be expected to have consequences affecting employees in another Member State, for instance due to changes in the cross-border supply chain or production activities, where such measures could lead to substantial changes in work organisation or in contractual relations.

clarify that this Directive should not only cover cases where measures considered by management can reasonably be expected to affect employees in more than one Member State, but also cases where such measures can reasonably be expected to affect workers in only one Member State, but the consequences of those measures can reasonably be expected to **substantially** affect workers in at least one other Member State. ***In addition, cases in which measures considered by management of the Community-scale undertaking or Community-scale group of undertakings are taken in a Member State other than that in which those effects are produced should also be covered.*** This is necessary to cover cases where undertakings envisage measures, such as lay-offs and redundancies, which do explicitly target establishments in only one Member State but nevertheless can reasonably be expected to have consequences affecting employees in another Member State, for instance due to changes in the cross-border supply chain or production activities, where such measures could lead to substantial changes in work organisation or in contractual relations.

Or. en

**Amendment Alternative A
Renew, ECR**

Compromise amendment replacing Amendments 1, 66

**Proposal for a directive
Recital 5**

Text proposed by the Commission

(5) Evidence shows that legal uncertainty regarding the concept of transnational matters has led to differences in interpretation and disputes. In order to ensure legal certainty and reduce the risk of such disputes, it is necessary to clarify that concept. To this end, it is appropriate to

Amendment

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clarify that this Directive should not only cover cases where measures considered by management *can reasonably be expected to* affect employees in more than one Member State, but also cases where such measures *can reasonably be expected to* affect workers in only one Member State, but the consequences of those measures *can reasonably be expected to* affect workers in at least one other Member State. This is necessary to cover cases where undertakings envisage measures, such as lay-offs and redundancies, which do explicitly target establishments in only one Member State but nevertheless *can reasonably be expected to* have consequences affecting employees in another Member State, for instance due to changes in the cross-border supply chain or production activities, where such measures could lead to substantial changes in work organisation or in contractual relations.

clarify that this Directive should not only cover cases where measures considered by management affect employees in more than one Member State, but also cases where such measures affect workers in only one Member State, but the consequences of those measures *substantially* affect workers in at least one other Member State. *In addition, cases in which measures considered by management of the Community-scale undertaking or Community-scale group of undertakings are taken in a Member State other than that in which those effects are produced should also be covered.* This is necessary to cover cases where undertakings envisage measures, such as lay-offs and redundancies, which do explicitly target establishments in only one Member State but nevertheless have consequences affecting employees in another Member State, for instance due to changes in the cross-border supply chain or production activities, where such measures could lead to substantial changes in work organisation or in contractual relations.

Or. en

Amendment B

Dennis Radtke

Compromise amendment replacing Amendments 67, 68

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) Members of special negotiating bodies may need legal advice or representation to carry out their tasks under Directive 2009/38/EC. It is however not sufficiently clear that they are entitled to the coverage of the associated legal fees. With a view to ensuring such coverage, it should be clarified that central management is to bear costs incurred by member of special negotiation bodies,

Amendment

(7) Members of special negotiating bodies may need legal advice or representation to carry out their tasks under Directive 2009/38/EC. It is however not sufficiently clear that they are entitled to the coverage of the associated legal fees. With a view to ensuring such coverage, it should be clarified that central management is to bear costs incurred by member of special negotiation bodies,

which the latter should be required to notify in advance. It is appropriate to limit that obligation to reasonable legal costs to ensure that management is not liable for manifestly disproportionate costs, costs without justifiable link to the provision of relevant legal advice or representation, or costs created by manifestly unfounded, frivolous, or vexatious claims. Moreover, Directive 2009/38/EC gives Member States discretion to lay down budgetary rules regarding the operation of special negotiating body and European Works Councils based on subsidiary requirements, having regard to the principle that expenses relating to the appropriate conduct of the special negotiating board's functions must be borne by the central management. Therefore, the provisions referring to the number of experts to be funded by central management are redundant and should be deleted.

which the latter should be required to notify in advance. It is appropriate to limit that obligation to reasonable legal costs to ensure that management is not liable for manifestly disproportionate costs, costs without justifiable link to the provision of relevant legal advice or representation, or costs created by manifestly unfounded, frivolous, or vexatious claims. Moreover, Directive 2009/38/EC gives Member States discretion to lay down budgetary rules regarding the operation of special negotiating body and European Works Councils based on subsidiary requirements, having regard to the principle that expenses relating to the appropriate conduct of the special negotiating board's functions must be borne by the central management. Therefore, the provisions referring to the number of experts to be funded by central management are redundant and should be deleted.

Or. en

Amendment C
Dennis Radtke

Compromise amendment replacing Amendments 2, 69-72,

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Directive 2009/38/EC requires the parties to a European Works Council agreement to determine the venue of meetings of the European Works Council. It is appropriate to specify that they are to determine also the format of such meetings, notably to avoid any doubt ***about their freedom to agree that some or all of*** the meetings be held in a virtual environment, using online meeting tools, reducing the environmental footprint of meetings in line with Union, national and companies' emission reduction targets, while ensuring meaningful information and

Amendment

(8) Directive 2009/38/EC requires the parties to a European Works Council agreement to determine the venue of meetings of the European Works Council. It is appropriate to specify that they are to determine also the format of such meetings, notably to avoid any doubt ***that the regular annual meetings of the European Works Council and the Select Committee should take place in person, whereas additional meetings may*** be held in a virtual environment, using online meeting tools ***if so agreed***, reducing the environmental footprint of meetings in line

consultation at lower environmental and financial costs.

with Union, national and companies' emission reduction targets, while ensuring meaningful information and consultation at lower environmental and financial costs.

Or. en

Amendment D
Dennis Radtke

Compromise amendment replacing Amendments 3, 73

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) There can be uncertainty and disputes with respect to the coverage of certain expenses and access to certain resources also during the operation of European Works Councils. In accordance with the principle of autonomy of the parties, it is appropriate to require that certain types of financial and material resources be determined specifically in the European Works Council agreements, namely the possible use of experts – such as technical subject-matter experts or legal experts – and the coverage of experts' fees, and the coverage of legal costs, including the costs of legal representation and of participation in administrative or judicial proceedings. The agreements should also address the provision of relevant training to the members of the European Works Council, and the coverage of related expenses, without prejudice to the minimum requirement in Article 10(4) of Directive 2009/38/EC.

Amendment

(9) There can be uncertainty and disputes with respect to the coverage of certain expenses and access to certain resources also during the operation of European Works Councils. In accordance with the principle of autonomy of the parties, it is appropriate to require that certain types of financial and material resources be determined specifically in the European Works Council agreements, namely the possible use of experts – such as ***representatives of a recognised Community-level trade-union***, technical subject-matter experts or legal experts – and the coverage of experts' fees, and the coverage of legal costs, including the costs of legal representation and of participation in administrative or judicial proceedings. The agreements should also address the provision of relevant training to the members of the European Works Council, and the coverage of related expenses, without prejudice to the minimum requirement in Article 10(4) of Directive 2009/38/EC. ***Reasonable costs concern expenses that are related to the proper functioning and operation of the special negotiating body or the European Works Council, including the costs of experts, legal representation, participation in administrative and judicial proceedings and training. Member States may lay***

Amendment E

Dennis Radtke

Compromise amendment replacing Amendments 74-76, 208

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) The requirement in Directive 2009/38/EC to take into account, where possible, the need for a balanced representation of employees with regard to their gender when determining the composition of European Works Councils has proven insufficient to promote gender balance. Women remain underrepresented in most European Works Councils. Therefore, it is necessary to lay down more effective and specific objectives regarding gender representation, to be implemented by management and employee representatives when negotiating or renegotiating their agreements. To attain those objectives, it may in certain cases be necessary to give priority to the underrepresented sex in composing the European Works Council or its select committee. In accordance with the case-law of the Court of Justice of the European Union, such positive action is possible, in accordance with the principle of equal treatment of men and women, provided that the measures taken to achieve the gender balance objective do not automatically and unconditionally give priority to persons of a certain gender but allow to take into account other criteria, such as merits and qualifications and the procedure for election established by the relevant laws. Parties to European Works Council agreements should therefore be afforded the flexibility necessary to respect

Amendment

(10) ***European Works Councils should promote a balanced, inclusive and diverse representation of employees.*** The requirement in Directive 2009/38/EC to take into account, where possible, the need for a balanced representation of employees with regard to their gender when determining the composition of European Works Councils has proven insufficient to promote gender balance. Women remain underrepresented in most European Works Councils. Therefore, it is necessary to lay down more effective and specific objectives regarding gender representation, to be implemented by management and employee representatives when negotiating or renegotiating their agreements. To attain those objectives, it may in certain cases be necessary to give priority to the underrepresented sex in composing the European Works Council or its select committee. In accordance with the case-law of the Court of Justice of the European Union, such positive action is possible, in accordance with the principle of equal treatment of men and women, provided that the measures taken to achieve the gender balance objective do not automatically and unconditionally give priority to persons of a certain gender but allow to take into account other criteria, such as merits and qualifications and the procedure for election established by the relevant laws. Parties to European Works

the legal and factual limitations to the positive action. For similar considerations, it is appropriate, in addition, to require steps to strive for a gender-balanced composition of the special negotiating body, to promote that objective already during the negotiation phase.

Council agreements should therefore be afforded the flexibility necessary to respect the legal and factual limitations to the positive action. For similar considerations, it is appropriate, in addition, to require steps to strive for a gender-balanced composition of the special negotiating body, to promote that objective already during the negotiation phase.

Or. en

Amendment F

Dennis Radtke

Compromise amendment replacing Amendment 4

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Evidence shows that the initiation of negotiations is sometimes delayed beyond the period of six months set out in Directive 2009/38/EC. In some cases, management neither takes steps nor expressly refuses to commence negotiations following a request to set up a European Works Council. It should therefore be specified that the subsidiary requirements laid down in Directive 2009/38/EC apply where the first meeting of the special negotiating body is not convened within six months following a request to establish a European Works Council, irrespective of whether central management expressly refuses to commence negotiations.

Amendment

(11) Evidence shows that the initiation of negotiations is sometimes delayed beyond the period of six months set out in Directive 2009/38/EC. In some cases, management neither takes steps nor expressly refuses to commence negotiations following a request to set up a European Works Council. It should therefore be specified that the subsidiary requirements laid down in Directive 2009/38/EC apply where the first meeting of the special negotiating body is not convened within six months following a request to establish a European Works Council, irrespective of whether central management expressly refuses to commence negotiations.

Or. en

Amendment G

Dennis Radtke

Compromise amendment replacing Amendments 5, 77

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) When sharing sensitive information with members of European Works Councils, members of special negotiating bodies, or employees' representatives in the framework of an information and consultation procedure, management has the possibility to provide that such information is shared in confidence and should not be disclosed further. When sharing information in confidence, central management should be required to provide at the same time a reasonable justification. Setting up adequate arrangements to safeguard the confidentiality of sensitive information can instil trust and facilitate the sharing of such information, while protecting business and workers' interests, including to avert growing risks such as industrial espionage.

Amendment

(12) When sharing sensitive information with members of European Works Councils, members of special negotiating bodies, or employees' representatives in the framework of an information and consultation procedure, management has the possibility to provide that such information is shared in confidence and should not be disclosed further. ***This should not apply to situations when members of the European Works Council decide to reveal information to national or local work councils that may affect the situation of workers.*** When sharing information in confidence, central management should be required to provide at the same time a reasonable justification ***based on objective criteria.*** Setting up adequate arrangements to safeguard the confidentiality of sensitive information can instil trust and facilitate the sharing of such information, while protecting business and workers' interests, including to avert growing risks such as industrial espionage.

Or. en

Amendment Alternative G
Renew, ECR

Compromise amendment replacing Amendments 5, 77

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) When sharing sensitive information with members of European Works Councils, members of special negotiating bodies, or employees' representatives in the framework of an information and consultation procedure, management has the possibility to provide that such

Amendment

(12) When sharing sensitive information with members of European Works Councils, members of special negotiating bodies, or employees' representatives in the framework of an information and consultation procedure, management has the possibility to provide that such

information is shared in confidence and should not be disclosed further. When sharing information in confidence, central management should be required to provide at the same time a reasonable justification. Setting up adequate arrangements to safeguard the confidentiality of sensitive information can instil trust and facilitate the sharing of such information, while protecting business and workers' interests, including to avert growing risks such as industrial espionage.

information is shared in confidence and should not be disclosed further. When sharing information in confidence, central management should be required to provide at the same time a reasonable justification **based on objective criteria**. Setting up adequate arrangements to safeguard the confidentiality of sensitive information can instil trust and facilitate the sharing of such information, while protecting business and workers' interests, including to avert growing risks such as industrial espionage.

Or. en

Amendment H

Dennis Radtke

Compromise amendment replacing Amendments 6-8, 78, 79

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) Effective transnational consultation requires a genuine dialogue between central management and European Works Councils, or employees' representatives in the framework of an information and consultation procedure. This implies that information and consultation need to be conducted in a way that enables worker's representatives to express their opinion prior to the adoption of the decision and that opinions issued by European Works Councils or employees' representatives must receive a reasoned response from central management before the latter adopts its decision on the proposed measure at issue. An explicit requirement to that effect should be laid down in Directive 2009/38/EC to ensure legal certainty.

Amendment

(15) Effective transnational consultation requires a genuine dialogue between central management and European Works Councils, or employees' representatives in the framework of an information and consultation procedure. This implies that information and consultation need to be conducted in a **meaningful and timely** way that enables worker's representatives to express their opinion prior to the adoption of the decision, **which could include business plans, social plans, and process innovations where they may impact on redundancies**, and that opinions issued by European Works Councils or employees' representatives must receive a reasoned response from central management before the latter **or other competent organ of the Community undertaking or Community-scale group of undertakings** adopts its decision on the proposed measure at issue. An explicit requirement to that effect should be laid down in Directive 2009/38/EC to ensure legal certainty. **In**

this context, it is important to ensure Community undertakings or Community-scale groups of undertakings can take decisions effectively and should not result in undue delays in decisions taken by Community undertakings or Community-scale groups of undertakings.

Or. en

Amendment H

Dennis Radtke

Compromise amendment replacing Amendments 6-8, 78, 79

Proposal for a directive

Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) In case of disagreement on whether to undertake an information or consultation procedure, there is a lack of guidance on how to resolve the negative effects that such disagreements may have on members of European Works Councils and employees's representatives. Therefore, should there be a dispute with regards to whether an information and consultation procedure should be undertaken, the central management should provide duly substantiated grounds in writing specifying the reasons why the information and consultation provisions of this Directive are not applicable.

Or. en

Amendment H

Dennis Radtke

Compromise amendment replacing Amendments 6-8, 78, 79

Proposal for a directive
Recital 15 b (new)

Text proposed by the Commission

Amendment

(15b) In the context of an information and consultation procedure, the European Works Council or the select committee may request assistance and advice from experts of its choice, such as representatives of competent recognised Community-level trade union organisations. Such experts should be allowed to attend meetings of the European Works Council and meetings with the central management in an advisory capacity. Moreover, Member States can lay down budgetary rules for the operation of a European Works Council.

Or. en

Amendment I
Dennis Radtke

Compromise amendment replacing Amendments 9, 80-82

Proposal for a directive
Recital 16

Text proposed by the Commission

Amendment

(16) In addition, provisions of Directive 2009/38/EC on the role and protection of employees' representatives should be amended to increase clarity and accuracy, in particular with regard to the protection of the members of special negotiating bodies and the members of European Works Councils against retaliatory measures or dismissals. In order to avoid disputes, it should also be specified that the central management is to cover the costs of training of the members of the special negotiating body and of the European Works Council and other associated costs, which is necessary for the exercise of their duties, where management has been

(16) In addition, provisions of Directive 2009/38/EC on the role and protection of employees' representatives should be amended to increase clarity and accuracy, in particular with regard to the protection of the members of special negotiating bodies and the members of European Works Councils against retaliatory measures or dismissals. In order to avoid disputes, it should also be specified that the central management is to cover the costs of training of the members of the special negotiating body and of the European Works Council and other associated costs, which is necessary for the exercise of their duties, where management has been

informed of those costs in advance.

informed of those costs in advance.

Or. en

Amendment I

Dennis Radtke

Compromise amendment replacing Amendments 9, 80-82

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) In certain Member States, rightsholders under Directive 2009/38/EC encounter difficulties in bringing legal actions to enforce their rights. It is therefore necessary to strengthen Member States' obligation to ensure effective remedies and access to justice and the supervision by the Commission of their compliance with that obligation. For that purpose, Member States should be required to notify the Commission of how and under which circumstances the rightsholders can bring judicial, and where applicable, administrative procedures, in respect of all their rights under this Directive. Moreover, it should be clarified that the relevant procedures have to enable a timely and effective enforcement, and that possible prior out-of-court settlement procedures can neither result in a decision which is binding on the parties concerned, nor prejudice rightsholders' right to bring legal proceedings.

Amendment

(17) In certain Member States, rightsholders under Directive 2009/38/EC encounter difficulties in bringing legal actions to enforce their rights. It is therefore necessary to strengthen Member States' obligation to ensure effective remedies and access to justice and the supervision by the Commission of their compliance with that obligation. For that purpose, Member States should be required to notify the Commission of how and under which circumstances the rightsholders, ***including members of the special negotiation body and members of a European Works Council***, can bring judicial, and where applicable, administrative procedures, in respect of all their rights under this Directive, ***including the right to form and join trade unions. In addition, Member States should develop mechanisms to encourage mediation and where appropriate provide for alternative dispute mechanisms***. Moreover, it should be clarified that the relevant procedures have to enable a timely and effective enforcement, and that possible prior out-of-court settlement procedures can neither result in a decision which is binding on the parties concerned, nor prejudice rightsholders' right to bring legal proceedings. ***However, members of special negotiations bodies and members of European Works Councils should enjoy the same protection and guarantees equivalent to those provided to employees'***

representatives by national legislation or practice applicable in their country of employment.

Or. en

Amendment J

Dennis Radtke

Compromise amendment replacing Amendments 10, 83, 84

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) The Commission's 2018 evaluation of Directive 2009/38/EC has shown that sanctions applicable in the case of non-compliance with transnational information and consultation requirements are often not sufficiently dissuasive. Therefore, it is appropriate to lay down the Member States' obligation to provide for effective, dissuasive and proportionate sanctions. ***Pecuniary sanctions*** should be provided for in case of failure to comply with the information and consultation procedures set out in Directive 2009/38/EC. Other forms of sanctions ***could*** also be provided for. ***Pecuniary sanctions*** should be determined taking into consideration the size and financial situation of the Community-scale undertaking or group – for example, based on its annual turnover – and any other relevant factors – such as the gravity, duration, consequences, and intentional or negligent nature of the offence –, in order to be effective, dissuasive and proportionate.

Amendment

(18) The Commission's 2018 evaluation of Directive 2009/38/EC has shown that sanctions applicable in the case of non-compliance with transnational information and consultation requirements ***regretfully*** are often not sufficiently dissuasive, ***effective or proportionate***. Therefore, it is appropriate to lay down the Member States' obligation to provide for effective, dissuasive and proportionate sanctions. ***Financial penalties*** should be provided for in case of failure to comply with the information and consultation procedures set out in Directive 2009/38/EC. Other forms of sanctions ***should*** also be provided for, ***including administrative and judicial procedures. In line with national law and practice, Member States should ensure the possibility to request a preliminary injunction in national courts or other competent authorities for a temporary suspension of the implementation of management decisions until an information and consultation procedure has taken place at the relevant level of management and representation and in such a way as to enable a reasoned response from the central management in accordance with this Directive. Financial sanctions*** should be determined taking into consideration the size and financial situation of the Community-scale undertaking or group – for example, based

on its annual turnover – and any other relevant factors – such as the gravity, duration, consequences, and intentional or negligent nature of the offence –, in order to be effective, dissuasive and proportionate **and should be based on the administrative fines referred to in Article 83, paragraphs 4 and 5, of Regulation (EU) 2016/679.**

Or. en

**Amendment Alternative J
Renew, ECR**

Compromise amendment replacing Amendments 10, 83, 84

**Proposal for a directive
Recital 18**

Text proposed by the Commission

(18) The Commission's 2018 evaluation of Directive 2009/38/EC has shown that sanctions applicable in the case of non-compliance with transnational information and consultation requirements are often not sufficiently dissuasive. Therefore, it is appropriate to lay down the Member States' obligation to provide for effective, dissuasive and proportionate sanctions. **Pecuniary sanctions** should be provided for in case of failure to comply with the information and consultation procedures set out in Directive 2009/38/EC. Other forms of sanctions **could** also be provided for. **Pecuniary** sanctions should be determined taking into consideration the size and financial situation of the Community-scale undertaking or group – for example, based on its annual turnover – and any other relevant factors – such as the gravity, duration, consequences, and intentional or negligent nature of the offence –, in order to be effective, dissuasive and proportionate.

Amendment

(18) The Commission's 2018 evaluation of Directive 2009/38/EC has shown that sanctions applicable in the case of non-compliance with transnational information and consultation requirements **regretfully** are often not sufficiently dissuasive, **effective or proportionate**. Therefore, it is appropriate to lay down the Member States' obligation to provide for effective, dissuasive and proportionate sanctions. **Financial penalties** should be provided for in case of failure to comply with the information and consultation procedures set out in Directive 2009/38/EC. Other forms of sanctions **should** also be provided for. **Financial** sanctions should be determined taking into consideration the size and financial situation of the Community-scale undertaking or group – for example, based on its annual turnover – and any other relevant factors – such as the gravity **including the number of affected workers**, duration, consequences, and intentional or negligent nature of the offence –, in order to be effective, dissuasive and proportionate.

Amendment K**Dennis Radtke**

Compromise amendment replacing Amendments 11-13, 85

Proposal for a directive**Recital 19***Text proposed by the Commission*

(19) Undertakings with an agreement on the transnational information and consultation of employees concluded before 23 September 1996, that is to say prior to the date of application of Council Directive 94/45/EC^{1a}, are exempted from the application of the obligations arising from Directive 2009/38/EC. The employee information and consultation bodies established under such agreements have been concluded and continue to operate outside the scope of Union law. Directive 2009/38/EC does not provide the employees in the exempted undertakings with the possibility to request an establishment of a European Works Council under that Directive. However, for reasons of legal clarity, equal treatment and effectiveness, employees and their representatives in all Community-scale undertakings or Community-scale groups of undertakings should in principle have the right to request the establishment of a European Works Council. Almost 30 years after a legislative framework setting minimum requirements for the transnational information and consultation of employees was first established at Union level, those reasons prevail over the considerations of continuity for pre-existing agreements which initially motivated the exemption. That exemption should therefore be deleted.

Amendment

(19) Undertakings with an agreement on the transnational information and consultation of employees concluded before 23 September 1996, that is to say prior to the date of application of Council Directive 94/45/EC^{1a}, are exempted from the application of the obligations arising from Directive 2009/38/EC. The employee information and consultation bodies established under such agreements have been concluded and continue to operate outside the scope of Union law ***and their legal status should be ensured by civil or collective labour law depending on the different legal system of each Member State***. Directive 2009/38/EC does not provide the employees in the exempted undertakings with the possibility to request an establishment of a European Works Council under that Directive. However, for reasons of legal clarity, equal treatment and effectiveness, employees and their representatives in all Community-scale undertakings or Community-scale groups of undertakings should in principle have the right to request the establishment of a European Works Council. Almost 30 years after a legislative framework setting minimum requirements for the transnational information and consultation of employees was first established at Union level, those reasons prevail over the considerations of continuity for pre-existing agreements which initially motivated the exemption. That exemption should therefore be deleted.

^{1a} Council Directive 94/45/EC of 22 September 1994 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 (OJ L 254, 30.9.1994, p. 64, ELI: <http://data.europa.eu/eli/dir/1994/45/oj>).

^{1a} Council Directive 94/45/EC of 22 September 1994 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 (OJ L 254, 30.9.1994, p. 64, ELI: <http://data.europa.eu/eli/dir/1994/45/oj>).

Or. en

Amendment K

Dennis Radtke

Compromise amendment replacing Amendments 11-13, 85

Proposal for a directive

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19 a) It is essential that all European Works Council agreements are governed by the same rights and obligations in order to ensure equal treatment of workers, access to the application of high Union standards, and legal certainty. With a view to creating a regulatory level-playing field governing the functioning of European Works Councils, the rights and obligations arising from Directive 2009/38/EC should be applicable to all European Works Council agreements and agreements on an information and consultation procedure concluded in accordance with Articles 5 and 6 of Directive 94/45/EC or in accordance with Articles 5 and 6 of this Directive.

Or. en

Amendment K

Dennis Radtke

Compromise amendment replacing Amendments 11-13, 85

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Moreover, for the same considerations, the same minimum requirements should apply to all Community-scale undertakings with European Works Councils operating under Directive 2009/38/EC and those in which a European Works Council agreement was signed or revised between 5 June 2009 and 5 June 2011. Therefore, the exemption of the latter undertakings from the application of Directive 2009/38/EC should also be deleted.

Amendment

deleted

Or. en

Amendment L
Dennis Radtke

Compromise amendment replacing Amendments 86-93

Proposal for a directive
Recital 21

Text proposed by the Commission

(21) European Works Councils operating based on the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC have the right to meet with central management once a year, to be informed and consulted on the progress of the business of the relevant Community-scale undertaking or Community-scale group of undertakings and its prospects. In order to strengthen the transnational information and consultation of those European Works Councils, it is appropriate to increase the number of such annual plenary meetings in the subsidiary requirements to two.

Amendment

(21) European Works Councils operating based on the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC have the right to meet with central management once a year, to be informed and consulted on the progress of the business of the relevant Community-scale undertaking or Community-scale group of undertakings and its prospects. In order to strengthen the transnational information and consultation of those European Works Councils, it is appropriate to increase the number of such annual plenary meetings in the subsidiary requirements to ***at least*** two. ***When appropriate and agreed upon and while ensuring meaningful information and consultation, digital means of communication and coordination can be***

used in exceptional cases without replacing ordinary meetings.

Or. en

**Amendment Alternative L
Renew, ECR**

Compromise amendment replacing Amendments 86-93

**Proposal for a directive
Recital 21**

Text proposed by the Commission

(21) European Works Councils operating based on the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC have the right to meet with central management once a year, to be informed and consulted on the progress of the business of the relevant Community-scale undertaking or Community-scale group of undertakings and its prospects. In order to strengthen the transnational information and consultation of those European Works Councils, it is appropriate to increase the number of such annual plenary meetings in the subsidiary requirements to two.

Amendment

(21) European Works Councils operating based on the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC have the right to meet with central management once a year, to be informed and consulted on the progress of the business of the relevant Community-scale undertaking or Community-scale group of undertakings and its prospects. In order to strengthen the transnational information and consultation of those European Works Councils, it is appropriate to increase the number of such annual plenary meetings in the subsidiary requirements to *at least* two. *When appropriate and agreed upon and while ensuring meaningful information and consultation, digital means of communication and coordination can be used without replacing ordinary meetings.*

Or. en

**Amendment L
Dennis Radtke**

Compromise amendment replacing Amendments 86-93

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) *In some cases, existing European Works Council agreements or agreements on information and consultation procedures, concluded under Directive 94/45/EC or Directive 2009/38/EC before the entry into force of the measures adopted by Member States to transpose this Directive, may not be in conformity with the revised **requirements**. It is therefore appropriate to set out transitional arrangements enabling the parties to such agreements to negotiate **adaptations before the date of application of the transposition measures**.*

Amendment

(24) *Existing European Works Council agreements or agreements on information and consultation procedures, concluded under Directive 94/45/EC or Directive 2009/38/EC before the entry into force of the measures adopted by Member States to transpose this Directive, may not be in conformity with the revised **required contents of those agreements**. It is therefore appropriate to set out transitional arrangements enabling the parties to such agreements to negotiate **addenda, without, however, requiring a complete re-negotiation of the agreement**. **In order not to allow for any interruption of the information and consultation of employees, the existing European Works Council agreement or agreement on information and consultation procedure is to remain in force during the negotiation of such addenda.***

Or. en

Amendment Alternative L
Renew, ECR

Compromise amendment replacing Amendments 86-93

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) *In some cases, existing European Works Council agreements or agreements on information and consultation procedures, concluded under Directive 94/45/EC or Directive 2009/38/EC before the entry into force of the measures adopted by Member States to transpose this Directive, may not be in conformity with the revised **requirements**. It is therefore appropriate to set out transitional*

Amendment

(24) *Existing European Works Council agreements or agreements on information and consultation procedures, concluded under Directive 94/45/EC or Directive 2009/38/EC before the entry into force of the measures adopted by Member States to transpose this Directive, may not be in conformity with the revised **required contents of those agreements**. It is therefore appropriate to set out transitional*

arrangements enabling the parties to such agreements to negotiate *adaptations before the date of application of the transposition measures*.

arrangements enabling the parties to such agreements to negotiate *addenda, without, however, requiring a complete re-negotiation of the agreement. In order not to allow for any interruption of the information and consultation of employees, the existing European Works Council agreement or agreement on information and consultation procedure is to remain in force during the negotiation of such addenda*.

Or. en

Amendment L

Dennis Radtke

Compromise amendment replacing Amendments 86-93

Proposal for a directive

Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) If the central management initiates negotiations to supplement an existing European Works Council agreement or agreement on information and consultation procedures in accordance with the requirements of Article 6(2) as amended by this Directive, there is no obligation to renegotiate the entire existing agreement. The newly amended requirements should be negotiated as addendum within 2 years of transposition of the amending directive. Provision should be made for the subsidiary requirements specifically relating to such newly amended requirements to apply in the absence of an agreement on the addendum within that time limit.

Or. en

**Amendment Alternative
Renew, ECR**

L

Compromise amendment replacing Amendments 86-93

Proposal for a directive

Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) If the central management initiates negotiations to supplement an existing European Works Council agreement or agreement on information and consultation procedures in accordance with the requirements of Article 6(2) as amended by this Directive, there is no obligation to renegotiate the entire existing agreement. The newly amended requirements should be negotiated as addendum within 2 years of transposition of the amending directive (The Left 90). Provision should be made for the subsidiary requirements specifically relating to such newly amended requirements to apply in the absence of an agreement on the addendum within that time limit.

Or. en

Amendment L

Dennis Radtke

Compromise amendment replacing Amendments 86-93

Proposal for a directive

Recital 24 b (new)

Text proposed by the Commission

Amendment

(24b) It is necessary to ensure that the special negotiation body has the opportunity to meet regularly with the central management in order to be able to conduct meaningful negotiations. Where the conditions laid down in Article 7(1) are met, it should be clarified that it is the responsibility of the central management to initiate the establishment of a European Works Council according to the subsidiary requirements.

Amendment Alternative L

Renew, ECR

Compromise amendment replacing Amendments 86-93

Proposal for a directive

Recital 24 b (new)

Text proposed by the Commission

Amendment

(24b) It is necessary to ensure that the special negotiation body has the opportunity to meet regularly with the central management in order to be able to conduct meaningful negotiations. Where the conditions laid down in Article 7(1) are met, it should be clarified that it is the responsibility of the central management to initiate the establishment of a European Works Council according to the subsidiary requirements.

Or. en

Amendment L

Dennis Radtke

Compromise amendment replacing Amendments 86-93

Proposal for a directive

Recital 26

Text proposed by the Commission

Amendment

(26) Pursuant to Article 27 of the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities are to be able to exercise their labour and trade union rights on an equal basis with others. As both the Union and its Member States are parties to that Convention, Directive 2009/38/EC and relevant national legislation are to be interpreted in accordance with that principle, for instance in relation to accessibility and reasonable

(26) Pursuant to Article 27 of the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities are to be able to exercise their labour and trade union rights on an equal basis with others. As both the Union and its Member States are parties to that Convention, Directive 2009/38/EC and relevant national legislation are to be interpreted in accordance with that principle, for instance in relation to accessibility and reasonable

accommodation for members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions, as well as the bearing of related costs by central management.

accommodation for members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions, as well as the bearing of related costs by central management.

Or. en

**Amendment Alternative L
Renew, ECR**

Compromise amendment replacing Amendments 86-93

**Proposal for a directive
Recital 26**

Text proposed by the Commission

(26) Pursuant to Article 27 of the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities are to be able to exercise their labour and trade union rights on an equal basis with others. As both the Union and its Member States are parties to that Convention, Directive 2009/38/EC and relevant national legislation are to be interpreted in accordance with that principle, for instance in relation to accessibility and reasonable accommodation for members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions, as well as the bearing of related costs by central management.

Amendment

(26) Pursuant to Article 27 of the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities are to be able to exercise their labour and trade union rights on an equal basis with others. As both the Union and its Member States are parties to that Convention, Directive 2009/38/EC and relevant national legislation are to be interpreted in accordance with that principle, for instance in relation to accessibility and reasonable accommodation for members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions, as well as the bearing of related costs by central management.

Or. en

**Amendment L
Dennis Radtke**

Compromise amendment replacing Amendments 86-93

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) In accordance with Article 30(3) and Article 42(1) of Directive 2014/23/EU of the European Parliament and of the Council^{1a}, Article 18(2) and Article 71(1) of Directive 2014/24/EU of the European Parliament and of the Council^{1b} and Article 36(2) and Article 88(1) of Directive 2014/25/EU of the European Parliament and of the Council^{1c}, Member States are to take appropriate measures to ensure that in the performance of public contracts economic operators observe applicable obligations in the fields of social and labour law established by Union law. The effective implementation of the requirements under this Directive should be promoted through the integration, as appropriate, of social sustainability criteria in the award criteria designed by contracting entities for identifying the most economically advantageous tenders. However, this Directive does not create any additional obligation in relation to those Directives.

^{1a} Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

^{1b} Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

^{1c} Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Amendment

(27) In accordance with Article 30(3) and Article 42(1) of Directive 2014/23/EU of the European Parliament and of the Council^{1a}, Article 18(2) and Article 71(1) of Directive 2014/24/EU of the European Parliament and of the Council^{1b} and Article 36(2) and Article 88(1) of Directive 2014/25/EU of the European Parliament and of the Council^{1c}, Member States are to take appropriate measures to ensure that in the performance of public contracts economic operators observe applicable obligations in the fields of social and labour law established by Union law. The effective implementation of the requirements under this Directive should be promoted through the integration, as appropriate, of social sustainability criteria in the award criteria designed by contracting entities for identifying the most economically advantageous tenders. However, this Directive does not create any additional obligation in relation to those Directives.

^{1a} Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

^{1b} Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

^{1c} Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Amendment Alternative L**Renew, ECR**

Compromise amendment replacing Amendments 86-93

Proposal for a directive**Recital 27***Text proposed by the Commission*

(27) In accordance with Article 30(3) and Article 42(1) of Directive 2014/23/EU of the European Parliament and of the Council^{1a}, Article 18(2) and Article 71(1) of Directive 2014/24/EU of the European Parliament and of the Council^{1b} and Article 36(2) and Article 88(1) of Directive 2014/25/EU of the European Parliament and of the Council^{1c}, Member States are to take appropriate measures to ensure that in the performance of public contracts economic operators observe applicable obligations in the fields of social and labour law established by Union law. The effective implementation of the requirements under this Directive should be promoted through the integration, as appropriate, of social sustainability criteria in the award criteria designed by contracting entities for identifying the most economically advantageous tenders. However, this Directive does not create any additional obligation in relation to those Directives.

^{1a} Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

^{1b} Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

Amendment

(27) In accordance with Article 30(3) and Article 42(1) of Directive 2014/23/EU of the European Parliament and of the Council^{1a}, Article 18(2) and Article 71(1) of Directive 2014/24/EU of the European Parliament and of the Council^{1b} and Article 36(2) and Article 88(1) of Directive 2014/25/EU of the European Parliament and of the Council^{1c}, Member States are to take appropriate measures to ensure that in the performance of public contracts economic operators observe applicable obligations in the fields of social and labour law established by Union law. The effective implementation of the requirements under this Directive should be promoted through the integration, as appropriate, of social sustainability criteria in the award criteria designed by contracting entities for identifying the most economically advantageous tenders. However, this Directive does not create any additional obligation in relation to those Directives.

^{1a} Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

^{1b} Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

^{1c} Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

^{1c} Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Or. en