



Brussels, 3 June 2024

To: COREPER I

[Letter sent by e-mail]

Dear permanent representative,

On behalf of the 45 million workers we represent, the ETUC and the European trade union federations – industriAll Europe, UNI Europa, EFFAT, EFBWW, ETF and EPSU - call on the Coreper to adopt the Council's general approach to the upcoming triologue negotiations on the revision of the European Works Council (EWC) Directive at its next meeting (5 June 2024) with the objective of strengthening the Directive's effectiveness and enforceability at the earliest possibility.

EWCs are a key tool for anticipating and managing the many transformations confronting Europe. Without quality dialogue in companies, we will not be able to overcome the multiple crises we face and build a robust European economy that delivers quality jobs. Unfortunately, the current EWC Directive does not deliver on the obligations it should. A stronger directive is urgently needed, including deterrent sanctions and access to justice if breached.

Our aim is not to create new rights, but merely to effectively shape and enforce the rights that already exist. In this context, we would like to reaffirm our position as expressed in our attached statement of 06 May 2024. It is based on facts, extensively backed up by research and the Commission's impact assessment, and is designed to address the real problems that exist in enforcing the rights of European works councils. We are used to contrary positions between employers and trade unions on such a dossier. However we are more than surprised by the sharp opposition of the employers' side to any progress in this dossier. It gives the impression that, despite statements to the contrary, the employers' side seek to deliberately undermine the right to information and consultation of their European workforce. We want to recall that a Europeanisation of corporate structures in the single market and the economic advantages that come with it must be matched by an adaptation of industrial relations to the same extent. Information and consultation of European works councils must not be based solely on the good will of the management.

We would like to emphasise once again that EWCs and management are not equal partners, but that there are considerable differences in power. The legislator is therefore called upon to equalise these differences in power and to enable the EWC to exercise its rights and, if necessary, to enforce them. Since this can only be done in the final instance by independent courts, and given that the EWC has no financial resources of its own, the employer must also bear the legal costs. In many member states, this is



already the case for national works councils, without a wave of legal action having arisen. Here too, as is so often the case, employers fail to provide evidence for their statements, while there is verifiable proof that EWCs are deterred from suing for their rights as they are then personally liable for the legal risk.

The definition of transnational matters still under discussion in the Council is, in our opinion, sufficiently regulated by the proposal of the Belgian Council Presidency. We would like to emphasise once again that there must be no regression from the current definition. How the definition can be made more legally secure by inserting an undefined legal term such as 'substantially' remains a secret of the employers. In our experience, undefined legal terms lead to legal uncertainty and the need to have the issue finally clarified in court. We have enclosed a short briefing on the meaning and purpose of a broad definition for better understanding.

It is a logical consequence of a consultation that it must be concluded before a final decision is made. Otherwise it would merely be a matter of information. We understand that business decisions sometimes have to be made quickly. If this is objectively the case, then EWC agreements can provide for appropriate procedures. No EWC would jeopardise the long-term success of its company. On the contrary, workers' representatives are generally interested in the long-term success of a company, not in short-term balance-sheet optics. Here again, employers cannot provide any verifiable figures to show that important company decisions have been delayed by the consultation rights of workers' representatives at national or European level. Conversely, studies show that EWCs are mostly consulted too late or not at all.

We welcome the removal of the exemptions for so-called pre-directive agreements. This will provide for equal access and rights to information and consultation to all workers. Following the removal of the exception, it is up to the contracting parties to decide whether they wish to enter into negotiations under Article 5 or not.

We would like to call on you to approve an ambitious general approach to the improvement of the EWC Directive at your next meeting planned 5 June which would pave the way for the rapid start of trilogue negotiations after the constitution of the European Parliament under the Hungarian Presidency of the Council.

Signatories:

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