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## TEXTS ADOPTED

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### **P9\_TA(2021)0508**

#### **European framework for employees' participation rights and the revision of the European Works Council Directive**

**European Parliament resolution of 16 December 2021 on democracy at work: a European framework for employees' participation rights and the revision of the European Works Council Directive (2021/2005(INI))**

*The European Parliament,*

- having regard to recital four of the Preamble of the Treaty on European Union (TEU) confirming the European Union's attachment to democracy,
- having regard to Article 3(3) TEU,
- having regard to Article 9, Article 151 and Article 153(1) (e) and (f) of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Articles 12, 27, 28, 30 and 31 of the Charter of Fundamental Rights of the European Union (the "Charter"),
- having regard to Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies<sup>1</sup>,
- having regard to Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation<sup>2</sup>,
- having regard to the Commission proposal of 14 March 2012 for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (Women on Boards Directive) (COM(2012)0614),
- having regard to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin<sup>3</sup>,

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<sup>1</sup> OJ L 225, 12.8.1998, p. 16.

<sup>2</sup> OJ L 303, 2.12.2000, p. 16.

<sup>3</sup> OJ L 180, 19.7.2000, p. 22.

- having regard to Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union<sup>1</sup>,
- having regard to Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses<sup>2</sup>,
- having regard to Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European Company with regard to the involvement of employees<sup>3</sup> and Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees<sup>4</sup>,
- having regard to Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community<sup>5</sup>,
- having regard to the study of its Policy Department for Citizens' Rights and Constitutional Affairs of May 2012 on relations between company supervisory bodies and management, which proposes amending Directive 2002/14/EC on informing and generally consulting employees to include employee representatives in company boardrooms,
- having regard to Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids<sup>6</sup>,
- having regard to Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies<sup>7</sup>,
- having regard to Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees<sup>8</sup> (the European Works Council Directive),
- having regard to the European Added Value Assessment of January 2021 entitled 'European works councils (EWCs) – legislative-initiative procedure: revision of European Works Councils Directive',
- having regard to the opinion of the European Economic and Social Committee of 9 June 2021 on no green deal without a social deal<sup>9</sup>,

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<sup>1</sup> OJ L 141, 27.5.2011, p. 1.

<sup>2</sup> OJ L 82, 22.3.2001, p. 16.

<sup>3</sup> OJ L 294, 10.11.2001, p. 22.

<sup>4</sup> OJ L 207, 18.8.2003, p. 25.

<sup>5</sup> OJ L 80, 23.3.2002, p. 29.

<sup>6</sup> OJ L 142, 30.4.2004, p. 12.

<sup>7</sup> OJ L 310, 25.11.2005, p. 1.

<sup>8</sup> OJ L 122, 16.5.2009, p. 28.

<sup>9</sup> OJ C 341, 24.8.2021, p. 23.

- having regard to the opinion of the European Economic and Social Committee of 2 December 2020 on an industrial transition towards a green and digital European economy: regulatory requirements and the role of social partners and civil society<sup>1</sup> ,
- having regard to the opinion of the European Economic and Social Committee of 29 October 2020 on social dialogue as an important pillar of economic sustainability and the resilience of economies taking into account the influence of lively public debate in the Member States<sup>2</sup> ,
- having regard to the opinion of the European Economic and Social Committee of 31 August 2020 on an EU legal framework on safeguarding and strengthening workers' information, consultation and participation,
- having regard to the opinion of the European Economic and Social Committee of 17 October 2018 on the package on European company law<sup>3</sup>,
- having regard to the opinion of the European Economic and Social Committee of 16 March 2016 entitled 'Upgrading the Single Market: more opportunities for people and businesses'<sup>4</sup>, which calls for greater worker involvement in business governance,
- having regard to the opinion of the European Economic and Social Committee of 20 March 2013 on employee involvement and participation as a pillar of sound business management and balanced approaches to overcoming the crisis<sup>5</sup>,
- having regard to its resolution of 12 March 2009 on employees' participation in companies with a European statute and other accompanying measures<sup>6</sup>,
- having regard to its resolution of 14 June 2012 on the future of European company law<sup>7</sup>,
- having regard to its resolution of 15 January 2013 with recommendations to the Commission on information and consultation of workers, anticipation and management of restructuring<sup>8</sup>,
- having regard to its resolution of 12 September 2013 on cross-border collective bargaining and transnational social dialogue<sup>9</sup>,
- having regard to its resolution of 17 December 2020 on a strong social Europe for Just Transitions<sup>10</sup>,

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<sup>1</sup> OJ C 56, 16.2.2021, p. 10.

<sup>2</sup> OJ C 10, 11.1.2021, p. 14.

<sup>3</sup> OJ C 62, 15.2.2019, p. 24.

<sup>4</sup> OJ C 177, 18.5.2016, p. 1.

<sup>5</sup> OJ C 161, 6.6.2013, p. 35.

<sup>6</sup> OJ C 87 E, 1.4.2010, p. 133.

<sup>7</sup> OJ C 332 E, 15.11.2013, p. 78.

<sup>8</sup> OJ C 440, 30.12.2015, p. 23.

<sup>9</sup> OJ C 93, 9.3.2016, p. 161.

<sup>10</sup> OJ C 445, 29.10.2021, p. 75.

- having regard to its resolution of 21 January 2021 on the new EU Strategy for Gender Equality<sup>1</sup>, which calls for an urgent end to the deadlock in the Council in order to adopt the proposed directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM(2012)0614),
- having regard to the Commission communication of 12 December 2012 entitled ‘Action Plan: European company law and corporate governance – a modern legal framework for more engaged shareholders and sustainable companies’ (COM(2012)0740),
- having regard to the resolution of the European Trade Union Confederation of 22 October 2014 entitled ‘Towards a new framework for more democracy at work’,
- having regard to the position of the European Trade Union Confederation of 9-10 December 2020 on a new EU framework on information, consultation and board-level representation for European company forms and for companies making use of EU company law instruments enabling company mobility,
- having regard to the University of Leuven research project of May 2016 entitled ‘European Works Councils on the Move: Management Perspectives on the Development of a Transnational Institution for Social Dialogue’,
- having regard to the position of the European Trade Union Confederation of 15-16 March 2017 on a modern European Works Council (EWC) Directive in the digital era,
- having regard to the report of the European Women’s Lobby of February 2012 entitled ‘Women on boards in Europe: from a snail’s pace to a giant leap? Progress, gaps and good practice’,
- having regard to the study of the International Labour Organization (ILO) of February 2010 entitled ‘A comparative overview of terms and notions on employee participation,
- having regard to the ILO study of November 2018 on corporate governance models: structure, diversity, evaluation and prospects,
- having regard to the G20/OECD Principles of Corporate Governance of 2015 and the statement of the Trade Union Advisory Committee to the OECD of 28 May 2021,
- having regard to the third Eurofound European Company Survey of 14 December 2015 on direct and indirect employee participation,
- having regard to the fourth Eurofound European Company Survey of 13 October 2020 on workplace practices unlocking employee potential,
- having regard to Principles 7 and 8 of the European Pillar of Social Rights (EPSR),
- having regard to the Commission communication of 4 March 2021 on the European Pillar of Social Rights Action Plan (COM(2021)0102),

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<sup>1</sup> OJ C 456, 10.11.2021, p. 208.

- having regard to the Porto Declaration and Porto Social Commitment,
  - having regard to Rule 54 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs (A9-0331/2021),
- A. whereas democracy in general and democracy at work in particular are core values of the European Union and provide a very solid foundation on which to strengthen Europe's resilience and social contract; whereas these core values are also incorporated in the Community Charter of the Fundamental Social Rights of Workers and the Charter and the EPSR; whereas work is a crucial activity that provides structure in society, providing not only a means for living, but also for individual development and connection with society; whereas action is needed to ensure the balance of bargaining power between employers and employees, which can be improved by strengthening democracy at work;
- B. whereas social partnership and collective bargaining between representatives of employees and employers at national level and social dialogue at EU level are key elements of the European Social Model, whose shared legacy of social dialogue, workers' participation, collective bargaining, employee representation on boards, health and safety representation, and tripartism are the building blocks of a diverse and economically, socially and environmentally sustainable future;
- C. whereas the regulatory landscape of the Union in the field of employment law and company law remains excessively fragmented, which could result in a lack of legal certainty on applicable rules and rights for both employers and employees; whereas it is essential to reinforce the Union's toolkit in these fields by introducing an ambitious framework directive that streamlines and simplifies the applicable legislation, and reinforces workers' rights, notably the right to information, consultation and participation;
- D. whereas democracy at work plays a key role in strengthening human rights in the workplace and society, not least when workers' representatives, including trade unions are actively involved in business due diligence processes; whereas more democracy at work, coupled with increased transparency, would be an effective way of addressing the inequalities at work and in society; whereas democracy at work can improve trust in democratic values and motivate workers to engage in democratic culture and practices;
- E. whereas the promotion of democracy at work calls for the safeguarding and upholding of various social and labour rights and principles, including the right to collective organisation and action; whereas high levels of democracy at work are associated with better quality employment relationships, stability, higher wages and higher levels of health and safety protection, including harassment in the workplace; whereas social justice and, in particular, democracy at work are firmly embedded in international and European human rights instruments and standards; whereas democracy at work has been enlightening social progress in Europe and the world for more than a century; whereas the ILO was founded in 1919 with the firm belief that universal peace can be established only if it is based on social justice<sup>1</sup>; whereas social dialogue, collective

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<sup>1</sup> See: ILO Constitution of 1919 and ILO Declaration of Philadelphia of 1944.

bargaining and workers' representation form core ILO values and rights and are provided for in numerous ILO Conventions and Recommendations, whereas also the Council of Europe counts democracy at work amongst its core values as expressed by the European Convention of Human Rights and the European Social Charter;

- F. whereas workers' representation and participation, as well as collective bargaining coverage, are essential for the enforcement of workers' rights and the proper functioning of companies; whereas Eurofound reported<sup>1</sup> that fewer than one third (31 %) of companies in the EU facilitated the regular direct participation of employees in organisational decision-making in 2019;
- G. whereas, according to the G20/OECD Principles of Corporate Governance of 2015, '[t]he degree to which employees participate in corporate governance depends on national laws and practices, and may vary from company to company as well';
- H. whereas trade unions and workers' representatives have played a key role in mitigating the impact of the COVID-19 pandemic in the workplace, from the introduction of measures to protect the health and safety of workers, notably essential workers in highly exposed workplaces, to the implementation of job retention schemes, such as short-time work, and new forms of work organisation, such as working from home;
- I. whereas the COVID-19 pandemic has aggravated pre-existing gender inequalities in the labour market and widened the gender gap in labour force participation; whereas this has affected, in particular, highly feminised sectors with low pay and poor working conditions, with a large number of women working on the frontline, especially as health professionals, care workers, cleaning and maintenance workers, domestic workers, fighting the virus while often also having to balance family responsibilities during lockdowns;
- J. whereas a significant number of restructuring processes are currently underway as a result of the COVID-19 crisis; whereas the disruptive impact of the pandemic has temporarily accelerated the pace of company restructuring and enlarged the scope thereof, especially in certain sectors; whereas the consultation of workers and their participation and collective bargaining are essential to address the positive and negative impacts of restructuring; whereas technological developments, the transition to a low-carbon economy and the economic and social recovery from the COVID-19 pandemic provide an opportunity to transition workplaces into high-involvement forms of work organisation at all levels; whereas, according to Eurostat, Member States with well developed industrial relations systems, working arrangements and short-working schemes performed better than the EU average in 2020 and far fewer workers lost their job;
- K. whereas research shows that participation in the workplace contributes to company performance, job quality and well-being; whereas, according to Eurofound<sup>2</sup>, fewer than one third (31 %) of companies in the EU27 facilitated the regular direct participation of employees in organisational decision-making in 2019 and the strength of worker

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<sup>1</sup> <https://www.eurofound.europa.eu/news/news-articles/companies-capitalise-on-direct-employee-involvement-to-enhance-performance-and-well-being>

<sup>2</sup> European Company Survey 2019.

participation in the EU has declined over the past decade<sup>1</sup>; whereas over half of establishments in Sweden (56 %) and Denmark (55 %) were characterised by regular, high-influence direct engagement with employees; whereas the same can be said of only around one fifth of establishments in Poland (20 %) and the Netherlands (21 %);

- L. whereas sustainable corporate governance can only be achieved with employee involvement;
- M. whereas according to the ILO study of February 2010 entitled ‘A comparative overview of terms and notions on employee participation’, ‘there is a large variety of models dealing with workers’ participation or employee involvement’ and ‘in some national systems [...] workers have the right to elect representatives to the company’s supervisory or administrative organs’;
- N. whereas sustainable companies are distinguished by the fact that they have mechanisms for expressing the voice of workers and including workers’ views in the process of taking strategic decisions that have an impact on the workforce and entire communities and regions<sup>2</sup>;
- O. whereas studies have shown that worker participation enhances productivity, the engagement of workers, innovation and work organisation, supports the transition to a carbon-neutral, climate-neutral, resource-efficient and circular economy<sup>3</sup> and gender equality, improves good work organisation and decision making, and provides alternatives to crisis-induced employment reduction;
- P. whereas gender and pay gaps continue to exist in decision-making bodies, preventing women’s full participation and their contribution to economic and social life, resulting in persistently high levels of under-employment of women, which have a severe impact on society and economic growth;
- Q. whereas according to the Opinion of the European Economic and Social Committee of 17 October 2018 on the package on European company law, the role of European works councils should be enhanced in the event of large company transformations, in accordance with Directive 2009/38/EC;
- R. whereas employees are not mere ‘stakeholders’ of companies, but ‘constituting parties’ alongside shareholders and managers; whereas worker participation in companies is a

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<sup>1</sup> European Trade Union Institute, 2021, ‘Benchmarking Working Europe 2020 – Covid-19 and the world of work: the impact of a pandemic’.

<sup>2</sup> Rapp, M. S., Wolff, M., Udoieva, I., Hennig, J. C., ‘Mitbestimmung im Aufsichtsrat und ihre Wirkung auf die Unternehmensführung’, Hans-Böckler-Stiftung, No 424, June 2019; Ernst and Young, Study on directors’ duties and sustainable corporate governance, July 2020.

<sup>3</sup> Guidelines for a just transition towards environmentally sustainable economies and societies for all, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_ent/documents/publication/wcms\\_432859.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_432859.pdf); Employment and Social Developments in Europe 2021, see <https://op.europa.eu/en/publication-detail/-/publication/e823d46f-e518-11eb-a1a5-01aa75ed71a1/language-en>

key component of a pluralistic model of corporate governance based on democratic principles, fairness and efficiency<sup>1</sup>;

- S. whereas the active inclusion of workers in companies' decision-making processes will be essential to ensure the fast, substantial and sustainable policy and strategy changes required by the twin digital and green transitions, which will herald significant changes in the world of work; whereas it will also lead to better inclusion of the most vulnerable workers in the process of transitioning towards a green and digital economy;
- T. whereas the recovery plan offers to both employers and workers an unprecedented opportunity for innovation in financing sustainable and digital investments and projects; whereas the timely and effective involvement of employees in the programming and execution of these projects is essential in order to adequately identify, anticipate and manage their potential transformative effects on the workplace and relations between social partners;
- U. whereas the COVID-19 pandemic has shown a pressing need for much broader and stronger participation by social partners, especially if the green and digital transitions to a sustainable, fair and social future for the EU is to be achieved;
- V. whereas the Conference on the Future of Europe offers an opportunity to move beyond crisis mode and involve the EU's citizens in shaping its future, thereby strengthening democracy at all levels;
- W. whereas small and medium-sized enterprises (SMEs) provide 6 out of 10 jobs in the EU;

### ***Workers' participation in companies***

1. Notes the rich and interlocking network of workers' participation at workplaces across the entire Union, from workers and workers' representatives, including trade unions, elected by and from the workforce at the local level, to cross-site works councils in more complex companies, to dedicated health and safety representation, and employee representation on companies' supervisory or administrative boards;
2. Acknowledges the different legal frameworks for board-level worker participation in 18 EU Member States; highlights that the scope and intensity of worker participation in company boardrooms varies greatly; highlights that the digital and green transitions are greatly affecting the world of work and that the more resilient and sustainable companies are those with well established systems of workers participation in company matters<sup>2</sup>;
3. Is convinced that the workers' voice must be a key component of EU initiatives to ensure sustainable and democratic corporate governance and due diligence on human rights, including with regard to labour, and on climate change and the environment, as well as to reduce the use of unfair practices, such as labour exploitation and unfair

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<sup>1</sup> ILO study of November 2018 on corporate governance models: structure, diversity, evaluation and prospects.

<sup>2</sup> [https://www.boeckler.de/pdf/mbf\\_praes\\_arguments\\_co\\_determination.pdf](https://www.boeckler.de/pdf/mbf_praes_arguments_co_determination.pdf)



competition in the internal market, also, where applicable, in the light of Article 154 TFEU;

4. Highlights the importance of continuously improving the education, training and skills policies of the EU and the Member States, including vocational training, in particular to ensure lifelong learning and training, as well as the upskilling and reskilling of all workers;
5. Calls on the Commission to respect the agreements between European social partners at both cross-industry and sectoral level, as laid down in the Treaties; highlights that respect for European social partner agreements includes their implementation, at the joint request of the signatory parties, in matters covered by Article 153 TFEU, by means of a Council decision following a proposal from the Commission;
6. Notes that through loopholes<sup>1</sup>, the EU Statute for a European Company (Societas Europaeae – SE) can inadvertently enable companies to circumvent national regulations, particularly on board-level employee representation; regrets the fact that the 2019 Company Law Package<sup>2</sup> has not resolved these shortcomings and invites the Commission to pursue an evaluation immediately following the Member States’ transposition of the package in order to assess the alleged loopholes; notes that some cross-border mergers can strengthen the single market by generating greater synergies between European companies, but that it can, sometimes, give rise to unfair practices that need to be addressed, and that it can also be used to avoid representation rights; stresses that special attention should be paid to complex corporate structures and supply or subcontracting chains in order to ensure respect for social standards;
7. Stresses that workers’ representatives must have the right to be informed about the use of posted workers in subcontracting chains and be able to contact these workers, in line with the obligation established in Article 8 of the Temporary Agency Work Directive<sup>3</sup>, which obliges the user undertaking to provide information on the use of temporary agency workers to bodies representing workers;
8. Highlights that recital 35 of Directive (EU) 2019/2121<sup>4</sup> on cross-border conversions, mergers and divisions states that ‘[i]n certain circumstances, the right of companies to carry out a cross-border operation could be used for abusive or fraudulent purposes,

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<sup>1</sup>. <https://www.etui.org/sites/default/files/R%20121%20Conchon%20BLER%20in%20Europe%20EN%20WEB.pdf>. As it stands, the SE legal framework does not help to safeguard pre-existing board-level employee representation (BLER) rights and even offers the possibility for companies to circumvent national BLER rights (Kluge and Stollt, 2011; Keller and Werner, 2010). It seems that the SE Statute could be used to further three potential bypass strategies, namely the avoidance of BLER; a ‘freeze’ of BLER; or a reduction in the number of seats allocated to board-level employee representatives, especially where these are occupied by external trade unionists.

<sup>2</sup> Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 as regards cross-border conversions, mergers and divisions (OJ L 321 12.12.2019, p. 1).

<sup>3</sup> Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ L 327, 5.12.2008, p. 9).

<sup>4</sup> Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions (OJ L 321, 12.12.2019, p. 1).

such as for the circumvention of the rights of employees, social security payments or tax obligations, or for criminal purposes’; considers it essential, in this regard, to adequately define ambitious EU minimum standards for information, consultation and board-level representation and participation of workers in cases where companies restructure across borders; calls on the Commission, in the context of its forthcoming evaluation of Directive (EU) 2019/2121, to take account of the existence of good practices and the results of studies and assessments of the positive socioeconomic effects and consequences of employee representation in corporate bodies, while also amending existing directives affecting this issue, which can help improve corporate governance; calls on the Commission to develop initiatives to raise awareness and improve knowledge of national and EU rules governing employee representation in corporate bodies in the various Member States and to foster exchanges of best practices, assessing the different forms of worker participation and the socioeconomic effects thereof;

9. Reiterates that several EU legal acts concerning workers’ board-level representation rights do not establish minimum requirements for board-level representation in European companies in their various forms or for companies that use EU company law instruments to enable cross-border company mobility and legal reorganisation, including cross-border mergers, conversions and divisions<sup>1</sup>; calls on the Commission and on the Member States to take urgent and decisive actions to ensure that European companies respect workers’ information, consultation and participation rights and that, accordingly, they comply with existing EU and national legal obligations;
10. Calls on the Commission to make the necessary improvements to the frameworks regulating SEs and European Cooperative Societies and, on the basis of a timely evaluation by the Commission, to the Company Law Package, and to amend them to introduce minimum EU rules governing employee participation and representation on supervisory boards, including on gender equality;
11. Calls on the Commission and the Member States to establish the necessary conditions and requirements to ensure that at least 80 % of corporations in the EU are covered by sustainable corporate governance agreements by 2030<sup>2</sup>, while also recognising the particular administrative burden associated therewith for SMEs; calls, to this end, for the establishment of strategies agreed with workers to positively influence environmental, social and economic development through governance practices and market presence, to strengthen the role of directors in pursuing the long-term interests of their company, to improve directors’ accountability towards integrating sustainability into corporate decision-making, and to promote corporate governance practices that contribute to company sustainability, including corporate reporting, board remuneration, board composition and stakeholder involvement<sup>3</sup>;
12. Calls on the Commission to deliver on its commitment to put forward without further delay a directive on binding environmental and human rights due diligence and responsible business conduct, including workers’ rights such as the right to organise and

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<sup>1</sup> <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/directive-on-cross-border-mobility-of-companies>

<sup>2</sup> Commission staff working document of 4 March 2021 accompanying its European Pillar of Social Rights Action Plan (SWD(2021)0046).

<sup>3</sup> Commission staff working document of 4 March 2021 accompanying its European Pillar of Social Rights Action Plan (SWD(2021)0046).

collectively bargain, health and safety, and working conditions; stresses that this directive should establish mandatory due diligence requirements covering companies' operations, activities and their business relationships, including supply and subcontracting chains, and should ensure the full involvement of trade unions and workers' representatives throughout the due diligence process, including the development and implementation process;

13. Is convinced that introducing new digital technologies has the potential to have a positive impact on the work environment if they are implemented and monitored in a trustworthy manner, which will require timely and meaningful information and the consultation of workers' representatives, including trade unions, to ensure full respect for their health and safety, data protection, equal treatment, employment stability, social protection and well-being at work, and to prevent undue exploitation and surveillance of workers, as well as discrimination and stigmatisation, in particular via management by algorithms; underlines the fact that trade unions and workers' representatives should have the necessary access and means to assess and evaluate digital technology prior to their introduction; emphasises that new digital technologies and artificial intelligence should not replicate existing discrimination and societal biases but should help the social inclusion and participation of diverse groups; highlights the need to apply the ethics-by-default principle throughout the entire life cycle of the digital technologies in order to harness their full potential and avoid biases; stresses that social dialogue structures, sectoral collective bargaining, the provision of information to trade unions and workers' representatives, and the consultation and participation thereof are key to providing the necessary support for workers to better build and participate in the uptake and monitoring by social partners of digital technology at the workplace;
14. Believes that workers' rights to organise, to collective union representation, to freedom of assembly and association, and to collectively call for reforms within their workplaces are fundamental aspects of the European project and core principles of the social model, which are affirmed and legally upheld by the EU institutions; is concerned about the fact that some workers taking part in new forms of work do not enjoy effective representation and participation rights in the workplace; deplores the fact that this is the case, in particular, for sectors where the majority of workers are women<sup>1</sup>; reiterates its call on the Commission and the Member States to ensure the right of workers to freedom of association and participation in the workplace, in all forms of employment; calls on the Commission to complement the activities of the Member States to protect workers in exercising their right to freedom of association and in participating in the workplace;
15. Calls on the Commission and the Member States, together with social partners, to commit to reaching collective bargaining coverage of 90 % by 2030 in those national systems that combine statutory and social partner regulation of employment and working conditions; stresses that collective bargaining contributes to the social market economy, as aimed for in the Lisbon Treaty; reiterates that the EU treaties, which explicitly protect the autonomy of social partners, and the self-regulatory systems in place in some Member States, must be protected in order for social partners to regulate autonomously, ensuring strong legitimacy and collective agreement coverage progress; calls on the Member States to remove any national legislation that hampers collective

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<sup>1</sup> [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/662491/IPOL\\_STU\(2020\)662491\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/662491/IPOL_STU(2020)662491_EN.pdf)

bargaining, including by ensuring trade unions' access to workplaces for the purpose of organising;

16. Underlines that reforms in the Member States should not negatively affect collective bargaining, which needs to be promoted at sectoral level, including by supporting the capacity-building of social partners; urges the Commission and the Member States to fully involve social partners in EU policy-making; stresses that labour reforms at national level must contribute to the implementation of the EPSR, including Principle 8 on social dialogue and the involvement of workers, collective bargaining and respect for the autonomy of social partners and the rights to collective action and to be informed and consulted in good time on the transfer, restructuring and merging of undertakings, and on collective redundancies; calls on the Commission to analyse labour reforms in the national recovery and resilience plans on these specific aspects;

### ***A new framework for information, consultation and board-level representation***

17. Stresses the need to thoroughly enforce, evaluate and – where necessary based on this evaluation – strengthen and consolidate all the relevant EU laws to ensure that informing and consulting employees is an integral part of company decision-making and that it takes place at the relevant level within companies;
18. Stresses the importance of ensuring timely and meaningful information and consultation across the EU, before management decisions are made which have a potential impact on workers, employment and working conditions, and about policies or measures, especially those with cross-border implications; emphasises that workers' representatives, including trade unions, must have access to the requisite expertise and support documentation regarding management decisions to assess the implications of these cross-border policies and processes for the workforce and to propose alternatives; stresses that a genuine dialogue on those alternatives must take place between trade unions, workers' representatives and management;
19. Highlights the importance of employees' representatives, and in particular the European works councils, participating meaningfully, after having been effectively informed and consulted, in the drawing up and implementation of transnational matters which significantly affect workers' interests; stresses that this should include matters which are of importance to the European workforce in terms of the scope of their potential effects or which involve transfers of activities between Member States; stresses that the EWC must be informed and consulted in matters relating, in particular, to the current situation and probable trends as regards employment and investments, and substantial changes concerning organisation, the introduction of new working methods or production processes, transfers of production, mergers, cut-backs, closures of undertakings, establishments or important parts thereof, and collective redundancies; stresses also that EWC engagement can develop and promote corporate culture and cohesion and that workers' representatives should take part in the development of social plans, with the aim of regulating changes that may affect workers and generate redundancies; believes that it is essential to strengthen European works councils, taking into account the differences in industrial relations systems in the Member States;
20. Notes that divergences persist between EU countries regarding the quality, timing and effectiveness of information and consultation before corporate decisions are made, and that restructuring processes are carried out differently across Europe; notes that dialogue

about alternatives to redundancies and plant closures vary within the EU; recalls that it already proposed a legal framework<sup>1</sup> in 2013 as regards informing and consulting workers, and the anticipation and management of restructuring, with a view to shaping sustainable and socially inclusive restructuring and leaving no worker behind; believes that a coherent EU strategy is essential in order to equip companies and workers to cope with a fair green and digital transition;

21. Stresses that the right of employees to information and consultation should always be ensured in a timely manner and address the potential quantitative and qualitative effects on employment and working conditions and the changes deriving from digital technologies and applications to improve existing business processes and workforce efficiency; points out that the informing of workers and their consultation and board-level participation are effective tools in enforcing workers' rights;
22. Calls for the EU to ensure that employees are also represented on boards in companies that make use of EU legislation<sup>2</sup> for the purposes of cross-border company restructuring and mobility; stresses the need for gender-balanced boards, both in terms of employee seat numbers and the board overall; reiterates its call on the Council to end its blocking of the Women on Boards Directive, reflecting the fact that, in order to achieve participatory workplaces, gender equality must be ensured at all levels;
23. States that much remains to be done to ensure gender equality and equal opportunities in all aspects of worker participation across the EU, as well as proper representation of employees with disabilities; notes that persistent gender inequality is also reflected in women's limited access to leadership and representative positions in the workplace; reiterates that gender equality and diversity in boardrooms represent a key democratic principle with positive economic side effects; calls for the introduction of additional measures, in consultation with the social partners, to ensure balanced representation and gender equality; notes that gender quotas contribute to the achievement of more diversity, gender equality and equitability throughout all decision-making bodies;
24. Considers that companies should make progress in guaranteeing diversity and gender equality, including through equal pay in the workplace; urges the Council to make progress on the Women on Boards Directive; calls for the application of the 40 % quota to both non-executive and executive boards (independently considered), both in private and public owned companies, with national legislation to be adapted progressively;
25. Calls on the Commission to follow up on the priorities included in the EU Gender Equality Strategy 2020-2025 and, in particular, to ensure that the proposal for a directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures is released in the Council;
26. Calls on the Commission, following its anticipated impact assessment and in consultation with social partners, to introduce a new framework directive on workers' information, consultation and participation for European companies, and for companies that use EU company mobility instruments, in order to establish minimum standards on

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<sup>1</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C\\_.2015.440.01.0023.01.ENG&toc=OJ%3AC%3A2015%3A440%3ATOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C_.2015.440.01.0023.01.ENG&toc=OJ%3AC%3A2015%3A440%3ATOC)

<sup>2</sup> Directive (EU) 2019/2121; Directive 2001/86/EC; and Directive 2003/72/EC.

issues such as anticipating change, including with regard to measures concerning climate change, digital transformation and restructuring, in particular at company level;

27. Stresses that some shortcomings in EU law would be overcome by introducing thresholds for a minimum EU standard of board-level representation under this new framework directive; considers, to this end, that the number/proportion of seats on boards for workers' representatives should range from a few seats to parity, depending on the number of employees in the company and its subsidiaries;
28. Recalls that the European Works Council Directive is part of the EU *acquis* on the right of employees to participation, information and consultation; expresses concern over shortcomings in the directive's design, notably the enforcement and effectiveness of information and consultation rights, and deplores the opportunity missed in 2008 to further develop and significantly improve the directive;
29. Highlights the need to raise awareness of EWCs among employee and management representatives; stresses that EWCs are unique transnational bodies<sup>1</sup> set up for the purpose of informing and consulting employees and building and promoting corporate identity, and that they are affected by the level or intensity of industrial relations and policy frameworks; regrets the fact that the financial, material and legal resources needed to enable EWCs to perform their duties in an appropriate manner are not always provided by central management; calls on the Commission to explore the actions needed to improve workers' participation and better enforcement of the European Works Council Directive, and, if needed, to propose a revision of the directive with a view to strengthening the right of employee representatives to information and consultation, particularly during restructuring processes;
30. Calls on the Commission and the Member States to promote the strengthening of information and consultation rights to ensure that the EWC's opinion is taken into account in company decisions and is delivered before consultation is completed at the respective level and before the governing bodies come to a decision; calls on the Commission, moreover, to strengthen enforcement mechanisms, on Member States to ensure effective access to justice for special negotiation bodies, and on EWCs to introduce effective, dissuasive and proportionate penalties in order to secure compliance, put an end, after more than 20 years, to exemptions for old, so-called voluntary pre-directive agreements, to aim to clarify the concept of the 'transnational character of a matter' in the context of the European Works Council Directive, to prevent the abuse of confidentiality rules as a means to limit access to information and effective participation, to strengthen the subsidiary requirements and to ensure the efficient coordination of information, consultation and participation at local, national and EU levels;

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<sup>1</sup> <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/european-works-councils>: 'European works councils (EWCs) are standing bodies that facilitate the information and consultation of employees in European companies and European groups of companies, as required by the 1994 European Works Council Directive'.

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31. Instructs its President to forward this resolution to the Council and the Commission.