

UEAPME¹ reply to the first phase consultation of social partners on a consolidation of the EU Directives on information and consultation of workers

UEAPME takes note of the EC consultation concerning information and consultation of workers as already announced in the REFIT agenda and would like to give the following reply.

Information and consultation is a key topic for social dialogue at national but even more importantly at company level. Therefore the clarity and security of the legal framework are important elements for an adequate application at all levels.

1 - Do you consider the description of the issues in this paper correct and sufficient?

In its description of the issues at stake, the EU Commission mainly tries to justify an initiative aiming at the consolidation of the three Directives 98/59/EC (collective redundancies), 2001/23/EC (transfers of undertakings) and 2002/14/EC (information and consultation of workers) is already on the agenda of the EC work programme since a number of years.

For UEAPME the elements presented by the Commission are not sufficient to trigger a recast of the three directives. Referring to the Fitness check exercise, the main conclusion of its working group is that the three I&C Directives are broadly fit for purpose and that legislative intervention at EU level may not be the most appropriate means of tackling a number of gaps and shortcomings.

UEAPME also considers that a consolidation in a synthesized legal act would not promote more transparency nor simplification while taking the risk of reopening unnecessary lengthy and difficult debates without any real added value.

On the general approach, UEAPME welcomes the EC decision to not revise the thresholds for setting I&C bodies, but rather to take into account the specific situation and needs of SMEs. Thresholds concerning information and consultation are an important issue for UEAPME and its members, since it is very much related to the specificity of social dialogue in small businesses.

2 - Do you think that the Commission should launch an initiative to revise or recast the three Directives on I&C of workers at national level? If so, what should be its scope?

As UEAPME we don't see the need for a consolidation of the three I&C directives into a single legal text, since the three directives on information and consultation are already implemented in all Member States and do not create any major problems of application.

As recalled in the consultation document, the fitness check pointed out "that the three directives appear coherent and mutually reinforcing, without no evidence of duplications or contradictions resulting in problems in their practical implementation".

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](https://ec.europa.eu/transparency/regexp1/index.html).

As the “fitness check” exercise as well as the EC consultation document rightly highlight, the way the three directives are implemented on the ground essentially depends on the national industrial relations frameworks and social dialogue systems. Therefore we have strong doubts whether a new legal text will really contribute to the awareness of the stakeholders on the ground.

It will be the same for a new definition of information and consultation following the EWC directive. Certain elements as the “timely information” are already present in each directive, other elements such as “with a view to reaching an agreement” (collective redundancies) are related to the specific scope and objectives of the given directive and therefore should be further maintained.

Furthermore the EC highlights the importance of “avoiding that the alignment of the definitions brings about an unjustified regression of worker’s protection”.

In accordance with the better regulation initiative, UEAPME considers it important as well that a possible alignment of the definitions should not increase employer’s obligations nor administrative burdens. UEAPME insists on the principle that any consolidation action should act in a neutral way.

While the EC is mentioning several times a possible EU action in view of a consolidation of the EU Directives on information and consultation of workers, the Commission finally suggests that the consolidation could be done through a “recast” implying the adoption of a new legal act with substantive amendments and unchanged provisions. In substance recasting is aiming at a new legislative act and goes further than a legislative consolidation.

This is one more reasons why UEAPME does not see a need for proceeding on new specific provisions defining the concepts of “information” and “consultation” and aligning them in the three directives.

At the end, a new EU single directive covering the three directives could bring more confusion than clarification since the legal experts dealing with the three directives are largely acquainted to each of them.

3 - Would you consider initiating a dialogue under Article 155 on any of the issues identified in this consultation?

UEAPME does not see the need to initiate a social partner dialogue on any of the issues identified in the consultation.

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