

UEAPME reply to the first stage consultation of social partners on the possible review of Directive 2001/86/EC supplementing the Statute for a European Company with regard to the involvement of employees

Question 1: What is your opinion as regards the analysis contained in this paper regarding employee involvement in SEs? Are there any further issues that you consider should be added?

UEAPME is of the opinion that the EC analysis is complete and does not need any further work. We simply would like to comment on certain elements of the analysis:

- On the complexity of the procedure of employee involvement, it cannot be denied that this has been put forward as one of the main reasons for the low level of SE creation in certain Member States. However due to the differences between Member States concerning the involvement of employees, no simple solution will be found through a revision of the Directive.
- More surprising is the difficulty to obtain information about the number of employees. Normally the company's management should be able to publish this information.
- On the lack of legal certainty on certain aspects of the negotiation procedures: an "empty SE" does not require negotiation concerning involvement of workers. Furthermore Art 12.2 of Regulation 2157/2001 foresees that an SE can be established even in the case where the period for negotiations process has expired without the conclusion of an agreement. There is therefore no need to change the Directive.
- On the two other topics on EWC and calculation of workers number, it does not request any additional legislative measures.

Question 2: Do you think the Commission should launch an initiative to amend the Directive in parallel with a possible review of the SE Statute? if so, what do you consider should be its scope?

We do not see any need for revising the Directive. However if this revision is to take place, the changes should be limited to the cases where due to change in structures affecting major workers' interests the special negotiating body should be convoked.

Question 3: Do you think that, apart from and/or instead of legislative measures, other action concerning employee involvement at European Union level merits consideration? If so, what form of action should be taken, and on which issues?

We don't see the need for further actions concerning employee involvement at EU level to be taken.

Question 4: Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation? If so, which?

We do not consider necessary to initiate a dialogue under Article 155 on this topic.

Brussels, 23/09/11