

UEAPME reply to the European Commission's consultation on the future of transnational company agreements

UEAPME as the representative of Crafts and SMEs in Europe would like to give its contribution to the debate on transnational company agreements despite the fact that the majority of its members are by essence not directly concerned or affected by the issue mainly of multinationals interest.

This explains why on this specific topic the UEAPME's opinion will largely reflect the position of our Austrian member, the Federal Economic Chamber, which represents all sizes of Austrian companies including large companies.

On the various questions, UEAPME is taking position as follow:

- Is the analysis as to challenges and opportunities related to transnational company agreements shared by stakeholders? Are there important other aspects that have not been taken up so far?

The Commission covered the variety of challenges and opportunities related to transnational company agreements. However one option is missing and it is precisely the status quo in the sense that no further action is needed at EU level.

The fact that the number of transnational company agreements increased in the last years clearly shows that it can develop further without any new regulation, and it happened in practice.

- Which options should be chosen to support actors involved in transnational company agreements and with a view to clarifying their role?
- How can more transparency of transnational company agreements be achieved?

There is a clear need to continue the development of the searchable database of transnational company agreements put in place by the European Commission, allowing parties and other stakeholders to be well aware of the existence and content of different types of transnational company agreements in Europe.

However we don't see any further need for a specific mechanism or even an optional framework for the conclusion of transnational company agreements.

- What are possible ways to raise awareness as to the data protection obligations to be respected, in particular with regard to transfers of personal data to non-EU countries?

As a matter of principle the control over the respect of legal obligations lies in the hands of Member States. This includes control over data protection rules. Measures to raise awareness about legal obligations should take place according to national legal rules and practices in place.

- How can the implementation of transnational company agreements be improved and their interrelation with other levels of social dialogue be better addressed?

The link between other forms of social dialogue and negotiations concerning transnational company agreements is mainly determined by the national legal framework of the country where the company has its seat and where negotiations are conducted. In the Member States where works councils are able to negotiate on behalf of the workers, they could be present in the negotiation of transnational company agreements, whereas in other countries it is the task of national trade unions to negotiate also for transnational company agreements.

- How can more legal certainty in the application of transnational company agreements be achieved? Should the development of a mechanism aiming at clarifying legal effects of such agreements be envisaged?

We do not support the creation of a mechanism aiming at clarifying legal effects of transnational company agreements. Generally signatory parties of such agreements know perfectly well the legal effects they want to achieve. Therefore there is no need for such a mechanism, which would bear the risk to go against national processes or rules.

- Should action be taken to support the prevention of disputes and out-of-court settlement? If yes, which actions?

We don't see the need for such a prevention of disputes and out-of-court settlement.

- Should an optional framework be developed that address the above-mentioned issues, for example in the form of guidelines? What should be the main elements of such a framework?

We do not share the view that such an optional framework or guidelines would be useful. On the contrary it could become counterproductive. The introduction of a framework or guidelines would go against the nature of transnational company agreements, which are by definition voluntary. The transnational dialogue is based on mutual trust and this mutual trust should not be related to legal consequences. In the case of such framework each type of "commitment" would introduce legal consequences even in the case of voluntary agreements. The development of guidelines for the promotion of good practices could be useful and notably if they highlight the national limits of national legal frameworks.

- Who should be the main actors and which role be given in particular to social partners, and at what level?

The unclarity of the formulation of this specific question does not lead to a clear reply. Should it be the parties to a transnational company agreement than it would depend on the national rules and practices in industrial relations. Should it be other stakeholders in charge of developing such an optional framework than there is no need to reply to the question because there we don't see the need for such an optional framework.

To conclude, UEAPME does see the need for further initiatives in the area for the European level.

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