

Minutes from the Plenary Session of EESC on the 13/09/2006 in Brussels
Final voting over Draft Opinion “European Works Councils: a new role in promoting European integration”
Rapporteur: M. Edgardo Iozia

In the late afternoon on the 13.09.2006 a final voting over the Draft Opinion on European Works Councils prepared by the rapporteur Mr. E. Iozia took place in the European Economic and Social Committee. The voting was preceded by a 1 hour plenary debate. For the debate the Group 1 (Employers) that was totally against the final version of the Draft Opinion proposed a counter-opinion of their own (see the attachment).

The debate was opened by the rapporteur who once again emphasized the following motives for adopting the Draft Opinion. These arguments comprised:

- the need to strengthen the social dialogue which is in line with the Lisbon Strategy
- the need to update the Directive because it was designed for 15 member states (MS) and now there are 25 with two additional about to join the EU soon.
- the 12 new MS, thanks to their history and great record in terms of trade union movement, have contributed vastly to the development of the social dialogue and social cohesion in the EU. Thus, they cannot be now denied a say in adjusting and reshaping the EWC Directive so that it fits the new circumstances.
- the EU and especially the social partners cannot just stick on to the old and obsolete rules. It is imperative that we adjust the legislation and adapt it to the changed reality.
- it is sad that after having negotiated a compromise that was expressed in the opinion in the working group dealing with the Draft Opinion now Group 1 (the Employers) comes up with a mesmerizing counter-proposal
- the aim of adopting the Draft Opinion by the EESC is to spread out the information that it wants social dialogue, that it wants to have a good quality of this dialogue

10 speakers registered for the following discussion.

1) Dassis Georgios

- In view of the fact that the opinion by Mr. Iozia is well balanced the behaviour of the employers is beyond comprehension and it is absolutely not clear what their objective is;
- The discussion about the EWCs was started already in 1973 so more than 30 years ago! The motive was that in the democratic Europe it shall not be possible to close a company without the consent of the employees or behind their back. The proposal was not adopted yet and did not come back until 1994.
- At least it was decided that the employees will have a right to know if and when their workplace is going to be closed. Is it so much?
- By opposing the Draft Opinion and consequently the revision of the EWC Directive the employers run the risks of becoming themselves victims of their opposition here.

2) Le Scornet Daniel, Group III

- the rapporteur managed to reflect a compromise, he has not taken up “the old fashioned view of the ETUC” in regard to demands of changes in the Directive 94/45
- what happens in the company is the responsibility of the management but also of the employees

- EU citizenship is visible in EWC in its pure form

3) Pegado Liz Jorge, Group III

- some 26 years ago I was a rapporteur of the Vredeling Opinion dealing with the proposal for EWC and it's hugely surprising that there is such an opposition now, that we are still in the same place as 26 years ago
- the timing for the revision of the Directive is right now
- the approach of the rapporteur is nothing more than an appeal to look at the Directive and think together with UNICE where there is a need to do some update or amendment
- the opinion is very timely now since it speaks about the Social Responsibility that the companies have and about the EU society at large.

4) Evelyne Pichenot, Group III

- this is an opinion that is meant for the European Commission (EC) in order to communicate to them that it is possible to bring this Directive in line with other legislative acts on workers' representation and information and consultation
- the EESC is in the position to act in favour of the above mentioned goal to make slight amendments and changes
- The European Commission needs to take up some action now since it is the statutory guard of the Treaty. The EC cannot simply be passive since it is bound by the Treaty to act
- The opposition of the employers is not over and there will be another enlargement
- The MS have already adapted themselves and employers abuse this argument and mislead the public on purpose in this regard

5) Drbalova Vladimira, Group I

- even though that the rapporteur put a lot of work into it the Draft Opinion cannot be supported
- one needs to bear in mind the consequences of adopting this Opinion
- the mandate of this work group was to elaborate how to make more of the existing EWC and how to improve their functioning and heighten the influence on promoting the European integration
- that was not the mandate of the working group to prepare an opinion calling for the revision of the EWC Directive

6) Ton Huntjens, Group I

- when this EESC is asked for the opinion and it delivers the opinion on which there is a divided mind that it is regrettable but one needs to accept it; yet, when it's an own initiative of the EESC and there is no consensus on the opinion the point of having it at all? It's better not to give the opinion at all.
- It was clear already after the first 45 minutes of the initial discussion that it would not be possible to agree upon this initiative. It was black versus white. These differences arose not only between Group I and II but also between representatives from 'old' and 'new' MS (not true!!!)
- Changing such a hefty instrument will be understood and taken as a declaration of war on the business world!!!

- It's not only EWC that will not benefit from it but also the EU as such that will not benefit from this development of legislative measures on EWC at all!!

7) Retureau Daniel

- it's hard to understand that companies that are in favour of innovation oppose a change in this regard – their approach is simply: 'let's stay in place and do nothing!'
- the MS allegedly have not had time to adapt to the Directive but the employers are now rejecting with their counter opinion the right of the NMS to influence and shape the EWC Directive to their needs. This is an illogical contradiction in terms!
- The employers are saying that a change in the EWC Directive will mean the end of the world, which is laughable
- The opinion proposes only a slight adjustment to the current circumstances

8) Gustav Zöhrer, Group II

- there are positive and negative examples of EWC
- the conclusion is that we shall act, but not climb on the barricades but work on 3-4 concrete points
- it's simply necessary to review the EWC Directive
- it's not a position of the ETUC that calls for an immediate amendment of the Directive. The EESC and Group II moved deliberately away from the ETUC position in order to produce a compromise with the UNICE

9) Clare Carroll, Group I

- In the Draft Opinion there are no arguments in favour of the title of the opinion. There are only arguments for the extension of the employee rights
- This is not an opinion on European integration or anything of this sort
- The employers have adopted the EWC Directive in a very good way and have even in some cases moved beyond it voluntarily

10) Wolfgang Greif, Group II

- We need to ask ourselves a question what's at stake here? Have the employers read the counter opinion at all?
- The rapporteur appeals that we analyse the current situation only. He has emphasized that the EWC have contributed to the European integration so it is in favour of the title
- The EWC Directive was a compromise in 1994 at that time. What we want now is a revision that was due already in 1999. There are simply points that need to be revised.
- the counter-opinion of the Group I is not understandable at all, what is it's point, what is it about? It accuses the rapporteur about the things he has not committed

11) Marian Krzaklewski, Group II

- Group II during the meetings of the working group on the Draft Opinion never actually received a response to a many times repeated question as to the roots of the harsh opposition in regard to reviewing the EWC Directive
- Poland along with other NMS acceded the EU precisely thanks to the fact that the EU membership offered the employees the opportunity to participate in the

EWC and in the transnational industrial dialogue at large. The EWC were then a major incentive that was used to promote the EU membership in the national referendum (M. Krzaklewski was at that time the leader of the Polish biggest trade union “Solidarność” that via participation in the general elections built a government coalition in 1997)

- The trade unions especially in the NMS proved that they are a constructive force and a reliable partner – in Poland it were the free trade unions that fought for market economy and for rights for a free market entrepreneurship of which the companies now take advantage of
- The question of the illegality of the current provisions of the EWC Directive will sooner or later be judged by the European Court of Justice, since the representatives from the NMS will start to bring cases to court due to the fact of being discriminated against by the obsolete provisions of the EWC Directive that should have been amended long ago. The EWC Directive in its current shape does not provide enough mandates for the delegates from the NMS that they are eligible for on the basis of the workforce figures (proportionality)

After the debate on the Draft Opinion by E. Iozia the debate over the counter proposal of the Group I took place. It was opened by one of the authors, Ms. Christa Schweng. She argued that:

- workers have the right to require the structures for information and consultation
- there was a joint seminar in 2004 prepared by the social partners. The conclusion were:
 - o the EWC are a sensitive instrument
 - o reciprocal trust is key for proper functioning of EWC
 - o the EWC Directive is functioning well (???)
 - o that the proper functioning of the EWC requires time to bridge over different traditions of social dialogue, cultures, etc.
 - o all that requires reciprocal respect , we need time to learn each other, to adapt to different traditions, cultures, languages, etc.
- the EWC directive has been in use in the NMS for 2 years now
- the Directive and its potential is not used to its full yet and we can achieve mutual understanding and trust in frames of the existing directive

After the opening statement comments from the floor were raised, which however were merely repetitions of the arguments brought up in the first debate.

The outcomes of the voting were:

1) Voting on the Counter-proposal by the Group I

- a. For: 82**
- b. Against: 139**
- c. Abstentions: 8**

Total 229

2) Voting on the the Opinion by the rapporteur Mr. E. Iozia:

- a. For 144**
- b. Against 76**
- c. Abstentions: 15**

Total 235

Result: the Draft Opinion on EWC by Mr. E. Iozia was adopted with the majority of votes in the plenary session.

A few personal comments to the debate:

- the UNICE representatives sometimes misused information on purpose. For instance, stating that the tradition of EWC in the NMS is only 2 years long is not precise – the delegates from the NMS participated in many EWC many years before the NMS joined the EU*
- in the counter-opinion by Group I the UNICE tries to impose the view that both the employers and the workers are satisfied with the current functioning of the EWC Directive. Such a strategy by UNICE results in creating a false picture of the state of play and gives the impression that representatives of the Group II act without the necessary support of the employees*
- the UNICE by opposing the review indeed rejects the right of the NMS to air their opinion on this regulation which is especially regrettable since the current provisions deny the delegates from the NMS the right to send in an appropriate number of members that reflects the proportion of workers employed in the NMS*
- it is not true what Tom Huntjens (UNICE) argued that there have been clashes between the delegates of the Group II coming from the new and old member states in regard to the necessity of amending/revising the EWC Directive. The main line of conflict was all the time between Group I and II*
- UNICE argued very much that the mandate of the Working Group was not to draft an opinion that would call for the revision of the EWC Directive but simply to comment upon the role that the EWC have to play in the European Integration. They committed a fallacy, however, by rejecting the view that the revision and possible amendment of the EWC Directive is imperative to foster the European integration, of which issue the UNICE seems to care so much. Not only does the UNICE reject the view that the revision of the EWC Directive is necessary because 10 NMS joined the EU 2 years ago but also does the Group I reject the argument that another 2 countries will soon become member states of the EU. This is obviously an illogical and false approach by UNICE.*

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