

# „Marriages of Convenience“

EU Directives on employee information and consultation  
and trade unions in the new member states

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# Controversial issues

- Comments on the I&C Directive in Poland, Autumn 2004
  - *„EMPLOYER – be aware!  
Ministry of Economy and Labour prepared successive bill, which (...) aims forthrightly to further depressement of domestic employers. We can only suspect that it is undertaken to favour EU’s employers. (...) In this way a quasi-union organisation is created. Having employed only members of trade unions and members of labour council, one should think over whether the legal condition to announce bankruptcy is not fulfilled. It might be the only possible way to retard such employees.“*  
(A representative of a Polish Employers Federation in ‚Kalejdoskop‘ Magazine, September 2004)
  - *„The introduction of employee councils will undermine the positions of trade unions at the shop-floor and will lead to yellow-style employee representation fulfilling every will of the employers“*  
(Shop floor trade union official of a big automotive company in Poland)



# Why it matters

- *„The Information and Consultation Directive is potentially the most significant piece of employment legislation ever to be introduced in the UK.*

*(...)*

*The introduction of information and consultation rights will enable unions in organised workplaces to address an agenda that has been beyond their reach for most of the last decade. The importance cannot be understated. For the full potential of the Directive to be achieved though, unions will need to commit considerable resources and organisational skills. It is a challenge for unions but if met, it is a challenge with rich rewards.“*

**John Monks, TUC General Secretary 2002**

**(“EU Directive on Information and Consultation – How will it affect employment relations in the UK? Discussion document, TUC, 2002)**



# EU Directives on employee participation and trade unions in 2004

- **European landscapes of information and consultation**
- **History and culture matters: Lessons from Germany, Poland, the Czech Republic and Hungary**
- **Why the European Directives are necessary**



# Three types of information and consultation channels in Europe

- **Single Channel Systems:** only trade unions are entitled to represent employees as far information and consultation are concerned
  - **Sweden, Denmark, Finland, Ireland, UK, Cyprus, Malta, Poland and Turkey**
- **Dual-channel representation:** statutory works councils operate in parallel with trade unions, which are also based on workplace level organisations
  - **Austria, France, Belgium, Luxembourg, Spain, Greece, Portugal, Netherlands, Germany, Hungary and Slovenia + Slovakia**
- **Mixed or extended Channel System:** Employee rights are in principle expressed by the union, but non-union members are included, directly (Italy) or through a supplementary channel in non-union enterprises
  - **Italy, Estonia and Latvia, Bulgaria, the Czech Republic, Lithuania, Malta and Romania**

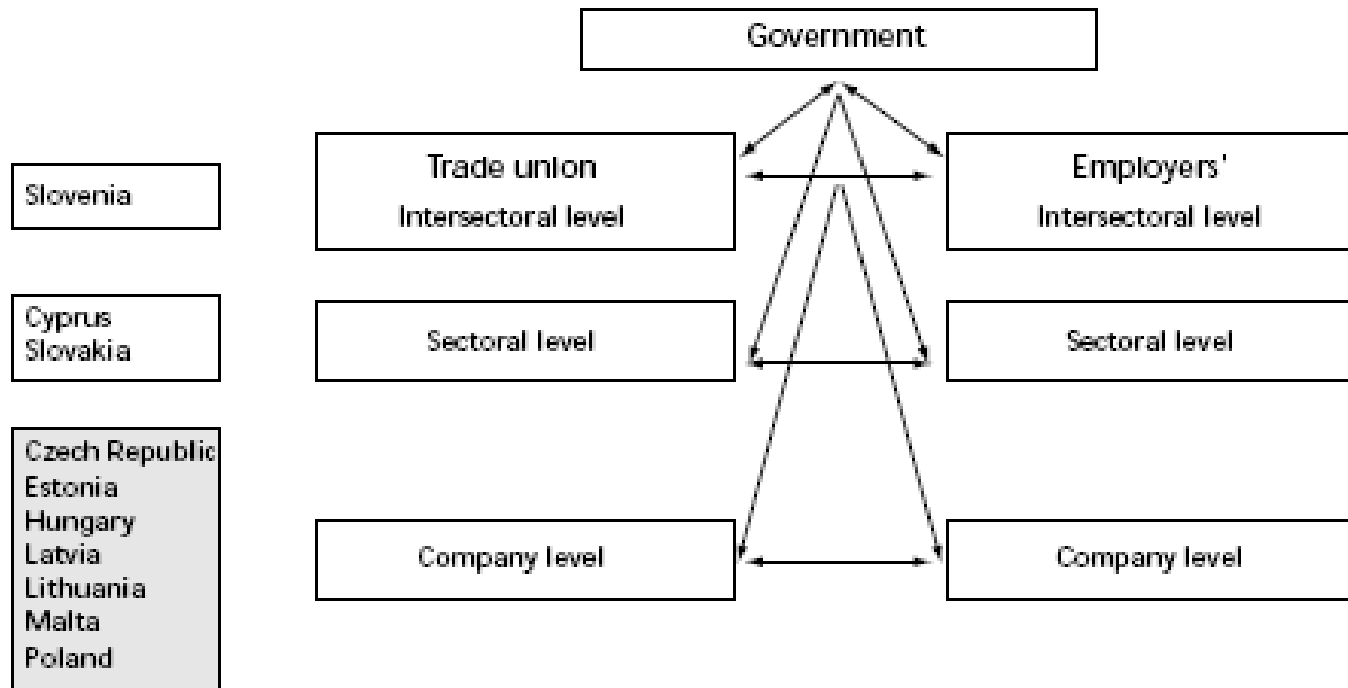


# Overview: Workplace Relations in Europe

Country	National Workplace IR			Unisation Rate	Bargain. Coverage	I&C	Co-determ	Union Comp.
	Monistic	Dualistic	Mixed					
UK	•			~ 40	30-40			Some
DE		•		~30	60-70	•	•	No
BE	•			~ 50	> 90	•		Consid.
NL		•		~ 30	> 80	•	•	Consid.
DK		•		80-90	> 80	•	•	Some
FR	•	•		~ 10	> 90	•		V. strong
IT	•			~ 40	70	•		V. strong
ES	•			~ 20	80	•		Some
AT		•		~ 40	95-100	•	•	No
SE	•			80-90	90-100	•	•	Some
FI	•			80-90	> 80	•	•	Some
PL	•			~ 15	30-40	•		V. strong
CZ			•	~ 30	20-30	•		Marginal
HU		•		15-20	30-40	•	•	V. strong
SL		•		~ 40	100	•	•	Consid.
SK		•		~ 40	40-50	•	•	Marginal
LV	•		TU + elected rep. of non-unis.	~ 30	< 20	•		No
EE	•			~ 15	< 30	•		Some
LTU	•			~ 15	Okt 20	•		Consid.
BG			•	~ 50		•		V. strong
RO			•	~ 50		•		V. strong
TR	•					•		



# Levels of collective bargaining (wages) in new member states



EIRO: EMU and social dialogue, 2003, p. 19



# Poland: EU Directives on I&C as a double-edged sword

- **Features of the Polish IR-system**
  - Dramatic low union density of ~ 14% and weak sectoral organisation
  - Only 9% of employers organised and no real interest in social dialogue
- **Transposition of European Directives**
  - Fostered by multinational companies early EWC-participation (i.e. ABB: 1992) and considerable scale of Polish involvement (90 cases before accession)
  - Significant trade union influence on EWC transposition law (i.e. union influence on delegation of representatives)
  - EWC representatives: approx. 40% non-union members with some examples of management-representatives / 60% trade union members
- **Transposition of EU Directive 2002/14/EC**
  - Over 90% of companies without any form of interest representation – only 6% of workplaces in the private sector
  - Draft law on the introduction of ‘employee councils’ or ‘employee representatives’ in establishments with more than 20 workers irrespective of whether trade unions are already present at the workplace
  - Solidarnosc / OPZZ favour the Czech model – support only from Trade Union Forum





# Czech Republic: Works councils close the gap of interest representation

## ■ Features of the Czech IR-system

- Big decline of trade union membership but slow growth in trade union confidence during the last three years
- Only 1/3 of employees have direct or indirect experience with help from trade unions in resolving problems

## ■ EWC involvement

- Social partners played decisive role in the preparation of the EWC law
- As in Poland high rate of participation already before accession (~ 60 out of approx. 90)

## ■ Works Councils and Information and Consultation

- CZ was one of the first European countries to introduce works councils (1920) – very progressive form of employee participation which survived until 1959
- Works Councils were reintroduced by the 2001 labour law reform – employees have the right to establish a works council in non-union firms
- Council must be dissolved as soon as a workplace union is established
- Implementation of EU Directive on I&C would worsen the situation from the trade union point of view (in particular regulations concerning 'company secrets' and 'sensible information')



# Hungary:

## Works Councils not consolidated

- Hungary was the first Central and Eastern transformation countries where 12 year ago elections of works councils took place for the first time
- As in the German, Czech or case of other countries, works council bodies date back to pre-WWII times
- New Labour Code 1992 (re-)established works councils strongly based on the German / Spanish models
- Trade unions considered the introduction of works councils as part of a political motivated reform-package of the government aiming at a replacement of workplace trade unionism with institutions selected at employers own discretion
- After more than ten years of existence, works councils still are not considered as an integrated part of the Hungarian system of industrial relations: 2/3 of employees and employers doubt that this institution is consolidated



# Hungary: information & consultation rights

- Co-determination / participation rights:
  - Utilisation of welfare provisions, e.g. company-run holiday homes, health care programmes, sport facilities, food allowances, canteens etc.
- Consultation rights:
  - Employer must seek the opinion of the works council before taking measures that affect larger groups of employees, e.g. with respect of reorganisation, restructuring, privatisation and modernisation, concepts of early retirement etc.
- Information rights:
  - Employer must inform the works council on significant changes in the employers' scope of activities
  - At least every six months the employer must inform the works council on the economic state of the enterprise, wages and salaries, liquidity etc.
  - The works council may request information on any issues that concern the economic and social interests of the employee



# Hungary: Some facts on works councils

- Over 50% of Hungarian works councils within 18 month of law took effect
- Initiation of works councils: nearly 40% on trade union initiative but also active role of the employer in ¼ of cases
- There is a strong correlation between company size and works councils: only ¼ of companies <100 employees have a works council but 85% of companies > 250 employees have one
- There is a strong corelation between trade unions at the company level and works councils: 91% of unionised companies have also a works councils but only 9% of non-unionised companies
- Finally, there is a strong personnel overlapping between trade unions and works councils: 70% of works councils have a strong trade union representation, 40% are totally dominated by trade unions and only 10% considered themselves as independent from trade union organisation

[Survey of Béla Benyó / ILO CET Budapest Office, 2003]



# The impact of I&C Directives on trade union policy and practice

- Transposition of the EWC directive had a significant influence on both trade union policies, I&C and social dialogue at the company level:
  - Information exchange can set in motion a regularised exchange and cooperation process underpinning national and plant bargaining
  - Managers experience social dialogue at company level and social partnership – EWC's are a medium for Social Europe
  - Participation in EWC's may strengthen the position of trade unions and interest representations at the local plant both against employees and management
  - EWC's might 'shadow' group works councils/interest representation structures in countries where these structures do not have a legal foundation
- The effect of the I&C Directive on workplace IR might be even stronger
  - In particular in countries without regulations on I&C at company level so far (i.e. Poland, Estonia)
  - In any case position of trade unions and works councils will be strengthened (I&C as a European Fundamental Right)
  - As the systems with long established dual systems show both channels very much depend on each other



# Conclusions

- **Why EU directives on employee participation are necessary:**
  - Globalisation and internationalisation of companies – but national systems/frames of trade union and employee participation = need for European regulation
  - EU directives on employee participation go parallel with the rediscovery of the importance of human resources and trust-based employee relations in company success
  - They are not only a fundamental right but also an economic success factor
  - They mirror the essential aspects of innovative employee participation tasks and agenda: not only social protection but also „co-management in problem solving“ and „strategic co-determination / modernisation“ of enterprise policy
- **Implementing them:**
  - The decisive factor is not the Directives and the transposition itself – although this is the basic precondition
  - But, how the European (and national) legal framework of employee participation fits into the socio-economic and industrial relations environment of the new member states and the daily practice of enterprises
  - Implementation process has to take into account national IR traditions and cultures – there is no single road-map to success and/or best solution

