

WORKERS' INVOLVEMENT IN MANAGEMENT

At the end of WIM3 project “Workers’ Involvement in Management – Awareness, Experiment, Monitoring” the Association of Employers of Slovenia (ZDS) on the findings of the survey among employers and recommendations for improving national legislation

Employers convinced that changes to the legislation on workers’ involvement are inevitable

In the two-year international project WIM3, both general information and concrete activities were intertwined. Two such concrete activities were, for example, the conduct of an experiment in the pilot companies of the candidate countries and the conduct of a survey in the participating EU Member States.

The purpose of the survey was to obtain information on the current state of employee involvement and, consequently, to review the appropriateness of national legislation.

A survey among Slovenian employers shows that in general, a favourable position towards the existing system of employee participation can be perceived; the respondents would in particular like to see active involvement of workers' representatives (especially in consultation and participation) when dealing with personnel matters and occupational safety and health. They are less in favour of the consultation on issues related to the company's operations; in this case they believe that informing the works council is sufficient. Not surprisingly, therefore, the respondents would want legislative amendments to participation and consultation. Moreover, the respondents want some changes regarding the informing of and communication with of workers' representatives and changes in the latter's engagement and the method of work. They would also like to see a higher level of competences or more knowledge of workers' representatives concerning participation.

The Association of Employers of Slovenia has addressed its request for amendments to the to the Workers' Participation in Corporate Governance Act to the Ministry and the Government several times in the past decade, since its framework or basic components have been dating back to 1993. As shown by the recently gathered positions of the research participants and other publicly expressed in the community, changes are inevitable, since the existing law addresses neither the needs of workers nor employers. However, ZDS would like to emphasize that the subject of the debate is part of the social dialogue and should therefore involve all interested stakeholders, i.e. representatives of both employers and workers.

ZDS on recommendations for improving the national legislation on workers’ participation

In order to improve national legislation on employee participation in management, the ZDS recommends the following:

1. The definitions need to be aligned with the Employment Relationships Act (ZDR-1).



2. The threshold for the establishment of employee representation (works councils and workers' representatives respectively) laid down in Directive 2002/14/EC should be increased. The existing legislation enables workers to elect a representative in a company with as few as only 3 employees, while Directive 2002/14/EC fixes a threshold of at least 50 employees in an undertaking or 20 in an establishment.
3. Family members of the management should be granted the right to vote and to stand as a candidate in elections, as they have the status of an ordinary worker just as the workers with voting rights.
4. The census representing the threshold for electoral success should be raised, i.e. to 60%.
5. The procedures for re-establishing a works council after failed elections (similar to the creation of a works council in a newly established company) should be clearly defined and the period to re-run the elections should be extended.
6. Clear delimitation of competences between the trade union and the works council or the employers' representative is needed (by individual concept).
7. Coordination of procedures (deadlines) in the case of redundancies according to the competences of the works council and according to the competences of the trade union under the ZDR-1.
8. Only information and consultation should be maintained as forms of cooperation for the purpose of reaching an agreement, but not employee participation.
9. Abolition of the legal institution of the involvement of workers' representatives in the bodies of a company
 - a. The management body: a representative of the employees in the management board is unique in Slovenia, with the tasks of the employee representative and their position in the board respectively not being defined at all and being an end in itself.
 - b. The supervisory body: the applicable law provides for the possibility that ½ of the supervisory body members are appointed by employees.
10. Introduction of the principle of employee representatives acting in the best interests of the company – in conjunction with the concept of the responsibility for appointments.
11. Introduction of a clear concept of the substantive liability for the decisions made by employee representatives; as a rule, the decisions made by employee representatives have significant material implications, but due to the concept of institutionalized lack of responsibility, an employee representative is not held financially or criminally liable despite potentially intentional damage caused.



12. It is necessary to clearly define the obligation of employee representatives to ensure two-way communication with the employees, and the mechanisms of action – the purpose of information is to inform employees, and the purpose of consultations is to align with the interests of the employees, which must not simply be assumed.

