

# Introduction to EWCs

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## Introduction to EWCs

- The perceived problem: why was there a need for EWCs?
- Vredeling: the previous solution that was blocked
- The EWC Directive: key provisions
- Some ideas as to why the EWC Directive hasn't worked as its proponents would have wished

## The perceived problem

- Works councils existed at national level, except the UK and Ireland
  - The powers of the works councils did vary from country to country
  - (Directive 2002/14 is now supposed to resolve national disparities)
  
- But it was perceived that works councils did not get the full picture when issues covered several countries e.g. cross-border restructuring
  - References to an employee's right to information in multinationals in e.g. 1974 Social Action Programme
  
- Hence the need for a body to deal with EU-wide issues
  
- Questions to ponder:
  - Was this such a big problem? And, if so, do EWCs solve it?

## The first attempt to find a solution to the problem - Vredeling

- **Vredeling proposal – October 1980**
  - Did not provide for the setting up of an EU-wide body
  - Information on the multinational to be provided through local procedures
  - Precise procedural requirements: information about proposed major decisions 40 days in advance; must give WC 30 days to provide its opinion
  
- **Defeated in 1982 by a combination of:**
  - US lobbying
  - Amendments in European Parliament
  - Veto from UK & Denmark
  
- **Vredeling proposal abandoned in 1986**

## The second solution – EWC Directive

- 1990 Commission proposal for EWC Directive
  - Proposal discussed in detail 1991-1993
  - But met with a UK veto in the Council (unanimity required)
  
- However, Maastricht Treaty entered into force in November 1993
  - Maastricht Social Protocol allowed social legislation to be passed which applied to all EU Member States except the UK
  
- EWC Directive adopted under Social Protocol (following failure of social partners to negotiate) in September 1994
  - Had to be implemented into national law by 22 September 1996
  - Extended to UK in late 1997 with implementation by December 1999

## The EWC Directive

- Concept different from Vredeling: aim is to set up a pan-national body with representatives from every EEA country where the multinational has operations
- Only applies to undertakings with at least 1000 employees in the EEA and at least 150 employees in two different EEA countries
- Key principle: scope and procedures of EWC should be established by negotiations with default provisions if both sides can't agree
  - No need to have an EWC if no one asks for it – there must either be a request by 100 workers or voluntary action by management
  - Exception if an I&C mechanism was already in place on 22 Sept 1996

## The EWC Directive - negotiations

- Directive requires negotiations to be done in a SNB ('special negotiating body')
  
- Actually setting up the SNB can be complex
  - Number of delegates per country set by the law of the country where the central management of the company is located
  - Delegates to SNB selected according to national law
  - Same rules apply to selection of default EWC
  
- The Directive allows the sides 3 years to negotiate a solution
  - Yet tellingly most EWCs have tended to be similar to the default provisions

## The EWC Directive – has it worked as its proponents envisaged?

- **Threshold question: was there a problem in the first place?**
  - Cases like Renault Vilvoorde were dealt with under national law
  - Directive 2002/14 has harmonised national WC laws
  
- **EWCs haven't worked in most companies**
  - Most EWC meetings are uneventful - meaningful high level discussion or useful feedback is the exception not the rule
  - Most companies regard this as a waste of resources
  - The EWC is not the pan-EU equivalent of a national WC in e.g. Germany
  
- **There are a few exceptions, such as Ford**

## Why didn't the EWC Directive work as envisaged?

- It is difficult to create a pan-European system of workplace consultation when employment issues are resolved nationally
  - Employment traditions vary considerably across the EU
  - Employees think nationally, not in pan-EU terms
  - There is generally no real discussion partner for employers at pan-EU level
  
- The structure of the SNB/default EWC with one seat at the table for each country is awkward
  - Too much like the EU Council of Ministers – language also an issue
  - Doesn't work in a multinational with several distinct business units
  
- Other factors

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