Impact of the information and consultation (I&C) directive on industrial relations

Informia / IRES workshop

Rome, 15-16 July 2010

Dr. Christian Welz
European Foundation
Outline

I. Implementation measures
II. Level of application / thresholds
III. Employee representatives
IV. Mandatory or triggered?
V. Enforcement
VI. Social partners involvement
VII. Impact on IR
VIII. Conclusions
IX. New Studies
I. National measures required to implement Directive 2002/14/EC

- no change or virtually no change
  - AT, FR, DE, NL, PT, SI

- minor changes
  - CZ, DK, FI, EL, HU, LV, LT, NO, SK, SE

- major changes
  - BG, CY, EE, IE, IT, MT, PL, RO, UK
I. Key transposition issues

- establishment or undertaking level?
- identity of the employee representatives?
- is I&C mandatory or triggered?
- scope for agreement-based I&C departing from the statutory provisions
- enforcement procedures and sanctions
II. Level of application

- establishment
  - AT, DE

- establishments and undertakings
  - BG, EL, PT

- undertakings
  - majority of MS
II. Thresholds

- 50 employees
  - 13 MS
- less than 50
  - rest
- irrespective of size
  - LT, LV, SE, SI
III. Identity of the employee representatives

- **works councils or elected employee representatives**
  - largest category

- **trade union structures**
  - CY, CZ, FI, EL, HU, LT, MT, NO, RO, SE, SK
III. Identity of the employee representatives

- IE and UK
  - enterprise-specific agreements/direct I&C methods
  - statutory fallback provisions to apply in the event employees trigger negotiations + these fail
  - IE: fallback is an elected or appointed I&C forum, to include representatives from TU that represent at least 10% of the workforce
  - UK: fallback is for the election of I&C representatives
IV. I&C > mandatory or dependent on employee initiative?

- Mandatory (irrespective of presence employee representatives)
  - CY, CZ, DK, EE, ES, FI, FR, IT, LV, LU, MT, NL, NO, PT, RO, SE, SK

- Mandatory (if WC or emp reps exist)
  - AT, DE, LT, SK

- I&C to be triggered by employees
  - BG, DE, EL, IE, PL, SI, UK
V. Enforcement

- labour inspectorates
  - BG, CZ, LT, NO, RO, SK

- arbitration
  - DK, NO, SI, UK

- labour courts/specialist tribunals
  - DE, IE, MT, UK

- ordinary courts
  - NL
VI. Involvement of social partners (SP)

- SP agreement taken up by governments
  - BE, BG, DK, IT, NO, PL, UK
- minor concessions to SP
  - CY, CZ, HU
- non-event
  - FI, FR, EL, NL, PT, SE
- high consensus among SP
  - LT, LV, RO
- heated debate
  - EE, IE
VI. Irish case

- employers concerns
  - recognise existing direct forms of I&C and methods of direct employee involvement
  - employee representatives should be from the organisation concerned
    - excluding a role for external trade union officials
  - avoid restrictions on business and management prerogatives
  - ensure a trigger mechanism
  - deter foreign inward investment
  - American Chamber of Commerce Ireland lobbied on the concerns listed above
VI. Irish case

- trade unions
  - strong support for collective representation in the implementation
  - statutory fallback mechanism should not be watered down
    - employers might simply opt to take no action until the fallback mechanism was triggered
  - key issue was to maintain the traditional single channel of collective representation through trade unions
  - implementation could act as a catalyst for the diffusion of enterprise-level union-management partnership
VII. Impact on IR practice

- In most countries little impact on established practice is reported
  - AT, CY, CZ, FR, DE, FI, LV, MT, NL, PT, SE, SI
  - Even in IE and UK
- Too early to be fully assessed
  - CY, EE, EL, IT, PL
- Some impact
  - BG, DK, HU, RO, SK
VIII. Conclusions

- too early for a measured assessment to be made of the overall impact

- does a persistent ‘implementation gap’ emerges between the statutory framework and actual practice on the ground

- adequacy of the directive’s approach to promoting I&C
IX. New comparative report: 2010

- incidence of I&C bodies since the implementation of the directive
- procedures for the establishment of I&C bodies
- sources of I&C bodies’ constitutional provisions
  - legal requirements or organisation-specific agreements/arrangements
- impact of I&C
  - particularly in the context of the recession
- relationship between I&C bodies and other forms of employee representation/consultation
IX. New study: 2011

- desk research & case studies on company practices on I&C
- map, analyse and assess the practice of I&C and interactions with other directives at national level
  - collective redundancies and transfers of undertakings
  - interactions between the European level of I&C (EWCs) and national level
X. further information

- [http://www.eurofound.europa.eu](http://www.eurofound.europa.eu)
- [christian.welz@eurofound.europa.eu](mailto:christian.welz@eurofound.europa.eu)