

Editorial

Europe after undiluted shareholder capitalism - workers participation breaks ground

Now that the new European Commission has been in office for six months it is a little clearer what its intentions might be with regard to the Agenda 2020. As this new agenda also seeks to facilitate the EU Single Market, in particular, we look at the possible role of worker participation in corporate governance. Two electronic consultations launched by DG Internal Market were of considerable importance in this regard.

In March 2010, the European Commission published Ernst & Young's SE study, which they had commissioned in order to assess the – supposedly deficient – attractiveness of the SE regulation in the perception of managers and company owners. The European Commission issued invitations to participate in an 'electronic consultation', followed by an exchange of expert opinions at a special event organised in May. Surprisingly, Ernst & Young highlighted very prominently the alleged obstacles posed by worker participation to those considering the establishment of an SE. This was surprising because employee involvement was explicitly not part of the study's remit because it is clearly ruled out in the related SE directive and not in the SE regulation. Also, the debate ensuing upon the failure to bring into being the European Private Company (SPE) in December 2009 revealed other aims. The debate on the SE was linked to more general considerations of European company law. The obligation, when setting up an SE, to reach agreement on 'employee involvement' has been criticised. It would be better, it has been argued, to allow the creation of SEs without such an obligation, and to hold negotiations afterwards. Once more, the general understanding appears to be that worker participation is just an aspect of competence of the member states. Alongside a strong commitment to so-called 'smart regulation' or the 'simplification' of EU law, which includes the SE

Regulation, we feel that there is an intention to get rid of the ‘complications’ managers supposedly have to cope with due to the obligation to negotiate on employee involvement, and boardroom participation in particular.

At least at EU level, treatment of this issue is not proceeding in accordance with the trade union roadmap, which regards worker participation as an essential element of EU company law. Especially after the dismantling of the failed model of shareholder control of companies every company applying for European company law like the SE regulation or the European directive on cross-border mergers must show how it intends to involve its workers in the resulting company. A special questionnaire prepared by the experts at SEEUROPE, carried out at national level, underlined the necessity of becoming active at EU level. The results which emerged concerning developments fostered by national governments are sobering: the transformation of capitalism from the discredited shareholder value model in the direction of a more social model appears to being not very present on the political agenda.

This was why the ETUI’s GOODCORP expert group reacted to the second electronic consultation launched, again by DG Internal Market, on the Green Paper ‘Corporate governance in financial institutions and remuneration policies’, published at the beginning of June 2010. Even this is focused only on the financial sector which is the most criticized economic sector. It can be assumed that the data expected to be available by the end of the year will have an impact on the adjustment and possible revision of EU policy on corporate governance, leading to more exacting standards binding on all companies in Europe. Again, supporters of stronger institutional representation for workers must ensure that they are not marginalised because it is regarded as ‘inappropriate’ to promote employee involvement at the EU level because it hinders competitiveness.

However, there is also hope of a stronger role for worker participation in the future. All future EU legislation must now be scrutinised for its potential social consequences. This also puts the European trade unions in a position to support

the development of a 'social clause' at the horizontal level of corporate governance: every item of EU law in the field of corporate law should also undergo a social impact assessment before being promulgated. With the SEEUROPE and GOODCORP expert groups the ETUI is well prepared to provide valuable support.

This is the first official edition of the News Bulletin on worker participation. It is intended to complement the ETUI website: www.worker-participation.eu in order to make people aware of our materials and recommendations.

However, I should add that this is both my first and my last editorial. In future, I will continue to promote European views and the positioning of workers' interests at this level by being the coordinator and adviser for the European Works Council of ThyssenKrupp. I am extremely grateful for the opportunity to work with the experts and friends of the ETUI over the past few years.

As always, readers' criticisms and ideas, as well as comments on interesting developments are welcome. I hope you find the News Bulletin both informative and stimulating.

Norbert Kluge
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