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**Interinstitutional File:**  
**2024/0006(COD)**

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#### COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Preparations for trilogues on the Directive Amending Directive 2009/38/EC on European Works Councils

Delegation will find in annex the four-column table (containing at this stage only three columns) containing in addition to the Commission proposal the positions of the European Parliament and of the Council on the proposal for a Directive amending Directive 2009/38/EC as regards the establishment and functioning of European Works Councils and the effective enforcement of transnational information and consultation rights. In this table, rows in which the Parliament's and the Council's text are identical are marked in green. Change markings compare to the Commission proposal.

The European Parliament adopted its mandate for the trilogues on 19 December 2024. The first trilogue is scheduled to take place on 6 February 2025 and will aim to address already a number of substantive items.

The meeting of the Working Party on Social Questions, scheduled for 20 January 2025, will provide an opportunity to further clarify the position of the Council with a particular focus on the amendments made by the European Parliament.

To support the preparation of trilogues, please signal in the Social Questions Working Party and in written for each EP amendment:

- whether you are supportive of it,
- whether it is acceptable to you,
- or whether the amendment is problematic for you.

In the latter case, please indicate the reasons and where you see a possible compromise between the Council and the EP positions.

Please send your written comments to the Presidency (Bruksela.UE.EPSCO.PL@msz.gov.pl) and the Council Secretariat (LIFE.social@consilium.europa.eu) **by Wednesday 15/01 COB.**

**Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2009/38/EC as regards the establishment and functioning of European Works Councils and the effective enforcement of transnational information and consultation rights (Text with EEA relevance)**

**2024/0006(COD)**

**[Version for Trilogue on February 6, 2025]**

**20-12-2024 at 15h15**

	Commission Proposal	EP Mandate	Council Mandate
Formula			
1	2024/0006 (COD)	2024/0006 (COD)	2024/0006 (COD)
Document Stage			
2	Proposal for a	Proposal for a	Proposal for a
Document Type			
3	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	DIRECTIVE (EU) .../2024 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of...
Document Purpose			
4	amending Directive 2009/38/EC as regards the establishment and functioning of European Works Councils and the effective enforcement	amending Directive 2009/38/EC as regards the establishment and functioning of European Works Councils and the effective enforcement	amending Directive 2009/38/EC as regards the establishment and functioning of European Works Councils and the effective enforcement

	Commission Proposal	EP Mandate	Council Mandate
	of transnational information and consultation rights	of transnational information and consultation rights	enforcement of transnational information and consultation rights
EEA Relevance			
5	(Text with EEA relevance)	(Text with EEA relevance)	(Text with EEA relevance)
Formula			
6	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Citation 1			
7	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153(2), point (b), in conjunction with Article 153(1), point (e) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153(2), point (b), in conjunction with Article 153(1), point (e) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153(2), point (b), in conjunction with Article 153(1), point (e) thereof,
Citation 2			
8	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,
Citation 3			
9	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,
Citation 4			

	Commission Proposal	EP Mandate	Council Mandate
10	Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,  _____	Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,  _____	Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,  _____
	1. OJ C [...], [...], p. [...].	1. OJ C [...], [...], p. [...].	1. OJ C [...], [...], p. [...], , p. .
Citation 5			
11	Having regard to the opinion of the Committee of the Regions <sup>1</sup> ,  _____		Having regard to the opinion of the Committee of the Regions <sup>1</sup> ,  _____
	1. OJ C [...], [...], p. [...].		1. OJ C [...], [...], p. [...], , p. .
Citation 6			
12	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,
Formula			
13	Whereas:	Whereas:	Whereas:
Recital 1			
14	(1) Pursuant to Article 27 of the Charter of Fundamental Rights of the European Union, workers or their representatives are, at all appropriate levels, to be guaranteed information and consultation in good time and under the conditions provided for by Union law	(1) Pursuant to Article 27 of the Charter of Fundamental Rights of the European Union, workers or their representatives are, at all appropriate levels, to be guaranteed information and consultation in good time and under the conditions provided for by Union law	(1) Pursuant to Article 27 of the Charter of Fundamental Rights of the European Union, workers or their representatives are, at allthe appropriate levels, to be guaranteed information and consultation in good time and under the conditions provided for by Union law

	Commission Proposal	EP Mandate	Council Mandate
	and national law and practices. Principle 8 of the European Pillar of Social Rights reaffirms the right of workers or their representatives to be informed and consulted on matters relevant to them.	and national law and practices. Principle 8 of the European Pillar of Social Rights reaffirms the right of workers or their representatives to be informed and consulted on matters relevant to them.	and national law and practices. Principle 8 of the European Pillar of Social Rights reaffirms the right of workers or their representatives to be informed and consulted on matters relevant to them.
Recital 2			
15	<p>(2) With respect to transnational matters, Directive 2009/38/EC of the European Parliament and of the Council<sup>1</sup> seeks to give practical effect to these basic principles by setting minimum requirements for the information and consultation of employees in Community-scale undertakings and Community-scale groups of undertakings.</p> <p>_____</p> <p>1. Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast) (OJ L 122, 16.5.2009, p. 28, ELI: <a href="http://data.europa.eu/eli/dir/2009/38/oj">http://data.europa.eu/eli/dir/2009/38/oj</a>).</p>	<p>(2) With respect to transnational matters, Directive 2009/38/EC of the European Parliament and of the Council<sup>1</sup> seeks to give practical effect to these basic principles by setting minimum requirements for the information and consultation of employees in Community-scale undertakings and Community-scale groups of undertakings.</p> <p>_____</p> <p>1. Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast) (OJ L 122, 16.5.2009, p. 28, ELI: <a href="http://data.europa.eu/eli/dir/2009/38/oj">http://data.europa.eu/eli/dir/2009/38/oj</a>).</p>	<p>(2) With <del>respect</del><b>regard</b> to transnational matters, Directive 2009/38/EC of the European Parliament and of the Council<sup>1</sup> seeks to give practical effect to these basic principles by setting minimum requirements for the information and consultation of employees in Community-scale undertakings and Community-scale groups of undertakings.</p> <p>_____</p> <p>1. Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (<del>Recast</del>) (OJ L 122, 16.5.2009, p. 28, ELI: <a href="http://data.europa.eu/eli/dir/2009/38/oj">http://data.europa.eu/eli/dir/2009/38/oj</a>).</p>
Recital 3			
16	<p>(3) While an evaluation of Directive 2009/38/EC published in 2018<sup>1</sup> confirmed that Directive's added value and relevance in principle, it also identified shortcomings</p>	<p>(3) While an evaluation of Directive 2009/38/EC published in 2018<sup>1</sup> confirmed that Directive's added value and relevance in principle, it also identified shortcomings</p>	<p>(3) While an evaluation of Directive 2009/38/EC published in 2018<sup>4</sup> confirmed that <del>Directive's</del><b>sits</b> added value and relevance in principle, it also identified shortcomings</p>

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	<p>regarding, for instance, the effectiveness of the consultation process, access to justice, sanctions, and the interpretation of certain concepts.</p> <p>_____</p> <p>1. COM(2018) 292 final.</p>	<p>regarding, for instance, the effectiveness of the consultation process, access to justice, sanctions, and the interpretation of certain concepts.</p> <p>_____</p> <p>1. COM(2018) 292 final.</p>	<p>regarding, for instance, the effectiveness of the consultation process, access to justice, sanctions, and the interpretation of certain concepts.</p> <p>_____</p> <p><del>1. COM(2018) 292 final.</del></p>
Recital 4			
17	<p>(4) In 2023, the European Parliament, in accordance with Article 225 of the Treaty on the Functioning of the European Union (TFEU), adopted a legislative own-initiative resolution with recommendations on a revision of Directive 2009/38/EC<sup>1</sup> and the Commission undertook a two-phase consultation with the social partners, in accordance with Article 154 of the Treaty on the Functioning of the European Union, on the need for and the content of measures to address the shortcomings of that directive. The Commission has also collected evidence through a study involving a targeted online survey, stakeholder interviews, workshops, analysis of national case-law and of relevant provisions in the national laws of Member States.</p> <p>_____</p> <p>1. European Parliament resolution of 2 February 2023 with recommendations to the Commission on Revision of European Works Councils Directive (2019/2183(INL)).</p>	<p>(4) In 2023, the European Parliament, in accordance with Article 225 of the Treaty on the Functioning of the European Union (TFEU), adopted a legislative own-initiative resolution with recommendations on a revision of Directive 2009/38/EC<sup>1</sup> and the Commission undertook a two-phase consultation with the social partners, in accordance with Article 154 of the Treaty on the Functioning of the European Union, on the need for and the content of measures to address the shortcomings of that directive. The Commission has also collected evidence through a study involving a targeted online survey, stakeholder interviews, workshops, analysis of national case-law and of relevant provisions in the national laws of Member States.</p> <p>_____</p> <p>1. European Parliament resolution of 2 February 2023 with recommendations to the Commission on Revision of European Works Councils Directive (2019/2183(INL)).</p>	<p>(4) In 2023, the European Parliament, in accordance with Article 225 of the Treaty on the Functioning of the European Union (TFEU), adopted a legislative own-initiative resolution with recommendations on a revision of Directive 2009/38/EC<sup>1</sup> and the Commission undertook a two-phase consultation with the social partners, in accordance with Article 154 <del>of the Treaty on the Functioning of the European Union</del> TFEU, on the need for and the content of measures to address the shortcomings of that Directive. The Commission has also collected evidence through a study involving a targeted online survey, stakeholder interviews, workshops, analysis of national case-law and of relevant provisions in the national laws of Member States.</p> <p>_____</p> <p>1. European Parliament resolution of 2 February 2023 with recommendations to the Commission on Revision of European Works Councils Directive (2019/2183(INL)).</p>

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Recital 5			
18	<p>(5) Evidence shows that legal uncertainty regarding the concept of transnational matters has led to differences in interpretation and disputes. In order to ensure legal certainty and reduce the risk of such disputes, it is necessary to clarify that concept. To this end, it is appropriate to clarify that this Directive should not only cover cases where measures considered by management can reasonably be expected to affect employees in more than one Member State, but also cases where such measures can reasonably be expected to affect workers in only one Member State, but the consequences of those measures can reasonably be expected to affect workers in at least one other Member State. This is necessary to cover cases where undertakings envisage measures, such as lay-offs and redundancies, which do explicitly target establishments in only one Member State but nevertheless can reasonably be expected to have consequences affecting employees in another Member State, for instance due to changes in the cross-border supply chain or production activities, where such measures could lead to substantial changes in work organisation or in contractual relations.</p>	<p>(5) Evidence shows that legal uncertainty regarding the concept of transnational matters has led to differences in interpretation and disputes. In order to ensure legal certainty and reduce the risk of such disputes, it is necessary to clarify that concept. To this end, it is appropriate to clarify that this Directive should not only cover cases where measures considered by management can reasonably be expected to affect employees in more than one Member State, but also cases where such measures can reasonably be expected to affect workers in only one Member State, but the consequences of those measures can reasonably be expected to affect workers in at least one other Member State. <u>Cases in which measures considered by management of the Community-scale undertaking or Community-scale group of undertakings are taken in a Member State other than that in which those effects are produced should also be covered.</u> This is necessary to cover cases where undertakings envisage measures, such as lay-offs and redundancies, which do explicitly target establishments in only one Member State but nevertheless can reasonably be expected to have consequences affecting employees in another Member State, for instance due to changes in the cross-border supply chain or</p>	<p>(5) Evidence shows that legal uncertainty regarding the concept of transnational matters has led to differences in interpretation and disputes. In order to ensure legal certainty and reduce the risk of such disputes, it is necessary to clarify that concept. To this end, it is appropriate to clarify that this Directive should not only cover cases where measures considered by management <b>of an undertaking</b> can reasonably be expected to affect <b>its</b> employees in more than one Member State, but also cases where such measures can reasonably be expected to affect <del>workers</del><b>employees of that undertaking</b> in only one Member State, but the consequences of those measures can reasonably be expected to affect <del>workers</del><b>its employees</b> in at least one other Member State. This is necessary to cover cases where undertakings envisage measures, such as lay-offs<del>and</del>, redundancies <b>or allocation of production activities and outsourcing of activities</b>, which do explicitly target establishments in only one Member State but nevertheless can reasonably be expected to have consequences affecting employees <b>of that undertaking</b> in another Member State, for instance due to changes in the cross-border supply chain or production activities, <del>where such</del>. <b>The concept of transnational matters covers those</b> measures</p>



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		production activities, where such measures could lead to substantial changes in work organisation or in contractual relations.	<del>which could lead to</del> <b>affect employees in a substantial changes in work organisation or in contractual relations way, i.e. in a way which does not affect them in a trivial manner and does not only concern individual employees or ordinary operational decisions. The standard of reasonableness should be objectively ascertained, having regard to the nature and purpose of the measures that are envisaged and the circumstances of the case.</b>
Recital 6			
19	(6) The definitions of information and consultation in Directive 2009/38/EC include normative requirements. For the sake of coherence and legal clarity, it is appropriate to lay down those normative provisions in the articles laying down rights and obligations instead.	(6) The definitions of information and consultation in Directive 2009/38/EC include normative requirements. For the sake of coherence and legal clarity, it is appropriate to lay down those normative provisions in the articles laying down rights and obligations instead.	(6) The definitions of information and consultation in Directive 2009/38/EC include normative requirements. For the sake of coherence and legal clarity, it is appropriate to lay down those normative provisions in the articles laying down rights and obligations instead.
Recital 7			
20	(7) Members of special negotiating bodies may need legal advice or representation to carry out their tasks under Directive 2009/38/EC. It is however not sufficiently clear that they are entitled to the coverage of the associated legal fees. With a view to ensuring such coverage, it should be clarified that central management is to bear costs incurred by member of special	(7) Members of special negotiating bodies may need legal advice or representation to carry out their tasks under Directive 2009/38/EC. It is however not sufficiently clear that they are entitled to the coverage of the associated legal fees. With a view to ensuring such coverage, it should be clarified that central management is to bear costs incurred by member of special	(7) Members of special negotiating bodies may need legal advice <del>or representation</del> to carry out their tasks under Directive 2009/38/EC. It is however not sufficiently clear that they are entitled to the coverage of the associated legal fees. With a view to ensuring such coverage, it should be clarified that central management is to bear costs incurred by member of special

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	negotiation bodies, which the latter should be required to notify in advance. It is appropriate to limit that obligation to reasonable legal costs to ensure that management is not liable for manifestly disproportionate costs, costs without justifiable link to the provision of relevant legal advice or representation, or costs created by manifestly unfounded, frivolous, or vexatious claims. Moreover, Directive 2009/38/EC gives Member States discretion to lay down budgetary rules regarding the operation of special negotiating body and European Works Councils based on subsidiary requirements, having regard to the principle that expenses relating to the appropriate conduct of the special negotiating board's functions must be borne by the central management. Therefore, the provisions referring to the number of experts to be funded by central management are redundant and should be deleted.	negotiation bodies, which the latter should be required to notify in advance. It is appropriate to limit that obligation to reasonable legal costs to ensure that management is not liable for manifestly disproportionate costs, costs without justifiable link to the provision of relevant legal advice or representation, or costs created by manifestly unfounded, frivolous, or vexatious claims. Moreover, Directive 2009/38/EC gives Member States discretion to lay down budgetary rules regarding the operation of special negotiating body and European Works Councils based on subsidiary requirements, having regard to the principle that expenses relating to the appropriate conduct of the special negotiating board's functions must be borne by the central management. Therefore, the provisions referring to the number of experts to be funded by central management are redundant and should be deleted.	negotiation bodies, which the latter should be required to notify in advance. It is appropriate to limit that obligation to reasonable legal costs to ensure that management is not liable for manifestly disproportionate costs, costs without justifiable link to the provision of relevant legal advice or representation, or costs created by manifestly unfounded, frivolous, or vexatious claims. Moreover, Directive 2009/38/EC gives Member States discretion to lay down budgetary rules regarding the operation of special negotiating <del>body</del> <b>bodies</b> and European Works Councils based on subsidiary requirements, having regard to the principle that expenses relating to the appropriate conduct of the special negotiating board's functions must be borne by the central management. Therefore, the provisions referring to the number of experts to be funded by central management are redundant and should be deleted. <b>Where the precise amount of the expenses is not known in advance an estimate of the costs including information about the nature of the cost should be notified to central management.</b>
Recital 8			
21	(8) Directive 2009/38/EC requires the parties to a European Works Council agreement to determine the venue of meetings of the European Works Council. It is appropriate to	(8) Directive 2009/38/EC requires the parties to a European Works Council agreement to determine the venue of meetings of the European Works Council. It is appropriate to	(8) Directive 2009/38/EC requires the parties to a European Works Council agreement to determine the venue of meetings of the European Works Council. It is appropriate to

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	specify that they are to determine also the format of such meetings, notably to avoid any doubt about their freedom to agree that some or all of the meetings be held in a virtual environment, using online meeting tools, reducing the environmental footprint of meetings in line with Union, national and companies' emission reduction targets, while ensuring meaningful information and consultation at lower environmental and financial costs.	specify that they are to determine also the format of such meetings, notably to avoid any doubt <del>about their freedom to agree that some or all of that</del> the <u>regular annual</u> meetings <u>of the European Works Council and the select committee should take place in person,</u> <u>whereas additional meetings may</u> be held in a virtual environment, using online meeting tools <u>if so agreed</u> , reducing the environmental footprint of meetings in line with Union, national and companies' emission reduction targets, while ensuring meaningful information and consultation at lower environmental and financial costs.	specify that they are to determine also the format of such meetings, <b>be it in-person, online or hybrid</b> , notably to avoid any doubt about their freedom to agree that some or all of the meetings be held in a virtual environment, using online meeting tools, reducing the environmental footprint of meetings in line with Union, national and companies' emission reduction targets, while ensuring meaningful <b>and efficient sharing of</b> information and consultation at lower environmental and financial costs <b>on the one hand, and the possibility to hold physical meetings which can offer a trustworthy and confidential environment for meetings and gives the opportunity for exchanges in person.</b>
Recital 9			
22	(9) There can be uncertainty and disputes with respect to the coverage of certain expenses and access to certain resources also during the operation of European Works Councils. In accordance with the principle of autonomy of the parties, it is appropriate to require that certain types of financial and material resources be determined specifically in the European Works Council agreements, namely the possible use of experts – such as technical subject-matter experts or legal experts – and the coverage of experts' fees, and the coverage of legal costs,	(9) There can be uncertainty and disputes with respect to the coverage of certain expenses and access to certain resources also during the operation of European Works Councils. In accordance with the principle of autonomy of the parties, it is appropriate to require that certain types of financial and material resources be determined specifically in the European Works Council agreements, namely the possible use of experts – such as <u>representatives of a recognised Community-level trade-union,</u> technical subject-matter experts or legal experts	(9) There can be uncertainty and disputes with respect to the coverage of certain expenses and access to certain resources also during the operation of European Works Councils. In accordance with the principle of autonomy of the parties, it is appropriate to require that certain types of financial and material resources be determined specifically in the European Works Council agreements, namely the possible <del>use</del> <b>assistance</b> of experts – such as technical subject-matter experts or legal experts – and the coverage of experts' fees, <del>and the coverage of</del>

	Commission Proposal	EP Mandate	Council Mandate
	including the costs of legal representation and of participation in administrative or judicial proceedings. The agreements should also address the provision of relevant training to the members of the European Works Council, and the coverage of related expenses, without prejudice to the minimum requirement in Article 10(4) of Directive 2009/38/EC.	– and the coverage of experts’ fees, and the coverage of legal costs, including the costs of legal representation and of participation in administrative or judicial proceedings. The agreements should also address the provision of relevant training to the members of the European Works Council, and the coverage of related expenses, without prejudice to the minimum requirement in Article 10(4) of Directive 2009/38/EC. <u>Reasonable costs concern expenses that are related to the proper functioning and operation of the special negotiating body or the European Works Council, including the costs of experts, legal representation, participation in administrative and judicial proceedings and training. Member States may lay down budgetary rules regarding the operation of a European Works Council.</u>	<del>legal costs, including the costs of legal representation and of participation in administrative or judicial proceedings.</del> The agreements should also address the provision of relevant training to the members of the European Works Council, and the coverage of related expenses, without prejudice to the minimum requirement <b>provided for</b> in Article 10(4) of Directive 2009/38/EC.
Recital 10			
23	(10) The requirement in Directive 2009/38/EC to take into account, where possible, the need for a balanced representation of employees with regard to their gender when determining the composition of European Works Councils has proven insufficient to promote gender balance. Women remain underrepresented in most European Works Councils. Therefore, it is necessary to lay down more effective and specific objectives regarding	(10) <u>European Works Councils should promote a balanced, inclusive and diverse representation of employees.</u> The requirement in Directive 2009/38/EC to take into account, where possible, the need for a balanced representation of employees with regard to their gender when determining the composition of European Works Councils has proven insufficient to promote gender balance. Women remain underrepresented in most European	(10) The requirement <b>provided for</b> in Directive 2009/38/EC to take into account, where possible, the need for a balanced representation of employees with regard to their gender when determining the composition of European Works Councils has proven insufficient to promote gender balance. Women remain underrepresented in most European Works Councils. Therefore, it is necessary to lay down more effective and specific objectives

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	<p>gender representation, to be implemented by management and employee representatives when negotiating or renegotiating their agreements. To attain those objectives, it may in certain cases be necessary to give priority to the underrepresented sex in composing the European Works Council or its select committee. In accordance with the case-law of the Court of Justice of the European Union<sup>1</sup>, such positive action is possible, in accordance with the principle of equal treatment of men and women, provided that the measures taken to achieve the gender balance objective do not automatically and unconditionally give priority to persons of a certain gender but allow to take into account other criteria, such as merits and qualifications and the procedure for election established by the relevant laws. Parties to European Works Council agreements should therefore be afforded the flexibility necessary to respect the legal and factual limitations to the positive action. For similar considerations, it is appropriate, in addition, to require steps to strive for a gender-balanced composition of the special negotiating body, to promote that objective already during the negotiation phase.</p> <p>_____</p> <p>1. Judgment of the Court of Justice of 28 March 2000, Badeck and Others, C-158/97, ECLI:EU:C:2000:163.</p>	<p>Works Councils. Therefore, it is necessary to lay down more effective and specific objectives regarding gender representation, to be implemented by management and employee representatives when negotiating or renegotiating their agreements. To attain those objectives, it may in certain cases be necessary to give priority to the underrepresented sex in composing the European Works Council or its select committee. In accordance with the case-law of the Court of Justice of the European Union<sup>1</sup>, such positive action is possible, in accordance with the principle of equal treatment of men and women, provided that the measures taken to achieve the gender balance objective do not automatically and unconditionally give priority to persons of a certain gender but allow to take into account other criteria, such as merits and qualifications and the procedure for election established by the relevant laws. Parties to European Works Council agreements should therefore be afforded the flexibility necessary to respect the legal and factual limitations to the positive action. For similar considerations, it is appropriate, in addition, to require steps to strive for a gender-balanced composition of the special negotiating body, to promote that objective already during the negotiation phase.</p>	<p>regarding <del>gender</del><b>gender-balanced</b> representation, to be implemented by management and employee representatives when negotiating or renegotiating their agreements. To attain those objectives, it may in certain cases be necessary to give priority to the underrepresented sex in composing the European Works Council or its select committee. In accordance with the case-law of the Court of Justice of the European Union<sup>1</sup>, such positive action is possible, in accordance with the principle of equal treatment of men and women, provided that the measures taken to achieve the gender balance objective do not automatically and unconditionally give priority to persons of a certain gender but allow to take into account other criteria, such as merits and qualifications and the procedure for election established by the relevant laws. Parties to European Works Council agreements should therefore be afforded the flexibility necessary to respect the legal and factual limitations to the positive action. <b>Without prejudice to the national laws and practices on electing and appointing employees' representatives, the agreements should include arrangements to work towards a gender-balanced composition of the European Works Council. This might include a growth path to a gender-balanced composition of the European Works Council, which could comprise intermediate progressive objectives.</b></p>

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		<hr/> <p>1. Judgment of the Court of Justice of 28 March 2000, Badeck and Others, C-158/97, ECLI:EU:C:2000:163.</p>	<p>For similar considerations, it is appropriate, in addition, to require steps to strive for a gender-balanced composition of the special negotiating body, to promote that objective already during the negotiation phase.</p> <hr/> <p>1. Judgment of the Court of Justice of 28 March 2000, Badeck and Others, C-158/97, ECLI:EU:C:2000:163.</p>
Recital 11			
24	<p>(11) Evidence shows that the initiation of negotiations is sometimes delayed beyond the period of six months set out in Directive 2009/38/EC. In some cases, management neither takes steps nor expressly refuses to commence negotiations following a request to set up a European Works Council. It should therefore be specified that the subsidiary requirements laid down in Directive 2009/38/EC apply where the first meeting of the special negotiating body is not convened within six months following a request to establish a European Works Council, irrespective of whether central management expressly refuses to commence negotiations.</p>	<p>(11) Evidence shows that the initiation of negotiations is sometimes delayed beyond the period of six months set out in Directive 2009/38/EC. In some cases, management neither takes steps nor expressly refuses to commence negotiations following a request to set up a European Works Council. It should therefore be specified that the subsidiary requirements laid down in Directive 2009/38/EC apply where the first meeting of the special negotiating body is not convened within six months following a request to establish a European Works Council, irrespective of whether central management expressly refuses to commence negotiations.</p>	<p>(11) Evidence shows that the initiation of negotiations is sometimes delayed beyond the period of six months set out in Directive 2009/38/EC. In some cases, management neither takes steps nor expressly refuses to commence negotiations following a request to set up a European Works Council. It should therefore be specified that the subsidiary requirements laid down in Directive 2009/38/EC apply where the first meeting of the special negotiating body is not convened within six months following a request to establish a European Works Council, irrespective of whether central management expressly refuses to commence negotiations.</p>
Recital 12			

	Commission Proposal	EP Mandate	Council Mandate
25	<p>(12) When sharing sensitive information with members of European Works Councils, members of special negotiating bodies, or employees' representatives in the framework of an information and consultation procedure, management has the possibility to provide that such information is shared in confidence and should not be disclosed further. When sharing information in confidence, central management should be required to provide at the same time a reasonable justification. Setting up adequate arrangements to safeguard the confidentiality of sensitive information can instil trust and facilitate the sharing of such information, while protecting business and workers' interests, including to avert growing risks such as industrial espionage.</p>	<p>(12) When sharing sensitive information with members of European Works Councils, members of special negotiating bodies, or employees' representatives in the framework of an information and consultation procedure, management has the possibility to provide that such information is shared in confidence and should not be disclosed further. <u><a href="#">This should not apply to situations in which members of the European Works Council decide to reveal information to national or local work councils that may affect the situation of workers.</a></u> When sharing information in confidence, central management should be required to provide at the same time a reasonable justification <u><a href="#">based on objective criteria</a></u>. Setting up adequate arrangements to safeguard the confidentiality of sensitive information can instil trust and facilitate the sharing of such information, while protecting business and workers' interests, including to avert growing risks such as industrial espionage.</p>	<p>(12) When sharing sensitive information with members of European Works Councils, members of special negotiating bodies, or employees' representatives in the framework of an information and consultation procedure, management has the possibility to provide that such information is shared in confidence and should not be disclosed further. When sharing information in confidence, central management should be required to provide at the same time a reasonable justification. <b>The confidentiality should only be upheld as long as the reasons for it persist.</b> Setting up adequate arrangements to safeguard the confidentiality of sensitive information can instil trust and facilitate the sharing of such information, while protecting business and <del>workers</del><b>employees'</b> interests, including to avert growing risks such as industrial espionage.</p>
Recital 13			
26	<p>(13) The possibility of central management not to transmit information to the members of special negotiating bodies or of European Works Councils, or to employees' representatives in the framework of an information and consultation procedure, should be limited to cases where</p>	<p>(13) The possibility of central management not to transmit information to the members of special negotiating bodies or of European Works Councils, or to employees' representatives in the framework of an information and consultation procedure, should be limited to cases where</p>	<p>(13) The possibility of central management not to transmit information to the members of special negotiating bodies or of European Works Councils, or to employees' representatives in the framework of an information and consultation procedure, should be limited to cases where</p>



	Commission Proposal	EP Mandate	Council Mandate
	such transmission would seriously harm the functioning of the undertakings concerned. For reasons of transparency and effective redress, central management should also be required to specify the reasons justifying the non-transmission of information.	such transmission would seriously harm the functioning of the undertakings concerned. For reasons of transparency and effective redress, central management should also be required to specify the reasons justifying the non-transmission of information.	such transmission would seriously harm the functioning of the undertakings concerned. For reasons of transparency and effective redress, central management should also be required to specify the reasons justifying the non-transmission of information <b>in a balanced manner which allows for sufficient legal scrutiny, while not revealing protected information. The dispensation from transmitting information applies as long as the reasons for it persist.</b>
Recital 14			
27	(14) With a view to increasing legal clarity, it is appropriate to lay down the provisions on the transmission of information in confidence and on the non-transmission of information in two separate Articles. In addition, the existing provision allowing Member States to lay down particular rules for undertakings pursuing the aim of ideological guidance should be moved to the Article concerning the relationship with other national provisions, because it pertains to the implementation of the requirements of Directive 2009/38/EC more broadly.	(14) With a view to increasing legal clarity, it is appropriate to lay down the provisions on the transmission of information in confidence and on the non-transmission of information in two separate Articles. In addition, the existing provision allowing Member States to lay down particular rules for undertakings pursuing the aim of ideological guidance should be moved to the Article concerning the relationship with other national provisions, because it pertains to the implementation of the requirements of Directive 2009/38/EC more broadly.	(14) With a view to increasing legal clarity, it is appropriate to lay down the provisions on the transmission of information in confidence and on the non-transmission of information in two separate Articles. In addition, the existing provision allowing Member States to lay down particular rules for undertakings pursuing the aim of ideological guidance should be moved to <del>the an</del> Article concerning the relationship with other national provisions, because it pertains to the implementation of the requirements of Directive 2009/38/EC more broadly.
Recital 15			
28	(15) Effective transnational consultation requires a genuine dialogue between central	(15) Effective transnational consultation requires a genuine dialogue between central	(15) Effective transnational consultation requires a genuine dialogue between central



	Commission Proposal	EP Mandate	Council Mandate
	<p>management and European Works Councils, or employees' representatives in the framework of an information and consultation procedure. This implies that information and consultation need to be conducted in a way that enables worker's representatives to express their opinion prior to the adoption of the decision and that opinions issued by European Works Councils or employees' representatives must receive a reasoned response from central management before the latter adopts its decision on the proposed measure at issue. An explicit requirement to that effect should be laid down in Directive 2009/38/EC to ensure legal certainty.</p>	<p>management and European Works Councils, or employees' representatives in the framework of an information and consultation procedure. This implies that information and consultation need to be conducted in a <u>meaningful and timely</u> way that enables worker's representatives to express their opinion prior to the adoption of the decision, <u>which could include business plans, social plans, and process innovations where they may impact on redundancies</u>, and that opinions issued by European Works Councils or employees' representatives must receive a reasoned response from central management before the latter <u>or other competent organ of the Community undertaking or Community-scale group of undertakings</u> adopts its decision on the proposed measure at issue. An explicit requirement to that effect should be laid down in Directive 2009/38/EC to ensure legal certainty. <u>In that context, it is important to ensure that Community undertakings or Community-scale groups of undertakings can take decisions effectively and do not result in undue delays in decisions taken by Community undertakings or Community-scale groups of undertakings.</u></p>	<p>management and European Works Councils, or employees' representatives in the framework of an information and consultation procedure. This implies that information and consultation need to be conducted in a way that enables <del>worker's</del><b>employees'</b> representatives to express their opinion prior to the adoption of the decision and that opinions issued by European Works Councils or employees' representatives must receive a reasoned response from central management before the latter adopts its decision on the proposed measure at issue. <del>An explicit requirement to that effect should be laid down</del> <b>It is therefore important, taking into account the degree of urgency of the matter, that information and consultation take place in good time and that the European Works Council and the employees' representatives are given sufficient time to express their views in order to ensure the effective exercise of the rights provided for in Directive 2009/38/EC. Without prejudice to the possibility of Member States to provide for more stringent protective measures according to Article 153 paragraph 4 TFEU, this amending Directive should not prevent undertakings from adopting decisions in case the opinion of the European Works Council has not been provided within a reasonable time to ensure legal certainty.</b></p>

	Commission Proposal	EP Mandate	Council Mandate
Recital 15a			
28a		<p><u>(15a) In the case of a disagreement about whether to undertake an information or consultation procedure, there is a lack of guidance on how to resolve the negative effects that such disagreements may have on members of European Works Councils and employee representatives. Therefore, if there is a dispute with regard to whether an information and consultation procedure should be undertaken, the central management should provide duly substantiated grounds in writing specifying the reasons why the provisions in this Directive relating to information and consultation are not applicable.</u></p>	
Recital 15b			
28b		<p><u>(15b) In the context of an information and consultation procedure, the European Works Council or the select committee should be able to request assistance and advice from experts of its choice, such as representatives of competent recognised Community-level trade union organisations. Such experts should be allowed to attend meetings of the European Works Council and meetings with the central management in an advisory capacity. Moreover, Member States can lay down</u></p>	

	Commission Proposal	EP Mandate	Council Mandate
		<u><a href="#">budgetary rules for the operation of a European Works Council.</a></u>	
Recital 16			
29	(16) In addition, provisions of Directive 2009/38/EC on the role and protection of employees' representatives should be amended to increase clarity and accuracy, in particular with regard to the protection of the members of special negotiating bodies and the members of European Works Councils against retaliatory measures or dismissals. In order to avoid disputes, it should also be specified that the central management is to cover the costs of training of the members of the special negotiating body and of the European Works Council and other associated costs, which is necessary for the exercise of their duties, where management has been informed of those costs in advance.	(16) In addition, provisions of Directive 2009/38/EC on the role and protection of employees' representatives should be amended to increase clarity and accuracy, in particular with regard to the protection of the members of special negotiating bodies and the members of European Works Councils against retaliatory measures or dismissals. In order to avoid disputes, it should also be specified that the central management is to cover the costs of training of the members of the special negotiating body and of the European Works Council and other associated costs, which is necessary for the exercise of their duties, where management has been informed of those costs in advance.	(16) In addition, provisions of Directive 2009/38/EC on the role and protection of employees' representatives should be amended to increase clarity and accuracy, in particular with regard to the protection of the members of special negotiating bodies and the members of European Works Councils against retaliatory measures or dismissals. In order to avoid disputes, it should also be specified that the central management is to cover the <b>reasonable</b> costs of training <b>and related expenses</b> of the members of the special negotiating body and of the European Works Council <del>and other associated costs</del> , which is necessary for the exercise of their duties, where management has been informed of those costs in advance.
Recital 17			
30	(17) In certain Member States, rightsholders under Directive 2009/38/EC encounter difficulties in bringing legal actions to enforce their rights. It is therefore necessary to strengthen Member States' obligation to ensure effective remedies and access to justice and the supervision by the Commission of their	(17) In certain Member States, rightsholders under Directive 2009/38/EC encounter difficulties in bringing legal actions to enforce their rights. It is therefore necessary to strengthen Member States' obligation to ensure effective remedies and access to justice and the supervision by the Commission of their	(17) In certain Member States, rightsholders under Directive 2009/38/EC encounter difficulties in bringing legal actions to enforce their rights. It is therefore necessary to strengthen Member States' obligation to ensure effective remedies and access to justice and the supervision by the Commission of their

	Commission Proposal	EP Mandate	Council Mandate
	<p>compliance with that obligation. For that purpose, Member States should be required to notify the Commission of how and under which circumstances the rightsholders can bring judicial, and where applicable, administrative procedures, in respect of all their rights under this Directive. Moreover, it should be clarified that the relevant procedures have to enable a timely and effective enforcement, and that possible prior out-of-court settlement procedures can neither result in a decision which is binding on the parties concerned, nor prejudice rightsholders' right to bring legal proceedings.</p>	<p>compliance with that obligation. For that purpose, Member States should be required to notify the Commission of how and under which circumstances the rightsholders, <u>including members of the special negotiation body and members of a European Works Council</u>, can bring judicial, and where applicable, administrative procedures, in respect of all their rights under this Directive, <u>including the right to form and join trade unions. In addition, Member States should develop mechanisms to encourage mediation and, where appropriate, provide for alternative dispute mechanisms.</u> Moreover, it should be clarified that the relevant procedures have to enable a timely and effective enforcement, and that possible prior out-of-court settlement procedures can neither result in a decision which is binding on the parties concerned, nor prejudice rightsholders' right to bring legal proceedings. <u>However, members of special negotiations bodies and members of European Works Councils should enjoy the same protection and guarantees equivalent to those provided to employees' representatives by national law or practice applicable in their country of employment.</u></p>	<p>compliance with <b>those obligations. With regard to European Works Councils and special negotiating bodies, Member States should, in line with national law on their possible legal standing or the form of representation, guarantee to access to judicial proceedings or, where relevant, administrative proceedings to enforce the rights attributed to the European Works Councils and special negotiating bodies. Moreover, it should be clarified that the relevant procedures have to enable an effective enforcement, and that possible prior out-of-court settlement procedures cannot deprive rightsholders' of their right to bring legal proceedings. For the purpose of supervision by the Commission of the compliance of Member States with the above</b>that obligation. <del>For that purpose, Member States should be required to notify the Commission of how and under which circumstances the rightsholders can bring judicial, and, where applicable, relevant, administrative procedures, in respect of all their rights under this amending Directive. Moreover, it should be clarified that the relevant procedures have to enable a timely and effective enforcement, and that possible prior out-of-court settlement procedures can neither result in a decision which is binding on the parties concerned, nor prejudice rightsholders' right to bring legal proceedings.</del></p>

	Commission Proposal	EP Mandate	Council Mandate
Recital 18			
31	<p>(18) The Commission's 2018 evaluation of Directive 2009/38/EC has shown that sanctions applicable in the case of non-compliance with transnational information and consultation requirements are often not sufficiently dissuasive. Therefore, it is appropriate to lay down the Member States' obligation to provide for effective, dissuasive and proportionate sanctions. Pecuniary sanctions should be provided for in case of failure to comply with the information and consultation procedures set out in Directive 2009/38/EC. Other forms of sanctions could also be provided for. Pecuniary sanctions should be determined taking into consideration the size and financial situation of the Community-scale undertaking or group – for example, based on its annual turnover – and any other relevant factors – such as the gravity, duration, consequences, and intentional or negligent nature of the offence –, in order to be effective, dissuasive and proportionate.</p>	<p>(18) The Commission's 2018 evaluation of Directive 2009/38/EC has shown that sanctions applicable in the case of non-compliance with transnational information and consultation requirements <u>regretfully</u> are often not sufficiently dissuasive, <u>effective or proportionate</u>. Therefore, it is appropriate to lay down the Member States' obligation to provide for effective, dissuasive and proportionate sanctions. <del>Pecuniary sanctions</del> <u>Financial penalties</u> should be provided for in case of failure to comply with the information and consultation procedures set out in Directive 2009/38/EC. Other forms of sanctions <del>could</del> <u>should</u> also be provided for, <u>including administrative and judicial procedures. In line with national law and practice, Member States should provide for a possibility to request a preliminary injunction in national courts or other competent authorities for a temporary suspension of the implementation of management decisions until an information and consultation procedure has taken place at the relevant level of management and representation and in such a way as to enable a reasoned response from the central management in accordance with this Directive.</u> <del>Financial. Pecuniary</del> sanctions should be determined taking into consideration the size</p>	<p>(18) The Commission's 2018 evaluation of Directive 2009/38/EC has shown that sanctions applicable in the case of non-compliance with transnational information and consultation requirements are often not sufficiently dissuasive. Therefore, it is appropriate to lay down the Member States' obligation to provide for effective, dissuasive and proportionate <del>sanctions. Pecuniary sanctions</del> <b>penalties</b>. <b>Financial penalties</b> should be provided for in case of failure to comply with the information and consultation procedures set out in Directive 2009/38/EC. Other forms of sanctions could also be provided for. <del>Pecuniary sanctions should</del> <b>In order to be effective, dissuasive and proportionate, penalties could</b> be determined taking into consideration <b>factors such as</b> the size and financial situation of the Community-scale undertaking or group – for example, based on its annual turnover – and any other relevant factors – such as the gravity, duration, consequences, and intentional or negligent nature of the offence –, <del>in order to be effective, dissuasive and proportionate.</del></p>

	Commission Proposal	EP Mandate	Council Mandate
		and financial situation of the Community-scale undertaking or group – for example, based on its annual turnover – and any other relevant factors – such as the gravity, duration, consequences, and intentional or negligent nature of the offence –, in order to be effective, dissuasive and proportionate <u>and should be based on the administrative fines referred to in Article 83(4) and (5), of Regulation (EU) 2016/679.</u>	
Recital 18a			
31a			<b>(18a) The special negotiating bodies, the European Works Councils and their members on their behalf should have the necessary means to cover the costs of legal representation and participation in judicial proceedings or, where relevant, administrative proceedings. The Member states should stipulate that those costs are to be borne by the central management in as far as those costs are reasonable or should take other measures in order to ensure that European Works Councils are not de facto prevented from participating in administrative or judicial proceedings due to a lack of financial resources. This could be done for example by requiring allocation of an appropriate operational budget to the European Works Council, by setting up of solidarity funds at national level, by providing insurances covering legal costs, by granting</b>

	Commission Proposal	EP Mandate	Council Mandate
			access to legal aid in certain circumstances or through other provisions in line with national laws and practices.
Recital 19			
32	<p>(19) Undertakings with an agreement on the transnational information and consultation of employees concluded before 23 September 1996, that is to say prior to the date of application of Council Directive 94/45/EC<sup>1</sup>, are exempted from the application of the obligations arising from Directive 2009/38/EC. The employee information and consultation bodies established under such agreements have been concluded and continue to operate outside the scope of Union law. Directive 2009/38/EC does not provide the employees in the exempted undertakings with the possibility to request an establishment of a European Works Council under that Directive. However, for reasons of legal clarity, equal treatment and effectiveness, employees and their representatives in all Community-scale undertakings or Community-scale groups of undertakings should in principle have the right to request the establishment of a European Works Council. Almost 30 years after a legislative framework setting minimum requirements for the transnational information and consultation of employees was first</p>	<p>(19) Undertakings with an agreement on the transnational information and consultation of employees concluded before 23 September 1996, that is to say prior to the date of application of Council Directive 94/45/EC<sup>1</sup>, are exempted from the application of the obligations arising from Directive 2009/38/EC. The employee information and consultation bodies established under such agreements have been concluded and continue to operate outside the scope of Union law <u>and their legal status should be ensured by civil or collective labour law, depending on the different legal system of each Member State</u>. Directive 2009/38/EC does not provide the employees in the exempted undertakings with the possibility to request an establishment of a European Works Council under that Directive. However, for reasons of legal clarity, equal treatment and effectiveness, employees and their representatives in all Community-scale undertakings or Community-scale groups of undertakings should in principle have the right to request the establishment of a European Works Council. Almost 30 years after a legislative framework setting minimum</p>	<p>(19) Undertakings with an agreement on the transnational information and consultation of employees concluded before 23 September 1996, that is to say prior to the date of application of Council Directive 94/45/EC<sup>1</sup>, are exempted from the application of the obligations arising from Directive 2009/38/EC. The employee information and consultation bodies established under such agreements have been concluded and continue to operate outside the scope of Union law. Directive 2009/38/EC does not provide the employees in the exempted undertakings with the possibility to request an establishment of a European Works Council under that Directive. However, for reasons of legal clarity, equal treatment and effectiveness, employees and their representatives in all Community-scale undertakings or Community-scale groups of undertakings should in principle have the right to request the establishment of a European Works Council. Almost 30 years after a legislative framework setting minimum requirements for the transnational information and consultation of employees was first</p>



	Commission Proposal	EP Mandate	Council Mandate
	<p>established at Union level, those reasons prevail over the considerations of continuity for pre-existing agreements which initially motivated the exemption. That exemption should therefore be deleted.</p> <hr/> <p>1. Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ L 254, 30.9.1994, p. 64, ELI: <a href="http://data.europa.eu/eli/dir/1994/45/oj">http://data.europa.eu/eli/dir/1994/45/oj</a>).</p>	<p>requirements for the transnational information and consultation of employees was first established at Union level, those reasons prevail over the considerations of continuity for pre-existing agreements which initially motivated the exemption. That exemption should therefore be deleted.</p> <hr/> <p>1. Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ L 254, 30.9.1994, p. 64, ELI: <a href="http://data.europa.eu/eli/dir/1994/45/oj">http://data.europa.eu/eli/dir/1994/45/oj</a>).</p>	<p>established at Union level, those reasons prevail over the considerations of continuity for pre-existing agreements which initially motivated the exemption. That exemption should therefore be deleted. <b>The initiation and conduct of negotiations for the establishment of European Works Councils in such undertakings should follow the procedure as set out in this Directive while the period after which the subsidiary requirements come into force should be reduced to two years instead of three, in line with the period applicable to the adaptation of existing European Works Council agreements.</b></p> <hr/> <p>1. Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ L 254, 30.9.1994, p. 64, ELI: <a href="http://data.europa.eu/eli/dir/1994/45/oj">http://data.europa.eu/eli/dir/1994/45/oj</a>).</p>
Recital 19a			
32a		<p><u><b>(19a) It is essential that all European Works Council agreements are governed by the same rights and obligations in order to ensure equal treatment of workers, access to the application of high Union standards, and legal certainty. With a view to creating a regulatory level-playing field governing the functioning of</b></u></p>	



	Commission Proposal	EP Mandate	Council Mandate
		<u>European Works Councils, the rights and obligations arising from Directive 2009/38/EC should be applicable to all European Works Council agreements and agreements on an information and consultation procedure concluded in accordance with Articles 5 and 6 of Directive 94/45/EC or with Articles 5 and 6 of this Directive.</u>	
Recital 20			
33	(20) Moreover, for the same considerations, the same minimum requirements should apply to all Community-scale undertakings with European Works Councils operating under Directive 2009/38/EC and those in which a European Works Council agreement was signed or revised between 5 June 2009 and 5 June 2011. Therefore, the exemption of the latter undertakings from the application of Directive 2009/38/EC should also be deleted.	(20) <del>Moreover, for the same considerations, the same minimum requirements should apply to all Community-scale undertakings with European Works Councils operating under Directive 2009/38/EC and those in which a European Works Council agreement was signed or revised between 5 June 2009 and 5 June 2011. Therefore, the exemption of the latter undertakings from the application of Directive 2009/38/EC should also be deleted.</del>	(20) Moreover, for the same considerations, the same minimum requirements should apply to all Community-scale undertakings with European Works Councils operating under Directive 2009/38/EC and those in which a European Works Council agreement was signed or revised between 5 June 2009 and 5 June 2011. Therefore, the exemption of the latter undertakings from the application of Directive 2009/38/EC should also be deleted.
Recital 20a			
33a			<b>(20a) The same minimum requirements should apply to all Community-scale undertakings with European Works Councils operating under Directive 2009/38/EC. Member States should notably provide transitional arrangements enabling the parties to European Works Council agreements or</b>

	Commission Proposal	EP Mandate	Council Mandate
			<p>agreements on information and consultation procedures, concluded under Directive 94/45/EC or Directive 2009/38/EC before [OJ: insert date from which the transposing provisions are to apply, set out in the Article 2(1), 2nd subpar. of this amending Directive], which are not in conformity with the revised requirements relating to the content of such agreements to negotiate adaptations. In any case, the parties to existing European Works Council agreements or agreements on information and consultation procedures should respect the applicable minimum requirements.</p>
Recital 21			
34	<p>(21) European Works Councils operating based on the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC have the right to meet with central management once a year, to be informed and consulted on the progress of the business of the relevant Community-scale undertaking or Community-scale group of undertakings and its prospects. In order to strengthen the transnational information and consultation of those European Works Councils, it is appropriate to increase the number of such annual plenary meetings in the subsidiary requirements to two.</p>	<p>(21) European Works Councils operating based on the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC have the right to meet with central management once a year, to be informed and consulted on the progress of the business of the relevant Community-scale undertaking or Community-scale group of undertakings and its prospects. In order to strengthen the transnational information and consultation of those European Works Councils, it is appropriate to increase the number of such annual plenary meetings in the subsidiary requirements to <u>at least two. When appropriate and agreed upon and while</u></p>	<p>(21) European Works Councils operating based on the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC have the right to meet with central management once a year, to be informed and consulted on the progress of the business of the relevant Community-scale undertaking or Community-scale group of undertakings and its prospects. In order to strengthen the transnational information and consultation of those European Works Councils, it is appropriate to increase the number of such annual plenary meetings in the subsidiary</p>

	Commission Proposal	EP Mandate	Council Mandate
		<u>ensuring meaningful information and consultation, digital means of communication and coordination can be used in exceptional cases without replacing ordinary meetings.</u> <del>two.</del>	requirements to two, of which at least one needs to be in person.
Recital 22			
35	(22) In addition, certain technical changes should be made to the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC, to ensure consistency with the enacting terms.	(22) In addition, certain technical changes should be made to the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC, to ensure consistency with the enacting terms.	(22) In addition, certain technical changes should be made to the subsidiary requirements set out in Annex 1 to Directive 2009/38/EC, to ensure consistency with the enacting terms.
Recital 23			
36	(23) Therefore, it is appropriate to amend Directive 2009/38/EC to bring all eligible undertakings within its scope, clarify some of its key concepts, improve the transnational information and consultation process, and ensure effective redress and enforcement.	(23) Therefore, it is appropriate to amend Directive 2009/38/EC to bring all eligible undertakings within its scope, clarify some of its key concepts, improve the transnational information and consultation process, and ensure effective redress and enforcement.	(23) Therefore, it is appropriate to amend Directive 2009/38/EC to bring all eligible undertakings within its scope, clarify some of its key concepts, improve the transnational information and consultation process, and ensure effective redress and enforcement.
Recital 24			
37	(24) In some cases, existing European Works Council agreements or agreements on information and consultation procedures, concluded under Directive 94/45/EC or Directive 2009/38/EC before the entry into force of the measures adopted by Member States to transpose this Directive, may not be in conformity with the revised requirements. It is	(24) <del>In some cases,</del> Existing European Works Council agreements or agreements on information and consultation procedures, concluded under Directive 94/45/EC or Directive 2009/38/EC before the entry into force of the measures adopted by Member States to transpose this Directive, may not be in conformity with the revised	(24) <del>In some cases, existing European Works Council agreements or agreements on information and consultation procedures, concluded under Directive 94/45/EC or Directive 2009/38/EC before the entry into force of the measures adopted by Member States to transpose this Directive, may not be in conformity with the revised requirements. It is</del>

	Commission Proposal	EP Mandate	Council Mandate
	therefore appropriate to set out transitional arrangements enabling the parties to such agreements to negotiate adaptations before the date of application of the transposition measures.	<del>requirements</del> <u>required contents of those agreements</u> . It is therefore appropriate to set out transitional arrangements enabling the parties to such agreements to negotiate <del>adaptations before the date of application</del> <u>addenda, without, however, requiring a complete re-negotiation</u> of the <del>transposition measures</del> <u>agreement. In order not to allow for any interruption of the information and consultation of employees, the existing European Works Council agreement or agreement on information and consultation procedure is to remain in force during the negotiation of such addenda.</u>	therefore appropriate to set out transitional arrangements enabling the parties to such agreements to negotiate adaptations before the date of application of the transposition measures.
Recital 24a			
37a		<u>(24a) If the central management initiates negotiations to supplement an existing European Works Council agreement or agreement on information and consultation procedures in accordance with the requirements of this Directive, there is no obligation to renegotiate the entire existing agreement. The amended requirements should be negotiated as an addendum within 2 years of the date of transposition of this Directive. Provision should be made for the subsidiary requirements specifically relating to the amended requirements to apply in the absence</u>	

	Commission Proposal	EP Mandate	Council Mandate
		<u>of an agreement on the addendum within that time limit.</u>	
Recital 24b			
37b		<u>(24b) It is necessary to ensure that the special negotiation body has the opportunity to meet regularly with the central management in order to be able to conduct meaningful negotiations. Where the conditions laid down in Article 7(1) are met, it should be clarified that it is the responsibility of the central management to initiate the establishment of a European Works Council according to the subsidiary requirements.</u>	
Recital 25			
38	(25) The overall objective of this Directive is to ensure the effectiveness of the requirements of Directive 2009/38/EC regarding the information and consultation of employees of Community-scale undertakings and Community-scale groups of undertakings. That objective cannot be sufficiently achieved by the Member States alone, but because of the inherently transnational nature and scale of these requirements, it can better be achieved at Union level. Therefore, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty	(25) The overall objective of this Directive is to ensure the effectiveness of the requirements of Directive 2009/38/EC regarding the information and consultation of employees of Community-scale undertakings and Community-scale groups of undertakings. That objective cannot be sufficiently achieved by the Member States alone, but because of the inherently transnational nature and scale of these requirements, it can better be achieved at Union level. Therefore, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty	(25) <del>The overall objective of this Directive is to ensure,</del> <b>Since the objectives</b> <del>of this Directive is to ensure, namely</del> <b>ensuring</b> the effectiveness of the requirements of Directive 2009/38/EC regarding the information and consultation of employees of Community-scale undertakings and Community-scale groups of undertakings. That objective cannot be sufficiently achieved by the Member States alone, but because of the, <b>but can rather, by reason of</b> inherently transnational nature and scale of <del>these</del> <b>those</b> requirements, <del>it can be</del> <b>can be</b> better <del>be</del> achieved at Union level. Therefore, the Union may adopt measures, in accordance with

	Commission Proposal	EP Mandate	Council Mandate
	on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
Recital 26			
39	(26) Pursuant to Article 27 of the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities are to be able to exercise their labour and trade union rights on an equal basis with others. As both the Union and its Member States are parties to that Convention, Directive 2009/38/EC and relevant national legislation are to be interpreted in accordance with that principle, for instance in relation to accessibility and reasonable accommodation for members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions, as well as the bearing of related costs by central management.	(26) Pursuant to Article 27 of the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities are to be able to exercise their labour and trade union rights on an equal basis with others. As both the Union and its Member States are parties to that Convention, Directive 2009/38/EC and relevant national legislation are to be interpreted in accordance with that principle, for instance in relation to accessibility and reasonable accommodation for members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions, as well as the bearing of related costs by central management.	(26) Pursuant to Article 27 of the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities are to be able to exercise their labour and trade union rights on an equal basis with others. As both the Union and its Member States are parties to that Convention, Directive 2009/38/EC and relevant national legislation are to be interpreted in accordance with that principle, for instance in relation to accessibility and reasonable accommodation for members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions, as well as the bearing of related costs by central management.
Recital 27			
40	(27) In accordance with Article 30(3) and Article 42(1) of Directive 2014/23/EU of the European Parliament and of the Council <sup>1</sup> , Article 18(2) and Article 71(1) of Directive 2014/24/EU	(27) In accordance with Article 30(3) and Article 42(1) of Directive 2014/23/EU of the European Parliament and of the Council <sup>1</sup> , Article 18(2) and Article 71(1) of Directive 2014/24/EU	(27) In accordance with <del>Article 30(3) and Article 42(1) of Directive 2014/23/EU of the European Parliament and of the Council<sup>1</sup>, Article 18(2) and Article 71(1) of</del> <sup>1</sup> , Directive 2014/24/EU

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	<p>of the European Parliament and of the Council<sup>2</sup> and Article 36(2) and Article 88(1) of Directive 2014/25/EU of the European Parliament and of the Council<sup>3</sup>, Member States are to take appropriate measures to ensure that in the performance of public contracts economic operators observe applicable obligations in the fields of social and labour law established by Union law. The effective implementation of the requirements under this Directive should be promoted through the integration, as appropriate, of social sustainability criteria in the award criteria designed by contracting entities for identifying the most economically advantageous tenders. However, this Directive does not create any additional obligation in relation to those Directives.</p> <hr/> <p>1. Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).</p> <p>2. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>3. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).</p>	<p>of the European Parliament and of the Council<sup>2</sup> and Article 36(2) and Article 88(1) of Directive 2014/25/EU of the European Parliament and of the Council<sup>3</sup>, Member States are to take appropriate measures to ensure that in the performance of public contracts economic operators observe applicable obligations in the fields of social and labour law established by Union law. The effective implementation of the requirements under this Directive should be promoted through the integration, as appropriate, of social sustainability criteria in the award criteria designed by contracting entities for identifying the most economically advantageous tenders. However, this Directive does not create any additional obligation in relation to those Directives.</p> <hr/> <p>1. Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).</p> <p>2. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>3. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).</p>	<p><del>of the European Parliament and of the Council<sup>2</sup> and Article 36(2) and Article 88(1) of Directive 2014/25/EU of the European Parliament and of the Council<sup>3</sup>, Member States are to take appropriate measures to ensure that in the performance of public contracts economic operators observe applicable obligations in the fields of social and labour law established by Union law. The effective implementation of the requirements under this Directive should be promoted through the integration, as appropriate, of social sustainability criteria in the award criteria designed by contracting entities for identifying the most economically advantageous tenders</del> <b>can contribute to the effective implementation of the requirements under this Directive.</b> However, this Directive does not create any additional obligation in relation to those Directives.</p> <hr/> <p>1. Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).</p> <p>2. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>3. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and</p>

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			postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).
Recital 28			
G	41	(28) In order to give employees’ representatives and the central management in Community-scale undertakings or Community-scale groups of undertakings sufficient time to consider the revised minimum requirements and prepare for their application, it is appropriate to defer by two years the application of the provisions adopted by Member States to comply with this Directive,	(28) In order to give employees’ representatives and the central management in Community-scale undertakings or Community-scale groups of undertakings sufficient time to consider the revised minimum requirements and prepare for their application, it is appropriate to defer by two years the application of the provisions adopted by Member States to comply with this Directive,
Formula			
G	42	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:
Article 1			
G	43	Article 1	Article 1
Article 1, first paragraph			
G	44	Directive 2009/38/EC is amended as follows:	Directive 2009/38/EC is amended as follows:
Article 1, first paragraph, point (1)			



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G	45	(1) in Article 1, paragraph 4 is replaced by the following:	(1) in Article 1, paragraph 4 is replaced by the following:	G
Article 1, first paragraph, point (1), amending provision, numbered paragraph (4), first subparagraph				
G	46	“ 4. Matters shall be considered to be transnational where they can reasonably be expected to concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States.	“ 4. Matters shall be considered to be transnational where they can reasonably be expected to concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States.	G
Article 1, first paragraph, point (1), amending provision, numbered paragraph (4), second subparagraph				
G	47	Those conditions shall be deemed to be met where:	Those conditions shall be deemed to be met where:	G
Article 1, first paragraph, point (1), amending provision, numbered paragraph (4), second subparagraph, point (a)				
	48	(a) the measures considered by management of the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect workers in undertakings or establishments in more than one Member State;	(a) the measures considered by management <del>of</del> <sup>in</sup> the Community-scale undertaking or Community-scale group of undertakings <del>can reasonably be expected to</del> affect workers in undertakings or establishments in more than one Member State;	
			(a) the measures considered by management of the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect <del>workers in undertakings or</del> <b>employees of that undertaking or group, or its</b> establishments in more than one Member State;	

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Article 1, first paragraph, point (1), amending provision, numbered paragraph (4), second subparagraph, point (b)			
49	(b) the measures considered by management of the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect workers in an undertaking or establishment in one Member State, and workers in an undertaking or establishment in another Member State can reasonably be expected to be affected by the consequences of those measures.;	(b) the measures considered by management <del>of</del> <sup>in</sup> the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect workers in an undertaking or establishment in one Member State, and workers in an undertaking or establishment in <del>another</del> <sup>at least one other</sup> Member State can reasonably be expected to be affected by the consequences of those measures.”; <del>or</del>	(b) the measures considered by management of the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect <del>workers in an</del> <sup>employees of that</sup> undertaking or <del>establishment</del> <sup>group, or its establishments</sup> in one Member State, and <del>workers in an undertaking or establishment</del> <sup>their employees</sup> in another Member State can reasonably be expected to be affected by the consequences of those measures.;
Article 1, first paragraph, point (1), amending provision, numbered paragraph (4), second subparagraph, point (ba)			
49a		<u>(ba) the measures considered by central management of the Community-scale undertaking or Community-scale group of undertakings can reasonably be expected to affect workers in a Member State other than that in which those measures are being considered.</u>	
Article 1, first paragraph, point (1), amending provision, numbered paragraph (4a)			
49b		<u>4a. In order to determine the transnational character of a matter, the scope of its possible</u>	

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		<p><u>effects on the workforce and the level of management and representation involved shall be taken into account. This shall include matters which are of concern to workers in terms of the scope of their potential impact in two or more Member States, as well as matters which involve the transfer of activities between two or more Member States.</u></p> <p>”</p>	
Article 1, first paragraph, point (2)			
50	(2) in Article 2(1), points (f) and (g) are replaced by the following:	(2) in Article 2(1), points <u>(d)</u> , (f) and (g) are replaced by the following <u>and a new subparagraph is added:</u>	(2) in Article 2(1), points (f) and (g) are replaced by the following:
Article 1, first paragraph, point (2)(a)			
50a		<u>(d) ‘employees’ representatives’ means trade unions or the employees’ representatives provided for by national law or practice;</u>	
Article 1, first paragraph, point (2), amending provision, numbered paragraph (f)			
51	“ (f) ‘information’ means transmission of data by the employer to the employees’ representatives in order to enable them to	“ (f) ‘information’ means transmission of data by the employer to the employees’ representatives in order to enable them to	“ (f) ‘information’ means transmission of data by the employer to the employees’ representatives in order to enable them to

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	acquaint themselves with the subject matter and to examine it;	acquaint themselves with the subject matter and to examine it <u>and is given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of their possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings;</u>	acquaint themselves with the subject matter and to examine it;
Article 1, first paragraph, point (2), amending provision, numbered paragraph (g)			
52	(g) 'consultation' means the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management;; "	(g) 'consultation' means the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management; <u>at such time, in such fashion and with such content as enables employees' representatives to express a prior opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which is to be taken into account within the Community-scale undertaking or Community-scale group of undertakings. Consultation is to take place in such a way as to enable employees' representatives to obtain a reasoned written response in due time from the central</u>	(g) 'consultation' means the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management;; "

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		<u>management prior to the adoption of the decision provided the employee representatives expressed their opinion within a reasonable time in accordance with the first sentence;</u>	
Article 1, first paragraph, point (2a), subparagraph 1 a (new)			
52a		<u>For the purposes of point (c) of the first subparagraph, employees of controlling and controlled undertakings within the meaning of Article 3(2), point (ca), shall also be taken into account in the definition of a Community-scale group of undertakings;</u>	
Article 1, first paragraph, point (2b)			
52b		<u>(2a) in Article 3, paragraph 1 is replaced by the following:</u>	
Article 1, first paragraph, point (2b)(a)			
52c		<u>'1. For the purposes of this Directive, 'controlling undertaking' means an undertaking which can exercise a dominant influence over another undertaking (the controlled undertaking) by virtue, for example,</u>	

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		<u>of ownership, financial participation, control over decisions or the rules which govern it.'</u>	
Article 1, first paragraph, point (2c)			
52d		<u>(2b) in Article 3(2), the following point is added:</u>	
Article 1, first paragraph, point (2c)(a)			
52e		<u>(ca) operates directly or indirectly in the internal market selling goods or providing services through franchise or license agreements concluded with independent third-party companies in return for royalties where such agreements ensure a common identity, a common business name or concept and the application of uniform business methods.</u>	
Article 1, first paragraph, point (3)			
53	(3) Article 5 is amended as follows:	(3) Article 5 is amended as follows:	(3) Article 5 is amended as follows:
Article 1, first paragraph, point (3)(-a), first subparagraph			
53a		<u>(-a) paragraph 1 is replaced by the following:</u>	
Article 1, first paragraph, point (3)(-a), second subparagraph			

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53b		<i><u>‘1. In order to achieve the objective set out in Article 1(1), the central management shall initiate negotiations for the establishment of a European Works Council or an information and consultation procedure on its own initiative or at the either joint or separate written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States.’</u></i>	
Article 1, first paragraph, point (3)(a)			
54	(a) in paragraph 2, point (b) is replaced by the following:	(a) in paragraph 2, point (b) is replaced by the following:	(a) in paragraph 2, point (b) is replaced by the following:
Article 1, first paragraph, point (3)(a), amending provision, numbered paragraph (b)			
55	“  (b) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or the Community-scale group of undertakings, in a manner that strives to achieve a gender-balanced representation, by allocating in respect of each Member State one seat per portion of employees employed in that Member State, amounting to 10 %, or a fraction thereof,	“  (b) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or the Community-scale group of undertakings, in a manner that strives to achieve a gender-balanced representation, <u>whereby women and men each hold at least 40% of the posts of member of the special negotiating body</u> , by allocating in respect of each Member State one seat per portion of employees	“  (b) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or the Community-scale group of undertakings, in a manner that strives to achieve a gender-balanced representation, by allocating in respect of each Member State one seat per portion of employees employed in that Member State, amounting to 10 %, or a fraction thereof,

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	of the number of employees employed in all the Member States taken together;; ”	employed in that Member State, amounting to 10 %, or a fraction thereof, of the number of employees employed in all the Member States taken together; <u><i>If this objective is not reached, the reasons shall be explained in written by the special negotiating body.</i></u> ”	of the number of employees employed in all the Member States taken together;; ”
Article 1, first paragraph, point (3)(aa)			
55a		<u><i>(aa) in paragraph 4, the third subparagraph is replaced by the following:</i></u>	
Article 1, first paragraph, point (3)(aa)(i)			
55b		<u><i>‘For the purpose of the negotiations, the special negotiating body may request assistance from representatives of competent recognised Community-level trade union organisations and, if needed, further experts. Such experts and such trade union representatives may be present at negotiation meetings in an advisory capacity at the request of the special negotiating body.’</i></u>	
Article 1, first paragraph, point (3)(b)			
56	(b) paragraph 6 is amended as follows:	(b) paragraph 6 is amended as follows:	(b) paragraph 6 is amended as follows:



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Article 1, first paragraph, point (3)(b), first indent				
G	57	- in the first subparagraph, the following sentences are added:	- in the first subparagraph, the following sentences are added:	G
Article 1, first paragraph, point (3)(b), first indent, amending provision, first paragraph				
	58	<p>“</p> <p>These expenses shall include reasonable costs of experts, including for legal assistance, insofar as necessary for that purpose, as well as reasonable costs of legal representation and participation in administrative or judicial proceedings. Expenses shall be notified to central management before they are incurred.;</p> <p>”</p>	<p>“</p> <p>These expenses shall include reasonable costs of experts, including <u>a representative of a recognised Community-level trade-union</u>, for legal assistance, insofar as necessary for that purpose, as well as reasonable costs of legal representation and participation in administrative or judicial proceedings. Expenses shall be notified to <u>and approved by</u> central management before they are incurred.;</p> <p>”</p>	<p>“</p> <p>These expenses shall include reasonable costs of experts, including for legal assistance <del>experts</del>, insofar as necessary for that purpose, <del>as well as reasonable costs of legal representation and participation in administrative or judicial proceedings</del>. Expenses shall be notified to central management before they are incurred.;</p> <p>”</p>
Article 1, first paragraph, point (3)(b), second indent				
G	59	- in the second subparagraph, the second sentence is deleted;	- in the second subparagraph, the second sentence is deleted;	G
Article 1, first paragraph, point (4)				
G	60	(4) Article 6 is amended as follows:	(4) Article 6 is amended as follows:	G
Article 1, first paragraph, point (4)(a)				

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G	61	(a) paragraph 2 is amended as follows:	(a) paragraph 2 is amended as follows:	G
Article 1, first paragraph, point (4)(a), first indent				
G	62	- points (c) and (d) are replaced by the following:	- points (c) and (d) are replaced by the following:	G
Article 1, first paragraph, point (4)(a), first indent, amending provision, numbered paragraph (c)				
G	63	(c) the functions and the procedure for information and consultation of the European Works Council and the arrangements for linking information and consultation of the European Works Council and national employee representation bodies, in accordance with the principles and requirements set out in Article 1(3) and Article 9;	(c) the functions and the procedure for information and consultation of the European Works Council and the arrangements for linking information and consultation of the European Works Council and national employee representation bodies, in accordance with the principles and requirements set out in Article 1(3) and Article 9;	G
Article 1, first paragraph, point (4)(a), first indent, amending provision, numbered paragraph (d)				
G	64	(d) the format, venue, frequency and duration of meetings of the European Works Council;”;	(d) the format, venue, frequency and duration of meetings of the European Works Council;”;	G
Article 1, first paragraph, point (4)(a), second indent				

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G	65	- point (f) is replaced by the following:	- point (f) is replaced by the following:	G
Article 1, first paragraph, point (4)(a), second indent, amending provision, numbered paragraph (f), first subparagraph				
G	66	(f) the financial and material resources to be allocated to the European Works Council, including at least with respect to the following aspects:	(f) the financial and material resources to be allocated to the European Works Council, including at least with respect to the following aspects:	G
Article 1, first paragraph, point (4)(a), second indent, amending provision, numbered paragraph (f), first subparagraph, first indent				
	67	- the possible use of experts, including legal experts, to assist the European Works Council in the discharge of its functions;	- the possible use of experts, including legal experts, to assist the European Works Council in the discharge of its functions;	
Article 1, first paragraph, point (4)(a), second indent, amending provision, numbered paragraph (f), first subparagraph, second indent				
	68	- legal representation and participation of the European Works Council, or of its members on its behalf, in administrative or judicial proceedings;	- <del>legal representation and participation of the European Works Council, or of its members on its behalf, in administrative or judicial proceedings;</del>	
Article 1, first paragraph, point (4)(a), second indent, amending provision, numbered paragraph (f), first subparagraph, third indent				
G	69	- the provision of relevant training to the members of the European Works Council, without prejudice to the minimum requirement in Article 10(4), first subparagraph;”;	- the provision of relevant training to the members of the European Works Council, without prejudice to the minimum requirement in Article 10(4), first subparagraph;”;	G

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Article 1, first paragraph, point (4)(a), second indent, amending provision, numbered paragraph (f), second subparagraph			
70	The requirement to determine the elements listed in the first subparagraph, as amended by [OP: insert reference to this amending Directive*], shall apply also with respect to European Works Council agreements concluded before [OP: insert date laid down in the second subparagraph of Article 2 of this amending Directive.].	deleted	deleted
Article 1, first paragraph, point (4)(a), second indent, amending provision, numbered paragraph (f), third subparagraph			
71	_____		=====
Article 1, first paragraph, point (4)(a), second indent, amending provision, numbered paragraph (f), fourth subparagraph			
72	* [OP: insert OJ reference to this amending Directive.]”;	deleted	deleted
Article 1, first paragraph, point (4)(b)			
73	(b) the following paragraph 2a is inserted :	(b) the following paragraph 2a is inserted :	(b) the following paragraph 2a is inserted :
Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (2a)			
74	“	“	“

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	<p>2a. The central management and the special negotiating body, when negotiating or renegotiating a European Works Council agreement, shall agree and lay down the necessary arrangements for attaining, as far as possible, and without prejudice to national laws on electing workers representatives, the objective of gender balance whereby women and men each comprise at least 40 % of European Works Council members, and where applicable, at least 40 % of select committee members.;</p> <p>”</p>	<p>2a. The central management and the special negotiating body, when negotiating <del>or</del> <i>renegotiating</i> a European Works Council agreement, shall agree and lay down the necessary arrangements for attaining, <del>as far as possible</del>, and without prejudice to national laws on electing workers representatives, the objective of gender balance whereby women and men each comprise at least 40 % of European Works Council members, and where applicable, at least 40 % of select committee members.”;</p> <p>”</p>	<p>2a. The central management and the special negotiating body, when negotiating or renegotiating a European Works Council agreement, shall agree and lay down the necessary arrangements for attaining, as far as possible, and without prejudice to national laws <b>and practices</b> on electing <del>workers</del> <b>and appointing employees’</b> representatives, the objective of gender balance whereby women and men each comprise at least 40 % of European Works Council members, and where applicable, at least 40 % of select committee members.;</p> <p>”</p>
Article 1, first paragraph, point (4a), first subparagraph			
74a		<u>(4a) in Article 7(1), introductory part is replaced by the following:</u>	
Article 1, first paragraph, point (4a), second subparagraph			
74b		<u>In order to achieve the objective set out in Article 1(1), the subsidiary requirements laid down by the legislation of the Member State in which the central management is situated shall apply with immediate effect:’</u>	
Article 1, first paragraph, point (5)			

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75	(5) in Article 7(1), the second indent is replaced by the following:	(5) in Article 7(1), the second indent is replaced by the following:	(5) in Article 7(1), the second indent is replaced by the following:
Article 1, first paragraph, point (5), amending provision, numbered paragraph (—)			
76	“ — where the first meeting of the special negotiating body is not convened within six months following a request pursuant to Article 5(1),; ”	“ — where the first meeting of the special negotiating body is not convened within six months following a request pursuant to Article 5(1),; ”	“ — where the first meeting of the special negotiating body is not convened <b>by the central management</b> within six months following a request pursuant to Article 5(1),; ”
Article 1, first paragraph, point (5a)			
76a		<u>(5a)</u> <u>in Article 7(1), the following indent is inserted after the second indent:</u>	
Article 1, first paragraph(5), amending provision, Article, first paragraph			
76b		<u>“— where the special negotiating body is not convened on a regular basis,”</u>	
Article 1, first paragraph, amending provision, Article, second paragraph			
76c		<u>(5b)</u>	

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		<u>in Article 7(1), the third indent is replaced by the following:</u>	
Article 1, first paragraph(5), amending provision, Article, first paragraph			
76d		<u>‘— where, after 24 months from the date of such a request, they are unable to conclude an agreement as laid down in Article 6 and the special negotiating body has not taken the decision provided for in Article 5(5).’</u>	
Article 1, first paragraph(5), amending provision, Article, second paragraph			
76e		<u>(5c) In Article 7(1), the following indent is added:</u>	
Article 1, first paragraph(5), amending provision, Article, third paragraph			
76f		<u>‘— where an agreement as laid down in Article 6 has been terminated and no new agreement has been concluded within 24 months after the last day of validity of that agreement.’</u> ”	
Article 1, first paragraph, point (6)			
6 77	(6) Article 8 is replaced by the following:	(6) Article 8 is replaced by the following:	(6) Article 8 is replaced by the following: 6

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Article 1, first paragraph, point (6), amending provision, first paragraph			
78	<p>“</p> <p>Article 8</p> <p>Provision of information in confidence</p>	<p>“</p> <p>Article 8</p> <p>Provision of information in confidence</p>	<p>“</p> <p>Article 8</p> <p>Provision of information in confidence</p>
Article 1, first paragraph, point (6), amending provision, numbered paragraph (1)			
79	<p>1. Member States shall provide that members of special negotiating bodies, members of European Works Councils or employees’ representatives in the framework of an information and consultation procedure, and any experts who assist them, are not authorised to reveal information which has expressly been provided to them in confidence by central management. In addition, central management may set up adequate information transmission and storage arrangements to help safeguard the confidentiality of information provided in confidence.</p>	<p>1. Member States shall provide that members of special negotiating bodies, members of European Works Councils or employees’ representatives in the framework of an information and consultation procedure, and any experts who assist them, are not authorised to reveal information which has expressly been provided to them in confidence by central management <u>within the conditions and limits laid down by Union and national law and subject to objective criteria</u>. In addition, central management may set up adequate information transmission and storage arrangements to help safeguard the confidentiality of information provided in confidence.</p>	<p>1. Member States shall provide that members of special negotiating bodies, members of European Works Councils or employees’ representatives in the framework of an information and consultation procedure, and any experts who assist them, are not authorised to reveal information which has expressly been provided to them in confidence by central management. In addition, central management may set up <del>adequate</del> <b>appropriate</b> information transmission and storage arrangements to help safeguard the confidentiality of information provided in confidence.</p>
Article 1, first paragraph, point (6), amending provision, numbered paragraph (2)			
80	<p>2. When central management provides information in confidence in accordance with paragraph 1, it shall inform the members of the special negotiating bodies or the European</p>	<p>2. When central management provides information in confidence in accordance with paragraph 1, it shall inform the members of the special negotiating bodies or the European</p>	<p>2. When central management provides information in confidence in accordance with paragraph 1, it shall inform the members of the special negotiating bodies or the European</p>



	Commission Proposal	EP Mandate	Council Mandate
	Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the reasons justifying the provision of information in confidence.	Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the <del>reasons</del> <u>objective criteria</u> justifying the provision of information in confidence <u>and shall determine the duration of the confidentiality requirements.</u>	Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the reasons justifying the provision of information in confidence.
Article 1, first paragraph, point (6), amending provision, numbered paragraph (3)			
81	3. The obligation referred in paragraph 1 shall continue to apply, wherever the persons referred to in paragraph 1 are, even after the expiry of their terms of office, until, in agreement with central management, the justification provided is considered to have become obsolete.; ”	3. The obligation referred in paragraph 1 shall continue to apply, wherever the persons referred to in paragraph 1 are, even after the expiry of their terms of office, until, <del>in agreement with central management,</del> the justification provided is considered to have become obsolete.”;	3. The obligation referred in paragraph 1 shall continue to apply, wherever the persons referred to in paragraph 1 are, even after the expiry of their terms of office, until, <del>in agreement</del> <b>it has been agreed</b> with central management, <del>the justification provided is considered to have</del> <b>that the reasons justifying it have</b> become obsolete.; ”
Article 1, first paragraph, point (6), amending provision, numbered paragraph (3a)			
81a		<u><b>3a. Paragraph 1 shall not apply to members of the European Works Council who reveal information to national or local work councils that may affect the situation of workers where such information has been provided to them in</b></u>	

	Commission Proposal	EP Mandate	Council Mandate
		<u>confidence and is subject to national rules on confidentiality.</u>	
Article 1, first paragraph, point (7)			
G	82	(7) the following Article 8a is inserted:	(7) the following Article 8a is inserted:
Article 1, first paragraph, point (7), amending provision, first paragraph			
G	83	“ Article 8a  Non-transmission of information on specific grounds	“ Article 8a  Non-transmission of information on specific grounds
Article 1, first paragraph, point (7), amending provision, numbered paragraph (1), first subparagraph			
G	84	1. Member States shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory is not obliged to transmit information to members of special negotiating bodies or European Works Councils, or employees’ representatives in the framework of an information and consultation procedure, and any experts who assist them, when its nature is such that, according to	1. Member States shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory is not obliged to transmit information to members of special negotiating bodies or European Works Councils, or employees’ representatives in the framework of an information and consultation procedure, and any experts who assist them, when its nature is such that, according to

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	objective criteria, it would seriously harm the functioning of the undertakings concerned.	objective criteria, it would seriously harm the functioning of the undertakings concerned.	objective criteria, it would seriously harm the functioning of the undertakings concerned.
Article 1, first paragraph, point (7), amending provision, numbered paragraph (1), second subparagraph			
85	A Member State may make such dispensation subject to prior administrative or judicial authorisation.	<del>A Member</del> <del>State may</del> <b>States shall</b> make such dispensation subject to prior administrative or judicial authorisation.	A Member State may make such dispensation subject to prior administrative or judicial authorisation.
Article 1, first paragraph, point (7), amending provision, numbered paragraph (2)			
86	2. When central management does not transmit information on the grounds referred to in paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the reasons justifying the non-transmission of information.;	2. When central management does not transmit information on the grounds referred to in paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the reasons justifying the non-transmission of information.;	2. When central management does not transmit information on the grounds referred to in paragraph 1, it shall inform the members of the special negotiating bodies or the European Works Councils, or the employees' representatives in the framework of an information and consultation procedure of the reasons justifying the non-transmission of information.;
Article 1, first paragraph, point (7), amending provision, numbered paragraph (3)			
86a			<b>3. The dispensation according to paragraph 1 from transmitting information shall continue to apply until the reasons justifying it have become obsolete.;</b>

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			”
Article 1, first paragraph, point (8)			
87	(8) Articles 9 and 10 are replaced by the following:	(8) Articles 9 and 10 are replaced by the following:	(8) Articles 9 and 10 are replaced by the following:
Article 1, first paragraph, point (8), amending provision, first paragraph			
88	“  Article 9  Operation of the European Works Council and the information and consultation procedure for workers	“  Article 9  Operation of the European Works Council and the information and consultation procedure for workers	“  Article 9  Operation of the European Works Council and the information and consultation procedure for <del>worker</del> <b>employees</b>
Article 1, first paragraph, point (8), amending provision, numbered paragraph (1), first subparagraph			
89	1. The central management and the European Works Council shall work in a spirit of cooperation with due regard to their reciprocal rights and obligations.	1. The central management and the European Works Council shall work in a spirit of cooperation with due regard to their reciprocal rights and obligations.	1. The central management and the European Works Council shall work in a spirit of cooperation with due regard to their reciprocal rights and obligations.
Article 1, first paragraph, point (8), amending provision, numbered paragraph (1), second subparagraph			
90	The same shall apply to cooperation between the central management and employees’ representatives in the framework of an	The same shall apply to cooperation between the central management and employees’ representatives in the framework of an	The same shall apply to cooperation between the central management and employees’ representatives in the framework of an

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	information and consultation procedure for workers.	information and consultation procedure for workers.	information and consultation procedure for <del>worker</del> <b>employees</b> .
Article 1, first paragraph, point (8), amending provision, numbered paragraph (2)			
91	2. Information on transnational matters shall be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of their possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings.	2. Information on transnational matters shall be given at such time, in such fashion and with such content as are <del>appropriate</del> <b>necessary and sufficient</b> to enable <b>the European Works Council to consult relevant</b> employees' representatives <b>at national and local level</b> , to undertake an in-depth assessment of their possible impact, and, where appropriate, prepare for <b>meaningful</b> consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings.	2. Information on transnational matters shall be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of their possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings.
Article 1, first paragraph, point (8), amending provision, numbered paragraph (3)			
92	3. Consultation shall take place at such time, in such fashion and with such content as it enables employees' representatives to express an opinion prior to the adoption of the decision and based on the information provided in accordance with paragraph 2, without prejudice to the responsibilities of the management, and within a reasonable time taking into account the urgency of the matter. The employees' representatives shall be entitled to a reasoned written response from the central management	3. Consultation shall take place at such time, in such fashion and with such content as it enables employees' representatives to express an opinion prior to the adoption of the decision and based on the information provided in accordance with paragraph 2, without prejudice to the responsibilities of the management, and within a reasonable time taking into account the urgency of the matter. The employees' representatives shall be entitled to a reasoned written response from the central management	3. Consultation shall take place at such time, in such fashion and with such content as it enables employees' representatives to express <del>an</del> <b>their</b> opinion prior to the adoption of the decision and based on the information provided in accordance with paragraph 2, without prejudice to the responsibilities of the management, and within a reasonable time, taking into account the <b>degree of</b> urgency of the matter. The employees' representatives shall be entitled to a reasoned written response from

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	or any more appropriate level of management prior to the adoption of the decision on the measures in question, provided the employee representatives expressed their opinion within a reasonable time in accordance with the first sentence.	or any more appropriate level of management prior to the adoption of the decision on the measures in question, provided the employee representatives expressed their opinion within a reasonable time in accordance with the first sentence.	the central management or any more appropriate level of management prior to the adoption of the decision on the measures in question, provided the <del>employee</del> <b>employees'</b> representatives expressed their opinion within a reasonable time in accordance with the first sentence.
Article 1, first paragraph(8), amending provision, numbered paragraph (3a)			
92a		<u><i>3a. In duly justified and exceptional cases, where the adoption of a decision requires urgency, management and employees' representatives shall carry out an effective information and consultation process in accordance with paragraphs 2 and 3 as quickly as possible. When appropriate and agreed upon, digital means of communication and coordination can be used for that purpose.</i></u>	
Article 1, first paragraph(8), amending provision, numbered paragraph (3b)			
92b		<u><i>3b. If there is a dispute between the central management and the European Works Council or employees' representatives as to whether an information and consultation procedure is to be carried out, the central management shall provide duly substantiated grounds in writing for the reasons why the information and consultation requirements under this Directive or under agreements concluded pursuant</i></u>	

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		<u>thereto do not apply, including the reasons that justify the absence of transnational issues.</u>	
Article 1, first paragraph(8), amending provision, numbered paragraph (3c)			
92c		<u>3c. In so far as it is necessary for the European Works Council to carry out its tasks, the European Works Council or the select committee may request assistance from experts of its choice. Such experts may include representatives of competent recognised Community-level trade union organisations. At the request of the European Works Council, such experts shall be present at meetings of the European Works Council and meetings with the central management in an advisory capacity.</u>	
Article 1, first paragraph, point (8), amending provision, fifth paragraph			
93	Article 10 Role and protection of employees' representatives	Article 10 Role and protection of employees' representatives	Article 10 Role and protection of employees' representatives
Article 1, first paragraph, point (8), amending provision, numbered paragraph (1)			
94	1. Without prejudice to the competence of other bodies or organisations in this respect, the employees' representatives, including the members of the special negotiating body and the members of the European Works Council,	1. Without prejudice to the competence of other bodies or organisations in this respect, the <del>employees' representatives, including the</del> members of the special negotiating body <del>and</del> , the members of the European Works Council,	1. Without prejudice to the competence of other bodies or organisations in this respect, the employees' representatives, including the members of the special negotiating body and the members of the European Works Council,

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	shall have the means required to apply the rights arising from this Directive, to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings.	<u>and the employees' representatives</u> shall have the means <u>and legal capacity</u> required to apply the rights arising from this Directive, to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings.	shall have the means required to apply the rights arising from this Directive, to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings.
Article 1, first paragraph, point (8), amending provision, numbered paragraph (2)			
95	2. Without prejudice to Articles 8 and 8a, the members of the European Works Council shall have the right and necessary means to inform the representatives of the employees of the establishments or of the undertakings of a Community-scale group of undertakings or, in the absence of representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure, in particular before and after the meetings with the central management.	2. Without prejudice to Articles 8 and 8a, the members of the European Works Council shall have the right and necessary means to inform the representatives of the employees of the establishments or of the undertakings of a Community-scale group of undertakings or, in the absence of representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure, <u>and whenever it deems it necessary to perform its tasks deriving from this Directive</u> , in particular before and after the meetings with the central management.	2. Without prejudice to Articles 8 and 8a, the members of the European Works Council shall <del>have the right and necessary means to</del> inform the <b>employees'</b> <del>representatives of the employees</del> of the establishments or of the undertakings of a Community-scale group of undertakings or, in the absence of <b>employees'</b> representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure, in particular before and after the meetings with the central management <b>and shall have the necessary means to do so.</b>
Article 1, first paragraph, point (8), amending provision, numbered paragraph (3), first subparagraph			
96	3. Members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions under the procedure referred to in Article 6(3) shall, in the exercise of their functions, enjoy protection and guarantees	3. Members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions under the procedure referred to in Article 6(3) shall, in the exercise of their functions, <u>including the right to form and join</u>	3. Members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions under the procedure referred to in Article 6(3) shall, in the exercise of their functions, enjoy protection and guarantees



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	equivalent to those provided for employees' representatives by the national legislation and practice in force in their country of employment.	<u>trade unions</u> , enjoy protection and guarantees equivalent to those provided for employees' representatives by the national legislation <del>and</del> <u>and/or</u> practice in force in their country of employment.	equivalent to those provided for employees' representatives by the national legislation and practice in force in their country of employment.
Article 1, first paragraph, point (8), amending provision, numbered paragraph (3), second subparagraph			
G 97	This shall apply in particular to attendance at meetings of special negotiating bodies or European Works Councils or any other meetings within the framework of the agreement referred to in Article 6(3), the payment of wages for members who are on the staff of the Community-scale undertaking or the Community-scale group of undertakings for the period of absence necessary for the performance of their duties, and protection against retaliatory measures or dismissal.	This shall apply in particular to attendance at meetings of special negotiating bodies or European Works Councils or any other meetings within the framework of the agreement referred to in Article 6(3), the payment of wages for members who are on the staff of the Community-scale undertaking or the Community-scale group of undertakings for the period of absence necessary for the performance of their duties, and protection against retaliatory measures or dismissal.	This shall apply in particular to attendance at meetings of special negotiating bodies or European Works Councils or any other meetings within the framework of the agreement referred to in Article 6(3), the payment of wages for members who are on the staff of the Community-scale undertaking or the Community-scale group of undertakings for the period of absence necessary for the performance of their duties, and protection against retaliatory measures or dismissal.
Article 1, first paragraph, point (8), amending provision, numbered paragraph (3), second subparagraph a			
G 97a		<u>A member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, shall be entitled to participate in a meeting of the special negotiating body or of the European Works Council, or in any other meeting under any procedures established pursuant to Article 6(3), where that member or alternate is not at sea or in a port in a country</u>	A member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, shall be entitled to participate in a meeting of the special negotiating body or of the European Works Council, or in any other meeting under any procedures established pursuant to Article 6(3), where that member or alternate is not at sea or in a port in a country

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		<u>other than that in which the shipping company is domiciled, when the meeting takes place.</u>	other than that in which the shipping company is domiciled, when the meeting takes place.
Article 1, first paragraph, point (8), amending provision, numbered paragraph (3), fourth subparagraph			
G	97b	<u>Meetings shall, where practicable, be scheduled to facilitate the participation of members or alternates, who are members of the crews of seagoing vessels.</u>	Meetings shall, where practicable, be scheduled to facilitate the participation of members or alternates, who are members of the crews of seagoing vessels.
Article 1, first paragraph, point (8), amending provision, numbered paragraph (3), fifth subparagraph			
G	97c	<u>Where a member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, is unable to attend a meeting, the possibility of using, where possible, new information and communication technologies shall be considered.</u>	In cases where a member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, is unable to attend a meeting, the possibility of using, where possible, new information and communication technologies shall be considered.
Article 1, first paragraph, point (8), amending provision, numbered paragraph (4), first subparagraph			
	98	4. In so far as this is necessary for the exercise of their representative duties in an international environment, the members of the special negotiating body and of the European Works Council shall be provided with training without loss of wages.	4. In so far as this is necessary for the exercise of their representative duties in an international environment, the members of the special negotiating body and of the European Works Council shall be provided with training without loss of wages.
Article 1, first paragraph, point (8), amending provision, numbered paragraph (4), second subparagraph			

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99	Without prejudice to agreements concluded pursuant to Article 6(2), point (f), the costs of such training and related expenses shall be borne by the central management, provided that the central management has been informed in advance.;	Without prejudice to agreements concluded pursuant to Article 6(2), point (f), the costs of such training and related expenses shall be borne by the central management, <u>or any other appropriate level of management</u> , provided that the central management <u>or any other appropriate level of management</u> , has been informed in advance.;	Without prejudice to agreements concluded pursuant to Article 6(2), point (f), the <b>reasonable</b> costs of such training and related expenses shall be borne by the central management, provided that the central management has been informed <b>thereof</b> in advance.;
Article 1, first paragraph, point (9)			
G 100	(9) Article 11 is amended as follows:	(9) Article 11 is amended as follows:	(9) Article 11 is amended as follows: G
Article 1, first paragraph, point (9)(a)			
G 101	(a) paragraph 2 is replaced by the following:	(a) paragraph 2 is replaced by the following:	(a) paragraph 2 is replaced by the following: G
Article 1, first paragraph, point (9)(a), amending provision, numbered paragraph (2), first subparagraph			
G 102	“ 2. Member States shall provide for appropriate measures in the event of failure to comply with the national provisions adopted pursuant to this Directive. In particular, they shall ensure that :	“ 2. Member States shall provide for appropriate measures in the event of failure to comply with the national provisions adopted pursuant to this Directive. In particular, they shall ensure that :	“ 2. Member States shall provide for appropriate measures in the event of failure to comply with the national provisions adopted pursuant to this Directive. In particular, they shall ensure that : G
Article 1, first paragraph, point (9)(a), amending provision, numbered paragraph (2), first subparagraph, point (a)			

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103	(a) adequate procedures are available to enable the rights and obligations deriving from this Directive to be enforced in a timely and effective manner;	(a) adequate <u>administrative and judicial</u> procedures are available <u>and easily accessible</u> to enable the rights and obligations deriving from this Directive to be enforced in a timely and effective manner, <u>to apply for and terminate including the possibility to request a preliminary injunction for the temporary suspension of decisions of the central management where such decisions are challenged on the basis that there has been an infringement of the information and consultation requirements under this Directive or under agreements concluded pursuant thereto. The effects of the challenged decisions on employment contracts or employment relationships of the affected employees shall be suspended accordingly;</u>	(a) adequate procedures are available to enable the rights and obligations deriving from this Directive to be enforced in a <del>timely and</del> effective manner;
Article 1, first paragraph, point (9)(a), amending provision, numbered paragraph (2), first subparagraph, point (b)			
104	(b) penalties that are effective, dissuasive and proportionate are applicable in cases of infringement of the rights and obligations deriving from this Directive.	(b) penalties that are effective, dissuasive and proportionate are applicable in cases of infringement of the rights and obligations deriving from this Directive.	(b) penalties that are effective, dissuasive and proportionate are applicable in cases of infringement of the rights and obligations deriving from this Directive.
Article 1, first paragraph(9), point (a), amending provision, numbered paragraph (1), first subparagraph, point (ba)			
104a		<u>(ba) The penalties referred to in point (b) shall include:</u>	
Article 1, first paragraph(9), point (a), amending provision, numbered paragraph (1), first subparagraph, point (bb)			

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104b		<u>(bb) (i) financial penalties that are proportionate to the nature, gravity and duration of the undertaking's infringement and which shall increase in amount according to the number of affected employees;</u>	
Article 1, first paragraph(9), point (a), amending provision, numbered paragraph (1), first subparagraph, point (bc)			
104c		<u>(bc) (ii) orders excluding the undertaking from an entitlement to some or all public benefits, aids or subsidies, including Union funds managed by the relevant Member States, for a period of up to three years;</u>	
Article 1, first paragraph(9), point (a), amending provision, numbered paragraph (1), first subparagraph, point (bd)			
104d		<u>(bd) (iii) orders excluding the undertaking from participating in a public contract as defined in Directive 2014/24/EU of the European Parliament and of the Council<sup>1</sup>.</u>  <u>1. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</u>	
Article 1, first paragraph, point (9)(a), amending provision, numbered paragraph (2), second subparagraph			
105	In the event of failure to comply with the national provisions transposing the obligations under Article 9(2) and (3), Member States shall	In the <del>event of failure to comply with the national provisions transposing the obligations under Article 9(2) and (3), Member States shall</del>	In the event of failure to comply with the national provisions transposing the obligations under Article 9(2) and (3), Member States shall

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	provide for pecuniary sanctions, to be determined considering the criteria listed in the third subparagraph of this paragraph, without prejudice to the possibility to provide for other types of sanctions in addition.	<p><del>provide for pecuniary sanctions</del> <u>case of infringements as referred to in point (b) of this paragraph, which are not committed intentionally, the financial penalties referred to in point (a) of this paragraph, shall be substantive and equivalent to those provided for in Article 83(4) of Regulation (EU) 2016/679<sup>1a</sup>.</u> <del>to be determined considering the criteria listed in the third subparagraph of this paragraph, without prejudice to the possibility to provide for other types of sanctions in addition.</del></p> <p>_____</p> <p><u>1a. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).</u></p>	provide for pecuniary sanctions, to be determined considering the criteria listed in the third subparagraph of this paragraph, without prejudice to the possibility to provide for other types of sanctions in addition <b>financial penalties.</b>
Article 1, first paragraph, point (9)(a), amending provision, numbered paragraph (2), third subparagraph			
106	For the purposes of point (b), of the first subparagraph, Member States shall take into consideration, when determining penalties, the gravity, duration, consequences, and the intentional or negligent nature of the offence, and in respect of pecuniary sanctions, also the size and financial situation of the sanctioned	<p><del>For the purposes of</del> <u>In the case of infringements as referred to in point</u> <del>point (b), of the first subparagraph, Member States shall take into consideration, when determining penalties, the gravity, duration, consequences, and the intentional or negligent nature of the offence, and in respect of pecuniary sanctions, also the size and</del> <u>of this paragraph which are committed</u></p>	For the purposes of point (b), of the first subparagraph, Member States shall take into consideration, when determining penalties, the gravity, duration, consequences, and the intentional or negligent nature of the offence, and in respect of pecuniary sanctions, also the size and financial situation of the sanctioned

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	undertaking or group, and any other relevant criteria.;	<u><i>intentionally, the financial penalties referred to in point (a) of this paragraph shall be substantive and equivalent to those provided for in Article 83(5) of Regulation (EU) 2016/679.</i></u> <del><i>financial situation of the sanctioned undertaking or group, and any other relevant criteria.;</i></del>	undertaking or group, and any other relevant criteria.;	
	Article 1, first paragraph, point (9)(b)			
G	107	(b) paragraph 3 is amended as follows:	(b) paragraph 3 is amended as follows:	G
	Article 1, first paragraph, point (9)(b), first indent			
G	108	- the first subparagraph is replaced by the following:	- the first subparagraph is replaced by the following:	G
	Article 1, first paragraph, point (9)(b), first indent, amending provision, numbered paragraph (3)			
G	109	“ 3. Member States shall make provision for administrative or judicial appeal procedures which the members of the special negotiating body, European Works Council members or employees’ representatives may initiate when the central management provides information in confidence in accordance with Article 8 or does	“ 3. Member States shall make provision for administrative or judicial appeal procedures which the members of the special negotiating body, European Works Council members or employees’ representatives may initiate when the central management provides information in confidence in accordance with Article 8 or does	G

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	not transmit information on specific grounds in accordance with Article 8a.;	not transmit information on specific grounds in accordance with Article 8a.;	not transmit information on specific grounds in accordance with Article 8a.;
	”	”	”
Article 1, first paragraph(9), point (b), second indent, first subparagraph			
109a		- <u>the following subparagraph is inserted after the first subparagraph:</u>	
Article 1, first paragraph(9), point (b), second indent, second subparagraph			
109b		<u>"The central management shall bear the judicial costs incurred in carrying out the procedures, the costs of legal representation and subsidiary costs such as subsistence and travel expenses for at least one employees' representative;"</u>	
Article 1, first paragraph, point (9)(b), second indent			
110	- the following subparagraph is added:	- the following subparagraph is added:	- the following subparagraph is added:
Article 1, first paragraph, point (9)(b), second indent, amending provision, first paragraph			
111	“ The duration of such procedures shall be compatible with the effective exercise of the	“ The duration of such procedures shall be compatible with the effective exercise of the	“ The duration of such the procedures, <b>referred to in the first subparagraph</b> shall be compatible



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	information and consultation rights under this Directive.;	information and consultation rights under this Directive.;	with the effective exercise of the information and consultation rights under this Directive.;
	”	”	
Article 1, first paragraph, point (9)(ba)			
111a			(ba) the following paragraph 3a is added:
Article 1, first paragraph, point (9)(ba), amending provision, numbered paragraph (3a))			
111b			<p><b>3a With respect to the rights conferred by this Directive, Member States shall ensure effective access to judicial proceedings or, where relevant, administrative proceedings for European Work Councils and special negotiating bodies, or, on their behalf, their members or representatives. Member States shall provide that the reasonable costs of legal representation and participation in such proceedings are borne by the central management or take other measures to avoid any de facto restriction of such access for reasons of lack of financial resources.</b></p> <p>”</p>
Article 1, first paragraph, point (9)(c)			

	Commission Proposal	EP Mandate	Council Mandate
112	(c) the following paragraph 4 is added:	(c) the following paragraph 4 is added:	(c) the following paragraph 4 is added:
Article 1, first paragraph, point (9)(c), amending provision, numbered paragraph (4)			
113	<p>“</p> <p>4. Where Member States make access to legal proceedings conditional upon the prior implementation of an alternative dispute resolution, that procedure shall neither result in a decision which is binding on the parties concerned, nor otherwise prejudice their right to bring legal proceedings.;</p> <p>”</p>	<p>“</p> <p>4. <u>Member States are encouraged to develop out-of-court mediation procedures enabling both parties to find acceptable solutions.</u> Where Member States make access to legal proceedings conditional upon the prior implementation of an alternative dispute resolution, that procedure shall neither result in a decision which is binding on the parties concerned, nor otherwise prejudice their right to bring legal proceedings.</p> <p>”</p>	<p>“</p> <p>4. Where Member States make access to legal proceedings conditional upon the prior implementation of an alternative dispute resolution, that procedure shall <del>neither result in a decision which is binding on</del> <b>not prejudice the right of</b> the parties concerned, <del>nor otherwise prejudice their right to bring legal proceedings.;</del></p> <p>”</p>
Article 1, first paragraph, point (9a), first subparagraph			
113a		<u>(9a) in Article 12, paragraph 2 is replaced by the following:</u>	
Article 1, first paragraph, point (9a), second subparagraph			
113b		<u>'2. The arrangements for the links between the information and consultation of the European Works Council and national employee representation bodies shall be established by</u>	

	Commission Proposal	EP Mandate	Council Mandate
		<u>the agreement referred to in Article 6 in order to ensure good coordination between information and consultation processes within the European Works Council and those established at national level. That agreement shall be without prejudice to the provisions of national law and/or practice on the information and consultation of employees.'</u>	
Article 1, first paragraph, point (10)			
114	(10) in Article 12, the following paragraph is added:	<i>deleted</i>	(10) in Article 12, the following paragraph is added:
Article 1, first paragraph, point (10), amending provision, numbered paragraph (6)			
115	“ 6. Each Member State may lay down particular provisions for the central management of undertakings in its territory which pursue directly and essentially the aim of ideological guidance with respect to information and the expression of opinions, on condition that, at the date of adoption of this Directive such particular provisions already exist in the national legislation.; ”	<i>deleted</i>	“ 6. Each Member State may lay down particular provisions for the central management of undertakings in its territory which pursue directly and essentially the aim of ideological guidance with respect to information and the expression of opinions, on condition that, at the date of adoption of this Directive such particular provisions already exist in the national legislation.; ”

	Commission Proposal	EP Mandate	Council Mandate
	Article 1, first paragraph, point (11)		
G	116 (11) Article 14 is deleted;	(11) Article 14 is deleted;	(11) Article 14 is deleted; G
	Article 1, first paragraph, point (12)		
G	117 (12) the following Article is inserted:	(12) the following Article is inserted:	(12) the following Article is inserted: G
	Article 1, first paragraph, point (12a)		
	117a		(12a) the following Article is inserted:
	Article 1, first paragraph, point (12), amending provision, first paragraph		
G	118 “ Article 14a  Transitional provisions	“ Article 14a  Transitional provisions	“ Article 14a  Transitional provisions G
	Article 1, first paragraph, point (12), amending provision, numbered paragraph (1)		
	119 1. Where, following the transposition of [OP: insert reference to this amending Directive], a European Works Council agreement or agreement on an information and consultation procedure concluded before [OP: insert date from which the transposing provisions are to apply, set out in the Article 2(1), 2nd subpar. of this amending Directive] in	1. Where, <del>following the transposition of</del> <i>[OP: insert reference to this amending Directive]</i> , a European Works Council agreement or agreement on an information and consultation procedure concluded before [OP: insert date from which the transposing provisions are to apply, set out in the Article 2(1), 2nd subpar. of this amending Directive] in accordance with	1. Where, <del>following the transposition of</del> <i>after [OJ: insert date from which the transposing provisions are to apply, set out in the Article 2(1), 1st subparagraph of this amending Directive]</i> <del>[OP: insert reference to this amending Directive]</del> , a European Works Council agreement or agreement on an information and consultation procedure concluded before <b>[OJ:</b>

	Commission Proposal	EP Mandate	Council Mandate
	<p>accordance with Articles 5 and 6 of Directive 94/45/EC or Articles 5 and 6 of this Directive is not in conformity with any of the requirements applicable to that agreement as a consequence of the amendments provided for in [OP: insert reference to this amending Directive], central management shall initiate negotiations to adapt that agreement at the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States. Central management may also initiate such negotiations on its own initiative.</p>	<p>Articles 5 and 6 of Directive 94/45/EC or Articles 5 and 6 of this Directive <del>is not in conformity with any of the requirements applicable to that agreement as a consequence of the amendments provided for in</del> <b>does not determine all the elements listed in Article 6(2), as amended by</b> [OP: insert reference to this amending Directive]; central management shall initiate negotiations <del>to adapt that</del> <b>by ... [one year from date of entry into force of this Directive] for the establishment of an addendum, determining the elements not determined by the existing European Works Council</b> agreement <del>at the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States. Central management may also initiate such negotiations on its own initiative</del> <b>or agreement on an information and consultation procedure.</b></p>	<p><b>insert date from which the transposing provisions are to apply, set out in the Article 2(1), 2nd subpar. of this amending Directive]</b>[OP: insert date from which the transposing provisions are to apply, set out in the Article 2(1), 2nd subpar. of this amending Directive] in accordance with Articles 5 and 6 of Directive 94/45/EC or Articles 5 and 6 of this Directive is not in conformity with any of the requirements applicable to that agreement, as a consequence of the amendments provided for in <b>entered into force on [OI: insert date of entry into force of this amending Directive] with any of the elements and requirements of Article 6</b>[OP: insert reference to this amending Directive], central management shall initiate negotiations to adapt that agreement, at the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States, <b>initiate negotiations to adapt that agreement to those elements and requirements of Article 6.</b> Central management may also initiate such negotiations on its own initiative. <b>Such negotiations may be limited to the provisions of the agreement that are not in conformity with those elements and requirements of Article 6.</b></p>
Article 1, first paragraph, point (12), amending provision, numbered paragraph (2)			

	Commission Proposal	EP Mandate	Council Mandate
120	2. Where the European Works Council agreement or agreement on an information and consultation procedure contains procedural arrangements for its adaptation or renegotiation, the adaptation may be negotiated pursuant to those arrangements. Otherwise, the adaptation shall follow the procedure set out in Article 5 in conjunction with Article 13, second and third paragraphs.	2. Where the European Works Council agreement or agreement on an information and consultation procedure contains procedural arrangements for its adaptation <del>or renegotiation, the adaptation, the</del> <u>establishment of the addendum</u> may be negotiated pursuant to those arrangements. Otherwise, the <del>adaptation</del> <u>establishment of the addendum</u> shall follow the procedure set out in Article 5 in conjunction with Article 13, second and third paragraphs.	2. Where the European Works Council agreement or agreement on an information and consultation procedure contains procedural arrangements for its adaptation or renegotiation, the adaptation may be negotiated pursuant to those arrangements. Otherwise, the adaptation shall follow the procedure set out in Article 5 in conjunction with Article 13, second and third paragraphs.
Article 1, first paragraph, point (12), amending provision, numbered paragraph (3)			
121	3. Where an adaptation procedure does not lead to an agreement within two years from the date of the respective request by employees or their representatives, the subsidiary requirements set out in Annex I shall apply.;	3. Where an adaptation procedure <u>initiated pursuant to paragraph 1</u> does not lead to an agreement <u>on the addendum</u> within two years <del>from the date</del> <u>following the initiation</u> of the <del>respective request by employees or their representatives</del> <u>negotiations</u> , the subsidiary requirements set out in Annex I <u>in respect of the elements not determined in the existing European Works Council agreement or agreement on an information and consultation procedure</u> shall apply.”;	3. <del>Where</del> <b>When</b> an adaptation procedure <b>under this Article</b> does not lead to an agreement within two years from the date of the respective request by employees or their representatives <b>or from the date of initiation of the negotiations by the central management on its own initiative</b> , the subsidiary requirements set out in Annex I shall apply.;
Article 1, first paragraph, point (12), amending provision, numbered paragraph (4)			

	Commission Proposal	EP Mandate	Council Mandate
121a			<p>4. This Article shall not have the effect of exempting the parties to European Works Council agreements or to agreements on information and consultation procedures from respecting the applicable minimum requirements in this Directive.</p> <p>”</p>
Article 1, first paragraph, point (12a), amending provision, first paragraph			
121b			<p>(12a) the following Article is inserted:</p> <p><b>Article 14b</b></p> <p>Different presentation due to IT issue to be solved</p>
Article 1, first paragraph, point (12a), third subparagraph			
121c			<p>Where negotiations pursuant to Article 5 are initiated in order to conclude an agreement under this Directive in a Community-scale undertaking or Community-scale group of undertakings in which an agreement covering the entire workforce providing for the transnational information and consultation of employees was concluded prior to the date of application of Directive 94/45/EC and is still in</p>

	Commission Proposal	EP Mandate	Council Mandate
			force, the period referred to in Article 7(1) indent three shall be reduced to two years. The initiation of negotiations does not affect the terms of the existing agreements in force.;"
Article 1, first paragraph, point (12b), first subparagraph			
121d		<u>(12b) The following Article is inserted:</u>	
Article 1, first paragraph, point (12b), second subparagraph			
121e		<u>'Article 15a</u> <u>Monitoring</u>	
Article 1, first paragraph, point (12b), third subparagraph			
121f		<u>1. To ensure the correct application of the Directive and to address and resolve practical problems arising from its implementation, a monitoring committee shall be established.</u>	
Article 1, first paragraph, point (12b), fourth subparagraph			
121g		<u>The monitoring committee shall be composed by one representative per Member State, three representatives of each of the European social partners, and the Commission.</u>	
Article 1, first paragraph, point (12b), fifth subparagraph			



	Commission Proposal	EP Mandate	Council Mandate
121h		<u><i>The monitoring committee shall meet twice per year and shall be chaired by the Commission.'</i></u>	
Article 1, first paragraph, point (13)			
G 122	(13) Annex I is amended in accordance with the Annex to this Directive.	(13) Annex I is amended in accordance with the Annex to this Directive.	(13) Annex I is amended in accordance with the Annex to this Directive. G
Article 2			
G 123	Article 2	Article 2	Article 2 G
Article 2(1), first subparagraph			
124	1. Member States shall adopt and publish, by [OP: insert date one year from the entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall adopt and publish, by [OP: insert date one year from the entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall adopt and publish, by <b>[OJ: please insert date: two years from the entry into force of this Directive]</b> <del>[OP: insert date one year from the entry into force of this Directive]</del> at the latest, the laws, regulations and administrative provisions <del>measures</del> necessary to comply with this Directive <b>[before....]</b> . They shall forthwith communicate to <b>immediately inform</b> the Commission <del>the text of those provisions.</del> <b>thereof.</b>
Article 2(1), second subparagraph			

	Commission Proposal	EP Mandate	Council Mandate
125	They shall apply those provisions from [OP: insert date two years from the date set out in the first subparagraph].	They shall apply those provisions from [OP: insert date two years from the date set out in the first subparagraph].	They shall apply those provisions from <del>measures from [OJ: please insert a date: two years from the date set out in the first subparagraph]</del> <del>[OP: insert date two years from the date set out in the first subparagraph].</del>
Article 2(1), third subparagraph			
126	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those <del>provisions</del> <b>measures</b> , they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. <b>The method of making such a reference shall be laid down by</b> Member States <del>shall determine how such reference is to be made.</del>
Article 2(2), first subparagraph			
127	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission <del>the text of the main</del> <b>their laws, regulations and administrative</b> provisions <del>of national law which they adopt in the field covered by</del> <b>with regard to the application of</b> this Directive.
Article 2(2), second subparagraph			
128	Regarding the amendments provided for in Article 1, point 8, of this Directive, Member States shall notify the Commission by [OP: insert	Regarding the amendments provided for in Article 1, point 8, of this Directive, Member States shall notify the Commission by [OP: insert	<del>Regarding</del> <b>With regard to</b> the amendments provided for in Article 1, point 8, of this Directive, Member States shall notify the

	Commission Proposal	EP Mandate	Council Mandate
	date in the first subparagraph of paragraph 1] of the means by which the European Works Councils, the special negotiating bodies, and employees' representatives can, in accordance with Article 11(2), (3) and (4) of Directive 2009/38/EC, as amended, bring judicial proceedings, and where applicable, administrative proceedings, in respect of all the rights under this Directive	date in the first subparagraph of paragraph 1] of the means by which the European Works Councils, the special negotiating bodies, and employees' representatives can, in accordance with Article 11(2), (3) and (4) of Directive 2009/38/EC, as amended, bring judicial proceedings, and where applicable, administrative proceedings, in respect of all the rights under this Directive	Commission by <b>[OJ: please insert the date from the first subparagraph of paragraph 1]</b> <del>OP: insert date in the first subparagraph of paragraph 1]</del> of the means by which the European Works Councils, the special negotiating bodies, and employees' representatives can, in accordance with Article 11(2), (3), <b>(3a)</b> and (4) of Directive 2009/38/EC, as amended, bring judicial proceedings, and where applicable, administrative proceedings, in respect of all the rights under <del>this</del> <b>that</b> Directive.
Article 2(2a)			
128a		<u><b>2a. Member States shall notify the Commission of the measures taken pursuant to Article 11(2) at the earliest opportunity."</b></u>	
Article 3			
129	Article 3	Article 3	Article 3
Article 3, first paragraph			
130	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
Article 4			

	Commission Proposal	EP Mandate	Council Mandate	
G	131	Article 4	Article 4	G
	Article 4, first paragraph			
G	132	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	G
	Formula			
G	133	Done at Brussels,	Done at Brussels,	G
	Formula			
G	134	For the European Parliament	For the European Parliament	G
	Formula			
G	135	The President	The President	G
	Formula			
G	136	For the Council	For the Council	G
	Formula			
G	137	The President	The President	G
	Annex			

	Commission Proposal	EP Mandate	Council Mandate	
G	138	Annex	Annex	G
	Annex a			
	138a		<b>ANNEX – Subsidiary requirements</b>	
	Annex a, first paragraph			
G	139	Annex I to Directive 2009/38/EC is amended as follows:	Annex I to Directive 2009/38/EC is amended as follows:	G
	Annex a, second paragraph			
G	140	(1) point 1 is amended as follows:	(1) point 1 is amended as follows:	G
	Annex a, second paragraph, point (a)			
G	141	(a) the introductory sentence is replaced by the following:	(a) the introductory sentence is replaced by the following:	G
	Annex a, second paragraph, point (a), amending provision, numbered paragraph (1)			
G	142	<p>“</p> <p>1. In order to achieve the objective set out in Article 1(1) and in the cases provided for in Article 7(1) and Article 14a, the establishment, composition and competence of a European Works Council shall be governed by the following rules;;</p> <p>”</p>	<p>“</p> <p>1. In order to achieve the objective set out in Article 1(1) and in the cases provided for in Article 7(1) and Article 14a, the establishment, composition and competence of a European Works Council shall be governed by the following rules;;</p> <p>”</p>	G

	Commission Proposal	EP Mandate	Council Mandate
Annex a, second paragraph, point (aa)			
142a		<u>(aa) in paragraph 1, the second subparagraph of point (a) is replaced by the following:</u>	(aa) in point (a), the second subparagraph is replaced by the following:
Annex a, second paragraph, point (aa), amending provision, first paragraph			
142b		<u>The information of the European Works Council on transnational matters shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, working conditions, skills and training policies including in franchise networks, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.</u>	The information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, investments, and substantial changes concerning organisation, anticipation of change and management of restructuring processes including those linked to the green and digital transitions, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies;

	Commission Proposal	EP Mandate	Council Mandate
	Annex a, second paragraph, point (b)		
G 143	(b) in point (a), the third subparagraph is replaced by the following:	(b) in point (a), the third subparagraph is replaced by the following:	(b) in point (a), the third subparagraph is replaced by the following: G
	Annex a, second paragraph, point (b), amending provision, first paragraph		
G 144	<p>“</p> <p>The consultation shall be conducted in such a way that the employees’ representatives can meet with the central management or any more appropriate level of management. The employees’ representatives shall be entitled to a reasoned written response to any opinion they might express prior to the adoption of the decision on the measures in question, provided their opinion was expressed within a reasonable time;;</p> <p>”</p>	<p>“</p> <p>The consultation shall be conducted in such a way that the employees’ representatives can meet with the central management or any more appropriate level of management. The employees’ representatives shall be entitled to a reasoned written response to any opinion they might express prior to the adoption of the decision on the measures in question, provided their opinion was expressed within a reasonable time;;</p> <p>”</p>	<p>“</p> <p>The consultation shall be conducted in such a way that the employees’ representatives can meet with the central management or any more appropriate level of management. The employees’ representatives shall be entitled to a reasoned written response to any opinion they might express prior to the adoption of the decision on the measures in question, provided their opinion was expressed within a reasonable time;;</p> <p>”</p> <p>G</p>
	Annex a, second paragraph, point (c)		

	Commission Proposal	EP Mandate	Council Mandate
145	(c) the following point (dd) is inserted after point (d):	(c) the following point (dd) is inserted after point (d):	(c) <b>in point (b)</b> , the following point <del>(dd)</del> <b>subparagraph</b> is inserted after point <del>(d)</del> <b>the first subparagraph</b> :
Annex a, second paragraph, point (c), amending provision, numbered paragraph (dd)			
146	“ (dd) as far as possible, women and men shall each comprise at least 40% of European Works Council members and of select committee members;; ”	“ (dd) <del>as far as possible,</del> <u>European Works Council members and those of select committee shall represent the diversity of the workforce</u> and women and men shall each comprise at least 40% of European Works Council members and of select committee members <del>;;</del> ”	“ (dd) <b>In doing so and</b> as far as possible, women and men shall each comprise at least 40% of European Works Council members and of select committee members;; ”
Annex a, 2 paragraph			
147	(2) point 2 is replaced by the following:	(2) point 2 is replaced by the following:	(2) point 2 is replaced by the following:
Annex a, 2 paragraph, amending provision, numbered paragraph (2)			
148	“ 2. The European Works Council shall have the right to meet with the central management twice a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or	“ 2. The European Works Council shall have the right to meet <u>in person</u> with the central management <u>at least</u> twice a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale	“ 2. The European Works Council shall have the right to meet with the central management twice a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or



	Commission Proposal	EP Mandate	Council Mandate
	Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly.;	undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly. <u>When appropriate and agreed upon and while ensuring meaningful information and consultation, digital means of communication and coordination can be used in exceptional cases without replacing ordinary meetings.</u>	Community-scale group of undertakings and its prospects. <b>At least one meeting per year shall be held in person.</b> The local managements shall be informed accordingly.;
Annex a, 3 paragraph			
149	(3) in point 3, the first and second subparagraphs are replaced by the following:	(3) in point 3, the first and second subparagraphs are replaced by the following:	(3) in point 3, the first and second subparagraphs are replaced by the following:
Annex a, 3 paragraph, amending provision, numbered paragraph (3), first subparagraph			
150	“ 3. Where there are exceptional circumstances or decisions which are likely to affect the employees’ interests to a considerable extent, and urgency does not allow for information or consultation to take place at the following scheduled European Works Council meeting, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the	“ 3. Where there are exceptional circumstances or decisions which <u>may or</u> are likely to affect the employees’ interests to a considerable extent, and urgency does not allow for information or consultation to take place at the following scheduled European Works Council meeting, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee	“ 3. Where there are exceptional circumstances or decisions which are <del>likely</del> <b>reasonably to be expected</b> to affect the employees’ interests to a considerable extent, and urgency does not allow for information or consultation to take place at the following scheduled European Works Council meeting, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee

	Commission Proposal	EP Mandate	Council Mandate
	European Works Council, shall have the right to be informed in a timely manner. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, in order to be informed and consulted.	exists, the European Works Council, shall have the right to be informed in a timely manner. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, in order to be informed and consulted.	or, where no such committee exists, the European Works Council, shall have the right to be informed in a timely manner. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, in order to be informed and consulted.
Annex a, 3 paragraph, amending provision, numbered paragraph (3), second subparagraph			
151	Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned or can reasonably be expected to be directly concerned by the circumstances or decisions in question shall also have the right to participate where a meeting is organised with the select committee.;	Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned or can reasonably be expected to be <del>directly concerned</del> <u>affected</u> by the circumstances or decisions in question shall also have the right to participate where a meeting is organised with the select committee.;	Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned or can reasonably be expected to be directly concerned by the circumstances or decisions in question shall also have the right to participate where a meeting is organised with the select committee.;
Annex, 3 paragraph, amending provision, numbered paragraph (3a)			
151a		<u><b>3a. Information and consultation procedures within the European Works Council shall be carried out without prejudice to those taking place at the national level. Where a procedure is already taking place at the</b></u>	

	Commission Proposal	EP Mandate	Council Mandate
		<p><u><i>national level, the European Works Council and the central management shall ensure that those procedures can complement each other with respect to the content and the timing of the procedures.</i></u></p> <p>”</p>	
Annex a, 4 paragraph			
G 152	(4) in point 5, the following sentences are added:	(4) in point 5, the following sentences are added:	(4) in point 5, the following sentences are added:
Annex a, 4 paragraph, amending provision, first paragraph			
G 153	<p>“</p> <p>Such experts may include representatives of recognised Union-level trade union organisations. At the request of the European Works Council, such experts shall have a right to be present at meetings of the European Works Council and meetings with the central management in an advisory capacity. The central management shall be informed in advance.;</p> <p>”</p>	<p>“</p> <p>Such experts may include representatives of recognised Union-level trade union organisations. At the request of the European Works Council, such experts shall have a right to be present at meetings of the European Works Council and meetings with the central management in an advisory capacity. The central management shall be informed in advance.;</p> <p>”</p>	<p>“</p> <p>Such experts may include representatives of recognised Union-level trade union organisations. At the request of the European Works Council, such experts shall have a right to be present at meetings of the European Works Council and meetings with the central management in an advisory capacity. The central management shall be informed in advance.;</p> <p>”</p>
Annex a, 5 paragraph			

	Commission Proposal	EP Mandate	Council Mandate	
G	154	(5) point 6 is amended as follows:	(5) point 6 is amended as follows:	G
Annex a, 5 paragraph, point (a)				
G	155	(a) the following subparagraph is inserted between the third and fourth subparagraphs:	(a) the following subparagraph is inserted between the third and fourth subparagraphs:	G
Annex a, 5 paragraph, point (a), amending provision, first paragraph				
	156	<p>“</p> <p>The operating expenses of the European Works Council shall include reasonable costs of legal assistance, representation and proceedings. Operating expenses shall be notified to central management before they are incurred.;</p> <p>”</p>	<p>“</p> <p>The operating expenses of the European Works Council shall include reasonable costs of legal assistance, representation and proceedings, <u>and relevant training to members of the European Works Council</u>. Operating expenses shall be notified to central management before they are incurred.;</p> <p>”</p>	<p>“</p> <p>The operating expenses of the European Works Council shall include reasonable costs of legal assistance, representation and proceedings <del>experts</del> [...]. Operating expenses shall be notified to central management before they are incurred.;</p> <p>”</p>
Annex a, 5 paragraph, point (b)				
G	157	(b) the fourth subparagraph is replaced by the following:	(b) the fourth subparagraph is replaced by the following:	G
Annex a, 5 paragraph, point (b), amending provision, first paragraph				
G	158	“	“	G

	Commission Proposal	EP Mandate	Council Mandate
	<p>In compliance with these principles, the Member States may lay down budgetary rules regarding the operation of the European Works Council.</p> <p>”</p>	<p>In compliance with these principles, the Member States may lay down budgetary rules regarding the operation of the European Works Council.</p> <p>”</p>	<p>In compliance with these principles, the Member States may lay down budgetary rules regarding the operation of the European Works Council.</p> <p>”</p>