

Exporting The French Model Of Employee Relations

Friday, Apr 18, 2008 --- The surprising decision of the European trade union federation ETUC to refuse negotiations with the European employers, to revise the European Works Council (EWC) Directive, may say more about trade union strategy in the face of falling membership than it does about their desire to improve information and consultation arrangements in international companies.

As required in European law, the European Commission asked the EU level employers and trade unions if they would rather revise the EWC legislation by collective agreement than pass it to the law-makers and politicians.

Initially both sides said “yes,” although the trade unions sought to put tighter restrictions on the duration of negotiations than the nine months provided for in existing European procedures.

On April 11th, following discussions between the employers, trade unions and the European Commission, the trade unions said they would not enter negotiations after all, claiming the employers had refused to give concrete commitments on tighter negotiating deadlines and pre-commitments on the content of a future agreement.

They suggest that they suspect the employers elected to enter negotiations so as to delay political consideration of an amendment to the law, a move that would have reduced the influence of union-friendly governments in the process.

The real reasons may be different.

Along with their refusal to negotiate with employers, the trade unions submitted a detailed “wish list” for consideration by the lawmakers.

Some sections deal with the real issue on the table – finding ways to improve the way in which European Works Councils work, particularly in the area of consultation when international downsizings and relocations take place.

Other sections deal specifically with something beyond assuring improvements in EWC effectiveness - increasing the power and influence of European-level trade unions in European Works Councils.

If an analysis of the trade union demands on improving the effectiveness of European Works Councils is set against employer thinking on the same subject, there was a genuine chance of agreement being reached.

Conversely, trade union proposals on their direct and automatic involvement in the working of all European Works Councils would, for the most part, have been thrown out by the employers.

The “power and influence” wish list includes the following elements:

European trade union federations should have the right to demand information from companies on the number of employees in each European country in order to determine whether they are covered by the Directive (more than 1,000 workers in Europe and more than 150 in at least two members states) – today that right exists ... but only for company employees;

Giving the European trade union federations the specific right to initiate negotiations to set up a European Works Council – today the requirement is for 100 employees of the company (or their representatives) in two countries to do so;

Setting up a register of EWC agreements so that the trade unions can monitor which companies have, and more importantly don't have, agreements; to assure their presence in the EWCs that exist; and establish a target list of those that don't – today agreements do not have to be registered.

Giving trade union officials the direct right to attend negotiating meetings to set up European Works Councils and meetings of EWC's themselves, as of right – today they may attend meetings at the request of the employee representatives of the company as “experts” in an ex-officio capacity;

Allowing a second trade union official to attend negotiating and EWC meetings as an “expert” – today companies are obliged to pay for one expert only at the request of employee representatives;

Giving national trade union officials the right to sit on EWCs as an “employee representative” – today employee representatives must be employees of the company;

Requiring all EWC agreements to deal specifically with the issues of expert (trade union) fees and operating expenses – today there is a general requirement for companies to pick up the reasonable expenses of the EWC and the costs of one expert;

Giving EWC members the right to determine their own training requirements and to undertake them at the company's expense – today training arrangements are in the hands of the company. Such training would, no doubt, be provided by union-affiliated training institutes;

Reducing the threshold for companies within scope of the law from 1,000 European employees and 150 in two countries to 500 employees and 100 in two countries – bringing a substantial number of new companies in scope;

Changing the definition of “controlling undertaking” to capture franchise operations and other non-standard organizations – bringing even more new companies in scope and making corporations responsible for the employment behaviors of their contractors.

The net impact of these demands would be to make it easier for European trade union federations to set up European Works Councils and to subsequently “manage” the employee side irrespective of the existence of trade unions in the organization or the wishes of employees.

All of this would facilitate the number of companies with an EWC to climb rapidly from the current count of 850 towards the 2,200 mark – the number of companies currently in scope (setting aside the number of companies that would come into scope if the threshold were dropped to 500).

It would also cement the role of trade unions in every European Works Council in existence.

Now back to the French model. Without question, French trade unions are politically influential and at the heart of the comite d’entreprise (works council) system through which most change in French companies have to pass.

Trade union density for the country as a whole, however, is just 8% and in the private sector around 3%. So how do trade unions wield such influence without members and with no apparent source of income?

The fact that trade unions automatically represent workers as a whole, whether they are members or not, is enshrined in French law. Five trade unions have the right, under French law to represent all workers.

Membership of the influential comite d’entreprise is restricted to union members – unless insufficient union members stand for election. Trade union funding (a complex picture which need not be described in detail here) comes not from member subscriptions but from employers and from the government.

With trade union membership in a tailspin in most of Europe and much of the world, the French system has much to commend it to trade unions seeking to hold onto power and influence and facing declining budgets.

Clearly the unions at the European level have latched onto an idea and found a potential vehicle to deliver much of it in Europe’s biggest companies.

Business, beware - there is much more to the European Works Council Directive revision than meets the eye!

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