



# Bulgarian experience in the implementation of the EWC Recast Directive 2009/38/EC

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November 19<sup>th</sup> 2011, Athens

# Content

- The Bulgarian national legislation on Information and Consultation into force before the Recast of the former EWC Directive 1994/45/EC
- Preparatory stage for transposition of the Recast Directive
- joint working group – active involvement of Governmental & SPs' experts /October 2009 – September 2010/
- discussions, consultations, opinion within the National Council for Tripartite Cooperation and final redaction of draft proposal for amendments to the I & C Law / September – November 2010/
- approval by the Council of Ministers – on the 26th November 2010
- Bulgarian approach to transpose the Recast Directive 2009/38/EC – adoption of legal amendments in the I&C Law
- the second reading was held on 15 March 2011 and the draft bill was adopted the National Assembly
- amendments to the Law on I & C were promulgated in the Official Gazette 26 on 29 March 2011.

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# Transposition of Directive 1994/45/EC into the Bulgarian legislation – pre-accession period

- Detailed analysis of the existing national practices and legislation on I & C
- Working group with involvement of social partners' experts to draft the necessary package of legislative acts – to transpose the Directive 1994/45/EC
- Specific national approach – all transnational relations EU directives on I & C arranged all together in in one separate act, called

Law on Information and Consultation with Employees of Multinational (Community-Scale) Undertakings, Groups of Undertakings – adopted by the National Assembly on 30 June 2006/ entered into force from 1st January 2007 – the date of Bulgaria's accession to the European Union



## Bulgarian specific legal situation to deal with Information & Consultation rights

In Bulgarian national legal order there are two main juridical acts to deal with the procedures and rights of workers to I & C

- the transposed Directive 1994/45/EC– in separated Law, which regulates the I & C procedures within the MNCs
- Labour Code – articles 130, 130 a and b
- There is not yet EU scale undertaking which establishes an European Works Council under Bulgarian legal provisions
- First EWC established under initiative of BG trade union leader – Ideal Standard International – two years of negotiations with the CM, EWC agreement signed in August 2011, 2 EWC members from PODKREPA

# Transposition of the Recast EWC Directive 2009/38/EC in Bulgaria

- New rules to catch up with the last generation of information and consultation EU directives, on one hand, and to improve their potential to play its important role in the dynamic changes of both economic and social life. They are expected to renovate the I & C procedures and to make them more effective ones in providing useful effect principle for EU scale undertakings.
- There were three main steps to go by:
  - to draw up a timeframe within which to do all the necessary preparations of the legal amendments.
  - to set up a working group, composed of all competent organizations' experts and advisers.



# Transposition of the Recast EWC Directive 2009/38/EC in Bulgaria

- The working group does his work in the most appropriate way complying with the requirements of the new EWC Directive 2009/38/EC, respecting the deadline for entrance into force with effect from 6<sup>th</sup> June 2011.
- National social partners were properly involved and they had the possibility to express their point of views and to present their proposals - trade union experts stressed on the necessity to preserve the existing Labour Code's provisions regarding the rights for I & C with the employees- Articles 130, 130 /a/ and 130 /b/.



## EWC - body of employee interests representation in the MNCs

- EWCs play in a constructive manner active role for the improvement of the social dialogue in the MNCs
- Workers' representatives have more strategic influence when they are provided with the necessary information, when they have adequate time to carry out their opinion and proposals.
- Workers' representatives are more confident in their representation role when they receive appropriate training and support from their trade union organizations
- EWC is a channel for making employees' voice heard and to greater the trade union influence and density





# EWC - body of employee interests representation in the MNCs

## General TU objectives

- to recognize the positive role of the trade unions in negotiations and to make their participation in the EWC easier
- to be very proactive in order to integrate Bulgarian workers' representatives into already established EWC from other EU Member-states
- to provide to the Bulgarian EWC members preliminary training on the articulation between the European and the national matters and with appropriate skills for their effective participation in the EWC meetings



# Transposition of the Recast EWC Directive 2009/38/EC in Bulgaria- TU position

## Concrete TU experts proposals

- the transposed texts of the recast EWC directive should to give clear rights to information and consultation of workers in the MNCs
- to introduce the principle of the needed link and correlation between national and transnational levels of I & C of employees with regard of the competences and areas of operation of workers' representative bodies
- to regulate the right of workers' representatives to I & C in cases of restructuring in the multinational company or in the respective group of companies (merger, acquisition, distribution operations, ownership changes)

# Transposition of the Recast EWC Directive 2009/38/EC in Bulgaria- TU position

## Concrete TU experts proposals

- to precise the content of the agreement for EWC establishment or for a procedure for I & C with the employees in multinational companies
- to provide a more detailed and precise notion for Information
- to introduce new definitions for Consultation and Transnationality
- to update the texts related to the election or appointment of the members of the SNB and to the EWC agreement negotiation procedure
- to provide to the members of the Special Negotiating Body, of the European Works Council and of the Select Committee the possibility for training , as is expressly provided that the cost of training may not be for expense of labor remuneration



# Transposition of the Recast EWC Directive 2009/38/EC in Bulgaria- TU position

## Concrete TU experts proposals

- workers in MNCs should have the right to training and to administrative facilities provided to the Special Negotiating Body (SNB), such as pre- and post-meetings and the presence of experts – including trade union officers- in the negotiation meetings
- clarifications concerning coordination of workers' participation at European and national level: appropriate provisions are to be applied in order to guarantee that employees at different levels do not receive different information at different times on one and the same subject
- clear position for a better gender balance in EWC composition

# The process of transposition of the Recast EWC Directive 2009/38/EC in Bulgaria

- The Government agrees with the opinions of TUs and at Council of Ministers' meeting on 26 November 2011 the elaborated with consensus Draft proposal was adopted and presented to the National Assembly.
- The Draft bill was distributed for comments and opinions to
  - Parliamentary Committee on Labour and Social Affairs ( as leading group)
  - Parliamentary Committee on European Affairs and control of EU funds (as participating group)
- The Parliamentary Committee on Labor and Social Policy prepared his report and on the 2 February 2011 the Draft Bill was submitted for first Plenary reading at the National Assembly.
- The Draft Bill was adopted on the 3 February 2011 at first reading.  
The second Plenary reading was effectuated on 15 March 2011 and the very same date the Draft Bill was adopted by the Bulgarian National Assembly.



# Transposition of the Recast EWC Directive 2009/38/EC in Bulgaria – by the way of introducing legal amendments

- Before the start of the transposition process we are considering several related issues – the timetable, the responsible authorities' representatives, including social partners organizations, the stages of drafting and resources of information, bearing in mind the national specificities, all EC documents (Explanatory memorandum of proposal COM, impact assessment, reports etc.).
- The practical work and analysis to do the necessary legal amendments was in the biggest part done by the working group composed of experts of all competent governmental institutions and representatives from the national social partner organizations; Its work took around 6 months to draft a legislative proposal and then approximately two months to coordinate the consultations within the National Council for Tripartite Cooperation.
- All proposed amendments had be redacted in order to fit in the existing national legal system and in addition to fulfill the objectives of the new EWC directive.
- Application of proportionality, subsidiary and minimum requirements principles.

# How Bulgaria transposed the new EWC Directive

Introduced amendment to the Law on I & C:

Definitions (Article 2 D 2009/38/EC) - new paragraphs for “information” and “consultation” (para.17 and 18 of Add. Provisions of Law on I & C);

Negotiating agreements (Article 5 D 2009/38/EC) amendments in para.2 and 5 of Art. 6 in the Law in relation to Art. 5, para.2, (b) as regards the members of the special negotiating body to be elected or appointed in proportion to the number of employees employed in each Member State and (c) provision of information as regards the composition of the special negotiating body and of the start of negotiations.

**Assistance from experts (Art.5, para.4 D 2009/38/EC)** amendment in Article 7, paragraph 3 in the Law;





## How Bulgaria transposed the new EWC Directive

Introduced amendment to the Law on I & C:

- Content of agreement (Article 6 D 2009/38/EC) – amendments in Article. 8 in the Law on I & C;
- Confidentiality of the information (Article 10.2 and Article 11 2009/38/EC) – no amendments – specific national solution. In any case, the confidentiality requirement does not affect in any way the consultation procedure
- Role and protection of employees' representatives (Article 10 D 2009/38/EC) – amendments in Article 10 of the Law on I & C
- Relationship with other Community and national provisions (Article 12 D 2009/38/EC) – new provisions in Article 3a of the Law on I & C.



## General conclusions

Here there are some practical steps, which we followed during the process of transposition of EU Directive on EWC :

- drawing up of a plan of all the activities;
- carrying out a thorough monitoring of all the legitimate EU and MS resources of information and experiences on transposition of the directive;
- carrying out of close dialogue with social partners in along the whole process of drafting the transposing national provisions.





*Thank you for your attention*

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