

CONCLUSIONS AND RECOMMENDATIONS (GREECE)

Findings of the survey in Greece may be summarized as follows:

Level of awareness

As a first remark, one has to note that most respondents are trade unionists active also at federation level. One has thus reasons to presume that their level of awareness about Directive 2002/14 and its transposition P.D.240/2006 is above the level of awareness of the average trade unionist.

- A considerable percentage of respondents (63%) have answered that they are aware about the existence of both the Directive 2002/14 and the Presidential Decree 240/2006. However, this awareness seems to be at an abstract level as from answers in subsequent questions it is evident for most of them that:
- 63% are not aware of concrete cases the Directive is applied
- They are uncertain as far as the cases in which consultation between the employer and the workers' representatives are preview. In the respective question only 47% have answered that they know. Answers collected of this 47% though, clearly show that there is confusion as cases indicated, along with those that are indeed preview as subjects of consultation, include also issues that are the subject of negotiations (e.g. collective agreements) or are established by Law, therefore they are not subject to any consultation or negotiation (e.g. social insurance).
- The majority (79%) says that they know about the employer's obligation to give justified responses to the opinions expressed by workers' representatives, none the less they do not specify their answer.
- The same stands in the question concerning the right of the trade union to proceed to juridical measures. The affirmative answer is very high (84%), but many trade unionists admit that they do not know on which occasions they can exercise this right. This answer is consistent with answer to the question about sanctions, where respondents answer that they do not know in which cases they have the right to address to the mechanisms of the State.

From the all above we may conclude that the level of awareness of trade union representatives is rather limited at least as far as the details of the Directive 2002/14 and its transposition P.D.240/2006.

The situation is different concerning the awareness about the Directive 94/45 and the Directive 2009/38 concerning the EWCs. A majority of 68% declares being aware of these Directives. Comments made in the respective question confirm that their knowledge about them is accurate.

This paradox, that awareness about the Directive 2002/14 which has more general application is inferior to the respective Directives about the EWCs, which are more restricted (only for Community scale companies) and specific may be explained by the fact that OBES has undertaken a variety of actions to inform and train trade unionists on this subject. This is also a positive feedback as many of these actions have been co-funded by the DG Employment.

Current practice regarding information and consultation in their company

Answers collected referring to the implementation of Directive 2002/14 in Greece, confirm the observations stated in the Chapter Background information (Greece). Although cases, for which the

obligation for information and consultation is preview, have raised much during the last few years of economic crisis, practices followed seem to be far from satisfactory.

Specifically, answers show that:

- Trade unionists complain that information does not place in time; indeed in many cases changes take place without prior information. Even in the case information is forwarded it is very generic and vague. In a series of three questions a rather low percentage (32-37%) of trade unionists that have responded answered positively and even those underline that they had neither enough time nor sufficient data to form an evidence-based opinion.
- A gap is also noted in the small minority of cases that have been reported, where the employer gives information. In this case trade unionists complain that they are not in a position to fully understand this information because it is too technocratic.
- It is also worth-mentioning that, because of the economic crisis and the high rate of unemployment and the fact that even some trade unionist do not have a permanent work contract, several trade union representatives have replied that they are afraid to raise issues concerning their right to information and consultation because they are afraid of losing their jobs. This fear persists although the Labour Law 1284/82 protects trade union leaders, possibly because a lot of acquits have been cancelled lately.
- Sanctions preview in the P.D.240/2006 not only are not effective, dissuasive and proportionate to the seriousness of the offense but they do not seem to be clear either. Nearly all respondents either admit their ignorance on the subject of sanctions or they firmly sustain that sanctions preview in Greece in the case of infringement of Directive 2002/14 are not sufficient. The general mood, present also in the events organised in the framework of the PRAXIS project, is summarised in the comment received in the survey that in Greece sanctions do not take place.
- Information of workers by their trade union representatives seems not to be a problem as there are a variety of ways used and no problem recorded. The commonest way reported seems to be by far General Assemblies.
- Respondents are positive referring to the existence of a Law about information and consultation. A considerable number think that relations between employers and workers should be improved and consultation may contribute to this end. Some respondents make concrete suggestions for improvement.

Recommendations

There is an almost unanimous position of participants to the survey that further action should be taken in order to improve the picture as far as information and consultation are concerned.

Suggestions for improvement may include several directions:

1. As far as legislation is concerned:

- a) **Better definition of concepts “information” and “consultation”.** Terms information and consultation must be better defined. They are not the same in different Directives and this produces confusion. Definitions of information and consultation are continuously improving as time passes through newer Directives.
- b) **Clarification of the term appropriate time.** The Directive states that *“information shall be given at such time, in such fashion and with such content as are appropriate to enable, in particular, employees' representatives to conduct an adequate study and, where necessary, prepare for consultation”*. Respondents to the survey think that the time should be further specified. This is done anyway by some national legislations.
- c) **Provision of effective, dissuasive and proportionate sanctions by the Greek Law.** Administrative sanctions, at least as preview by the Greek Law, are not effective, dissuasive and proportionate. The text put in the draft Directive showing the will of the Commission: *“In case of serious breach by the employer of the information and consultation obligations, where such decisions would have direct and immediate consequences in terms of substantial change or termination of the employment contracts or employment relations, these decisions shall have no legal effect on the employment contracts or employment relationships of the employees affected. The non production of legal effects will continue until such time as the employer has fulfilled his obligations or, if this is no longer possible, adequate redress has been established”* would be much more effective and would better insure the workers' right to information and consultation, as preview by article 7 of the chart of fundamental rights of the EU.
- d) **Further elaboration of the Directive.** Directive on information and consultation should be more elaborated in the model of Directive 2009/38, which describes confidential information, previews subsidiary requirements and that the employer has to allocate financial and material resources in order that workers' representatives are enabled to understand information and conduct consultation. Additionally, it previews the signing of a specific agreement on the terms and the process of information and consultation, in order to ensure the right of workers/employees to understand information and participate in consultation. Furthermore, Directive 2009/38 previews a more “structured” procedure of information and consultation. Directive 2002/14 instead has no such provisions.
- e) **More accurate transposition of the Directive into the Greek Law.** As the Court decided in the instance of the workers' Federation (OME-OTE) appeal, when the Greek Telecommunications Company (OTE) was going to be sold to Deutsche Telecom without prior procedure of information and consultation (ΜΠρΑΘ 4904/2008): *“the referred Directive (2002/14/EC) has not been fully adapted to the Greek legal order through establishing specific system of providing juridical protection and processes that make more effective the right to information and consultation established by it ”*. The P.D.240/2006 (which is the transfer in the Greek Law of Directive 2002/14) does not preview sanctions that comply with the spirit and the letter of Directive 2002/14, which previews sanctions to be effective, dissuasive and proportionate, which in practice they have proved not to be.

f) **Application of the Directive in different countries.** Directive 2002/14 is pan European, this meaning that it is true both for countries where there is an established tradition of information and consultation and for countries where information and consultation in practice was not applied before the transposition of the Directive to national laws. This fact, coupled with the refusal of employers to effective information and consultation and the non-conformity of national transpositions with the EU Directive, especially concerning the provision that sanctions should be “**effective, proportionate and dissuasive**” creates a negative environment for the implementation of the Directive. It is reasonable that in countries, where information and consultation have a long history of implementation, this "gap" does not exist. On the opposite, in countries where information and consultation were not previously applied in practice, the European Directive should ensure effective implementation of these procedures through its transposition into national Laws.

g) **Positive instead of negative national legislation for ensuring workers’ right to information and consultation.** Finally, concerning the transposition of Directive 2002/14 into the national laws of the member States, existing or future provisions of the national legislations should not contradict the spirit and the letter of the Directive 2002/14. An example is the recent Greek Law 3846/2010 titled “Guarantees for job security and other provisions”, which previews that “information <information is carried out by simple notice in a visible place of the company and consultation in a time and place designated by the employer”.

2. As far as information of the trade unions is concerned:

- a) **Need for information of trade unionists on their right to information and consultation.** Co-funding more information and training projects would be beneficial as there is a great gap of information as far as the right to information and consultation is concerned.
- b) **Trade Union action for information on employees’ rights.** The Greek General Confederation of Labour (GSEE) as well as trade union federations should take action to spread information on and explain what Directive 2002/14 and PD240/2006 preview.
- c) **Dissemination of good and negative practices of application of the Directive.** Information on cases where the Directive 2002/14 has been applied, or cases have been successful (or unsuccessful) to Courts should also be diffused.

1. As far implementation of the Law is concerned:

- a) **Clear instructions to competent public authorities about the application of the Directive.** In many cases, all the more in periods of economic crisis, trade unions are willing to find a common solution to resolve actual difficulties faced by companies. Competent public authorities, namely the Labour Inspectors as well as the members of the Mediation and Arbitration Body should be instructed to facilitate this.
- b) **Transnational meetings for exchange of experiences.** Transnational exchanges of experiences are very crucial to form ideas of ways to tackle common problems.

- c) **Application of the Directive under normal conditions not only in periods of crisis.** In countries, where there is no culture of consultation, trade unions should seek implementation of the Directive in situations of normal operation of the company as well, not only in periods of crisis. This however requires the adequate provisions of the Law, as referred above.