

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 292 final

Brussels, 13 November 1991

Proposal for a

COUNCIL DIRECTIVE

amending Directive 75/129/EEC on the approximation of the laws of the
Member States relating to collective redundancies

(presented by the Commission)

EXPLANATORY MEMORANDUM

Introduction

1. In the context of the establishment of the Single European Market, the European Councils of Hanover, Rhodes and Madrid considered that the same importance should be attached to social as to economic aspects and that they should therefore both be developed in a balanced manner. The European Parliament (in numerous own-initiative resolutions) and the Economic and Social Committee (in its opinion of 22 February 1989) have taken a similar view.

2. In developing this approach, point 7 of the Community Charter of the Fundamental Social Rights of Workers stated, in paragraph 7, that :

'The completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community...

The improvement must cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies...'

3. Points 17 and 18 of the Charter are also relevant to the issue of collective redundancies. These state that :

'Information, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in the various Member States.

This shall apply especially in companies or groups of companies having establishments in two or more Member States of the European Community.

Such information, consultation and participation must be implemented in due time, particularly... in cases of collective redundancy procedures...'

4. On this basis, the Commission's Action Programme relating to the implementation of the Charter proposed the revision of Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies. The Action Programme stated that :

'Several years' application of this directive, socio-economic changes and the establishment of a single European market necessitate a revision of this directive.'

In particular, the Action Programme identified the need to give the existing directive a transnational dimension :

'The directive on collective redundancies should be completed so as to cover cases where the redundancy decision is taken by a decision-making centre or an undertaking located in another Member State.

... There will most certainly be cases of transfrontier restructuring which, justified though they may be, will have to be accompanied by appropriate information and consultation. A response at Community level appears the most appropriate approach especially since the directive should apply in cases where the decision concerning collective redundancies is taken by a decision-making centre or an undertaking located in another Member State.

This legal loophole should be eliminated.'

The impact of the internal market

5. The internal market is, according to Article 8a of the EEC Treaty, 'an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty'. The dismantling of internal frontiers is already resulting in major corporate reorganisations within the Community, involving a significant increase in mergers, takeovers, transfers and joint ventures, and leading to the growing concentration of company ownership. The total number of acquisitions (majority holdings or mergers) effected by the top 1000 European industrial enterprises is constantly growing. A recent Commission report⁽¹⁾ shows that, over the 1980s, the number of such operations has doubled every three years, rising from 208 in 1984-85 to 492 in 1988-89.

6. Moreover, merger operations within the Community are increasingly transnational in character. The same Commission report notes that :

"National-type operations (between two enterprises belonging to the same Member State) largely dominated between 1983 and 1987. Almost two thirds of the number of acquisitions recorded involved this type of operation. Since 1987, more rapid growth has been noted in the number of acquisitions involving Community enterprises belonging to two different Member States. In 1988-1989, such operations represented 40 % of the total number of acquisitions effected. International-level operations involving two enterprises - the one Community, the other non-Community - accounted for approximately 15 % of the total number of operations recorded. This figure is more or less stable for the period under review."

(1) 'The impact of the internal market by industrial sector : the challenge for the Member States', Special edition of European Economy / Social Europe, 1990.

7. The detailed figures are given in the following table :

Mergers and acquisitions by nationality of the firms involved			
Year	National	EC	International
1983-84	101 (65.2)	29 (18.7)	25 (16.1)
1984-85	146 (70.2)	44 (21.2)	18 (8.7)
1985-86	145 (63.7)	52 (23.0)	30 (13.3)
1986-87	211 (69.6)	75 (24.8)	17 (5.6)
1987-88	214 (55.9)	111 (29.0)	58 (17.8)
1988-89	233 (47.4)	197 (40.0)	62 (12.6)

NB : Figures in brackets show the percentage of the total number of operations surveyed.
Source : European Commission

8. In the context of this accelerating corporate restructuring, an increasing number of employees will be affected by key corporate decisions taken at a level higher than their immediate employer, i.e. by the undertaking's head office if located in a different country, or at group level by controlling undertakings situated either within or, increasingly, outside the country where their own establishment or undertaking is located. Despite the growing complexity in company organisation, ownership and control, the existing procedures for informing and consulting employees and employee representatives are still confined to enterprise level (though there is legislation concerning national group-level works councils or equivalent bodies in a few Member States). This means that, although employees may be part of an undertaking whose headquarters are located in a different country or which belongs to a group of undertakings whose controlling undertaking is located abroad, the scope and effectiveness of their information and consultation rights could be endangered if the decision-making centre chooses not to provide the employer with the required information.

9. The 1975 directive requires employers who are contemplating redundancies to inform and consult workers' representatives with a view to reaching an agreement and to notify the competent public authority. However, it does not make specific provision for situations in which redundancies among an employing undertaking's employees are proposed by its controlling undertaking whether the controlling undertaking is situated in the same Member State as the controlled undertaking (the employer) or in a different State. However, it cannot be assumed that 'all relevant information' (Article 2(3)) held by a controlling undertaking concerning the proposed redundancies will always be provided to the employing undertaking for the purposes of consulting worker representatives.

10. Similarly, where the central administration of a multi-establishment undertaking proposes to make workers redundant in one of its establishments, the existing directive does not make specific provision for the disclosure to local management of all relevant information held by the central administration where it is situated outside the Member State in which the establishment concerned is situated.

The application of the existing directive

11. In reviewing the implementation of the existing directive by Member States it will be noted that certain Member States' provisions concerning collective redundancies may not be fully consistent with particular aspects of the directive, and related infringement proceedings have been initiated or are under consideration within the Commission.

Proposed changes to the directive

12. Having examined the scope, application and effectiveness of the 1975 directive in current circumstances, the Commission is proposing a series of amendments.

(1) Ensuring the enforcement of the Directive where the decision leading to collective redundancies is being taken by an undertaking other than the employer

13. The directive applies to all proposed collective redundancies affecting workers within the territorial scope of the Treaty, even where the employer concerned is a controlled undertaking or is part of a multi-establishment undertaking, the central administration of which is situated in another State, and the redundancies to be implemented are proposed by the controlling undertaking or, as the case may be, by the central administration of the multi-establishment undertaking.

14. The main changes proposed are to fulfil the aim of ensuring the enforcement of the existing directive in cases of transnational undertakings and associated undertakings. Thus, it is provided that the information and consultation requirements laid down by the directive apply irrespective of whether the decisions entailing collective redundancies are taken by the employer himself, by a controlling undertaking or by the central administration of a multi-establishment undertaking. In order to reinforce this central obligation it is also established that an employer's failure to comply with the directive's requirements can not be condoned on the ground that the undertaking taking the decision leading to collective redundancies failed to inform the employer in due time.

15. Furthermore, collective redundancies effected without the fulfilment of the information, consultation and notification requirements laid down by the Directive may be rendered null and void by the competent courts at the request of the workers' representatives or workers concerned. This particular provision will ensure that the information, consultation and notification requirements are met whatever the identity of the undertaking which takes the relevant decisions leading to the collective redundancies.

16. It should be emphasized that the revised text does not directly impose any obligation on controlling undertakings as such. Problems of extraterritoriality are therefore avoided. It should also be noted that the Commission is not proposing a mechanism (as envisaged under the original draft of the 'Vredeling' directive) whereby employees would have the right to seek consultation with the undertaking's central administration or with the management of a controlling undertaking (the so-called 'by-pass' system).

(ii) Crews of sea-going vessels

17. The information, consultation and notification requirements laid down by this Directive are in no way incompatible with the special nature of the contract of employment or employment relationships of the crews of sea-going vessels. Their exclusion from the protection provided by the Directive is not justifiable, unless they are covered by other forms of guarantee offering them protection equivalent to that resulting from the Directive. It cannot be argued that the temporary nature of the employment of some seafarers is incompatible with the Directive's provisions because Article 1(2)(a) excludes from this Directive "collective redundancies effected under contracts of employment concluded for limited periods of time or for specific tasks, except where such redundancies take place prior to the date of expiry or the completion of such contracts". The argument that the notification to the public authorities and the compliance with the period of 30 days before the planned collective redundancies can take effect is incompatible with the necessary flexibility and the sector's need to implement urgent decisions should be rejected. Article 4(1) second subparagraph establishes that "Member States may grant the

competent public authority the power to reduce the period provided for in the preceding subparagraph". The fact that the directive does not apply to establishments normally employing less than 20 workers and that the consultation procedure is not imposed upon establishments employing less than 50 workers provides the appropriate flexibility as regards the great number of undertakings which operate mainly in the fishing sector. It should be noted that Council Directive 80/987/EEC (2) relating to the protection of employees in the event of the insolvency of their employer applies to the crews of sea-going vessels unless they benefit from "the existence of other forms of guarantee offering the employee protection equivalent to that resulting from this Directive" (Article 1(2)). Only members of crews of a fishing vessel, if and to the extent that they are remunerated by a share in the profits have been expressly excluded by Greece, Ireland and the United Kingdom on the ground of the special nature of the employment relationship referred to in Article 1(2) of that Directive.

(iii) Judicial decisions

18. The general exclusion of the current directive in cases where an establishment's activities are terminated as a result of a judicial decision no longer appears to be appropriate. There seems no reason why employees' information and consultation rights (as opposed to the delays imposed on the implementation of redundancies under Article 4 of the existing directive) should not apply in such cases. Legislation implementing the directive is already generally applicable to redundancies brought about by judicial decision in six Member States (France, Federal Republic of Germany, United Kingdom, Spain, Netherlands, Portugal).

(iv) Information and consultation requirements

19. A number of clarifications and refinements are proposed in respect of the timing and objectives of consultations about projected redundancies and the nature of the information to be supplied to workers' representatives (and therefore to the public authorities), reflecting among other things the corresponding provisions of the transfers of undertakings directive, ILO Convention 158 and Article 2 of the Additional Protocol to the European Social Charter of the Council of Europe.

(v) Designation of workers' representatives for redundancy consultation purposes

20. Council Directive 75/129/EEC imposes on Member States an obligation to provide for workers' representatives for the purposes of the information and consultation obligations referred to therein, but leaves the definition of workers' representatives to "national law and practice". That was why the Commission initiated infringement proceedings against a Member State under that Directive. In order to alleviate the legal constraints imposed upon small undertakings and to provide for adequate flexibility, in accordance with the revised text

(2) OJ No L 283, 28.10.1980, p. 23.

Member States may not provide for workers' representatives in establishments normally employing less than 50 workers. Moreover, where collective redundancies are envisaged in such establishments the employer shall supply in good time to the workers concerned the information referred to in Article 2(3) of the Directive but no obligation to consult is imposed in such cases. This rule mirrors a similar provision contained in Article 6(4) and (5) of Council Directive of 14 February 1977 on the safeguarding of employee's rights in the event of transfers of undertakings, businesses or parts of businesses⁽³⁾. Table I provides overview of the systems of worker representation in the 12 Member States.

(vi) Failure to comply

21. Although the directive is subject to the general principles of Community law including those of effectiveness and non-discrimination, the Commission is proposing a new article introducing an explicit provision aimed at ensuring the enforceability of the Directive.

The proposed new article has a twofold objective: to provide for the availability of judicial procedures at the request of the workers' representatives and workers concerned in the event of failure to comply with the directive's requirements (notwithstanding the eventual recourse to other procedures such as mediation, arbitration or conciliation) and to require that specific judicial procedures should be available to render null and void those collective redundancies effected in contradiction with the Directive.

Collective redundancies implemented without compliance with the obligations on information, consultation and notification may be rendered null and void under the existing laws of eight Member States (Portugal, Federal Republic of Germany, Italy, Greece, Luxembourg, the Netherlands, France and Spain).

(vii) Implementation by collective agreement

22. Finally, it is proposed to introduce an explicit provision allowing for the implementation of the directive by collective agreements, in line with other recent proposals for directives in the labour law sphere.

(3) OJ No L 61, 5.3.1977, p. 26.

Relationship with other Community instruments

23. The Commission is aware that in a number of important respects, the reasons for revising the collective redundancies directive apply equally to the existing transfers of undertakings directive. This requires the transferor and transferee employers to inform and consult the representatives of their respective employees about the implications of the transfer, and provides for the safeguarding of employees' acquired rights by means of the automatic transfer of the employment relationship from the old employer to the new employer. The two directives thus reflect similar objectives (i.e. the need to guarantee employees an appropriate degree of job security and information and consultation where their employing undertaking is involved in restructuring) and have broadly parallel provisions, although the transfers directive differs from the collective redundancies directive in that it obliges Member States to confer substantive rights on workers. To ensure a consistent approach, therefore, the Commission is also considering whether changes proposed to the collective redundancies directive should also be proposed, where appropriate, in respect of the transfers of undertakings directive.

24. As regards the relationship between the proposed changes to the collective redundancies directive and the provisions of the proposed directive on European Works Councils, the following points are relevant. While the collective redundancies directive applies to all undertakings employing more than 20 workers, the proposed European Works Council directive is confined to 'Community-scale' undertakings or groups, i.e. those with at least 1000 employees within the Community and with at least 100 employees in each of at least two Member States. Moreover, under minimum requirements set out in the directive, the competence of European Works Councils is restricted to transnational issues, i.e. those affecting the Community-scale undertakings or groups as a whole or those affecting two or more establishments or group undertakings situated in different Member States.

25. Only where proposed redundancy programmes affected an undertaking's or group's operations in more than one Member State. Therefore, would they be subject to the consultation procedure envisaged by the European Works Councils directive. Moreover, where this is the case, the scope, content and objectives of the information and consultation requirements envisaged by the two measures differ considerably. At European Works Council level, consultation would take place on the transnational aspects of such a redundancy programme. In addition, the proposed European Works Council Directive includes in Article 11 the provision that 'Nothing in this directive shall affect the operation of the laws or practice of the Member States in respect of the provision of information to and the consultation of employees at group level, undertaking level and establishment level'. In particular, it is specifically stated that 'This directive shall be without prejudice to measures taken pursuant to directive 75/129/EEC...' (ie. the collective redundancies directive).

26. Under the collective redundancies directive, the information and consultation requirements are imposed upon the employer, relate to nationally-defined employee representatives, are much more detailed and specific, and should be undertaken 'with a view to reaching an agreement'. The collective redundancies directive, moreover, contains provisions relating to the notification of competent national public authorities and the timing of notified redundancies which do not of course feature in the European Works Council directive. The two measures therefore fulfil different functions and are substantially different in terms of their scope, thresholds, representative institutions, level of applicability and procedures.

Legal basis

27. Article 100 of the EEC Treaty provided the legal basis for the existing collective redundancies directive, and the same legal basis will also apply to the proposed revision. Article 100A which derogates from Article 100, in so far as it concerns the harmonization of legislation with the view of the attainment of the objectives referred to in Article 8(a), does not apply here, for it can not be sustained that the proposal is intended to remove the obstacles to the completion of the Internal Market.

TABLE I

SITUATION IN THE MEMBER STATES CONCERNING WORKERS' REPRESENTATION IN UNDERTAKINGS EMPLOYING MORE THAN 50 WORKERS WHICH MUST BE RECOGNISED BY THE EMPLOYER FOR INFORMATION AND CONSULTATION PURPOSES.

	LEGISLATION	COLLECTIVE AGREEMENT
BELGIUM	YES	-
NETHERLANDS	YES	-
SPAIN	YES	-
FRANCE	YES	-
GREECE	YES	-
IRELAND	*	-
DENMARK	-	YES
ITALY	YES	-
LUXEMBOURG	YES	-
PORTUGAL	YES	-
GERMANY	YES	-
UK	*	-

* Workers' representatives within the meaning of Irish and UK law are members of independent trade unions voluntarily recognised by their employer.

Proposal for a
COUNCIL DIRECTIVE

amending Directive 75/129/EEC on the approximation of the laws of the
Member States relating to collective redundancies

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic
Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Whereas the Community Charter of the Fundamental Social Rights of
Workers states in paragraph 7 that "the completion of the internal
market must lead to an improvement in the living and working conditions
of workers in the European Community ... The improvement must cover,
where necessary, the development of certain aspects of employment
regulations such as procedures for collective redundancies ..."

Whereas paragraphs 17 and 18 also state that "information, consultation
and participation for workers must be developed along appropriate
lines, taking account of the practices in force in the various Member
States ... Such information, consultation and participation must be
implemented in due time, particularly ... in cases of collective
redundancy procedures ..."

(1)

(2)

(3)

Whereas Council Directive 75/129/EEC⁽⁴⁾ promoted the harmonization of the relevant national laws by requiring employers who are contemplating collective redundancies to inform and consult workers' representatives with a view to reaching an agreement and to notify the competent public authorities;

Whereas, as the establishment of the Internal Market is resulting in a growing concentration of undertakings across national frontiers, the decisions leading to collective redundancies may be taken by an undertaking other than the employer;

Whereas Directive 75/129/EEC should therefore be revised so as to ensure that the existing information, consultation and notification requirements are complied with irrespective of whether the decision leading to collective redundancies is taken by the employer, by the controlling undertaking or by the central administration of an undertaking of which the employer is part;

Whereas, with a view to ensuring that this Directive has the desired effect, account should not be taken of any defence on the ground that the employer was not provided in time with the relevant information by the controlling undertaking which takes the decision leading to collective redundancies;

Whereas the information and consultation rights of workers laid down by Directive 75/129/EEC should also apply to crews of sea-going vessels unless they benefit from equivalent protection, and to collective redundancies effected where an establishment's activities are terminated as a result of a judicial decision;

Whereas a number of clarifications and amendments are required in respect of the timing and objectives of consultations and the nature of the information to be supplied to workers' representatives and to the public authorities, reflecting, inter alia, the corresponding provisions of Council Directive 77/187/EEC⁽⁵⁾ and ILO Convention 158 and Recommendation 166;

(4) OJ No L 48, 22.2.1975, p. 29.

(5) OJ No L 61, 5.3.1977, p. 26.

Whereas in order to allow for more flexibility with respect to small undertakings, Member States need not provide for workers' representatives in establishments employing less than 50 workers;

Whereas it is necessary to provide for appropriate measures to ensure the enforcement of obligations laid down by this Directive and in particular for judicial procedures to render null and void collective redundancies effected without compliance with the abovementioned obligations;

Whereas Directive 75/129/EEC should be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 75/129/EEC is hereby amended as follows:

1. The following point is added to Article 1(1):

"(c) 'employer' means any natural or legal person who has an employment relationship with the worker."

2. The following is inserted at the end of Article 1(2)(c):

"inasmuch as the special regime covering them provides protection equivalent to that resulting from this Directive".

3. Article 1(2)(d) is deleted and the following paragraph is added to Article 1:

"3. Member States need not apply Article 4 to collective redundancies resulting from the termination of an establishment's activities where that is the result of a judicial decision".

4. Section II is replaced by the following:

"SECTION II

Information and consultation

Article 2

1. Where an employer is contemplating collective redundancies, he shall begin consultations with the workers' representatives in good time with a view to reaching an agreement.
2. These consultations shall, at least, cover ways and means of avoiding collective redundancies or minimizing the number of workers affected, and mitigating the consequences.
3. To enable the workers' representatives to make constructive proposals the employer shall supply them in good time with all relevant information and shall in any event give in writing the reasons for the projected redundancies, the number of workers normally employed, the employer's proposals with regard to the number and categories of workers to be made redundant, the criteria proposed for the selection of the workers to be made redundant, the proposed basis of any redundancy payments, and the period over which the projected redundancies are to be effected.

The employer shall forward to the competent public authority a copy of all the written communications referred to in the first subparagraph.

4. The obligations laid down in paragraphs 1, 2, 3 and 5 shall apply irrespective of whether the decision regarding collective redundancies is being taken by the employer or by an undertaking controlling the employer.

In considering alleged breaches of the information, consultation and notification requirements laid down by this Directive, account shall not be taken of any defence on the ground that the necessary information has not been provided by the undertaking which took the decision leading to collective dismissals.

5. For the purposes of implementation of this Directive Member States need not provide for workers' representatives in respect of establishments normally employing less than 50 workers. In that case, Member States shall ensure that employers are obliged to supply in good time to the workers concerned by the projected collective redundancies the same information as is required to be given to workers' representatives under paragraph 3."

5. The following phrase is inserted at the end of Article 5:

"or to promote or to allow the application of collective agreements more favourable to workers."

6. The following Article is inserted:

"Article 5a

Member States shall ensure that judicial procedures exist for the enforcement of obligations under this Directive at the suit of the workers' representatives and workers and in particular procedures rendering null and void the collective redundancies concerned, notwithstanding the availability of recourse to other procedures."

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1992, or shall ensure that the social partners establish the necessary provisions through agreement, subject to the obligation on Member States to take all the necessary measures to guarantee compliance at all times with the requirements of this Directive.
2. When Member States adopt the provisions referred to in paragraph 1, these shall contain a reference to this Directive, or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.
3. Member States shall immediately inform the Commission of the measures adopted to comply with this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

IMPACT ASSESSMENT FORM

IMPACT OF THE PROPOSAL ON UNDERTAKINGS WITH PARTICULAR REFERENCE TO SMALL AND MEDIUM SIZED ENTERPRISES (SMEs)

Proposal for a Council Directive amending Directive 75/129/EEC on the approximation of the laws of the Member States relating to collective redundancies

The Proposal

1. Taking account of the principle of subsidiarity, why is Community legislation necessary in this field and what are the main aims?

The proposal takes account of the undertaking process of corporate restructuring associated with the completion of the internal market, in particular the transnationalisation of company organisation ownership and control. In this context, the requirements of the existing collective redundancies directive require updating in order to ensure that it applies to cases where a redundancy decision is taken by a decision-making centre which is not the direct employer of the workers concerned, in particular where the decision-making centre is located outside the Member State where the employer is located. Given the transnational nature of this matter, and the fact that collective redundancy procedures are already regulated by EC legislation, a response at Community level is the most appropriate approach.

The central aim of the proposed revisions to the directive is to ensure that where redundancy decisions are taken by such decision-making centres, all relevant information is provided to the employer to enable him to inform and consult workers' representatives and notify the competent public authorities. Other changes (e.g. the requirement of the information and consultation requirements and provisions on the designation of workers representatives for redundancy consultation purposes) are proposed in the light of the experience of the application and operation of the existing 1975 directive over the years since it came into force.

The Impact on undertakings

2. Who will be affected by the proposal?

The revised directive - like the existing directive - applies to employers with establishments employing more than 20 employees who propose to make redundant a certain proportion of the workers employed in such an establishment. The proposed revisions to the directive would ensure that the controlling undertakings and the central administration of a multi-establishment undertaking of which the employer is part where the central administration is situated outside the Member State where the employer is located, provide the employer with the necessary information to enable him to inform and consult the representatives of the workers.

3. What will undertakings have to do to comply with the proposal?

A number of clarifications and refinements are proposed in respect of the timing and objective of consultations about projected redundancies and the nature of the information to be supplied to workers' representatives and the public authorities. In addition, a new proposed provision is that, where redundancies are proposed not by the direct employer but by a controlling undertaking, or by the central administration of a multi-establishment undertaking of which the employer is part, account shall not be taken of any defence on the ground that the relevant decision-making centre did not provide the employer in time the required information to enable him to comply with the directive's provisions. It is proposed to extend the information and consultation procedure to collective redundancies brought about by the closure of an establishment resulting from judicial decision, which were excluded from the scope of the directive so far.

4. What economic effects is the proposal likely to have?

- on employment

The objective of the information and consultation procedure laid down in the existing directive and modified by the proposal for its revision is to identify ways and means of avoiding redundancies or minimising the number of workers affected.

- on investment and the creation of new businesses

None.

- on the competitiveness of undertakings

The proposed amendments to the collective redundancies directive may entail some indirect costs of compliance for firms, due to the strengthening of the information and consultation procedure. However their effect on the competitiveness of EC undertakings should remain marginal. On the other hand, 2(5)(b) introduces a change entailing more flexibility by allowing small undertakings not to consult but to inform the workers concerned.

5. Does the proposal contain measures to take account of the specific situation of small and medium - sized enterprises (reduced or different requirements, etc.)?

By virtue of the definition of 'collective redundancies' the existing and proposed directive does not apply to establishments normally employing 20 or fewer workers. Moreover, the proposal's requirements regarding information and consultation with workers' representatives do not oblige Member States to provide for procedures for the designation of such representatives, in establishments normally employing less than 50 workers. Where there are no workers' representatives in such establishments, workers affected by redundancy proposals should be directly informed by the employer.

Consultations

A. With employers and trade unions

19.03.91 UNICE / CEEP _ ETUC
05.06.91 UNICE / CEEP - ETUC

22.05.91 Transport

23.05.91 Commerce

28.05.91 Fishing
Construction
Banks & Insurance

7.06.91 Agriculture

B. With individual organisations

C.G.T. (France) (General Confederation of Labour)

CEC (European Confederation of Professional Staff)

Consultation of employers' organisations by DG XXIII:

Organisations consulted:

- AECM (Association Européenne des Classes Moyennes)
- Eurochambre
- Eurogroup
- UEAPME (Union of Crafts and SMEs)
- UNICE (Union of Industries of the EC)
- CECOP (European Committee of Workers' Production Cooperatives)
- EUROPMI (European Committee for Small and Medium-Sized Independent Enterprises)
- EMSU (Union Européenne des Classes Moyennes)
- CECD (European Retail Trade Confederation)
- FEWITA (Federation of European Wholesale and International Trade Associations)
- CEDI (Centre Européen des Indépendants)
- CCACC (Com. Coord. des Associations des Coopératives de la Communauté européenne)

The trade union organisations are in favour of the revision of Council Directive 75/129 but consider that the Commission's Proposal falls short of their expectations, in particular with respect to the social plan and the intervention of the public authorities. The employers' organisations generally support the objective of applying the information and consultation procedure also to collective redundancies of a transnational dimension, but think the existing directive already covers this case; they do not favour amendments introducing new elements in the proposal, such as additional information to be provided to the workers.

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