

## **FOREWORD**

These National Guidelines are a result of the Joint Project of agricultural trade unions in Macedonia (AGRO SINDIKAT), Bulgaria (FNSZ) and Romania (AGROSTAR), financed by the European Commission under the ref. num. VP/2012/003/0046 - “Informed and Experienced for Sustainable Agriculture” - Enhancing the information and consultation capacity of the social partners in sector of Agriculture for active participation in working life for sustainable Agriculture. The meaning of informing and consulting employees, that the capacities for the system of information and consultation should be enhanced is not well known in the agricultural sector. These National Guidelines in order to inform the stakeholders in the agricultural and other sectors of the current state about information and consultation in Macedonia and the European Union, giving proposals for an update of the current capacities. The results of this project will hopefully benefit both Social Partners (the unions and the employers), their Bipartite Social dialogue regarding the issues of information and consultation and in general, to help improve risk anticipation and make work organization more flexible for the employees in the agricultural sector, raising awareness at undertaking level.

# **National Guidelines/Recommendations**

## **for improving the Information & Consultation and involvement process in the agriculture in Macedonia**

### **INTRODUCTION**

The initial period after Macedonia's independence proclamation into an autonomous, independent, sovereign and democratic state was accompanied by a social and economic crisis as a consequence of the transformation of the economic relations of the socialist planned production in a market economy.

With the adoption of the constitution of Macedonia in 1990 the general legal framework of the new social and political system with market orientation was established, which was to provide:

- macroeconomic stabilization
- pricing and market reform
- development of the private sector through privatization and restructuring of enterprises
- redefining the role of the state through the introduction of democratic forms of decision-making in political and social life

Socialist self-management system in which a central place in the management of enterprises occupied labour and self-controlled employee, showed all its anomalies for its sustainability in the new capitalist production and social relations.

Although the Constitution of 1990 established the new legal framework in order to, despite the ownership of capital, labour to be the basis for participation in the management of enterprises, this period of transition of ownership, which lasted more than 10 years, has created a legal vacuum and the inability to implement this constitutional principle in the legal regulations in the labour area and its revival in everyday life.

Although R. Macedonia in the post-transitional period made numerous amendments to the legislation on the economic and socio-political area in order to bring them closer to the European legislation, the labour area was neglected, and the worker was left unprotected and slowly lost or dispossessed those minimum rights that are fundamental in any democratic society, and those rights who were in some formal legal way reserved, were not respected by the new owners of capital.

During this period of lack of interest of the state to protect the labour and worker's rights, only the trade union, through the instruments of trade union struggle, often supported by the fraternal union of the countries of South Eastern Europe, and the unions of the EU countries, and the international trade union organizations, managed to create a sustainable balance in labour relations and with great effort caused by internal hot events because of the installation of union pluralism, to survive as the sole protector of workers' rights in the Republic of Macedonia.

As a result of the fight in the transitional period with the union led and still lead in Macedonia, it was managed to maintain sustainable social dialogue between the social partners, and laws in the labour area to incorporate many of the standards and principles of the ILO, the European Charter of the Rights of Man and Citizen, EU Directives, which the union in R. Macedonia contributed greatly in order for the state to receive pre-accession candidate status for EU membership.

Namely, although in the period immediately after independence, collective bargaining between the social partners at all levels in the state did not function, some of the branch unions joined in SSM managed to conclude collective agreements at branch level, even though they were disregarded by state institutions, however provided some protection

of workers' rights. One of the unions in the R. Macedonia, which from 1993 until now permanently covers the activities of agriculture, food industry and tobacco production by branch collective agreement is the Agro Sindikat, who managed to stay as a representative union in the state in these areas.

With the completion of the process of transformation of ownership, and the beginning of the R. Macedonia's post-transitional period, for an entry into the European Union from the country was asked to work on its democratization in all segments of the state order, and certainly one of the conditions was the adjustment of legislation in the labour area to the legislation of the countries of the European Union. As a result of these pressures, and due to the activity of the Macedonian unions since 2005, and as of 2012, systemic changes in labour legislation were made, primarily in the Labour Relations Law, implementing a large number of European legal institutions that contributed to strengthening the role of the trade union, to revive the social dialogue and collective bargaining to gain its rightful place in the relations of labour and capital.

The legal framework of social dialogue was established with the amendments to the Labour Relations Law of 2005, and particularly strengthened by the amendments in 2010, where the trade union's right to be informed and consulted on all matters relating to social and economic status of the worker was established.

With these amendments to the Labour Law, Law on Safety and Health at Work, the Minimum Wage Act and other similar laws were established. For the union formal legal requirements and opportunities were created in order to revive the constitutional principle that labour, in addition to the capital is the basis in the management of economic entities.

For the Unions in the R. Macedonia, together with the right to be representative to participate in the social dialogue, it was enabled to participate in the discussion and formulation of laws in the labour area on national level through the Social Economic Council.

One of the most important benefits for the union is the implementation of the European Directive on information and consultation in the Labour Code, on which there are

active ongoing negotiations between the social partners on the method and the framework for practical application, whether this principle has a general character in all segments in the management of economic entities, or only in the social and economic status of the employees. The union certainly requires it to be in all segments, but this process is difficult because of the resistance of employers. As a union we think that in the future, with the introduction of workers' councils and with the participation of elected representatives of the workers this issue will become an obligation, which will allow labour to gain its rightful place in the management of enterprises, as a matter of fact set out in the Constitution of the Republic of Macedonia.

## **1. The concept of information and consultation and employee involvement process – Main aspects of the European legislation**

The European Parliament and the Council of the European Union on 11<sup>th</sup> of March adopted the Directive 2002/14/EC, establishing a general framework giving employees the right to information and consultation on a range of business, employment and restructuring issues.

The impact of the directive has varied considerably between Member States, reflecting differences in the nature and extent of their existing I&C provisions.

In some countries, particularly those with mature, long-standing works council or trade union-based systems of workplace representation, the directive did not require major regulatory or institutional change. However, in a number of others, it drove extensive legislative reform – for example, in the UK and Ireland with their 'voluntary' industrial relations tradition, and in many newer Member States.

In some countries, I&C processes or the establishment of I&C bodies are mandatory. However, in most cases the application of I&C rights guaranteed by the directive is

dependent on employees or trade unions taking the initiative to trigger the establishment of I&C arrangements. In a minority of countries, constitutional provisions are regulated solely by statute. Others rely on a combination of statutory requirements and agreements at sectoral or undertaking level. In some countries, there is only limited scope for organisation or sector-specific variation, while in others collective agreements are the dominant regulatory instrument.

According to Eurofound's European Company Survey (ECS) 2009, the incidence and coverage of I&C bodies is less than comprehensive in all countries. In four countries, over two thirds of establishments have representational arrangements while three countries have less than 20% coverage. In 10 countries, fewer than half of all employees are covered. There is a marked 'size effect' in all countries with larger enterprises being much more likely to have I&C bodies. The problem of the non-implementation of I&C rights is especially acute in small workplaces.

Patterns of stability, growth or decline in the establishment of I&C bodies are evident. Seven countries, with long-standing traditions of employee consultation, have seen little change. In eight others there is evidence of a growing incidence of I&C, albeit often from a low base. In 11 countries, incidence has either declined or take-up has been low.

Governments and social partners rarely actively promote I&C. Where this occurs, it is most often undertaken by trade unions. But union ambivalence in some countries towards I&C bodies reflects fears that these could undermine unions' representational role.

### **I&C in practice**

Consultation is much less likely to take place than provision of information. It generally takes place in only a minority of enterprises. Where it does happen it is more likely to be about work-related issues than wider business matters. The effectiveness of I&C is heavily dependent on management attitudes and behaviour. Examples were given of management only providing information after taking decisions and of consultation taking place at a single meeting rather than allowing a considered employee response.

Effective representation of employees requires supportive conditions. Legal protections ensuring representatives have time off with pay to carry out their duties and are protected from detrimental treatment are virtually universal. Time off for training is less frequent. In many countries, there is access to external advice, often from trade unions. Representatives also need the opportunity to meet together to formulate responses to management proposals.

The ECS found that 62% of representatives interviewed thought they exerted strong influence on management decisions in working regulation matters, 54% on work processes, 50% on human resources planning and only 37% on structural change. There was wide variation between countries. Only a very small number of complaints about the establishment or operation of I&C bodies have been made to administrative or judicial authorities. In the very few cases where fines have been imposed, the monetary value appears to be low.

### **Relationship with other forms of employee voice**

As well as being the primary vehicle for employees' statutory I&C rights in a number of countries, trade unions also tend in practice to be strongly influential in other countries within the works councils or similar bodies that are the designated I&C bodies.

The formal separation between union-based collective bargaining and I&C can be blurred in practice and there is scope in a number of countries for I&C bodies to become involved in bargaining issues.

Direct consultation with employees is allowed in some countries either as a fall-back if no union or I&C body exists or as an alternative means of satisfying the requirements for I&C. With some exceptions, direct management communication with employees is seen as complementing collective consultation.

### **Views of the social partners**

Social partner support for national I&C frameworks is widespread but not universal. In some countries, there is a reported lack of interest among employers or unions in implementing I&C procedures.

### **Policy pointers**

The patchy evidence available makes it difficult to provide a measured assessment of I&C practice across Europe. One general conclusion is the need for more comprehensive research to generate a wider picture of the role and significance of I&C among EU/European Economic Area Member States.

The directive's flexibilities are widely reflected in national I&C legislation – through making I&C procedures dependent on employee initiative and enabling agreement-based variation. Coupled with a lack of promotion of I&C by social partners in some countries, this appears to have limited the directive's impact in driving the diffusion of I&C arrangements and setting clear standards for I&C practice.

This outcome underlines the call by the Parliament's resolution for the social partners to take 'proactive, positive steps' to influence national-level implementation, for example by disseminating good practice.

Within the European Union, the tripartite social dialogue is legally regulated by several acts. The most important are: the European Social Charter of the Council of Europe that States Parties undertake to promote parity consultation between workers and employers, the Single European Act under which the Commission received authority to take care of the development of social dialogue between the European social partners at the level of European Union, which could lead to the conclusion of the European Collective Agreement, the Community Charter of the fundamental rights of workers aimed at encouraging the dialogue between the social partners. Integral part of the legal framework of social dialogue and Directive 2002/14/EC of the European Parliament and Council of the European Union, whose main goal is the promotion of social dialogue, information or

consultation of the social partners on issues of economic, financial and organizational nature of enterprises (Annex 1 - Directive 2002/14/EC).

In the European Union, the procedures for establishing I&C bodies vary considerably between countries. In some countries, I&C bodies are mandatory, in that employers above the relevant employment threshold are (at least technically) obliged by law to establish them. Elsewhere, employees or trade unions need to take steps to trigger the establishment of I&C bodies. Brief details are provided in Table 1.

**Table 1 - National I&C bodies and procedures for establishing them**

<b>COUNTRY</b>	<b>Employee bodies/ representatives with I&amp;C rights</b>	<b>Procedures for establishing I&amp;C bodies</b>
<b>Austria</b>	Works councils	Works councils technically mandatory but in practice left to initiative of employees.
<b>Belgium</b>	Works councils	Mandatory in that employers are legally required to hold social elections for works councils but may halt proceedings if no candidates.
<b>Bulgaria</b>	Elected representatives or trade unions	10% of employees, trade unions or employers can initiate general assembly of employees to elect representatives or delegate I&C role to trade unions.
<b>Cyprus</b>	Employee (in practice TU) representatives	I&C mandatory but up to trade unions to take forward practical implementation.
<b>Czech Republic</b>	Trade unions or, where no unions present, employee councils	Trade union representation may be established by employees. Employee councils may be triggered by at least one

		third of employees.
<b>Denmark</b>	(Union-based) cooperation committees	I&C mandatory but no particular body specified. Law not applicable where collective agreement requires equivalent level of I&C. Under collective agreements, cooperation committees may be initiated by management or majority of employees, but mostly established by agreement.
<b>Estonia</b>	Employee trustees	I&C mandatory but I&C bodies not. Election of employee trustees can be initiated by trade unions, the majority of union members or at least 10% of employees.
<b>France</b>	Works councils	Works councils mandatory.
<b>Germany</b>	Works councils	Works councils not mandatory. Employees or trade unions have right to initiate.
<b>Greece</b>	Trade unions or, where no union is present, works councils	Dependent on employee initiative.
<b>Hungary</b>	Works councils	Creation of works councils obligatory where requested by trade unions or employees.
<b>Ireland</b>	Agreed, company- specific I&C arrangements or statutory I&C forums	Dependent on voluntary employer action or 10% of employees triggering statutory procedures.
	Representative trade union bodies at the	Workplace trade union bodies mandatory for employers applying collective

<b>Italy</b>	workplace. Separate I&C bodies possible	agreements. Establishment of I&C bodies obligatory if requested by workplace trade union bodies but very uncommon.
<b>Lithuania</b>	Trade unions or works councils	I&C mandatory. Where trade union or works council representatives do not exist, law requires employers to inform employees directly.
<b>Luxembourg</b>	Staff delegations or joint committees	Staff delegations/joint committees mandatory above relevant employment thresholds (15/150 respectively). Employer's responsibility to hold social elections.
<b>Malta</b>	Trade union/employee representatives	I&C mandatory for all relevant undertakings. Employees not required to trigger the introduction of I&C procedures.
<b>Netherlands</b>	Works councils	Works councils mandatory. Employees/trade unions can go to court to oblige employers to comply.
<b>Norway</b>	Trade union or other elected representatives	I&C mandatory. Employees' rights to I&C guaranteed by law but in practice most I&C arrangements regulated by collective agreements.
<b>Poland</b>	Works councils	Establishment of works councils obligatory where requested by 10% of employees.
<b>Portugal</b>	Workers' commissions	Dependent on initiative of 100 workers or at least 20% of the workforce.

<b>Romania</b>	Trade union representatives or, where no union is present, elected employee representatives	I&C mandatory by law.
<b>Slovakia</b>	Trade unions or works councils	Trade unions/works councils obligatory where requested by employees.
<b>Slovenia</b>	Employee councils	Establishment of employee councils not a duty on employers. Depends on employee initiative – usually from trade unions.
<b>Spain</b>	Workers' committees (workers' delegates in undertakings with <50 employees)	Workers' committees/delegates may by law be established by employees or representative trade unions.
<b>Sweden</b>	Trade union representatives	I&C mandatory but specific I&C bodies are not. I&C practice and procedures generally regulated by collective agreements.
<b>UK</b>	Agreed, company-specific I&C arrangements or statutory I&C representatives	Dependent on voluntary employer action or 10% of employees triggering statutory procedures.

## **2. The place of the process of I&C in the Macedonian legislation**

With the Labour Relations Law the labor relations between workers and employers are established by signing an employment contract. Matters of employment and other labor issues are also regulated by other laws and collective agreements.

Apart from the Constitution of the Republic of Macedonia, the foundation and framework for the regulation of relations in this law are also several conventions of the International Labour Organization, as well as primary and secondary legislation of the European Union in the field of labor. Much of the norms contained in the ILO Conventions and Recommendations and the separate Directives of the European Union have been incorporated into the law, to ensure proper compliance of the Law with primary and secondary EU labor legislation. But separate Directives have not been fully transposed, and in the meantime new Directives were adopted, and harmonization process, the course and dynamics is conditional on the content or the obligations and other conditions resulting from the separate Directives.

The process of joining the European Union requires the country to fulfill a complex set of obligations, including the harmonization of legislation in the social field.

In 2010, as part of the process of harmonization of labor legislation with the EU legislation, the Parliament of the Republic of Macedonia adopted amendments to the Labour Law (Official Gazette of the Republic of Macedonia b.124/10) where, among other things, partially transposing the provisions of Directive 2001/14/EC.

The changes were as follows:

### ***"Informing and consulting employees***

#### ***Article 94-a***

*(1) Informing workers means data transmission by the employer to the workers' representatives in order to enable them to acquaint themselves with the subject matter and to examine it.*

*(2) Consultation means the exchange of views and establishment of dialogue between the representatives of the employees and the employer.*

*(3) The obligation to inform and consult concerning trading company, public company or other legal entity employing more than 50 workers and establishments employing more than 20 workers.*

*(4) Information and consultation includes information on nearby and likely trends of the activities of the company, public company or other legal entity or institution and their economic condition, situation, structure and probable course of employment in the company, public company and other legal entity or establishment and on any anticipatory measures envisaged, in particular where there is a threat to employment, decisions likely to lead to substantial changes in work organization or in contractual relations.*

*(5) 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.*

*(6) Consultation shall take place:*

- while ensuring that the timing, method and content thereof are appropriate;*
- at the relevant level of management and representation, depending on the subject under discussion;*
- on the basis of information supplied by the employer and of the opinion which the employees' representatives are entitled to formulate;*
- in such a way as to enable employees' representatives to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate;*
- with a view to reaching an agreement on decisions within the scope of the employer's powers.*

*(7) The provisions of Article 94 of this Law shall not apply to personnel of ships that sail the high seas.*

### ***Information and consultation in collective dismissals for business reasons***

#### ***Article 95***

*(1) If an employer intends to make a decision on termination of employment of a larger number of workers for business reasons, i.e. at least 20 workers for a period of 90 days at each termination of employment, regardless of the total number of workers with the employer, it is considered a collective dismissal for business reasons.*

*(2) Where an employer intends to carry out collective dismissals, it is obliged to launch a process of consultation with workers' representatives, at least one month before the start of collective dismissal and to provide them with all relevant information before the start of the consultation, in order to achieve agreement.*

*(3) Consultations in paragraph (2) of this Article cover the least ways and means of avoiding collective dismissals, reducing the number of laid-off workers or to mitigate the consequences by recourse to accompanying social measures to help laid-off workers re-employ or train.*

*(4) To enable workers' representatives to prepare constructive proposals, the employers shall provide all relevant information during the consultation time as follows:*

- 1) the reasons for the planned layoffs;*
- 2) the number and categories of workers who are laid off;*
- 3) the total number and categories of workers who are employed and*
- 4) the period of planned layoffs should occur.*

*(5) Information and consultation obligations apply regardless of whether the decision on collective dismissals shall be adopted by the employer or the person performing the control of the employer. In considering alleged breaches of the obligations of informing,*

*consulting and reporting will not be considered any justification of the employer which is based on the fact that the company, a public company or other legal entity that made the decision for collective dismissals are not providing the requested information to employer.*

*(6) The employer is obligated upon completion of the consultations referred to in paragraph (2) of this Article to give written notice to the service responsible for employment mediation for employment assistance and mediation services, in accordance with the law. This notice shall contain all relevant information concerning the projected collective dismissals and consultations with workers' representatives provided for in paragraph (3) of this Article, in particular the reasons for the layoffs, the number of workers who are laid off, the total number of employees with the employer and period that layoffs should occur.*

*(7) Employers shall provide to the workers 'representatives a copy of the notice submitted to the department responsible for employment mediation, after which the workers' representatives may submit their proposals to the department responsible for employment mediation.*

*(8) The employer is obliged to submit the notification of planned collective dismissal to the competent employment mediation service no later than 30 days prior to the decision on the termination of employment of the workers.*

*(9) If the period referred to in paragraph (7) of this article is shorter than 60 days, employment mediation service may request an extension of time until 60 days after the notification, if the problems arising from the planned collective dismissals cannot be solved in within the initial period.*

*10) The provisions of this Article shall not apply to collective dismissals arising from the termination of the institution's activities because of the court decision, the fixed-term employment contracts and in the public administration bodies. "*

In the General Collective Agreement for the private sector in the field of economy (Official Gazette of the Republic of Macedonia 124/10) pertaining to all employers, the section regarding information and consultation is in Article 52 and 52a as follows:

***“XI. INFORMATON OF WORKERS***

***Article 51***

*Once a year, or when needed, the employer is obliged to inform the workers on the issues important for their financial and social situation.*

*The information is made in an appropriate way for the information to be transmitted, and can refer to all workers or to a group of workers.*

*The information can be in written or verbal, through authorized representative.*

***Article 52a***

*Consultation means the exchange of views and establishment of dialogue between the representatives of the trade union or employees and the employer whenever necessary in cases determined by law, and in particular on the economic situation, decisions that can lead to substantial changes in work organization or in contractual obligations in case of transfer of a company or parts of the company, and where the employer intends to carry out collective dismissals.”*

In the Branch Collective Agreement pertaining to employees in the agriculture and foodstuff industry, the section regarding information and consultation is in Article 112, as follows:

***“XI. NOTIFICATION OF EMPLOYEES***

***(Communication between the employer and the Trade Union)***

***Article 133***

*Employers ensure compulsory regular and timely notification of the employees on the business and development solutions resulting from the influence of the economic and social status of employees, and particularly for:*

- *annual and several-year development plans;*
- *organizational changes;*
- *decision regulating the rights resulting from employees' employment;*
- *annual business results;*
- *other important business and development solutions;*
- *other issues of mutual interest.*

*Notification is done in writing, and for certain matters orally as well, and it may be done through newspapers, bulletin, at meetings or in other way determined but the employer or by employer-level collective agreement."*

### **3. Behavior and stereotypes in the process of information and consultation in agriculture**

Although the principle of informing and consulting as a European achievement contributed into the awareness of all the factors in the state, that it should become an obligation of the employers and the union, however the agricultural complex still encounters problems in practice.

Although it is stated in the General Collective Agreement for the private sector in the field of economy that there should be an authorized representative for information and consultation, unlike in the EU countries, in Macedonia it is not specified and is not applied in practice.

Namely, the issue of information and consultation is relevant and applicable in the larger agricultural companies in Macedonia that employ more than 50 employees, where the employer is legally obliged to inform employees about the issues in the company. Medium and small enterprises encounter difficulties because the employers are not legally obliged to inform and consult. Workers are usually informed about the processes in the

company when they have been completed, with no option for consultation or inclusion. They are silent observers of the situation in their companies. These conditions are primarily due because of the weak union membership activity in small and medium enterprises that employ fewer workers on a permanent basis, because they have a large number of seasonal workers. Due to the weak protected seasonal workers in the labor laws, the union has very little legal possibilities to organize this type of workers, and also because of the fact that employers do not want to create conditions for their better protection. Namely, despite union demands employers to inform and consult trade unions on the number and period of employment of seasonal workers, employers avoid this cost, because in accordance with the legal provisions of the Labour Law they are not directly binded.

Agro Sindikat is interested to help improve the working situation of seasonal workers in R. Macedonia and has already started activities by giving suggestions to the parliamentary committees and to the Ministry of Labour and Social Policy to amend Labor Code section on seasonal workers to improve their position and compulsory trade union information and consultation of their employment.

And not only seasonal workers, generally in Macedonia all employees in small and medium enterprises, and sometimes those employed in larger companies are often surprised by the decisions of employers that have a negative impact upon them. A company suddenly shuts down, announcing mass layoffs, introduces short work or revocation of certain social achievements upon which employees or the union have not been consulted or informed.

All information the employer collects and processes are aligned with such interest in order for him to decide where, how and what will be produced in the enterprise, how to organize the work, that he alone decides what information and data will be collected, stored, processed and forwarded. One of the most important information for workers in the enterprise is the situation with the profit. The actual picture in Macedonia is that employers usually do not submit accounts for their own profit or if they do, it is performed superficially, not showing the true picture. Due to lack of information and consultation representative, the employer is trying to isolate the active trade unionists. If it is necessary

to undertake massive layoffs to close parts of the company or to conduct massive rationalization measures, then according to entrepreneurial logic employer match its employees to be informed about the situation later, to avoid "riots", to prevent premature departure of the professional force and not to endanger good name of the enterprise.

#### **4. Conclusions and recommendations**

In R. Macedonia there is a law for European works council for multinational companies. It is a law to establish a procedure for information and consultation within the companies and groups, establishing a legal framework to regulate the provision and promotion of the right of employees to information and consultation on transnational issues in the companies and their groups working on the level of EU, through the establishment of European works council by implementing Directive 94/45/EC or agreement to establish procedures for informing and consulting (Directive 2002/14/EC).

Transnational issues are issues concerning the interests of employees and related conditions with the ongoing operations of these companies and development plans and prospects, financial condition, status issues, needs and perspectives of the needs of the workforce etc. The aim is to promote social dialogue between the social partners.

The law specifically governs the conditions and manner of information and consultation in multinational companies.

But while this law is passed, it takes effect when Macedonia will become part of the European Union. Only one company in Macedonia has applied this law.

Trade unions can not afford a vacuum to be created in the development of labor relations while Macedonia becomes part of the European family, but through its own mechanisms needs to implement the system for informing and consulting in the companies, trying to properly implement Directive 2002/14/EC in the collective agreements at Branch

and at the level of employer. For this purpose, the Council of the Agro Sindikat, on its meeting held on 21.12.2012 adopted a Decision that every trade union should elect a representative for information and consultation inside their union structures. At the level of the bipartite social dialogue regarding the branch collective agreements in the sectors covered by Agro Sindikat, the question of the election of representative for information and consultation representative was also raised. The elected representative should be protected in a similar way as other elected union representatives, to have immunity to have the right to be informed and consulted by the employer for all processes in the company that affect its employees, regardless of the number of employees in the enterprise. The process of choosing representatives has started. In some collective agreements at level of employer, this issue is inserted as a new Article s follows:

#### **"Article X**

*The employer is obliged under Article 94-a of the Labor Law to consult and inform the union on all matters relating to social economic and financial status of employees in the company in particular:*

- Any measures envisaged concerning significant changes in the operations of the company after the threat of employment or termination of employment;*
- Before making decisions on substantive changes it intends to implement the employer must be submitted in writing to the union to be able to timely prepare for consultation.*

*Consultation and reporting will be conducted in a manner that will allow the union at any time to meet the employer and obtain a response for each question that you ask.*

*The level of employer union elected representative who participates in all matters in the interest of the company.*

*Representative for information and consultation enjoys immunity as well as union representatives and representatives for Safety and Health at Work. "*

If the employees are better informed about the developments and the situation in the enterprise, the greater their interest in the company, because they feel more responsible for the development of the enterprise and work more efficiently.

# **Annex 1.**

## **Directive 2002/14/EC**

### **Article 1**

#### **Object and principles**

1. The purpose of this Directive is to establish a general framework setting out minimum requirements for the right to information and consultation of employees in undertakings or establishments within the Community.

2. The practical arrangements for information and consultation shall be defined and implemented in accordance with national law and industrial relations practices in individual Member States in such a way as to ensure their effectiveness.

3. When defining or implementing practical arrangements for information and consultation, the employer and the employees' representatives shall work in a spirit of cooperation and with due regard for their reciprocal rights and obligations, taking into account the interests both of the undertaking or establishment and of the employees.

### **Article 2**

#### **Definitions**

For the purposes of this Directive:

(a) "**undertaking**" means a public or private undertaking carrying out an economic activity, whether or not operating for gain, which is located within the territory of the Member States;

(b) "**establishment**" means a unit of business defined in accordance with national law and practice, and located within the territory of a Member State, where an economic activity is carried out on an ongoing basis with human and material resources;

(c) "**employer**" means the natural or legal person party to employment contracts or employment relationships with employees, in accordance with national law and practice;

(d) "**employee**" means any person who, in the Member State concerned, is protected as an employee under national employment law and in accordance with national practice;

(e) "**employees' representatives**" means the employees' representatives provided for by national laws and/or practices;

(f) "**information**" means transmission by the employer to the employees' representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it;

(g) "**consultation**" means the exchange of views and establishment of dialogue between the employees' representatives and the employer.

### **Article 3**

#### **Scope**

1. This Directive shall apply, according to the choice made by Member States, to:

(a) undertakings employing at least 50 employees in any one Member State, or

(b) establishments employing at least 20 employees in any one Member State.

Member States shall determine the method for calculating the thresholds of employees employed.

2. In conformity with the principles and objectives of this Directive, Member States may lay down particular provisions applicable to undertakings or establishments which pursue directly and essentially political, professional organisational, religious, charitable, educational, scientific or artistic aims, as well as aims involving information and the expression of opinions, on condition that, at the date of entry into force of this Directive, provisions of that nature already exist in national legislation.

3. Member States may derogate from this Directive through particular provisions applicable to the crews of vessels plying the high seas.

## **Article 4**

### **Practical arrangements for information and consultation**

1. In accordance with the principles set out in Article 1 and without prejudice to any provisions and/or practices in force more favourable to employees, the Member States shall determine the practical arrangements for exercising the right to information and consultation at the appropriate level in accordance with this Article.

2. Information and consultation shall cover:

(a) information on the recent and probable development of the undertaking's or the establishment's activities and economic situation;

(b) information and consultation on the situation, structure and probable development of employment within the undertaking or establishment and on any anticipatory measures envisaged, in particular where there is a threat to employment;

(c) information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations, including those covered by the Community provisions referred to in Article 9(1).

3. 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.

4. Consultation shall take place:

(a) while ensuring that the timing, method and content thereof are appropriate;

(b) at the relevant level of management and representation, depending on the subject under discussion;

(c) on the basis of information supplied by the employer in accordance with Article 2(f) and of the opinion which the employees' representatives are entitled to formulate;

(d) in such a way as to enable employees' representatives to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate;

(e) with a view to reaching an agreement on decisions within the scope of the employer's powers referred to in paragraph 2(c).

## **Article 5**

### **Information and consultation deriving from an agreement**

Member States may entrust management and labour at the appropriate level, including at undertaking or establishment level, with defining freely and at any time through negotiated agreement the practical arrangements for informing and consulting employees.

These agreements, and agreements existing on the date laid down in Article 11, as well as any subsequent renewals of such agreements, may establish, while respecting the principles set out in Article 1 and subject to conditions and limitations laid down by the Member States, provisions which are different from those referred to in Article 4.

## **Article 6**

### **Confidential information**

1. Member States shall provide that, within the conditions and limits laid down by national legislation, the employees' representatives, and any experts who assist them, are not authorised to reveal to employees or to third parties, any information which, in the legitimate interest of the undertaking or establishment, has expressly been provided to them in confidence. This obligation shall continue to apply, wherever the said representatives or experts are, even after expiry of their terms of office. However, a Member State may authorise the employees' representatives and anyone assisting them to pass on confidential information to employees and to third parties bound by an obligation of confidentiality.

2. Member States shall provide, in specific cases and within the conditions and limits laid down by national legislation, that the employer is not obliged to communicate information or undertake consultation when the nature of that information or consultation is such that, according to objective criteria, it would seriously harm the functioning of the undertaking or establishment or would be prejudicial to it.

3. Without prejudice to existing national procedures, Member States shall provide for administrative or judicial review procedures for the case where the employer requires confidentiality or does not provide the information in accordance with paragraphs 1 and 2. They may also provide for procedures intended to safeguard the confidentiality of the information in question.

## **Article 7**

### **Protection of employees' representatives**

Member States shall ensure that employees' representatives, when carrying out their functions, enjoy adequate protection and guarantees to enable them to perform properly the duties which have been assigned to them.

## **Article 8**

### **Protection of rights**

1. Member States shall provide for appropriate measures in the event of non-compliance with this Directive by the employer or the employees' representatives. In particular, they shall ensure that adequate administrative or judicial procedures are available to enable the obligations deriving from this Directive to be enforced.

2. Member States shall provide for adequate sanctions to be applicable in the event of infringement of this Directive by the employer or the employees' representatives. These sanctions must be effective, proportionate and dissuasive.

## **Article 9**

### **Link between this Directive and other Community and national provisions**

1. This Directive shall be without prejudice to the specific information and consultation procedures set out in Article 2 of Directive 98/59/EC and Article 7 of Directive 2001/23/EC.

2. This Directive shall be without prejudice to provisions adopted in accordance with Directives 94/45/EC and 97/74/EC.

3. This Directive shall be without prejudice to other rights to information, consultation and participation under national law.

4. Implementation of this Directive shall not be sufficient grounds for any regression in relation to the situation which already prevails in each Member State and in relation to the general level of protection of workers in the areas to which it applies.

## **Article 10**

### **Transitional provisions**

Notwithstanding Article 3, a Member State in which there is, at the date of entry into force of this Directive, no general, permanent and statutory system of information and consultation of employees, nor a general, permanent and statutory system of employee representation at the workplace allowing employees to be represented for that purpose, may limit the application of the national provisions implementing this Directive to:

(a) undertakings employing at least 150 employees or establishments employing at least 100 employees until 23 March 2007, and

(b) undertakings employing at least 100 employees or establishments employing at least 50 employees during the year following the date in point (a).

## **Article 11**

### **Transposition**

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive not later than 23 March 2005 or shall ensure that management and labour introduce by that date the required provisions by way of agreement, the Member States being obliged to take all necessary steps enabling them to guarantee the results imposed by this Directive at all times. They shall forthwith inform the Commission thereof.

2. Where Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

## **Article 12**

### **Review by the Commission**

Not later than 23 March 2007, the Commission shall, in consultation with the Member States and the social partners at Community level, review the application of this Directive with a view to proposing any necessary amendments.

## **Article 13**

### **Entry into force**

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

## **Article 14**

### **Addresses**

This Directive is addressed to the Member States.