



Federation of Independent  
Trade Unions in Agriculture

# EXPERT REPORT



**EUROPEAN PROJECT** VS/2012/003/0305  
**INFORMED AND EXPERIENCED FOR SUSTAINABLE AGRICULTURE**



This project is supported by the European Union, European Commission,  
GD „Employment, Social Affairs and Inclusion“







# Informed and experienced for sustainable agriculture

enhancing the information and consultation capacity of the  
social partners in the agricultural sector<sup>1</sup>

## **EXPERT REPORT**

### *PROJECTIVES NETWORK*

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1 The project is co-financed by the European Commission. Reference: VS/2012/003/0305

## Mission Background

The mission assigned to us focuses on issues relevant to the provision of support to the Project Steering Committee. In view of this, we addressed the following:

- Development of a reference baseline;
- Drafting a questionnaire for studying both the information and consultation process and the attitudes and behavior with respect to information and consultation in the agricultural sector;
- Change management – an analysis of the conflict resolution methodology by providing examples from European countries;
- The EU legislation regarding workers' and employees' participation in the partner member states;
- The impact of the legal framework in the area of information and consultation on the development of the system of industrial relations in agriculture in the new member states (the planned economy systems of the former members of the Council for Mutual Economic Assistance and the changes occurring under the conditions of market economy);
- Procedures for informing and consulting small- and medium-sized enterprises in agriculture;
- The interrelation between I and C<sup>2</sup> and the process of corporate good governance and social responsibility.

This report presents our study which encompasses a number of relevant elements:

- A study of the topic at the European and national levels;
- Questionnaires submitted to the project partners, including surveys among employees and employers in the new member states;
- Preliminary working meetings (prior to the study).

We extend our gratitude to the management who allocated the time needed to ensure the preparation work.



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## **CHAPTER I**

### **INFORMATION – CONSULTATION**

#### **EUROPEAN FRAMEWORK AND NATIONAL MECHANISMS**



## I -Information – Consultation :What is it about ?

Directive 2002/14/EC introduces a common minimum framework to be applied across all undertakings in the EEA, including public and private undertakings, commercial and non-profit ones. The member states can choose to provide for the information and consultation procedure to be introduced either in undertakings which employ at least 50 employees or in various establishments which employ at least 20 employees. The information procedure shall be conducted with the senior decision-makers in conformity with the following definition: „*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.*“ (Art. 3).

## II – European framework

(Source : ETUI)

Information shall be given:

- *“at such time ..... and with such content as 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” (Art. 4)*
- *the consultation procedure shall also “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” (Art. 4)*

We should emphasize the importance of Directive 2002/14/EC in spite of the fact that the Directive has not contributed to any changes in the legal provisions regarding information and consultation in many countries, such as France, Germany, Belgium, the Netherlands, as the domestic legislation of these countries was already in line with the relevant requirements. In some countries, such as the UK, Poland and the Czech Republic, the amendments to the legislation resulting from the transposition of the Directive were not welcomed with enthusiasm by the trade unions as some aspects were contrary to their traditions and the structures in place.

The local information and consultation bodies within multinational companies should, of course, keep in touch either with the European Works Councils or with the relevant workers’ and employees’ representative bodies.

Information and consultation consist of:

- 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 (Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies and Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses)(Art. 4)

### **III – National mechanisms**

The texts below are relevant to all sectors. For the purpose of the study conducted in a number of countries, we proposed that a special item for agriculture be added. Our comments have been inspired by two Eurofund studies:

1. Impact of the information and consultation directive on industrial relations – Eurofund, March 2009 – see website :  
<http://www.eurofound.europa.eu/eiro/studies/tn0710029s/index.htm>
2. INFORMATION AND CONSULTATION PRACTICE ACROSS EUROPE FIVE YEARS AFTER THE EU DIRECTIVE– see website :  
<http://www.eurofound.europa.eu/eiro/studies/tn1009029s/tn1009029s.htm>

NB: In most cases only the elements relevant to the project partners were used, except for FYROM which has not acceded to the EU.

#### **European legal framework:**

The member states had a deadline, 23 March 2005, for ensuring either that the laws, regulations and administrative arrangements transposing the Directive are in place or that the procedure is properly managed in the event of an existing mutual agreement.

This time limit for the transposition of the Directive was applied with respect to the 14 “old” member states (EU-15) and the 10 states which acceded to the EU in May 2004 (EU-10), as well as to Iceland, Lichtenstein and Norway. The two new member states – Bulgaria and Romania – were obliged to take measures for the implementation of the Directive following their accession, 1 January 2007.



**Transposition of the Directive – mechanisms for application in the partner countries:**

BULGARIA	GERMANY	FRANCE	ITALY	ROMANIA
The Directive has been transposed by means of amendments to the Labor Code – a special new chapter has been introduced. The draft of the amendments was ensured by an expert working group consisting of the nationally representative social partners and the public authorities	The successive German governments deemed the transposition of Directive 2002/14/EC unnecessary, as the German legislation regarding joint management, in particular the 1972 Works Council Constitution Act (Betriebsverfassungsgesetz) (amended), goes beyond the scope of the requirements laid down in the Directive in terms of information and consultation.	The Directive has been transposed by means of Law No 2005-32: Social Cohesion Programming Act. This law has set a new beginning in the development of national debates. While it incorporates the European objectives, they are not the real driving force of development. It is since 1945 that France has had a system for informing and consulting employees based on works councils in enterprises (such councils being established in enterprises with least 50 employees)	Decree No 25/2007 adopted on 22 March 2007 transposes the European Directive 2002/14/EC and strengthens the employees' entitlement to information and consultation. The Decree is applied with respect to any employers (both legal and natural persons) involved in either private or public entrepreneurial activities, including non-for-profit ones.	In Romania Directive 2002/14/EC has been transposed by means of Law 476/2006, which came into force in January 2007 when the country joined the EU.

Three member states – Austria, Germany and Slovenia – assessed their domestic legislation as being in line with the requirements set out in the Directive regarding information and consultation or as being beyond the scope thereof, which implies derogation from the obligation to transpose the Directive. Subsequently, however, Slovenia declared its intention to transpose the Directive and made some amendments to the effective legal provisions. As for the remaining 22 member states that were under the obligation to ensure the implementation of the Directive by 23 March 2005, only eight of them – Finland, France, Hungary, Lithuania, the Netherlands, Portugal, Slovakia and the UK – had taken the necessary measures for the purpose of transposition. Cyprus, Denmark, Latvia and Sweden joined the group of these countries in 2005.

The European Commission instituted an infringement procedure in relation to the Directive against the other member states, except for the Czech Republic (probably, due to the relatively minor measures needed for the implementation of the Directive, which were taken in 2006 and 2007). After Estonia, Ireland, Malta and Poland ensured the transposition of the Directive in 2006, the infringement proceedings against them were terminated. The proceedings against Belgium, Greece, Italy, Luxemburg and Spain were referred to the Court of Justice of the EU. In its judgments of March and September 2007, ECJ states that Belgium (C-320/06), Greece (C-381/06), Italy (C-327/06), Luxemburg (C-321/06), and Spain (C-317/06)

have failed to meet their obligations under the Directive.

### The status of the legal framework regarding information and consultation after the transposition of Directive 2002/14/EC in the two new member states

COUNTRY	NEW PROCESSES
<b>Bulgaria</b>	In enterprises with at least 50 employees, as well as in branches with at least 20 employees, the employees' General Assembly can be convened at the request of 10% of the employees. The General Assembly is entitled to elect employees' representatives, who will take part in the information and consultation procedures in relation to the issues laid down in the Directive. There are two options: the GA can either elect the above representatives or empower the trade union organizations to do so. These representatives shall be informed and consulted in the event of planned mass redundancies or transfer of workers.
<b>Romania</b>	Where the enterprise has at least 20 employees, the employer shall be obliged, in conformity with the requirements of the Directive, to inform and consult the employees' representatives. The information and consultation process shall be referred to the trade union organization in case the enterprise has such an organization, and to the lawfully elected representatives of the employees in case the enterprise does not have a trade union organization. The information and consultation arrangements can be defined in the collective bargaining agreements.

In terms of the minimum number of employees in undertakings needed for the requirements regarding information / consultation or works councils to be applied, the 13 member states have set the threshold of 50 persons (this threshold conforms to the Directive). The majority of the other countries have set lower thresholds, while in some countries, such as Latvia, Lithuania, Slovenia and Sweden, the legislation concerning information and consultation is applied irrespective of the size of the enterprise. In Belgium and Luxemburg, as a result of controversial opinions on lowering the thresholds for the establishment of works councils compared to the existing ones of respectively 100 and 150 employees, the implementation of the Directive was delayed. In some countries there are few enterprises that can meet the thresholds, which explains the relatively poor coverage of the information and consultation procedure. This is why, some countries have set lower thresholds than the ones defined in the Directive – for example, Estonia and Cyprus have thresholds of at least 30 employees.

The countries vary in terms of the approach to defining information and consultation as mandatory for employers, and the employees' entitlement to initiate an information and consultation procedure. Hence, the member states can be grouped into three big categories:

- Countries where employers are obliged to conduct consultation and information irrespective of the existence of employees' representatives. This is the case with many countries, such as Cyprus, the Czech Republic, Denmark, Estonia, Finland, **France, Italy**, Latvia, Luxemburg, Malta, the Netherlands, Norway, Portugal, Romania, Slovakia, Spain and Sweden. While employees have the right to directly re-



ceive some kinds of information, they must take measures to initiate a consultation procedure. Hungary presents a similar situation;

- Countries where information and consultation are mandatory in case the enterprise has a works council, a trade union organization or another form of employees' representation. This is the case with Austria, **Germany**, Lithuania, and Slovakia;
- Countries where the employees have to initiate the information and consultation procedure – **Bulgaria**, Germany, Greece, Ireland, Poland, Slovenia, the UK.

Most member states do not seem willing to avail themselves of the Directive provision allowing them to regulate the possibility for social partners to conclude information and consultation agreements which do not fully comply with the Directive requirements. Nevertheless, there are many cases where the national legislation stipulates that such agreements concluded on a voluntary basis shall meet the minimum legal requirements, i.e. shall not determine a lower level of requirements in terms of the scope of both the information provided to employees and their entitlement to consultation. Such an approach has been adopted, for example, in the Czech Republic, Lithuania, Malta, the Netherlands, and Slovenia.

The reality behind this general situation varies across sectors – the presence of a body representing employees depends, on the one hand, on the size of the enterprise, and, on the other hand, on the level of trade union association (information and consultation arrangements are more probable to be in place in undertakings which have a trade union organization: by means of the existing collective bargaining agreements or the establishment of a works council). While these two factors are present in the public services sector, some countries exclude the public administration from this process – Bulgaria, Estonia, Poland, Slovenia, and Spain.

By and large, the construction and services sectors have a lower coverage compared to the industry – this is the case with France, Italy, the Netherlands, Norway, and Slovakia. While defining the trend in the development of this mechanism proves to be difficult, we can distinguish the existence of three models at present:

“Stable” models	“Upward” models	“Downward” models
Austria, Belgium, Denmark, <u>Germany</u> , the Netherlands, Norway, and Sweden	Estonia, <u>France</u> , Luxemburg, Poland, Slovakia, Slovenia, Spain, and the UK	<u>Bulgaria</u> , Cyprus, the Czech Republic, Greece, Hungary, Ireland, Italy, Lithuania, Malta, Portugal, and <u>Romania</u>

**The “stable” models** are typical for “mature” countries where I and C procedures are conducted on a regular basis. Partnership and participation seem to have a high value in the culture of these countries, while the Directive itself has a relatively weak impact.

**“Upward” models** – while none of these countries shows any significant development in I and C measures, there are cases of tangible improvement, e.g. Poland where the number of works councils has been on the increase due to the high economic growth and the increasing number of employees in small enterprises. In France and Estonia the restructuring activities have been the driver for the broadening scope of the application of the mechanism. Slovenia has witnessed a growing awareness of the feasibility of workers' participation, in particular as a consequence of the failed Employees' Financial Involvement Act. The United Kingdom has marked some development in terms of I and C provisions, in particular in multinational companies.

**“Downward” models** – the trade unions either serve as the only model for the implementation of I and C provisions or play a dominant role. By way of rule, the trade unions do

not trust the structures at the enterprise level, and explain this lack of confidence with their concerns with manipulation from the enterprises themselves. In Cyprus and Romania the employers' indifference is indicated as the reason for the lack of dynamics in I and C procedures. Portugal adds yet another factor: the extremely high number of employees required for initiating an I and C procedure. Hungary seems to be faced with a structural issue, as there is some ambivalence and competition between works councils and trade union organizations.

The Eurofund study highlights the very limited amount of documentation providing evidence about the activities of social partners or the governments' failure to encourage the development of I and C procedures. The countries in the northern dimensions of the EU do not deem this role as inherent to the competences of the state, while many countries uphold the view that this a matter to be dealt with by the social partners themselves. There are, of course, exceptions, such as Belgium (the Belgian government urges employees to put forward their nominations); the Netherlands where joint efforts and activities have improved; Poland where works councils are supported by means of training and legal advice by an NGO<sup>3</sup> and are funded by the Polish government and the EEA.

Furthermore, the study emphasizes the numerous challenges in the development of this process. While the study mentions the lack of enthusiasm among trade union organizations in many countries, the main focus is on the following hurdles:

- *The indifference or the lack of enthusiasm among employers (Denmark, Germany, Hungary, Lithuania, the Netherlands, Poland, Slovenia, Slovakia, the UK);*
- *The negative attitude of employers towards the I and C bodies (Austria, Belgium, Bulgaria, Germany, France, and Slovakia);*
- *The difficult role played by the employees' representative and the difficulties in identifying nominees for this role (Belgium, Germany, France, and the Netherlands);*
- *The lack of trade union organizations / the low level of trade union association (Denmark, Hungary, Luxemburg, Norway, Sweden);*
- *The lack of information concerning employees' entitlement to I and C (Denmark, Estonia, Ireland, and Poland);*
- *The low level of sanctions or even the lack of sanctions for failure to observe the I and C obligations (Austria, Estonia, and Malta);*
- *The employees' representative bodies in the I and C procedure are weak due to the general nature of the legal framework (Greece, Slovenia, and the UK);*
- *The high threshold for the number of employees required for the establishment of an employees' representative body which will take part in I and C (Ireland, Poland, and the UK);*
- *Employees' satisfaction with the reconciliation of informal interests (Austria);*
- *Preference for the trade union representation of employees (Greece);*
- *The lack of representation of employees (Lithuania).*

### **The right to support from external advisors:**

The access to external expert advice may prove a valuable resource, as employees' representatives usually do not have either experience with employment relations or management expertise. The experience varies across countries.

The situation is, as follows (source – the above quoted Eurofund study):

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3      NGO: Non-governmental organization



COUNTRY	ACCESS TO EXTERNAL EXPERT ADVICE
AUSTRIA	Labor chamber/consultants who can attend the meetings and whose remuneration is ensured by the works council.
BELGIUM	Peer reviewer. The local trade union leaders can act both as trainers and experts
BULGARIA	The employees' representatives are not entitled to external expert advice.
CZECH REPUBLIC	The trade unions of advisory and legal departments (services), and sometimes paid consultants are used for that purpose.
DENMARK	Cooperation boards consisting of representatives of the main trade union and the employers' federations. Where needed, the trade unions can request external expert advice and hire consultants.
ESTONIA	While the access to external experts is possible, there are no rules in place to regulate the remuneration for the services. The use of external consultants is conditional on agreements concluded on the local level.
FRANCE	Access to a certified accountant (the works council) and a technology expert (in enterprises with more than 300 employees). The remuneration is ensured by the employer. The funds for consultations pertaining to the EU, and commercial and legal matters come from the budget of the works council (for the purpose of I and C).
GERMANY	The works council may, with the employer's consent, approach external experts for consultations, for whom the remuneration is ensured by the employer.
GREECE	There is frequent demand for expert advice, in particular advice from lawyers. Trade union leaders can also provide advice and experts
HUNGARY	External expert advice is not explicitly ruled out, but a special agreement is needed to this end. Such advice is rarely used in practice due to the difficulties in securing the remuneration. The sector trade unions render assistance through lawyers and experts
IRELAND	The trade unions provide expertise. They rarely approach external experts. The informal group "Association of workers dismissed from Dell" offers consultations to the employees who are not trade union members.
ITALY	The trade unions are entitled to provide advice and to hire external consultants at the expense of the trade union
LITHUANIA	The sector trade unions and the central ones can provide high-quality assistance. The members of the workers councils who are not trade union members are not entitled to membership in external organizations and do not have the resources needed for support.

<b>LUXEMBURG</b>	The employees' representatives and the most representative trade union have the right to hire consultants for the purpose of addressing specific matters (in large enterprises) or matters submitted in parallel for consideration to an external employers' organization and an external trade union organization.
<b>MALTA</b>	While the employees' representatives have the right to use legal services from the trade union organizations, so far there have been no signs of the existence of such practice.
<b>THE NETHERLANDS</b>	The works council is entitled to seek peer review and advice, provided it has notified the enterprise. Where the works council has a budget, it pays for the service; where it does not have a budget, the expenses are covered by the enterprise. An increasing number of disputes over the payment for services rendered have been settled in court.
<b>NORWAY</b>	External consultants can be used, while the enterprise has the obligation to provide the information needed. Such services are usually paid for by the employer. The trade unions also offer expertise.
<b>POLAND</b>	The works councils can demand advice from external experts; as from 2009 such consultations are remunerated by the employer. 91% of the employees' representatives deem external expertise necessary.
<b>POTRUGAL</b>	The trade union organizations are entitled to provide consultations and support at their expense.
<b>ROMANIA</b>	The assistance is ensured by the trade union federations and confederations.
<b>SLOVAKIA</b>	The trade union organizations themselves render consultations to the bodies consisting of trade union members; they do so at their own expense.
<b>SLOVENIA</b>	The works councils are entitled to invite experts from the employer and the trade unions. ZSDS renders consultations on legal matters to the members.
<b>SPAIN</b>	The trade unions are entitled to provide consultations and to use experts on technical issues, when the need be.
<b>SWEDEN</b>	The trade unions render consultations. Expert advice is used for the purpose of issues concerning labor conditions and legal matters.
<b>THE UNITED KINGDOM</b>	The trade unions can provide consultations to trade union organizations. The employees who are not members of trade union organizations have access to external consultants, which is conditional on the employer's consent.



## **CHAPTER II**

### **NATIONAL REPORTS**

#### **OLD MEMBER STATES – NEW MEMBER STATES AND CANDIDATE COUNTRIES**

# REPORT ON GERMANY

Partner - IBGAU

## I – General background

Population	81.802.000 inhabitants
Coverage of collective bargaining	62%
Relative share workers who are members of trade union organizations	19%
Collective bargaining takes place mainly	At the sector level
Representation in the workplace	Works council
Representation at the board of directors level	Yes: public and private enterprises

## II – General situation regarding information and consultation – *Practices to be reviewed and reconsidered*

**Source: [www.worker.participation.eu/systemes-nationaux](http://www.worker.participation.eu/systemes-nationaux) - this source is also used for the other countries included in the report, except for FYROM)**

### 2.1. National context:

Only one-fifth of the workers and employees are trade union members, and the rate of trade union association has been dropping since the early 90's: this is partly due to mass redundancies in the East German manufacturing sector following the unification of the two parts of Germany. The prevailing majority of the trade union members are united in the main trade union confederation DGB. Its trade union members, such as IG Metall and Ver.Di, enjoy a considerable degree of autonomy and influence.

Collective bargaining is conducted by the trade unions and the employers' organization mostly at the sector level. It should be emphasized, however, that the system is subject to pressure – some employers either leave the employers' organizations or are reluctant to join them, and the agreements allow for more flexibility at the enterprise level. The negotiations are conducted by the trade unions and the employers' organizations. The collective bargaining agreements are binding for trade union members (usually all the employees are trade union members) and for the members of the employers' organizations that have signed them. Works councils represent employees in the workplace. They have broad powers, which include the right to a veto in some areas. While the councils are not trade union bodies, trade union members play an important role in them. In the area of employment, employers are obliged to inform the works council about staffing needs and to address any relevant matters with it. Furthermore, the works council is entitled to consultation on training issues. While it can demand that the employer provides information about vacancies, the council does not have the right to prevent either the advertising of vacancies or external recruitments. Employers are obliged to inform the works council before taking any actions in terms of individual staff management (employing staff, ranking and re-ranking, relocation from one position to another, and dismissals). However, the works council has the right to challenge such measures only under specific circumstances, e.g. where such measures are contrary to effective agreements and practices in place. Moreover, the council is entitled to put forward proposals regarding gender matters. It is also entitled to participate in decision-taking on a variety of issues: work discipline matters;



working hours schedule; regular breaks during working time; shortening and extending working hours (e.g. overtime or partial unemployment); paid annual leaves; rules for calculating the remuneration (e.g. on the basis of bonuses or working hours); determining bonuses and objectives; the date and method of remuneration payment; installation of CCTVs or other surveillance devices for monitoring employees' activity and behavior; arrangements for ensuring the social infrastructure, such as a canteen or sports facilities; a functioning system for making proposals and introducing group work. The works council concludes written agreements on some of these matters with the employer. In 2001 the works council received new competences in relation to environmental protection – the employer shall involve the council in the discussion on environmental issues, and in some cases the written consent of the works council shall be required. The members of the works council are entitled to use a part of their working time for the purpose of council-related activities (e.g. taking part in meetings or putting forward proposals); this does not entail any deductions from their remuneration. The employer does not have the right to dismiss such members, unless they have committed a serious breach; such dismissals are conditional on the consent of the works council or the labor tribunal. The representatives at the European level are nominated by the works council. European multinational companies apply rules which safeguard the jobs of trade union representatives, and very large enterprises apply such rules in respect of the representatives of the senior management of SNGs<sup>4</sup> and works councils.

Health and safety at work are regulated in the Health at Work Act of 1973 (Arbeits-sicherheitsgesetz), amended in 1976, and in the Safety at Work Act of 1996 (Arbeitsschutzgesetz). The works council plays an important role in ensuring health and safety at work. The council shall also be consulted in relation to the designation of *safety at work delegates* (Sicherheitsbeauftragte).

## **2.2. National context in the agricultural sector – the rights need to be improved...**

The Labor Code stipulates that any enterprise with at least 10 employees is entitled to establish a works council (WC). This council shall be recognized by the employer and its views and opinions shall be taken into consideration; furthermore, the principle of joint management shall be applied in relation to some matters. Due to the size of agricultural farms, there are few such councils. According to the data available to IGBAU, only 150 enterprises have WCs.

The members of WCs are elected by workers and employees. The trade unions support the choice made. The trade unions and the training institutions organize courses on topics, such as elections, rights and obligations of works councils. The elections for WCs are held every five years. The trade unions inform the employees and the enterprises and facilitate the election process. Elections may be an opportunity to enhance the rights of WCs.

The works council receives information, which it can further disseminate either in a written form or verbally at meetings.

The enterprises in Germany do not have trade union organizations.

The state can and should strengthen the rights of WCs, and improve the rights related to joint management.

# REPORT ON FRANCE

Partners : FGA - CFDT

## I - General background

<b>Population</b>	<b>64,716.000 inhabitants</b>
<b>Coverage of collective bargaining</b>	<b>98%</b>
<b>Relative share workers who are members of trade union organizations</b>	<b>8%</b>
<b>Collective bargaining takes place mainly</b>	<b>At the sector and enterprise levels</b>
<b>Representation in the workplace</b>	<b>Trade union and works council</b>
<b>Representation at the board of directors level</b>	<b>Yes: public and private enterprises</b>

## II - General situation regarding information and consultation:

***Complex, efficient, but the thresholds for the number of employees are a real impediment for the sector***

### 2.1. National context:

Given the 8% trade union association rate, France ranks last in Europe under this criterion. The French trade union movement consists of many confederations which compete in the contest for attracting new members. The main trade union confederations in France are CGT, CFDT, FO, CFTC and CFE-CGC. Irrespective of the low rate of trade union association and the apparent fragmentation, the French trade unions are broadly supported in the elections for employees' representatives, and have the capacity to successfully mobilize workers and employees.

Collective bargaining takes place at the national and sector levels, and at the enterprise level. Each level has detailed and precise rules which define the eligibility criteria for participation in negotiations, and the conditions to be met by a valid collective bargaining agreement. In terms of coverage, the collective bargaining at the sector level is more relevant, even though the remuneration negotiated at this level is sometimes lower than the minimum wage negotiated at the national level.

France has a complex system of employees' representation at work, which is based on both trade unions and the structures directly elected by the employees. Where the enterprise has a trade union organization, the trade union representative plays the major role in representing the employees.

The works council is entitled to be informed and/or consulted on a variety of matters; it manages the enterprise's social infrastructure, e.g. the canteen. As mentioned, sometimes the council takes part in the collective bargaining, but these are cases of exception. The right to information covers social (labor), economic and financial matters. The group of social issues includes: the number and types of employees; the reasons for temporary employment, substitution or part-time; forecasts in terms of employment; the situation of men and women; changes in the collective bargaining agreements; training. The group of economic and financial issues includes: the ownership of the company; turnover and profit;



output levels; investments and state aid; outsourcing; remuneration structure; projects related to equipment or production methods; future prospects. The information provided to the works council and shareholders should be identical with the information contained in the audit report.

The rights of the works council to consultation is more limited. The employer is obliged to consult the council prior to implementing measures which concern: the number of the staff; working hours; working conditions; training. The specific areas where the works council shall be consulted are: proposals for redundancies; substantial structural changes, such as mergers; R & D policy; mass redundancies; introduction of new technologies; working conditions and working hours; training; health and safety at work.

The consultation procedure does not imply that taking the relevant measures is conditional on the consent of the works council. The purpose is for the council to be able to share its position on the matter. The procedure takes the form of communication in writing by the employer and is conducted within a certain time limit before taking the decision in order to enable the dialogue between the two parties. While the mechanism for the consultation procedure is clearly and precisely defined, its impact is limited in practice. The management is obliged to get acquainted with the position of the employees' representatives but it is not obliged to make changes in its projects to accommodate that position.

Mass redundancies and restructuring are an exception to the rule – quite a few works councils approached the court in order to curb the ambitions of their employers; their claims were on the grounds of the employer's failure to conduct a consultation procedure. In some cases, this has resulted in postponing large-scale projects. The new legislation of 2005 may provide an alternative by means of the so-called "methodological contracts" to be concluded with the trade unions (and not with the works council). This contract will clearly define the method for conducting consultation, which, however, does not rule out the possibility for the works council to initiate court proceedings.

As regards the other issues, there is a limited range of topics on which the consent of the works council is required – for example, choosing the structure of medical services. The employees' representatives can attend the sessions of the board of directors of the company either in their capacity of elected representatives by all the staff or in their capacity of representatives of the employees who are shareholders. There is yet another option – they can take part in the sessions of the board of directors without being its members, only with the right to ask questions.

The French representatives in the bodies related to the European works councils and the European companies are designated by the trade unions. It is, however, the representative body that decides on the arrangements for designating employees' representatives to sit on the board of directors in European companies.

A Committee for Health and Safety at Work shall be set up in any establishment which operates in conformity with the Labor Code and has at least 50 employees.

Trade union representatives and employees who have been trade union representatives during the last 12 months can be dismissed only if a meeting has been held with the employer and the works council has been consulted, with the permission of the competent labor inspector. While the same safeguard applies with respect to employees' representatives and the members of the works council, it has a validity of only six months after the end of their mandate. Irrespective of these safeguards, DARES statistical data show that a substantial number of such employees are dismissed every year.

## **2.2. The national context in the agricultural sector:**

Where the undertaking has over 50 employees, the works council (or the unified representation of the staff, depending on the size) shall be informed and consulted on matters of the social and health balance ..., restructuring, by the economic committee. Its members are elected.

The employees' representatives are elected and take part in collective bargaining in enterprises with more than 10 employees. An information board shall be put up for the employees to be informed. The employees can approach labor inspectors on any emerging issues.

While labor inspectors are entitled to intervene in the event of problems, as they represent the law, the members of the committee for the collective bargaining agreement (employers and employees) can also intervene. All representative organizations designate their own representatives.

ANEFA assists the social partners in the agricultural sector by providing them with information about decisions taken at the national level (for example, in the area of social protection or the measures for the final years of workers' professional life). The decisions are taken by both parties (bipartite principle).

FGA CFDT organizes training for its members on information and consultation matters. Any person elected shall be trained in labor legislation issues and the rights of employees' representatives. The trade union organizations are responsible for the training topics, and for the communication with employees (information boards, etc.). As for the employers, they usually inform only the employees' representatives –the information provided by the employer is related to the relevant topics. The trade unions remain the privileged partners on any issues, as they usually have the capacity to take part in discussions. They have better expertise on a large number of issues as a result of the training provided to them.

The information and consultation system can be assessed in two perspectives:

- The legal obligation for a certain degree of flexibility of this mechanism;
- The enterprises in the agricultural sector are rather small, which diminishes the scope and relevance of this mechanism, as there are no representatives to inform the employees.

Taking into consideration the specific features of this sector which ensue from the small size of enterprises, we should emphasize that the entitlement to information and consultation is a basic right of all the employees in the sector. The potential control by labor inspectors under the guidance of the Ministry of Labor ensures the exercise of this right to the extent to which these control bodies are familiar with and/or detect cases where the right is not applied. The legal obligation in terms of informing and consulting employees should be strengthened. On the other hand, the law cannot oblige the social partners to reach an agreement, as obligation as a concept is contrary to reaching an agreement. The state had better convince both parties as to the benefits of having an agreement and facilitate the discussions at the tripartite meetings. Where an agreement cannot be reached, the state can take over by drafting a law.

The limitations resulting from the size of agricultural enterprises are quite serious. Therefore, the threshold for the number of staff required for the entitlement to information and consultation should be lowered. The information and consultation mechanism should give priority to the employees' elected representatives who will use the same tools (incl. time for exercising the activity); however, this may prove difficult, as finding candidates for that purpose in small enterprises is not easy.



# REPORT ON ITALY

Partner- ALPA

## I – General background

<b>Population</b>	<b>60,340.000 inhabitants</b>
<b>Coverage of collective bargaining</b>	<b>80%</b>
<b>Relative share workers who are members of trade union organizations</b>	<b>35%</b>
<b>Collective bargaining takes place mainly</b>	<b>At the sector level</b>
<b>Representation in the workplace</b>	<b>Trade union</b>
<b>Representation at the board of directors level</b>	<b>N/A</b>

## II - General situation regarding information and consultation - *The scope of the right to information and consultation (I and C) should be broadened*

### 2.1. National context:

In Italy the employees' main representative bodies – RSU – are trade union structures in their essence, irrespective of the fact that they are elected by the whole staff. Two-thirds of the members are elected by all the workers and employees out of the nominations made by the trade unions, while the other one-third of the members are elected only by the trade unions.

The employees' representation in the workplace is based on the Statute of Workers and Employees adopted in 1970, which allows the presence of trade unions in enterprises. It should be emphasized that while the law lays down some rights and protection for trade union representatives, it does not provide a detailed regulation of the mechanisms for their appointment.

In order to remedy this situation, the three largest trade union confederations which were having close relations in the early 90's reached an agreement to set up a new structure, RSU, in 1991. It was about introducing a unified council of all the trade unions represented in the enterprise – two-thirds of its members were elected by all the employees, while one-third were designated by the trade unions (in the public sector RSU members are elected by employees). This structure was formally approved by virtue of a contract in 1993, and the mechanisms were also implemented via a contract for the private sector in 1993 and for the public sector in 1994 (a law for the public sector was promulgated in 1997). Irrespective of the existence of the above contracts, RSUs have not been established in all undertakings. Such RSU's rarely exist in banks and insurance companies. Where there is no RSU, the law allows the functioning of the old systems of trade union representation, which differ depending on the collective bargaining agreements; there are enterprises where such systems do not exist.

Irrespective of its form of existence, the employees' representation in the workplace is fundamentally based on trade unions. While elected by employees, RSU represent above all the trade union councils.

RSU's main task pertains to participation in negotiations with the employer in the workplace. RSU's are the local representations of trade unions, while the contracts whereby they have been established entitle them to negotiate binding provisions for the enterprise within

the framework of collective bargaining.

The law obliges employers to inform and consult employees' representatives on matters concerning health and safety at work, the use of public funds for restructuring, mass redundancies, and relocation of activities. Most of RSU's rights to information and consultation are regulated in the sector collective bargaining agreements, and sometimes at the enterprise level. The employer is usually obliged to inform and consult employees' representatives in areas, such as the economic and financial standing of the enterprise, investment projects, the number of the staff, changes in working methods, the implementation of new technologies, gender issues, and training. The consultation procedure may be conducted in the form of a joint council of the employer and the trade unions. The practice of having discussions within such joint councils has been increasingly common; these discussions ensure both the preparation for the subsequent collective bargaining and its technical basis.

The Statute of Workers and Employees protects RSU members and trade union representatives in the enterprise against discrimination. The Statute explicitly defines anti-trade union attitudes as unlawful. RSU members are entitled to use paid working hours for the exercise of their activity whose duration is determined in the Statute. The total time dedicated to the activities of employees' representation is, as follows: one hour / year / capita of the employees in enterprises and establishment with up to 200 employees; 8 hours / month / each tranche of 300 employees in enterprises and establishment with up to 3,000 employees; 8 hours / month / each complete or incomplete tranche of 500 employees enterprises and establishment with up to 3,000 employees. In addition, each RSU member is entitled to eight days of non-paid leave for trade union activities.

Employee's representatives are entitled to use information boards. In enterprises with more than 200 employees, RSUs or any other representative employees' body shall have its own premises (a room). Some sector collective bargaining agreements provide for the right to a limited use of external experts.

Collective bargaining agreements allow the establishment of a coordination council at the group level in corporate groups consisting of several companies or in enterprises with several entities. Group RSUs designate their members for the coordination council which usually comprises the permanent trade union members.

## **2.2. The national context in the agricultural sector:**

In Italy the collective bargaining agreement contains provisions regarding the information and consultation of workers and employees (Part II, Articles 6-7-11-12). The preparation for the exercise of this right is ensured to employees in the course of discussing and signing the collective bargaining agreement.

Some employers are reluctant to provide the full information. The reason for that is partly due to the existence of numerous small-and medium-sized agricultural enterprises across Italy. The threshold regarding the number of staff is an impediment to employees' representation.

Information is provided to employees via specific mechanisms. The small enterprises scattered across the country the general assemblies attended by the relevant workers and employees are used as a forum for information provision. As for large enterprises, information is provided in an organized way within the enterprise. ALPA does not have data as to the number of enterprises where the latter is applied as a method.

Undoubtedly trade union organizations are the privileged partner in the social dialogue, being directly affected by the undertaking's issues. The process of information and consultation has practical relevance, as it facilitates putting in place common policies in the context of the challenges before the society and the labor market. Given this, the system has proved its efficiency. Regrettably, as noted above, the threshold in terms of the staff number required for this entitlement is prohibitive for the agricultural sector – it would be feasible for



the national legislation to enable enterprises with fewer than 50 employees to also enjoy this right. Such a step would broaden the access to information and consultation and to the relevant training for more employees. If the system of information and consultation is made mandatory, this will contribute to limiting the opportunities for non-compliance and potential conflicts among social partners. The system should be tailored to the individual sectors in view of the specific features and the size of the enterprise. Furthermore, the law should lay down a requirement for agreements to be concluded regarding the types of information to be provided by employers to employees' representatives; the scope of this entitlement should be broadened to encompass more undertakings. Lastly, in order for employees' representatives to be able to exercise this right and to deliver on their tasks, paid working time for both this activity and training need to be allocated.

## REPORT ON BULGARIA

Partner - CITUB - FITUA

### I – General background

#### Status – member state since 2007

<p><b>Capital:</b> Sofia  <b>Population:</b> 7.33 mill.inhabitants - (Eurostat – 2011)  <b>Surface:</b> 110,911 sq. Km. - (Eurostat)  <b>GDP growth:</b> 1,7 % - (Eurostat – 2010)  <b>Unemployment rate:</b> 12.2 % - (Eurostat – 2011)  <b>Public debts % of GDP:</b> 15.3 % - (Eurostat – 2011)  <b>Inflation rate:</b> 3 % - (Eurostat – 200)  <b>Deficit/Public excess % of GDP:</b> 2.10-% (Eurostat – 2010)  <b>Currency:</b> BGN  <b>Date of accession:</b> 1 January 2007</p>	<p>Since its accession to the EU, Bulgaria (similar to Romania) has been through an initial period of upsurge till the crisis, followed by a modest growth: a 6% average growth from 2002 till 2007 and 1.7% from 2007 till 2010. In 2010 the growth was almost at the zero level, and then it reached 1.6% in 2011. Bulgaria's economic growth is export-based, as domestic consumption is very low. Since the country's accession to the EU the successive governments have made substantial sacrifices for the sake of the strict management of public finances; thus, the Bulgarian budget had an excess till 2009. After the onset of the crisis, in 2009 the deficit reached 4.3%, and later on in 2011 it dropped down to 2.1%. The conclusion to be drawn is that the burden of the public debt (15.3% of the GDP in 2011) is bearable, even weak, compared to the EU average, which is beneficial for the confidence in Bulgaria.</p>
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This ongoing policy of adjustments allows fast corrections in previous imbalances and an excess in the current account (the budget deficit amounts to 1.9% of the GDP in 2011, and to 25% in 2007).

While these indicators are encouraging, we should not forget that the Bulgarian economy is still vulnerable in structural terms. Inflation seems to have been put under control, as it dropped from 12.5% in 2007 to 2.8% in 2011, but the unemployment rate has increased to 12.2%. Similar to Romania, we have had very low expenditures for R & D. Labor productivity does not reach 20% of the European average.

As regards EU funds, Bulgaria has absorbed only 19% of the funds allocated for the period 2007-2013.

Similar to Romania, Bulgaria does not have domestic driving forces of growth ready to be activated (except for agriculture and tourism, as you can see below), which increases both countries' dependence on the international environment. Since the onset of the crisis the export and the flow of direct foreign investments have also shrunk. We have established that the growth of the purchase power will be very slow due to the high unemployment rate and low wages. Lastly, the austerity policy which has caused strong discontent among the public, the slow course of reforms, which is a concern with the European Union, and the instability of the institutions following the collapse of the old structures require from both politicians and the public at large exceptional persistence and abnegation, the spirit of self-sacrifice and consensus, which sometimes occur in dark historic times.

While a very low growth rate is projected for the upcoming years, it is commendable that the policies since 2005 have to some extent reduced the vulnerability of the economy and have stabilized the foundation.

Agriculture has a great potential. Since the onset of the crisis the agricultural growth has been maintained at an 8% level and even reached 11% in 2012. This trend is expected to continue till 2020, partly due the EU funds. According to the Minister of Finance, at present agriculture and tourism should assume the leading role of an engine of growth. Employment in the agricultural sector has suffered a real cataclysm since 1980 – its share of the general employment has dropped down to 6.43% in 2011 from 24.4%. This difference has become increasingly visible since 2000.

## **II - General situation regarding information and consultation - *The state should make more efforts***

### **2.1. National context:**

The transposition of the Directive regarding information and consultation into the Bulgarian legislation allows improving the situation in enterprises in terms of informing and consulting employees. By and large, the social partners perceive this as a tool for interaction between employees and employers to the benefit of the enterprise.

In Bulgaria the Directive has been transposed by means of amendments to the Labor Code – a dedicated new chapter has been inserted. The drafting of the amendments was assigned to a working group whose members were experts from the social partners who are representative at the national level and from the public authorities. The Confederation of Independent Trade Unions in Bulgaria (CITUB) and the Confederation of Labor Podkrepa (CL Podkrepa) came up with a common concept regarding the transposition of Directive 2002/14/EC. Here are some of the trade union proposals which were rejected by the employers, members of the working group:

- Employers shall not have the right to convene a general assembly;
- Secret voting ;
- Information and consultation shall be conducted by the employees'bodies in enterprises that have a trade union organization ;
- Employers shall be obliged to directly inform and consult employees in small and minor enterprises at general assemblies ;
- Broadening the scope the Civil Service Act ;



- The right of sector trade union organizations to convene the employees' general assembly in the absence of a trade union organization ;
- Mandatory agreement between the employer and the employees' representatives in the consultation procedure.

Since the law has been applied we have witnessed confrontation in two perspectives:

- The employers' organizations are happy with the law to the extent to which it reproduces the minimum requirements laid down in the Directive ;
- The position of the trade union organizations is different due to other reasons (provisions which entitle employees to nominate candidates; the lack of clear-cut criteria in terms of the arrangements provided to employees by the employer – only an « agreement » is envisaged ; the legal provisions regulating the rights of employees' representatives and the information and consultation procedures are not clear).

The trade unions or the employees' representatives elected in conformity with the Labor Code to represent the employees' social and economic interests (in practice, it is always the trade unions) have a broad range of rights: to be informed and consulted in the event of planned mass redundancies (the trade union or the employees' representatives are entitled to put forward their position on the mass redundancies project before the competent public authorities); to be informed and consulted in the event of relocation of activities of the enterprise; to be informed and consulted in the event of changes in the working schedule; to be informed and consulted in the event of a reduction in the working hours due to downsizing the output; to be consulted on projects regarding the introduction of more flexible working conditions; to be informed in the event of vacancies in the permanent positions for employees with fixed-term employment contracts, and in the full-time positions for employees who work on a part-time basis, and vice versa.

The employees' representatives elected for the purpose of information and consultation (or the trade unions or representatives in case the general assembly has taken a decision to empower them) shall be informed about the economic prospects and consulted on employment matters, as well as on any changes related to working arrangements and employment contracts. They are entitled to request information, to organize meetings with the employer and to have access to all the workplaces across the enterprise. The Labor Code provides for a minimum one-month term for receiving and examining the information before the relevant measure is applied. The consultation procedure has a two-week duration. The legislation enables the employer and the employees' representatives to agree on the time limit (no time limit is regulated in terms of dismissals).

During the entire mandate and six months thereafter the trade union representatives who have management positions within the local trade organization in the workplace may be dismissed only with the consent of the central management of their trade union or a body authorized thereby. This provision also applies with respect to individuals in elected trade union positions at the local, sector and national levels.

As regards the dismissal of elected employees' representatives and representatives elected for the purpose of information and consultation, the consent of the Labor Inspection is required with a view to protecting the employees' social and economic interests.

The collective bargaining agreement provides for the trade union leader in the workplace to have the right to some paid working time per year for delivering on his/her task as such, the minimum period being 25 hours per year. The employees who hold management trade union positions at the sector, regional and national levels also have this entitlement. The trade union is entitled to the necessary facilities for performing its activities.

The employees' representatives elected to protect the employees' social and economic interests and the representatives elected for the purpose of information and consultation are entitled to some working time if their functions require so – either their working hours are reduced or they use some additional days of paid leave. They are also entitled to both

training and the time needed for that. The arrangements are made with the employer and are included either in the collective bargaining agreement or another type of agreement. In this context CITUB specified that it would continue its efforts aimed at amendments to the Labor Code where no consensus is reached between the social partners.

## **2.2. The national context in the agricultural sector:**

### **FITUA (Federation of Independent Trade Unions in Agriculture)**

The collective bargaining agreements contain specific provisions regarding information and consultation:

- Providing precise and comprehensible information about the economic and financial standing of the enterprise;
- Mandatory consultations prior to any mass redundancies in order to achieve an agreement and thus prevent negative or restrictive social consequences for workers and employees;
- Changes in the management where such changes may deteriorate the situation in terms of employment and working conditions.

The Organization has closely followed up any issues related to the application of the Information and Consultation Act and has developed a training program on the legal and practical aspects of this topic. At present the FITUA has representatives in 5 agricultural enterprises; however, it does not have data about the total number of enterprises where the right to information and consultation (I and C) is exercised.

The majority of agricultural undertakings are minor and small. In most cases they do not meet the requirements in terms of the number of staff in order to be entitled to an I and C procedure. This is a substantial hurdle to the development of this right which is indeed necessary regardless of the fact that the Bulgaria legislation has introduced the minimum threshold defined in Directive 2002/14/EC. The trade union organization identified the following gaps:

- The regulation needs to be fine-tuned in order for stakeholders to receive timely information;
- This would facilitate the delivery of the social objectives in the event of mass redundancies and structural changes;
- While the current regulation allows for the potential range of I and C provisions, which may be included in the collective bargaining agreements, to be broadened in the negotiation process, there is social tension, which can be prevented and conflicts can be resolved.

FIRTA firmly believes that I and C constitutes a basic right of all workers across Europe; therefore, the thresholds regarding the number of staff should be reviewed and lowered, which will allow covering all the workers and employees. Furthermore, it considers that the law should provide for a mandatory agreement between the employees' representatives and the employer to be reached within the I and C procedure. Lastly, the national legislation should regulate the paid leave, the number of paid working days allocated to the tasks of employees' representatives, their training, etc.

## **EMPLOYERS AND EMPLOYEES:**

The text below has been produced by FITRA on the basis of the summary of the questionnaires filled out by employers and employees' representatives:

The interviewees include 5 representatives of employers, 10 representatives of trade unions from the Federation of Independent Trade Unions in Bulgaria, i.e. 4 employers and 8 representatives of trade union organizations (chairpersons), 1 farmer and 2 representatives of agricultural cooperatives (5 men and 10 women).

Time and place of the survey: a national workshop held in Sofia on 1 and 2 November 2012



### **Findings:**

The interviewees are familiar with the legislation introducing information and consultation, but the degree of knowledge differs. The level of knowledge is such that the opportunities provided by the law are underused by employees. The law defines the cases where the employer is obliged to conduct an information and consultation procedure; the time limits, the terms and procedure for designating the employees' representatives with whom the procedure will be held, and, respectively, the rights and obligations of the employees' representatives. The survey findings show that farmers and the members of agricultural cooperatives are less familiar with the provisions regulating the I and C processes. Moreover, this lack of knowledge is common mostly to enterprises which do not have a trade union organization. A proactive awareness raising campaign is needed to advocate the I and C mechanisms (the be-info campaign conducted in October-December 2012 covered 124 enterprises and proved the benefits of such a practice). The analysis of the responses showed a wish to learn more about the procedure through training, practical advice, agreements between the parties concerned. CITUB has been active along this line for many years now and has contributed to a better understanding of the meaning of I and C; it has disseminated knowledge and has assisted in developing attitudes for solving specific issues, especially under the crisis conditions. In order for this approach to be efficient, the presence of a trade union organization is needed – the findings show that the I and C system is effective where there is a trade union organization.

As regards who takes the initiative for holding the general assembly for the election of representatives for the purpose of I and C, all the interviewees are unanimous in their response: the trade union organization. Of course, there are several cases of interference by the employer; these are, however, few cases. The law defines the number of employees' representatives, and this requirement is observed. Trainings with elected representatives have been held in some regions. The respondents emphasize that no specialized trainings for the elected representatives from their economic entity have been held.

The law also lays down some general rules regarding the employer's obligation to inform and consult the employees' representatives in the event of mass redundancies and others (changes of the employer, changes in the working hours, etc.). In addition, there are individual agreements concluded outside the collective bargaining agreements. The latter contain provisions aimed at preventing the negative social consequences from changes in the output structure. The analysis of the responses and the experience show that the provisions in the collective bargaining agreements ensure a higher level of security, sustainability and control in conformity with the labor legislation than the agreements concluded with the representatives. The agreements further enhance the involvement of workers in the overall labor environment and the development of industrial democracy.

In conclusion, all the interviewees shared the opinion that the state should take serious measures to foster the exercise of workers' and employees' entitlement to information, the latter being a basic right. The respondents came up with proposals urging for real sanctions to be regulated in respect to employers who do not provide the relevant information. This is fully in line with the opinion of the trade union organizations and the social partners in Bulgaria. The latter opt for lowering the threshold in terms of the number of staff as a precondition for the I and C procedure – such a demand is entirely justified, as the agricultural sector is using substantial assets and is defined as a promising contributor to the country's GDP growth, especially due to the absorption of EU funds. The objectives for the development of this sector, in particular the development of a modern agriculture at the national level, require enhanced dynamics in the general social relations. The exercise of the right to I and C should run in parallel with broadening and enriching the range of knowledge and skills of those involved in the process – this means, in particular, ensuring the necessary resources for the efficient training of employees' representatives.

# REPORT ON ROMANIA

Partner - AGROSTAR

## I – General background

### Status – member state since 2007

<p><b>Capital:</b> Bucharest  <b>Population:</b> 21.41 mill. inhabitants - (Eurostat – 2011)  <b>Surface:</b> 238,391 sq.Km - (Eurostat)  <b>GDP growth:</b> -1.3 % - (Eurostat – 2010)  <b>Unemployment rate:</b> 7.3 % - (Eurostat – 2011)  <b>Public debt as% of GDP:</b> 33.3 % - (Eurostat – 2011)  <b>Inflation rate:</b> 6.1 % - (Eurostat – 2010)  <b>Deficit/public deficit as % of GDP:</b> -6.4 % (Eurostat – 2010)  <b>Currency:</b> RON  <b>Date of accession:</b></p>	<p><b>I – Economic situation in the country</b>  Following two years of a drop in the GDP – by 7.1% in 2009 and 1.3% in 2010, Romania resumed its growth to reach 2.5% in 2011. Irrespective of the recovery signs at the end of the year, the domestic consumption has declined and foreign investments which are still far below the pre-crisis level have even marked a new drop by 50% in the course of the year. The 2011 growth is mainly due to the export based on the good level of industrial output and the agricultural yield, in spite of the unstable climatic conditions over recent years.</p>
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The accelerated implementation of major infrastructure sites – building of road networks, highways and railways – whose financing has been ensured mainly from the 2007-2013 EC budget of the Structural Funds and the Cohesion Fund, has contributed to the recovery of the Romanian economy. The IMF “surveillance” mechanism activated with respect to Romania as from 25 March 2009 and the signing of an agreement for joint financial support (in the amount of 19.95 bill EUR) with the involvement of the EU precede the slight drop in the economic growth in 2012 – the GDP is projected to grow by only 1.8-2%. In 2011 the index of consumer prices reached a historic minimum, with a growth of 3.14%. The drop in the prices of agricultural commodities due to the very good yields has been helpful in containing the inflation rate in the country over recent years.

Lastly, the unemployment rate is among the lowest in the EU-27 – just below 5% in late 2011, considerably lower compared to late 2010 (6.9%) and 2009 (7.8%). These data are, of course, relative, as they do not cover a part of the population, in particular the population in rural areas who are involved in agriculture, i.e. in tilling the land and growing food agricultural crops. Moreover, the unemployment rate is substantially lower in Bucharest: 2.5-3% of the active working age population.

The relative share of agriculture in Romania is still very high (10.65% of the total agricultural land in the European Union), which defines it as one of the major actors in terms of agricultural output in the EU. The Romanian agriculture has recently started to show signs of modernization, such as the emergence of greenhouses with modern irrigation systems. These are individual initiatives as a result of adopting Western European practices or receiving European funds in support of agriculture. For the time being these are cases of exception. Structural problems are still preponderant in the development of agricultural policies, as the agricultural output mostly meets the producers’ own needs, which, on the other hand, contributes to maintaining the purchase power of a substantial part of the Romanian population.



## II –General situation regarding information and consultation - *Practices should be reviewed*

### 2.1. National context:

In Romania the various elements of the legal framework regarding information and consultation are included in the following laws:

- The Labor Code, which lays down the general right of employees to information and consultation;
- Law No 467 of 2006 laying down the general framework for employees' consultation and information passed by the Romanian Parliament in meeting the obligation to ensure the transposition of Directive 2002/14/EC before the country's accession to the EU in 2007;
- Law No 54/2003 on Trade Unions ;
- Law No 130/1996 on Collective bargaining agreements ;
- The collective bargaining agreement at the national level for 2007-2010 whose provisions are subject to renegotiation.

The focus of the presentation below is not on the content of the relevant provisions transposing the Directive but rather on a couple of implementation aspects, i.e. legal requirements which Romanian enterprises still fail to observe.

**Article 5** lays down “the obligation for employers to inform and consult employees' representatives in conformity with the effective legislation on the following matters:

- The current state and likely development of the activity and the economic standing of the enterprise ;
- The state, structure and likely development of employment in the enterprise, as well as any anticipatory measures envisaged, in particular where there is a threat to employment;
- Any decisions that can result in considerable changes in labor arrangements, in contractual relations or employment relations, including the ones laid down in the Romanian legislation in relation to specific information and consultation procedures in the event of mass redundancies and relocation of activities with a view to ensuring employees' protection.”

The above article stipulates 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. Consultation shall be conducted:

- 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 prepare their position;
- 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.”

We findings show that consultations with trade unions are often held formally without the urge to find efficient solutions by means of a social dialogue.

The trade unions and employees' representatives claim to have been acquainted with the information and consultation legislation and, respectively, to have brought it to the knowl-

edge of their members. However, it turns out that just over half of the employees' representatives are aware of the existence of such legislation. The awareness rate is slightly higher among the employers. While about half of the employers seem to be well familiar with the I and C procedure, this finding (source – CESE) shows the real lack of information about the behavior of the enterprise.

Romanian employees are represented by the trade unions in the workplace. Nevertheless, the legislation allows the elections of employees' representatives in enterprises and establishments which do not have a trade union organization. The local trade union structures are entitled to a decisive involvement in collective bargaining in addition to having broad powers in terms of consultation. As regards information and consultation, the employer is obliged to consult the trade union on decisions that "may substantially affect their rights and interests" (the Romanian Labor Code); this obligation relates to a number of issues, such as, for example, the arrangements for paid leave, health and safety at work, the annual training plans and the internal rules of the enterprise. The trade union shall also be consulted on dismissal matters, as it is entitled to make proposals about preventing or reducing dismissals (the employer shall respond to such proposals within 10 days; furthermore, the employer shall consult the trade union on a "social plan" for mitigating the negative consequences). In the event of relocating activities, the enterprise transferring the activity and the enterprise taking it over shall consult the trade union. The trade union shall also be consulted on the introduction of flexible working hours, the use of the enterprise's social facilities, e.g. the canteen. The information and consultation rights have been enhanced via the legislation transposing the 2002 Directive, which lays down the general framework for information and consultation. This legislation was passed in 2006 and has been effective since 1 January 2007; it obliges the employer to inform and consult the employees in relation to the current state of the enterprise and likely development of its activity, the state and probable development of employment, as well as any decisions that can result in considerable changes in labor arrangements, in contractual relations or employment relations.

There are cases where taking measures is conditional on the consent of the trade union. Such are the cases where the employer wants the employees to work for over 15 consecutive days or where the workload is determined. The measures related to training in health and safety at work shall be negotiated with the trade union and the board for health and safety at work. Furthermore, the trade union shall endorse the bonus system, the non-paid short periods of suspending the activity due to technical reasons, a drop in the output. Trade union members have lost a considerable part of the protection against dismissal which they used to have. The right of trade union activists to use a certain part of the working hours for the purpose of their tasks is regulated in the collective bargaining agreements. The five days they were entitled to in past have been revoked. Employees' representatives are entitled to 20 hours / month. The employer is also obliged to provide the trade union with premises for its activity, as well as office equipment, e.g. a fax machine.

## **2.2. National context in the agricultural sector:**

(Source – a survey of enterprises, employees and the Agrostar Federation)

### **AGROSTAR:**

According to the answers of the local partner Agrostar, many employers in the agricultural sector do not observe the provisions of the legislation regarding I and C; moreover, they declare their reluctance to inform the employees about the state of the enterprise. Such an attitude is in unison with the overall attitude of the Romanian state, which till recently did not seem willing to foster social relations within enterprises.

The employer is obliged to ensure that the employees are familiar with their right to information and consultation, as well as with other labor rights. Nevertheless, a substantial



number of employers do not observe the legal provisions on informing and consulting workers and employees – they simply do not wish to inform them. The observance of the I and C principle and entitlement is an obligation of the Agrostar Federation; the Federation has taken actions at different levels to ensure achieving this objective and putting in place such an approach that would enable employees' representatives to make full use of their rights. Membership in a trade union organization is, indeed, a key condition for the successful observance of rights – an information procedure is up and running where there is a trade union organization and events organized by it: meetings with trade union representatives or trade union members. This is due to the fact that these representatives are duly elected and organized, in particular in relation to difficult and complex matters, thus acting as a mechanism similar to the collective bargaining agreement.

Generally speaking, AGROSTAR has established the lack of efficiency in the I and C procedures, which will persist as long as the majority of employers refuse to observe the legislation in force. At present it is not only employers that are viewed in a negative context; the European Commission reports on Romania under the CVM mechanism contain some unfavorable comments, in particular in terms of fundamental rights issues. The attitude of the government is not systematic; in most cases, where instructions are received from Brussels, the state would rather implement them, as such instructions are followed by verifications of the progress achieved.

### **EMPLOYERS:**

Interviewees – 7 questionnaires have been filled out. They cover three sectors focused mainly on cattle-breeding. The enterprises interviewed have from 44 up to 300 employees.

Processing of responses – In all the cases, interviewees indicate that the employer has brought to their knowledge the right to information and consultation. Hence, in terms of awareness, the relations between employers and employees seem to be normal. The answers to the question whether the employer has selected the employees' representatives can be interpreted in two ways:

- either the employer selects the employees' representatives (which is hardly the case in view of the following questions) – a procedure which seems strange;
- or the employer keeps for himself the right to accept and approve a certain employee or another one as a representative, but is this lawful and normal? What are the objective criteria for making the judgment?

The second answer seems to be confirmed under the next question about the nomination of candidates. All the answers clearly point to the fact that the employees themselves nominate them. Moreover, most answers say that the employees convene the general assembly. Three of the answers say that the employers themselves decide (does the fact that the total number of answers exceed the number of interviewees mean that in some cases the procedure is a joint one?)

In most enterprises the I and C procedure has been initiated in the absence, however, of the reasons for opening such a procedure, except for one case where the enterprise started mass redundancies or the employees were informed about planned developments in terms of remuneration and social protection. Of course, the questionnaire does not concern the grounds for initiating an I and C procedure. The absence of an answer does not allow making satisfactory conclusions, which entails the risk of misinterpretations – maybe this procedure has been used as a tool of communication where the employees were unable to fully exercise their rights? It should be noted that the following answers show that in most cases there is a procedural agreement on the topics in respect of which an I and C procedure shall be initiated. However, this seems to be the case with large enterprises. The respondents have not described in details the content of the existing agreements in their enterprises. We deem it appropriate to ask for more information on that issue at the conference.

As regards the provision of information about the economic and financial standing of the enterprise, a variety of practices have been indicated in the responses:

- The case (4 answers) where communication goes through letters, e-mails, meetings. This seems to be an informal procedure;
- The case where the director general provides information to the staff at joint events;
- Lastly, the case where the employer provides information to the staff at a general assembly.

*The answers show that either there is not a formal procedure for informing the employees about the economic and financial standing of the enterprise or, if there is one, it is not observed.*

The survey does not provide an answer to the question whether the employees have been acquainted with the content of Directive 2002/14/EC: except for one negative answer, there are no views expressed on that matter. Can we conclude that the lack of an answer amounts to the full lack of knowledge about the EU legislation on this topic? As it stands, the membership or the absence of membership in an organization does not imply that the interpretation of the employees' right to information and consultation is not the same in all the cases – according to 4 answers (only in 2 enterprises) this matter is addressed by the organization's bodies, while according to another 3 answers this is not the case.

According to the interviewees, the role of the state is of real relevance, as most of them uphold the need for the state to take more measures in relation to the procedure and the practice of implementing the right to information and consultation. This is a justified answer, as the same interviewees admit that this is a basic right within the EU.

## **WORKERS AND EMPLOYEES:**

Interviewees – 8 questionnaires have been filled out in different areas (agriculture, flower-growing, pomiculture, wine production, poultry-breeding).

### Processing of responses:

There are few data about the number of employees in enterprises. Only three answers contain figures and their relevance is very limited; moreover, they concern very small enterprises. The lack of responses does not allow us to make a judgment as to the implementation of the information and consultation procedures within the various groups of enterprises.

At the enterprise level, the approach to I and C issues varies – in 3 of the enterprises these issues are addressed, in 2 of them – they are not addressed, while for another 3 there is no answer. Most of the interviewees, however, claim that information and consultation is a topic at the sector level. Firstly, the social dialogue at the sector level (agriculture and rural development) – it enables addressing this topic, as well as other ones (for example, in relation to EU funds, new operational programs). Secondly, the effective legislation, in particular the one resulting from the EU legislation, obliges employers to inform and consult their employees under specific circumstances - it is obvious that at the sector level employers observe their obligations.

Trade union training is available for half of the trade union activists who have responded. The training topics are the fight against illegal employment, overtime and the payment for additional hours, the observance of collective bargaining agreements, agriculture and its development in Europe. A considerable part of the interviewees refer to trade union organizations, civil servants, sector associations.

Communication with the staff is weak – only three enterprises provide information on boards, another three do not provide any information, while the representatives of another two have not given an answer.

Undoubtedly, the presence of a trade union organization is an advantage for the observance of employees' rights –the interviewees assess the information procedure as being conducted in a timely and adequate manner. However, this happens when the relevant trade



union is representative. In case it is not, i.e. the representatives are chosen by the employer, the latter uses this mechanism as a tool at his discretion. There are very few data about the number of enterprises where normal representativeness rules are abided by. One single answer in the questionnaire does not provide grounds for such a conclusion. Neither do we have data concerning the arrangement for the nomination of candidates. This is an issue to be addressed. The practice of the employer choosing the representatives on his own is indicated in one case, and the consequence from this is the subordination of the relevant representatives to the employer. On the other hand, some employers do not take any initiatives to facilitate the representation of employees on the grounds of “non-interference in the employees’ internal affairs”.

Most of the trade union managers who have answered the questions about the employees’ representatives agree that the trade unions are a privileged partner in the dialogue with the employer. Only two answers share the opposite opinion. The role of trade unions is viewed in a positive way, as most interviewees say that it is trade unions that should address the issues pertaining to collective bargaining agreements, social inclusion, integration on the labor market, remuneration, health and safety at work, social protection. In conclusion, the trade unions are assigned a role at both the enterprise and the sector levels.

Few respondents share their opinion regarding the efficiency of the I and C procedure. This is probably due to the lack of experience, on the one hand, and to the lack of communication, on the other hand.

As for the state’s role, the judgment is stricter, which is no surprise, bearing in mind the “national context” presented above – the right to information and consultation is considered a basic right at the national and European levels. Nevertheless, the majority of the interviewees emphasize that the government institutions do not show a genuine interest in this topic. Probably, this explains the answers. Will, however, the situation improve in the foreseeable future?

# REPORT ON FYROM

Partner - AGRO SINDIKAT

## I – General background

### Status – candidate country

<p><b>Major economic indicators</b>  <b>Indicators for FYROM</b>          GDP – 6.9 bill.EUR          Budget deficit as a % of GDP – 2.5%          Public deficit as a % of GDP – 24.8%          GDP per capita – 3,370 EUR          Growth – 1.8%          Inflation rate – 3.0%          Unemployment rate – 32.2%  <i>Sources - IMF, INSEE. – 2010</i></p>	<p><b>Economic situation in the country</b>          After the transition period the Macedonian economy marked a steadier growth from 2004 till 2008 (a 5% average) based on domestic consumption and export (metals and textile goods). In 2009 the country was in recession (- 0.9% of GDP) and the budget deficit increased (- 2.7% of GDP), thus gradually deviating from the average for the region. After the beginning of a slight growth in 2010 (+ 1.8%), the projections for 2011 are more optimistic (3 % according to the European Commission and the IMF).          The GDP per capita, as a standard for the purchase power, reached 36% of the European average in 2010 (27% in 2000). Irrespective of external pressure (electricity, foodstuffs), the inflation rate is moderate and stood at 3% in late December 2010. In spite of the drop over recent years, the unemployment rate is among the highest for the region (32.2 % in 2010).</p>
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After the drop in 2009 as a result of the shrinking economic output worldwide, in 2010 the economic exchange of Macedonia grew by 12.5% to reach 6.6 bill. EUR. The trade deficit marked a 9.1% drop for a second consecutive year. This drop was mainly due to the dynamics of export, which increased by 22% to reach 2.5 bill EUR (35.8% of the GDP), i.e. by three times faster than import (+7.4% - 4.1 bill. EUR, i.e. 59% of GDP).

The flow of direct foreign investments prior to the onset of the crisis enabled some diversification of the Macedonian export. Nevertheless, it is mainly focused in two sectors – textile and metal production (these two sectors account for more than 40% of the total export).

The European Union ranks first among FYROM's partners. In 2010, 63.9% of the import and 59.4% of the export was with the EU. According to data of the Central Bank, Germany ranks first with a share of 21% of the total export, followed by Bulgaria (8.9%), Serbia (8.2%), and Greece (7.4%). Approx. 28% of the Macedonian export goes to the other Danube and Balkan countries (Kosovo excluded), even though these countries account for only 0.5% of the world GDP.

In a country where more than half of the population lives in rural areas, the agricultural sector is very important for the economy, being a major factor for the GDP (12%), employment, trade, and agriculture. The agricultural land occupies 49% of the national territory and consists of two equal halves: arable land and pastures. About 80% of the arable land is managed by 180,000 private family farms. The purpose of the assistance requested by the country was to enhance the capacity of the Ministry of Agriculture, Forests and Waters with a view to a more efficient development of agriculture by implementing more efficient policies, and to strengthen the efficiency of public expenditures in line with EU requirements.

In relation to this request, the Project for strengthening agriculture and the accession to the EU approved by the Board of Directors of the WB started its implementation in May 2007. The purpose of the project was improving the arrangements for state aid in the agricultural sector in conformity



with the pre-accession benchmarks. The project also includes technical and financial assistance for ensuring growth in agriculture and rural development, the focus being on the major strategic objectives for the development of the economy and the accession to the EU. The project is based on the findings from a survey on the Macedonian agriculture and the accession to the EU conducted by the WB in 2006.

The project is also aimed at laying the foundations for the institutional framework Macedonia needs in order to meet the requirements for EU accession and have access to pre-accession funds. Furthermore, the project finances activities for enhancing the capacity of the Veterinary Activities Department, for assisting agricultural producers and the agro-industrial sector in relation to the services to be provided for meeting the quality and food safety standards. Lastly, in line with the requests made by the government, the project is expected to facilitate the institutional reforms in the irrigation sector which started under a previous WB-funded project in relation to the restructuring and recovery of the irrigation networks. These policies have yielded the following results:

- Strengthening the capacity of the Ministry of Agriculture, Forests and Waters for allocating the EU funds received for agricultural development within the Pre-accession Program for Agricultural Development (IPARD). Since December 2009 these funds have been managed by the Macedonian Payment Agency. This has enabled the Macedonian agro-industrial enterprises and agricultural producers to apply for grants within IPARD in order to finance the investments needed to improve the access to European markets and boost their competitiveness in comparison to the other European producers.
- Reducing morbidity among cattle (brucellosis and TB), improving the response capacity in the event of outbreaks, promoting food safety, and putting in place prevention measures in relation to both animal and human health by introducing a system of cattle identification and registration.
- Strengthening the capacity of the Ministry of Agriculture, Forests and Waters for ensuring sustainable irrigation and higher-quality drainage. The support for the water sector under the project facilitated the setting up of structures for water resources management and water users associations. Training has been organized recently for the water resources management units with the purpose of enhancing their procurement capacity and assisting in irrigation measures.

According to official data, the unemployment rate in Macedonia reached 30.6% of the active age population in 2012. The prospects are not good – the country is strongly influenced by the world trends, in particular by the processes in the Eurozone and Germany which is its main trade partner. Nevertheless, the company managers say that unemployment has reached a peak which is hard to be exceeded unless there is a dramatic turndown....

## **II –General situation in terms of information and consultation - *The reforms should be accelerated***

### **2.1. National context:**

In Macedonia labor relations are regulated on the basis of the Constitution, the relevant Conventions of the International Labor Organization and the relevant labor legislation. Article 20, paragraph 1 of the Constitution of the Republic of Macedonia says: “All citizens shall be free to get associated, to implement and protect their political, economic, social and cultural rights and their beliefs”. The latest amendments to the legislation on employment relations resulted in discontent among many citizens, who claim that these changes are not in line with the EU legislation and the overall labor arrangements within the EU. Many amendments were introduced in 2009, in particular in relation to mass redundancies:

- Introducing a qualitative definition of the term “mass redundancies”;
- Deleting the provisions regarding the obligation to offer alternative solutions to mass redundancies;

- Minimizing the priority in terms of rehiring employees who have been laid off;

The criteria for the participation of social partners' representatives in a bipartite and tripartite social dialogue have at last been applied. The trade union started concluding collective bargaining agreements in the public sector. However, the bipartite and tripartite dialogue is still fragile, and the participation of social partners' representatives in policy-making is still far from being satisfactory.

According to the two representative trade unions involved – *the Federation of Trade Unions of Macedonia (CCM)* and the *Confederation of Free Trade Unions of Macedonia (KSS)*, the Economic and Social Council established at the national level in 2010 is still in a process of developing. Economic and social councils were set up at the local level with the participation of trade union representatives. While the government took measures in relation to restricting fixed-term employment contracts in the public sector, which is unlawful, there are still a substantial number of workers who are temporarily employed. We should highlight an achievement - at the initiative of the social partners a European Works Council Act was passed. This law allows information and consultation, as well as the participation of employees in the European Works Councils in relation to European matters and for the purpose of enhancing the social dialogue. In addition, after Macedonia became an independent state the first law regulating the minimum wage was passed. Furthermore, amendments were made to the Remuneration Act whereby salaries were increased by 5% as from December 2012.

## 2.2. National context in the agricultural sector:

FYROM has 35 enterprises in the agricultural sector employing more than 50 workers, 14 of whom are members of the AGRO SINDIKAT.

The sector collective bargaining agreement (agriculture and food industry) lays down the necessary conditions for communication between the employer and the trade union within the framework of consultation and information (Art. 112):

“Employers shall be obliged to regularly and timely inform workers and employees about the economic situation and the development of the staff as a result of the economic and social standing, in particular about:

- *Annual and multiannual development plans;*
- *Organizational changes;*
- *Decisions regulating rights that ensue from workers' and employees' employment ;*
- *Annual performance results;*
- *Other economic aspects ;*
- *Other matters of mutual interest. ”*

“The notification is done in writing or, sometimes, verbally, by means of an internal newsletter, a meeting, etc., irrespective of the existence of a trade union organization. This procedure is within the powers of employees' representatives at the level of chairpersons of trade union organizations, as the selection of employees' representatives is not regulated in a law. Trade union organizations are recognized as privileged representatives in the social dialogue in relation to any employment relations matters.

Information and consultation issues are addressed in a sector perspective on a bilateral basis. The line of activity is a priority one for AGRO SINDIKAT – the latter should be informed on any economic and social issues relevant to the enterprise development.

In spite of the deficiencies in the information and consultation system in the country, the interviewees say that it is efficient to the extent to which workers and employees are informed on the matters indicated in Article 112 (quoted above). However, the same interviewees share the view that the state should take the necessary measures in order to ensure the full transposition of Directive 2002/14/EC, including the mandatory agreement between the employer and employees regarding the content of information and the ways for the provision thereof to employees' representatives. Hence, similar to the other countries, the responses in the questionnaire bring to the forefront the need to reconsider the thresholds regarding the number of staff required for the establishment of an information and consultation system.



## **CHAPTER III**

### **SUMMARY**

## **CONCLUSIONS AND RECOMMENDATIONS**

## Summary

The contemporary trends at the European level show that in these turbulent times the social dialogue is a tool which has proved to be conducive to getting out of the crisis whose persisting nature is due to numerous structural and development reasons. While it has often been subject to criticism and a skeptical perception, the social dialogue, according to its definition in the *acquis communautaire*, is a prerequisite for the success of the European Employment Strategy 2020.

The European employment strategy provides the framework (“an open coordination method”), which allows the EU member states to identify challenges and define objectives, to share information and analyses, and to coordinate their employment policies. It is integrated in the new *Europe 2020 Strategy for Employment and Smart, Sustainable and Inclusive Growth*, which became the successor to the Lisbon Strategy for Growth and Employment in 2010.

The Employment, Social Affairs and Inclusions DG of the European Commission has been cooperating with the member states, the social partners, the organization of the civil society and other bodies in the area of meeting globalization challenges, combating population ageing, and in support of society development. The DG has focused on the following:

- More jobs and of a better quality ;
- Free movement of workers and alignment of the social insurance regimes ;
- Improvement of working conditions by introducing common minimum norms for health and safety at work ; implementation and development of the social dialogue at the European level ; modernization of trade union relations and support for the mobility of European workers ;
- Social inclusion.

Therefore, the topic of this report is at the centre of attention of the Europe 2020 Strategy. In this context, regardless of its specific application at the national level, the information and consultation procedure is a tool whereby each party should put in place scenarios and processes for enhancing the dynamics of employment and the conditions for the conclusion of employment contracts. The restructuring processes taking place on a bigger scale in large enterprise should be conducted in a fully transparent environment and on the basis of preliminary forecasts. It is worth mentioning in this context a recent study : The European value added of the EU measure related to information and consultation of workers, anticipation and management of restructuring, published by the European Parliament in four languages – English (the original version), German, Spanish and French. This study emphasizes, *inter alia*, that *“timely consultation and training can have a positive impact even if the practice itself is not so efficient at the national level as it is on the enterprise level”*<sup>5</sup>. This publication has been challenged by the existence of a variety of mechanisms for applying the I and C procedure at both the national and the enterprise levels, and the difficulties in terms of workers’ and employees’ involvement in the procedure. This variety of mechanisms resulting from the national legislations and the ensuing different representation forms, the various tools available to the employees’ representatives for the delivery of their tasks are an impediment to promoting the efficiency of this mechanism in the agricultural sector (small enterprises). We can also list some other obstacles:

1. The size of agricultural farms – as indicated above, the sector consists mainly of small agricultural farms, which is a practical hurdle to the I and C procedure in view of the requirements at present. Nevertheless, there are interesting specific practices – for example, the general assemblies attended by several enterprises (Italy);
2. Drawbacks at the national level (selection of representatives, political will, ignor-

<sup>5</sup> The Cercas Report of the EMPL Committee on Employment and Social Affairs, approved on 15 January 2013 (P7\_TA-PROV(2013)0005)



ing the employees' representatives by the employer, reluctance of the employer, etc.) – most countries are faced with such drawbacks; in some cases, legislative solutions can be applied. However, it seems that these deficiencies mirror a more deeply rooted problem which should be addressed and the findings should be brought to the attention of the EP<sup>6</sup> - one of the findings from the analysis is the obvious reluctance to “take part in the game”, to work in partnership.

3. Different categories of representatives (trade unions, etc.) – this item is partially related to the above one, and is indicative of how deep and substantial the issues are.
4. The difficulties in finding candidates – the number of trade union members has been on the decrease. This issue also relates to the previous one.
5. The protection of employees' representatives – there is unanimous recognition of the fact that the I and C right is a basic one, as regulated in the *acquis communautaire*. The usual threat of imposing sanctions on employees' representatives (including dismissal) is a serious obstacle to the exercise of that right, especially in view of the fact that most trade union organizations are considered to be a privileged partner.
6. The means ensured for employees' representatives – while the lack of such means is not ubiquitous, it also challenges the exercise of the right. Hence, the entitlement of employees' representatives to training should be developed.
7. Trade union training – in most cases, it is organized on the field, but there are difficulties in terms of the resources needed and the autonomy of social partners.

The questionnaires also identify the reasons for efficiency of the I and C procedure.

Most responses say that where the law is observed the procedure is efficient. It should be highlighted that the implementation arrangements are a matter of national competence – e.g. the tools for informing workers and employees differ across the countries in the survey. Moreover, there are differences in terms of the content of this information. The survey has identified a clash between two basic ideas in terms of the efficiency of the information procedure:

1. The content is regulated by law – the content of the information due is defined by means of topics in the legislation;
2. The content is defined in an agreement to the collective bargaining agreement.

Regional culture seems to be a relevant factor determining the content of information.

What matters is that the information process should take place early enough in order for the employees' representatives to be able to take preemptive actions, instead of being reactive in their response – the latter is the most common source of social tension.

### **Recommendations for consideration**

There are various scopes of actions within the framework of the Project concerning the two latest EU member states and FYROM. Two situations have been identified:

- The Directive has been transposed and is applied, but there are certain drawbacks ;
- The Directive is in the process of transposition.

The analysis enables us to also make an assessment in the European perspective. In this case the scope of action is defined by the European trade union and, respectively, employers' federations. In this context, consideration should always be given to the specifics of the sector which consists mostly of very small enterprises.

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6 EP = European Parliament

## EUROPEAN LEVEL

### **Diagnosis:**

The report points to deficiencies in all the countries involved in the Project; these deficiencies, however, differ in terms of their seriousness. While priority has been given to the new member states and a candidate country, there is also a certain focus on old member states which show particularly subtle situations. Drawbacks have been identified in two areas of competences:

#### 1. Social partners:

The study of deficiencies needs to be supplemented on a larger basis with a survey on the following issues:

- Mechanisms for the designation and/or election of employees' representatives ;
- The content of the information provided ;
- Putting forward positions of the employees' representatives and taking into consideration such positions ;
- Concluding agreements on the information and consultation procedure ;
- Ensuring resources (equipment, finances, training) to the employees' representatives.

The objective is: transparency in terms of the observance of rules and/or agreements, identification of problems, exchange between the European social partners (EFFAT – GE-OPA/COPA), and providing solutions tailored to each participating country. Here are a few solutions:

- *Drawing up a charter on the development of consultation in enterprises, including the smallest agricultural farms, via the mechanisms for an efficient representation of workers and employees ;*
- *Measures at the local level, aimed at ensuring the observance of the information and consultation procedure, agreed upon in partnership between the trade unions and the employers' organizations at the national level.*
- *Measures for monitoring the outcomes ;*
- *Exchange of best practices with a view to making projections within the meaning of the above.*

#### 2. Governmental institutions

The above mentioned survey should also encompass the legislation –identify the countries where the legislation restricts the right to information and consultation – in order to make an assessment of challenges (the inertia of public authorities, the content of information) and instruments (the right to training, resources available to employees' representatives, etc.). This survey should be conducted under the auspices of the European trade union and employers' federations; it should cover each individual country; and should compare the positions of the local social partners and make an analysis of the legislation. The findings from the national survey will subsequently be presented to the public authorities.

## NATIONAL LEVEL:

The objectives of the Project should be achieved in an efficient way and the schedule for the conference should be determined. Here are the objectives:

- Promote the preparatory activities for the establishment of transnational bodies and/or I and C mechanisms, as well as encourage the exchange of information and best practices in order to ensure favorable conditions for putting in place these mechanisms ;
- Promote transnational measures which will enable the new member states and the candidate countries to contribute to fostering employees' participation ;



- Promote innovative activities aimed at the management of employees' participation, the facilitation of change forecasts, and the prevention and settlement of disputes.

Our recommendations are, as follows:

**Objective 1 – Promotion of preparatory activities:**

This is a pilot stage, as the scope of these activities should broaden to cover the whole European Union. Our proposals for the pilot stage are, as follows:

Measures	Objective – Operational method
Development of national handbooks with recommendations (planned under this project)	Informing about practices, sharing views and opinions National handbooks to be used by the trade union organizations and the representatives of workers and employees
Publishing a compendium with the national presentations from the three workshops (Bucharest – Sofia – Skopje)	Fostering the autonomy of workers and employees Presentation at the conference
Promoting the exchange of opinions and meetings between the national social partners	Identifying difficulties in real time Developing an annual report on the information and consultation procedures between social partners (with the support and recommendations of the European federations for their national members)
Training for the representatives of workers and employees	Supplementing the current content with the conclusions from this project and the activities agreed upon
Taking follow-up actions after project completion	Measuring the impact of the activities delivered Continuing the process of developing the I and C procedure One of the five partner MSs approaches the European Commission for co-financing (FYROM does not have this right, being a candidate country)

**Objective 2 – Promotion of supratransnational measures (piloting stage):**

Measures	Objectives – Operational method
Transnational working groups	Implemented in the course of the project Dissemination of the presentations (See objective 1)

Forum for the exchange of opinions and comments on a website	Ensuring the possibility to update the experience and raise topical issues Developing the content of a website to be used by the project partners
Presenting the conclusions from the survey to the Sector Council for Social Dialogue	Encouraging debates and considerations at the level of the European partners and Employment DG Publishing a final report and recommendations

**Objective 3 – Promotion of innovative activities (and a piloting stage):**

<b>Measures</b>	<b>Objectives – Operational method</b>
Developing regional I and C activities	Developing the system by means of meetings in enterprises Meetings of the local social partners

**Next steps:**

**Actions can be taken at two levels – European and national. After that the European social partners can present the draft of a new report on the actions to be recommended for the European and national levels. This conference may become a platform for taking and implementing decisions (see the action program). This item will be included on the agenda of the Sector Council for Social Dialogue.**





**FEDERATION OF INDEPENDENT  
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*This Analytical Study was elaborated in the frame of Information campaign realized under European Project VS/2012/003/0305 "Informed and experienced for sustainable Agriculture" and is issued by the support of the European Union. The goal of our project is to study and analyze the systems of information and consultation at the work place in the sector of agriculture in member states of EU and candidate countries in order to contribute to developing employee involvement in agricultural enterprises for advancing and anticipating changes in the agricultural sector, which is in a state of constant transformation.*

*By having this Expert Report the Partnership is committed to work actively to promote activities for preparation establishment of transnational structures and mechanisms for I&C and participation of employee in Agriculture and for new transnational measures in favor of new member states and candidate countries, which contribute to employee involvement in the sector of Agriculture.*



**EUROPEAN PROJECT VS/2012/003/0305  
INFORMED AND EXPERIENCED FOR SUSTAINABLE AGRICULTURE**



*The Partners of this Project express their gratitude to the experts of Réseau Projectives for their work and commitment to the specific problems of the workers and employees in Agriculture during the study process.*

## PARTNERS IN THIS PROJECT

