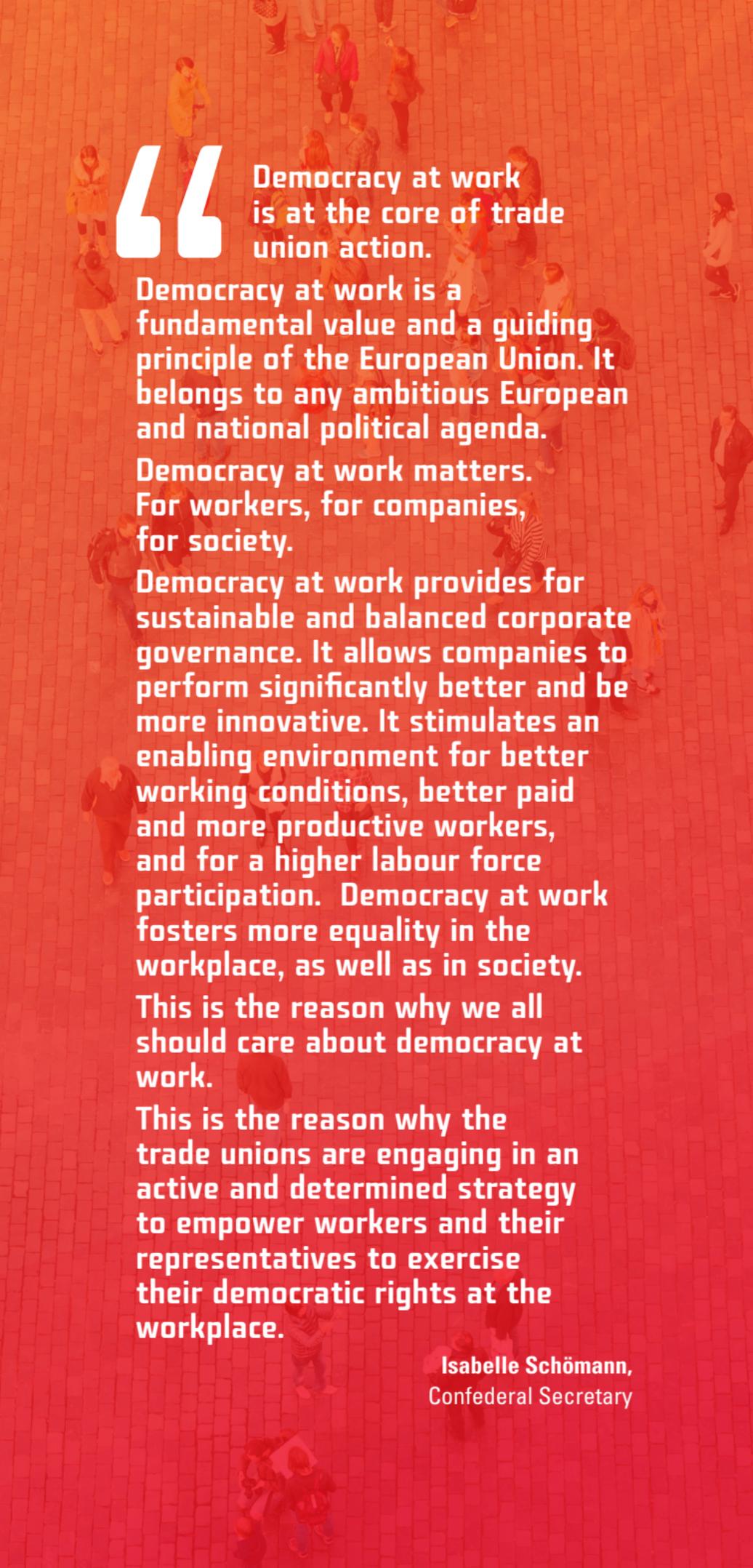


#DEMOCRACY AT WORK

WHY AND HOW TO SUPPORT
THE ETUC STRATEGY ON
MORE DEMOCRACY AT WORK

**DEMOCRACY
AT WORK
MATTERS!**





“ Democracy at work is at the core of trade union action.

Democracy at work is a fundamental value and a guiding principle of the European Union. It belongs to any ambitious European and national political agenda.

Democracy at work matters. For workers, for companies, for society.

Democracy at work provides for sustainable and balanced corporate governance. It allows companies to perform significantly better and be more innovative. It stimulates an enabling environment for better working conditions, better paid and more productive workers, and for a higher labour force participation. Democracy at work fosters more equality in the workplace, as well as in society.

This is the reason why we all should care about democracy at work.

This is the reason why the trade unions are engaging in an active and determined strategy to empower workers and their representatives to exercise their democratic rights at the workplace.

**Isabelle Schömann,
Confederal Secretary**

Freedom, democracy and social justice are core values of the European Union. Democracy is fundamental to our society, in its political, economic and social dimension. More Democracy at Work belongs to a robust and fairer Social Europe. Workers represent an essential constituent of private and public companies. They offer their time, energy and skills on a daily basis. However, their voice and influence are more and more limited and their rights are shrinking. As voters can influence the organisation of their communities, workers should have a greater say regarding the organisation and the choices of their companies that impact them most. This holds for both public and private companies. The economic crisis has shown the severe consequences of an economic model that cheats democracy and social justice. Excessive executive salaries, large financial gains for shareholders, short-term strategies, reduction of costs at expense of workers and working conditions, quality, sustainability and innovation: these are some of the factors which have contributed to the financial and economic crisis. In reply, the austerity measures of the EU have led to a complete standstill of initiatives to support and promote democratic decision-making processes in companies.

Today, most multinationals have recovered from the crisis. Workers however do not benefit from this recovery: wage stagnation is the most telling example. In fact, profits have grown at the expense of wages since the 1990s. Poor workers' involvement in the workplace is another revealing example, mostly due to uncontrolled and unsupervised restructuring and delocalisation processes, unbalanced and insufficient regulations, and ineffective sanctions.

Freedom, democracy and social justice are core values of the European Union

Democracy at work should gain momentum on the political agenda, to achieve its full potential and contribute to a more social, inclusive and fair Europe. It is at the heart of the democracy at work strategy to empower workers in private companies and in public services to express their views, influence decisions with their expertise and practices and enforce their rights collectively.

Workers' participation should be a key question in the 21st century. Stronger involvement of workers within companies and public services can directly improve working conditions, levels of pay, labour rights, social and economic inclusion and sustainability. It also contributes to a more balanced and effective corporate governance and to higher quality for public services. Data suggests that a stronger workers' voice is associated with lower executive pay, stronger economic performance for companies and better employment levels.¹

Democracy at work is anchored in essential rights: freedom of association, collective bargaining, the right to collective action, and workers' information, consultation and participation. We need actions at European level to safeguard and strengthen these rights!

Workers' representatives have the right to be informed and consulted, to have meaningful and

1 Robert Scholz and Sigurt Vitols Co-determination: a driving force for Corporate Social Responsibility in German companies? WZB Discussion Paper 2018; Rapp, Marc Steffen/Wolff, Michael, STARKE MITBESTIMMUNG, STABILE UNTERNEHMEN; Mitbestimmungsreport, Nr. 51, Düsseldorf: 2019

timely discussions with management at all relevant levels, and to be actively involved in the decision-making process of their companies or organisations before any important decisions are made! Member states should live up to their commitment for an upward convergence of social rights, as signed in a joint declaration on the European pillar of social rights.

Specifically, the Directive on European Works Councils should be strengthened and a European framework for workers' information, consultation and participation must be defined. Effective rules on cross-border restructuring should be swiftly implemented and workers' representatives should have the right to sit on the board of the companies which move from one Member State to another. Corporate governance rules need revision in order to guarantee a sustainable economic model based on the involvement of all stakeholders and not only on short term shareholders' interests. Abusive corporate behaviours like letterbox companies should be sanctioned. The strategic framework for More Democracy at Work convenes a forum for trade union organisations and European Works Councils to achieve these objectives. Initiatives could include meetings/events with MEPs ('Invite a MEP'), information seminars, letters and appeals from workers/trade union organisations/EWCs/workers' representatives on boards. The ETUC supports initiatives and actions organised at national and local level where appropriate and needed. Please find attached further information, action material, recommendations and data to support your action for More Democracy at Work.

The ETUC secretariat remains at your disposal for any further information, clarification and support needed.

More Democracy at Work at the core of trade unions actions

Democracy at work consists of a set of rights that gives workers the possibility of actively participating in the shaping of their working environment. This includes statutory rights legally stipulated at European or national level, collective agreements, as well as possibilities that have arisen from practice.

The introduction of the European Appeal. Companies and Employees – Blazing a New European Trail² describes in a very effective manner the negative situation in the European Union today with regard to workers' involvement and corporate governance and the need to completely change the approach:

“Something has gone wrong in the European Union. Four examples bear witness to this dysfunction. How can it be justified that hundreds of thousands of letterbox companies have been allowed to develop, when the aim of these ghost companies is to evade taxes, labor laws and regulations? How can it be explained that European Court of Justice decisions authorized the restriction of employees' fundamental rights in order to support business schemes whose very objective was to circumvent the protection of employees? How could recurring revelations such as those made by the Panama Papers and the Paradise Papers fail to have consequences, showing the EU's inability to prevent tax circumvention by wealthy individuals and large companies? Finally, how could we accept that, despite scandals such as the Rana Plaza

2 European Appeal. Companies and Employees – Blazing a New European Trail (http://european-appeal.org/app_en.pdf)

factory collapse in Bangladesh, many companies have continued to turn a blind eye to suppliers that ignore the most basic social, environmental and human rights? The “shareholder primacy” theory has been promoted by the European Commission while the real economy and employees have been forgotten in the process. As a result, profits have grown at the expense of wages since the 1990s. This does not make sense. Employees are a core constituency of companies: while shareholders contribute capital, employees contribute their time, skills and life”.³

1. Why More Democracy at Work?

A collection of good arguments⁴

- ‘Citizens at work’: democratic participation is as important in politics as in the workplace;
- Workers’ rights to information and consultation are basic democratic rights, enshrined in

3 Ibidem.

4 Several studies and inputs are available on the subject, which have been used in this section. Inter alia, Benchmarking Working Europe 2019, the annual stock-take of European economic, labour market and social affairs contains a chapter on democracy at work: <https://www.etui.org/Publications2/Books/Benchmarking-Working-Europe-2019> - with links to previous editions of the annual edition; Why Workers’ Participation in Europe?, ETUI website, (<http://www.worker-participation.eu/www.worker-participation.eu/index.php/About-WP/Why-Worker-Participation>);

A. Hassel, S. von Verschuer, N. Helmerich, Workers’ voice and good corporate governance, Hans Böckler Stiftung, 2018; A. Conchon, Workers’ voice in corporate governance: A European perspective, ETUI, TUC, 2015; the three volumes on The Sustainable Company are very interesting sources of information and of elements for discussion as well.

S. Vitols, N. Kluge, The Sustainable Company: a new approach to corporate governance, Vol I, ETUI, 2011; S. Vitols, J. Heuschmid, European company law and the Sustainable Company: a stakeholder approach, Vol. II, ETUI, 2013; S. Vitols, Long-term investment and the Sustainable Company: a stakeholder perspective, Vol. III, ETUI, 2015.

the EU Treaty and in the Charter of Fundamental Rights (Art. 27 and 28);⁵

- They are anchored in the European social Charter of the Council of Europe (Art. 21) and in the European Convention on Human Rights (Art. 11 ECHR).
- Workers' information, consultation and participation are an essential characteristic of the European Social Model. These rights strengthen the European Democracy as well as the economic competitiveness of European companies;⁶
- Today, 19 out of 31 EEA Member States officially recognize workers' board-level representation: the right to elect or appoint a number of members of the company's supervisory board / board of directors;
- Countries with strong workers' involvement have advanced further in implementing European objectives such as high employment rate, expenditure on research and development as well as sustainability. "The 'participation index' developed by Vitols demonstrates that European countries with high standards of worker involvement (i.e. widespread rights and practices of board representation, workplace representation and collective bargaining) perform significantly better than countries with comparatively low standards on seven major indicators of the EU 'smart, sustainable and inclusive growth' strategy, including their employment rate (broken down by age and gender), expenditure on R&D, and the risk

5 "Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices". Article 27, Charter of Fundamental Rights of the European Union.

6 Why Workers' Participation in Europe?, cit.

among the population of poverty or exclusion. In the current turbulent times, the fostering of greater information, consultation and representation of workers in corporate governance could therefore be an important means to enable companies to survive and thrive”;⁷

- Stronger workers’ involvement and participation is essential to develop a more sustainable corporate governance model. A company should be managed in the interests (and with the participation of) its stakeholders, in particular workers, and not in the sole interest of its shareholders and managers;
- There is no contradiction between democracy at work and economic success: sustainable companies with strong involvement and participation of their workers have better economic performances in the long term;
- Companies with worker representation at board level and collective bargaining agreements generally perform better than those without.⁸ Companies with strong board-level representation rights have:
 - a. higher investment rates,
 - b. (more often) sustainability practices,
 - c. higher training rates,
 - d. a higher degree of job security,

7 A. Conchon, Workers’ voice in corporate governance: A European perspective,

8 transposition laws. They are not maximum rights. Mitbestimmungsreport, Nr. 31, 2017, on the 100 largest European companies (www.boeckler.de/51937.htm?produkt=HBS-006558&chunk=2&jahr=); A. Hassel, S. von Verschuer, N. Helmerich, Workers’ voice and good corporate governance, cit., pp. 13-14; R. Tannish, Reorienting management remuneration towards sustainability: lessons from Germany, in S. Vitols, N. Kluge, The Sustainable Company: a new approach to corporate governance, Vol I, cit.

- e. top management remuneration systems which are more long-term and less stock market oriented;⁹
- Companies with a works council are generally more engaged in the training of their employees;¹⁰
- The type of workforce needed by innovative European companies – skilled, mobile, committed, responsible, and capable of using modern technologies and actively pursuing quality output– cannot be expected to simply obey the employers’ instructions. Workers must be closely involved in the decision-making process at all levels of the company.¹¹

2. Recommendations

- Insist on the importance and need of European rules, establishing information, consultation and participation rights without underestimating the importance of national laws;
- Underline that European rights do not replace but instead complement existing national rights and instruments;
- European minimum standards are a basis on which Member states can adopt more ambitious national legislation;
- highlight the importance of having both high European and national standards and instruments;
- Highlight the importance and added value of having European information, consultation and participation rights for workers, at a time when

9 WHY CODETERMINATION? A collection of good arguments for strong workers’ voice, Hans-Böckler-Stiftung.

10 Ibidem.

11 Final report of the EU High-level expert group on workers’ involvement, Davignon group, 1997.

companies are going transnational, European, global;

- Go on the offensive with strong proposals and a robust positive approach;
- Sectoral approach: add sector-specific arguments and examples;
- National approach: add specific arguments and examples related to your country.

3. Suggestions for actions

- Develop your communication strategy;
- Jointly organise public and/or internal meetings/events with member organisations (possibly in cooperation with national and/or EWCs and/or workers' representatives in company boardrooms) on information, consultation and participation rights – invite local/regional/national/European press;
- Gather and disseminate positive examples and best practices to show the benefits of Democracy at Work;
- Initiatives supported by the ETUC secretariat and/or by the ETUI to address specific needs in terms of information, analysis or in-depth assessment with regard to workers' information, consultation and participation rights in various sectors and situations;
- Grass-roots pressure: trade union organisations/EWCs/board-level workers' representatives/workers sending letters/emails to MEPs and Commissioners to ask for steps forward at European level on Democracy at Work and describing their difficulties in getting their rights enforced;
- Online petitions – to target candidates and new Commissioners.

4. Two concrete objectives of the strategy in terms of European legislation – ETUC positions

a. Revision of the European Works Council Directive

(Directive 2009/38/EC of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees). In 2017, the ETUC put forward 10 demands for the revision of the Directive.¹² In 2018 the demand for a European EWC Ombudsperson was added.¹³ Inter alia, the ETUC calls for:

- effective and dissuasive sanctions and ensuring access to justice;
- more efficient coordination between local, national and European levels (including through the necessary resources and rights);
- rules for negotiations with the Special Negotiating Bodies need to be improved and clarified;
- abuse of confidentiality clauses must be prevented and subsidiary requirements strengthened;
- the role of “representatives of competent, recognised Community-level trade union

12 ETUC position paper: For a modern European Works Councils (EWC) Directive in the Digital Era https://www.etuc.org/documents/etuc-position-paper_for-modern-ewc-directive-digital-era#

13 ETUC Resolution adopted at the Executive Committee Meeting of 7-8 March 2018: Strategy for more democracy at work: <https://www.etuc.org/documents/etuc-resolution-strategy-more-democracy-work-0#>

organisations” needs to be clarified and strengthened and the concept of “transnational character of a matter” incorporated into the main body of the Directive;

- a level playing field must be introduced by applying all provisions laid out in the Directive to all agreements [including the so-called voluntary “Article 13” agreements], either automatically or by renegotiation.

b. A new framework for workers’ information, consultation and board-level participation

Since 2016, the ETUC has been asking for a new EU framework Directive for workers’ information, consultation and board-level representation.¹⁴ The Directive should leave as much space as possible for negotiations at transnational company level with regard to enabling the parties to design a workers’ information, consultation and board-level representation procedure that best fits their needs and traditions. Key principles should thus be defined as binding standards, and ambitious subsidiary requirements should be designed. These requirements would apply as fallback provisions in the absence of an agreement.

¹⁴ ETUC Position paper adopted at the extraordinary ETUC Executive Committee on 13 April 2016 in The Hague and the ETUC Executive Committee on 9 June 2016 in Brussels: Orientation for a new EU framework on information, consultation and board-level representation rights <https://www.etuc.org/documents/etuc-positionpaper-orientation-new-EU-framework-information-consultation-and-board-level>.



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