

SE Directive

Status of transposition in Austria

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Status of transposition of SE Directive

- since May 2002 **periodical meetings at the Ministry of Economy and Labour**
 - approximately 4 meetings per year
 - involvement of the social partners:
workers: Austrian Trade Union Federation (ÖGB), Federal Chamber of Labour (BAK)
employers: Austrian Economic Chamber (WKÖ), Federation of Austrian Industrialists (IV)
- end of Jan. 2004: **draft**
 - formal appraisal procedure until end of March 2004
 - adoption by Parliament probably before summer
 - entry into force on 8 October 2004

Transposition of SE Directive

“structural changes”

- **Special rule: in case of structural changes in the SE**
 - the SE works council or 10% of the workers can require new negotiations
- **structural change includes above all:**
 - change in structure of SE
 - substantial change in number of employees
 - transfer of registered office to another member state
 - change from dualistic to monistic system and vice versa
- **if the negotiations fail → standard rules will apply**
- **Background:** “before–after approach“ relates only to moment of formation of SE

Transposition of the SE Directive

not transferred–transferred

not transferred:

- Art 7/3 “opting out“
- Art 8/2 “confidentiality in specific cases“
- Annex Part 2 (d) “sharing of information and consultation meetings“

transferred:

Art 3/2 (b) “trade union representation”:

- in the SNB: yes;
- in the SE works council: only if members of one of the works councils that nominates members of the SE works council

Art 3/7 “funding of expert”

- limited to one expert;
- but one week off for training without loss of wages for all members of SE works councils (in addition to 3 weeks for all members of works councils)

Transposition of SE Directive

transferred

transferred:

Art 8/3 “special provision for media enterprises”

in accordance with national special provisions as far as political orientation is concerned

Art 13/4 “maintenance of employee representation”

SE management must ensure that employee representation (central works council, group works council) can continue to function

Art 11 “abuse of procedure”

right to new negotiations if structural changes occur which deprive employees of established rights within one year of registration; if negotiations fail, standard rules apply

Art 7/2 (c) “form of participation”

in the absence of an SNB decision: the form of participation that covers the highest number of employees in the relevant companies

Transposition of SE Directive

other

- **nomination of Austrian representatives if none of the relevant companies in Austria has a works council:**
 - primary election (problem: lacking procedural specifications)
- **Art 3/4 “reduction of participation rights”**
 - “[participation] which is less than the highest level existing in the participating companies“ certainly reduces participation rights (but it is not the only thing to do so)