



Country report: Poland

State of implementation of Directive 2002/14 (information and consultation of employees) in Poland

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The Polish Law on employee information and consultation of 7 April 2006, implementing Directive 2002/14, obliges employers who employ 100 employees or more (50 employees or more since 2008) to establish a works council. According to the data presented by the Polish Ministry of Labour and Social Policy, 1,019 works councils had been set up in Polish establishments by 5 October 2006. On the other hand, in the period between 15 and 24 May 2006, as many as 3,965 agreements were signed between employers and trade unions or employees' representatives in which the parties decided not to set up a works council (Gazeta Prawna, 5.10.2006, see: www.gazetaprawna.pl).

The above-mentioned Law has been contested (30 June 2006) by the Confederation of Polish Employers (Konfederacja Pracodawców Polskich) before the Constitutional Court (Trybunał Konstytucyjny) as non-compliant with the Polish Constitution. According to Andrzej Malinowski, President of the Confederation, the provisions of the Law concerning nominations to and revocation from the works council are contrary to the Constitution as the provisions in question differentiate employees' rights according to trade union membership. Giving priority to the representative trade unions' nominations in unionised establishments, the Law not only excludes non-unionised employees from the selection procedure but also deprives them of the right to recall works council members. What is more, non-unionised employees are deprived of the right to information about the establishment's situation as only the 'unionised' works council would be informed and consulted. The limitation of access to information which affects non-unionised employees, in the opinion of A. Malinowski, "deforms the spirit and text of the Directive" (see: www.kpp.org.pl).