



Country report: (3) Transposition of SCE Statute

Slovak Republic

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March 2006

Transposition of European Cooperative Society Statute in the Slovak Republic

A new Act has been prepared on the European Cooperative Society (hereinafter 'SCE') under the auspices of the Ministry of Justice and the Ministry of Labour, Social Affairs and Family of the Slovak Republic.

By means of the SCE Act, the SR should implement the empowering provisions of Council Regulation (EC) No. 1435/2003 on the Statute for a European Cooperative Society and provisions of the Council Directive 2003/72/EC supplementing the Statute for a Cooperative Society with regard to the involvement of employees.

The SCE Act, in the absence of transposition of the Directive, represents a 'supplementary' legal arrangement in relation to the Regulation. This means that the Act does not regulate those matters directly regulated by the Regulation but it does solve the issues expressly authorised for 'national law' and ensures by amending and supplementing the national legal system the correspondence of the Slovak legal system with the various articles of the Regulation.

Under Slovak legislation, the legal framework with regard to an SCE shall be applied on the basis of the following order of precedence:

- the provisions of the EU Regulation;
- the Statute on the SCE as regards the issues left by the Regulation for optional regulation ;
- the provisions of this Act;
- the provisions of the Company Act;
- company statutes as regards issues not regulated in the above sources and which may be regulated by the statutes of the company concerned.

The Act is divided into 2 sections:

Section 1 regulates the establishment of an SCE, its legal status and its management.

Section 2 regulates employee involvement in the management of an SCE and deals with particular provisions of the Directive. It lays down the right of SCE employees to be involved in its affairs, if registered in the Slovak Republic. The right to information and consultation applies to issues concerned exclusively with the SCE as a whole, its subsidiaries or organisational components in the territory of another Member State or which go beyond the competencies of authoritative bodies in one Member State.

When defining the contents and exercise of the right of employees to participate in the affairs of an SCE priority is given to the agreement on the method and scope of employee involvement.

In accordance with the Directive, the number of members and composition of the special negotiating body is regulated, as well as the duration of negotiations concerning employee involvement and the method for electing or appointing members in the employees' representative body, and so on.

In addition, the Act regulates a number of issues which are particularly important from the trade union point of view:

- entitlement of members of the representative body to time off, without loss of earnings, for any training needed to exercise their functions;
- the opportunity for the representative body to call on experts of its own choice when serious matters are to be discussed;
- obligation of the SCE to ensure conditions for the adequate functioning of the representative body (financial, material, organisational);
- employment protection of employees' representatives to be enjoyed with the same scope as that provided for employees' representatives by the national legislation.

The Act lays down in detail the issues of employee involvement, as follows:

- The contents of the right to information, that is, what kind of information and how frequently the SCE is obliged to provide it to the employees' representative body. It also stipulates the obligation of the employees' representative body to inform the employees which it represents on the outcome of consultations.
- The cases and conditions in which the management body of the participating company may refuse to provide information (if such information would threaten the functioning of the SCE). The procedure for appealing against the designation of information as confidential is also regulated.
- The contents of the right to consultation, including detailed regulation of procedures in situations in which a given SCE body decides to act against the wishes or expressed views of the employees' representative body or its select committee.
- The right of employees to influence the composition of company bodies.

The trade union point of view:

- KOZ SR fully supports transposition of the Directive into the legal framework of the Slovak Republic.
- Concerning the contents of the Act KOZ SR declines to comment.
- On a positive note, KOZ SR considers the draft Act to be an instrument which will make possible the deeper involvement of employees in company decision-making processes.
- The Act refers to the provisions of the Labour Code which regulate the status and competencies of employees' representatives, especially trade union organisations.