

# INFORMATION AND CONSULTATION TO MEET AND EXPLORE CONCRETE NEEDS (IC INTO NEW DIMENSION)

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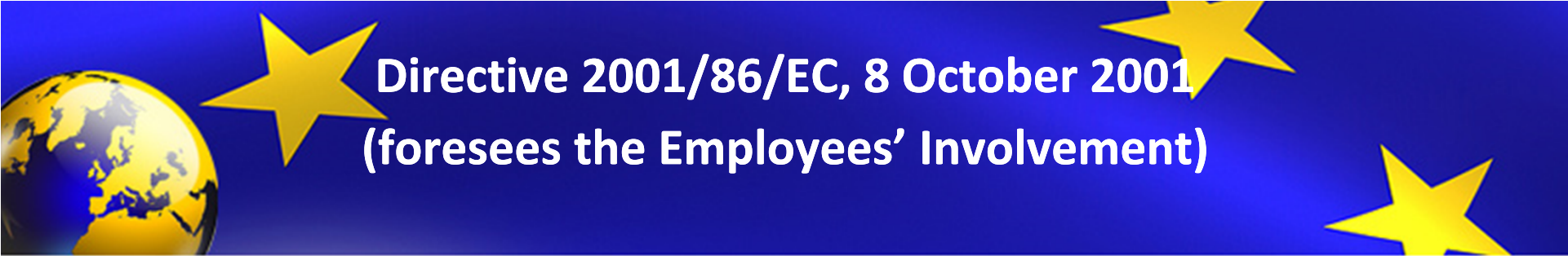
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Eu commission support



**Directive 2001/86/EC, 8 October 2001  
(foresees the Employees' Involvement)**

## **EWC**

- A different Directive

## **SE**

- Just apply to the companies – SE
- Directive and the Regulation 20157/2001, 8 October 2001
- Application
- Information
- Consultation
- Participation (possible in some cases)



European Company is seen as a way to improve the internal market withdrawing the internal barriers in some aspects.

It establishes the technical aspects of the constitution of an SE and what needs to be done

It establishes as condition «*sine qua non*» the issue of the employees' involvement

This question must be solved in order to allow the SE Registration

It is an aspect for the company's constitution



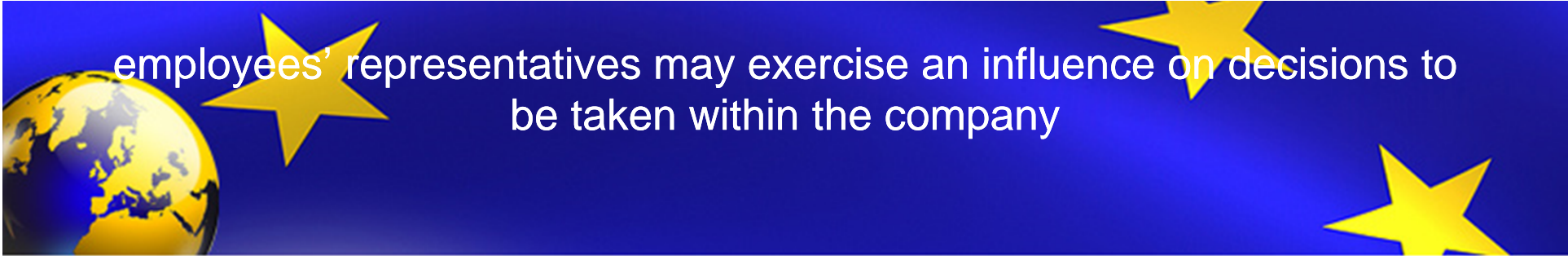
The Directive is exclusively applied to the European Companies, vulgarly known as «public limited companies» that the directive itself defines as:

«companies constituted with the community as european public limited companies; SE is a company with capital divided in shares. Each shareholder is responsible only up to the subscribed capital» (*regulation EC 2157/2001*)





**Can be union members  
outside of the company**

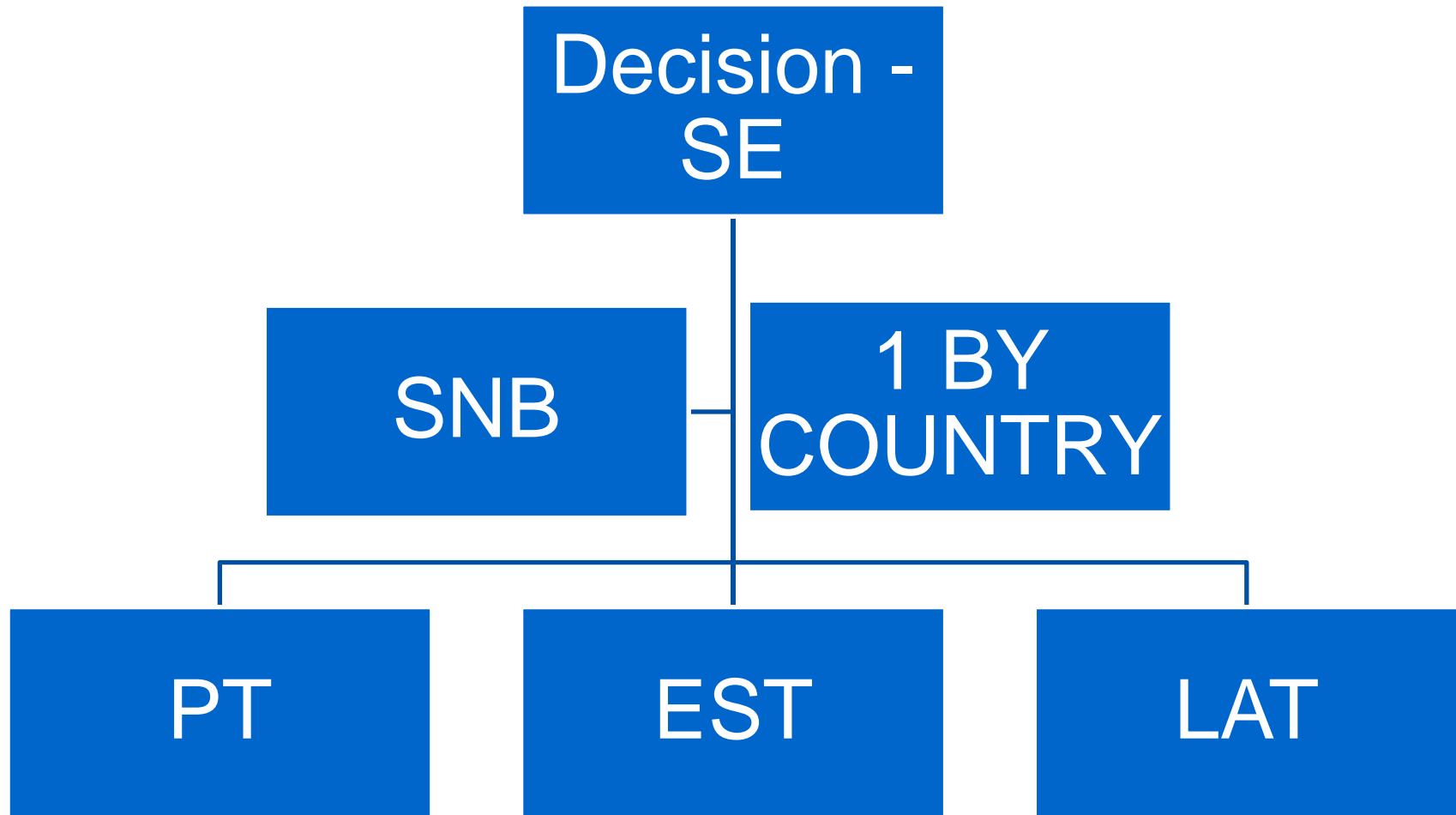


employees' representatives may exercise an influence on decisions to be taken within the company

- **Information** – means the informing of the body representative of the employees and/or employees' representatives
- by the competent organ of the SE on questions which represent a concern to the SE itself and any of its subsidiaries or establishments situated in another Member State or exceed the powers of the decision-making organs in a single Member State at a time, in a manner and with a content which allows the employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare consultations with the competent organ of the SE
- **Consultation** - establishment of dialogue and exchange of views between the body representative of the employees and/or the employees' representatives and the competent organ of the SE, at a time, in a manner and with a content which allows the employees' representatives, on the basis of information provided, to express an opinion on measures envisaged by the competent organ which may be taken into account in the decision-making process within the SE
- **Participation – it does not exist** a real definition of the concept, but how it can be implemented, such as:
- the right to elect or appoint some of the members of the company's supervisory or administrative body or
- the right to recommend and/or oppose the appointment of some or all of the members of the company's supervisory or administrative body.



# PROCESS










- Companies interested that this should be a fast process
- SNB should establish the agreement
- Election, procedure according the national rules
- 1 representative per country + 1 for 10%
- How we know the number of workers?
- Must be included in the project of SE



# SE HOLDING 5000 Workers

		<b>4000=80%</b>	<b>8</b>
		500=10%	1
		500=10%	1



there are such further additional members from each Member State as may be necessary in order to ensure that the special negotiating body includes at least one member representing each participating company which is registered and has employees in that Member State and which it is proposed will cease to exist as a separate legal entity following the:

- Not exceed 20%
- No double representation



# Example

Country	Company X	Company Y	Company Z	Total by country
Portugal	50	100	200	350
Spain	60	140	30	230
Denmark	35	15	100	200
Total	145	255	330	780



Country	Company X	Company Y	Companhia Z	Total country	%	SNB
Portugal	50	100	200	350	44,8	5
Spain	60	140	30	230	29,4	3
Denmark	35	15	100	200	25,6	3

## MERGER

	Company X	Company y	Company Z	Country	%	SNB	
Portugal	50	100	200	350	49,6	5	-
Spain	60	140	30	230	32,6	4	-
Denmark	15	10	100	125	17,8	2	1
Total	125	250	330	705	100	11	-

The extra member cannot exceed more than 20% of the regular members so, in this case, the number in order that all the companies to be presented is of 11, 20%, giving one more member to Denmark



Country	Company X	Company Y	Company Z	Total	%	SNB	Extra
Portugal	50	100	200	350	57	6	-
Spain	60	140	30	230	37,5	4	-
Denmark	2	11	1	14	2,2	1	2
Greece	5	2	12	19	3,3	1	2
Total	117	253	243	613	100	12	4

4 extra members will be needed to allow all the companies to be present at the SNB, this exceeds the 20%, reaching 33%;Portugal and Spain do not need all companies present. Maximum 2 more places: will be allocated to the companies with higher number and in different Member states . So, in this particular case, go to Z in Greece and y in Denmark



an absolute majority of its members provided that such a majority also represents an absolute majority of the employees

Exceptions



- After the SNB the negotiation can last during 6 months, can be extended
- The Directive just establishes minimum
- Standard Rules - Minimum
- **AGREED**





the competent body of each of the participating companies decides to accept the application of the standard rules in relation to the SE and continue with the registration of the SE, and the special negotiating body has not taken the decision provided in Article 3( NOT OPENNING NEGOTIATIONS; TERMINATE NEGOTIATIONS)



Member States may provide that the reference provisions in part 3 of the Annex shall not apply in the case provided for in point (b) of paragraph 2.

Plus art 12 - 3

In order for an SE to be registered in a Member State which has made use of the option referred to in Article 7(3) of Directive 2001/86/EC, either an agreement pursuant to Article 4 of the Directive must have been concluded on the arrangements for employee involvement, including participation, or none of the participating companies must have been governed by participation rules prior to the registration of the SE



- Members
- Election process
- Restrict bodies
- Information and Representaion at the representation body – Transnational matters
- Extraordinary meetings
- Expert – transposition can restrict to one
- Training of the members