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Dutch government sets standards for legislating on new EWC Directive

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> **The proposed Dutch law for bringing into effect new European Works Council rules includes injunctions – something which was proposed for, but ultimately failed to make it into the revised EWC Directive.**

All Member States of the European Economic Area (EU countries plus Norway, Iceland and Liechtenstein) must transpose the newly recast EWC Directive into national law by 1 January 2028.

The Netherlands was the first country to publish its draft legislation ("Wet implementatie herziene EU-richtlijn Europese ondernemingsraden") on 18 June 2026 and organised a public consultation.

By 7 August 2026, the Ministry of Social Affairs and Employment had received five responses on the subject from trade unions, employer federations and an international corporate law firm. The Council of State will first examine the draft bill before the debate in Parliament.

Large parts of the draft bill incorporate wording from the new directive verbatim. However, there are clarifications regarding the rules on confidentiality, which expressly refer to the Trade Secrets Act ("Wet bescherming bedrijfsgeheimen").

This constitutes the transposition of a 2016 EU Directive on the protection of confidential business information, which the European Parliament wanted to include as a reference in the EWC Directive but was unable to push it through. This objective framework strengthens the position of the EWC and makes it more difficult for companies to withhold information without good reason.

The second clarification concerns the rules on enforcement should central management fail to respect the EWC's rights. In such cases, the Enterprise Chamber in Amsterdam ("Ondernemingskamer") remains the competent authority in the first instance, and its powers are to be extended.

INJUNCTIONS MORE IMPORTANT THAN FINES

Under Article 11 of the new EWC Directive, each Member State must ensure that "adequate procedures" are in place to enable rights to be enforced in a timely and effective manner. This is supported by "effective, dissuasive and proportionate penalties in cases of infringement". To this end, the Dutch draft bill provides for fines of up to €110,000.

Far more important, however, is the interim legal protection provided by an injunction order issued by the Enterprise Chamber, which in future will be able to oblige companies to revoke a decision in whole or in part and to undo certain effects of that decision.

It may also prohibit the company from taking, or letting others take, any action to implement the decision or parts thereof. A breach of such an order is deemed to be a serious economic crime and may be pursued by the public prosecutor.

In future, should there be an (alleged) shortcoming in the information and consultation procedure, the EWC may file a claim to halt the measure, which is an effective means of achieving the Directive's objective.

The possibility of such an interim injunction being granted by the Enterprise Chamber is likely to have a deterrent and preventive effect. According to the explanatory memorandum, the combination of this with a potential fine creates a comprehensive system of enforcement.

The Dutch Government is therefore establishing a standard that can serve as a benchmark for other countries.

FINANCING BY THE EMPLOYER

According to the Dutch Government, 73 European Works Councils are currently based in the Netherlands, including 28 with headquarters outside the EU.

Unlike in Ireland, there is an institution in the Netherlands known as the Enterprise Chamber that can resolve disputes professionally and swiftly, and which has decades of experience in matters relating to works councils.

If both parties agree, proceedings may be conducted in English, which is not common in other non-English-speaking countries. In the Netherlands, the financing by the employer of a lawyer appointed by the works council has never been a matter of dispute. It has been part of the Works Councils Act since 1950 and was incorporated into the Dutch EWC Act from the outset.

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