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Company cross-border re-structuring in Europe

a first success for workers and the fight against letter-box companies

The European Parliament and the Council finally reached an agreement on the mobility aspect of the new legislative package on company law including measures for protecting and reinforcing worker's rights in Europe. The deal reached will support honest companies moving within the EU, but will also provide tools to catch dishonest companies looking for the loopholes to profit from the differences between Member States in financial, social and employment rules.

In spring 2018, the European Commission has published a new proposal for harmonised company law rules applicable to companies wanting to merge, split or relocate from one Member State to another.

Today, when companies want to move their registered offices cross-border, they need to rely on national law while more than a half of Member States do not provide specific rules on cross-borders conversions, leading most of the time to companies being obliged to dissolve or wind up. It also implies a lake of clarity regarding the rules applicable to protect employees, creditors and minority shareholders.

For the Greens / EFA group the European Union is not only about facilitating the freedom of establishment for companies but also about protecting workers and about preventing abusive constructions that are set up to circumvent or evade fiscal and social obligations. This is a step forward in the construction of a fair and social Europe.

Concretely, we pushed for strengthening the information, consultation and participation of workers in the process of cross-border company operations from the start of the legislative process during the negotiations in the European Parliament and continued to do so during the negotiations with the Council. They are, indeed, the first ones affected by such operations, and therefore need to be given all necessary information and consulted beforehand and their opinions have to be taken into account.

Moreover, the adopted text gives good tools to fight against letterbox companies, social and fiscal evasion. For this to be fully achieved, Member States have to put the anti-abuse clause into practice and, for this purpose, ensure transparency in the procedures and cooperation with all relevant authorities within their Member State and in other Member States.

But the work does not stop here. We regret that the Council and the European Commission did not support

the European Parliament in pushing for an ambitious European horizontal approach on workers' participation in company boards. The Commission has made the commitment that they will look into putting forward a specific legislative proposal on such harmonised rules beyond cross-border operation in Europe. We will closely follow up on this and will not hesitate to take action if the Commission omits to do so.

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