

SUMMARY

ECJ 18 October 2022, case C-677/20 (IG Metall and ver.di), Miscellaneous

Industriegewerkschaft Metall (IG Metall), ver.di - Vereinte Dienstleistungsgewerkschaft – v- SAP SE, SE-Betriebsrat der SAP SE, German case

Summary

Where national law requires, in respect of the company to be transformed, a separate ballot for the election of employees' representatives nominated by the trade unions, that electoral arrangement must be preserved.

Question

Must Article 4(4) of Directive 2001/86/EC be interpreted as meaning that the agreement on arrangements for the involvement of employees applicable to an SE established by means of transformation, as referred to in that provision, must provide for a separate ballot with a view to electing, as employees' representatives within the SE's Supervisory Board, a certain proportion of candidates nominated by the trade unions, where the applicable law requires such a separate ballot as regards the composition of the Supervisory Board of a company to be transformed into an SE?

Ruling

Article 4(4) of Directive 2001/86/EC must be interpreted as meaning that the agreement on arrangements for the involvement of employees applicable to a European company (SE) established by means of transformation, as referred to in that provision, must provide for a separate ballot with a view to electing, as employees' representatives within the SE's Supervisory Board, a certain proportion of candidates nominated by the trade unions, where the applicable national law requires such a separate ballot as regards the composition of the Supervisory Board of the company to be transformed into an SE, and it is necessary to ensure

that, in the context of that ballot, the employees of that SE, of its subsidiaries and of its establishments are treated equally and that the trade unions represented therein are treated equally.

Creator: European Court of Justice (ECJ)

Verdict at: 2022-10-18

Case number: C-677/20