

Co-determination and economic democracy: Proposal for more democratic influence on big companies and the economy

The core of this proposal:

In big companies the supervisory board (SB) that elects and controls the board of managers (BoM) is elected by 3 groups:

shareholders, employees and the **population**.

No group dominates the others.

Whether a company is big enough for this co-determination, depends not only on a minimum number of employees, but alternatively also on financial minimum values.

A part of the representatives of the employees can be elected also from employees who do not work in the respective company.

In "5.1 Europe" an introduction phase of this co-determination is shown, during which the shareholders are stronger.

1. basic issues

1.1 democracy, power and property

1.2 from 2 groups to 3 groups

2. consequences of this proposal

2.1 in a single company

2.2 stronger democratic influence on the economy regionally, nationally and internationally

3. size of a company

4. election procedures

4.1 population: distribution of a third of the SB-seats by them

4.2 employees: distribution of a third of the SB-seats by them (+ special cases)

4.3 shareholders: many different voting procedures are possible

4.4 chairperson of a SB

4.5 alternative and more direct procedures

5. carrying it through

5.1 Europe

5.2 purchases by state and private clients

5.3 companies from states without this co-determination

Appendix:

A. property and constitution

B. to 1.2 ("...existing method in German companies,...")

C. completing regulations to 4.1 (on the electoral process of the population)

D. alternative and more direct election and decision procedures

E. smaller medium sized companies

F. additional points

1. basic issues

1.1 democracy, power and property

The most comprehensive freedom of the greatest possible number of people (while considering the rights of minorities!) needs as a base a democratic structure of society. In order that democracy works well, the forming power of the democratic institutions must be much greater than the power of persons or small groups through property. This power through property is used especially by big companies. With economic democracy such power can be reduced.

[About property see also appendix A.]

1.2 from 2 groups to 3 groups

For this proposal I start from the **existing method in German companies that have more than 2000 employees**: In the SB (that elects and controls the BoM) half of the seats is elected by shareholders, the other half is elected by employees (this is correct superficially considered, but a problem is: SB-seat for executives). If a voting is undecided, then the chairperson of the SB has two votes in a repeated voting; this is very important, because the representatives of the shareholders can elect her/him alone and therefore can also make decisions alone (e.g. can elect the BoM alone).

[More about it: see appendix B.]

The proposal presented here has a **third group** that can elect members into the SB: the population. No group dominates the others.

2. consequences of this proposal

2.1 in a single company

- Because there are no clear majorities, one-sided positions can hardly be carried through. Whether it is about high profits for the shareholders or about high salaries for the employees: Both interest groups do not have the majority to make such decisions alone (because they do not have the majority to elect the BoM alone).
- The representatives of the group "population" can mediate in conflicts between shareholders and employees.
- If shareholders and employees agree, then the representatives of the group "population" can't carry through anything.
- The representatives of the group "population" are most responsible to their voters. Therefore social interests now play a greater role in the decisions of the company.
- Through the personal contact with the representatives of the group "population" and through the lost of the majority, it is becoming more normal for the representatives of the shareholders, to deal with social issues, human rights and ecology.

2.2 stronger democratic influence on the economy regionally, nationally and internationally

- a) Some items that are both regionally/nationally and internationally important:
- Policymakers can no longer be set so easily under pressure by shareholders. For instance, to make pressure for lower corporate taxes, there can no longer be so easily threats of the relocation of plants, as it is enforced not only by shareholders.
 - By including financial values for the application of this co-determination, also companies are included, that have only few employees but big financial power. So

this co-determination is applied to financially strong holdings, fund companies / investment companies, banks, companies with big landownership and companies with highly automated factories, even when these companies have only few employees.

Co-determination in accordance with financial minimums also makes sense for foundations.

- Lobbying: The interests behind the lobbying of a company are wider, and so more balanced. (Also: In the future we probably must distinguish between general business associations and business associations representing only shareholders.)
- High-tech companies: When in such a company there are many employees,
 - who see themselves as elite that knows what is good for the rest of mankind,
 - or who do not care for most people,

then there are as a corrective:

- the population as 3rd group
 - and the part of the employees-representatives that is also elected by employees who do not work in the respective company.
 - Transparency: more social groups have a deeper insight into companies. Especially SB-representatives of the group population can not afford not to care about transparency requirements of non-governmental organizations (NGOs).
 - For single projects of a company it becomes more likely that the interests of directly affected groups and individuals are considered appropriately. If representatives of the group population do not respect the affected groups enough, they will lose voters.
- b)** The population and and their representatives have influence
- through their co-determination in big companies;
 - through the connections of the SB-members of the group population to (politically related) decision-makers in other democratic bodies and to civil society groups;
 - and through the cooperation of many political groupings that take part in this co-determination: To support the own interests as strong as possible (e.g. to get SB-seats in the biggest international companies), political groups must unite in international political groups. Obvious are alliances corresponding to party political groups like Socialists / Social Democrats, Conservatives, Liberals, Greens; but there can also be international alliances of other civil society organizations (NGOs).
If the biggest of these international groups can agree on common aims, then through them can be acted on economy internationally and globally, e.g. with regard to social issues, human rights, ecology, tax justice.
- c)** EU Parliament: Political groups that have power through SB-seats of the group population, can find like-minded people in the EU-parliament, who they can jointly practice social influence with. Outside Europe similar is possible.
- d)** For exchange of views, organization and common positioning on a global scale a parliamentary assembly would be useful. There is indeed a campaign for a United Nations Parliamentary Assembly (unpacampaign.org); this UN Parliament would initially have only an advisory function (for a decision to create this parliament a 2/3-majority in the UN general assembly suffices). From a part of this UN Parliament a parliamentary assembly could be formed, which has only members from countries that participate in this SB co-determination. In addition, to give small states more influence: Some decisions could need the consent of a states-body (with 1 vote for each state).

- e) Through the governments, international political groups from 2.2.b can also have influence on international economic organizations like the World Trade Organization (WTO), the World Bank and the International Monetary Fund (IMF). In addition: Also the pressure and influence of big companies on the WTO (and other organizations) and on the WTO member states is influenced by the international political groups from 2.2.b and the international parliamentary bodies from 2.2.c and 2.2.d, respectively.
- f) An important structure is created for the international coordination of labor unions among themselves (compare 4.2).
- g) An international democratic power structure arises, which is largely independent of national borders.

3. size of a company

Besides the number of the employees there are financial criteria for the introduction of this co-determination:

- value, value of the shares, turnover, balance sheet total of a company;
- especially in financial companies: value of property, that they manage for their customers.

There should be a graduation for the co-determination. Example:

	big companies	medium-sized companies
ratio of votes in the SB	$\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$	$\frac{1}{2} : \frac{1}{4} : \frac{1}{4}$ ($\frac{1}{2}$ = shareholders)
employees	more than 1000	100 - 1000
financial values	over A	1/10 A to A

To classify a company as big or medium-sized **either** the number of employees **or** a financial value must be reached.

For companies with up to 500 employees (or equivalent financial value), the procedure in appendix E can also be applied.

Also if you advocate a reduced size of the big companies and combines, this co-determination makes sense:

- The ratio of votes of $\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$ in the SB (+ paragraphs 4.2 and 4.4) prevents, that the company is subordinated to a combine.
- Would you, for example, divide big companies into companies that have only one 10th of the original size, then some of these smaller companies would still be big enough for the co-determination with the ratio $\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$ in the SB.

For companies that are small according to finance values and staff, it may in certain cases also be useful to use this co-determination. While doing so, at least in some cases the same members of the group population can be elected for various companies, such as the election would be only for 1 SB. Application areas:

- A group of companies in which the same person or group has larger shares;
- a group of companies that are formally independent, but operate under a common corporate identity;
- the technology used or the product produced of a company involves special risks.

In the first two points the financial values and the employees of these companies can be added together to exceed a financial or staff threshold.

4. Election procedures

4.1 Population: distribution of a third of the SB-seats by them

- a)** Each state can choose who in the own state has the right to vote (although the votes also count internationally):
- citizens directly
 - or representatives of the population at the local or regional level. The votes of the voters are then weighted according to how many citizens are represented by a voter.
Example 1: In Germany, those representatives of the population could have the right to vote, who were elected at the municipal level: for counties, cities or neighborhoods.
Example 2: Instead of using existing municipal or regional bodies: Together with the national parliamentary election another election takes place, where at the local or regional level persons are elected who participate in the SB-elections.
 - Or both with: the lesser the direct participation of the citizens the more weights the share of votes of their representatives at the local or regional level.

Additionally, a fixed proportion of votes could be given to certain stakeholders, e.g. for environmental protection. This proportion could be determined by each state individually, but within internationally agreed limits.

Example: 70% of the votes are from the general population, 30% of the votes are from groups, associations, institutions committed to environmental protection.

- b)** There are several lists of candidates for the election of population representatives to the SB of a company. A proportional representation is applied (for example according to the method Sainte-Laguë / Webster).
- c)** The voters each have a limited number of votes per year that they can distribute to SBs of several companies. They can give up to 25% of their votes to 1 SB.
Example: A voter has 100 votes. She can distribute these votes e.g. to 4 candidates (with 25 votes for each) in 4 SBs or to 100 candidates (with 1 vote for each) in 100 SBs. Or in the same SB she can give 20 votes to one candidate and 5 votes to an other candidate.
- d)** The votes are counted separately for national and international votes. International votes include national votes. National votes are those votes, which are cast from voters in that country, where a company has its **headquarters**; with national votes, those candidates can be elected, who can also be elected with international votes. By national votes 1 SB-seat less than half of the seats is given, if the number of seats is odd; with even number of seats, it is half of the seats.
Example: A SB has 15 members, so 5 of the group population. 2 of the 5 members are distributed by national votes, 3 by international votes.

For the SB-seats that are elected with national votes the calculation of the seat distribution is completed first. Subsequently, if this procedure is also applied to the international votes, the seats obtained at national level of a candidates list are taken into account as follows:

- If, on the international level, a list X were to be given a seat in accordance with the proportional representation procedure, but this list has already been given a seat at national level, that list will not be given that international seat. Instead, the seat goes

to the list which, according to the proportional representation procedure, has the next largest claim.

- If, in this proportional representation, the list X is entitled to a second seat, then that seat will be given to it (if it has won only 1 seat at the national level).

Example of effects of these regulations: A SB has 5 members from the group population. 2 of them are elected by national votes, which is equal to 40%.

- *If less than 40% of the votes cast are national votes, then fewer votes per SB-seat are required for the 2 members elected by national votes than for the 3 others.*
- *If, of the votes cast, e.g. 60% are national votes: For 40% of the votes, national votes are advantaged to the other votes, as 2 SB-seats are guaranteed for national votes. For the remaining 20%, the national votes are at least not disadvantaged.*

e) Because for the population there are only relatively few seats in a SB, and since, in addition, these few SB-seats are even less per calculation due to the division into national and international votes mentioned in d), the following rule is used, that shall ensure that

- the successful candidates and lists are elected by a larger proportion of voters;
- it is possible to vote for a group with rather low chances, without risking that so neither this group nor the second or third best alternative, which appears to have bigger chances, gets a SB-seat.

Each vote can be cast for 3 different candidates in 3 different candidate lists of a SB. During voting e.g. in a single line can be filled in:

- number of votes
- preferred candidate, from the preferred list
- 1st alternative candidate, from another list
- 2nd alternative candidate, from a third list

For the counting of the votes of a SB there are **several rounds** in which **lists with the fewest votes are removed**:

- In the second round, only votes for the following lists are counted: The lists that would have received a seat in the SB after the first round (according to a proportional representation procedure), and also **5 additional lists**, which have received the most votes of the remaining lists. Those votes, where the preferred candidate is from an eliminated list, are now used for an **alternative candidate** that is from a list that has not yet been eliminated.
- In the 3rd round, the list with the fewest votes is eliminated. The votes of this eliminated list are distributed to alternative candidates in the other lists.
- In the 4th round, the list with the fewest votes is eliminated. ...
- ...
- In the last round, there are **no additional lists**, but only the lists that actually get a seat in the SB.

Note on "5 additional lists": There could also be many more lists in the 2nd round, namely 1 list less than started in total. That would lead to more counting rounds, which is practicable if this calculation is done by computer. I think that such a calculation by computer is unproblematic if the distribution of votes of each ballot is generally accessible. Because with this, many people can independently of each other (with

different computer programs) find out the final result, which results after several counting rounds.

This procedure is applied according to d) first for national votes and then for international votes.

Additional regulations to 4.1 are in **appendix C**.

4.2 employees: distribution of a third of the SB-seats by them (+ special cases)

a) At least half of the employee representatives **up to all except 1** are elected by employees of the company.

- Only half of the representatives it is, if there is an individual case according to the second point in b).
- The company's employees are free to choose whether these representatives are from within the company or from outside. So they can e.g. flexibly choose sometimes more and sometimes less external labor unionists.

b) A minimum of 1 to a maximum of half of the employee representatives is elected by unions:

- Directly elected by unions is by default at least 1 representative.
- In special cases it makes sense that half of the employee representatives are directly elected by unions. Example: finance-companies with high-income employees. Such companies can have a great influence on society and by this on the great number of employees at other companies, who earn less. The interests of these worse earning employees are supported by the direct influence of the unions.

So that half of the employees representatives are directly elected by labor unions (for the benefit of this see also "4.4 chairperson of a SB"), in individual cases this can be set in union meetings with 2/3-majority:

- without time limit in a central international assembly
- or with time limit in a smaller, subordinate assembly; there also faster decisions are to be possible.

An early reelection is not necessary: From the result of the last election of employee representatives results the candidates for additional seats for the representatives directly elected by unions, as well as the representatives of a) losing their SB-seat. For these individual cases also applies: In the SB an odd number of employee representatives is reduced to an even number, so there is 1 employee representative less: If e.g. a SB normally has 5 employee representatives, now only 4 employee representatives remain, 2 of them are directly elected by labor unions.

c) In deviation from a) and b) there could be an additional regulation for companies with big financial value that have only very few employees: The employees have only 1 employee representative in the SB, and this one was directly elected by unions. And the shareholders receive an additional seat.

Example: The ratio shareholders:employees:population is now 4:1:3 instead of 3:3:3.

See also 4.4.

4.3 shareholders: many different voting procedures are possible

The election process can be different in different states. In the same state it can be different for different company forms. As an example, here are 2 extremes:

Example 1: A single person has the majority of the shares of a company and alone decides which shareholder representatives become member of the SB.

Example 2: The company is owned by the employees working there. These employees thus elect all shareholder representatives and the employee representatives according to 4.2.a into the SB.

4.4 chairperson of a SB

Equality of votes is possible in a SB (regarding 4.2.b and 4.2.c) between

- on the one hand all shareholders-representatives together with those employees-representatives, who are only elected by employees of the concerning company,
- and on the other hand all population-representatives together with those employees-representatives, who are also elected by employees from outside of the concerning company.

This deadlock is solved by:

1. If there is no 2/3 majority in the election of the chairperson of a SB, then she/he will be elected by the representatives of the group "population" (they are the most neutral group).

If there is no majority for a candidate in the group population after 2 ballots, this right to vote will be transferred to one of the other two groups.

2. If a voting has resulted in a tie, then the chairperson has an additional vote in a repeated voting.

(Alternative solution: If a voting has resulted in a tie, all representatives of the group population have an additional vote in a repeated voting.)

4.5 alternative and more direct procedures

- Maybe in addition there should be an alternative procedure, where the group population does not exist. This could make sense for companies where the central tasks are forming of opinions and communication of information. See appendix D.1.
- In some companies there could be the wish, to make decisions like e.g. the election of the board of managers not indirectly through the SB, but by direct elections and decisions. Possibilities for this you find in appendix D.2.

5. carrying it through

5.1 Europe

First of all, the core of this proposal (see introduction) needs to be widely discussed. Then it can be aimed to ensure that a law will be adopted in the EU, that has elements of this proposal. This law could be adopted as part of the "enhanced cooperation" that is applied for a minimum of 9 EU states. In the beginning in many EU countries could apply:

- The population is added as the 3rd group into the SBs of big companies.
- **By default, shareholders have 50%** of the votes in a SB of the largest companies, there is e.g. a proportion of votes of $\frac{1}{2} : \frac{1}{3} : \frac{1}{6}$ (or $\frac{3}{6} : \frac{2}{6} : \frac{1}{6}$); perhaps completed by an additional "neutral" SB-member elected by a majority in all 3 groups of the SB.
- **But under certain conditions** all 3 groups have $\frac{1}{3}$ of the votes:
 - when a company is by the majority owned by states;
 - when a company makes use of special state support;

- or when a company introduces this voluntarily. This voluntariness e.g. can be stimulated by having different tax rates for company taxes, depending on the level of co-determination of a company. Or by considering the level of co-determination when purchasing. Or by company-specific customs duties.

The above-mentioned EU law should later be merged into a legal foundation that exists independent of the EU internationally and also applies to countries outside the EU.

5.2 purchases by state and private clients

The state with public contracts and private customers with private shopping can have influence by

- preferring companies that have much co-determination, if there is a choice only between big companies;
- preferring companies whose big suppliers (of goods and services) also have, to an as possible great extent, much co-determination.

Ranking lists or valuations in the internet or in magazines about products, producers, traders and service companies could be a help for the selection. For this the mass media and organizations can get information about suppliers, human rights, ecology etc. also from SB-members that are from the group "population":

- This information can support political aims of parties and political groups (whose candidates are members in SBs as representatives of the group "population"); therefore they are interested in publishing information (especially interesting: differences with respect to the various political directions).
- The representatives of the group "population" are less inclined than the shareholder-representatives to make light of something or to keep something secret.
- Most parties and political groups that are represented in SBs will probably develop standards for their information work. This increases the comparability of the information of different companies.

5.3 companies from states without this co-determination

If many states and private customers prefer companies with this co-determination when purchasing, then this can be an argument for companies from states without this co-determination, to introduce such a co-determination.

For such companies special regulations are necessary:

- The third of the SB-seats that is occupied by the representatives of the group "population" is elected a little differently: In the election that is according to 4.1 there is no national counting of votes (despite of this SB-candidates can come from the state of this company).
- By a decision of the shareholders' meeting this co-determination is fixed in the statute of the company.

Appendix:

A. property and constitution

Regarding property in connection with big companies, 2 areas can be distinguished:

- the financial value of a share ("financial element");
- the right to influence the decisions of a company ("membership powers").

In a verdict about co-determination the German Constitutional Court wrote, in context with §14 ("property,...") of the constitution:

*However regarding the property guarantee essentially only the **membership** powers of the shareholders are concerned, while the **financial** element of the property-share is not affected. In addition the only **weak personal relation** of the share-rights in their membership-legal meaning carries weight*

(From the reasons of a verdict from 1999 about the "Montan"-co-determination; see BverfG, 1 BvL 2/91 of 2 March 1999, paragraph no. 77, <http://www.bverfg.de>.)

See also a verdict from 1979 about the co-determination law from 1976; BverfGE 50, 290 [341 ff.]

B. to 1.2 ("...existing method in German companies,...")

B.1 As addition to the mentioned regulation (from the co-determination law from 1976): One of the persons elected by the employees to the SB is proposed by the executives: on a candidate list, which has only 2 candidates. And these executives each have 2 votes for this candidate list.

B.2 A special case is the "Montan"-co-determination. This co-determination is valid for mining companies and for companies that produce iron and steel, that have more than 1000 employees. It has the following regulation:

In the supervisory board shareholders and employees have the same amount of votes, additionally both groups together elect a "neutral" person.

One could expand this regulation to all fields of company activity.

Also this regulation has disadvantages to my proposal:

- e.g. at "finance-companies with high-income employees" (compare 4.2). Such companies can have a great influence on society and by this on the great number of employees at other companies, who earn less. Through the "Montan"-co-determination these less earning employees and the society have no influence on these companies; through my proposal they have.
- Interests of the society that don't have much significance in the conflict "shareholders against employees" are not adequately considered.
- Many of the networking and effects mentioned in 2.2 for the democratization of the economy are not achieved by this.

Completion: According to the German law shareholders and employees have not entirely equal rights, when they elect the "neutral" person; through a regulation that twice involves a law court the shareholders can decide without the employees.

C. completing regulations to 4.1 (on the electoral process of the population)

C.1 The share of votes per state could be restricted to a maximum of 12.5% (= one 8th). In very large countries (e.g. India), as a compensation, the number of companies of that state can then be reduced, for which SB-seats are filled by international votes.

Example: A state has 25% of the population and 20% of the companies. For the 7.5% (20% -12.5% = 7.5%) of these companies that are internationally sought after least, the SB-seats are filled only by votes that come out of that state. (Had it taken only 8% instead of 20%, a share of 12.5% of the international votes had remained.)

The mentioned 7.5% should not be related to the number of companies, but to a value calculated for each company from financial values and the number of employees.

C.2 For the SB-seats that are elected with national votes (compare 4.1.d) the following special regulation is applied: With a 2/3-majority in an international parliamentary assembly (see C.7.a) and more than ½ of the votes of a states-body it can be decided, that for single companies the distribution of SB-seats by national votes does not apply. The so far national seats then are distributed internationally.

Example for usage: A big international company has its headquarters in a small state that is financially very dependent on this company. Thus this company has a big influence on the government, the population and the legislative processes, by which it obtains unfair advantages over companies that have their headquarters in other states.

C.3 In connection with 4.2 ("finance-companies with high-income employees") and 4.4 is the following regulations. It prevents that lists of candidates that are especially near to shareholders can prevail against a big joint majority of other lists.

SB-members of the group "population" can decide by a ¾-majority that the list of candidates of an other SB-member of the group "population" can no longer have a SB-seat. The vacant SB-seat will be filled by the candidate from another list, who according to the last election has the highest claim to it.

Example of application: A multimillionaire spends a lot of money on advertising. As a result, the list promoted by him reaches a SB-seat.

As a comparison: it is not uncommon, when in the general meeting of a company all SB-members of the shareholders can be elected by a simple majority of the voting capital.

C.4 In addition to the positive votes for SB-candidates, there could also be **negative votes against** SB-candidates in the election. For 2 votes **for** candidates, voters could have 1 vote **against** a candidate.

Example 1: A voter can distribute 100 positive votes and 50 negative votes. If she uses only 80 of the 100 positive votes, she can only distribute 40 negative votes.

Example 2: A candidate gets 500 positive votes and 200 negative votes. So in total, the candidate has 300 votes. If a candidate has 500 positive votes and 600 negative votes, all 600 votes (and not just 500) are subtracted from the candidate's list of candidates.

Advantages of this regulation:

- Candidates are strengthened,
 - who have gained acceptance beyond their own electorate,
 - who are not strongly rejected outside their own electorate.

- C.3 can be omitted.

C.5 If extraordinary few votes were given to a SB, then it should probably be prevented that a group with very few votes gets SB-seats. Therefore:

For such SBs, seats are distributed through a body whose members are citizens who have been determined by drawing of lots. These citizens are usually from the state in which an affected company has its headquarters.

"Extraordinary few votes" could e.g. mean that the SB of a company gets less than about 10-20% of those votes, that are given on average to a company of the same size and the same region.

C.6 In addition to the "40%" from paragraph 4.1.d:

Applying the procedure of 4.1.d to the rules in 4.1.e there could be an additional rule to prevent the same vote from being used twice in some cases.

Example: 10 votes are cast on a ballot card for candidate list X for the 1st alternative candidate, and a candidate on this list has received a SB-seat in the counting of national votes. If the same ballot card is then also used in the counting of international votes, then an additional rule may apply:

- *Only this 1st alternative candidate (and therefore the list X associated with this candidate) is available for these 10 votes; no longer the 2nd alternative candidate or the preferred candidate, and therefore not the two candidate lists associated with them. As a result, these 10 votes can no longer be used to select another list.*
- *This is applied to 40% of the votes, if the proportion of national votes is more than 40% (to which national votes this is applied or not can be decided by a random procedure). The up to 40% of the votes to which this restriction applies do not lead to an additional seat in the international counting; because of the subtraction of seats won by national votes in the election procedure of the international seats, in accordance with 4.1.d.*

C.7 Additional points:

- In C.2 and C.7.b an international parliamentary assembly is mentioned, in C.2 also a states-body. This may be the institutions mentioned in 2.2.d. However, in an earlier stage according to "5.1 Europe" European institutions are used instead.
- An international parliamentary assembly (see C.7.a) elects a human rights body, that can decrease the participation of the population of individual states because of human rights violations (regarding 4.1 for international election; regarding the parliamentary assembly from C.7.a). A sentenced state loses e.g. up to 5% yearly of the normal portion of votes of its population. An even greater part can be subtracted, if after this body also the parliamentary assembly supports it with a 2/3-majority. Members of the parliamentary assembly who have the nationality of the concerned state cannot vote.
- The election of SB-members of the group population takes place at the end of every year (for about 4 years): for SBs where the members of the group shareholders are elected in the months before or after.

D. alternative and more direct election and decision procedures

D.1 Press / Media / News: To show different opinions and views in a better way, it could be useful, that this 3-groups-co-determination is not used for all big media-companies. If there is to be such an exception (as a voluntary alternative), then it must have roughly the following limitations to prevent a concentration of power to a few people:

- The company must be a cooperative, that is every member has the same amount of

votes. So a member with a bigger financial stake does not have more votes. (In addition: For cooperatives in other fields of company activity still only the 3-groups-co-determination is used.)

- A big company must have more than 100,000 members. Or in more detail:

	big companies	medium-sized companies
members	more than 100,000	10,000 - 100,000
employees	more than 1000	100 - 1000
financial values	over A	1/10 A to A

To classify a company as big or medium-sized: beside the number of members **either** the number of employees **or** a financial value must be reached.

- The central task of the company must be communication of information and forming of opinions.

D.2 direct + indirect votings with the 3-groups-co-determination: In some companies there can be the wish, not to decide in the representative SB for some votings, but instead choose a direct-democratic way. Possibilities for this:

- E.g. during the election of the board of managers the shareholders and the employees of the company could vote themselves. Their votes are weight according to their proportion of vote in the SB.
- Such a procedure is not useful for the population-representatives and for the employees-representatives according to 4.2.b. For those the alternatives are:
 - They use their voting right as ever
 - or they can voluntarily give off their voting right. E.g. for some votings every population-representative can voluntarily give his voting right to all shareholders. So for every company separately a reaction is possible, whether rather a very close cooperation with the shareholders is appropriate (e.g. because the company is a cooperative and a big part of the voters of a population-representative are members and their relatives and acquaintances) or rather more distance to them.

D.3 local utility companies for energy and water: For these it can be considered, whether rather D.1 or a 3-groups-co-determination is appropriate (both alternatives are possible also for communal or municipal companies). One could think of a solution similar to D.1, the consumers would then correspond to the members. But energy and water are often not obtained at the location where the customers of a utility company live. This rather speaks in favor of the use of a 3-groups-co-determination, because through the population-representatives also those people can be represented, that live near the sources of energy and water.

E. smaller medium sized companies

It makes a big difference if a company with 100 employees

- has all the workers in a single small community
- or these workers are spread across 10 major cities.

In the first case, the interest in co-determination is certainly greater in the population (if there are no particularities in the second case).

Accordingly, for companies with 100-500 employees (or equivalent financial value), there

may be rules that make it optional to have co-determination with 3 groups in these companies. For these companies to have such co-determination, voting is needed: by the population or by the employees.

E.1 Voting by the population:

- By drawing of lots, citizens become members of a decision-making body that, at the request of 1,000 supporters, decides whether this co-determination is to be introduced in a company.
- In each state that participates in this co-determination, there is at least one such decision-making body.
- The co-determination is introduced in a company if there is a simple majority for this in the decision-making body.

E.2 Voting by employees of the company concerned:

2 phases:

- Phase 1: 10% of the company's employees must agree within 2 months.
- Phase 2: In another 2 months, approval and rejection are possible: this co-determination is applied if the majority of the votes cast endorse it.

Either until rejection or in case of success until the introduction of this co-determination, including the election of the BoM:

- 10 initiators are protected from dismissal.
- The company must not transfer its headquarters to another state.

F. additional points

For F.1 till F.3 in addition the more direct co-determination according to D.2 can be used.

F.1 Profit of a company: The SB decides on how the profit of a company is used.

F.2 Increase or decrease of capital (e.g. issue of new shares): For this majorities are necessary in the SB and the shareholders' meeting.

F.3: Relocation of the headquarters of a company to an other state: For this majorities are necessary in the SB and the shareholders' meeting.

F.4 right for final decision ("Letztentscheidungsrecht"): The "right for final decision" of the general meeting (meeting of the shareholders) of a company, which exists according to § 111 IV AktG in Germany, is to be abolished. This law makes it possible for the BoM to submit certain decisions, if the SB does not agree, to the general meeting for a decision.

Michael Kox

Version of 23 September 2018

In other languages:

Esperanto: www.mitbestimmung.eu/esperanto

German: www.mitbestimmung.eu