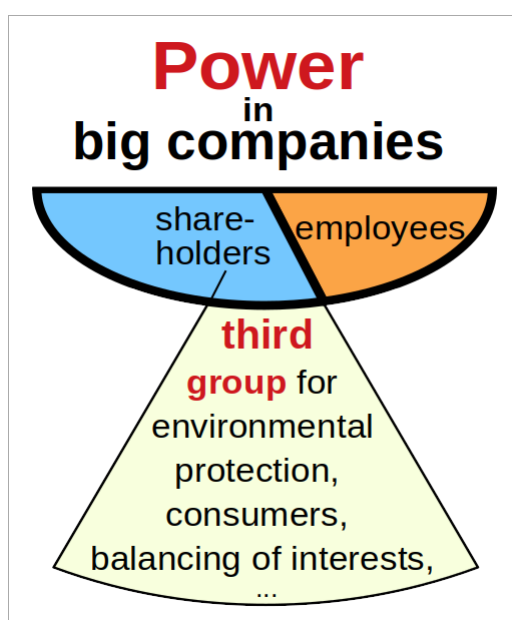


Co-determination in big companies: Proposal with third group



The core of this proposal:

- In big companies, on the supervisory board (SB), which elects and controls the board of managers (BoM), 3 groups are represented: **shareholders**, **employees** and the **population as third group**.
- No group dominates the others. The voting ratio among the three groups can be gradually changed for a gradual democratic transformation.
- Election of the third group ("population") with simple voting: With a **single vote** a voter can elect SB-members for several companies. (4.1.1)
- 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 SB-members of the employees can be elected also from such employees who do not work in the respective company.
- This is to become a **democratic minimum standard** for big companies.

1. basic issues

- 1.1 democracy, power and property/possession
- 1.2 from 2 groups to 3 groups

2. consequences of this proposal

- 2.1 in a single company
- 2.2 other consequences

3. size of a company

4. election procedures

- 4.1 population as third group: distribution of its SB-seats
 - 4.1.1 core
 - 4.1.2 on international use
 - 4.1.3 in addition, if shareholders have half of the SB-seats and SB-votes
- 4.2 employees: distribution of their SB-seats
- 4.3 shareholders: many different voting procedures are possible
- 4.4 chairperson of a SB
- 4.5 additions

5. carrying it through

5.1 Europe

5.2 companies from states without this co-determination

Appendix:

A. property and constitution

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

C. alternative and more direct election and decision procedures

D. smaller medium sized companies

E. additional points

1. basic issues

1.1 democracy, power and property/possession

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 or possession. This power through property or possession 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** (according to the co-determination law from 1976): In the SB, that elects and controls the BoM, shareholders and employees are represented. Superficially, both groups have the same number of SB-seats (the seat of the senior executives is a problem). 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 this person 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

- The board of managers cannot be elected by one of the 3 groups alone.
- Because there is no clear majority, one-sided positions can hardly be carried through. This applies both to the SB and to the board of managers elected by the SB. Whether it is about the highest possible dividend for the shareholders or about high salaries for the employees: Both groups do not have the majority to make such decisions alone.
- The third group can mediate in conflicts between shareholders and employees.
- If shareholders and employees agree, then the third group can't carry through anything.
- The third group is responsible to those who elect them. Therefore social interests now play a greater role in the decisions of the company.
- Through the direct confrontation with the SB-members of the third group and through the lost of the majority, it is becoming more normal for the SB-members of the shareholders, to deal with social issues, human rights and protection of environment.

2.2 other consequences

- 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 can not be enforced only by shareholders.
- Since, as an alternative to the number of employees, it also depends on financial minimum values

whether this co-determination is applied, 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 become wider, and so more balanced. In the future, business associations that lobby could be divided into general business associations and those business associations that represent 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 third group
 - and the part of the SB-members of the employees 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-members of the third group can not afford not to care about transparency requirements of non-governmental organizations (NGOs).
- The third group means that there is greater diversity among those who have power in a company. As a result, greater openness in a company can be expected for the concerns of groups that are not or not directly represented on the SB. These groups can flexibly be dealt with outside of the statutory corporate co-determination in each company in a way that is specifically suitable for a particular company.
- If interest groups, that stand for election in the third group, can agree on common aims, then through them can be acted on economy more strongly, e.g. with regard to social issues, human rights, protection of environment, tax justice. Such influence can be all the stronger the less such agreements are limited to individual companies. This is particularly important at the international level, where democracy is more difficult to implement.

3. size of a company

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

- share value or other sales value, turnover, balance sheet total of a company;
- especially in financial companies: value of assets, 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	$\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$	$\frac{1}{2}$ for shareholders, $\frac{1}{2}$ for employees + third group together
employees	more than 1000	100 - 1000
financial values	over A	$\frac{1}{10} A$ to A

To be classified as a big company, **either** the number of employees **or** a financial value must be reached.

Additional points:

- In "5.1 Europe" an introduction phase of this co-determination is shown, during which the shareholders are stronger.
- For companies with up to 500 employees (or equivalent financial value), this co-determination can be optional (details are in appendix D).
- For companies with big financial value and very few employees, there is an alternative proposal for the distribution of votes in 4.2.c, in which the shareholders have half of the votes also in big companies.
- If shareholders have half of the votes, there are additional regulations that can keep the likelihood low that SB-members of the third group would be particularly close to the shareholders (details are in 4.1.3).
- Depending on the extent of co-determination, the subordination of a company to a corporate group is reduced or eliminated.

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 SB-members of the third group 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 as third group: distribution of its SB-seats

4.1.1 core

Basic idea: With a **single vote**, a person elects SB-members for **several companies**, using a proportional representation method. Details:

- A person entitled to vote has 1 vote for the **companies list** of an interest group. An interest group has for each company of its companies list a separate **list of people** to fill the SB-seats. The interest groups running for election may be similar to parties we know from parliamentary elections, or they may be different.

***Example** for the distribution of SB-seats: Since proportional representation is used, a companies list with 20% of the vote gets about 20% of the seats. Which companies list gets the first, second, ... last seat can be seen with proportional representation (with a "highest averages method"). If a companies list gets the 10th seat as first seat, then it is possible that for the company on position 1 of this companies list all SB-seats have already been distributed, since 9 seats have already been distributed to other companies lists. In this case, a seat is given for the company on position 2 of this companies list, if there is still a SB-seat available for this company.*

In more general terms, this means: The later a seat is distributed, the less likely it is to get a seat in a particularly desired company.

In a companies list, a company can appear more than once, so that an interest group can have more than one seat on the same supervisory board.

- Alternatives to who has the right to vote:
 - Alternative 1: People from the participating states are entitled to vote, if they have a minimum age. The election could take place every 3 years (a SB-seat could then normally be assigned for 6 years).
 - Alternative 2 (my preference): Instead of every 3 years, elections are held more frequently. A part of the persons entitled to vote get the right to vote for a certain year or month by a random process.

An example of a procedure for this: By lot, a list and thus eligible voters are assigned to an election year or election month based on certain data from the list (e.g. date of birth or identity card number).

For the smallest companies with 3-groups-co-determination, the following may apply instead: Existing regional democratic bodies elect election committees that decide on the filling of the SB-seats of the third group. For a limited transitional period, this can also apply to the largest companies so that, on the one hand, after the law on 3-groups-co-determination is passed, this co-determination is implemented quickly and, on the other hand, the above-mentioned interest groups standing for election in the third group have sufficient time to organise themselves.

Within the interest groups running for election, care should be taken to ensure that not too much power falls into the hands of a few. This is made easier by the fact (see above) that a companies list includes, for each

company, a separate list of people running for election. This makes it easy to add a limit to the number of companies for which someone can participate in making a list of people; this would be a major limitation on power. In addition, there could be time limits on the term of office for officials of an interest group. Or there could be a minimum number of voters when voting on the order in which companies are listed in a companies list (this minimum number may depend on the number and size of companies to be included in a companies list).

4.1.2 on international use

a) Voters from the state in which a company has its **headquarters** get an advantage in the distribution of SB-seats,

- because otherwise small states will probably not participate in this international co-determination;
- because this co-determination is difficult to enforce without some regional preference.

For this the votes are **counted separately** for **national and international votes**. International votes are all votes. National votes are those votes, which are cast from voters from that state, where a company has its headquarters. With these national votes, the same companies lists from 4.1.1 are elected, which are also elected with international votes; with one specialty: at national level, companies are ignored that have their headquarters in another state.

If the number of seats is odd, by national votes 1 seat less than half of the seats is given.

Example: A SB has 15 members. 5 members are of the third group. 2 of the 5 members are elected by national votes, 3 by international votes.

If the number of seats is even, half of the seats is given by national votes.

For the SB-seats that are elected with national votes the calculation of the seat distribution is completed first, with the proportional representation procedure from 4.1.1. During the seat distribution at the international level, care is taken to ensure that a companies list does not receive too many seats on some SBs as a result of the division into national and international counting. Example:

If, in the distribution of seats at the international level, a companies list is entitled to 1 SB-seat, but has already won 1 seat on the same SB at the national level, then this companies list will also in total receive only 1 seat on this SB.

b) For the SB-seats that are elected with national votes (compare a)), 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.

This is decided by majority vote in a body in which each state has 1 vote (strengthens the interests of small states). In addition, this majority must come from states from which, together, a majority of the international votes from a) comes (strengthens the interests of bigger states).

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) The share of votes per state could be restricted to a maximum of 12.5% (or more, as long as only a few states participate). As compensation, for a big state, the number of companies for which SB-seats are filled by international votes can be reduced.

Example: A state has 25% of the population and 20% of the companies (even if it were only 9% instead of 20%, it would remain at 12.5% of the international votes for this state). For 7.5% ($20\% - 12.5\% = 7.5\%$) of these companies the SB-seats are filled only by votes that come out of that state.

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.

d) An international parliamentary assembly elects a human rights body, that can decrease the participation of the population of individual states because of human rights violations. 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.

4.1.3 in addition, if shareholders have half of the SB-seats and SB-votes

Variants in which the shareholders have half of the seats and votes are mentioned

- in section 3 for medium-sized companies,
- in section 4.2.c on companies with high financial value, which have very few employees
- and in section "5.1 Europe" also for big companies, with regard to an introductory phase of the 3-groups-co-determination.

a) If the shareholders have half of the seats and votes in the SB then it is appropriate to make it unlikely that members of the third group have voting rights in the SB,

- which are particularly close to the shareholders
- **and** are strongly rejected by a large part of the population or the employees.

Here are 2 approaches to achieve this:

Approach 1: In big companies with many employees can apply that the third group has only 2 SB-seats and votes, if the shareholders have half the seats and votes.

Example: A supervisory board has 20 seats and votes, of which 10 are for the shareholders, 8 for the employees and 2 for the third group.

Compared to the co-determination law from 1976 (1.2), this is different:

- Two votes that are close to shareholders disappear:
 - A chairperson with double voting rights can no longer be elected by the shareholders alone.
 - Senior executives no longer have a vote of their own.
- Employees lose 1 vote (if the vote of senior executives were counted, it would be 2), if the number of seats is not increased.
- The 2 votes of the third group are new.

Approach 2: SB-members of the third group and the employees can decide that certain members of the third group do not have the right to vote on a SB (but these members remain SB-member). At the same time, an equal number of members of the shareholders then lose their voting right (by lot, rotation or another procedure chosen by the shareholders).

Alternatives to decide this:

- Alternative 1: SB-members of the third group can decide with a $\frac{2}{3}$ majority.
- Alternative 2, if a company has many employees (and there are only 2 SB-members in the third group, for example): This is decided in the supervisory board with half of the votes of the third group and the majority of the votes of the employees.

In addition:

- Optionally, if shareholders demand it, the approval (by simple majority) of people selected by random process could also be required. In this case, tight decisions of the SB must be postponed until this vote.
- A possible cancellation of this withdrawal of voting rights could take place with a majority of the votes of the third group or a majority of the votes of the employees.
- Alternative 3, if a company has many employees (and there are only 2 SB-members in the third group, for example): This loss of voting rights exists until an early re-election of the third group (for all SB-members of the third group and an equal number of SB-members of the shareholders), if: This early re-election is decided with the approval of all SB-members of the employees and the subsequent approval of a majority of people selected in a random process.

In addition:

- In the random process, a text from the employees and a text from each SB-member of the

third group are attached to the ballot paper as a decision-making aid.

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

b) The co-determination, in which the shareholders have half of the seats and votes and the third group has 2 seats and up to 2 votes, is referred to below as "modest" 3-groups-codetermination.

This modest 3-groups-codetermination is stronger than the co-determination of the co-determination law from 1976 (which is described in 1.2), but less far-reaching than the "Montan"-co-determination, which applies to companies in the iron and steel producing industry with more than 1000 employees. For many decades, "Montan"-co-determination has been the model for demands of labor unions for other big companies. With the "Montan"-co-determination, shareholders and employees have the same number of seats and votes on the supervisory board, and both groups jointly elect an additional neutral person. Compared to the modest 3-groups-codetermination, the "Montan"-co-determination is more far-reaching, because the votes of non-shareholders in "Montan"-co-determination belong to only one interest group (the employees), which makes resistance to shareholder plans easier. The modest 3-groups-codetermination is therefore less far-reaching than an already existing co-determination by law for big private companies in Germany. This is significant for how easy it is to implement the modest 3-groups-codetermination by law.

c) In order to break the deadlock between shareholders, on the one hand, and employees and third group, on the other hand, one of the following procedures may be used (or all together in multiple election rounds, in that order):

- A neutral person is elected to the SB by the members of the SB: The neutral person must receive from all 3 groups at least half of the votes.
- A neutral person is elected to the SB by the members of the SB: The neutral person must receive 2/3 of the votes.
- The procedure in "4.4 chairperson of a SB" is applied.

4.2 employees: distribution of their SB-seats

a) At least half of the SB-members of the employees **up to all except 1** are elected by employees of the company.

- Only half 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 SB-members 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 SB-members of the employees is elected by unions:

1. Directly elected by unions is by default at least 1 SB-member.
2. In special cases it makes sense that half of the SB-members of the employees are directly elected by unions. Example: finance or high-tech 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 SB-members of the employees 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 the SB-members of the employees results the additional members directly elected by unions, as well as the members of a losing their SB-seat.

For these individual cases also applies: In the SB an odd number of members of the employees is

reduced to an even number, so there is 1 member of the employees less: If e.g. a SB normally has 5 members of the employees, now only 4 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 SB-member, and this one was directly elected by unions. And the shareholders receive an additional seat.

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

4.3 shareholders: many different voting procedures are possible

The election process for the SB-seats of the shareholders 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 who will sit on the SB for the shareholders.

Example 2: The company is owned by the employees working there. These employees thus elect all SB-members of the shareholders and the SB-members of the employees according to 4.2.a into the SB.

4.4 chairperson of a SB

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 SB-members of the third group (they are the most neutral group).
If there is no majority for any person in the third group 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 SB-members of the third group have an additional vote in a repeated voting.)

This regulation can be helpful in breaking a deadlock in SB-votings, e.g.

- if the shareholders have half of the seats and votes (see 4.1.3)
- or when using 4.2.b.2 (and if shareholders and third group have the same number of votes) if there is an equality of votes between
 - on the one hand all SB-members of the shareholders together with those members of the employees, who are only elected by employees of the concerning company,
 - and on the other hand all SB-members of the third group together with those members of the employees, who, via labor unions, are also elected by employees from outside of the concerning company. (Although the shareholders are also in the minority, the following can be applied to the votes of the third group: 4.1.3.a Approach 2 Alternative 1)

4.5 additions

- Maybe in addition there should be an alternative procedure for some cases, where the third group does not exist. This could make sense for companies where the central tasks are forming of opinions and communication of information. See appendix C.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 C.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 third group into the SBs of big companies.
- **By default, shareholders have half** of the votes in a SB of the biggest companies.

- **But under certain conditions** all 3 groups have **a third** 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 through company-specific consumption taxes (to also consider supply chains for the level of consumption taxes, blockchains or holochains can be used).

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 companies from states without this co-determination

Companies that do not have their headquarters in a state with this co-determination may be interested in introducing such co-determination for itself, e.g. if this co-determination plays a role in state or private purchases or in taxes.

For such companies special regulations are necessary:

- The SB-members of the third group are elected a little differently: In the election that is according to 4.1 there is not the national counting of votes, which is mentioned in 4.1.2.a (despite of this, SB-members can come from the state in which the company has its headquarters).
- 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, <https://www.bverfg.de>.

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

From a verdict on the co-determination law of 1976:

- While the previous quote states that the financial element of the property-share „is not affected“, the wording in this ruling on the co-determination law of 1976 is not that absolute:
It is pointed out that the property right is "mediated" by the membership right. And co-determination regulations affect primarily the right of shareholders to make decisions and affect „at most in the second instance“ the asset value of a share.
- „Unlike the entrepreneur-owner, the shareholder is only indirectly able to work with his property; property liability for the economic consequences of wrong decisions ... refers to a limited part of his sphere of property.“

(See 1979 verdict on the co-determination law of 1976, BverfGE 50, 290 [pages 342-4, 348].)

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 senior executives: via an electoral list of only 2 people. And these senior executives each have 2 votes in the making of this list.

B.2 A special case is the "Montan"-co-determination. This co-determination is valid 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 or high-tech 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. In practice, this does not seem to have much relevance.

C. alternative and more direct election and decision procedures

C.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 cooperative member has the same amount of votes. So a member with a bigger financial stake does not have more votes. (For cooperatives in other fields of company activity this exception to the 3-groups-co-determination does not exist.)
- A big company must have more than 100,000 cooperative 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 be classified as a big company, **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.

C.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 SB-members of the third group and for the SB-members of the employees according to 4.2.b. But they can give up their voting rights voluntarily. For example, for single votings every SB-member of the third group can voluntarily give the voting right to all employees or to all shareholders. So e.g. 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 SB-member of the third group are cooperative members and their relatives and acquaintances) or rather more distance to them.

C.3 local utility companies for energy and water: For these it can be considered, whether rather C.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 C.1, the consumers would then correspond to the cooperative 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 SB-members of the third group also those people can be represented, that live near the sources of energy and water.

D. 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.

Voting by the population:

At the request of 1,000 supporters, a random process is used to determine people who decide by simple majority whether this co-determination is introduced in a company. The ballot paper is accompanied by a text from the supporters and a text from the shareholders as an aid to decision-making.

Voting by the employees:

If 10% of the employees of a company demand it, then a voting takes place in which the employees decide by simple majority.

Either until rejection or in case of success until the introduction of this co-determination, including the election of the BoM: The initiators are protected from dismissal, and the company must not transfer its headquarters to another state.

E. additional points

Additionally shall apply:

1. Profit of a company: The SB decides on how the profit of a company is used.
2. Increase or decrease of capital (e.g. issue of new shares): For this majorities are necessary in the SB and the shareholders' meeting.
3. Relocation of the headquarters of a company to an other state: For this majorities are necessary in the SB and the shareholders' meeting.
4. Right for final decision ("Letztentscheidungsrecht"): The "right for final decision" of the general meeting (shareholders' meeting) of a company, which exists according to § 111 IV AktG in Germany, will 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.

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

Michael Kox

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In German: mitbestimmung.eu