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The learning works council

Introduction

In the period 1999-2007 the national training fund for works council training in the Netherlands (GBIO) initiated a debate on the competences of Dutch work councils. The aim was to take stock of the functioning of works councils in the co-decision

practices and to contribute to a discussion on the impact of information and consultation procedures. The Dutch works council has extensive information/consultation rights with regard to, for example, closure, restructuring of plants, takeover and the main investment policy. This consultation has to take place before the decisions are

taken. Co-decision rights are guaranteed in the field of, for example, working time arrangements, several aspects of HR policy, health and safety and recruitment. The result was a series of research reports (*GBIO-Katernen*). The research is summarised in this overview.

Surveys and opinion research

Several studies have looked at the opinion of management and labour in the Netherlands on the impact and influence of works councils on managerial policy. Most authors have observed a positive shift since the mid-1980s. This shift was certainly pronounced in a survey based on an earlier study (Van het Kaar 1999). The agenda of the official meetings between management and works council had completely changed: from meetings with mainly an exchange of information into meetings involving a more open consultation between the actors involved. In addition, councils were more often being consulted at earlier stages of the decision-making process.

In the late 1990s a clear majority of the members of works councils were of the opinion that councils were accepted by management and that management had an open attitude towards their input. In a survey commissioned in 1999 a majority of the interviewed works council members expressed at the same time the opinion that they had 'not very much' influence. Just over one-quarter (26%) of the representatives were of the opinion that their influence was substantial (Van den Tillaart 1999).

Remarkably enough, management had a stronger opinion on the impact and

influence of works council activities. Especially in the field of personnel policy and HR this influence was judged by management to be important (Van het Kaar 1999). In another study 44% of the managers interviewed were of the opinion that this influence was (very) important, whilst only 25% of the workers' representatives expressed that opinion (Winder 2000). Managers were more convinced of the expertise of works councils on crucial consultation issues like health and safety or social policy than were workers' representatives (Van den Tillaart and Cremers 2002).

Acceptance and general performance

The most quoted GBIO survey gave short shrift to this overly bright picture of the works council position (Bruin *et al.* 2003). Notwithstanding the fact that there was general acceptance in Dutch society and among the political establishment at macro level, the outlook completely changed as soon as the situation at grass-roots and plant level was analysed. Then co-decision was no longer self-evident.

Only in a relatively small proportion of the undertakings do works councils operate in a context where a professional and consistent approach towards their work prevails. In this category of companies the council is a dedicated and appreciated partner equipped with facilities and capable of mobilising external and internal know-how. Works councils in that category do have a high self-esteem and both management and council members ascribe a (positive) influence to the organisation. They are attributed with having a good overview of what happens in the company and the

capacity to organise and orchestrate their own activities. Their performance is seen as adding value to the social climate and the decision-making processes.

In the companies concerned, subsequently estimated at around 10-15% of all companies, the recognition and the practical implementation of co-decision practices often go hand in hand with modern industrial relations, a pragmatic managerial relationship with trade unions and a well-established HR policy.

At the other end of the scale a large category of companies was found to have no climate for functioning councils at all. In that category the council is described merely as 'being there'. Both management and workers' representatives express the opinion that the council has no knowledge about what is going on in the company, with no competence or expertise on essential areas of the company's social policy. Works councils in this category do not know where to go for advice or where to find assistance and the members of the council make limited use of facilities and other internal and external assistance. Management in this category imputes a very low added value to the works council activities and never poses the provocative and stimulating question 'what can you offer?' Based on this survey the conclusion was drawn that a majority of the councils are to be ranked in this category.

In the middle of this range was located a mixed group of companies with a modest tradition of social concertation and representation. Management and workers' representatives do have talks with a certain impact and with small successes now and then. In general there is no lack of mutual trust or good will but the dialogue is weak

because of problems with continuity, the time pressure and a lack of systematic attention to developing a more professional organisation of the council's work. A lack of competences and of self-confidence form a barrier to improvement. However, the small successes in this category, representing some 30% of the companies investigated, can serve as good practice for the lowest performing category (the 'nitwits' as some call themselves) where nothing happens. The ambition to reach the best performing category is not seen as a realistic target by the poorest performance category: 'we will never reach that stage'.

In this somewhat arbitrary range the companies with no works council are missing. With no significant trend in society towards 'alternative' practices of co-decision, there is evidence that the information and consultation practices in companies without a council are more or less comparable to the poorest performance category.

The conclusion had to be that the situation with regard to the functioning of councils was more alarming than earlier research had suggested and that conditions for decent social dialogue at plant level were not met at all.

The functioning of works councils

In the same GBIO survey an effort was made to map the competences needed and to define the conditions for success.

The survey showed that both management (67%) and the interviewed chairpersons of works councils (76%) were of

the opinion that councils lack the expertise and know-how seriously to deal with issues of *strategic company policy*. More than half of the chairpersons interviewed assessed their councils as 'too lightweight' and with poor know-how with regard to *reorganisations and mergers*, a topical issue with serious social consequences. Half of the interviewed chairpersons had a similar negative opinion on the capacity to act with regard to *working and labour conditions*, in the light of decentralisation again very topical. Two issues that are often seen as core business for works councils – the *HRM policy* and *health and safety* – hardly got a better vote with respectively 50% and 33% 'not qualified enough' (Bruin *et al.* 2003).

Employers again expressed a more positive opinion. Less than one-third were of the opinion that the council was not capable of dealing with health and safety issues. Only 27% of the employers interviewed qualified the involvement with HRM issues as undersized.

Finally a word about the costs and the benefits: less than half of the employers interviewed (43%) had no doubt that the benefits positively outweighed the costs. Some 40% of the employers expressed serious doubts about a positive result and were therefore not convinced of the general benefit. The remaining proportion (17%) was straightaway of the opinion that the benefits did not counterbalance the costs. Whether the councils' activity is 'value for money' depends in the opinion of the management on the councils' contribution to the managerial ruling of the company. The more a council had the capacity to reflect on and contribute to a range of policy issues, thus fulfilling a broader role beyond the classical issues of

health and safety and HRM, the more the qualification 'useful' was given.

As a result of this survey it was concluded that approximately 25% of the Dutch works councils claimed to have a significant influence on company policy. In a cluster analysis, elaborated and based on the representative data set of the survey, a limited group (10-15% of the councils interviewed) indeed showed accumulation of positive scores on different performance aspects. The influence on the general managerial policy and notably on the personnel policy was qualified to be relatively successful. On other issues performance was reduced to a reactive and defensive attitude.

The case of 'De Schelde'

The shipyard 'De Schelde' developed information and consultation procedures in 1906 in the form of a 'kern', a core group of workers' representatives. The yard was the most important employer on the island of Walcheren (with 3 400 workers in the 1960s). After the introduction of the Works Council Act (WOR) in 1956 the form of workers' representation was changed into that of a works council.

The history of 50 years of council activity was described by David de Leeuw who spent his whole life at the yard and started as shop steward in the early 1970s (De Leeuw 2005). The description of the early years of a works council's presence in a company with an 'enlightened' tradition of social concertation and that of painful industrial disputes in the turbulent 1970s demonstrates the evolution of the councils' role and position in the first decennia. The co-decision developed at

'De Schelde' confirms findings highlighted in earlier studies.

First of all, the impact of a positive managerial attitude towards the necessary dialogue; secondly, the extent and degree of real involvement given to the council; thirdly, the confrontation with urgent matters and themes that have a direct link with the survival of the company or the preservation of employment. A council's performance does not automatically improve over a period of time. A change of composition and of leadership of the council, as a result of the cycle of elections, can disrupt its development. The significance of personal engagement and commitment of the members and the shift of support among the workforce, but also takeovers, mergers, changes of management at the top of the company hierarchy or new strategic choices of company policy all produce the effect that the history of a council looks more like a pattern of 'trial and error' than of systematic and continuous growth to maturity.

Commitment of management differs over the years and changes at the top have a serious impact especially where modern management with less affinity to the 'enlightened' tradition succeeds classical 'entrepreneurs'. The centre of power may change and conflicts appear between plant management and the top of the hierarchy. And, finally, a growing primacy of the shareholder approach strongly limits the possibilities of social concertation.

The learning works council

The results of a longitudinal case study clarify the motives of councils in their search for assistance and training

(Cremers 2007). The motivation for the training chosen is often based on urgency and actual problem solving. The search for strategic competences that can lead to a qualitative step forward is present to a less prominent extent. The study confirms that opinions and expectations of management and council members differ with regard to the role and function of a works council.

- In management's opinion the council is a mechanism for feedback and a possibility to create broader commitment for decisions taken whilst the members expect to be seen by management as the 'eyes and ears' on the shop floor that inform management bottom-up.
- A small part of management expects the council to be effective in passing information top-down; they stress the need for a smooth execution of daily business. The role as a partner in organisational development or in the reflection on long-term strategies is given only some lip service.
- A substantial part of management views the council as basically a body that causes slowdown and delay in decision-making processes.

The council members, however, qualify the consultations and the dialogue as 'constructive and positive'. The role of the voice, the defender of workers' interests and of a counterweight to management is only taken up in times of conflicts and urgency. According to the members, the main reasons for the limited role are time pressure and organisational restraints, and a lack of expertise in several policy areas.

Based on the casework a list of positive incentives or conditions for an improved dialogue was formulated:

- a clear and outspoken vision on the role and position of co-decision and information/consultation procedures;
- transparent and mutually expressed expectations;
- clear-cut agreements on facilities and provisions to assist in the process;
- real investment by management in the process;
- mutual trust and reliability with respect to one's word or deal.

Company leadership conditions the fine-tuning and the climate for the organisation of a works council's activity. Management that clearly expresses a vision on dialogue and co-decision, that relates the future prospects of the company with the well-being of the workers, that approves in a positive way the engagement of the members of a council, that finally is willing to elaborate a joint agenda, will be confronted with another council than will a management that is just abiding by the law.

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