

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 having equal rights:

shareholders, employees and the **population**.

First the result of it is a better co-determination / democratic influence in the companies.

Second this can be a basis for a more comprehensive democratization of the economy.

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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 means of companies. With economic democracy such power can be reduced.

[About property see also appendix A.]

1.2 for the core of this proposal

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. 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**. The representatives of all three groups have the same number of votes (about exceptions see in 4.).

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 (see also 4.2 and 4.4).
- 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) The population and their representatives have influence

- through their co-determination in big companies
- and through the cooperation of the SB-members of the group population with (politically related) decision-makers in other democratic bodies and the cooperation or exchange of views with civil society groups.

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 concentrations corresponding to party political groups like Socialists / Social Democrats, Conservatives, Liberals, Greens; at least in individual cases (single SB-seats) also international campaigns of other civil society organizations (NGOs) may be useful.

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. as in e); e.g. with regard to social issues/standards, human rights, ecology, taxes.

b) A number of items that are both regionally/nationally and internationally important:

- Policymakers can no longer be set so easily under pressure. 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.
- Cooperation rather than confrontation is now more likely in relations between companies and society.
- Companies are politically more neutral when the SB has representatives of various political directions.
- 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.)
- 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.
- SB-members of the group population can draw attention to social issues especially when several of them do joint actions (whether on companies, policy makers or rather on the public) to single companies or several companies with similar business field.

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 on

this 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 votings could need the consent of a states-body (with 1 vote for each state).

- e) Through the governments the international political groups from 2.2.a 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.a 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:

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

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 voices ratio $\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$ of 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 / 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 1/3 of the SB-seats by them

"Party" is meaning "party or political group" in the following text.

a) Each state can decide 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 people 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.

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) For the SB of a company there are lists of candidates from several parties.

It is also possible that multiple parties together make a joint list of candidates.

c) A voter can weight his votes.

Example: a voter has 100 votes. She is free to use all the votes for one candidate and one SB or to distribute these votes on many candidates and many SBs.

d) The votes are counted separately for national and international votes. If for a SB the international votes dominate too much, compensation is made so that by international votes at most 1 representative more is elected than by national votes.

Example: A SB has 15 members, so 5 of the group population. It is possible that among the 5 candidates with the most votes there is none of the 2 candidates that have the most national votes from the state, where the company has its headquarters.

Despite of this each of these two candidates now gets one of the 5 SB-seats.

The SB may be smaller (e.g. with 9 members) or greater.

e) Because for the population there are only relatively few seats in a SB (e.g. only 5 in a SB with 15 members): After an initial calculation of the seat distribution (with proportional representation for each individual SB, e.g. according to the method Sainte-Laguë / Webster), a correction is necessary so that a smaller party that has less SB-seats than corresponding to its share of votes (of the votes for all SBs), receives more SB-seats.

Example, before the correction: In all SBs together a small party has 2% of the SB-seats, but its total share of the vote is at 10%.

One possibility for the correction is given in Appendix C.1.

f) We could restrict the share of votes per state 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 international votes had remained.)

g) 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.

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

4.2 employees: distribution of 1/3 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 union, 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) we could make 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 may be different for different company forms. As an example, here are 2 extremes:

Example 1: A single person has the majority of the shares 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).

4.4 chairperson of a SB

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

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

This regulation is interesting for the example from 4.2.b ("finance-companies with high-income employees") and for 4.2.c: The employee-representatives that are elected by the unions can have a majority together with all representatives of the group "population".

(Alternative regulations for such a majority: If a voting has resulted in a tie, all representatives of the group population have an additional vote.)

5. carrying it through

5.1 Europe

First of all, the core of this proposal (... 3 groups having equal rights: shareholders, employees and the population) needs to be widely discussed. Then we could work to ensure that a law will be adopted in the EU, that has elements of the proposal presented here. 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 ratio of $\frac{1}{2} : \frac{1}{4} : \frac{1}{4}$ for medium-sized companies (compare 3.) is obligatory in the SB, also as the minimum standard for the biggest companies.
- Companies with strong co-determination are preferred, e.g. when purchasing (compare 5.2). In doing so, attention is paid at the largest companies to see if they only apply the ratio $\frac{1}{2} : \frac{1}{4} : \frac{1}{4}$ or voluntarily apply $\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$.
- For companies with state majority the ratio $\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$ is used for the largest companies.
- Companies that get extra support by state have to introduce the SB-ratio $\frac{1}{3} : \frac{1}{3} : \frac{1}{3}$.

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 this 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, this 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 you can distinguish between 2 areas:

- the possession of a part of a company ("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 It is also worth mentioning: Also a representative of the group of the leading/managing employees belongs to the representatives of the employees.

B.2 A special case is the "Montan"-co-determination. This co-determination is applied in big mining companies and in big companies that produce iron and steel, if these fields make up at least 20% of a company. 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 4.4 and 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 alone.

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

"Party" is meaning "party or political group" in the following text.

C.1 To compensate for a **disadvantage of smaller** parties and other distortions, the following correction is used; first at the national level, then at the international level.

a) Without correction is possible:

	For all SBs together:		
	Votes	SB-seats (target → actual)	Difference
Party A	7.000	7 → 0	-7
Party B	13.000	13 → 3	-10
Party C	23.000	23 → 28	+5
Party D	27.000	27 → 31	+4
Party E	30.000	30 → 38	+8

The parties A and B have too few SB-seats, the parties C, D and E have too many SB-seats.

b) The parties A and B get more SB-seats, the parties C, D and E get less seats.

A party with too few SB-Seats (party A or B) gets these additional SB-seats for those SBs, where the **difference of votes is proportionally the smallest** between a candidate list of this party and the votes per SB-seat of a candidate list of the party C, D or E (for the calculation of "votes per SB-seat" at the international level also SB-seats are taken into account that have been achieved at the national level).

Example of the parties B and E:

	Supervisory boards					
	1	2	3	4	5	6
Votes of party B	300	300	400	500	600	300
Votes of Party E	1200	1300	900	600	1000	500
Preliminary seats of party E	1	2	1	1	1	1
Votes per seat of party E	1200	650	900	600	1000	500
$(E-B)*100/E$ difference of votes	75%	54%	56%	17%	40%	40%

At SB 4 the vote difference is the smallest (with 17%). Compared to party E party B has the biggest right to this SB-seat; if there is no exception under C.1.c. And if party B has at least 600 votes left:

If e.g. party B previously had 11,000 votes, which have not been used for a SB-seat yet, then it now has 10,400 votes left (11,000 - 600 = 10,400). If it were only 599 instead of 11,000, then Party B would not receive this SB-seat.

In principle, one can use this in this way: An overall ranking list of these votes-differences is created that applies to all SBs and parties together. Then down from place 1 on this list, SB-seats are redistributed, taking into account the exceptions in C.1.c.

But it takes no overall ranking list, it is sufficient and more understandable regarding redistribution, if there are multiple **ranking lists**, each for only about 10 to 20 SBs. To allocate a SB / a company to a certain ranking list, there are various possibilities:

- Companies from the same country or the same region are first put into the same ranking list.
- The 10 companies with the biggest financial value (e.g. stock value or turnover) are put into the same ranking list. For somewhat smaller companies (ranked 11-20, 21-30) is is similar.
- Companies with similar businesses are put into the same ranking list.

c) To C.1.b there are the following **exceptions**:

A party with too few SB-seats (party A or B) does not get the SB-seat,

- if an other party with too less SB-seats has more votes for this SB *and* gets the SB-seat according to C.1.b;
- or if a party with too many SB-seats has given its surplus SB-seats (e.g. the 5 seats of party C under C.1.a) already before in a ranking list;
- or if it has already a SB-seat in this SB;
- or if the party, that shall lose a SB seat, has already lost a SB-seat in this SB through C.1.b;
- if its list of candidates has less than 5% of the votes;
- or according to C.2.b;
- or if two 2/3 majorities according to C.4 were reached.

d) Additional points:

- In a list of candidates: The unsuccessful candidate of a list who has the most votes after a successful candidate is substitute for the SB.
- Even a small party can get more SB-seats than corresponding to its share of votes for all SBs of a ranking list together; especially when they compete in joint candidate lists of several parties. A small party loses SB-seats in the same way, as the big parties C, D and E in C.1.b.

C.2 joint lists of candidates of several parties:

- a. To achieve that the votes of a party for all SBs together can be determined: Each candidate is identified as a representative of a party or several parties. If a candidate is marked as a representative of several parties, then her/his votes are attributed to these parties equally.
- b. If a SB-seat that was won by a joint list of candidates is lost by C.1.b, then this is only possible, if all parties of this candidate list together in all SBs of a ranking list have more SB-seats than they are entitled to according to their percentage (so not solely the party matters the candidate is assigned to).

C.3 For the SB-seats that are elected on **national level** the following special regulation is applied: With a 2/3-majority in an international parliamentary assembly (see C.5.a) and more than 1/2 of the votes of a states-body it can be decided, that the compensation for national votes from 4.1.d is dropped for single companies.

Example for usage: A big international company has its headquarters in a small state that is financially very dependent on this company. And this dependency has already become noticeable concerning a majority according to 4.4 ('The employee-representatives that are ...').

C.4 In connection with 4.2 and 4.4 ("finance-companies with high-income employees") are the following regulations. They prevent that parties that are especially near to shareholders can prevail against a big majority of other parties.

At the election for a SB a list of candidates gets all seats, if it fulfills the following preconditions:

- the list of candidates has at least 2/3 of the votes
- and is a joint list of parties that together have at least 2/3 of all delegates of (see C.5.a) an international parliamentary assembly.

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

C.5 Additional points:

- a) In C.3, C.4 and C.5.b an international parliamentary assembly is mentioned, in C.3 also a states-body. This may be the the institutions mentioned in 2.2.d. However, in an earlier stage according to "5.1 Europe" European institutions are used instead.
- b) An international parliamentary assembly (see C.5.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.5.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.
- c) The number of SBs in which a person can be is limited, perhaps to 4 SBs.

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In other languages:

Esperanto: www.mitbestimmung.eu/esperanto

German: www.mitbestimmung.eu