

company name : **S.A. Beiersdorf France**

case n° 06/00357 Tribunal de Grande Instance in Melun

date of ruling : 13 October 2006

report : the EWC claimed not to have been properly consulted about the plan to reorganize Beiersdorf in Europe

Beiersdorf is a world group which manufactures cosmetic products, with 11 production sites and 30 logistic sites in Europe. The French site is located in Savigny le Temple.

On September 5, 2006, the management of Beiersdorf in France convened an extraordinary meeting of the local works council on a project of reorganization concerning the industrial activities, logistic, commercial and marketing activities as well as the central services in France. At its meeting on September 12, 2006, the works council asked to suspend the process of information and consultation until the EWC would have been able to give an opinion on the considered reorganization. Nevertheless, the EWC was summoned for an extraordinary meeting on October 19, whereas the local works council was to have a new meeting on October 10.

The French works council went to court :

- to note the absence of preliminary consultation of the EWC, which deprives of any useful effect both the consultation of this authority and that of the local body ;
- to note the necessity for the local works council to acquaint itself of the opinion of the EWC before expressing its own advice ;
- to order the stay of the procedure as long as the EWC has not been completely informed and consulted ;
- to order the suspension of the implementation of the project.

Arguments of the management :

- there is no text that obliges them to consult with the EWC before the consultation of the works council ;
- there is no transnational character to the project ;
- the EWC was founded on March 29, 1995, under French law and is not an anticipation on the directive 94/45, so this is not applicable for them.

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The company cannot seriously claim that the reorganization is not transnational, as they specify in the document submitted to the French works council that the Group strategy already resulted in the closure of factories in Sweden, the Netherlands and Germany and relocation of these activities to other sites in Europe. The document even concludes that the group did not retain the site of Sevigny le Temple as a future European site for any of its technologies.

The directive of March 11, 2002, on information and consultation states that this must be carried out at a time, in a way and with contents adapted to allow the workers representatives to carry out an adequate examination and to prepare consultation. This means that the local works council cannot usefully be consulted without having been recipient of the observations and opinions of the EWC.

The company must make a commitment not to consult the factory committee on the reorganization before this one was an addressee of the opinion of the EWC.

The company is condemned to pay to the works council the sum of 1.500 EUR on the basis of the code of civil procedure and for the expenses.