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EWCS: THE EUROPEAN PILLAR OF SOCIAL DIALOGUE



Le socle européen
du dialogue social

THE ABC OF THE EWC DELEGATE
A practical Guide for EWC Delegates

VS/2019/0064

TABLE OF CONTENTS

- 5** Preface
- 8** Presentation of the publication and of the project
- 12** EWCs: what they are and why establish them
- 20** The legal framework
- 26** Establishing an EWC: the process
- 36** The EWC tools
- 42** The EWC in practice
- 46** The EWC scenario in Europe
- 52** Presentation of the contents and results of the training course
- 64** The role of EWCs during the Covid-19 pandemic: European Trade Union Federations' recommendations and concrete examples
- 78** Which future for EWCs?
- 84** Acknowledgements
- 86** Bibliography and Webography
- 90** Index of Acronyms

PREFACE

This publication is the closing chapter of the European project “***EWCs: the European pillar of social dialogue - I CAE: il pilastro europeo del dialogo sociale***” promoted by CISL Lombardia, jointly with CGIL Lombardia, UIL Milano and Lombardia, CCOO de Catalunya, UGT de Catalunya, CSDR Romania, PODKREPA Bulgaria and financed by the European Commission.

Since its very conception, the project, that saw a keen involvement on the part of trade unions from Italy, Spain, Romania and Bulgaria, confirmed the partners’ commitment to support an extraordinary experience of representation and participation of working women and men employed by multinational companies with premises in Europe. In this context, the work experience is acknowledged as a condition that connects, unites within a community - a community that embraces a shared economic and political project.

EWCs are currently one of the bodies for the representation of workers in Europe which, due to their complexity and need to evolve, deserve greater attention and commitment on the part of European trade union organisations. To date, more than 1,100 EWCs have been established and are now active, representing approximately 18 million workers. If we consider that each EWC has an average of 20 members, currently, over 22,000 employee representatives from all EU Member States - but often also from candidate and non-EU countries - are involved in transnational procedures and meetings.

The project **EWCs: the European pillar of social dialogue**, which saw the light in 2019, proposing a training course that was fine-tuned and consolidated over the years, in 2020 suffered from the outbreak of the Sars-Cov2 pandemic and the management the health emergency in its various phases.

The obvious need to reorganise the training course went hand in hand with that of rethinking the very meaning of the project itself in a transformed, dramatic scenario. The need to protect health in the workplace, to contain the spread of the contagion and, at the same time, to ensure the performance of activities and the protection of employment have been a priority for the system of trade union representation at a national and European level. And the experiences illustrated in this publication are remarkable.

What we are experiencing in this pandemic era confirms the need to strengthen social dialogue in Europe - one that can face up to the challenges of our time, to the emerging inequalities and poverty, the green transition, climate change, technological evolution, the challenges of Artificial Intelligence and the impact on the quality of work.

The coordinated response of Europe in managing the Covid-19 health emergency, the funding and the articulated Next Generation EU programme, highlight the value of a progressive political and economic convergence that must be gradually implemented with the enforcement of the European pillar of social rights.

The new trends and scenarios call for greater responsibility on the part of national and European institutions, but also of the intermediate bodies operating in the world of work, that need to strengthen participation and representation systems, as well as reconsider the relational systems and the very foundations of political and economic democracy.

Against this background, social dialogue is a key component of the European social model - one that needs strengthening at a European level, so as to ensure a framework favourable to collective bargaining within the various models already existing in

EU Member Countries.

As trade unions, we shall strengthen our commitment to give voice to the needs of working women and men, but also to face up to the challenges and seize the opportunities of recovery in a responsible manner, so as to foster in Europe a process of growth that is economically sustainable, environmentally friendly and socially inclusive.

Paola Gilardoni

Secretary USR CISL Lombardia

PRESENTATION OF THE PUBLICATION AND OF THE PROJECT

CISL Lombardy, through its international department, has been engaged over the years in European activities, actions and projects aimed at enhancing the competence of workers' representatives in multinational companies, analysing the link between the exercise of information and consultation rights and the knowledge of these rights, their implementation, and the experiences accrued, fundamental for active participation. It is essential to disseminate awareness of the strategic importance of the European culture of social dialogue, so as to ensure a more effective use of the information acquired by workers during the consultation phase with companies, in line with the "constructive spirit" that should permeate the relationship between European Works Councils and company management. And this is what inspires the commitment of Cisl Lombardia, that has been engaged over the years in strengthening international cooperation with trade union organisations in other European countries, and taking coordinated, joint actions on information and consultation rights. The result of this cooperation effort is the **ABC of the EWC delegate** (*A Practical Guide*) that you are now reading, drafted thanks to the European project "EWCs: the European pillar of social dialogue" with the support of the European Commission (Convention VS/2019/0064). This project, promoted and co-ordinated by Cisl Lombardia and implemented with the trade unions CGIL Lombardia, UIL Milano Lombardia, UGT Catalunya, CCOO de Catalunya, CSDR Romania, PODKREPA Bulgaria and with the support of the ETUC - European Trade Union Confederation, spawned transnational training activities and paved the way for the elaboration of information and educational tools aimed at strengthening the awareness of trade union representa-

tives vis-à-vis the European dimension of industrial relations and the importance of establishing European Works Councils. This **Guide** is intended as an effective, useful, easy and quick reference tool for workers' representatives in multinational companies - a valid aid to facilitate the exercise of information and consultation rights by trade union representatives. Drawn up in three languages (Italian, English, French), **the Guide** contains: basic information on European Works Councils (EWCs, why establish an EWC, what EWCs are, how they function, and how they are set up); reference legislation on information and consultation rights; the EWC scenario in Europe and the role of EWCs during the Covid-19 pandemic. Finally, with this Guide, CISL Lombardia and the partner organisations involved in this project wish to satisfy some of the needs that emerged during the training activities and surveys carried out within the framework of this project - and previous European projects - on the topic of information and consultation rights and European Works Councils, by EWC members who, thanks to their role, have got acquainted with a number of good practices and experiences in the field of workers' representation, and now need more in-depth knowledge of these different systems; and trade unions, needing a more profound understanding of the different systems of workers' representation, so as to be able to adopt common positions to influence the corporate decision-making process.

Establishing an EWC is a complex matter. This ABC Guide is meant as a tool supporting workers' representatives who wish to set up an EWC, or review an existing EWC agreement.

Our wish is that this Guide becomes a useful information tool, a true aid in the exercise of information and consultation rights for

workers' representatives who, against the backdrop of the increasing internationalisation of companies, engage in transnational cooperation, particularly within European Works Councils.

Miriam Ferrari

Head of the
International Department
Cisl Lombardia

EWCS: WHAT THEY ARE AND WHY ESTABLISH THEM

VS/2019/0064



EWCs: WHAT THEY ARE AND WHY ESTABLISH THEM

European Works Councils (EWCs) are the most significant company-level body in the scenario of industrial relations and social dialogue at a European level, since they provide a real opportunity for social dialogue.

EWCs are supranational bodies for workers' information and consultation in multinational companies, and are composed of workers' representatives from European Union countries. The EWC is the institution representing workers at a European level.

EWCs may be established only in "Community-scale" undertakings or groups of undertakings, i.e., in companies employing at least 1,000 workers in Member States and at least 150 workers in each member State in at least two Member States.

In Community-scale groups of undertakings, EWCs make sure that the workers and their representatives are informed about the economic situation of the company, and consulted about a number of developments that produce an impact on the interests of the workers themselves. By establishing an EWC, workers and their representatives are legitimated in their quality as management counterpart: specific procedures are in place to ensure that workers and their representatives are informed and consulted.

The mechanisms for informing and consulting workers in undertakings or groups of undertakings present in two or more Member States should involve all the plants and factories, i.e., all the group companies established in the Member state territories, whether or not the Central Management of the company - or, in the case of a group of undertakings, the Central Management of the controlling undertaking - is located in the territory of the

Member States.

EWCs may, in accordance with the provisions set forth in the Directive and their respective agreements, take action only on matters having a transnational dimension, i.e., those concerning a Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two companies or production units of the company or group established in two different Member States.

- *EWCs are bodies intended for the information and consultation of workers*
- *They may be established in companies with*
- *at least 1,000 workers in EU Countries and at least 150 employees in at least 2 Member States*
- *EWCs deal with transnational issues*
- *EWCs provide a real opportunity for social dialogue.*

In order to concretely understand the benefits of having an EWC, the ETUI - The European Trade Union Institute, i.e., the independent research and training centre of the ETUC - has drawn up a decalogue indicating 10 good reasons for having an EWC: 5 for the workers and 5 for the companies.

For the workers:

1. Information and consultation at a European level; very often, even in countries where there are conditions for effective workers' information and consultation, the focus remains local, failing to take into account the transnational context in which decisions tend to be taken in multinational com-

panies. Having an EWC ensures a more complete view, thus enhancing the effectiveness of the information and consultation process at a local level.

2. All the countries where the company is based are involved; by participating in EWC meetings, also representatives of countries where it is more difficult to organise information and consultation of workers at local level can gain a clearer understanding of the corporate dynamics, and thus make their voice heard.
3. Direct access to the Central Management of the group; workers' representatives from the various Countries have little opportunity to interact with the Central Management of the group, and exchanges often take place only at a National Management level. But since the Central Management always attends EWC meetings, representatives from all Countries have a chance to directly interact with it.
4. Stronger international solidarity: meeting workers' representatives from other countries where the company is based, and exchanging views with them, fosters transnational solidarity among the employees of the group.
5. Involvement in the decision-making process; even if the company is not compelled to accept the EWC opinion expressed at the end of the information and consultation process (in point of fact, the Directive indicates that such opinion "may be taken into account within the Community-scale undertaking or Community-scale group of undertakings"), such opinion might influence, in some cases - and to a greater or lesser extent - the decisions that the Central Management of the group has to take.



For the companies:

1. Top-down communication; the communication flow from the Central Management to the EWC ensures that corporate strategies are conveyed in a clearer, more direct manner to all the sites of the companies, without having to go through different Management levels - a process that, lengthening communication, may lead to inconsistent messages conveyed in the different Countries.
2. Bottom-up communication; during EWC meetings, workers' representatives from different countries meet the Central

Management directly. This is a great opportunity to bring to the attention of the Central Management the situation of each site and each country without having to go through the various levels of local management, which may filter incoming information from the various sites to the General Management.

3. A faster verification process; the exchange between workers' representatives of the different countries and the Central Management enables the latter to verify, more simply and directly, the implementation of the various projects launched at transnational level, since it can directly verify how these are perceived, and identify any corrective measure that may be needed.
4. Broader involvement in the decision-making process; in multinational companies, getting all possible stakeholders to agree when taking a decision is complicated and time-consuming. Since the EWC brings together workers' representatives from all the countries involved, who obviously express different interests and viewpoints, calling for internal mediation, the decision-making process is shortened; at the same time, it is possible to gather a clear idea of the different standpoints on the plans the company intends to develop.
5. Corporate Social Responsibility (CSR); the workers' right to information and consultation is a common principle embodied in many international declarations on Corporate Social Responsibility and on the non-financial evaluation of a company. The EWC is thus an ideal tool for this purpose, to demonstrate that a company is truly socially responsible.



THE LEGAL FRAMEWORK

VS/2019/0064



THE LEGAL FRAMEWORK

The historical evolution

The first European Directive on European Works Councils and on the workers' information and consultation procedure in Community-scale undertakings dates back to September 1994.

After a legislative process lasting more than two decades, the European Directive on the establishment of European Works Councils in multinational companies operating in the European Union, even with non-European parent companies, was adopted. Jacques Delors, President of the European Commission from 1985 to 1995, had promoted, since the very beginning of his term of office, a renewed social dimension in the European construction, in the belief that this should not be limited to the creation of a large unified market, but rather, that economic and social aspects were inevitably entwined.

The enforcement of the Treaty of Maastricht in November 1993 brought to completion the project - started in 1957 with the Treaty of Rome - of a large European market in which, by unifying economic and social rules, the free movement and mobility of citizens, goods and businesses would be possible, attributing to the European organisations (both interprofessional and sectoral) of social partners a fundamental space and role in terms of information, consultation and collective bargaining.

The Commission was entrusted with the task of fostering this process, supporting the social dialogue between employers' and trade union organisations at a European, national and company level, in order to overcome any obstacle hindering economic and social cohesion and the completion of an internal market. In the early 90s and in the months following the signature of the Maastricht Treaty,

however, the economic and social situation appeared profoundly unbalanced, if not aggravated, in favour of the enterprises which, to increase their competitiveness in the internal and global market, can fully exploit the freedom to relocate and reorganise their production centres and services in each EU member country.

It is not by chance that, since the mid 80s, in some multinational companies, mainly French (Thomson, Danone, etc.), the Central Works Councils of the group felt the need to extend the confrontation with the company management to the transnational dimension, requesting the involvement of workers' representatives from production units based in other European countries.

Through trade union agreements, the perimeter of the Central Works Councils of some multinational groups was extended to include non-French trade union delegates, and the option of voluntary agreements was anticipated, paving the way for the establishment of EWCs, i.e., transnational bodies representing workers and interacting with the top management of the groups.

Yet, in 1993 there is still no solid legal basis in Europe for workers' right to information and consultation, in particular in multinational companies and groups.

In the spring of 1993, the HOOVER case broke out. The American multinational company announced its intention to close its production unit in France and transfer its activities to Scotland, so as to take advantage of the stronger fiscal and contractual benefits provided there. The company's intention was announced by newspapers, with no prior communication to the Works Council (i.e., the representative body); this provoked a very strong reaction on the part of French workers and trade unions, since the company's decision had not been communicated beforehand, thus making it

impossible for workers' representatives to exchange information at a supranational level.

The HOOVER case clearly showed the weakness of the project of a single market for business, devoid as it was of well-balanced guarantees and rights in favour of workers' information and consultation, and of an effective tool for connecting workers at a transnational level and enabling them to interact on a solidarity basis.

Against this backdrop, and to respond to the uproar caused by the affair, the European Commission, after a failed negotiation attempt between the ETUC and UNICE (currently Business Europe), accomplished, in September 1994, the Directive 94/45/EC establishing European Works Councils, or information and consultation procedures in multinational companies.

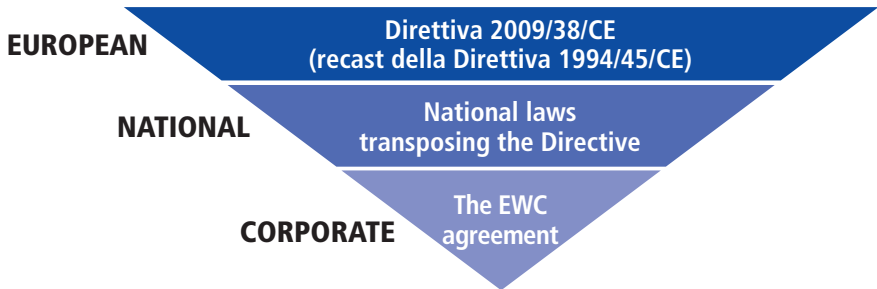
The regulatory instruments

The legal framework governing European Works Councils is structured on three levels:

- **European:** Directive 2009/38/EC (recast of Directive 1994/45/EC)
- **National:** laws transposing the European Directive. In the countries involved in the project, Directive 2009/38/EC was implemented in Spain on 20/05/2011, in Bulgaria on 05/06/2011, in Romania on 15/11/2011 and in Italy on 22/06/2012.

In addition to transposition laws, there may be other national deeds sustaining the implementation of EWCs and workers' information and consultation procedures. In Italy, for instance, this is the case of the Common Opinion of social partners dated April 12, 2011, signed by trade unions and employers' counterparts.

- **Corporate:** EWC agreements in individual companies.



LEGAL FRAMEWORK STRUCTURED ON 3 LEVELS:

- European
 - First EU Directive on EWCs: 1994/45/EC
 - New Directive: 2009/38/EC (recast 94/45/EC Directive)
- National
 - Law transposing the EU Directive and any other agreements between national social partners
- Corporate
 - EWC agreement in individual companies

ESTABLISHING AN EWC: THE PROCESS

VS/2019/0064



ESTABLISHING AN EWC: THE PROCESS

Requirements

EWC can be established only in “Community-scale undertakings or groups of undertakings”, i.e., companies with at least 1,000 employees within the Member States and at least 150 employees in each of at least two Member States.

In the text of the Directive, “Community-scale group of undertakings” means a group of undertakings with the following characteristics:

- at least 1,000 employees within the Member States;
- at least two group undertakings in different Member States;
- at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State.



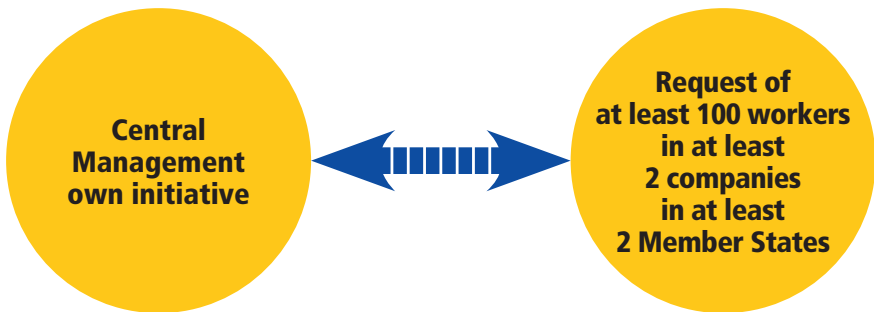
**At least 1,000 employees
In EU Countries**

**At least
150 employees
in at least 2
Member States**

Initiative and request

The initiative and request to establish an EWC may come from two different subjects:

- the **Central Management** of the Community-scale undertaking or group of undertakings, initiating negotiations for the establishment of a European Works Council or an information and consultation procedure **on its own initiative** or an information and consultation procedure;
- at the **written request of at least 100 employees** or their representatives in **at least two undertakings** or establishments **in at least two different Member States**.



The Special Negotiating Body (SNB)

For the purposes of establishing an EWC, a special negotiating body is set up in accordance with the following guidelines:

- a. The Member States shall determine the method to be used for the election or appointment of the members of the special negotiating body who are to be elected or appointed in their territories. Member States shall provide that employees in undertakings and/or establishments in which there are no employees' representatives, through no fault of their own, have the right to elect or appoint members of the Special Negotiating Body;

- b. The members of the Special Negotiating Body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or Community-scale group of undertakings, by allocating in respect of each Member state one seat per portion of employees employed in that Member State, amounting to 10% or a fraction thereof, of the number of employees employed in all the Member States;
- c. the Central Management and local management and the competent European workers and employers' organisations shall be informed of the composition of the Special Negotiating Body and of the start of the negotiations.

The Special Negotiating Body shall have the task of determining, with the Central Management, by written agreement, the scope, composition, functions, and term of office of the European Works Council(s) or the arrangements for implementing a procedure for the information and consultation of employees.

With a view to the conclusion of an agreement in accordance with the Directive provisions, the Central Management shall convene a meeting with the Special Negotiating Body. It shall inform the local managements accordingly.

The negotiation with the Central Management of the group is usually an extremely complex matter. The Special Negotiating Body is entitled to request assistance from experts; in this case, the relevant cost is to be borne by the employer.

Experts specialising in this kind of negotiations are to be found both within and without trade union organisations: with their advice, they can support both the establishment phase and the initial steps in the life of an EWC.

The Special Negotiating Body shall act by a majority of its mem-

bers; in line of principle, for a decision to be valid, a simple majority of the votes cast is sufficient.

The Central Management of the group must ensure the necessary conditions for the Special Negotiating Body to properly perform its functions; in particular, it must allow the international workers' meetings to take place, and provide all the tools needed in this respect (including interpretation services).

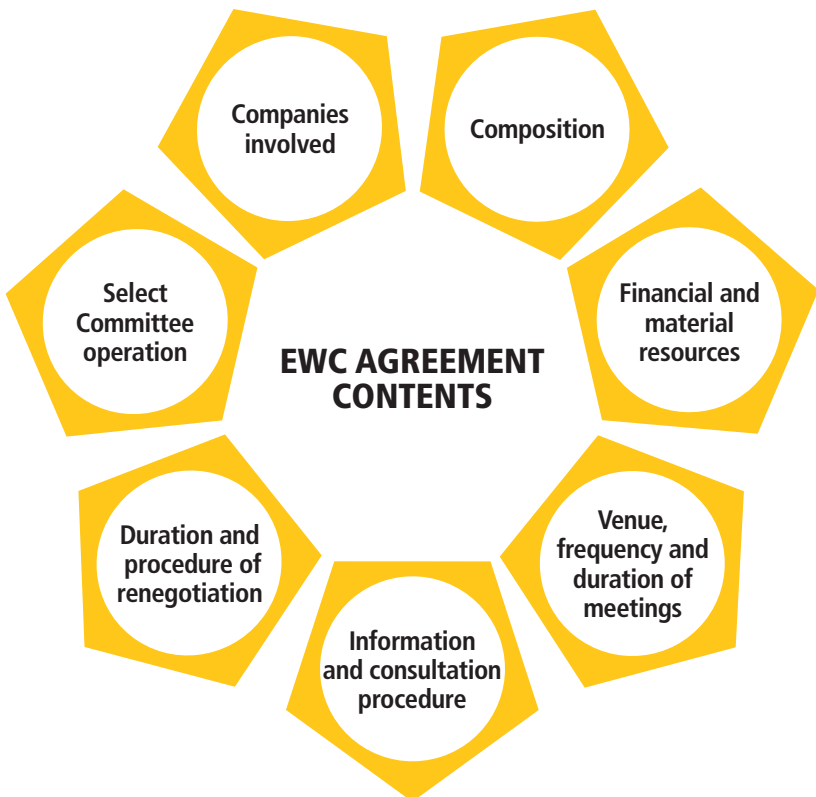
Contents of the Agreement

As previously pointed out, the Special Negotiating Body and the Central Management must negotiate with a view to reaching an agreement on the detailed arrangements for implementing the information and consultation of employees provided for by the Directive.

This Agreement, effected in writing between the two parties, usually determines:

- the undertakings of the Community-scale group of undertakings or the premises of the Community-scale undertaking which are covered by the agreement;
- the composition of the European Works Council, the number of members, the allocation of seats, taking into account where possible the need for balanced representation of employees with regard to their activities, category and gender, and the term of office;
- the functions and the procedure for information and consultation of the European Works Council and the arrangements for linking information and consultation of the European Works Council and national employee representation bodies;
- the venue, frequency and duration of meetings of the European Works Council;
- where necessary, the composition, the appointment procedure, the functions and the procedural rules of the Select

- Committee set up within the European Works Council;
- the financial and material resources to be allocated to the European Works Council;
 - the date of entry into force of the agreement and its duration, the arrangements for amending or terminating the agreement and the cases in which the agreement shall be renegotiated and the procedure for its renegotiation, including, where necessary, where the structure of the Community-scale undertaking or Community-scale group of undertakings changes.



In addition to what is explicitly set forth in the text of the Directive, the parties may decide to include other elements in the agreement, such as: defining the interpretation services needed in official meetings and the translation of minutes/documents; defining the time/manner in which delegates shall meet to discuss information received (without management) during preparatory and debriefing meetings.

The structure of an EWC

The European Works Council is composed of employees of the Community-scale undertaking or Community-scale group of undertakings elected or appointed from their number by the employees' representatives or, in the absence thereof, by the entire body of employees. The election or appointment of members of the European Works Council shall be carried out in accordance with national legislation and/or practice.

The members of the European Works Council shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or Community-scale group of undertakings, by allocating in respect of each Member State one seat per portion of employees employed in that Member State amounting to 10%, or a fraction thereof, of the number of employees employed in all the Member States taken together.

To ensure that it can coordinate its activities, the European Works Council elects a Select Committee from among its members, comprising at most five members, which must benefit from conditions enabling it to exercise its activities on a regular basis. It shall adopt its own rules of procedure. Once the procedure is completed, the Central Management and any other more appropriate level of management shall be informed of the composition of the European Works Council.

Functioning of the European Works Councils

The European Works Council has the right to meet the Central Management once a year, to be informed and consulted, on the basis of a report drawn up by the Central Management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly.

Where there are exceptional circumstances or decisions affecting the employees' interests to a considerable extent, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the Select Committee or, where no such committee exists, the European Works Council shall have the right to be informed.

It shall have the right to meet, at its request, the Central Management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, so as to be informed and consulted.

Whenever a meeting is organised with the Select Committee, those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned by the circumstances or decisions in question shall also have the right to participate.

This information and consultation meeting shall take place as soon as possible on the basis of a report drawn up by the Central Management or any other appropriate level of management of the Community-scale undertaking or group of undertakings, on which an opinion may be delivered at the end of the meeting or within a reasonable time.

The Member States may lay down rules on the chairing of infor-

mation and consultation meetings.

Before any meeting with the Central Management, the European Works Council or the Select Committee, where necessary enlarged, shall be entitled to meet without the management concerned being present.

The EWC, or the Select Committee may be assisted by experts of its choice, in so far as this is necessary for it to carry out its tasks.

The operating expenses of the European Works Council shall be borne by the Central Management. The Central Management concerned shall provide the members of the European Works Council with such financial and material resources as enable them to perform their duties in an appropriate manner. In particular, the cost of organising meetings and arranging for interpretation facilities and the accommodation and travelling expenses of members of the European Works Council and its Select Committee shall be met by the Central Management unless otherwise agreed.

In compliance with these principles, the Member States may lay down budgetary rules regarding the operation of the European Works Council. They may in particular limit funding to cover one expert only.

THE EWC TOOLS

VS/2019/0064



THE EWC TOOLS

The main tools EWCs can use are the information and consultation rights granted to them by the Directive.

The text of the 2009 recast Directive strengthened the definitions of information and consultation, the relationship with trade unions, communication with workers at individual production sites, training of members and support from experts. Workers' information and consultation rights are essential elements not only for the national systems of industrial relations, but of the European social model itself.

However, it is important to clarify what the European Directive means by *information* and *consultation* and, moreover, what the exercise of these rights can be useful for, since these two rights should not be confused.

The objective of the right to information is to enable workers' representatives in the EWC to *form a common idea on issues of transnational interest, having the time to inform and consult workers' representatives at local level and to ensure an exchange between them.*

Hence, the Directive gives the following definition of "information":

transmission of data by the employer to the employees' representatives in order to enable them to acquaint themselves with the subject matter and to examine it; information shall be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings.

The objective of the right of consultation is, instead, to offer workers' representatives in EWCs the possibility of voicing a common opinion and influencing the management decision-making process.

Hence, the Directive defines "consultation" as:

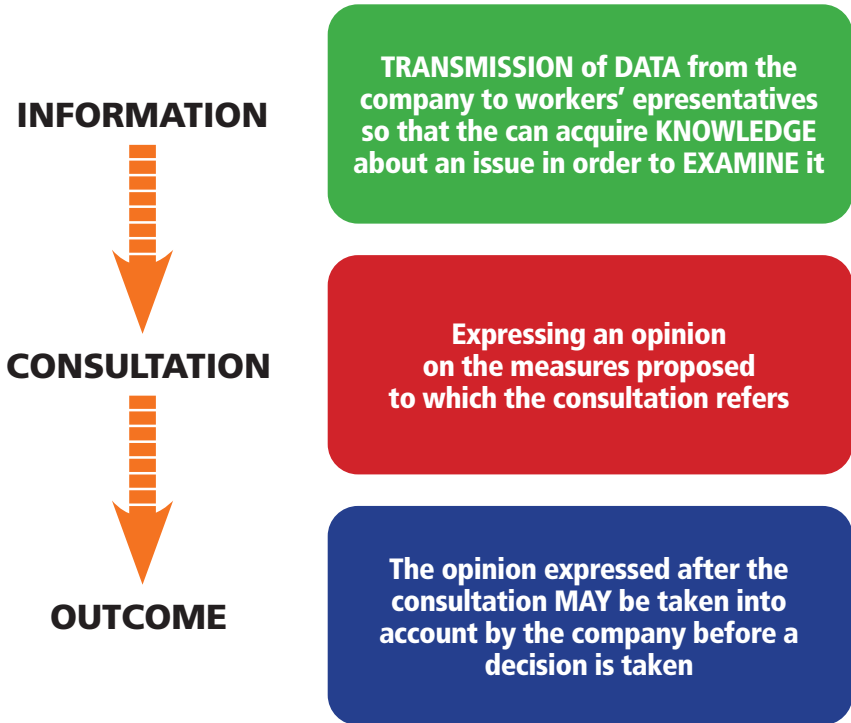
the establishment of dialogue and exchange of views between employees' representatives and Central Management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings.

As specified also in the Subsidiary Requirements attached to the Directive, the information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, investments, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.

The consultation shall be conducted in such a way that the employees' representatives can meet with the Central Management and obtain a response, and the reasons for that response, to any opinion they might express.

The information and consultation process

With appropriate timing, modes and contents



The exercise of information and consultation rights in the EWC does not replace, nor is it to be regarded as superordinate to, the normal exercise of these rights at local level and on local issues. The principle of subsidiarity applies.

Another fundamental tool in the hands of EWC delegates is training. As established in Article 10 of the Directive, *"in so far as this is necessary for the exercise of their representative duties in an international environment, the members of the Special Nego-*

tiating Body and of the European Works Council shall be provided with training without loss of wages”.

The training EWC delegates are entitled to may be provided by national trade unions, European trade union federations, the ETUI or other subjects providing consultancy and training services to workers’ representatives in European Works Councils.

Since the training is meant to be *without loss of wages*, it should take place during working hours.

SUGGESTION:

Training should preferably be addressed to all EWC members to avoid different levels of knowledge among the members themselves, and to ensure they speak in one voice. This fosters a spirit of collaboration and mutual trust.

For the exercise of these rights, workers’ representatives members of an EWC are entitled to be assisted by experts and to receive training, whose costs are to be borne by the company.

European trade union federations can provide support by appointing coordinators who, along with other external experts, can help analyse financial data, understand the group strategy, and even develop projects. European trade union federations organise conferences and workshops; the ETUI and other organisations supporting workers offer customised training, specific know-how and draft dedicated materials. Plentiful background information can be found on websites such as *worker-participation.eu* and *ewcdb.eu*. Finally, an exchange of good practices with the representatives of other multinational companies can prove quite useful (an objective that lies at the foundations of the project “EWCs: the European pillar of social dialogue”).

THE EWC TOOLS

- Right of information
- Right of consultation
- Right to training for European Works Council members
- Right to be assisted by experts from European trade union federations (coordinators) or by external experts

THE EWC IN PRACTICE

VS/2019/0064



THE EWC IN PRACTICE

Over the years, thanks to the analysis of the tools utilised by EWCs, a number of particularly useful **operational methods** emerged:

- comparisons;
- search for models;
- coordination;
- adoption of common positions;
- mutual support.

Comparisons

Analysis. The EWC collects information at group level and from colleagues at other sites and compares it with the ongoing situation within its own plant.

Search for models

Model solutions implemented in one site are adopted in the other locations, too, frequently through different means (e.g., co-determination in Germany and Austria, bargaining in Italy).

Coordination

Coordination. The EWC plays a key role whenever different representatives in different locations implement similar measures (e.g., reporting of common basic needs).

Adoption of common positions

For what concerns public opinion, the fact that European Works Councils take common positions has also been shown to produce a remarkable media impact.

Mutual support

Support. The foundation is usually an exchange of views between local EWC representatives, without frontiers.

APPROPRIATE OPERATIONAL METHODS

- comparisons
- search for models
- coordination
- adoption of common positions
- mutual support

The EWC

- enables the exchange of information between workers' representatives from different multinational group premises,
- contributes to identifying the omission of information (whether intentional or not) on the part of the management,
- constitutes an early-warning system, e.g., in case of imminent company restructuring,
- facilitates the exchange of model solutions, makes it possible to exploit all information useful for bargaining at the subsidiary level,
- prevents social dumping (lowering social standards),
- facilitates the organisation of common actions, e.g., in the area of continuous training, and the joint elaboration of alternatives to the decisions taken at management level,
- strengthens international contacts and fosters transnational solidarity.

THE EWC SCENARIO IN EUROPE

VS/2019/0064



THE EWC SCENARIO IN EUROPE

EWCs are an instrument of employee representation at transnational level established by Directive 94/45/EC.

The 1994 Directive, amended in 2009 by Directive 2009/38/EC, lays down the obligation of multinational companies or groups based in the European Union to recognise the right to information and consultation on strategic, economic and social matters of their interest and to establish, on the basis of a negotiated agreement, a transnational representation body: the EWC, European Works Council.

The undertakings, or multinational groups of undertakings, subject to the Directive on EWCs are those operating in the European Union with at least 1,000 employees, and at least 150 in in each of at least two Member States.

The parent company of the undertaking, or of the group of controlled undertakings, may be non-European (American, Korean, Japanese, etc.); the obligations set forth in the Directive apply to all the subsidiaries or companies controlled by the group established in the territory of the European Union.

Controlled undertakings means the companies in which the parent company holds a majority of the share capital, controls a majority of the votes in the company bodies, or has the power to appoint directors. The undertakings, or groups of undertakings, whose parent company and headquarters are not based in the EU are compelled to provide all the information that the area of activity and employees may need in order to determine the obligation to negotiate and establish an EWC. Such companies and groups must indicate their headquarters in Europe; in the absence of this information, premises with the highest number of employees are considered.

According to data from the European Works Councils Database

promoted and managed by the ETUI, there are currently 1,189 active EWCs in Europe from 1,157 multinational companies, representing approximately 18 million workers. It should be noted that the impulse towards the creation of new EWCs gradually weakened with the passing of time, after a significant growth following the introduction of the Directive; in point of fact, 322 EWCs have been lost over time due to company closures or mergers.

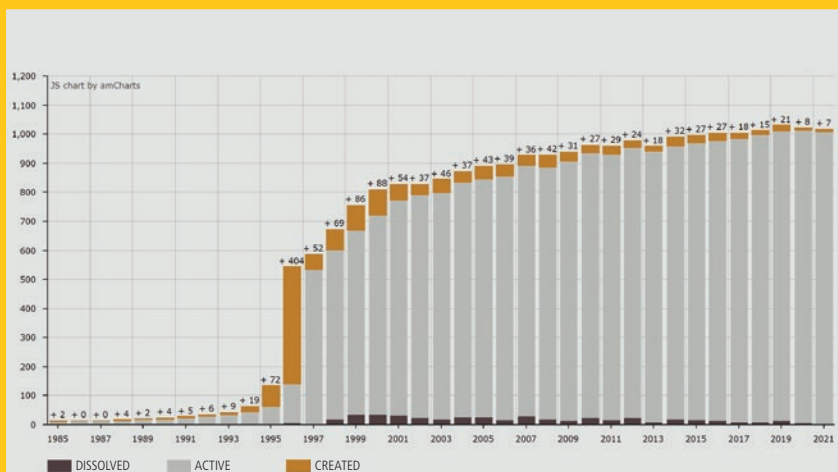


Figure 1: European Works Councils database: <http://www.ewcdb.eu/stats-and-graphs>

It is interesting to note that the parent companies of enterprises with a currently active EWC are based in 37 different countries - thus, many more than the number of countries making up the entire European Union; in point of fact, the number of non-EU Countries with headquarters of companies with an active EWC is almost half that figure: 17 out of 37. With the UK leaving the EU, companies whose parent company is not in the EU currently account for approximately 35.6% of the total.

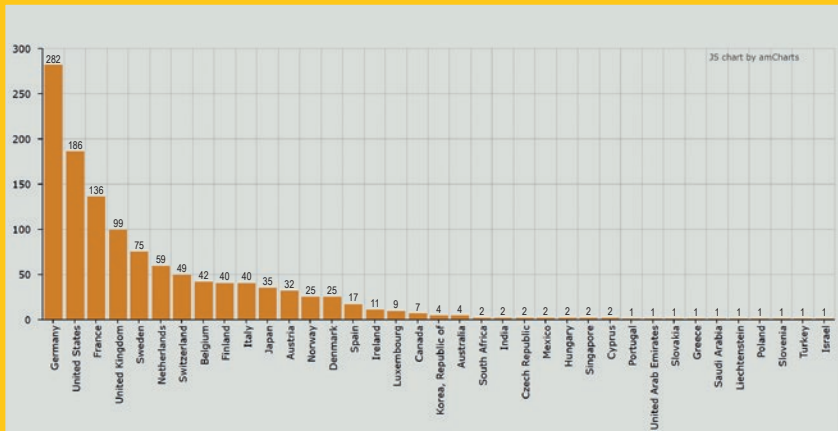


Figure 2: European Works Councils database: <http://www.ewcdb.eu/stats-and-graphs>

More than half of currently active EWCs belong to the industrial sector (metal, chemical, textile), followed by the service sector, agriculture and tourism, building & woodwork, transport and public services.

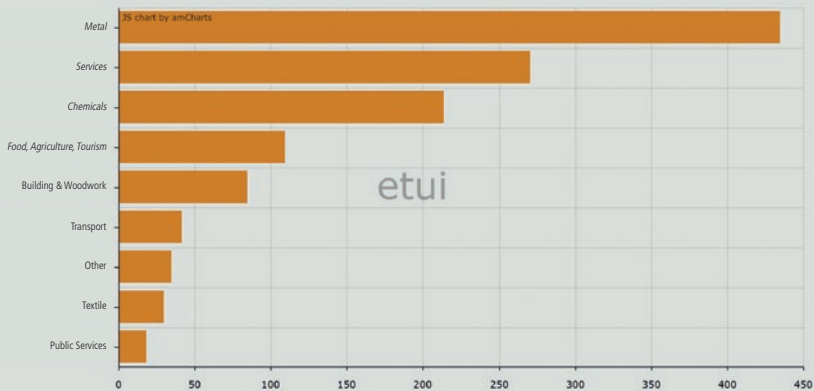


Figure 3: European Works Councils database: <http://www.ewcdb.eu/stats-and-graphs>

As already pointed out in the previous pages, with reference to the individual Countries involved in the project, the recast Directive 2009/38/EC on European Works Councils was transposed into national law in Spain on 20/05/2011, in Bulgaria on 05/06/2011, in Romania on 15/11/2011 and in Italy on 22/06/2012.

PRESENTATION OF THE CONTENTS AND RESULTS OF THE TRAINING COURSE

VS/2019/0064



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PRESENTATION OF THE CONTENTS AND RESULTS OF THE TRAINING COURSE

The training course implemented within the framework of the project “EWCs: the European pillar of social dialogue” was structured into 3 modules to set the stage for the acquisition and mutual exchange of information and experiences, so as to enhance the level of competence on EWCs and information, consultation and participation rights, as well as to foster true solidarity among European workers, and share strategies and behaviours strengthening and disseminating the practice of social dialogue in Europe.

The **first transnational training course was held in Barcelona from 7 to 9 October, 2019**. Over 50 delegates attended the course, discussing and exchanging views particularly on the experience accrued within their respective European Works Councils, broadening their knowledge on a number of issues such as: the contents of the EWC Directive and the transposition laws in their respective countries; the information confidentiality issue; the European pillar of social rights; the TCAs - Transnational Company Agreements and the role of European Works Councils, the tools available and a win-win approach in industrial relations.

The Barcelona training module pursued the following educational objectives:

- Fostering the knowledge of the European Pillar of Social Rights
- Disseminating the knowledge of national and European legislations on workers’ information and participation rights, and the ETUC proposal for reviewing the EWC Directive

- Promoting TCAs (Transnational Company Agreements), guaranteeing a continuous dialogue, during the negotiation phase, between the European and national federations and EWCs (the only element of transnational representation in multinational companies)
- Disseminating the utilisation of the tools provided by the European trade union: the ETUI database - the EWC and TCA.

During the training course, the following topics were thus tackled:

- The European Pillar of Social Rights
- The EWC Recast Directive 2009/38/EC and the ETUC proposal for reviewing the EWC Directive
- The framework for the transposition of the Directive in individual Countries
- Tools available to EWC members - the ETUI database
- TCAs and the role of EWCs

Jesús Gallego - Head of the Confederal International Department of UGT - illustrated the European Pillar of Social Rights, placing particular emphasis on aspects of trade union relevance. Starting from the introduction of the PEDS, he carried out an in-depth analysis of the document, that he defined "not very normative", illustrating the weak and critical elements of the European Social Pillar, as well as the positive ones and the practical aspects, providing interesting hints for the discussion that followed.

The presentation by Carles Català (CC.OO.) hinged on the EWC Recast Directive 2009/38/EC and the ETUC proposal for reviewing the EWC Directive. The accent was immediately placed on the international character of trade unions, and the paramount importance of international co-ordination.

The expert's presentation on the issue of information and con-

sultation in the EWC Directive was followed by group work, so as to spur participants' reflection on the possible differences that may be observed between the EWC Recast Directive 2009/38/EC and the transposition of the Directive into the legislation of the different countries.

This exercise continued during a second group work session, so as to reflect on the difficulties, for the EWC activity, that may stem from different approaches in transposing the European Directive into national legislation, to exchange views on the implementation of the measures established by the legislation based on individual experience, and to assess the ETUC review proposal. During the plenary session, the spokesperson of each group - moderated by the trainer - shared the outcome of the work done with the other working groups. The speaker Carles Català (CC.OO.) replied by commenting the results, and seized this opportunity to illustrate the tools available to EWC members, such as the ETUI database.

The legislation session was followed by the session on TCAs (Transnational Company Agreements) and the role of EWCs, with the speech by Lorenzo Repetti - Advisor at the European Trade Union Confederation - who, connected via Skype, introduced the issue of transnational bargaining and the role that EWCs can play to support European Federations during the different bargaining phases.

Lorenzo Repetti then went on to illustrate the survey *"A win-win approach to transnational industrial relations"*, the final publication of a joint project ETUC-BusinessEurope on the issue of transnational bargaining.

Starting from the 8 cases analysed, involving companies that signed transnational framework agreements, Repetti presented the results of this survey, highlighting in particular the role

that TCAs can play in disseminating company decisions to all the production sites of a company, as well as the role they can play in fostering industrial relations between trade unions and employers, also in countries where this role is particularly fragile and difficult.

The survey also highlighted 4 particularly delicate challenges that trade unions are confronted with, associated with the issue of transnational bargaining:

1. *The dissemination of the global transnational agreement among all the company subsidiaries, and the problem of verifying whether the agreement is implemented in all the subsidiaries of the group, from the most central to the periphery (both at a geographical level, and in terms of subsidiary size)*
2. *The specificity of the systems of industrial relations that exist in the different countries, since TCAs are established at a global level as a reference framework, but then the implementation must be negotiated in every country through a national process*
3. *The problem, for trade unions, to have enough resources to ensure the actual implementation of the agreements*
4. *The topics that can be tackled in TCAs: which contents can be included in such agreements, since there are no specific rules defining such issues.*

Lorenzo Repetti's presentation was the springboard for illustrating other concrete cases presented by some participants to the course, among whom Daniel Garcia (ALSTOM EWC Chairman), Antonia Fuentes (BRAUN EWC Health&Safety Committee Chairman), Lachezar Petkov (A1 EWC), Emil Stefan Pustianu (OMV Petrom EWC).

The 2nd transnational training course, postponed various times due to the outbreak and spreading out of the Covid-19 pande-

mic, was held online from 16 to 17 March, 2021.

Approximately 50 delegates attended the course, sharing the experience accrued within their respective European Works Councils, and gaining a deeper understanding of the reading of Financial Statements of multinational companies; analysing the purpose, form and structure of Consolidated Financial Statements; familiarising with the main indicators used to perform an economic and financial evaluation, and with the Directive EU 95/2014 on Non-Financial Disclosure and CSR policies in multinational companies.

The training module was designed to pursue the following educational objectives:

- Getting acquainted with the definition of Group of undertakings and the different types of companies;
- Fostering the knowledge of the objectives, form and structure of Consolidated Financial Statements;
- Learning the main financial indicators needed to perform an economic and financial analysis;
- Disseminating the knowledge of the EU Directive 95/2014 on Non-Financial Disclosure and CSR policies in multinational companies.

During the two days of training, the following topics were tackled:

- Consolidated financial Statements: what they are;
- Financial Statements and their documents;
- The main indicators of Consolidated Financial Statements;
- The EU Directive 95/2014 on Non-Financial Disclosure and CSR policies in multinational companies, and the other guideline issued at an European level;
- CSR policies in multinational companies and the role of EWCs.

The proceedings of the two days were conducted by the expert Ermanno Dalla Libera.

The first topic tackled was ***“The Financial Statements of a multinational company: what they are and how to read them”***; then, he proceeded to illustrate what Financial Statements are, their scope of consolidation, the international principles that must be complied with when drafting the Financial Statements of a multinational company, and the questions to be considered when analysing Consolidated Financial Statements to assess the state of health of a group of undertakings.

After an introductory exercise to understand the level of knowledge of participants, the expert delivered the second presentation on ***“Financial Statements and their documents”***, analysing the documents that make up the Financial Statements: Balance Sheet, Income Statement and Cash Flow Statement. The main items in each document were analysed - assets and liabilities, shareholders' equity, the meaning of Depreciation and Amortisation, Income Statement items and the differences with Cash flows; in addition to the technical meaning of the various items, Ermanno Dalla Libera explained how to interpret them and their value, so as to gain a better understanding of the real state of health of a company, beyond the individual figures.

Then, participants were broken into groups to work on a real-life case (the Inditex group), so as to pinpoint the various items making up the Consolidated Financial Statements of a multinational company. Groups were organised based on language, partly to facilitate participants, considering they were meant to work on a remote basis.

At the end of the exercise, participants verified the items on the worksheet through an exchange with the speaker, with a view to understanding the state of health of the company (the Financial Statements analysed concerned 2017 and 2018).

The second day of training started with a presentation by the expert on the main indicators involved in Financial Statements, and on the questions that need be asked when evaluating the Financial Statements of a company. Such indicators were presented with reference to 5 key macro-areas that must be considered when assessing the state of health of a company:

- Solvency
- Profitability
- Efficiency
- Liquidity
- Growth

Then, a number of indicators were analysed and explained, such as the Debt ratio, EBITDA, EBIT, ROI and ROE. In the group work that followed, participants were asked to recognise and calculate the indicators presented, once again based on the real-life case of the Inditex group. During the plenary session, the figures thus obtained by each working group were discussed with the speaker, who re-calculated the various indicators with the participants, in order to accurately verify the values considered. In general, all participants identified the values correctly.

In the afternoon, the issue of Corporate Social Responsibility of Multinational Companies was tackled, as well as the role that European Works Councils can play in drafting the various sustainability documents that companies are meant to draw up. The starting point was an evaluation of the European Directive EU 95/2014 on Non Financial Disclosure and CSR policies in multinational companies, as well as the other guidelines issued at a European level. It was then pointed out that such documents may also feature some group elements and dynamics potentially very useful in the bargaining process, too - as a consequence, they also deserve attention, in addition to financial documen-

ts. Then, considering the ongoing Covid-19 pandemic, it was decided to adjust the initial programme, to add a focus on the Covid-19 pandemic impact on CSR policies, and on the role played by EWCs. Thus, the last group work was an opportunity to reflect and exchange views on the impact of pandemic on the companies of participating delegates; after discussing this aspect within each group, they shared their reflections and experiences during the plenary session, involving the speaker.

The 3rd transnational training course was held online from 21 to 22 June, 2021. **Over 50 delegates** attended the course, sharing the experience accrued within their respective European Works Councils in handling the Covid-19 crisis, and gaining a deeper understanding of the digitalisation process accelerated by the pandemic, as well as the challenges and opportunities of Industry 4.0 in terms of work organisation, training and work-life balance. The discussion focused on the worker participation theme, analysing the European Social Partners Framework Agreement on Digitalisation, along with the joint European Trade Union Federations' Recommendations on managing the impact of the Covid-19 pandemic. Finally, there was an extensive exchange of good practices concerning EWC reaction to the pandemic crisis.

The training module pursued the following educational objectives:

- Strengthening awareness and improving the understanding of the challenges and opportunities generated by the digital transformation of the world of work in terms of work organisation, participation, skills, training and work-life balance
- Setting an action-oriented framework to encourage EWC representatives to develop measures and actions to seize these opportunities and face the challenges of digitalisation

- Advising EWC members as to how they can - and must - play a role in managing the COVID-19 crisis in their company
- Sharing experiences and good practices

During the two days of training, the following topics were tackled:

- Scenario: the revolution of global networks and digitalisation
- Industry 4.0 and the change of the world of work
 - 4.0 technologies: how companies are changing
 - How work is changing
 - Risks and opportunities
 - Training and work-life balance
- The participation of workers
 - Technology-organisation joint planning
 - The forms of workers' participation
- The European Social Partners Framework Agreement on Digitalisation
- The joint European Trade Union Federations' Recommendations on managing the impact of the Covid-19 pandemic
- Good practices for managing the Covid-19 impact in multinational companies and the role of EWCs

The first morning saw the participation of Luciano Pero as a speaker. The first topic tackled was ***“The challenges and opportunities of Industry 4.0: work organisation, training and work-life balance”***. He then analysed the current scenario, marked by the revolution of global networks and digitalisation, and how work and workers' participation have changed. Industry 4.0 technologies and their effect on work were covered in depth, making EWC members reflect on the key benefits their companies expect from the use of digital technologies, and the risks they entail for workers.

In the second morning session, the expert delivered a presentation on ***“Workers’ participation: a key factor for a fair digitalisation process”***, followed by an extensive and intense exchange with the expert.

The afternoon session started with a group work intended to acquire and promote the contents of the **European Social Partners Framework Agreement on Digitalisation**.

Participants were asked to underline the strong points of the Agreement, and bring out the criticalities related to the implementation of this Agreement. This exercise enabled participants to share the results of their group work with Juliane Bir - ETUC Advisor who followed the Framework Agreement process - who then went on to illustrate the contents of the Agreement, answering participants’ questions. The proceedings of the day ended after the exchange with the expert Juliane Bir.

The second training day started with a presentation by Marco Berselli, Secretary General of FIRST CISL Milano and member of the Unicredit EWC, on the ***“Joint European Trade Union Federations’ Recommendations to EWC/SE Coordinators and worker representatives in SNBs, EWCs and SEs”***, to anticipate and manage the COVID-19 impact in multinational companies. The guidelines for managing EWC activities during the pandemic were reminded, trying to understand with participants whether and how such recommendations were implemented in real contexts. Berselli also pointed out that, in any case, the post-pandemic reality shall certainly be different from the previous scenario - thus, he invited EWCs to seize this opportunity to sign a new agreement with the companies about the new post-crisis conditions. Then, some good practices were illustrated by Oscar Fernandez, an EWC delegate from CCOO de Catalunya, Enrico Barbanti, EWC delegate from FIOM CGIL, Georgi Vukarski, EWC delegate from PODKREPA, and Catalina-Mihaela Naum, EWC delegate of

the E.ON group from CSDR.

The proceedings continued with a group work in which participants, based on their personal experience, exchanged views on the role EWCs could play once we are back to the “new normal”, after the Covid-19 crisis, trying to identify possible advantages, risks and dangers for the EWC action.

In the afternoon, after sharing the outcome of the group work, Isabelle Schömann, ETUC Secretary, outlined the challenges awaiting EWCs in the future, starting from a possible review of the Directive, and underlining the need to strengthen EWC information and consultation rights, in part to strengthen the ability to anticipate change - a key element to play an active role in the green and digital transition processes.

The training course was intended to continue the work started many years ago on the issue of the rights of information, consultation and participation of workers’ representatives in multinational companies, by providing information, know-how, sharing experiences and tools for improving the exercise of these rights and supporting EWC activities. The training course also achieved its educational objectives, offering participants a context for exchanging views and deepening their understanding of the European legislation on workers’ ICP rights, starting from the recent European pillar of social rights; on the available tools: CEE, databases (ETUI etc.) and TCA/AETET agreements of transnational companies as an additional practice for workers to improve their participation in corporate decision-making; on the financial statements and financial aspects of multinational companies and, finally, on what changes are necessary to strengthen the EWC potential against the backdrop of the digitalisation of work and society.

All the materials utilised during the transnational training modules are available on the Project website at the following address: www.lescee.eu/it-IT.

**THE ROLE OF EWCS
DURING THE COVID-19
PANDEMIC:
EUROPEAN TRADE
UNION FEDERATIONS'
RECOMMENDATIONS
AND CONCRETE
EXAMPLES**

VS/2019/0064



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THE ROLE OF EWCs DURING THE COVID-19 PANDEMIC: EUROPEAN TRADE UNION FEDERATIONS' RECOMMENDATIONS AND CONCRETE EXAMPLES

In March 2020, when the Covid-19 outbreak hit Europe, European trade union federations (IndustriAll-Europe, EFFAT, EFBWW, EPSU and ETF Europe) issued some **practical recommendations** for the members of SNBs, EWCs and SEs. The recommendations were aimed at providing guidance on how to anticipate and manage the impact of the Covid-19 crisis on jobs and companies, by adapting the operation of SNBs (Special Negotiating Bodies), EWCs (European Works Councils) and SE-WCs (Works Councils in companies with a *Societas Europaea* status) to extraordinary circumstances.

Faced with the unprecedented impact of the COVID-19 epidemic, trade unions from all over Europe acted united in defending workers' health and safety, stating since the very beginning that the COVID-19 crisis must not jeopardise jobs and incomes. Since the consequences of the pandemic differ very much from one company and from one sector to another, the European Federations underlined that involving workers through information, consultation and participation in company decision-making is more important than ever to anticipate and deal with the social and economic consequences which may arise from the crisis. Considering the high level of connection between the supply value chains of the various sectors, the European trade union federations have decided to issue very practical joint recommendations to the worker representatives in European Works Councils (EWC) and in companies under the European Company statute

(Societas Europaea - SE). The objective of these recommendations is twofold: advising members in EWC/SE-WC on how they can and should play a role in dealing with the COVID-19 crisis in their company; and requesting members in EWC/SE-WC to support national and European trade unions to put pressure on management to make sure that the most effective measures are taken in each company site to protect workers' health, safeguard jobs and support workers' income, for all workers, whether they are on standard, temporary or atypical contracts.

Thus, the European trade union federations laid out **7** recommendations:

- **Postpone annual/ordinary and negotiation meetings**

Should the management wish to cancel the meeting of a Special Negotiating Body (SNB), of a European Works Council (EWC) or the Works Council of a European Company (SE-WC), or should the management propose to hold the meeting remotely via videoconferencing, the Federations recommend to call instead for the meeting to be postponed and take place physically as soon as possible after the COVID-19 crisis is over. This recommendation applies equally to ordinary plenary EWC/SE-WC meetings, to meetings of EWC/SE-WC working groups/committees, to EWC/SE-WC training seminars and to any meeting aimed at (re-)negotiating a EWC/SE agreement. This recommendation aims at ensuring that videoconferencing does not substitute for genuine face-to-face meetings, and that management does not use the COVID-19 crisis as an excuse to call off ordinary meetings during 2020.

Here are some concrete examples:

At **Generali**, the EWC Select Committee meeting planned for early March was cancelled.

The Committee asked the Management to share electronic copies of the planned presentations, which they received.

At **Coca-Cola European Partners**, the first EWC meeting had to take place at the end of March. The meeting has been postponed and not cancelled.

At **Korian**, a group active in elderly care services, negotiations for the setting up of an EWC were completed at the end of 2019. The very first EWC meeting was planned in March 2020. Also in this case, it has been decided not to cancel, but to postpone the meeting at a later date.

- **Request an online extraordinary meeting on COVID-19**
Workers' rights to information, consultation and participation do not stop because of the COVID-19 crisis, neither are the provisions of EWC/SE-WC agreements suspended. As multinational companies may intend to adapt their operations to cope with the COVID-19 crisis, information and consultation procedures in such extraordinary circumstances must be respected. There cannot be any decision on restructuring, downsizing or job cuts without prior information, consultation and participation of worker and trade union representatives at both the European and the national level. Although the ordinary meeting of your EWC/SE-WC can be postponed, the COVID-19 crisis is such that it can be considered an exceptional circumstance of a de facto transnational nature which justifies calling for extraordinary meetings to inform and consult on the potential impact of

the crisis on workers' interests. The European trade union federations have always advocated for EWC/SE-WC meetings to take place face-to-face. However, physical meetings must be banned under the current circumstances, to protect each other's health and stop the spread of the virus. Therefore, the European trade union federations exceptionally recommend the use of online meetings, under specific conditions to be agreed by both parties. Request an extraordinary meeting on the COVID-19 crisis, to be held via videoconference, after having set the rules for the exceptional use of online meetings, on the understanding that holding meetings via videoconference is limited to the COVID-19 crisis period.

Here are some concrete examples:

At **Alstom**, the EWC first requested an emergency update on the COVID-19 situation via a conference call with the Management, during which simultaneous interpretation in all languages was provided. Based on the information received, the EWC submitted a formal request for an extraordinary meeting.

At **Kraft Heinz**, the EWC requested an extraordinary meeting and received a presentation translated into all EWC languages about the measures taken in each country to protect workers' health. A conference call took place between the EWC Select Committee and the European management leadership team including management representatives responsible for supply chains, manufacturing, health and safety and human resources.

- **Request regular updates from management on COVID-19 in writing**

It is fundamental to be able to anticipate as much as possible the likely consequences of the COVID-19 crisis on employment. This can occur by requesting a regular (e.g., daily) update on the situation, by asking management to send the following information in writing and on a country basis:

- Measures taken by management or negotiated with trade unions in the company and all along its supply and subcontracting chains to protect workers' health and safety, as well as the health and safety of patients and customers
- Measure taken in the company in case workers or their family members have a COVID-19-related illness
- Measures taken in the company and all along its supply and subcontracting chain to mitigate the potential consequences on jobs
- Measures taken by management to mitigate the consequences on business operations
- Trends regarding employment levels
- evolution of the economic and financial situation

In these circumstances, the Select Committee should ensure a permanent dialogue with Central Management, always in coordination with the EWC/SE-WC. At the same time, management must allow Select Committee members to use videoconferencing to interact with one another and with other EWC/SE-WC members.

Here are some concrete examples:

At **Lafarge Holcim**, the EWC drafted a list of questions to management, and has requested a weekly information update.

At **UniCredit**, the Management created a dedicated intranet page for all employees to keep them up-to-date on COVID-19 developments.

At **Compass**, the Management is sharing in writing regular updates with the EWC members concerning governmental restrictions (schools and restaurants closures by country) and number of workers infected and in quarantine in each country. Management also provides a clear overview of governmental measures and complementary company measures adopted with respect to sick pay arrangements, temporary cessation of work, and care of dependants, etc.

- **Share information about the situation in each country amongst EWC members**

In addition to information provided by management, communication with the EWC/SE-WC and exchange of information amongst EWC/SE members is more important than ever. The federations recommend to ensure that every EWC/SE delegate regularly reports back on the situation in their country, including on:

- Government measures (especially full or partial lockdown, adoption of emergency legislation, bolstering temporary unemployment schemes, and state-wage compensation in case of dismissals);
- Measures taken by the social partners and/or government via bi- or tripartite agreements at the national and sectoral level (especially agreement on working time arrangements;

- protocols to safeguard workers' health, and definition of the scope and nature of "crucial and essential activities");
- Measures taken at the company level either via company agreements or unilateral management decisions (e.g., protective measures for workers, social distancing measures, cleaning and disinfecting measures, temporary shut-down, topping up legal allowance to secure 100% of net salary, exceptional paid leave, extension of telework, application of measures to workers including on non-standard employment contracts, and measures applying to blue-collar/white-collar workers);
 - How trade unions and worker representatives are involved in the management of the COVID-19 crisis.

Here are some concrete examples:

At **BASF**, a questionnaire has been drafted for each EWC delegate to answer (e.g., are worker representatives/ trade unions in your country informed about cases of infected workers?) Answers are collected by the EWC Secretariat and feedback provided to all EWC delegates.

At **Volkswagen**, a regular update is sent by e-mail to members of the European and Global Works Councils.

The update includes a report on the situation in all affected countries, China included.

At **KBC**, the EWC Select Committee is in constant communication to keep each other updated on the developing situation in each country concerned.

At **Mondelez**, the EWC Chair took the initiative to create an Excel document with information about the situation in each country and site. This document is regularly updated and disseminated thanks to the contributions of all the EWC members.

- **Urge management to deal with the crisis on the basis of social dialogue**

European Federations have underlined how social dialogue and collective bargaining have an essential role to play in managing this unprecedented health crisis. Hence, they suggested to invite management to engage with trade unions at the national and local level to adopt effective measures to safeguard the employment and income of all workers. In particular, social partners must work together to reach agreements at all levels on short-time work arrangements providing significant wage compensation for workers.

Here are some concrete examples:

At **Safran**, due to a persistent lack of social dialogue in the UK, the EWC sent a letter to the Management calling “for the immediate establishment of a specific national COVID-19 negotiating group for the UK with local trade unions and their representatives in order to find very quickly the best solutions to manage in a coordinated way the consequences at all levels”.

- **Request the organisation of a face-to-face extraordinary meeting as soon as the COVID-19 crisis is over**

As soon as the epidemic ends, to ensure a socially responsible management of the consequences of the COVID-19 crisis, the Federations advised to request an extraordinary meeting at the earliest convenience to inquire about the impact of the crisis on the company operation, sites and jobs in every country.

- **Contact your European trade union Federation if dialogue with management fails and in the event that:**
 - The measures adopted by your company in each country to protect workers' health, safeguard jobs and income are not sufficient,
 - workers are not treated equally either because of their status (e.g., measures do not apply to temporary workers, or blue-collar workers) or their location (e.g., rules differ from one site to another, or from one country to another);
 - Management takes advantage of the crisis to carry out collective dismissals;
 - worker representatives and trade unions are excluded from decisions which may affect workers' interests.

In October 2020, six months after such initial recommendations, it became clear that those extraordinary circumstances were going to continue and that social distancing and travel restrictions would further prevent SNB, EWC and SE face-to-face meetings for a considerable time to come.

Recalling that democracy at work does not stop with the Covid-19 crisis and that the right of EWCs to be informed, consulted and to take part in company decisions which may impact jobs and workers' income are more important than ever, the trade union Federations encourage to use ones' best behaviour to ensure that such rights are respected, and that SNB, EWC and SE-WC meetings are not simply called off under the pretext of the health situation. The European trade union federations remind you that face-to-face meetings are the norm to build up effective SNB, EWC and SE-WC work and robust communication amongst delegates. Digital tools like videoconferencing must not replace the SNB, EWC or SE-WC's right to face-to-face meetings. As soon

as the situation will allow it, physical meetings must become the normal way for an SNB, EWC or SE-WC to operate again. In the meantime, it is clear that online or hybrid (partly online, partly physical) videoconferencing with simultaneous interpretation, as unsatisfactory as it is, serves as a very temporary solution for the ordinary/annual, extraordinary EWC/SE-WC meetings, as well as for EWC/SE-WC training seminars. The European trade union federations recommend that the temporary use of videoconferencing be governed by the following principles:

1. **Agree formally with the management** about the rules and specific conditions for the exceptional use of online or hybrid meetings. The first goal is to ensure that all delegates benefit equally from the same high-quality working conditions, and that no one will be disadvantaged.
2. **Request the best quality videoconferencing system available**, i.e., one that ensures:
 - Participation by video, with the possibility of seeing every participant on the screen
 - Simultaneous interpretation in all the languages requested, provided by professional interpreters
 - Possibility for all participants to take the floor
 - A separate chat room, where delegates can interact during the meeting with all due confidentiality
 - Participation of external experts and trade union coordinators who assist the EWC/SE-WC
 - A high-level of cybersecurity and privacy protection, while ensuring that firewalls and other network security devices do not prevent delegates from convening meetings amongst themselves (without the management), nor prevent the involvement of external experts and trade union coordinators.

3. **Secure access to and training** on the videoconferencing system for all delegates. SNB, EWC and SE-WC members must have access to the necessary equipment (computer/tablet, high-speed internet connection, headset, webcam) and to a dedicated office or (home) room to allow for their meaningful participation in the meeting. A training session on, as well as a test of, the chosen videoconferencing system must be carried out before the first online/hybrid meeting takes place.
4. **Adapt your meeting.** Avoid full day online or hybrid meetings which can be particularly exhausting and lead to confusion and lack of focus. Instead, request meetings to be spread over several days, with sessions lasting at most half a day. Also, if voting is required (e.g. for an election within the EWC), avoid secret voting as much as possible. If unavoidable, request a verification procedure to be set up (e.g., appoint an assessor, or an election committee which is able to control the validity of electronic votes).
5. **Contact your European trade union federation in case of SNBs which were recently established**, or when an EWC/SE negotiation has just started. While videoconferencing could temporarily, and very exceptionally, replace face-to-face meetings when the members already know each other quite well, we believe it is not advisable to resort to online meetings at the starting phase of a negotiation to establish a future new EWC/SE-WC. Of course, it is for SNB, EWC or SE-WC delegates to decide, together with their trade union federation, what is best depending on their very own specific situation, provided social dialogue is maintained under high quality conditions. The trade union expert/coordinator nominated to assist your SNB, EWC or SE-WC, as well as the European trade union federations, remain at your complete disposal should you have any question.

As emerged during the project's training path, these recommendations were not always translated into practice. Such a constant level of coordination and exchange was not so common, either because the company was not willing to grant modalities, tools and information, or because of difficulties on the part of EWC members - generally involved in finding solutions at national level, they find it difficult to share, in a timely and exhaustive manner, all the information suggested in the recommendations provided by the European trade union federations.

At the same time, a different risk emerged, i.e., companies maintaining measures and approaches that were introduced during the emergency phase, but which end up becoming new *modus operandi* even after the end of the crisis. This concerns in particular annual and plenary meetings, which some companies intend to hold on a remote basis even after the end of the pandemic, with obvious repercussions on the effectiveness of the information and consultation of EWC representatives.

At the end of the pandemic crisis, new recommendations shall be needed from European Federations, so as to provide EWCs with new and concrete recommendations on how to deal with the new reality.

WHICH FUTURE FOR EWCs?

VS/2019/0064



WHICH FUTURE FOR EWCS?

The crisis brought about by the Covid-19 pandemic has also shown very clearly that the current legal framework does not effectively safeguard **workers' information, consultation and participation rights, which are too often disregarded by management**. The recovery from the Covid-19 crisis should pave the way for a fairer and more sustainable society, based on the social progress and on the improvement of living and working conditions. In this context, improvements to the legal framework on workers' information, consultation and participation are of paramount importance and should be introduced in the medium term.

A significant number of restructuring processes are currently ongoing in the EU in different sectors following the Covid-19 crisis. It is thus absolutely necessary, as the ETUC underlines:

- to ensure that those processes are in compliance with workers' rights and are managed in a socially responsible manner.
- to guarantee that workers' right to information and consultation is fully enforced before any management decision that has consequences on employment or working conditions is taken.
- that unions and workers' representatives have access to expertise to discuss possible alternatives to plans of management in order to ensure that the restructuring processes are carried out in a socially responsible manner, to avoid adverse consequences including redundancies.
- to ensure the full involvement of workers' board-level representatives in discussions and decisions on restructurings.

However, too often companies are not complying with workers'

rights to information, consultation and participation, as defined in human rights instruments and in European legislation.

Consequently, the European trade Union Movement seeks to improve European legislation, amongst others, through:

a. The revision of the European Works Council Directive (Directive 2009/38/EC).

The ETUC is pushing for the revision of the EWC Directive so as to ensure that the workers' right to be informed and consulted before any important decision is taken, is fully respected, and has put forward 10 demands for the revision of the Directive.

Inter alia, the ETUC calls for:

- effective and dissuasive sanctions and ensuring access to justice;
- more efficient coordination between local, national and European levels (including by ensuring the necessary resources and rights for workers' representatives);
- improvement and clarification of the rules for negotiations with the Special Negotiating Bodies;
- prevention of abuses of confidentiality and reinforcement of the subsidiary requirements;
- clarification and reinforcement of the role of "representatives of competent, recognised community-level trade union organisations" and inclusion of the concept of "transnational character of a matter" in the main body of the directive;
- introduction of a real level playing field by applying all provisions laid out in the directive to all agreements [including the so-called voluntary "Article 13" agreements], either automatically or by renegotiation.

b. A New European Framework on workers' Information, Consultation and Participation Rights for European company forms and for companies making use of company mobility instruments.

Such a framework should, *inter alia*:

- ensure the creation and functioning of European Works Councils (or of SE Works Councils) for all the European company forms and for companies wishing to use EU company law instruments enabling company mobility;
- ensure that an adequate and in-depth information and consultation process takes place before the decision on restructuring has been taken. Among others, workers' representatives need to be given the necessary information on the changes in the company structure and organisation, on the reasons for the restructuring and on any impacts on employment and working conditions;
- provide the necessary resources and time for the full involvement and link between the different levels (national and transnational) and, where relevant, instruments (e.g., transfer of undertakings, collective redundancies, insolvency, etc.) for workers' information and consultation;
- ensure that companies open negotiations with the workforce in order to reach an agreement on workers' board-level representation in the resulting companies after the restructuring. The new framework should therefore introduce a right for workers to put in place a system for workers' representation in the board. In case an agreement is not reached within the time-limit defined in the horizontal framework for the negotiations with the company management, subsidiary provisions would apply, including the escalator approach;

- introduce effective and dissuasive sanctions for non-compliance, including the fact that decisions and restructuring process taken without full respect of workers' information and consultation rights are null and void. The framework should also include instruments and mechanisms to ensure access to justice for the transnational body for information and consultation in case of violation of workers' rights.

This scenario indicates that EWCs still have a long way to go, and a challenging one; yet, the need to make EWCs stronger is clear, so that workers can be adequately informed and consulted before decisions concerning them are taken.

Among the key objectives that need be pursued to make EWCs stronger, we find: more extensive training for the members of workers' representation bodies, and increasing the number of actions in favour of the establishment and correct functioning of EWCs as well as other transnational bodies involved in workers' information and consultation.

ACKNOWLEDGEMENTS

BIBLIOGRAPHY AND
WEBOGRAPHY

ACRONYMS INDEX

VS/2019/0064



ACKNOWLEDGEMENTS

In the European project “EWCs: the European pillar of social dialogue”, USR CISL Lombardia, the project promoter and coordinator, decided to involve the partner and associated organisations taking part in this action in all the project stages. Cooperation, support and constant backup in the organisation of the various meetings - first and foremost, the training modules - are a concrete example of the collaboration and friendship that binds the trade unions involved in the project.

Therefore, special thanks go to the colleagues from UGT Catalunya, CCOO de Catalunya, CSDR Romania, PODKREPA Bulgaria, CGIL Lombardia and UIL Milano and Lombardia who, with their commitment and work, have contributed to the success of the project.

We would also like to thank our friends from the European Trade Union Confederation and IndustriAll, associated to the project, for sharing this journey with us by participating in the training course.

And we would like to extend an even bigger thank you to all the workers’ representatives in the EWCs who attended the various meetings and training sessions of the project. The success of the project “EWCs: the European Pillar of Social Dialogue” is, indeed, mainly due to its participants, to those who put themselves on the line, who chose and wished to open up and interact with the others. This is also mirrored in the experiences shared, that we have collected and published on the web platform of the project, where we have also decided to put a face to the people who shared their experiences.

Thanks also to all the trainers and experts, who conceived, organised and implemented the transnational training course organised within the framework of the project.

Sincere thanks also go to our interpreters, who accompanied and supported us throughout the training sessions and during the final conference of the project: all participants could speak, and listen to the training contents, in their native language - a possibility that allowed a more intense and fruitful interaction and exchange in all the moments.

Special thanks go to Monica Zardoni and Linda Canali, who translated the texts for this publication.

Last, but not least, we would like to thank all the people from the CISL Department for European and International Policies, Cooperation and Migration, who have been committed over the years to strengthening the collaboration between European trade union organisations, implementing international solidarity projects and fostering knowledge and competence on European and international issues.

BIBLIOGRAPHY

“WORKING PAPER N. 8 Le frontiere della contrattazione: gli accordi aziendali transnazionali (TCA)”, Fondazione Ezio Tarantelli-Centro studi, ricerca e formazione, Settembre 2017

“I Comitati Aziendali Europei: strumenti di coinvolgimento dei lavoratori nelle imprese multinazionali”, SindNova, La biblioteca essenziale di SindNova, Fascicolo 3, Anno 2017

“How to prepare for company change”, ETUI, 2018

“How to make your meetings more successful”, ETUI, 2015

“How to organise your communications network”, ETUI, 2015

ETUC position paper - For a modern European Works Council (EWC) Directive in the Digital Era, Adopted at the ETUC Executive Committee on 15-16 March 2017 in Malta

“Working together for European recovery: workers involvement in companies future as a cornerstone - A toolkit for EWCs”, Syndex, 2016

“Dialogo Sociale e diritti dei lavoratori in Europa”, SindNova Cisl

“Il vostro nuovo accordo CAE Cosa contiene-cosa non contiene” - settembre 2005

Survival KIT - “Sailing across the EWC Sea” - VS/2010/0671

Transnational collective bargaining at company level. A new component of European industrial relations? - Etui 2012

Implication des travailleurs dans la Société européenne (SE). Guide pour les acteurs de terrain - Etui 2013

European Social Partners Framework Agreement on Digitalisation, ETUC - BusinessEurope - SmeUnited - CEEP, Giugno 2020

Joint European Trade Union Federations' Recommendations to EWC/SE Coordinators and worker representatives in SNBs, EWCs and SEs, March 2020

A win-win approach to transnational industrial relations in multinational companies, ETUC-BUSINESSEUROPE, 2018

Democracy at work matters now more than ever, ETUC, 2020

The European Works Council, Werner Pramstrahler, AFI-IPL, 2004

WEBOGRAPHY

ETUC - European Trade Union Confederation: www.etuc.org
<https://est1.etuc.org/it/social-dialogue-and-involvement-of-workers>

EWADB - European Works Councils database: www.ewadb.eu

Les CEE: le socle européen du dialogue social: www.lescee.eu

BE BOP: www.projetbebop.eu

USR CISL Lombardia: www.lombardia.cisl.it

UGT Catalunya: www.ugt.cat

UIL Milano e Lombardia: www.uilmilanolombardia.it

CGIL Lombardia: www.cgil.lombardia.it

CFDT Auvergne-Rhône-Alpes: auvergne-rhone-alpes.cfdt.fr

EAEA - European Arts and Entertainment Alliance:
www.iaea-globalunion.org/eaea

EUROCOP - European Confederation of Police: www.eurocop.org

EFBWW/FETBB - European Federation of Building and Woodworkers:
www.efbww.org/default.asp?Language=EN

EFFAT - European Federation of Food, Agriculture and Tourism Trade Unions: www.effat.org/en

EFJ/FEJ - European Federation of Journalists: www.ifj.org

IndustriAll - European Federation for Industry and Manufacturing workers: news.industriall-europe.eu

EPSU - European Federation of Public Service Unions: www.epsu.org

ETF - European Transport Workers' Federation: www.etf-europe.org

ETUCE/CSEE - European Trade Union Committee for Education:
www.csee-etu.org/en

UNI-EUROPA - European trade union federation for services and communication: www.uniglobalunion.org/regions/uni-europa/news



ACRONYMS INDEX

CUR - Company Union Representatives

EFA - European Framework Agreements

ETUC - European Trade Union Confederations

ETUI - European Trade Union Institute

EWC - European Works Council

ICP - Information Consultation Participation

SE - Societas Europaea

SNB - Special Negotiating Body

TCA - Transnational Company Agreement

UUR - Unified Union Representatives

WC - Works Council

Printed in October, 2021
by Grafiche Riga S.r.l. - Annone Brianza (LC)