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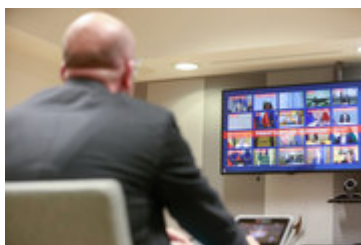
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1. Corona crisis changing the meeting culture

EU institutions work virtually



How the EU can remain functional and capable of taking decisions without officials being in the same room has acquired a new urgency. The regular summit of heads of state and government was held on 26 March 2020 as a video conference. Members of the European Parliament are urging that a virtual plenary be made possible and that electronic "tokens" be used to verify the identity of MEPs when they vote. With specific software, amendments could be tabled electronically.

It increasingly looks as if the situation will never again be quite the same as it was before the outbreak of the Corona crisis: When a company sends its entire staff to their home offices, employees wonder why at all they previously had to go to the office every day. Meetings and seminars are also being cancelled or switched to video conferences, European works councils are particularly affected by travel restrictions. Are videoconferences at all permitted for works councils? Neither the European legislator nor case law provides a clear answer to this question (see [report in EWC News 2/2017](#)).

Emergency guidelines from European trade unions

On 27 March 2020, the trade union federations in Brussels released recommendations for European works councils and SE works councils. As physical meetings are prohibited in the current circumstances to stop the spread of the virus, online meetings can be used as a substitute under certain conditions. They should follow clear rules to be agreed in writing with central management. The guidelines contain a template for these rules. It is important that the replacement of meetings by virtual meetings is limited to the crisis period. Videoconferences are no substitute for real face-to-face meetings. Nor should the corona crisis be used as an excuse to cancel ordinary plenary meetings in 2020. During the crisis, members of the select committee must be able to hold videoconferences with interpreters between themselves and with other delegates.


[Download the recommendations](#)

German Labour Minister calls for virtual works council meetings

On 20 March 2020, the Minister of Labour, Hubertus Heil (Social Democratic Party), issued a ministerial declaration that will continue to shape the topic of videoconferencing after the Corona crisis and represents a complete break with the previous legal concept in Germany. "We are therefore of the opinion that in the current situation ... participation in a works council meeting via video or telephone conference including online supporting applications ... is permissible. This applies both to the connection with individual works council members as well as to a virtual works council meeting. In our opinion, the resolutions passed in such a meeting are valid."

[Full text of the Ministerial Declaration](#)

[Legal issues on works council work during the Corona crisis](#)

[Critical statement from the ver.di trade union](#)

[Ver.di trade union guide on co-determination during the Corona crisis](#)

How can such a breach in the dam ever be reversed? In European works councils, this is already the subject of legal proceedings. There are more and more employers who want to prevent employee representatives from several countries gathering in the same meeting room in order to "keep things trouble-free" (see [report in EWC News 1/2019](#)). In the end, who decides on the appropriateness of a virtual meeting: the employer or the works council? Many experts explicitly advise against replacing face-to-face meetings with video conferences in certain situations. This includes difficult or unpleasant topics with a particular scope (restructuring, mass redundancies), or even full-day video conferences, as these can be very stressful for the participants. Videoconferencing with interpreters is a particularly big challenge for the EWC.



Forthcoming Event

From 13 to 15 October 2020, we are holding our first seminar on online meetings, audio and video conferences for works councils in Berlin.

[Seminar programme](#)

2. EWC study reveals serious weaknesses

Many European Works Councils are left in the dark

On 13 January 2020, the European Trade Union Institute (ETUI) in Brussels presented the initial results of a survey of 1,635 delegates from 365 European and SE works councils. The 2018 survey was the largest ever conducted and a publication with the overall results is still in progress. Under the provocative title "Can anybody hear us?" the main weak points of EWC work have been graphically and statistically presented in advance.



Even 25 years after the adoption of the first EWC Directive, only a minority of all EWC members receive detailed information on restructuring measures. Around half benefit from an additional meeting to discuss the issue, but these extraordinary meetings usually take place only after the final decision has been taken, making them almost useless. Only 21% of all those questioned were informed and consulted before the final decision was taken by central management. The percentage rises to 36% if we consider only the EWC bodies with three or more regular meetings per year. Only 27% of all respondents have access to economic experts to deal with restructuring. Most of these are French companies where works councils are traditionally very widely supported by chartered accountants.

Information yes, consultation no

Even if information is provided, it cannot be guaranteed that the information is meaningful. Often central management limits this to a few PowerPoint charts. More than half of those surveyed feel that the information provided on plant closures and staff reductions as well as on occupational health and safety was too superficial. On other issues, as many as 70 to 80% of EWC members say that the information was not useful. Most of them therefore feel unable to have any influence on company decisions. 16% of all respondents have had a serious dispute with management about the functioning of the EWC in the last three years. Of these, 80% were unwilling or unable to initiate legal proceedings. One of the problems is the uncertainty about the financing of lawyers in countries where there is no legal regulation or works council budget for this purpose.

Training can still not be taken for granted

Although the new directive has explicitly introduced a requirement for training, 38% of all those surveyed still report that they have not received any training. Almost half of all European works councils have only one plenary session per year, 41% have two and 11% three or more plenary meetings. There is a steering committee in 88% of all companies which usually meets two to four times a year. SE works councils have significantly more plenary meetings and receive more training than "normal" European works councils.

Support by trade union advisors on the decline

According to the European trade union guidelines, every European works council should be supported by an external coordinator, i.e. by a full-time trade union official. However, more and more often it fails to achieve this self-imposed goal. According to the study, only 59% of all European works councils now have an external coordinator (in previous studies the figure was much higher), the rest either have no advice at all or seek their own consultants. Some of them, for example, seek legal and economic advice from the EWC Academy.

[The publication for download](#)

[The European trade union campaign "More democracy at work"](#)

3. Case law on EWC issues in Germany

Faced with insufficient information, the EWC has a right to a preliminary check



The Essen employment tribunal recently rejected an application for an interim injunction from the European works council of the US automotive supplier Dana, but made significant observations in the conclusions of the ruling with regard to EWC law. Up to now it has been largely impossible in Germany to

enforce EWC rights in court (see [report in EWC News 1/2019](#)).

The proceedings at Dana began in September 2019 (see [report in EWC News 3/2019](#)). The tribunal only examined the urgency of the matter in order to rule on the temporary suspension of measures. The first case was in connection with a restructuring of the plastics division, which primarily had a negative effect on the workforce in Hungary. As a result of the court proceedings, central management was forced to communicate documents about its plans in Hungary, which it had not previously wished to make available to the EWC. In its ruling of 4 October 2019, the court granted the EWC a right to a preliminary examination to enable it to assess its competence in more detail, should central management refuse to provide information. For the first time, a German employment tribunal explicitly referred to the possibility of a right to injunctive relief if an employer violates its consultation obligations. In the specific case, however, the court did not consider it to be a transnational matter in which two countries were affected at the same time, since the measures had already been completed in Germany and had not yet begun in Hungary.

Consultation for restructuring in several phases

The second case concerned the transfer of the accounting department to a new shared service centre in Lithuania with staff reductions in Western Europe. This restructuring initially began with a small pilot phase, which would then be followed by further phases. On 14 January 2020, the court ruled that in a three-phase restructuring, the EWC's right to consultation can only be exercised once before the start of phase 1. This rules out any subsequent claim.

The third procedure was related to Microsoft MyAnalytics as an example of numerous software tools that are constantly being introduced by the US headquarters and of which the employee representatives only become aware afterwards. The tribunal ruled on 30 January 2020 that any possible disadvantages for the workforce could be claimed in normal court proceedings and that this matter did not justify urgent proceedings. Dana's EWC operates under German jurisdiction and last updated its EWC agreement in 2014 (see [report in EWC News 4/2014](#)). Since then the delegates have been receiving legal and economic advice from the EWC Academy.

German subsidiary jointly and severally liable

On 8 January 2020, the employment tribunal in Oldenburg ruled on the travel expenses of a German EWC representative of Mayr-Melnhof Packaging. The central management of the Austrian company had announced in April 2019 that in the future it would only finance plenary meetings and no longer

any select committee meetings. The EWC representative from the Delmenhorst plant therefore requested local management to reimburse his travel expenses to the select committee meeting in Vienna in May 2019.



When the plant management refused to do so, legal proceedings were initiated. The German EWC Act stipulates in Art. 16-2 in conjunction with Art. 39 -1 that in addition to the central management abroad, a German employer is also jointly and severally liable. The Oldenburg employment tribunal therefore ordered the German subsidiary to reimburse the travel expenses. The judgment is final. This is the first ever court ruling passed in Germany on this question, and a second case is currently pending before the Triers employment tribunal. There is also a court case in Austria on this question of principle (see [report in EWC News 3/2019](#)). The EWC is advised by the EWC Academy.

4. Recent court rulings in England



British company repeatedly violates EWC law

On 11 December 2019, the Central Arbitration Committee (CAC) in London, the first instance in British EWC law, ruled on a complaint filed by the European works council of Vesuvius. The London-based group is a manufacturer of refractory materials for the steel industry with 10,800 employees worldwide, one third of whom work at 17 European sites. The EWC was founded in 2012 under the former company name Cookson Group (see [report in EWC News 1/2013](#)) and has been confronted with site closures on several occasions. The central management and the EWC have had repeated conflicts over the scope of consultation rights.

The legal dispute arose on 16 July 2018 when Vesuvius informed the EWC about the closure of production facilities in Spain, Poland and the UK, in an extraordinary meeting using a simple slideshow presentation. They refused to communicate any further documents. As a consequence, the EWC could neither understand the economic justification for the closures nor obtain any clarity on the financial support offered to dismissed employees. Above all, the central management in London wanted to keep the provisions set aside for possible redundancy costs, secret. The management feared that if this had been disclosed, then employee representatives of the concerned countries could have demanded higher budgets for severance packages. The CAC contradicted this "divide and rule" reasoning and decided that central management had violated the EWC agreement. According to the ruling, the EWC is even entitled to more detailed information than the company's board of directors. However, no sanctions were imposed by the CAC.

The central management had reacted to the start of legal proceedings by giving notice to terminate the EWC agreement on 26 March 2019. The EWC at Vesuvius is to operate under Polish law in the future. On 7 October 2019, central management even broke off the negotiations for a new EWC agreement, as a further disagreement arose (see below). This could lead to a new "default EWC", comparable to the situation in the Austrian company Mayr-Melnhof Packaging (see [report in EWC News 3/2016](#)).

The second court case for Vesuvius

On 5 September 2019, the closure of two sites in Spain with 130 employees was announced. Central management did not inform the EWC about this because it was allegedly only a local matter in Spain. However, the EWC was able to prove that production would be relocated to Poland and Czechia. As early as 17 May 2019, a seven-day week had been introduced at the Polish plant in Skawina (near Kraków) and subsequently staff numbers had been increased. At an investor conference, the CEO had also referred to these relocations. On 21 January 2020, the CAC decided that Vesuvius had also violated the EWC agreement in this case. Sanctions were not imposed here either.

[Full text of court ruling no. 1](#)

[Full text of court ruling No. 2](#)

EWC loses legal case against US telecommunications group

On 20 December 2019, the Central Arbitration Committee (CAC) ruled that after four months and several meetings, Verizon's management may unilaterally declare a consultation process to be terminated. The case concerned fundamental questions that arise in every EWC: how extensive must business reporting be, how long does a consultation procedure last, and what happens in the absence

of an opinion. Verizon's French EWC chairman was unable to impose his view of a "consultation à la française" (see [report in EWC News 3/2011](#)).



At its monthly meeting on 13 December 2018, Verizon's EWC steering committee was informed about plans to centralise the accounting and finance departments from 16 countries to the headquarters in Reading (near London). On 16 January 2019, the EWC handed over a list of 38 questions, which were answered in writing by the management on 30 January 2019. On 14 February 2019, an extraordinary plenary meeting of the EWC was held, and another on 10 April 2019, specifically dedicated to this project. However, the EWC was not in a position to decide on an opinion because it lacked crucial information (see Annex 2 of the ruling from page 38 on). Central management, for its part, unilaterally declared the consultation to be terminated, which triggered the legal dispute. The CAC ruled in favour of the employer.

[Full text of the court ruling](#)

In October 2019, the Verizon EWC had won another legal case before the CAC (see [report in EWC News 4/2019](#)) and the third court proceedings have been running since 12 February 2020.

Planned plant closure without consultation and dispute over legal fees



On 17 January 2020, after an oral hearing in Manchester, the Central Arbitration Committee (CAC) ruled that the Princes Group had violated EWC law. The Liverpool-based food and drink manufacturer has 7,000 employees, most of them in ten British plants, and is part of the Japanese Mitsubishi Group. The EWC was only established in October 2017 and operates on the basis of a EWC agreement that goes far beyond the legal minimum (see [report in EWC News 1/2018](#)).

The legal dispute concerned a planned relocation of production, about which the EWC was informed but not consulted. On 9 October 2018, central management informed the EWC in writing about the planned closure of its Chichester plant in southern England and the transfer of 25% of production capacity to Foggia (Italy). However, it did not consider this to be a transnational matter within the scope of the EWC's competence, since only the employees in England were negatively affected. Consequently, it refused to convene an extraordinary EWC meeting. The CAC did not agree with this reasoning and ruled that there was a violation of the EWC agreement. The fact that a buyer was found in July 2019 to continue the plant and that finally no production is to be transferred to Italy had no influence on the ruling.

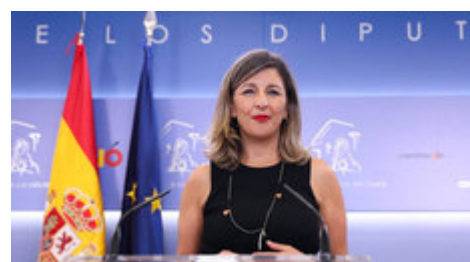
Another point of dispute was the legal fees of the lawyer who filed the complaint with the CAC. Central management did not want to pay his fees because the legal department of the Unite trade union had previously given advice to the EWC on the same issue. As there is no obligation to have a lawyer at the CAC, it had to be decided whether a lawyer was "required" and whether central management could refer the EWC to free legal counsel from the trade union. In the opinion of the CAC, the EWC may decide which experts to engage entirely on its own and whether they work with or without a fee. The management will therefore have to pay legal fees of almost 15,000 £ within 21 days. The CAC had made a similar decision in October 2019 in the Verizon case (see [report in EWC News 4/2019](#)).

[Full text of the court ruling](#)

5. Reports from other countries

Red-red coalition in Spain

Since 13 January 2020, Spain has had a communist minister of labour. Communists are taking part in the government for the first time since the end of the Spanish Civil War in 1939. Yolanda Díaz Pérez (photo), a labour lawyer, has been a member of parliament since 2016 for the Galician Communist Party, which, together with other left-wing and green parties, forms the electoral alliance Unidos Podemos. She comes from a family of well-known trade unionists who fought underground against the Franco dictatorship. Her



father was general secretary of the trade union confederation CC.OO. in Galicia.

She sees the main goal of her work as the fight against precarious working conditions. Above all, she wants to abolish the 2012 labour market reform, which came into force as a result of the austerity policy following the financial market crisis. One of her first official acts was to raise the statutory minimum wage by 5.5% to 1,108 € per month. More than two million people are affected. Her predecessor in the Ministry of Labour came from the Social Democratic PSOE and had close ties to the UGT trade union confederation (see [report in EWC News 3/2018](#)).

[Press report on government plans](#)

The coalition between Social Democrats and Podemos, the left-wing electoral alliance, does not hold a majority and needs the support of regional parties. The alliance was only possible after the third parliamentary election in seven months, which was held on 10 November 2019 and brought strong gains for right-wing parties. While the trade union confederations UGT and CC.OO. subsequently fought vehemently for the formation of the coalition, the employers' association CEOE and the Catholic Church of Spain spoke out against the new government. This shows that the lines of conflict are the same as for the Spanish Civil War. The minority government scored its first major political success on 27 February 2020, when parliament approved the expenditure ceiling, a preliminary stage to the adoption of the new budget for the four-year legislature.

[Social democratic commentary on the formation of the government](#)

[Evaluation of the elections and formation of the government from a conservative perspective](#)

[Report on the approval of the ceiling for expenditures](#)

Italy violates the European Social Charter



The decision of the European Committee of Social Rights of the Council of Europe concerning a complaint by the Italian trade union confederation CGIL was announced on 11 February 2020 in Strasbourg. The Jobs Act, which came into force in March 2015, violates Article 24 of the European Social Charter, which provides for the right to protection in the case of termination of employment and to adequate compensation. The Council of Europe is not an institution of the EU. It comprises 47 countries, including Russia, Turkey, Switzerland and the United Kingdom.

At the heart of the Jobs Act was an easing of protection against dismissal to encourage companies to hire more people. Italy was then experiencing the worst economic crisis since the Second World War. Matteo Renzi's social democratic government came under heavy criticism from the unions and in December 2014 there was a general strike against the Jobs Act. In 1970 the trade unions had fought for workers to be protected against unfair dismissal and to have a guaranteed right to return to work in companies with 15 or more employees. The Jobs Act abolished this provision and at the same time set an upper limit on severance compensation: two months' wages for each year of service.

This issue will soon be on the agenda of the European Court of Justice in Luxembourg. It was referred to the Court by the employment tribunal of Milan in September 2019. The Court of Appeal of Naples also referred parts of the Jobs Act to the European Court of Justice in November 2019. A part of the Jobs Act was revoked for the first time in July 2018, by the "Dignity Decree" (see [report in EWC News 3/2018](#)).

[Council of Europe press release](#)

[Full text of the court ruling](#)

French Court of Justice overturns legal consultation periods

On 26 February 2020 in Paris, the Social Chamber of the Court of Cassation (the highest Labour Court in France) decided that the period allowed for consulting the works council could be extended even retroactively. In France, employers can only proceed with redundancies in a legally secure manner once the consultation procedure has been completed. With the new verdict, statutory time limits are hardly applicable in practice and the role of the works council has been strengthened.



The complaint was filed by the French central works council of the electricity group Electricité de France (EdF), which had been informed on 2 May 2016 of the planned construction of two new nuclear power plants in England. It appointed two experts to examine the project and requested further

documents, which the employer refused to provide. On 20 June 2016, it consequently filed for injunction to the local employment tribunal of Paris to provisionally suspend the consultation procedure. On 27 October 2016, the tribunal declared the claim as inadmissible on the grounds that the statutory consultation period had already expired at the beginning of July 2016 and the entire procedure was thus automatically deemed to be terminated.

As in the case of the US company Markem-Imaje (see [report in EWC News 3/2017](#)), the judiciary worked so slowly that no court decision was issued within the statutory consultation period. However, the EdF central works council was not willing to accept this and was successful in the court of appeal on 7 September 2018. EdF had to provide additional information and convene the central works council within two months so that it could give its opinion (N.B. in France, the works council is chaired by the employer). The Court of Cassation confirmed the verdict.

Timetable for restructuring no longer calculable for the employer

In the future, if a French works council wishes to "stop the clock" in the event of imminent dismissals, it only has to file a legal complaint in good time before the statutory consultation period expires. If the judicial system then works slowly, the employer will have to wait to implement measures. The statutory consultation periods were introduced in January 2014 by the socialist government under François Hollande. Companies should be able to dismiss more quickly in times of crisis and works councils should no longer be able to delay this (see [report in EWC News 1/2014](#)).

The Court of Cassation has only ruled on French works councils. There have never been exact consultation periods defined for European works councils operating under French law. However, they too can benefit from the judgment, namely in terms of the scope of company business and financial reporting.

[Full text of the court ruling](#)

6. US companies after restructuring

Tough negotiations with a record number of SNB meetings



On 25 November 2019, a EWC agreement for CCEP (Coca-Cola European Partners) was signed in Paris at the last meeting of the Special Negotiating Body (SNB) before the end of the three-year negotiation period. A last-minute breakthrough was achieved, although the management had already declared the negotiations as failed in May 2019 (see [report in EWC News 3/2019](#)). It took 16 meetings of the SNB to achieve this, which represents on average one every two months. Such meetings usually extend over three days, including preliminary and debriefing meetings.

The agreement is currently still subject to British law for as long as the United Kingdom remains legally part of the European Economic Area (see [report in EWC News 4/2019](#)). Thereafter, the CCEP will be governed by Belgian law. The previous European works councils for Coca-Cola Enterprises and Coca-Cola Iberian Partners have been dissolved as their workforces are now represented by the new EWC. It has 32 members for 23,700 employees in twelve countries, including 7,700 in Germany, which as the largest country, has five seats. The United Kingdom, with 3,600 employees and four delegates, is to remain permanently in the EWC. One plenary meeting is held every six months chaired by management. The employee representatives elect six members to the steering committee, which meets three times a year with central management.

Videoconferencing only possible for small restructuring projects

Information and consultation in exceptional circumstances has been very precisely regulated. If fewer than 100 employees in at least two countries are affected by restructuring, an extraordinary meeting of the select committee and the delegates from the countries concerned is held, possibly by videoconference. The opinion of the EWC must be delivered no later than the following day. If between 100 and 300 employees are affected, there are two face-to-face meetings in a small circle and the consultation procedure ends after six weeks at the latest. If over 300 employees are affected, there are three extraordinary meetings (face-to-face), including one plenary meeting. In this case the consultation procedure lasts for a maximum of eight weeks.

The EWC is entitled to a permanent paid expert and a full-time trade union official from the European Federation EFFAT, as well as to one day training per year. In the event of disagreement, a joint arbitration body with an independent arbitrator is set up and a binding decision is made within five weeks. Should the EWC wish subsequently to take legal action, central management would not have

to pay any legal fees. However, the EWC may release the permanent expert from office and appoint temporarily in his place a lawyer to represent it in court. This is in line with the basic philosophy of the EWC Directive, according to which only one expert has to be paid at a time. The question remains open whether an expert can be a natural person or a legal entity (consulting firm).

[Report on the negotiations](#)

IT Company falls behind EU standards

A EWC agreement was signed for DXC Technology in Copenhagen on 27 November 2019. The IT group with 138,000 employees in 70 countries was founded in 2017 as a result of the merger of Computer Sciences Corporation (CSC) with parts of HPE (Hewlett Packard Enterprise). The new EWC agreement falls short of the subsidiary requirements of the current Directive in some important points. The functioning of the EWC would have been in some cases better if the members of the Special Negotiating Body had refused to sign. In the two former companies there had been legal disputes between the EWC and central management. In the summer of 2018, the Wiesbaden employment tribunal had to deal with CSC because the EWC was being refused meetings (see [report in EWC News 2/2018](#)) and at Hewlett-Packard, the central management had been able to prevent the reestablishment of a previously dissolved EWC for years (see [report in EWC News 1/2017](#)).



The new EWC has 23 members from twenty countries with more than 100 employees. Small countries are not represented, large countries have a maximum of two seats. The employer is not part of the EWC and does not hold the chair. The two British delegates will lose their mandate as soon as the EWC Directive no longer applies in the UK. The UK workforce will then only be represented by an observer without voting rights and UK issues will fall outside the scope of the EWC's competence. Every year there will be two plenary meetings of two to three days, the six members of the select committee will meet twice a year.

Short consultation period without proper support by experts

In the case of restructuring, the EWC is involved if at least 250 jobs in two countries are affected or if one country is completely shut down. In such cases, the procedure to follow is at first discussed in a video conference. Thereafter, an extraordinary meeting of the select committee with the delegates of all countries concerned is generally organized. Within ten working days of the meeting, the EWC may render an opinion, and after a further ten working days, a written reply is given by central management. This ends the information and consultation. The EWC may not call in a consulting firm, but only an individual expert whose work is limited to attending meetings. Any economic assessment is therefore not possible.

The training providers are chosen by the central management, but the EWC may make proposals. The EWC agreement is governed by Irish law. The Workplace Relations Commission is responsible for any disputes, and the employment tribunals in the second instance. The agreement may be terminated after eight years at the earliest. If negotiations on a new agreement fail, the EWC is dissolved and a Special Negotiating Body is set up. Such special dissuasive provisions are generally only found in old "voluntary" agreements (see [report in EWC News 1/2014](#)).

7. Newly established European works councils

Quick negotiations in Czech energy group



On 11 October 2019, a EWC agreement was concluded for EPH (Energetický a Průmyslový Holding) which has its headquarters in Prague. With 25,000 employees, the private company is represented in eight countries of Western and Eastern Europe, including the former brown-coal division of Vattenfall in Eastern Germany. This is only the second EWC to operate under Czech law. In 2007, the semi-public electricity producer ČEZ had established the first and only EWC in the Czech Republic (see

[report in EWC News 1/2007](#)).

Negotiations were launched in February 2019 with representatives from the Czechia, Slovakia and Hungary. A Special Negotiating Body (SNB) according to the rules of the EU Directive was not established, but the other countries were contacted before the agreement was signed. The EWC will be constituted after the 2020 summer break. It has 13 members from six countries and meets once a

year. Germany, as the largest country has three seats, small countries with up to 50 employees are not represented. There was no contact at all with the workforce in England, where EPH operates four power stations. The country will not be represented on the EWC because the agreement does not contain a Brexit clause.

The steering committee is relatively large with eight members. It holds two meetings a year, plus extraordinary meetings in exceptional circumstances. In addition to the topics of information and consultation typical for all EWCs, the agreement focuses on occupational health and safety and the prevention of accidents in the workplace. Furthermore, the company undertakes to respect the ILO's fundamental principles, supports social dialogue with trade unions and promotes collective bargaining.

Israeli Pharma Company Establishes EWC

On 9 December 2019, a EWC agreement under Dutch law was concluded for Teva Europe in Amsterdam. Teva is the world's largest generics manufacturer with 40,000 employees, 20,000 of whom work in Europe. The EWC is responsible for 28 countries in the European Single Market as well as for Switzerland and three Balkan countries. The UK remains a permanent member. Ten countries with fewer than 75 employees are represented by delegates from neighbouring countries and do not have their own seat. Germany and Hungary have two delegates, the remaining 16 countries only one each.



A plenary meeting is held once a year under the chair of the management, which appoints a secretary for this purpose. He organizes all meetings, provides interpreters and the translation of documents as well as keeping the minutes of the joint meetings with the management. As a purely employee body, the EWC elects its own chair and four other members to the select committee. The latter is informed by central management three times a year, twice by video conference. It can hold its own meetings with local works councils on site.

Rapid consultation but subsequent monitoring

Information in exceptional cases has been limited to four topics and information restricted to a minimum. An economic assessment of restructuring plans by the EWC is therefore almost impossible. The opinion of the EWC must be given within seven days after an extraordinary meeting. After completion of a consultation procedure, the other EWC members are informed in detail by the select committee and the secretary in a telephone conference. In the months following the implementation of any restructuring, central management and the select committee shall examine the progress and effects in the individual countries and shall hold telephone conferences for this purpose. The EWC is only entitled to paid experts for restructuring, not for its normal work. If the costs involved are higher than 15,000 €, the express prior approval of central management is required. Training can only take place within the framework of plenary sessions, individual participation in external seminars is not provided for.

Split into two separate EWC bodies



In Barcelona, on 16 December 2019, a EWC agreement was signed for Adevinta, the largest online marketplace in Europe with 3,150 employees in 16 countries around the world. It is subject to Norwegian law because the parent company is based there. The media group Schibsted had previously bundled its online marketplaces outside Scandinavia in the Spanish subsidiary Adevinta and then floated them on the stock exchange. Until then, their workforce was represented by Schibsted's EWC, which has existed since 2004 (see [report in EWC News 4/2013](#)). Now Adevinta has its own EWC, which in a transitional period until the end of April 2020 still holds joint meetings with the Schibsted EWC.

Only countries with more than 50 employees are represented. Spain and France each have three seats, Italy two, Austria, Hungary, the United Kingdom and Ireland one seat each. There are seven observers from four Latin American countries, as well as Morocco, Tunisia and Belarus. The election modalities for the individual countries are described in great detail, as otherwise only found in SE agreements. The term of office is only two years and membership is limited to three terms. There is a steering committee with four delegates from different countries and a liaison committee with the management, consisting of the chairman of the board and another manager who organizes the biannual EWC plenary meetings. These last for a period of three days and are held alternately in Barcelona and another country.

The EWC agreement contains a "Policy on Consultation". This states that the EWC is only officially competent for countries within the European Economic Area. Restructuring in other countries does not trigger a consultation procedure. However, the steering committee can provide local support and conduct discussions in such countries. The EWC chairman receives the same documents as issued to the administrative board which is otherwise only found in SE agreements. His deputy manages the EWC budget. Both are released from their work duties for up to 50% of their working hours. Consultation is only possible as a video conference if the steering committee expressly agrees.

[Report on the opening of the head office in Barcelona](#)

8. New SE conversions

Company founders reject co-determination on the supervisory board

On 25 September 2019, an SE participation agreement was signed for adesso in Frankfurt, which came into force upon registration of the European Company (SE) in the commercial register on 27 November 2019. The listed consulting and software group based in Dortmund has 4,000 employees in Europe, Turkey and the USA, including 3,200 in Germany alone. The new SE Works Council ("European Employee Forum") consists of 15 members: ten from Germany and one each from Austria, Spain and Bulgaria. Switzerland and Turkey are full members and have been granted one seat each. As there are no local works councils in any country - not even in Germany - elections are carried out by electronic voting. In principle resolutions and elections are also possible by means of telephone conferences and e-mail.



The SE works council meets three times a year without the employer and elects a chairman and four other members to the steering committee. This committee is responsible for the regular exchange with central management which takes place after each meeting of the supervisory board (as a meeting or by video conference). The steering committee can invite two further members of the SE works council to participate. Since co-determination on the supervisory board is not provided for, this opens up a direct information channel along the lines of the SE agreement of the property development company Inros Lackner (see [report in EWC News 4/2013](#)).

SE works council replaces lacking local works councils

Information and consultation in exceptional circumstances has been very precisely defined and includes participation rights that do not exist in other SE agreements. This means that the SE works council has the right to hold an employee assembly in every country affected in the event of plant closures or mass redundancies and to negotiate compensation measures. If there is no agreement, there are provisions for a binding conciliation procedure with a neutral person, on whom both sides must agree. On the other hand, the SE agreement contains tight deadlines for the consultation procedure and explicitly excludes any legal claim to injunctive relief.

Should the two company founders reduce their shareholdings to below 25% ("change of control"), a one-third employee participation would be introduced in the supervisory board. Until then it remains without co-determination. This is similar to the Köster construction company, where a comparable provision was included in the SE agreement in March 2019 (see [report in EWC News 1/2019](#)).

[Press release on the SE conversion](#)
[Full text of the merger plan](#)

SE Works Council for French family conglomerate



On 4 October 2019, an SE agreement was concluded at the headquarters of the Bolloré conglomerate in the Parisian suburb of Puteaux. The 200-year-old family-owned company has 81,000 employees worldwide in the transport, petroleum, media and communications industries, mainly in French-speaking African countries. The Bolloré family is among the ten richest industrialists in France. The new SE was registered on 19 December 2019, at the company's historic headquarters in Ergué-Gabéric in Brittany. The press speculated on the real reasons for the SE conversion: Abstentions are no longer counted at SE shareholder meetings which increases the influence of the family shareholders.

As several of the group's companies were converted into European Companies (SE), it was necessary to establish two Special Negotiating Bodies with 25 and 23 members respectively. These decided at their first meeting to meet jointly and to establish a joint SE works council for the Bolloré Group ("Comité Commun des Sociétés Européennes du Groupe Bolloré"). A similar solution was chosen in 2007 for the French insurance group Scor (see [report in EWC News 2/2007](#)). In the administrative board of Bolloré SE there are - as before - two employee representatives with an advisory capacity. One will be elected by the French group works council and one by the SE works council.

The SE works council meets once a year under the chairmanship of the family patriarch. The employees' side elects a secretary who chairs the internal preliminary and follow-up discussions and represents the SE works council externally, e.g. in court. The distribution of mandates in the 17 participating countries corresponds exactly to the SE Directive, with Germany and Belgium always being allocated at least two seats and the UK remaining a permanent member. The scope of competence of the SE works council has been defined more narrowly than in the SE Directive. It is only competent for restructuring if at least three countries are affected. In this case an extraordinary meeting is held at the request of the majority of the employee representatives. There is no steering committee.

Each delegate has 16 hours time-off work per year in addition to the time for meetings, and the secretary another eight hours. If more than two meetings are held per year, the quota is to be increased by 16 hours for each additional meeting, and by four hours for the secretary. Every year, the employee representatives commission a consulting firm to advise the SE works council. On the other hand, central management chooses unilaterally training providers. There was previously no European works council at Bolloré.

[Full text of the SE Agreement](#)

Commercial vehicle supplier does without a Special Negotiating Body

On 24 February 2020, SAF-Holland SE was entered in the Luxembourg Commercial Register, where the German-American holding company has its registered office. The manufacturer of truck axles with 4,000 employees worldwide plans shortly to relocate its headquarters to its largest plant in Bessenbach, Germany (North Bavaria). At the same time, the dualistic system, i.e. the separation of the executive board and the supervisory board, is to be introduced, following the German model. However, no co-determination for employees is planned. The SE conversion in Luxembourg ensures that the participation-free status can be imported to Germany.



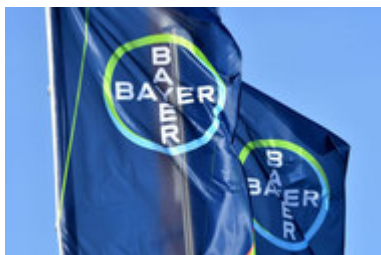
SAF-Holland SE will establish an SE works council on the basis of the Luxembourg subsidiary requirements. Normally, the subsidiary requirements only apply if negotiations fail, but the company had not even established a Special Negotiating Body (SNB). Whereas the Merger Directive expressly allows for a waiver of the SNB, this is not provided for in SE law. SAF-Holland did not yet have a European works council. The company has several production facilities in Germany and Italy as well as sales offices in nine other countries within the European Single Market.

[Press release on the SE conversion](#)

[Full text of the conversion plan](#)

9. Transnational milestones

Europa-Forum agrees on principles of social responsibility



On 28 November 2019, a joint declaration on the "Bayer 2022 - Platform Program" was signed by the Board of Directors and the EWC at the headquarters of the Bayer chemicals group in Leverkusen. With this program, management intends to massively reduce costs in corporate functions, business services and country platforms. By the end of 2021, 7,000 of the 117,000 jobs worldwide will be affected. Jobs will also be cut in European countries and partly transferred to shared service centres.

The Bayer Europa Forum, as the EWC is called, has been in existence since 1994 and has experience in managing such restructuring in a socially responsible manner. Most recently, similar principles on social responsibility were agreed in November 2014 when the plastics division Covestro

with its 17,000 employees was spun off (see [report in EWC News 4/2014](#)). They apply to all countries in the European Single Market and contain the following points:

- Clear analysis of the situation, risks and opportunities
- Clear definition of goals and target tracking
- Fair treatment of the employees concerned: open and transparent information and consultation process and the exploitation of internal possibilities for securing employment
- The persons concerned are to be transferred primarily to free jobs within their country and enabled to do so through further training
- Redundancies are only possible as a last resort, if dismissal cannot be avoided, the company offers outplacement services

The EWC is regularly informed by the central management in a "Joint Commission" on the status of implementation in the individual countries. The administration of the Europa Forum and all consultation procedures in exceptional circumstances are also handled by this commission, in which the larger countries are represented by one EWC member each. It meets four times a year and can be called upon as a clearing house if the principles of social responsibility are violated in a European country. For the 32,000 employees in Germany, the central works council had already reached an agreement on 2 October 2019, that there would be no compulsory redundancies until the end of 2025.

[Press release on the agreement for Germany](#)

French tyre manufacturer establishes World Works Council

On 27 January 2020, an agreement on a World Works Council was signed in Boulogne-Billancourt (near Paris) between the management of the second largest tyre manufacturer in the world and the International Federation of Industrial Trade Unions (IndustriALL). It builds on the experience of the European works council, which was already established in 1999. Following the French model, the chair is held by the group's CEO. The 50 members of the World works council hold up to two meetings a year and are allowed 20 hours time-off work per year in addition to the time for meetings.



Michelin has 125,000 employees in 67 factories worldwide. Initially, however, only the EU countries, the USA, Canada, Brazil, Serbia and Thailand are represented on the World Works Council. As there are no democratically elected employee representatives in China, Russia, Mexico and India, these countries have not yet joined. With this agreement, the management explicitly recognizes the importance of the fundamental conventions of the International Labour Organization (ILO), the UN guiding principles for business and human rights and the OECD guidelines for multinational enterprises. Michelin undertakes to protect the freedom of association and rights of workers' representatives and trade unions in every country around the world.

[Report on the signing](#)

[Full text of the agreement](#)

[Interview with the Director of Labour Relations](#)

10. Interesting websites

Trade union monitor on the Corona crisis



The European Federation of Industrial Trade Unions (IndustriALL) in Brussels is providing information on a special website about immediate measures taken at EU level and in individual countries to deal with this crisis. It attaches particular importance to the protection of the health of workers who are unable to work remotely in their home office and to financial compensation in the event of illness or production stoppages.

[The Corona crisis website](#)

[Overview of national measures](#)

Online encyclopaedia on occupational health and safety

The European Agency for Safety and Health at Work (EU-OSHA), an EU agency based in Bilbao (Spain), will offer the exchange of knowledge, information and good practice on its OSHwiki. Using the Wiki concept (see Wikipedia), users and authors can publish and share their knowledge there.

European Equality Index



The European Institute for Gender Equality (EIGE), an EU agency based in the Lithuanian capital Vilnius, regularly examines gender equality and publishes an index, most recently in 2019. Compared to 2005, it shows only a slight improvement of 5.4 points. In the country comparison, Sweden is in the lead with 83.6 points and Greece in the last place with 51.2 points. Germany lies still just below the EU average with 66.9 points. The institute is running a virtual cooperation platform "EuroGender".

[The Equality Index 2019](#)
[The EuroGender cooperation platform](#)

Facts and figures on co-determination for those interested in the USA

US scientists have compiled information about co-determination on supervisory boards on a dedicated website. By these means they wish to promote current discussions underway on a possible reform of corporate governance (see [report in EWC News 4/2018](#)). Under the title "Bringing America Together", it includes explanations, quotations and empirical facts and figures from Europe.



[US academics' website](#)
[Overview of the discussion on codetermination in the USA](#)

11. New publications

Country comparison on the reconciliation of private and professional life



At the end of October 2019, the European Trade Union Confederation (ETUC) in Brussels published an evaluation of collective agreements on work-life balance in ten countries. For each country, the current state of work-life balance is examined, the collective bargaining structures are presented and proven models of the collective bargaining parties are reviewed. The countries studied include Finland, Lithuania, Sweden, Germany, the Netherlands, France, Spain, Portugal, Italy and Slovenia. For example, the study shows large differences in parental leave entitlement - some countries have higher cash benefits or a longer duration than others. The possibility for fathers to take parental leave has a significant impact on women's participation in the labour market. The study is available in five languages, plus a toolkit on the new EU Work Life Balance Directive.

[Download the study](#)
[Download the toolkit](#)
[Download further language versions](#)

Trade union rights in the globalised economy

In December 2019 the Educational institution of the German trade union confederation DGB (DGB-Bildungswerk) in Düsseldorf published a brochure on the protection and implementation of trade union rights, which are seen as an integral part of human rights. It highlights the conventions of the International Labour Organization (ILO), which serve to set international labour standards. Other topics include the UN guiding principles, EU trade policy and the Supply Chain Act initiative (see [report in EWC News 4/2019](#)). An important part of the brochure are the International Framework Agreements between trade unions and multinational enterprises (IFA). The authors place a special regional focus on Colombia, Brazil, sub-Saharan Africa and South East Asia.

[Download the brochure](#)

Letterbox companies as a social problem



The European Trade Union Confederation (ETUC) presented this brochure on company law in February 2020, prepared by the University of Tilburg. The author sifts through EU law for loopholes that allow artificial company constructions to take up residence in a low-tax country while commercial activities are carried out in other countries. A consequence of such letterbox companies can also be social dumping and exploitation of workers. EU law provides neither controls nor effective or dissuasive sanctions against abuse. The legal form of the European Company (SE) is also criticised, as employee-less shell companies contradict the spirit of the SE Directive and are an instrument for regime shopping. The "Company Law Package" has been in force since 1 January 2020, which facilitates the cross-border transformation, merger and division of companies and includes a deadline for the elimination of co-determination (see [report in EWC News 3/2019](#)).

[Download the brochure](#)



New legal commentary on the German EWC Act

In February 2020 the 17th edition of this commentary book on the German Works Constitution Act was published. In this book, Professor Wolfgang Däubler devotes almost 100 pages to the European Works Council Act (EWC Act). Numerous court decisions across Europe up to October 2019 have already been incorporated. The sections on the Group and Central works councils have been completely revised and the new EU Whistle-blower Directive has been taken into consideration (see [report in EWC News 4/2019](#)). Legislation on the new data protection law is also included. With its more than 3,000 pages, the commentary is a standard reference work that no works council office should be without. In addition to the printed version, a digital version is also available.



[Online order](#)

12. The EWC Academy: Examples of our work

Almost 70 participants from nine countries in Hamburg



The twelfth EWC Academy conference for members of European and SE works councils took place on 27 and 28 January 2020. It was the largest of all the Hamburg conferences which have been organised every year since 2009. As it was simultaneously interpreted, about one third of the participants did not come from Germany. The programme for the second day now includes working groups for direct discussions.

The speakers on the first day reported on the framework agreement concerning the future of work at Unilever (see [report in EWC News 1/2019](#)) and the EWC work in the petroleum company Total (see [report in EWC News 4/2017](#)). Another topic was the corporate governance reforms in the UK (see [report in EWC News 4/2017](#)).

Forthcoming event

The 13th Hamburg symposium will take place on 25 and 26 January 2021, again at the Harbour Hotel Hamburg with a view over the Elbe and the city skyline.



Consumer Goods Company wants to reorganize accounting across Europe

On 20 February 2020, Beiersdorf's "European Dialogue Coordination Team", the select committee of its Europa-Dialog (EWC), was informed at a meeting in Gothenburg about the dissolution of accounting departments in eleven countries. Beiersdorf has a "voluntary" EWC agreement from 1995, which was last updated in March 2012, but to date only provides for information and no consultation.

At present, with the support of the EWC Academy, the question is being discussed how the Europa-Dialog can deal with such a situation. The Hamburg-based company Beiersdorf has 20,000 employees and its best-known product is Nivea cream.



SE court case goes into the next round



On 28 February 2020, the Hamburg employment tribunal rejected the request of the German group works council of Olympus to establish a Special Negotiating Body. The central management of the Japanese enterprise is reluctant to establish an SE works council and to (re-)introduce co-determination on the supervisory board. In the course of an SE conversion, all employee representatives had been removed from the supervisory board in 2013 (see [report in EWC News 3/2019](#)). Since this is a precedent for the entire SE landscape, the group works council immediately filed an appeal with the State Employment Court of Hamburg. It is advised by the EWC Academy, amongst others.

[Further information on the legal form of the SE](#)

13. Current seminar schedule

The EWC Academy and its forerunner organisation has been organising conferences and seminars for members of European works councils, SE works councils and Special Negotiating Bodies since January 2009. To date, 838 employee representatives from 288 companies have taken part, many of them on several occasions. This represents 25% of all transnational works council bodies in Europe. In addition, there are numerous in-house events and guest lectures given to other organizations.

[Overview of the forthcoming seminar dates](#)

Seminar on industrial relations in Hungary

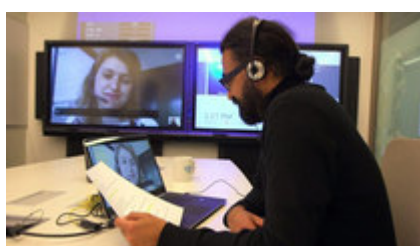
From 2 to 4 September 2020, a seminar will be held in Budapest, which is aimed in particular at works councils in companies with sites in Hungary. What is the current situation in a country with full employment and large wage increases? What rights do works councils and trade unions have? How does the representation of interests function in the workplace? Experts and experienced specialists from Hungary will give reports on these questions. The strong interdependence of the automotive industry led, for example, to production interruptions in Germany in January 2019, due to a strike in Hungary (see [report in EWC News 1/2019](#)).



[Seminar programme](#)

[Press report on the situation of trade unions in Hungary](#)

How to organise online meetings for works councils?



From 13 to 15 October 2020 we will be holding our first seminar on online meetings, audio and video conferences for members of works councils in Berlin. Not only European works councils, but also national works councils are already using this. The Corona crisis has given the topic a boost that is hardly reversible. In the seminar you can learn and experience what possibilities online meetings offer for works councils, what conditions are necessary and where the (not only legal) limits are.

[Seminar programme](#)

Legal EWC seminar

A legal seminar on EWC law will be held in Berlin from 13 to 15 October 2020. It will cover the legal details of a EWC agreement, current case law on EWCs and the application of the new EU directive in cases of legal doubt. One of the speakers will again be Ralf-Peter Hayen, a profound connoisseur of the subject and head of the legal department at the DGB confederal administration in Berlin.



[Seminar programme](#)

EWC and SE seminar at Montabaur Castle (new date due to coronavirus)



From 20 to 23 October 2020, our annual introductory seminar for members (including future members) of European works councils, SE works councils and Special Negotiating Bodies will take place in Montabaur. The castle is located near the ICE railway station halfway between Frankfurt and Cologne. Several seminar modules will be offered for beginners and advanced learners.

[Seminar programme](#)

[Report from a previous seminar in Montabaur](#)

In-house events

Please find an overview of possible topics for in-house events below:

[Topics for in-house seminars](#)

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