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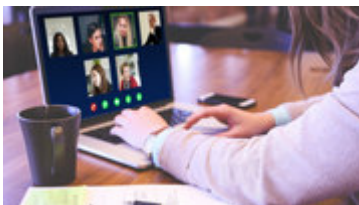
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1. The return of face-to-face meetings after the pandemic?

Democracy requires personal encounters and direct exchange



With the forthcoming end of the Corona pandemic, many European works councils are reverting to face-to-face meetings for the first time in two years. However, this cannot be taken for granted in all companies; some employers are seeking to make video conferences the rule and only accept face-to-face meetings in exceptional circumstances. Travel costs and time are considerably lower, works council members are less able to interact with each other and it becomes more difficult for them to develop a critical position vis-à-vis

management. But how does one build trust and the ability to act when, after two years in video mode, personal relationships have been severed?

According to a study by the European Trade Union Institute, the quality of information and consultation has considerably suffered during the Corona pandemic. The EWC members surveyed also put this down to the lack of direct exchange during video conferences and showed a clear preference for face-to-face meetings: the quality of discussions with management and internal cooperation was much better (see [report in EWC News 2/2021](#)). This is also shown by a French study. During the pandemic, the informal exchange that helps build trust was disrupted. HR managers and works council members agreed that only personal contact makes this possible (see [report in EWC News 2/2021](#)).

[Report on these two studies](#)

Online negotiations undesirable in the long term

In Germany, the trade union-affiliated Hans Böckler Foundation conducted a survey of works councils and HR managers on how their cooperation evolved with the onset of the Corona pandemic. The results show that workplace co-determination is extremely adaptable, but democratic negotiation processes need direct encounters. Online meetings became a central form of communication for 94%, voting and decisions took place with the support of new tools (83%) and were also made more rapidly (80%). The company social partners also met at significantly shorter intervals (69%). However, the lack of personal contact between the employee representatives was criticised (91%) and the achievement of good negotiated solutions was inhibited from the point of view of both parties. Debates and controversial arguments cannot be conducted online with the same quality. The main reasons were:

- The lack of non-verbal communication, especially the limited communication of emotions, made it difficult to create a negotiation atmosphere.
- The quality of information provided for the negotiations was insufficient, as it could not be passed on and presented with the same effectiveness.
- There were insufficient possibilities for coordinating internal strategic discussions in between and there was a lack of spontaneous personal off-line encounters. The process of developing an opinion became generally more difficult.

The Hans Böckler Foundation recommends reflecting on the advantages, disadvantages and working experience of working digitally and defining limits: For which work processes are digital media suitable and for which are they not? Since June 2021, German works council meetings can also be held by video and telephone conference outside of pandemic periods, unless at least a quarter of the elected representatives object (see [report in EWC News 2/2021](#)). In the opinion of Hans Böckler Foundation, these additional options must be given careful consideration to further develop the works council. However, works council members surveyed see the complete shift of negotiations to online meetings as a "red line" that must not be crossed.

[Summary of the Hans Böckler Foundation study](#)

Online European Works Council meetings as a permanent solution?

In October 2020, the trade union federations in Brussels had for the first time presented an emergency guide for video meetings of European Works Councils (see [report in EWC News 4/2020](#)). But who is able to decide whether to call a face-to-face or video meeting, the works council or the employer? In June 2020, a court in Italy ruled that a company cannot in principle prohibit face-to-face meetings of the European Works Council (see [report in EWC News 2/2020](#)). There are similar rulings in Germany (see [report in EWC News 3/2020](#)). Normally, the chairperson of the works council can call meetings and determine the venue for the meeting. EWC members can then decide for themselves whether to attend in person or by video link. The situation is different when the employer chairs the EWC such as in the French model.

2. Current developments at the European level

Human rights and environmental standards in the supply chain

On 23 February 2022, the European Commission presented a draft EU directive requiring companies to identify and minimise human rights and environmental violations in their global value chain. They must set up a complaints procedure for victims and monitor due diligence obligations - including those of suppliers. All companies (including non-European companies) that operate in the European Single Market and have a global net turnover of more than €150 million are covered. If more than half of the turnover comes from a high-risk sector such as textiles, mining or agriculture, the threshold is €40 million. The new directive affects about 17,000 companies. The proposal stems from an initiative of the European Parliament in March 2021 (see [report in EWC News 1/2021](#)).



[European Commission press release](#)
[Full text of the draft directive](#)
[Press report on the draft directive](#)
[Critical commentary on the draft directive](#)

European Works Councils should discuss consequences of Ukraine war



After the Russian invasion of Ukraine on 24 February 2022, many European Works Councils published press releases and statements to express their solidarity with the workers there. Some also demanded concrete action from their employer to support the people in Ukraine and the refugees. There were extraordinary meetings where central management informed the EWC about the concrete impact of the war on the respective companies.

However, the consequences of the war are not limited to Ukraine. Sanctions against the Russian economy are disrupting supply chains and plans by Western countries to abandon Russian oil and gas are pushing up energy prices. For this reason, European trade union federations issued a call on 9 March 2022 for all European Works Councils, SE Works Councils and Special Negotiating Bodies to

address the consequences of the Ukraine war on production processes, suppliers, exports and imports in a timely manner. To this end, the central management should be asked to provide information on economic and social impacts, in terms of working conditions, jobs and locations in Ukraine, Russia and all other European countries.

[Full text of the call](#)

[Declaration from the European Confederation of Industrial Trade Unions](#)

3. Individual country reports

Swedish Trade Union Confederation suspends cooperation with Brussels

Since the beginning of 2022, the umbrella organisation LO (photo of the headquarters in Stockholm) no longer transfers membership contributions to the European Trade Union Confederation (ETUC) and no longer participates in meetings. The decision was taken at the LO trade union conference in Stockholm on 1 December 2021 - in protest at the ETUC's handling of the planned EU directive on minimum wages. It would be a "disaster" for Swedish workers.



On 28 October 2020, the European Commission had presented the proposal for a new EU directive on adequate minimum wages, which has been a demand of the ETUC and national trade unions for years. In many countries they are too weak to enforce minimum wages through collective bargaining. In the Scandinavian countries, on the other hand, a legally regulated minimum wage is not necessary because collective bargaining coverage is very high. Trade unions from Denmark, Sweden, Norway and Iceland had already written to the European Commission in April 2020 criticising the ETUC's position (see [report in EWC News 3/2020](#)).

The Swedish confederation LO with its 1.4 million members now wants to do its own lobbying in Brussels against the ETUC and prevent the EU directive on minimum wages, or at least obtain an exemption for Sweden. The main argument is that the Swedish model "guarantees good wages, high employment and strong competitiveness. These are results that we do not want to jeopardise. We are aware that in many places people cannot live on their wages. But we are convinced that this should not be solved by EU legislation." The Swedish model has no state interference in wage setting.

Trade unions fear a decline in membership

The most important point, however, is that according to the EU directive, all workers should be covered by a minimum wage - including those who do not belong to a trade union. The Swedish trade unions see this as a threat to their claim to sole representativity. They fear that the EU directive would make it much more difficult to persuade employers to conclude collective agreements and workers to join trade unions. Sweden has traditionally had one of the highest levels of unionisation in the world, but it fell from 80% to 68% between the mid-1990s and 2020. Collective bargaining coverage is crumbling too, especially in the IT sector and among precarious workers in the service sector. In contrast, the Swedish Social Democratic government abandoned its opposition to the EU Minimum Wage Directive on 3 December 2021.

[The statement from the LO Trade Union Confederation](#)

[Report on the suspension of union dues](#)

[Recent study on Swedish trade unions](#)

[Full text of the proposed EU directive](#)

[The position of the Swedish government](#)

Interim injunction against evasion from collective bargaining in logistics centres



of a site closure.

On 3 February 2022, the High Court of England and Wales upheld a claim filed by the retail trade union USDAW against Tesco. The UK's largest retail chain wanted to sack warehouse workers at its Daventry and Lichfield logistics centres in central England unless they signed a new contract of employment on worse terms and conditions. They were to give up pay components guaranteed by collective agreements, which they received as "retained pay", i.e. hardship compensation for transfer to a lower-paid job as a result

The ruling, on which the judges gave no right of appeal, is seen by the unions as a victory against "fire and rehire" tactics. This consists of ignoring collective agreements and firing workers if they do not want to accept worse working conditions. Since the beginning of the Corona pandemic, British companies have made significant use of this method. A trade union campaign against this has been running since April 2021 (see [report in EWC News 2/2021](#)). Collective agreements in the UK do not have the same legal protection as in continental Europe (see [report in EWC News 4/2021](#)).

[USDAW union press release](#)
[Report on the court ruling](#)

Precarious employment in Spain to be curbed

On 3 February 2022, the minority government made up of the Social Democrats and the left-wing electoral alliance Podemos was able to pass its labour market reform with a one-vote majority in parliament. The legislative package had been provisionally enacted by Prime Minister Pedro Sánchez by decree on 29 December 2021. It was one of the most important projects of the communist Labour Minister Yolanda Díaz (on the photo to the right of Sánchez), who has been in office since January 2020 (see [report in EWC News 1/2020](#)).



The reform of the labour market was a condition of the European Commission for the disbursement of the €140 billion Corona aid. The government, employers' organisations and trade unions had been negotiating the content for nine months and reached an agreement on 22 December 2021. It is the first labour market reform in Spain since 1980 that is supported by all social partners. The most important concern was to curb temporary employment, which currently affects every fourth job in Spain. In future, temporary contracts will be limited to a maximum of three months and will only be possible in two cases: in the event of an unforeseen and temporary increase in production or as a substitute for holidays, pregnancy or illness. In sectors with seasonal business such as tourism, a special employment contract ("contrato fijo discontinuo") is supposed to ensure continued employment over subsequent years. Penalties for abuse of temporary contracts have been drastically increased. There will no longer be one-time fines, but a fine for each irregular employee.

In the future, collective agreements at sectoral level will once again take precedence over in-house collective agreements. Deviations from sectoral collective agreements are only possible if they lead to an improvement for the employees. There is once again a continuation guarantee for terminated collective agreements, which remain in force until a new collective agreement is signed. This reverses important parts of the 2012 labour law reform, which the Conservative government had implemented to combat the financial market crisis. At that time there were numerous plant closures (see [report in EWC News 2/2012](#)).

[Report on the contents of the reform](#)
[Explanations by the Spanish trade union confederation CC.OO.](#)
[The current situation of trade unions in Spain](#)

4. Explosive legal questions on co-determination in the SE

Parity co-determination for Franconian family business?



In two rulings of 12 August and 8 September 2021, the Bamberg Employment tribunal ruled that Brose Fahrzeugteile from Coburg must convene a special negotiating body (SNB) to negotiate an SE participation agreement. The central management had refused on the grounds that the SE, operating as an SE limited partnership (SE & Co. KG), does not employ any workers and cannot negotiate with anyone.

As there is neither a central nor a group works council at the automotive supplier, the legal proceedings were started by two local works councils and treated separately. However, the judgements are identical. The tribunal sees the European Company (SE) as a holding company and attributes all employees to it. Brose has a total of 25,000 employees in 24 countries, but so far, no European works council. The central management has filed an appeal against the two rulings with the Nuremberg higher labour court.

The background behind the escape from co-determination

The two works councils, each representing more than 2,000 workers at their locations, had initiated status proceedings against the company on 19 December 2019. In doing so, they were seeking to enforce the establishment of a supervisory board with full-parity representation. However, these status proceedings were discontinued by the Nuremberg-Fürth district court on 19 November 2020 since Brose had in the meantime been transformed from a limited partnership with a limited liability company as general partner (GmbH & Co. KG) into an SE limited partnership (SE & Co. KG). The German Co-determination Act does not apply to an SE. Therefore, the works councils had no choice but to demand the establishment of a special negotiating body based on the SE Directive.

The decisions of the Bamberg Employment tribunal are a milestone in SE case law. There are already a significant number of comparable companies with tens of thousands of employees that use the SE & Co. KG loophole to completely get rid of co-determination in the supervisory board (see [report in EWC News 4/2019](#)). A particularly blatant case is the Japanese optics and medical technology group Olympus, which not only rejects employees' co-determination on the supervisory board, but also the establishment of an SE works council and a European works council. A lawsuit by the German group works council will soon come before the Federal Labour Court (see [report in EWC News 3/2019](#)).

[Explanation: Status proceedings on the composition of the supervisory board](#)
[Further information on the legal form of the SE](#)

European judges to deal with Co-determination in the SE for the first time

The European Court of Justice in Luxembourg held a hearing on 7 February 2022 on trade union participation in the supervisory board of a European Company (SE). At issue is the question of which rules must be observed when a German public limited company is converted into an SE. With the lawsuit, the trade unions ver.di and IG Metall are seeking to keep their mandates on the supervisory board of the software company SAP, which were taken away from them in 2019 when the supervisory board was reduced in size. The Federal Labour Court had referred the issue to the European Court of Justice in August 2020 (see [report in EWC News 3/2020](#)).



The trade union positions were supported in the hearing by the German Federal Government, the Government of Luxembourg and the European Commission. It is the first case to reach the European Court of Justice since the SE Directive was adopted in 2001. A ruling is expected at the end of 2022. In July 2017, the Court had ruled on co-determination in the supervisory board of a German public limited company and declared it to be in conformity with European law. The case concerned the TUI tourism group (see [report in EWC News 3/2017](#)).

[Hans Böckler Foundation report on the hearing](#)
[Press release from the two trade unions](#)
[Press report on the opinion in Luxembourg](#)
[Legal analysis of the case](#)

5. EWC court ruling in Austria

Decision on fundamental issues with European wide relevance



On 18 March 2022, the Vienna Labour and Social tribunal ruled on a lawsuit filed by the European works council of Mayr-Melnhof Packaging. With the ruling, fundamental EWC issues of pan-European significance have been clarified for the first time in Austria. The central management was not able to enforce its arguments on important points and has appealed. The fees of the EWC Academy which advises the EWC, were also a subject of the legal proceedings.

There have been legal proceedings underway in the packaging company for many years. The EWC had lost a legal dispute in April 2018 concerning a "voluntary" EWC agreement that was not subject to the EU Directive under Article 14 (see [report in EWC News 2/2018](#)). After termination of this agreement, it has been operating on the basis of the subsidiary requirements, i.e., "by law", since January 2018. The new EU Directive now applies in full. The current legal dispute has been underway since September 2019 and involves the interpretation of the Austrian Labour Constitution Act (see [report in EWC News 3/2019](#)). In addition, since December 2021, proceedings have been ongoing before the Vienna Administrative tribunal to impose a fine on central management (see [report in EWC News 4/2021](#)). The following questions were decided in the current ruling:

1. Does central management have to pay for only one expert?

The tribunal is of the opinion that the EWC may call on several experts, provided that they are commissioned for different areas of expertise required and the fees charged are within reasonable limits.

2. Is the expert mandate linked to a specific person?

According to the tribunal, legal persons cannot be prevented from acting as experts. The mandate is then carried out by various (freelance or permanent) employees of a consultancy firm. If a natural person is appointed as an expert, e.g., an individual lawyer, he is allowed to use an assistant to fulfil the mandate.

3. Must the EWC always use the cheapest advisor?

According to the tribunal, the EU Directive does not require the EWC to choose the cheapest advisory option, e.g., free advice from trade union officials. In a matter as complex as EWC law, the central management must bear costs of external professionals specialised in this type of advice to a reasonable extent. The Central Arbitration Committee in London also decided along these lines in January 2020 (see [report in EWC News 1/2020](#)).

4. Is the EWC entitled to company visits abroad including interpreters?

The legal regulations in Austria expressly provide that representatives of the EWC are to be granted access to company establishments. The court ruled that a personal, oral briefing of the employees on site can therefore also take place and that the costs for the visit of the EWC chairperson to an English plant, including interpreter fees, must be borne by the management.

5. May the EWC commission a legal opinion?

In order to clarify legal issues and justify positions to the central management of such a large and internationally active group, an opinion from an expert specialized in the field of EWC law is necessary and must be paid for by the company.

6. Can the EWC conclude legally valid contracts with interpreters and consultants?

As in France, local works councils in Austria have their own budget from which they can pay e.g., lawyers. However, this does not apply to European works councils, which do not have their own budget. Therefore, the tribunal also had to clarify whether an EWC has at least partial legal capacity and property rights. The ruling is based on case law in Germany. According to this, the EWC is able to conclude valid contracts with service providers within the scope of its legal duties, which lead to an obligation for central management to bear the costs.

6. Newly established European works councils

Indo-British industrial family with EWC under Czech jurisdiction

An EWC agreement was signed for the Gupta Family Group Alliance (GFG Alliance) on 5 November 2021. The London-based holding company is owned by the Gupta family, which began in 2013 to buy several steel and aluminium plants from ArcelorMittal, Tata Steel and Rio Tinto, among others, and is also investing in renewable energy, which can supply 8% of the UK's electricity needs. It owns Europe's largest aluminium smelter and associated estates, making the family the fifth largest landowner in Scotland. The bicycle components manufacturer was founded in India in 1955 and has now grown into a global corporation with 35,000 employees in 30 countries, 18,000 of them in Europe.



Because of Brexit, the European works council is not based in London, but in the Ostrava steelworks. It is only the third EWC to operate under Czech law. Most recently, the Prague energy company EPH had set up an EWC (see [report in EWC News 1/2020](#)). Of the 32 delegates at GFG Alliance, seven are from the Czech Republic and Romania, five from the UK and two from North Macedonia. There are also representatives from Belgium, Luxembourg, Italy, Poland, Germany and France. Each of the ten countries has a mandate in the select committee, which meets quarterly. A plenary session is held twice a year in Prague.

Occupational health and safety and environmental issues are explicitly defined as the responsibility of the EWC. There is a dedicated working group on the subject with one member per country, which meets quarterly. There is also a separate working group for the steel division, with one member from each of the ten countries, and for the aluminium division, whose sites are in Scotland, France and Belgium. EWC members have access rights to all sites in Europe. In exceptional circumstances they can give their opinion within five weeks. The EWC can call on experts of its choice and is assisted by a

coordinator from the European Federation of Industrial Trade Unions (industriALL) who can attend all meetings of the EWC and its working groups. If information is declared confidential by management, this must be justified in detail (why, who, how long). There are provisions for a conciliation procedure in the event of disputes. EWC members are entitled to five days of training every two years.

[Company press release](#)

German potato crisps manufacturer establishes EWC



On 19 January 2022, the central management of Intersnack in Düsseldorf signed an agreement on a European works council with the special negotiating body for its 12,500 employees. Intersnack is the number two in the European market for salty snacks and is represented in 20 countries within the European Single Market. It belongs to the family-owned company Pfeifer & Langen

in Cologne, which has its origins in sugar production. An EWC has existed there for many years and will be continued in parallel with the new EWC for Intersnack.

[Report on the EWC agreement](#)

7. Newly established SE works councils

Chain manufacturer from Bavaria prevents co-determination on supervisory board

On 20 September 2021, an SE participation agreement was concluded for iwis. The family-owned company from Munich has 3,200 employees in 50 locations around the world and produces chain drive systems for automotive and industrial applications. Although iwis has been trading as a European Company (SE) since 18 February 2021, the special negotiating body was not established until after that date. This is possible through the use of a so-called shelf company. Normally it happens the other way round, first the negotiation and then the registration in the commercial register. The SE conversion means that, on a permanent basis, there will not be any employee representatives included in the iwis supervisory board.



The SE works council ("SE-BR Euro-Forum") is informed above and beyond legal requirements including the situation in countries outside the EU, if there is a direct impact on European sites. The central management supports the Global protection of workers' rights, the UN's Sustainable Development Goals, the Fundamental Principles of the International Labour Organisation (ILO) and the OECD's Guiding Principles. Particular importance is attached to the principles of equal opportunities, ongoing qualification of the workforce and occupational health and safety. In addition to the two annual regular meetings and the extraordinary meetings, the SE works council may hold a three-day internal meeting every two years without central management. It establishes a steering committee made up of five members from at least three different countries. It may invite full-time trade union officials to all meetings as guests and may also invite paid experts. In the event of disagreement with the central management, it can request the double consultation procedure typical of SEs.

Swabian family business with no co-determination at all



On 23 September 2021, an SE agreement prepared by the central management was signed for Peri during the constituent meeting of the special negotiating body. No negotiation took place at this meeting. The family-owned company based in Weißenhorn, south of Neu-Ulm, produces industrial scaffolding and formwork systems for the construction industry and recently also houses from the 3D concrete printer. Peri has 9,400 employees worldwide, 1,867 of them in Germany. Employee representatives have never been allowed on the supervisory board and, as the SE conversion took place in good time before the threshold of 2,000 employees was reached in Germany, this will remain the case in the future. Although Peri is represented in 26 countries of the European Economic Area, the SE works council is limited to a maximum of only eight members.

The chairperson of the works council at the Weißenhorn headquarters becomes automatically the chairperson of the SE works council and the other members are not elected but appointed by him. Appropriate consideration is to be given to the larger countries and regions. However, the nomination must be agreed with the employee representation of the respective country or, if there is none, with the

local management. The term of office is five years and there is no steering committee. The SE works council holds an annual face-to-face meeting and, on request, a second meeting by video conference. In exceptional circumstances it may request a consultation and, in the event of disagreement, the SE-typical second round of consultation. The SE works council is entitled to training, interpreters and experts. All documents are considered confidential without exception.

Largest bank in the USA takes refuge from Brexit in the legal form of an SE

Following the transfer of JP Morgan Chase's European headquarters from London to Frankfurt am Main, the new holding company J.P. Morgan SE commenced operations on 22 January 2022. It was created as a merger of the subsidiaries in Germany, Ireland and Luxembourg and encompasses 14 European countries. This makes it one of the five largest banks in Germany and 20 largest in the EU. The major Swiss bank UBS had also established an SE in connection with its relocation from London to Frankfurt in December 2016 (see [report in EWC News 1/2017](#)).



The SE participation agreement of 23 November 2021 provides for an SE works council with 26 representatives for 2,800 employees. They meet regularly twice a year for a face-to-face meeting and in exceptional circumstances. Additional internal meetings of the SE works council may only take place by video conference. The steering committee has six members. The management undertakes not to implement decisions until the SE works council has been informed and consulted. There is the SE-typical second round of consultation, which must be requested within one week of the first meeting. If only one country is affected by a measure and there is no employee representation there, the SE works council takes on responsibility. Each delegate is entitled to five days training and a training budget of €1,000 per year.

One-third participation on the supervisory board

As Germany has more than 500 and less than 2,000 employees, there is one-third participation on the supervisory board. Currently all four employee representatives are still from Germany. From the second term of office onwards, the mandates will be divided among the four largest countries. As things stand, these would be Ireland (700 employees), Germany (570), Luxembourg (500) and France (480). The election will not take place in the SE works council, but in the respective national employee representation bodies.

[Press report on the new European holding company](#)

8. Safeguarding uninterrupted works council operations?

Dutch-British commercial vehicle manufacturer split in two



As of 3 January 2022, CNH Industrial manufactures only agricultural and construction machinery. The entire truck and bus division with 25,000 employees was spun off and floated on the stock exchange as the Iveco Group. This means that the EWC will also lose many of its delegates. It was established in November 2015 under the subsidiary requirements of the Dutch EWC Act after negotiations on an EWC agreement could not be concluded in time due to legal disputes and delays

concerning the election of delegates (see [report in EWC News 4/2015](#)). In the run-up to the split, an EWC agreement was concluded for the first time on 23 November 2021. The new company Iveco, based in Turin, will convene a special negotiating body under Italian law.

In future, only countries with at least 150 employees will be represented in the EWC. For this reason, the Czech Republic and Slovakia have a joint mandate. The EWC members elect the chairperson and five other representatives to the Steering Committee. According to the EWC agreement, they have the right to visit all sites in the EU, including reimbursement of travel expenses. The right to training is not uniformly regulated, but is in accordance with the EWC laws of the country of origin of each individual delegate. In addition to a coordinator from the European Federation of Industrial Trade Unions (industriALL), the EWC can call in three experts, who must be paid by the company.

British pharmaceuticals group spins off consumer products division

Mid-2022 London-based GlaxoSmithKline will spin off its consumer health division, with products such

as toothpaste (Sensodyne, Parodontax) or painkillers (Voltaren), under the name Haleon and list it on the stock exchange. In order to have immediately a European works council in place for the new company, an EWC agreement was already concluded on 10 September 2021. At the same time, the existing agreement for GlaxoSmithKline was adapted. Both texts are very similar and also cover the UK, which has the largest workforce, as well as Switzerland.



GlaxoSmithKline already had a European works council since 2001 under UK law, whose working conditions were improved in September 2011 (see [report in EWC News 3/2011](#)). The two new agreements are governed by Irish law and provide for one annual plenary meeting chaired by the employer. The select committee is composed with an equal number of representatives, five for management and five for the employees (four each at Haleon) who meet at least five times a year. In addition, there are two internal meetings of the employee representatives.

The GlaxoSmithKline EWC consists of 32 employee representatives covering 34,000 employees in 29 countries, while Haleon has 15 delegates covering 7,000 employees in 21 countries. Small countries of up to 100 employees (150 for Haleon) are assigned to a cluster and elect regional representatives. In exceptional circumstances, the EWC's opinion must be received within ten days so that it can be taken into account in the final management decision. Despite tight deadlines much longer consultation procedures have been possible in past restructuring measures (see [report in EWC News 1/2016](#)).

New management in French IT group must accept SE standards



On 29 March 2022, a new SE Participation Agreement for Atos was signed at a meeting in Athens. Under time pressure, the special negotiating body had wrangled over content and wording in 13 conference calls with central management. The Atos SE agreement was originally concluded in December 2012 and was considered one of the best in France (see [report in EWC News 1/2013](#)). However, it was considered far too generous for the new management in place since December 2019. The management terminated the agreement and dissolved the SE works council in April 2021, which was

subsequently declared illegal by a court in December 2021 (see [report in EWC News 4/2021](#)). With the reinstatement of the old SE works council, new management had to accept that only minor changes were possible in the negotiations.

The calculation for the number of delegates has been slightly improved, but there are now only two regular plenary meetings per year (previously three). UK and Switzerland are only represented on the SE works council with guest mandates. New is a 60–75-day period for information and consultation, which is extended by 15 days if external experts are involved. If the central management decides on measures different to those proposed in the SE works council's opinion, an additional meeting will be convened to reach an agreement. The SE works council is usually informed before the national works councils and receives regular updates on the implementation of the measures after the consultation phase is completed.

In exceptional circumstances, a plenary meeting is always held, unless the SE works council delegates this to a special working group. The select committee is composed of six members (previously seven). The annual budget for experts has been increased from €150,000 to €175,000 and the time-off work for each delegate has been increased from 120 to 160 hours per year, in addition to the normal time for meetings and the individual training entitlement of four days per year. The SE works council can - as before - form working groups on specific topics.

Close ties to the administrative board remain

At the time of the SE transformation in January 2013, Atos did not have any employee representatives on the Administrative Board. This only changed when the PACTE law came into force in May 2019 (see [report in EWC News 3/2018](#)). Since then, the French group works council and the SE works council each elect one member of the Administrative Board. In addition, there is a "Board Participating Committee" of three (previously four) members of the SE works council. After each meeting of the Administrative Board, they are informed about the content of the meeting. Once a year they may participate in an Administrative Board meeting in an advisory capacity.

9. The view beyond Europe

French energy group with comprehensive social responsibility

On 20 January 2022, Engie's management signed an international framework agreement with three international trade union federations and four trade unions from France. It covers basic labour rights and social responsibility issues for all 170,000 employees worldwide. The agreement was negotiated by a special negotiating body, which included representatives from seven European countries, Brazil, Morocco and Australia, in addition to the secretary of the European works council.



All workers are entitled to a minimum level of social protection for parental leave (maternity and paternity leave), death, disability and hospitalisation. As a socially responsible employer Engie is committed to sustainable, permanent employment, socially responsible digital transformation and lifelong learning. Goals also include gender equality and combating all forms of discrimination. The framework agreement expands on the agreement on fundamental rights, social dialogue and sustainable development concluded with the predecessor company GdF Suez in 2010 (see [report in EWC News 4/2010](#)). In addition, it integrates principles on occupational health and safety from 2014 (see [report in EWC News 2/2014](#)).

World works council with precise rules for time-off work

Monitoring the framework agreement is the responsibility of the new "World Forum", which meets once a year in Paris and is chaired by the Group CEO. The 18 employee representatives come from all regions of the world and meet the day before for an internal preliminary meeting. Each delegate has five days time-off work per year. They elect a secretary as a direct management contact, who is given a further ten days time-off. A precisely defined amount of time-off is also common in France for European works councils.

Engie's EWC is one of the most active not only in France but in Europe. When the technical services division, with 74,000 employees, was up for sale, it was able to consult four prospective buyers about their plans in October 2021. At that time, management had not yet decided who would win the bid and wanted to involve the EWC at a very early stage (see [report in EWC News 4/2021](#)).

[Report on the signing of the agreement](#)

[Press release on the signing](#)

[Full text of the agreement](#)

British retail group pays attention to fundamental rights in the supply chain



On 21 January 2022, Tesco, one of the largest supermarket chains in the world with 360,000 employees, signed a Memorandum of Understanding with the International Union of Food Workers (IUF) in Geneva to protect workers' rights in the production of food. With this agreement Tesco supports the right to union membership and collective bargaining. As more and more women work in global agriculture, the aim is to effectively reduce their vulnerability and strengthen their voice and representation in the workplace. Tesco and the IUF will meet three times a year to review any reported violations.

[Press release from the IUF](#)

[Tesco press release](#)

[Full text of the Memorandum of Understanding](#)

Italian energy group tackles harassment in the workplace

On 27 January 2022, ENI's management signed an addendum to the international framework agreement with the International Federation of Industrial Trade Unions (industriALL) to better tackle violence and harassment in the workplace. The framework agreement for the former state-owned company has been in place since 2002 for over 30,000 workers in 68 countries. It was extended in July 2016 and supplemented by a World works council (see [report in EWC News 3/2016](#)).



[Report on the addendum to the framework agreement](#)

10. Interesting websites

Trade union for drivers in the platform economy



The App Drivers & Couriers Union (ADCU) has been in existence in the UK since July 2020. It recognises the growing importance of digital platform work in the transport industry and the integration of passenger services and goods delivery. The ADCU is calling for collective agreements for formerly self-employed drivers and was involved in the Supreme Court ruling in February 2021 (see [report in EWC News 1/2021](#)). Since then, Uber's British drivers have been entitled to the statutory minimum wage, breaks, sick pay and paid holidays.

[The website of the new union](#)

Whistleblower Directive not transposed into national laws in time

People who report breaches of the law and misconduct have been protected since December 2019 (see [report in EWC News 4/2019](#)). However, not one single EU country transposed the new directive into national law on time before 17 December 2021. The "EU Whistleblowing Monitor" follows the implementation in all 27 member states and documents the current status. The website is supported by three organisations, including the European trade union federation for professional and managerial staff Eurocadres, which presented a practical guide for employee representatives in December 2020 (see [report in EWC News 1/2021](#)).



[The Whistleblower Directive Monitor](#)

Digital guide to setting up a works council



The new website "Laboraid" provides information on how workers can set up a works council in Germany. It was launched by a Berlin lawyer and other supporters. It is aimed specifically at workers in start-up companies in the digital economy, where the establishment of works councils is usually met with resistance (see [report in EWC News 3/2020](#)). "Co-determination is a basic democratic right," say the initiators. With a works council, demands such as better wages, equal opportunities, job security, sustainability & environmental protection or the compatibility of child & career can be better enforced. The website is available in German and English.

[The website on setting up a works council](#)

Sustainability ranking of multinational companies

OpenCorporation is an observatory that analyses and compares the behaviour of multinational companies. Unlike traditional rankings based on economic, production and market data, OpenCorporation ranking has a trade union perspective. It evaluates criteria such as social dialogue, working conditions, social responsibility, diversity, transparency, environmental policy and fiscal behaviour. It is aimed in particular at trade unions, works councils and employee representatives on supervisory boards. The website is an initiative of the service sector union of the Italian confederation CGIL.



[The Corporate ranking](#)

11. New publications

Overall results of major EWC survey now available

On 18 January 2022, the European Trade Union Institute (ETUI) in Brussels published the analysis of the survey of 1,635 delegates from 365 European and SE works councils carried out in 2018. A summary of the results had already been published in January 2020 (see [report in EWC News 1/2020](#)). The study first provides an overview of the historical development of the EWC Directive and the establishment of EWCs. Chapter 2 assesses the influence of employers' organisations, trade unions and EU institutions on the content of legislation and the development of EWC working practices. The remaining chapters 3 to 9 present the survey data in detail. They show that in many cases the functioning of European works councils does not yet come up to the required standards. In



particular, the timing and extent of information and consultation are inadequate.

The book provides many statistics, e.g., on the origin of delegates. In 2017, of the nearly 16,000 EWC members, the largest proportion came from Germany, France and the UK (2,000 to 2,500 each), followed by Spain and Italy (1,000 each). From Central and Eastern Europe, most delegates were from Poland and the Czech Republic (300 each). Switzerland as a non-EU country is also listed with 250 EWC members. The "average" delegate is a 50-year-old male, unionised, representing workers at five sites.

[Overview of the results](#)

[Download the study](#)

Declining collective bargaining coverage and rising income inequality

On 16 February 2022, the European Federation of Service Workers' Unions (UNI) published a study on the relationship between falling collective bargaining coverage and rising income inequality. All 27 EU countries, the United Kingdom and Norway were examined individually. In a number of countries, collective bargaining systems have been weakened by political decisions, and income inequality has increased the most in these countries. This is true for the UK, for example, but also for Germany. A particularly spectacular example is Romania (see [report in EWC News 3/2019](#)).



The situation is quite different in Austria and Belgium, where the collective bargaining coverage rate is almost 100% and income inequality has remained largely stable over the last 40 years. A new EU directive aims to increase collective bargaining coverage. To this end, in November 2021 the European Parliament demanded a clear timetable and concrete measures from each EU country with less than 80% of the working population covered by collective agreements (see [report in EWC News 4/2021](#)).

[Report on the study](#)

[Full text of the study](#)

Works Constitution Act in German-English language comparison



A synoptic presentation of the current version of the German Works Constitution Act was published on 15 March 2022. The publisher, a Lower Saxony-based labour law specialist, compared each paragraph in German and English languages. The translation is based on a template from the language service of the Federal Ministry of Labour and Social Affairs from May 2020. Later amendments were translated by the editor himself, including the Works Council Promotion Act from June 2021 (see [report in EWC News 2/2021](#)). The electoral regulations for works council elections were also published as a German-English synopsis in a separate book. Further labour laws on co-determination in supervisory boards, on the European works council as well as on employee participation in the European Company (SE) are available in English in a collection published by the Federal Ministry of Labour in July 2019.

[Table of contents with extract](#)

[Order the book](#)

[Synoptic presentation of the electoral regulations](#)

[The compilation of laws from the German Ministry of Labour](#) (as of July 2019)

Use of artificial intelligence in the workplace

A practical handbook for works councils on artificial intelligence (AI) was published on 19 April 2022. It explains the nature of artificial intelligence, technical, ethical and social contexts and contains extensive checklists, e.g., on non-discrimination and protection of employees. It is intended to encourage the development of co-determination concepts and experimentation with learning machines. AI is used in a variety of processes, in employee recruitment, in production, in the control of work processes, in the planning of work assignments and much more. The authors of the book come from the environment of the German trade union ver.di. A similar handbook was published previously,

in January 2022, by the French trade union CFDT, covering topics such as facial recognition, surveillance in telework and the use of algorithms in promotions. It also includes interviews with researchers and works council members who are confronted with the introduction of artificial intelligence in practice.

[Brief description of the German handbook](#)
[Order the German handbook](#)
[Brief description of the French handbook](#)
[Download the French handbook](#)



12. The EWC Academy: examples of our work

EWC training at Swiss building materials manufacturer



On 15 and 16 February 2022, a two-day video training session was held for around 80 members and substitutes of the Holcim EWC. The EWC Academy explained basic accounting principles and key points for a quick business analysis of the company, which are useful for works councils. In this context, balance sheet figures of the group were prepared in a short analysis. With 70,000 employees, Holcim is the world's largest producer of building materials. The current EWC agreement was signed in March 2017 following the merger with the

French group Lafarge (see [report in EWC News 2/2017](#)).

Brexit problems at German technology company

Since 21 March 2022, the EWC Academy has been advising Aixtron's SE works council on a fundamental issue that has preoccupied many European works councils in recent months, namely the status of UK delegates post-Brexit. The employer's position is that the British mandates have lapsed, whereas the SE works council does not agree with this during an ongoing term of office. Aixtron is based in Herzogenrath (near Aachen) and is a manufacturer of materials for the semiconductor industry with over 700 employees in Germany and the UK. In December 2010, Aixtron was converted into a European Company (SE) in order to completely avoid employee participation on the supervisory board (see [report in EWC News 2/2011](#)).



on the supervisory board (see

Irish arbitration initiated for US company



On 21 April 2022, the Select Committee of the Verizon EWC met for its first face-to-face meeting since the start of the pandemic in the Paris business suburb of La Défence. Central management does not treat it as a works council, but as a management sub-committee under full control of the hierarchy. For a long time now, it has therefore deliberately and regularly flouted its rights and tried to obstruct its activities. The meeting in Paris was prohibited, as was the constituent meeting in January 2021 (see [report in EWC News 2/2021](#)).

In December 2021 the EWC had applied to the Irish Department of Labour to have a fine imposed on the company (see [report in EWC News 4/2021](#)). Although the Irish EWC Act explicitly states that the Department has jurisdiction, it declined to pursue the request. The EWC consequently filed a criminal complaint against the central management with the Director of Public Prosecutions in Dublin. This first complaint will now be followed by a second, as neither travel expenses nor time-off were granted for the meeting in Paris. While the Public Prosecutor is responsible for fines, the EWC is filing a claim for its travel expenses before the Workplace Relations Commission (see [report in EWC News 2/2015](#)).

Dispute on fundamental EWC rights

Management is annoyed with the EWC because it has taken the company to court several times and in October 2020 a fine was imposed on Verizon which was the highest in the history of EWC legislation anywhere in Europe (see [report in EWC News 3/2020](#)). As a result, central management

terminated the EWC agreement, which was subject to UK law. Since then, the EWC has been operating on the basis of the subsidiary requirements under Irish law, which provides for arbitration in the event of disputes over EWC issues, modelled on the German conciliation committee. At the meeting in Paris, the select committee decided to initiate such an arbitration procedure to resolve disputed issues in the future and appointed a lawyer to intervene at the Dublin Labour Court if an agreement on an independent arbitrator cannot be reached rapidly. This is the first case of its kind in the history of Irish EWC law. The EWC is advised by the EWC Academy.

[Full text of the Irish EWC Act](#)
[Role of the Workplace Relations Commission](#)

13. Current seminar schedule

The EWC Academy and its forerunner organization have been holding conferences and seminars for the members of European works councils, SE works councils and special negotiating bodies since January 2009. So far, 855 employee representatives from 295 companies have taken part including many of them for several times. This represents around 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](#)

14th Hamburg Conference for European and SE works councils

As every year, our conference will take place in 2022, but due to the Corona pandemic not on the originally planned date in January but on 27 and 28 June 2022. At the beginning, the latest developments in the EWC and SE landscape and a legislative initiative of the European Parliament entitled "Democracy at Work" will be presented, followed by a case study from a company and a study on transnational company agreements. On the second day, working groups on specific EWC topics will be organized.



[The conference program](#)

Two seminars after the summer break: Data protection and Temporary work/Outsourcing



From 31 August to 2 September 2022, two seminars will take place in Mainz: 1. a data protection seminar and 2. a seminar on employment contracts, temporary agency work, subcontracting and outsourcing. The focus of seminar 1 is the EU General Data Protection Regulation. A risk assessment is carried out taking into account the respective company structures, problems of outsourced data processing and the contents of company agreements are on the agenda. Seminar 2 deals with connection between procurement policy and sub-contracting chains, examples of misuse and control possibilities for works councils. The evening program includes a visit to the Kupferberg Terrace, a medieval vault with the deepest champagne cellar in the world (photo from a previous seminar).

[Outsourcing and Data protection seminar program](#)

EWC and SE Seminar in Kassel

From 4 to 7 October 2022, our annual seminar for members (including future members) of European works councils, SE works councils and special negotiating bodies will take place. Several seminar modules will be offered for beginners as well as for advanced participants. The seminar will be exceptionally held at Castel hotel Bad Wilhelmshöhe (only in German). From spring 2023, this seminar will once again be organized as usual at Montabaur castle (in German and English).



[The program of the seminar](#)
[Report from a previous seminar in Montabaur](#)

First ever EWC conference in Ireland



In recent years, the EWC Academy has held six conferences for European works councils in London. After Brexit we are moving them to Dublin, as many UK and US companies have done with their EWC (see [report in EWC News 1/2021](#)). The conference will take place from 19 to 21 October 2022 and will be simultaneously interpreted. The evening program will include a visit to the Guinness Storehouse, the historic brewery with a panoramic view of the city (photo). Participation is open not only to EWC members who are subject to Irish law, but to all who wish to share their working experience with Anglo-Saxon management.

In-house events

An overview of possible topics for in-house events can be found here:

[Examples of in-house seminars](#)

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