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1. No British delegates or no works council at all?

Perfect chaos for European Works Councils following Brexit

In the wake of Brexit, the British airline easyJet wanted to get rid of its European works council, which then took legal action, and now the company has two European works councils, one in the UK and another one in Germany. On 1 June 2021, the Central Arbitration Committee (CAC) in London decided that it would still have jurisdiction over EWC disputes in British companies after Brexit. This is on the grounds that: the British EWC Act (TICER) has not been abolished, the term "Member state" has simply been replaced by "Relevant state".



New European works councils can no longer be established as of 1 January 2021, but all existing ones will continue to be governed by UK law, provided that the global headquarters of the company is located on UK soil. However, this view is not shared by the European Commission, which considers the UK to be a third country. Companies from third countries must locate the EWC in a country within the scope of the EU Directive, but are free to choose the country (see [report in EWC News 1/2021](#)). Unions had already pointed out this contradiction between British and EU legislation in April 2020. They warned that there could then be two European works councils in British companies.

[Trade union recommendations of April 2020](#) (see page 5)
[Changes to British EWC law after Brexit](#)

At easyJet, central management decided that the EWC established in 2011 based on the subsidiary requirements under British law (see [report in EWC News 3/2012](#)) no longer exists. The German subsidiary should start negotiations to establish a completely new EWC, which could take up to three years. Without an EWC, there would be no information and consultation at all during this period. The employee representatives have not filed a complaint in Germany because they would like to preserve their EWC operating under UK law without interruption. The CAC decision is not yet final and the case is now before the Employment Appeal Tribunal.

[Full text of the CAC ruling](#)

EWC agreement offers no protection for British delegates



The major London bank HSBC has excluded its entire British workforce (40,000 employees) from its European Works Council after Brexit and now applies Irish law. As a result, the EWC loses eight of its twenty mandates. It filed a complaint with the Central Arbitration Committee (CAC), which reached a decision on 22 June 2021. It declared the exclusion of the British parts of the company from the scope of the EWC and the termination of the British EWC mandates admissible.

The decision is based on a precise analysis of the wording of the EWC agreement, which only covers the countries which are members of the European Economic Area. For this reason, Switzerland, with 782 employees, was not previously represented in the EWC. The amendment to the UK EWC Act, where the term "Member state" has been replaced by "Relevant state", has no effect on a valid EWC agreement. This is different in the case of a "default" EWC (see the easyJet example above) or when there is unclear wording in the text. The HSBC EWC agreement was signed in October 2015 (see [report in EWC News 2/2016](#)).

The CAC has still left open the question of applicable law. The unilateral decision of central management to move to Ireland may be challenged by the EWC within 21 days. It is conceivable that the EWC would continue to be subject to UK law without having a single UK delegate - a completely grotesque situation.

[Full text of the ruling](#)

French IT group dissolves SE works council

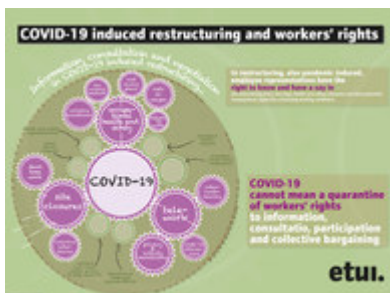
Atos management is currently able to carry out restructuring without any transnational information and consultation. The SE works council no longer exists. The IT service provider in the Paris suburb of Bezons on the banks of the Seine has 110,000 employees, as a result of numerous acquisitions such as the IT division of Siemens and the computer manufacturer Bull (see [report in EWC News 3/2016](#)).



The SE agreement concluded in December 2012 was considered to be one of the best in France (see [report in EWC News 1/2013](#)). It had been negotiated by the then Atos CEO, Thierry Breton, former French Finance Minister and member of the European Commission since December 2019. His successors at Atos terminated the SE Agreement on 16 October 2020. When negotiations on a new agreement failed, central management dissolved the SE works council on 16 April 2021 and initiated the process to establish a Special Negotiating Body. The SE works council applied for an injunction against its dissolution, together with the Dutch works council, the German group works council and trade unions from six countries, including IG Metall from Germany and GPA from Austria. On 23 June 2021, the district court in Pontoise, where the administrative center for the department is located, rejected this request. According to the court, the SE works council no longer exists and the remaining plaintiffs must bear the costs of the proceedings.

2. Corona pandemic as a stress test for works councils

EWC videoconferences seen as poor alternative to face-to-face meetings



On 26 March 2021, the European Trade Union Institute in Brussels presented the results of an online survey. In early 2021, 476 members of European works councils from almost all European countries were interviewed over a period of two months in order to investigate the impact of the Corona pandemic on their actual EWC work. On the one hand, the number of meetings remained the same for half of the respondents, with a quarter each reporting more or fewer meetings. On the other hand, quality of information and consultation had suffered considerably. A third also reported a deterioration in the internal functioning of the EWC. Most say the

relationship with management has deteriorated.

Only half of the respondents were regularly informed about the overall situation of the company, compared to 78% in normal times. Only 16% were able to influence management decisions during the pandemic (23% in normal times). In the case of restructuring, consultation takes place in 52% of all cases in normal times; in the pandemic, the proportion halved to 25%. The declining involvement of European works councils is also reflected in the fact that in 19% of all cases there were serious conflicts between EWC and central management, whereas in normal times this was reported in only 7% of all cases. The comparative figures for normal times come from a study published in January 2020 (see [report in EWC News 1/2020](#)).

The implementation of video conferencing was not always optimal: 11% of EWC members were not given adequate technical equipment, 24% of them had to do without interpreters and 28% were not properly trained to participate in online meetings. The survey shows a clear preference for face-to-face meetings: where the quality of the exchange of views with management is better (82%), but so is the internal cooperation between employee representatives (76%). Online meetings lack sufficient time to properly discuss all agenda items, say 75% of respondents. The only point mentioned positively is the possibility of holding internal meetings of employee representatives more frequently. However, video conferencing cannot replace face-to-face meetings, this is much more true for European works councils than for national works councils (see [report in EWC News 3/2020](#)).

[Summary of the results](#)

Forthcoming event

The EWC chair of the TUI tourism group will report on his working experience during the corona pandemic at the Hamburg EWC conference on 13 September 2021.



[Download the programme](#)

Experiences with online bargaining in France

On 7 May 2021, the French think tank, "Réalités du dialogue social" (Social Dialogue Practices), which includes 300 trade union officials, HR managers and government representatives, presented a survey on digital cooperation between social partners during the Corona pandemic. 27 HR managers and employee representatives explained in qualitative interviews their experience with online negotiations on employment issues that could not be postponed.



Most respondents acknowledged that remote negotiations may be carried out more rapidly, but the lack of body language does affect mutual understanding and leads to distortions. "Negotiating is like a big theater show, there are reactions, confrontations that we don't find in a remote meeting." Sitting face to face, it is immediately apparent whether other participants are in support of an opinion. In a video conference, works council members sometimes had the impression that management was taking advantage of the distance "to push things aside or push things through that would otherwise not be acceptable".

Online meetings give more structure, but do not replace face-to-face contact

Before online meetings, preparations were more intensive and required many emails back and forth so that participants could send questions and organize speeches in advance. Phone calls were more frequent because corridor talks were lacking. Online meetings "are more structured, more relaxed and in a fixed framework. We stick to the agenda, there is less digression," said one HR manager. But for some works council members, the opposite occurred: "We experience very tense meetings that crumble over time and gradually lead to exhaustion."

The informal exchange that helps build trust has been disrupted - an important element for smooth negotiations. "Part of our relationship has fallen asleep." Some employee representatives tried to compensate with new methods such as WhatsApp groups. "We use phone and video, but we feel nothing is better than having lunch together, looking at each other in the eye and exchanging ideas." Both management and works council members agreed that face-to-face contact is essential "because close human relationships are at the heart of social dialogue".

[Full text of the survey](#)

More meetings, but no additional time-off work

On 25 May 2021, the National Agency for the Improvement of Working Conditions (Anact) in Lyon also presented a survey on the impact of the Corona pandemic on social dialogue. 1,415 employer and employee representatives were interviewed. 44% of them said that meetings were more frequent than before. Online meetings were more time-consuming to prepare, especially for discussions and coordination between works council members (40%) or between works councils and management (39%). 66% of respondents saw an increase in workload related to social dialogue, and for HR managers it was as high as 72%. For 76% of respondents, the crisis showed a strong need for new tools for workplace negotiations and the need to develop the skills of works council members (69%). At the beginning of the crisis, the main issues were work organization, health, risk prevention, short-time work and employment. After the crisis, negotiations are likely to focus on working conditions (66%), teleworking (53%) or recognition of professional qualifications (38%).

[Summary of the results](#)

[Study on the French collective bargaining landscape during the pandemic](#)

3. Strengthen or weaken collective bargaining?

Impending collapse of the collective bargaining system in Finland



One-fifth of all Finnish exports come from the wood and paper industry which therefore represents an important sector of the country's economy. On 1 October 2020, the employers' association announced that it would no longer sign any industry-wide collective agreements in the future. When the current agreements expire in 2022, shop floor agreements will cover the 42,000 workers in the industry in 150 factories. Wages in the sawmills are 30% higher than in Germany, for example, and should be reduced.

UPM, the largest paper group in Europe with 18,000 employees in twelve countries, including seven mills in Germany, is going one step further. On 8 February 2021, management announced that it would only accept shop floor collective agreements for blue-collar workers. All white-collar employees will have to negotiate their salaries, as well as sickness pay, holiday and parental benefits, on an individual basis. In December 2013, UPM had also tried to opt out of the industry-wide collective agreement in Germany, but was prevented from doing so by the IG BCE trade union. UPM employs 10% of all workers in the German paper industry. The industry is known for its tough stance in Finland. In 2005, one of the most dramatic industrial disputes in the country's history took place: 24,000 workers were locked out for 44 days.

On 25 March 2021, the employers' association for the technology sector, representing 1,600 companies such as Nokia, Fujitsu and Microsoft, declared the end of national collective-bargaining agreements for 315,000 workers. The industry accounts for 50% of Finland's exports. The unions see this as an attempt to destroy the entire Finnish culture of the collective bargaining system and an attack on the welfare state. The events started in February 2017 when the Confederation of Finnish industries, EK, terminated all cross-industry collective agreements (see [report in EWC News 1/2017](#)). Currently 89% of all employees are covered by a collective bargaining agreement, which explains why there is no statutory minimum wage.

Restructuring of workplace employee representation

In Finland 59% of all employees are members of a trade union, however it is on a downward trend (see [report in EWC News 1/2013](#)). As in all Scandinavian countries, workplace representation is provided by the trade unions and regulated in collective bargaining agreements. The trade union representatives have similar rights to works council members in Germany or Austria. UPM wants to dissolve the company-level trade union representation and replace it with a sort of "works council". Since June 2019, Finland has a red-red-green government that is seeking to reinforce co-determination by law (see [report in EWC News 4/2020](#)).

[Report on UPM](#)

[Open letter from UPM trade union representatives](#)

[Press report on the technology sector](#)

[The current trade union landscape in Finland](#)

European Union seeking to reinforce collective bargaining

On 7 and 8 May 2021, a social summit was held in Porto for the third time since the EU came into existence in order to discuss the implementation of the "European Pillar of Social Rights" (EPSR). This contains principles for fair, well-functioning labour markets and social systems and defines minimum standards which all EU countries had agreed to in November 2017 (see [report in EWC News 4/2017](#)). In the final declaration of the Porto Social Summit, participating institutions committed to promoting social dialogue as a structural element of the European social model and strengthening it at European, national, regional, sectoral and company level, with a particular focus on ensuring a framework for collective bargaining.



Already in January 2020, the proposal of an adequate minimum wage was officially put forward for debate (see [report in EWC News 3/2020](#)). After consultations with the social partners, the European Commission presented a draft directive on adequate minimum wages on 28 October 2020. Legislative support is required on the subject since trade unions in many countries are too weak to enforce collectively agreed minimum wages. The European Commission has recognized this problem and not only wants to regulate minimum wages, but also to specifically promote collective bargaining. Article 4(2) of the proposed directive states:

Member States where collective bargaining coverage is less than 70% of the workers ... shall in addition provide for a framework of enabling conditions for collective bargaining, either by law after consultation of the social partners or by agreement with them, and shall establish an action plan to promote collective bargaining. The action plan shall be made public and shall be notified to the European Commission.

Action plans expected in Central and Eastern Europe and in Germany

Collective bargaining coverage varies widely across the EU. It is 100% in Italy and almost 100% in France, Austria and Belgium. In contrast, Estonia and Lithuania are at the lower end with less than 10%. 17 EU countries do not reach the 70% target. These include all Central and Eastern European countries except Slovenia, the Mediterranean countries Greece, Malta and Southern Cyprus, as well as Ireland, Luxembourg and Germany. In Germany, collective bargaining coverage has continued to fall in recent years and is now only 52%. If the new EU directive is adopted, the German government would have to draw up an action plan to strengthen collective bargaining coverage. If necessary, legislative measures will be required, e.g. making collective agreements universally binding.

Another point would have a massive impact especially in Central and Eastern Europe, where few workers are members of a trade union - between 6% in Estonia and 24% in Slovenia. There, the unions have hardly any staff to conduct collective bargaining due to the lack of union dues. There are countries where the collective bargaining system has almost completely collapsed in a short period of time, such as in Romania, where collective bargaining coverage has fallen from 98% to only 15% since 2010 (see [report in EWC News 3/2019](#)). Article 4(1) of the proposed EU Directive requires EU countries to build and develop the capacity of the social partners to bargain collectively, and to do so at cross-company level. Weak trade unions would consequently also have to be made fit through state support to be able to act at the sectoral level.

[Report from the Social Summit in Porto](#)

[Full text of the Porto Social Commitment](#)

[Full text of draft directive](#)

[Presentation on collective bargaining coverage in Europe](#)

[Analysis of collective bargaining coverage in Germany](#)

4. German Bundestag debate on co-determination

Legislative initiative from the Green Party fails for the time being



On 23 March 2021, the Bündnis 90/Die Grünen parliamentary group introduced a motion in the Bundestag entitled "Strengthening corporate co-determination - closing gaps in the law". It was discussed in the Committee for Labour and Social Affairs on 17 May



2021 and supported by the unions. It is based on demands from the Hans Böckler Foundation (see [report in EWC News 2/2020](#)). The Greens also picked up an initiative of IG BCE, the chemical workers union for a better corporate governance and sustainable conflict resolution in supervisory boards (see [report in EWC News 4/2020](#)). The bill provided for the following:

- Foundations (such as Aldi, Lidl or Würth) as well as companies with a foreign legal form (such as C&A, Meyer Werft or Tönnies) should be subject to co-determination on the supervisory board in the future
- Companies with between 500 and 2,000 employees should no longer be able to evade one-third participation on the supervisory board by splitting into smaller units
- An amendment to the SE Employee Participation Act should prevent companies from evading co-determination by converting into an SE
- Effective sanctions should be imposed on companies evading co-determination
- Full-parity representation on the supervisory board should apply from 1,000 employees (instead of 2,000)
- There should be a compulsory conciliation procedure for resolving disputes in the supervisory board on issues such as plant closures, relocations or mass redundancies

The employers' confederations reject the proposals made by the Greens and are instead seeking to open up the Co-Determination Act for a negotiated solution. The Hans Böckler Foundation is trying to dry up the market for counseling on evading co-determination. In the vote in the German Bundestag on 21 May 2021, only the Greens and the Left Party voted in favour, all other parliamentary groups rejected it. The Social Democrats parliamentary group (SPD) had to bow to coalition discipline, but had already presented a position paper on reinforcing co-determination on 27 October 2020.

[Press release from the Green parliamentary group](#)

[Full text of the motion](#)

[Hans Böckler Foundation statement on the bill](#) (from page 10 on)

[Position paper of the SPD parliamentary group](#)

[Overview on the effects of corporate co-determination](#)

Following Bundestag elections, the topic will be on the agenda once again

On 26 September 2021, the German Bundestag will be newly elected. Polls show that the Greens could more than double their share of the vote. A coalition government is probably no longer possible without the participation of the Greens, and a reform of corporate co-determination can be found in the election manifestos. Social Democrats, Greens and the Left Party want to lower the thresholds and make smaller companies subject to co-determination; the SPD explicitly calls for the inclusion of companies with foreign legal forms and for "real parity on supervisory boards". The Left Party praises co-determination in the coal and steel industry as a model for the whole economy - and wants to make it more difficult for corporations to circumvent co-determination laws.

Christian Democrats want to "strengthen works councils" and secure their co-determination rights, according to their election manifesto. Corporate co-determination, however, is not mentioned at all. The neoliberal FDP has completely omitted the issue from its election manifesto, but at a conference of the Hans Böckler Foundation on 16 June 2021 it showed itself "willing to talk" about extending co-determination laws to all companies with administrative headquarters in Germany, regardless of their legal form. So if the FDP were part of the government, it would remain quite conceivable to put a legal end to the co-determination exodus through SE conversion.

[Report from the Hans Böckler Foundation's conference on co-determination](#)

Act to promote works council work in the digital working world

A reform of the Works Constitution Act came into force on 18 June 2021. In the Bundestag, in addition to CDU/CSU and SPD coalition factions, the Greens also voted in favour. The far-right AfD and the neoliberal FDP rejected the bill and the Left Party abstained. By means of this law the Social Democratic Labour Minister Hubertus Heil (photo) was able to enact that the establishment of works councils is to be made easier and protection against dismissal of candidates reinforced. The co-determination rights of works councils in the use of artificial intelligence, the organisation of remote work and further training of the workforce are to be reinforced.



Permanent regulation for virtual meetings - but not for the EWC

Normally, works councils in Germany can only meet and pass resolutions in face-to-face meetings. During the Corona pandemic, video conferences have been permitted as an exception since March 2020 (see [report in EWC News 2/2020](#)). This special regulation now applies permanently. In future, all meetings of German works councils can be held by video and telephone conference, unless at least one quarter of the works council members object and it is ensured that third parties cannot have access to the content of the meeting. Hybrid formats, in which individual participants are connected, are also authorized. However, face-to-face meetings remain the rule. The decision on video and telephone conferences is made solely by the works council, and cannot be demanded by the employer. Unlike in France, where video conferences may be recorded since 2015 (see [report in EWC News 3/2015](#)), this is not permitted in Germany. The temporary special regulation for European works councils, SE works councils and Special Negotiating Bodies, on the other hand, ended on 30 June 2021 and was not extended.

5. Recent court rulings

Compensation for computerized dismissal of Uber drivers



On 24 February 2021, the Amsterdam District Court ordered the European headquarters of the US transport service provider Uber, to reinstate six drivers and pay them compensation. They were wrongfully dismissed because the decision was made automatically by the company's algorithm. Each driver is to receive between 8,200 and 20,200 € in damages, and Uber will have to pay the legal fees. For each day that Uber does not implement the ruling, there is an additional penalty payment of 5,000 €.

It is the first decision in the whole of Europe based on Article 22 of the EU General Data Protection Regulation. This states that any person from whom data is collected "shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her." The plaintiffs' Uber accounts were deactivated overnight because their usernames were allegedly entered in two different places at the same time, suggesting fraud. The decision was made without human intervention and the affected people could neither explain their position nor appeal. As a result, they lost their private taxi licenses. The ruling demonstrates that even the most advanced technology must remain under human control, especially when it has an impact on people. In December 2020, the delivery service Deliveroo in Italy had been ordered to pay damages to bicycle couriers because they suffered a disadvantage due to an algorithm (see [report in EWC News 1/2021](#)).

[Press report on the court ruling](#)
[Full text of court ruling](#)

Administrative fine for disregarding works council co-determination

On 18 May 2021, the Darmstadt Labour Court imposed an administrative fine of 135,000 € on Opel, the German subsidiary of the Stellantis group. The works council in Rüsselsheim had not been consulted on 17 transfers and ten cases of changes to working hours. The court fixed the amount at 5,000 € for each case, half the legal maximum of 10,000 €. The Labour Court of Brunswick had already imposed a sum of 135,000 € on Helios clinic in Salzgitter in April 2018.



Stellantis has 15,000 employees in Germany at the Rüsselsheim, Kaiserslautern and Eisenach plants and at the Bochum distribution center. In August 2017, the US group General Motors sold its Opel and Vauxhall subsidiaries to the French car manufacturer PSA (see [report in EWC News 1/2017](#)). In January 2021, PSA merged with Fiat Chrysler to form the new automotive holding company Stellantis, based in Amsterdam, the fourth largest car manufacturer in the world.

[Press report on the job cuts at Opel](#)

British supermarkets must pay women better



Even after Brexit, the European Court of Justice still has a positive influence on British labour law. On 3 June 2021, it ruled in favour of 6,000 female claimants who were paid less by the supermarket chain Tesco than men employed in delivery warehouses. The Court in Luxembourg regards discrimination not only in equal work, but also in "work of equal value". This principle is legally binding for all collective agreements as well as contracts between private individuals.

Although the employees work in different shops, Tesco's management is considered a "single source" of discrimination.

The employment tribunal in the London suburb of Watford, which has jurisdiction over the headquarters of Tesco, had referred the issue to the European Court of Justice in August 2019. The court will continue to deal with all cases from the UK that fall in the period before 31 December 2020. Tesco, the UK's largest retail chain, has 250,000 employees in 3,200 shops in its home market alone. On 26 March 2021, the UK Supreme Court had made a similar decision in the case of the UK's third largest supermarket chain, Asda, where nearly 40,000 female workers are now expecting back payment. Tribunal cases are also ongoing in supermarket chains Sainsbury's, Morrisons and Co-op Food, as well as in the Next clothing chain.

[Full text of the ruling](#)

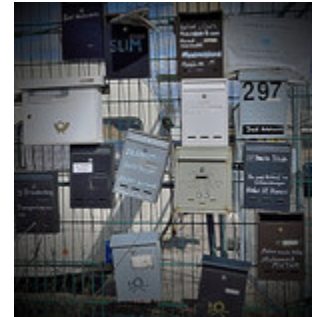
[Report on the ruling](#)

[Report on the Asda ruling](#)

[Campaign for equal pay in retail](#)

No evasion from social system through letterbox companies

On 3 June 2021, the European Court of Justice stopped "forum shopping" in temporary agency work, a form of social dumping using letterbox companies in countries with lower social standards that post workers to countries with high labour costs. The case concerned the temporary work agency Team Power Europe, based in Varna on the Black Sea, which has a license from the Düsseldorf employment agency to supply personnel in Germany and hires temporary workers with Bulgarian employment contracts. The service contracts with the hiring companies are subject to German law. Team Power Europe does not conduct any business in Bulgaria and all of its turnover comes from Germany.



For this reason, the Bulgarian authorities refused to issue an A1 certificate, whereby the workers concerned would be covered by Bulgarian social security. The company took legal action against this before the Administrative Court of Varna, which referred the issue to the European Court of Justice in October 2019. According to the judges, "such exploitation of that legislation would be likely to have a 'race to the bottom' effect on the social security systems of the Member States or might even lead to a reduction in the level of protection that they offer." Furthermore, it would create "a distortion of competition in favour of recourse to temporary agency work".

This opinion was also expressed by the governments of Bulgaria, Belgium, Estonia, France, Poland and Finland in a declaration to the European Court of Justice. A temporary work agency must carry out a significant part of its activities in its home country in order to apply for an A1 certificate. The Advocate General of the Court had taken a different position in his conclusions, which the trade unions explicitly protested against. In two landmark rulings in December 2007, the European Court of Justice had ranked freedom of establishment even higher than the protection of social standards (see [report in EWC News 4/2007](#)).

[Full text of the court ruling](#)

[IG BAU trade union press release](#)

[Press release from the European Federation of Building and Woodworkers](#)

6. New works councils start their work

US aircraft supplier moves EWC to Germany



As of 1 January 2021, TransDigm group has a European works council for 5,000 employees in eleven European countries, including half of them in the UK. The group was founded by the combined acquisition of numerous manufacturers of aircraft components and was initially owned by financial investors. Although it was covered by the EWC Directive, it had not yet had a European works council. This only became relevant with the acquisition of Esterline Technologies in March 2019, where there was already an EWC under UK law.

The parties dispensed with establishing a Special Negotiating Body (SNB). They revised the EWC agreement of the new subsidiary Esterline and extended it to the whole group. The negotiations were concluded on 9 December 2020. Telair in Miesbach (Upper Bavaria) will act as central management although the workforce in France is more than twice as large as in Germany. Apparently, the company was not prepared to accept the very employee-friendly French legislation. The EWC has 16 members who meet once a year. The UK has six, France four, Germany and Belgium two each and Norway and Hungary one each. Countries with less than 50 employees are not represented. The select committee has six members from six countries and meets twice a year with central management. Meeting venues are chosen by management. The HR department organizes the day-to-day work of the EWC and appoints an assistant who also takes the minutes of the meetings. The employee side elects a secretary and deputy secretary.

Tight deadlines and strong HR control

The EWC agreement places particular emphasis on timely information and consultation in the case of acquisitions, divestments and mergers. In exceptional circumstances, the select committee first of all receives written information and may request additional documentation once. Within ten days, the in-depth analysis must be completed. After that, an extraordinary meeting of the EWC is held. Seven days later it has to render its opinion and after another seven days management communicates its reasoned response. EWC members are subject to very comprehensive confidentiality rules and must attend training on the subject. Any formal communication from the EWC to the workforce must be approved by the HR department. The EWC may consult experts of its own choice, but central management may suggest alternatives. In the event of disputes there is a three-stage mediation process, after which it is possible to take legal action before the labour courts.

French electronics designer establishes EWC

On 26 January 2021, an agreement was signed at the headquarters of Lacroix Electronics in Montrevault-sur-Èvre (Loire region) to establish a European works council. The company designs and manufactures printed circuit boards for automotive industry, healthcare, aerospace and building automation (smart home). Designs are created at sites in France and Germany, while production takes place in Poland and Tunisia. In total, Lacroix has 3,200 employees.



1,500 of the 2,100 employees in the EU, are in Poland, which gets eight seats on the EWC. France can appoint three delegates and Germany one. The chair is held by the employer, and the employee representatives elect a secretary and four other members to the coordination committee. They meet at least twice a year. Plenary meetings of the EWC are also held twice a year. To a large extent the EWC agreement corresponds exactly to the subsidiary requirements of the EU Directive, but it also contains some particularities. For example, the consultation cannot be carried out at the same meeting in which information is communicated. External experts may only attend meetings on specific topics if they have been expressly invited by the chair - the employer. Each EWC member may take 70 hours of English or French courses per term of office. All costs are borne by central management, but the EWC has no budget of its own, which is very unusual for France.

European divisional works council for French plastics manufacturer



On 6 May 2021, a voluntary agreement to establish a "Committee for European Economic and Social Dialogue" was signed at Hutchinson's headquarters in Paris. This type of EWC is outside any legal obligation. Hutchinson produces body sealing and belt drive systems for cars, aircraft and other industries and is part of the Total oil and gas group, whose recently established SE works council exercises all the statutory



information and consultation rights. This council includes delegates from Hutchinson (see [report in EWC News 3/2020](#)).

Hutchinson's voluntary EWC meets every six months under the chairmanship of the employer and alternating between face-to-face meetings and video conferences. It has 15 members, including four from France, three from Poland and two from Germany, representing 20,000 workers in nine countries. The select committee has seven delegates from at least five countries. In addition to the time for meetings, each delegate is entitled to an annual allowance of two to six days' time-off. In addition to analyzing financial data, the EWC's responsibilities cover industrial policy, social policy, occupational health and safety, sustainable development and environmental responsibility.

7. Recent SE conversions

Co-determination eliminated in two steps

Müller - Die lila Logistik has been operating as a European Company (SE) since 2 March 2021. The company is based in Besigheim (near Stuttgart) and has a total of 1,500 employees at 16 locations in Germany and three in Poland. Müller designs and develops complete logistics concepts in the area of supply chain management and offers classic logistics services. The special combination of consultancy and contract logistics is symbolized by the colour purple.



The SE participation agreement was signed on 27 May 2020 and provides for the establishment of an SE works council. It has the same composition as the Special Negotiating Body: nine members from Germany and two from Poland. Each country with twelve or more employees is represented in the SE works council. The steering committee initially has three members and is expanded to four as more countries join. Two plenary meetings are held each year. The term "meeting" refers to face-to-face meetings as distinct from the term "videoconference". Resolutions and votes can also be carried out in videoconferences and by a written circulation procedure via e-mail.

Consultation procedure with tight deadlines

The SE works council must submit its opinion within three weeks of the meeting with central management, and in exceptionally urgent matters even within ten calendar days. While normally only relocations, closures and mass redundancies are considered exceptional circumstances triggering a consultation procedure, the agreement at Müller also includes the development of new areas of business or creation of new services. If the central management does not act in accordance with the opinion of the SE works council, a second consultation procedure is provided for, with a view to reaching an agreement. Here again, precise deadlines have been set.

Until May 2019, the supervisory board consisted of six members, including two representatives from the workforce. Due to a new group structure, the employee representatives have lost their mandates for good. By means of the SE conversion, this evasion of co-determination has now been enshrined permanently.

[Press release on the SE conversion](#)

French automotive supplier establishes SE works council



Valeo has been operating as a European Company (SE) since 9 March 2021. With 110,000 employees, the company is one of the ten largest automotive suppliers in the world. The SE participation agreement was signed in Paris on 28 January 2021. The former European works council will be replaced by an SE works council representing eleven countries. The United Kingdom is not covered, but may still send an observer to the internal preliminary meetings of the employee representatives for two years.

The SE works council is chaired by the employer, and only countries with 150 or more employees are represented. They elect nine members to the select committee, including a secretary and his deputy. The SE works council can establish other committees. It meets twice a year, the select committee quarterly, always in the Paris area. The agenda is agreed in advance, but the chair (the employer) has the final say. Preliminary meetings of the employee representatives are held before each meeting.

Some issues, such as the introduction of new working methods, relocation of production or workforce reductions, are not dealt with by the SE works council but by the select committee. Consultation takes place whenever at least 100 jobs or 25% of the workforce at a site are affected by a measure. Local level consultations start after the SE works council has been informed - never before.

Delegates are entitled to an annual allowance of 40 to 200 hours' time-off work in addition to official meetings and travel time, as well as three days of training in the four-year term of office. In addition, there are 60 hours of English training per year. Unlike in France, the SE works council does not have its own budget. Instead, all costs are covered, including an office with an assistant. Experts are appointed for the full four-year term of office, but can be replaced in justified cases. Electronic communication of the SE works council with the workforce, in the collective sense, is prohibited.

Establishment of SE central works councils

In countries where there are no cross-site works councils (e.g. Spain or Belgium), the members of the SE works council of that country meet twice a year with two representatives from each of the plants. In this way, a kind of substitute central works council is established in the SE participation agreement. Valeo's administrative board, which consists of 15 members, includes two employee representatives: the secretary of the previous European works council from Poland and a former member of the French central works council. In France, employee representatives must give up their works council functions when elected to the administrative board.

[Press release on the SE conversion](#)
[Full text of conversion plan](#)
[Report on job cuts in Germany](#)

Adapting co-determination to the digital age

This was the headline under which the Volkswagen group presented its new software subsidiary Cariad SE on 26 March 2021. 4,000 engineers and developers are to increase the proportion of in-house-developed software in vehicles from currently ten to over 60%. This includes driver assistance systems, digital voice assistants, cloud-based navigation, and value-added services for parking and fleet management. Previous to the company launch, an SE participation agreement had already been signed in Wolfsburg on 2 June 2020. All ten members of the Special Negotiating Body were from Germany. A foreign workforce is to be built up only gradually.



Currently, the SE works council consists of six delegates from Cariad plus one brand representative each for Volkswagen, Audi and Porsche, elected by the Volkswagen group works council. Each newly added country is allocated one seat and additional seats if more than 10% of the European workforce is represented. The SE works council holds an annual plenary meeting and the elected chair can call further meetings at any time. Central management may also request an extraordinary meeting. The select committee consists of six members who meet at least every six months. In addition, there is a German Committee and a Foreign Committee, each with six members and their own chairpersons. Telephone and video conferences are possible at any time. The works council members have the right of access to all European subsidiaries and travel expenses are covered.

SE agreement provides for legally compulsory social plan

In the case of restructuring, the SE works council is first informed and consulted, and must render its opinion within four weeks. If central management decides not to act in accordance with this opinion, a second consultation takes place within a further two weeks to reaching an agreement. This regulation, which is typical for the SE, is further enhanced at Cariad. In case of restructuring affecting 100 or more people in two countries, the same rules apply as in the German Works Constitution Act (legally enforceable social plan). The SE works council can appeal to a conciliation board, which has a neutral chairperson and two assessors from each side and makes a binding decision. It is the first SE agreement in the whole of Europe providing such strong participation rights.

The supervisory board has twelve members and is composed on a full-parity basis. Two of the six employee seats are elected by Cariad's SE works council, plus one works council member each from Volkswagen, Audi and Porsche, as well as a full-time trade union officer from IG Metall.

[Press release on the launch of the new company](#)

8. Pan-European company agreements

Establishing a permanent framework to adapt to crisis situations



On 10 May 2021, the central management of the Italian insurance group Generali signed a joint declaration with its European works council on the Corona crisis. It already points beyond the pandemic and is intended to serve as a template for any major crisis in the future. The declaration contains five principles as a basis for company agreements in all European countries. Health and safety is also considered a priority in teleworking: the maximum permissible working hours are to be monitored, there is to be a complete disconnection from the company networks outside working hours, and emails or phone calls are no longer to be answered. Further training, data protection, psychological effects of isolation in the home office and equal treatment of employees with children are also included in

the declaration.

The select committee of the EWC will regularly monitor compliance with the principles and the development of remote work in the group. Generali's EWC has negotiated transnational company agreements on several occasions, most recently in September 2019 to promote diversity and inclusion (see [report in EWC News 3/2019](#)). In Italy, however, this role played by European works councils in negotiating transnational company agreements has come under strong criticism from some trade unions (see [report in EWC News 4/2020](#)).

French electronics group promotes skills development

An enhanced framework agreement on skills development and career paths was concluded in Paris on 8 June 2021 between the central management of Safran, a manufacturer of aircraft and defense electronics, and the European trade union industriALL. It builds on an agreement reached in March 2015 (see [report in EWC News 1/2015](#)) and covers the European Single Market, Switzerland and the United Kingdom. The group wants to prepare the workforce for changes in the market in a timely and transparent manner.



Every employee in Europe will have an annual career interview with a supervisor and the individual training allowance will be increased from 18 to 26 hours by 2025. In-house training is coordinated by the Safran University with locations in the greater Paris area and in Toulouse. In the future, it will expand to cover all European countries, especially in the development of skills for digitalisation. Safran wants to specifically promote professional mobility, also by offering periods of work abroad. An observatory for professions and competences consisting of seven members of the EWC and management submits an annual report. There are provisions for timely social transition measures and assistance with retraining in the event of restructuring or a slump in employment. A similar arrangement had also been made by the European works council of the German chemical company Bayer in November 2019 (see [report in EWC News 1/2020](#)).

[Press release on the signing](#)

Despite strong industrial relations, Brexit remained controversial for a long time

At Safran, a pan-European agreement on the professional integration of young people was already concluded in March 2013 (see [report in EWC News 2/2013](#)). In addition, since October 2017 there has been an exemplary global framework agreement (see [report in EWC News 4/2017](#)). However, for a long time it was impossible for the European works council to satisfactorily regulate the status of the British delegates following Brexit. Central management refused to maintain the second most important country after France within the scope of the EWC agreement and the European agreements. It was not until 30 March 2021 that an agreement was finally reached. In an addendum to the EWC agreement, the size of the select committee was increased from five to seven members, four of whom were not to come from France. The modalities for the election of British EWC members were decided by the Central Arbitration Committee in July 2013 (see [report in EWC News 3/2013](#)).

9. The view beyond Europe

Health and safety at French catering and facilities management provider



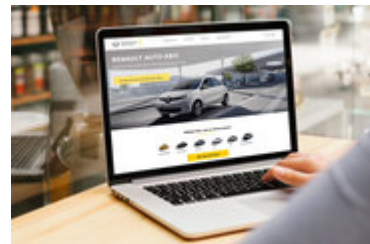
On 15 March 2021, Sodexo's group management concluded a Memorandum of Understanding with the Global Federation of Food Workers' Unions on occupational health and safety in the catering industry. Sodexo operates catering and facility management for companies, government agencies, educational institutions and hospitals in 64 countries with 420,000 employees, making it one of the twenty largest employers in the world. The health and safety agreement builds on a framework agreement on basic social rights of December 2011 (see [report in EWC News 4/2011](#)).

A risk assessment in all units worldwide is to pro-actively provide protection against occupational diseases and accidents; this will be regularly monitored at an international level. Local employee representatives are to negotiate company agreements on occupational health and safety with local management. No employee should fear reprisals for raising legitimate concerns about occupational health and safety. A separate chapter summarizes the measures concerning the Corona pandemic. Since June 2017, Sodexo has also had an agreement on the prevention of sexual harassment (see [report in EWC News 3/2017](#)).

[Report on the signing of the Memorandum of Understanding](#)
[Full text of the Memorandum of Understanding](#)

First global company agreement on remote work

On 26 April 2021, Renault's central management signed a global agreement with the trade unions on the key principles for teleworking. It applies to 180,000 employees of the French car manufacturer, which has 40 production sites in 16 countries, outside Europe particularly in Latin America, North Africa and Asia. The agreement builds on the July 2019 global framework agreement on the quality of work life (see [report in EWC News 2/2019](#)).



Participation in remote working schemes at Renault is voluntary and reversible. The employer ensures the protection of privacy and compliance with health and safety regulations, working time regulations and existing collective agreements. There is a right to disconnect. On this basis, the respective employee representatives and plant managements are to negotiate agreements locally. Once a year, a report on the implementation of these principles is submitted to the World works council, which has been in place since March 2015 (see [report in EWC News 2/2015](#)).

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

British raw materials group consults with unions every six months



On 10 May 2021, the central management of Anglo American, which has its headquarters in London, reached a written agreement on future cooperation with the Global Industrial Trade Union industriALL in Geneva. The company employs 95,000 people, particularly in southern Africa, Latin America and Australia, where it mines and processes raw materials. It accounts for 40% of the world's diamond and platinum production, but also coal and metallic raw materials.

In the agreement, Anglo American recognises industriALL as a dialogue partner at the global level and commits to upholding the International Labour Organisation conventions. The company will ensure through internal mechanisms that the entire workforce has access to these fundamental rights. The agreement also covers health and safety, the introduction of new technologies and a just transition for coal workers. Anglo American management representatives have already been attending meetings of industriALL's global trade union network since December 2019, and a forum is planned every six months in the future.

[Report on the conclusion of the agreement](#)
[Report on the 2019 global union meeting](#)

10. Campaigns and dialogue forums

Evading collective bargaining under the threat of redundancies

On 22 April 2021, the British trade union Unite launched a targeted campaign against "fire and rehire" tactics. This consists in dismissing workers if they do not sign a new employment contract on worse terms. In February 2021, the Scottish Supreme Court put a stop to this scheme, but it is still legal in England. The British Trade Union Confederation (TUC) published research in January 2021 showing that it affected one in ten workers during the Corona pandemic (see [report in EWC News 1/2021](#)).



A particularly spectacular example was provided by British Gas, the largest British energy supplier, which asked all 20,000 employees to make a restructuring contribution of 15% in wage costs. With the same pay, weekly working hours are to be increased by three hours and bonuses on weekends and public holidays eliminated. In January 2021, 7,000 field workers who install and repair boilers and heating systems began taking strike action. However, more and more accepted the new conditions and in the end 1,000 remained and were given 14 days' notice to quit on 1 April 2021. In the meantime they were still able to change their minds and sign new contracts - or lose their jobs. About half of them were not prepared to accept such blackmail - and are now unemployed.

[The Unite campaign](#)
[Press report on the campaign](#)
[Legislative initiative "Stop Fire & Rehire"](#)
[Press report on British Gas](#)

"Operation Sunrise" provokes pan-European day of action



On 19 April 2021, trade unions from 16 countries organized a day of action at the US Corporation IBM to protest against plans to slash 10,000 of its current 90,000 jobs in Europe. IBM wants to spin off its old IT business into a completely new entity called Kyndryl. The mass redundancies are incomprehensible to the workforce, as IBM was able to increase sales and profit margins during the Corona pandemic.

In an open letter to the European management on the day of action, the unions complained about the confusing lack of transparency. There were no objective criteria for this decision. After five weeks without a response, on 27 May 2021 the unions approached corporate headquarters in the US and demanded an emergency meeting to obtain clarity on the plans.

[Report on the day of action](#)
[The open letter to IBM's European management](#)
[The call to US management for an emergency meeting](#)

Public procurement to be linked to collective agreements

On 28 April 2021, the European Federation of Services Workers' Unions (UNI) launched a campaign in Brussels to change the rules on public procurement by local authorities, governments and state agencies. Almost 14% of the EU's gross domestic product is provided by private contractors in this way. In future, only those companies that abide by collective agreements should be awarded contracts.



Until now, price has counted more than all other aspects when contracts for services such as cleaning, maintenance, building security or call centers are awarded. This fuels a race for the lowest wages and the lowest social standards. On 22 March 2021, 106 trade unions from 29 countries had called on the European Commission to take legislative action. On the International Justice Day for cleaners and security guards held on 15 June 2021, 23 MEPs from several political groups joined the call.

[Explanation of the campaign launch](#)
[Online form to support the campaign](#)
[The open letter to the European Commission](#)

Citizens' dialogue on the future of Europe



On Europe Day held on 9 May 2021, the Conference on the Future of Europe was ceremonially launched in Strasbourg. The conference is a dialogue process via digital platforms and citizen panels in 24 languages that will run for a whole year and has never been done before. Everyone is able give input on how the EU should respond to future challenges and how to achieve a more democratic and empowered EU. All topics can be addressed, from climate change to social inequalities or digitalisation. The results are to be discussed at a final event held in 2022 under the French Council Presidency and a fundamental reform of the EU initiated. The European Parliament hopes that this will give it additional powers.

[The conference website](#)

[Explanation of the conference's goals and schedule](#)

[Planned events on economy and employment](#)

[Trade union demands for a social Europe](#)

11. New publications

National collective bargaining traditions

On 27 April 2021, the Federation of Service Sector Unions UNI, presented a report on collective bargaining systems in Europe. They depend on the political and economic conditions, traditions, and on the customs and practices of each country. Despite a great diversity, five geographical clusters can be identified. In Scandinavia and countries tailored around the Germanic model (Germany, Austria, BeNeLux), bargaining is mostly at the sectoral level and there are industry-level collective agreements. In the Mediterranean countries collective bargaining takes place at industry and company level, and collective bargaining coverage is very high despite low union membership. With the exception of Italy, the state plays an important role in industrial relations. In contrast, in Anglo-Saxon countries (including Southern Cyprus and Malta) and in Central and Eastern Europe there are almost no sectoral collective agreements and little state intervention. The collective bargaining coverage and union density are lower than in other regions of Europe, with the exception of Slovenia, which can be compared to Germany and Austria. The report is available in three languages.

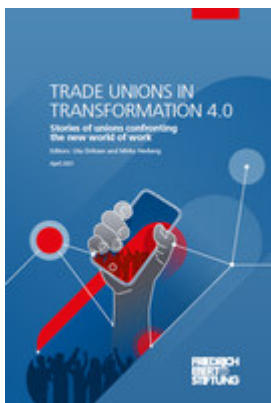


[Download the report](#)

[Snapshot of collective bargaining in the services sector](#)

[Field report from the cleaning sector in Germany](#)

Trade unions and the digital transformation in selected countries



On 28 April 2021, the Friedrich-Ebert Foundation published a booklet examining how trade unions are confronting the new world of work in the digital age. The project "Trade Unions in Transformation 4.0" examined how trade unions and new organizations of workers are building power, in twelve multilingual case studies ranging from Arabic through English to Portuguese. These new approaches and strategies were then presented, discussed and simultaneously interpreted during five events organized over a period of three months in different time zones. The result is this booklet, which is available in four languages. It contains case studies on, for example, automobile unions in Brazil, the working world of banks in Uruguay and Romania, the IT sector in Israel, transport workers in South Korea as well as food couriers in Belgium, the Netherlands and Argentina or the worldwide grassroots movement of YouTubers.

[Download the booklet](#)

[Further information on the project and download of other language versions](#)

Legal and empirical EWC study from Poland

On 5 May 2021, this final report of an EU-funded project was published by the Polish trade union confederation Solidarność entitled "EWC - processing financial information as a key factor for effective communication and negotiation". It examines and compares EWC laws in six countries with regard to access to financial data and rules on confidentiality. Besides Italy and Spain, the four Central and Eastern European countries are Bulgaria, Croatia, Romania and Poland. The second part of the report describes the results of a survey of employee representatives from 27 companies who are EWC delegates from one of the six countries. As there are almost no corporate headquarters in Central and Eastern Europe, not a single EWC has yet been established in Bulgaria, Croatia and Romania and there is only one in Poland.



[Download the report](#)

[Further documents on the project](#)

Dealing with confidential information in the EWC



On 14 May 2021, the European Trade Union Institute in Brussels presented the fourth in a series of handbooks for European works councils. It deals with obstruction to the flow of information due to excessive rules on confidentiality. A survey published in May 2020 highlighted the problems (see [report in EWC News 2/2020](#)). A distinction is to be made between confidentiality and non-disclosure: the central management may classify information as "confidential" and prohibit the EWC from sharing it with others (e.g. local works councils). However, central management may also refuse to disclose (keep secret) information to the EWC on grounds that stock exchange rules prohibit it or that it could result in damage to the company. The handbook helps to distinguish between legitimate and illegitimate claims and shows what an EWC can do if confidentiality is used in an improper way.

[Download the handbook](#)

[Download the empirical survey on confidentiality](#)

Forthcoming event

Dealing with confidential information will be a main topic of the EWC conference in Hamburg on 13 and 14 September 2021.

[Download the programme](#)



12. The EWC Academy: examples of our work

EWC constituted against employer's will

On 29 January 2021, the European works council of the US telecommunications company Verizon was constituted under Irish law. The old EWC agreement ended in October 2020, therefore the subsidiary requirements of an EWC "by law" now apply (see [report in EWC News 4/2020](#)). Until the very end, central management attempted to prevent the video conference in order to gain more time. The constitution should take place only when all countries had nominated their delegates. However, the EWC wanted to start



its work immediately and elected five members to the select committee for six months. The EWC Academy was commissioned as consultancy firm. Since 28 April 2021, it has been known that Verizon is selling its digital media business (Yahoo and AOL), triggering a consultation process with the EWC.

[Report on the sale of the media business](#)

Mobile operator looking for new EWC basis



Since 29 March 2021, the EWC Academy has been assisting Telefónica's European works council in revising its agreement, which was last updated in November 2013 (see [report in EWC News 4/2013](#)). The EWC was established in 2004 under British law for the mobile phone company O2 and remained in office after the takeover by the Spanish Telefónica group. Telefónica itself still does not have an EWC in place. In recent years, more and more national companies have been sold, most recently O2 UK was spun off into a joint venture with Virgin Media. Since 1 June 2021, the EWC only has members from Germany.

Training for a (disbanded) Special Negotiating Body

On 8 June 2021, the EWC Academy conducted a training for the members of the Special Negotiating Body of Vesuvius. The company is based in London and produces refractory materials for the steel industry with production sites in ten European countries. In preparing the training, it emerged that an EWC should have been installed "by law" as early as June 2020 and the six-month deadline for starting negotiations had passed without any result. The central management is playing for time and wants to avoid the obligation to inform and consult as long as possible because it has had bad experiences with the former European works council. It had lost two legal cases before the Central Arbitration Committee in London (see [report in EWC News 1/2020](#)).



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, 844 employee representatives from 292 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](#)

EWC and SE seminar at Montabaur Castle *(new date)*



From 31 August to 3 September 2021, 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 high-speed railway station halfway between Frankfurt-am-Main and Cologne. Several seminar modules will be offered for beginners and advanced participants.

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

13th Hamburg conference for European and SE works councils *(new date)*

As every year, our annual conference will be held in 2021, but due to the Coronavirus pandemic not on the usual date in January, but on 13 and 14 September 2021. To start with, the latest developments in the EWC and SE landscape and the legal consequences of Brexit will be presented, followed by case studies from two companies. One of the focal points will be the proper handling of confidential information that the EWC may or may not receive (see [report in EWC News 2/2020](#)).



[Download the programme](#)
[Report from the last Hamburg conference](#)



EWC legal seminar



Our legal seminar on EWC law will be held in Berlin from 26 to 28 October 2021. It will cover the legal subtleties of EWC work, current case law on EWCs and the application of the new EU Directive in critical situations. The speakers include Ralf-Peter Hayen, head of the legal department at DGB head office in Berlin and editor of a reference commentary on German EWC law (see [report in EWC News 2/2019](#)).

[Seminar programme](#)

In-house events

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

[Examples for in-house seminars](#)

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