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## 1. Exodus from co-determination reaches the DAX

### Leading German stock index: fewer women and fewer employee representatives



On 20 September 2021, the German Stock Index (DAX) was expanded from 30 to 40 companies. The reason behind this reform were events surrounding the payment service provider Wirecard in June 2020, which required the DAX to change its image. However, if one considers the proportion of women or co-determination the new DAX members have rather a negative impact on the leading index. Ten out of the 40 DAX companies have no employees on the supervisory board.

The bankruptcy of the DAX member Wirecard is considered one of the biggest fraud scandals in German post-war history. The reason why the true financial situation of the group could not be uncovered at an early stage was also because the management had deliberately prevented both co-determination on the supervisory board and the establishment of works councils (see [report in EWC News 3/2020](#)). Wirecard was consequently an exceptional case in the DAX. There were still employee representatives in all DAX companies in 2015, which marked the beginning of a steady decline. 26 of the previous 30 members currently have a full-parity supervisory board, and one member is subject to one-third participation. Three companies had withdrawn from co-determination, such as the real estate group Deutsche Wohnen, where a legal dispute about the composition of the supervisory board has been running through the legal instances for years (see [report in EWC News 4/2018](#)). The gas and technology group Linde moved its headquarters from Munich to Dublin in order to save taxes and get rid of co-determination. This triggered a scandal with the trade unions in 2017 (see [report in EWC News 2/2017](#)).

Only two companies out of the ten new DAX members, have employee representatives making up half of their supervisory boards and two others one third. Two other companies were able to escape co-determination by converting into a European Company (SE): in December 2016, the food delivery service HelloFresh (see [report in EWC News 1/2017](#)) and in February 2021 the chemical trading group Brenntag (see [report in EWC News 1/2021](#)). The aerospace group Airbus and the pharmaceutical group Qiagen use letter-box companies based in the Netherlands. Foreign companies are exempt from Dutch co-determination if they have a very small workforce there. In addition, there are tax breaks (see [report in EWC News 4/2013](#)). The fashion mail order company Zalando permanently fixed one-third employee participation on the supervisory board when it converted to an SE in March 2014, despite having already well over 2,000 employees in Germany at the time. Nevertheless, a complaint

filed by the ver.di trade union, which had been excluded for the election of the Special Negotiating Body, was unsuccessful (see [report in EWC News 4/2015](#)).

[Press report on the decline of co-determination](#)

[Report from European Trade Union Confederation](#)

[Press report on the small proportion of women among the new DAX members](#)

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## **A fundamental discussion is to be expected after Bundestag elections**

For years, the Hans Böckler Foundation has repeatedly presented up-to-date figures and pointed out that the German system of co-determination on supervisory boards is being increasingly undermined by SE conversions and foreign legal forms (see [report in EWC News 2/2020](#)). In February 2017, the German Bundesrat called for a legislative initiative to put a halt to this type of evasion from co-determination (see [report in EWC News 1/2017](#)). Most recently, in May 2021, a motion by the Greens in the German Bundestag failed, but several parties have publicly commented or explicitly included this issue in their election manifestos (see [report in EWC News 2/2021](#)). In June 2021, the Hans Böckler Foundation presented draft legislation on the extension of German co-determination to foreign companies.

[Report on the draft legislation](#)

[Full text of the draft legislation](#)

[Video on the exodus from co-determination](#)

## **2. European Parliament seeking to reinforce co-determination**

### **New initiative for a Framework Directive**

On 1 July 2021, the draft report on "Democracy at Work" was discussed within the Employment and Social Affairs Committee. It calls for a framework directive on information, consultation and board-level participation of employees to consolidate existing directives (including EWCs, SEs, SCEs, information and consultation at local level, company mergers). It also calls for a revision of the directive on the establishment of European Works Councils. The author of the report is the German Social Democrat Gabriele Bischoff, who worked for the German Trade Union Confederation (DGB) for many years before becoming an MEP. The committee will vote on the report in autumn 2021 and the plenary of the European Parliament in November 2021.



With regard to the EWC Directive, the report calls on the European Commission:

- to guarantee information and consultation rights so that the European Works Council is able to give its opinion before a consultation is concluded
- to guarantee access to justice
- to put an end to the exemptions for old, "voluntary" agreements after more than 20 years
- to introduce sanctions
- to consolidate the concept of the "transnational character of a matter"
- to prevent the abuse of confidentiality rules
- to ensure effective coordination of information, consultation and employee participation at local, national and European levels.

### **Exodus from co-determination through SE conversion should be stopped**

On corporate governance, the report calls for the presence of employee representatives on supervisory or administrative boards in the future in all EU countries, namely

- with two or three seats in small companies with 50 to 250 employees, as is already widespread in Scandinavia today
- one third of all seats in companies with 250 to 1,000 employees
- half of all seats in large companies with more than 1,000 employees.

The report also criticizes the loopholes in the European Company Statute (SE) that are used to circumvent national rules on co-determination. The same applies to cross-border mergers, the splitting of companies into complex structures or outsourcing in supply and subcontracting chains. Recently the German Bundestag was also dealing with the issue (see [report in EWC News 2/2021](#)).

[Explanation of the report by Gabriele Bischoff](#)

[Full text of the draft report](#)

[Video of the committee debate](#) (see from 13:51 mins on, interpretation available in 18 languages)

[Position of the European Trade Union Confederation on the Framework Directive](#)

[Assessment of the EWC Directive by the European Parliamentary Research Service](#)

### **Forthcoming event**

Gabriele Bischoff, Member of the European Parliament and author of this report, will present further developments at the next Hamburg conference for European Works Councils on 24 January 2022.

**TIPP !**

## **3. Sharp decline in transnational company agreements**

### **Sobering analysis from France**



In June 2021, the French Institut de Recherches Economiques et Sociales (IRES), which has close ties to the trade unions and is comparable to the German Hans Böckler Foundation, presented an inventory of framework agreements within multinational companies. Three types can be distinguished. At the global level, there were a total of 218 International Framework Agreements (IFAs) by the end of 2020, and in Europe 166 transnational company agreements on social issues or on dealing with restructuring. Around 1,200 EWC and SE agreements on the functioning of works councils which represent the third type of transnational agreement, are not included in this analysis.

It is noticeable that most agreements were concluded within French companies: 25% of all International Framework Agreements and half of all pan-European company agreements. In comparison, companies headquartered in the UK account for only 2 to 3%. Despite their relatively small population, the Nordic countries rank among the top with 18% of global framework agreements - a clear indication of the strong social partnership. By contrast, as the economically strongest country in Europe, Germany accounts for only 11% of all international agreements and 16% of all pan-European agreements. US companies are hesitant about global framework agreements, but have concluded a similar number of pan-European agreements as German corporations. Belgium and the Netherlands are on a par for worldwide agreements, but show a completely different picture for pan-European company agreements: Belgium accounts for 7% and the Netherlands for none. Most framework agreements exist in the metalworking, chemical and construction industries.

### **Unresolved legal and practical issues**

After the continuous increase in the number of transnational agreements since the turn of the millennium, a peak was reached in 2008. Thereafter, their number has continued to decline every year, especially in Germany. It is almost impossible to get more companies to conclude agreements with trade unions or European Works Councils. New agreements usually only exist in companies that have previously signed other agreements. In addition, the legal protection of such agreements, which was demanded by the European Parliament in September 2013 (see [report in EWC News 3/2013](#)) has not been clarified to date.

There is also disagreement over the question of who should carry out the negotiations with the companies. 94% of global framework agreements were negotiated and signed by trade unions, the rest jointly with the EWC. In the case of pan-European company agreements it is the other way round: more than half were negotiated by European or SE works councils, only 14% by trade unions and the rest by works councils and trade unions jointly. In this respect, the European Trade Union Federations are fundamentally questioning the legitimacy of European Works Councils. They want a two-tier system as in the French labour legislation: the works council is responsible for information and consultation, negotiations are the exclusive prerogative of the trade unions (see [report in EWC News 3/2010](#)).

The IRES analysis sees precisely this as the most important reason why there have been almost no new pan-European company agreements since 2017. While International Framework Agreements have to be approved by a majority of trade unions in all countries concerned, in the case of pan-European company agreements each country starting from 5% of the European workforce has a veto right. For example, in May 2012, a pan-European negotiation in the French company Alstom on the outsourcing of its IT division could not take place because Italian trade unions rejected it (see [report in EWC News 2/2012](#)). In practice, the European Works Councils then take over the negotiations because they are able to decide by simple majority. However, this attribution of roles is criticized by the trade unions, most recently in November 2020 in the case of a European company agreement for the Italian bank UniCredit (see [report in EWC News 4/2020](#)).



## 4. Individual country reports

### EU rejects Switzerland's high social standards



On 26 May 2021, the negotiations for a framework agreement aimed at creating a closer link between Switzerland and the EU broke down. During the negotiations that began in 2014, the EU was not prepared to accept the principle of "equal pay for equal work in the same workplace". The trade unions in Switzerland therefore supported the breakup of negotiations and emphasized: "The No to the proposed framework agreement is a Yes to a social Europe, to the free movement of persons and to strong workers' rights for all!"

In order to benefit from the advantages of the internal market, Switzerland had concluded comprehensive bilateral agreements with the EU in 1999 and 2004. In this way, large parts of EU legislation have found their way into Swiss national law. The framework agreement was intended to bring together the confusing and fragmented legal situation and determine how future changes in European law would be dynamically adopted by Switzerland. For the EU negotiators, the protection of the labour market against distortions of competition was more important than the principle of the EU Posting of Workers Directive (see [report in EWC News 4/2017](#)), which primarily serves to protect workers.

### "Flanking measures" against wage and social welfare dumping

Switzerland was not prepared to abolish its protective regulations against wage and social welfare dumping, e.g. advance notification for posted workers in Switzerland, cautionary deposit for fines, the frequency of checks and the level of penalties. These "flanking measures" were put into effect from 1998 to 2005 as part of the free movement of workers in the European Single Market to combat undeclared labor. A positive side effect was that the coverage of the Swiss working population by collective agreements increased. For the Federal Council (i.e. the Swiss government), the trade unions played an important role in judging why the Framework Agreement was ultimately not capable of achieving a majority.

[Federal Council press release](#)  
[Press report on the breakdown of negotiations](#)  
[Unia trade union resolution](#)  
[Detailed overview of developments](#)  
[German Trade Union Confederation \(DGB\) assessment](#)

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### Independence referendum in Scotland planned within two years

As expected, the supporters of an independent Scotland as a member of the EU won the parliamentary elections held on 6 May 2021. First Minister Nicola Sturgeon (photo) from the left-liberal Scottish National Party (SNP) missed the absolute majority by only one seat and formed a coalition government with the Greens. For the first time in the history of the United Kingdom, there is now a government with two Green ministers. Their objective is to hold an independence referendum by the end of 2023 at the latest.



In September 2014, 55% of Scots had voted to remain in the UK in the first independence referendum, but in 2016 they rejected Brexit by a majority. This changed the whole mood. As early as March 2017, Sturgeon applied to the UK central government for permission to hold a second independence referendum, which it has refused to accept to date. However, on 1 August 2021, Cabinet Office minister Michael Gove surprisingly stated, "If it is the settled will of voters for a referendum, then there will be one." On 27 August 2021, the UK Secretary of State for Scotland stated that a referendum could take place if, over an extended period of time, 60% of Scots wanted one. In December 2020, polls for the first time showed a majority of 52% in favor of independence and only 38% opposed. Today, however, there are again more undecided voters. Nevertheless, it is probably only a matter of time until there is a decision to hold a referendum.

[Press report on the new Scottish government](#)  
[Press report on the Green ministers](#)  
[Press report on the planned independence referendum](#)  
[Press report on the new position of the British government](#)

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## Imminent change of government in Norway



Jonas Gahr Støre from the Social Democratic Labour Party (photo) is expected to become the new prime minister. In the parliamentary elections held on 13 September 2021, five red-green parties were able to win a majority over the conservatives, who have been in office since 2013. For the first time in twenty years, all five Nordic countries will then be governed by social democrats. Norway's prosperity is largely due to oil production in the North Sea, and in times of climate crisis this was an important issue in the election campaign.

The Labour Party wants to stop developing new oil fields and from 2025 only allow battery-powered new cars, which already have a 54% market share today. The electricity supply is up to 99% based on renewable energies, especially hydropower. Trade unions are to be closely involved so that the further ecological transformation can take place in a socially acceptable manner. In Norway, union membership is 50%, which is lower than in other Scandinavian countries, but still considerably higher than in the rest of Europe. In Finland, however, it is clear that high membership does not automatically mean stronger collective bargaining (see [report in EWC News 2/2021](#)). Norway is not an EU member, but is part of the European Economic Area. The Labour Party does not want to change this and for European Works Councils everything remains as before.

[Report on the election victory](#)  
[Overview of Scandinavian Governments](#)  
[The current trade union landscape in Norway](#)

## 5. Recent court decisions

### Fine against computer-based discrimination

On 5 July 2021, the Italian Data Protection Authority fined Milan-based food delivery service Foodinho 2.6 million € for the unlawful use of algorithms. The company belongs to Glovo, a Barcelona-based start-up that operates in 21 countries. Foodinho had not adequately informed its 19,000 drivers on how the algorithms worked and had not taken precautions to ensure the accuracy and fairness of the results, which were then used to evaluate driver performance. In some cases, drivers were excluded from the platform by an automated decision without being able to challenge the decision.



[Press release from the data protection authority](#)  
[Report on the legal background](#)  
[The role of the Italian data protection authority](#)

In December 2020, the Bologna Labour Court had ordered the British delivery service Deliveroo to pay damages for the infringement of workers' rights and algorithm-based discrimination (see [report in EWC News 1/2021](#)). A similar ruling was passed by the Amsterdam District Court against the transport service Uber in February 2021 (see [report in EWC News 2/2021](#)).

[Study on algorithm-based systems in HR management](#)

### British arbitration committee contradicts itself



On 11 August 2021, the Central Arbitration Committee (CAC) in London announced the second part of its decision regarding the major British bank HSBC. The company had excluded its entire British workforce from the EWC as of 1 January 2021 and now applies Irish law. On 22 June 2021, the CAC had declared the exclusion of the British parts of the company from the EWC as lawful, on grounds that this was consistent with the wording of the EWC agreement (see [report in EWC News 2/2021](#)).

However, the question of whether a UK company can change the applicable law without the express consent of the employee representatives remained unresolved. The UK is the only non-EU country to have EWC legislation in force, with which all UK companies operating across Europe must comply, even after Brexit. Previously, it was only possible for companies from third countries (USA, Japan) to freely choose national law and move the EWC to another country. The CAC declared the unilateral decision of HSBC's central management to relocate the EWC to Dublin to be lawful, contradicting its own decision of 1 June 2021 regarding the airline easyJet (see [report in EWC News 2/2021](#)). The only difference between these two cases is that HSBC has an EWC agreement and easyJet operates under the subsidiary requirements with an EWC "by law". The applicant EWC now has three months to appeal to the Employment Appeal Tribunal.

[Full text of CAC ruling](#)

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### Trade unions lose once again in second instance ruling

On 2 September 2021, the European Court of Justice (ECJ) rejected an appeal by the European Federation of Public Service Unions (EPSU) against a first instance ruling of 24 October 2019 (see [report in EWC News 4/2019](#)). This means that the trade unions have now finally failed to enforce an agreement on information and consultation in the workplace for 9.8 million public service workers by means of an EU directive. As the public sector falls under the competence of the member states, the European Commission refused to act in the matter.



The ruling concerns a core area of EU labour law. According to the Treaty on the Functioning of the EU, agreements reached within the framework of European social dialogue can enter into force as an EU Directive if both parties to the collective agreement request this (as in the present case). However, the European Commission - according to the ruling - always has the final say. For the trade unions, this now casts a doubt on the autonomy of the collective bargaining parties in developing minimum social standards in the EU, as well as the legally binding nature of their agreements. The European Trade Union Confederation (ETUC) is calling for an urgent meeting with the European Commission so that a clear and secure procedure can be established to incorporate collective bargaining agreements into EU legislation. "The ruling reinforces the widespread opinion that the European Court of Justice has difficulties in understanding industrial relations and should have a dedicated labour law chamber with appropriately experienced judges". A report from the former German Labour Minister Andrea Nahles of 3 February 2021 also includes demands to reinforce Social Dialogue.

[Court press release](#)

[Full text of the ruling](#)

[EPSU press release](#)

[ETUC press release](#)

[Demands from the Nahles Report](#)

## 6. New works councils start their work

### Former Siemens subsidiary has its own EWC



On 17 March 2021, an EWC agreement was signed for Siemens Energy, based in Munich. The energy technology group has been listed on the stock exchange since September 2020, and Siemens currently only holds a minority stake. Shortly after the IPO, central management announced that 7,000 of the 91,000 jobs worldwide would be cut, including 2,900 in Germany. Since the spin-off, a working group with 17 delegates from eleven countries has been acting as a "provisional EWC" (see [report in EWC News 3/2020](#)).

While Siemens is still working with a "voluntary" EWC agreement from 1995, which has been updated several times, Siemens Energy is fully subject to the new EU directive. A Special Negotiating Body was consequently established, which reached a conclusion relatively quickly. The select committee of the EWC has five representatives from Germany and the Northwest, Southwest and Central European regions. It holds four regular meetings a year.

In addition to one annual plenary meeting of the EWC, there are meetings of the EWC members with the regional management in each region once a year. This special provision has been common practice in the Siemens Group since 2008 (see [report in EWC News 2/2008](#)) and remains in place at Siemens Energy. In order to accommodate fundamental changes in structure within the group in the



future, EWC committees can be established for example for individual divisions. The renewable energy division is bundled into the Spanish company Siemens Gamesa, where an International Framework Agreement with the unions has been in place since February 2015 (see [report in EWC News 4/2019](#)).

With the spin-off, employee participation on the supervisory board has been maintained. It is subject to full-parity co-determination with ten shareholder and ten employee representatives, including six German works council members, three full-time IG Metall trade union officials and one middle manager. On the employer side, Sigmar Gabriel, former German foreign minister and long-time leader of the Social Democratic Party, is a member of the supervisory board.

[Report on workforce downsizing in Germany.](#)

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### **EWC established in Norwegian technology group**

On 14 June 2021 in Kongsberg, west of Oslo, known for its former silver mine and home to the defense group of the same name, an agreement was reached to establish a European Works Council for its marine technology division. Kongsberg Maritime has 7,300 employees worldwide and produces systems for the positioning, monitoring, navigation and automation of merchant ships and offshore installations. The EWC also includes the UK, where a subsidiary of Rolls-Royce was acquired in 2019.



As is usual in Scandinavia, the EWC agreement is concise. The focus is on the Nordic countries, Poland and the Netherlands. Small countries with less than 100 employees have a common delegate mandate. The EWC is chaired by the HR director, who appoints an EWC secretary for administrative tasks. The delegates ("Consultation Representatives") elect their own chairperson and a select committee of six members who meet four times a year with central management. Further meetings without management are possible at any time, but are to take place virtually. The select committee is explicitly empowered to represent the interests of the workforce also vis-à-vis the European Commission, the Parliament or other European institutions. The EWC may commission a paid expert and a coordinator from the European Federation of Industrial Trade Unions (industriALL).

Occupational health and safety is at the top of the list of EWC responsibilities, ahead of business issues. Temporary agency work, equal treatment and anti-discrimination are also explicitly included in the catalogue. In each EWC meeting, information is divided into four categories of confidentiality: for EWC members only (A) - for EWC and national works councils (B) - for all local works councils (C) - for the whole workforce (D). In each case, central management must explain why confidentiality is required and for how long it applies. All EWC members have an allowance of three days' time-off work per year at their free disposal (in addition to official meetings), select committee members five and the chairperson twelve days. In addition there is a right to training. Normally there is one annual plenary meeting to which the substitute members are also invited. Further plenary sessions are possible, but then only as a video conference.

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### **Small East German Chemicals Company establishes EWC**



An EWC agreement was signed for Domo Chemicals in Leuna (Saxony-Anhalt) on 29 June 2021. The company which produces plastics is owned by a Belgian investment firm and has grown substantially through acquisitions. The EWC represents 2,000 workers in six EU countries, including 700 each in Germany and France and 300 in Poland.

It has 13 members and operates under Belgian law, although the company is based in Germany and there are only 47 employees in Belgium. Modelled on a Belgian works council, it is chaired by the European HR director, who appoints a management coordinator for day-to-day EWC work. The employee representatives elect the secretary and two deputies, who form the select committee and hold meetings with central management every quarter (two of which are face-to-face meetings). The plenary meetings of the EWC are held twice a year at different sites of the company.

Information and consultation in exceptional circumstances can only be carried out as a video conference with the agreement of the EWC. The EWC must render its opinion within 14 or 28 days (depending on the complexity of the issue) after being informed by central management. This concludes the consultation. The EWC may be assisted in its work by an expert from the European Federation of Industrial Trade Unions (industriALL) and a paid expert of its own choice. The right to

training applies both to collective in-house training and to the participation of individual EWC members in external seminars.

## 7. Recent SE conversions

### Family business from Bavaria escapes co-determination

On 15 June 2021, an SE participation agreement was concluded for 1,900 employees of Dehn in Nuremberg. The electrical engineering manufacturer was hereby able to ensure that employee representatives will never be part of the supervisory board. A new SE works council ("European Employee Forum") will be set up, consisting of 13 members, seven from Germany and one each from Austria, Denmark, Spain, France, Italy and Poland. It meets twice a year in Nuremberg, and two further meetings are possible, but only virtually and without interpreters. Video and telephone conferences can replace face-to-face meetings only if the three-member EWC Steering Committee agrees. The central management cannot impose this.



The SE works council's agenda includes the statutory minimum topics as well as occupational health and safety and accidents. In exceptional circumstances, there is a meeting of the entire SE works council rather than just the Steering Committee. Any decision taken in Germany that has repercussions in another country falls within the competence of the SE works council. Opinions must be rendered within two weeks. In the event of disagreement, the SE works council may request a second meeting with a view to reaching an agreement. Only then is the information and consultation procedure complete. All other parts of the SE Agreement are largely identical to the statutory standard rules. Disputes concerning the interpretation of the SE agreement are discussed in a parity-based mediation board, provided both sides can agree on an independent chairperson. If this is not successful, the dispute is immediately referred to the labour courts.

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### Hamburg family business freezes one-third participation



On 29 September 2021, an SE agreement was concluded for Eppendorf. Within a few days the world market leader in the development, manufacture and distribution of equipment and consumables for clinical, environmental and industrial laboratories will be operating as a European Company (SE) and hereby permanently fix one-third participation in the Supervisory Board just before the threshold of 2,000 employees in Germany is exceeded. Negotiations had been underway with the support of the EWC Academy since January 2021, exclusively by video conference (see [report in EWC](#)

[News 1/2021](#)).

The future SE works council has 18 members and a five-year term of office. There are provisions for two regular face-to-face meetings per year, one of which is without central management, e.g. for training. The UK has the second largest workforce after Germany and remains permanently within the scope of the SE agreement, with Switzerland also included. The Steering Committee consists of five members. Resolutions and elections may take place in virtual meetings or by a written circulation procedure, unless one third of the delegates object.

Information and consultation takes place in two stages typical of SEs. If the central management does not act in accordance with the SE works council's opinion, a further meeting is held to reach agreement. Protection is particularly strong for the many small countries that have no employee representation. Employees can approach the SE works council directly, which then exercises its right to dialogue with central management. In the case of restructuring, the SE works council is officially responsible starting with as few as five redundancies per country. It has the right of access to all plants and rights of initiative on data protection, equal opportunities, health and safety, corporate social responsibility and sustainability. All delegates have the same protection as for a German works council member.

Employee representatives continue to make up two out of the six members on the supervisory board. What is new is that each supervisory board committee now has at least one employee representative. With regard to co-determination on the supervisory board, the SE agreement can only be amended by mutual agreement, i.e. it is practically irrevocable. As for the SE works council, it can be dissolved after ten years.

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### Packaging Holding avoids slipping into one-third board-level participation



On 20 July 2021, an SE participation agreement was concluded at a Ringmetall production site in Berg (South Palatinate). The holding company, based in Munich, manages twenty companies representing 70% of the world market for clamping rings used for closing plastic barrels. 500 out of the 600 employees in Europe are in Germany and the rest in four other EU countries. After registration of the SE, which took place on 2 August 2021, further acquisitions are planned. However, the supervisory board will remain permanently without employee representatives.



The future SE works council has eight members; it will not be enlarged if the company grows. Initially, six seats are allocated to Germany and one to Italy. France, Spain and the Netherlands have one common seat. The two sites in the UK were excluded, although the country was still involved in the Special Negotiating Body. The SE works council holds two ordinary meetings a year, one of which is a face-to-face meeting. All other meetings, including the extraordinary ones, are generally held only as video conferences. The Steering Committee has three members who can usually only meet by video conference. In the event of disagreement with the employer, a conciliation board is established, each with three assessors and a neutral chairperson. All other points largely correspond to the statutory standard rules.

## 8. European works council contractual policy

### French conglomerate renews EWC agreement



On 30 March 2021 an EWC agreement was signed in Paris for the French conglomerate Bouygues, replacing the previous agreement (see [report in EWC News 4/2012](#)). The family-run business is the fifth largest construction company in Europe with 129,000 employees and the third largest French telephone network operator. It also controls the media group TF1, the privatized first TV channel. 20% of the shares are owned by the workforce, which provides four out of 14 members on the board of

directors.

The EWC has 27 members, 13 of whom are from France and one seat each for a further 11 EU countries, Switzerland and the UK. In addition, the European Federation of Building and Woodworkers Unions (EFBWW) can nominate a workplace employee representative from any country as an EWC member and a full-time trade union official as advisor. The EWC is chaired by the employer, currently the son of the company founder. The employee side elects a secretary and four other members to the EWC Board, which together with the chair (the employer) forms the Select Committee. Each EWC Board member has 220 hours' time-off work per year, in addition to the time for official meetings and training. All running costs are borne by the company, plus a separate budget of 25,000 € per year for the Board. The EWC meets regularly once a year as well as on special training dates and on request in exceptional circumstances. As is customary in France, it can commission a consultancy firm to analyze the company accounts. No deadline has been defined for the rendering of an opinion, which is unusual by French standards (see [report in EWC News 1/2014](#)).

[Full text of the EWC agreement](#)

### Handling layoffs in a socially acceptable manner

On 29 April 2021, an agreement on the socially acceptable management of the digital transformation was reached in Hanover for the TUI tourism group between its EWC and central management. The entire tourism industry has been hard hit by the Corona crisis (see [report in EWC News 2/2020](#)) and TUI's operations of travel agencies, hotels, airlines and cruise ships with 50,000 employees worldwide had to be almost completely shut down and 8,000 jobs slashed. To emerge from the crisis, the world's largest tourism company wants to become a digital Travel Tech Company.



Should this change lead to redundancies in individual European branches, the minimum standards of the agreement will apply. These include, on the one hand, support for transition interviews and career reorientation, job application training as well as in-house training programs, and on the other hand, the possibility of re-employment in the event of economic recovery. Dismissed workers receive regular

information about vacancies within the group. The EWC of the chemical company Bayer reached a similar agreement with central management in November 2019 (see [report in EWC News 1/2020](#)).

TUI has had a European Forum (as the EWC is named) since September 1996 based on a "voluntary" Article 14 agreement under German law, which was last updated in 2014. It goes far beyond the EU Directive and includes a separate airline committee for the group's airlines and a written procedure for consultation in the case of restructuring (see [report in EWC News 1/2015](#)).

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### Food division in Dutch chemicals group continues with its own EWC



A revised EWC agreement under German law was signed for DSM Nutritional Products on 17 June 2021. The EWC covers the pharmaceuticals and nutritional supplements' division of the Dutch DSM group, which is managed from Switzerland (Kaiseraugst near Basel). With 13,000 employees worldwide, it accounts for half of DSM's workforce, but generates two-thirds of sales. As before, Switzerland is represented by five delegates, the UK by one, and six delegates come from five EU countries. The EWC represents a total of 4,000 employees.

The EWC members meet twice a year and elect a chairperson and two other members to the Select Committee. Meetings with central management are always chaired by the European HR Director. Otherwise the agreement largely corresponds to the subsidiary requirements of the EU Directive. In exceptional circumstances, the EWC chairperson is informed first by central management. He may then request an extraordinary meeting, which must take place within eight days. The EWC can render its opinion within a reasonable timeframe and there is no defined deadline. It may consult an expert and participate in training.

## 9. The view beyond Europe

### Spanish department store group takes on responsibility for supply chain

On 14 July 2021, the management of El Corte Inglés signed a framework agreement with the CC.OO. and UGT trade union confederations in Madrid. It reinforces the application of international human rights, labour, social and environmental standards in the global supply chain of the group's own brands and provides for monitoring by trade unions. If problems are identified, a solution is sought through joint dialogue. The family-owned company is the largest department store chain in Europe in terms of turnover and ranks fourth worldwide, although it is only present on the Iberian Peninsula.



[Press report on the signing](#)  
[Explanation from the CC.OO trade union](#)  
[Full text of the agreement](#)

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### German automotive holding reinforces social responsibility



On 1 September 2021, an International Framework Agreement was concluded for Daimler that significantly expands and enhances an older agreement from 2002. The management's contracting partners were the World Works Council and the International Federation of Industrial Trade Unions (industriALL) in Geneva. The agreement not only includes the core labour standards of the International Labour Organisation (ILO), but goes far beyond them. In its detailed description

ranging from guidelines and practices through to monitoring, it already anticipates supply chain legislation (see [report in EWC News 1/2021](#)).

For example, combating violence and harassment in the workplace is considered an integral part of the company's policy on equal opportunities and non-discrimination. The group is committed to due diligence on human rights along the entire supply chain, wants to give special protection to whistleblowers, emphasizes the importance of data protection, sets limits on the use of artificial intelligence and promotes training and lifelong learning in the transition to electromobility. It is particularly important for unions that management commits to neutrality when they seek to recruit new members and to establish employee representation bodies. At Volkswagen, this led to the suspension of the International Framework Agreement in January 2019 (see [report in EWC News 1/2019](#)).

## Already over 100 groups support new agreement in textile production

On 1 September 2021, a renewed "International Accord for Health and Safety in the Textile and Garment Industry" came into force. After only a few days, on 6 September 2021, the number of signatories surpassed the 100 mark. It replaces a five-year agreement concluded in 2013 on building and fire protection for textile factories in Bangladesh (see [report in EWC News 3/2013](#)), which applied to 1,600 factories with two million workers.



Bangladesh had been the world's second largest garment exporter after China since 2010, but lost this rank to Vietnam in July 2021. Consequently, the new agreement provides for an extension to new countries. It is also enhanced to include due diligence on human rights as required by the new supply chain laws (see [report in EWC News 1/2021](#)). Furthermore, it includes an optimized arbitration procedure in case of violations of the agreement rules, independent inspections in the factories and contributions from the textile companies for safety training and improvements in production conditions on site.

[Report on the new agreement](#)  
[Full text of the agreement](#)  
[List of signatories](#)

## 10. Interesting websites

### New online occupational safety and health dictionary

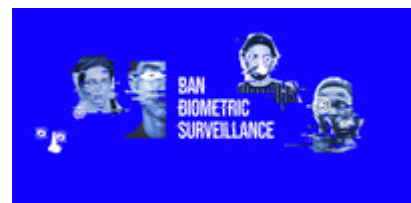


On 23 March 2021, the European Agency for Safety and Health at Work (EU-OSHA) launched a new online service: a thesaurus containing 2,000 occupational safety and health terms in 25 languages. The individual terms are explained in detail in the selected language and translations of the respective technical term appear with a single click. The dictionary can not only be used online, but can also be downloaded in Excel format in any language. The European Agency, based in Bilbao, is a body of the European Union and offers other tools and guides on occupational safety and health in many languages.

[The new thesaurus](#)

### Biometric surveillance should be stopped worldwide

On 7 June 2021, more than 200 human rights and data-protection organizations called for a complete ban on biometric surveillance technology. The use of facial recognition in public enables mass surveillance, but also discriminatory targeted surveillance. The technology is capable of identifying, singling out and tracking people everywhere. By these means, human rights and civil liberties would be undermined. The ban should apply to both governments and private companies.



On 23 June 2021, the European Federation of Industrial Trade Unions (industriALL) joined this appeal. It considers that the right of assembly, the right to strike and the freedom of association of trade unions is under threat. Since October 2020, there has already been a petition entitled "Reclaim Your Face" for a European ban on biometric mass surveillance.

[Explanation of the global campaign](#)  
[Full text of the global appeal](#)  
[Opinion of industriALL](#)  
[The petition for European legislation](#)

### New Social Dialogue Database

The European Trade Union Institute in Brussels launched a new online database of agreements that have emerged from the European Social Dialogue on 29 June 2021. This is an institutionally anchored dialogue forum on social policy issues between trade unions and employers' organizations with the participation of the European Commission, which has existed since the mid-1980s. A framework





agreement on digitalization was last concluded in this context in June 2020 (see [report in EWC News 3/2020](#)). In addition to cross-industry social dialogue, there are 43 sectoral working groups, e.g. wood working or ports or health care.

[New database of the European Trade Union Institute](#)  
[European Commission - Social Dialogue website](#)

## Environmental, social and economic sustainability in managerial staff

The final conference of the project "Sustainable Leadership for a Fair and Green Transition" is planned for 26 November 2021. The project was carried out by the umbrella organization, CEC European Managers, together with managerial associations from Germany, Denmark and Slovenia with financial support from the EU. There is a dedicated website where the results of a survey of 1,500 managers from Germany, France, Spain, Italy, Poland and Denmark are presented. It shows that there is a clear gap between political sustainability goals and the reality of the working world. While many managers are convinced of the importance of sustainability, it is insufficiently put into practice within companies and there is a lack of targeted education and training for managers. The project also developed guidelines for sustainable leadership.



[The project website](#)  
[Further information on the survey](#)  
[The guidelines for sustainable leadership](#)

## 11. New publications

### Nordic-German Trade Union Cooperation for a Just Transition



This synthesis of six country reports on "The Road to a Carbon Free Society" was published in March 2021. For all five Nordic countries and Germany the climate policies of the respective country and their economic and societal consequences were examined and the relevant national instruments were evaluated. The guiding idea is how the transition to a climate-neutral society can be linked to a just and sustainable national economy. The publications are the result of a Nordic-German trade union cooperation involving the Nordic Council of Trade Unions (NCCTU), the Friedrich Ebert Foundation (FES) from Germany and the German Trade Union Confederation (DGB). The five country reports from Scandinavia are only available in English, the synthesis is also available in German and in Swedish. For Germany an employment-oriented industrial policy has been demanded.

[The project website with all country reports](#)  
[Synthesis of the country reports](#)  
[Country report from Germany](#)

### Digitalization guidelines for works councils

In June 2021, the GPA trade union from Austria presented this brochure entitled "World of Work 4.1", which is to be understood as a further development of "Industrie 4.0". The authors describe how a works council can help shape the necessary processes "on an equal footing" with management. An overview with examples shows what digitalization means in practice and how it affects working life, e.g. an increased replaceability of the individual, the fast-fading boundary between our professional and private lives, increasing work pressure, higher speed, electronic control possibilities and less personal contact. Problems with data protection and the impact of change management on health must also be taken into consideration. In addition to checklists and suggestions for regulations, the guidelines also contains tips for a company agreement on the topic of "Home Office" (more precisely "Remote Work") and "Desk Sharing". A glossary explains the most important terms from an employee perspective.



[Brochure download](#)

## Study on "best practice" in the European Company (SE)

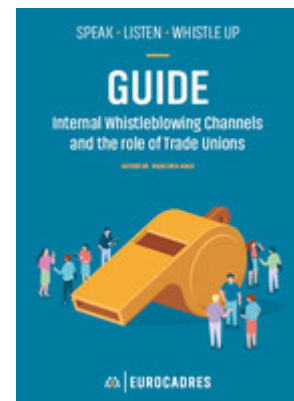


In July 2021, the Hans Böckler Foundation published this study on the interaction between SE works councils and co-determined supervisory boards. The authors use seven case studies (two of them with one-third participation) to examine how SE works councils and co-determined supervisory boards in European public limited companies (SE) are linked with one another. In this context, the resources from both areas of activity are combined in different ways and made exploitable for representing the interests of the employees. The study not only describes the communication and information exchange between works councils and supervisory boards, but also the functioning and "inner workings" of SE works councils, which are very similar to European works councils. Although Germany alone accounts for 85% of all SE conversions in Europe, there are few examples of good supervisory board participation in practice. In fact, the large number of SE conversions actually serve to avoid or limit co-determination.

[Study download](#)

## Role of works councils and trade unions in the whistleblowing process

In August 2021, Eurocadres, the European umbrella organization for professional and managerial staff, published a whistleblower guide in six languages in cooperation with Maastricht University. EU countries still have until 17 December 2021 to transpose the Whistleblower Directive into their national law. The guide explains the legal requirements and practical steps for setting up adequate internal reporting channels. It also shows how works councils and trade unions can play an active role. One chapter of the guide identifies points that national legislators could improve on with respect to the Directive; another chapter describes practical measures employers should take. Eurocadres had already published a practical guide on the new EU Directive in December 2020 (see [report in EWC News 1/2021](#)).



[Download the guide](#)  
[Download other language versions](#)

## 12. The EWC Academy: examples of our work

### US pharmaceutical wholesaler accepts functioning EWC from day one



On 2 June 2021, US-based Walgreens Boots Alliance sold almost all of its European business to AmerisourceBergen, a pharmaceutical wholesaler. Germany, Ireland and a division in the UK remain with Walgreens Boots Alliance. Since the transaction was announced in January 2021, there has been extensive consultation with the EWC, which has looked closely at the financial context and impact on jobs, with support from EWC Academy consultants. Following assurances from central management that there would be no compulsory redundancies and that the EWC would be retained by the new owner, it rendered a positive opinion on 6 May 2021.

This means that the AmerisourceBergen group, which previously had no employees in Europe, has a functioning EWC from day one. In this way a long period of several years without an EWC and the establishment of a Special Negotiating Body could be avoided. For a US company this cannot be taken for granted - others try to avoid an EWC for as long as possible, as the example of Hewlett-Packard demonstrates (see [report in EWC News 1/2017](#)).

### Will easyJet's EWC land in Berlin after Brexit?

Since 31 August 2021, the EWC Academy has been supporting easyJet's employee representatives in finding a solution for the future set-up of their European Works Council. There is disagreement over the national law which is applicable after Brexit and the inclusion of the six British EWC members.

Central management wants a completely new EWC under German law. The airline has never had an EWC agreement and has been operating under the subsidiary requirements of UK law since the EWC was established (see [report in EWC News 3/2012](#)).



The EWC wishes to remain in the company's country of origin and retain the UK EWC mandates. It won a case before the Central Arbitration Committee (CAC) in London in June 2021, but the central management referred the issue to the Employment Appeal Tribunal (see [report in EWC News 2/2021](#)). In the meantime, a British government opinion has been formulated on the issue, which explicitly supports the opinion of the EWC. However, it is unclear whether the subsidiary requirements of German law ensure the inclusion of British delegates in the long term.

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### Annual EWC Conference in Hamburg



The 13th conference for European and SE works councils took place on 13 and 14 September 2021 under Corona conditions. It was originally planned for January, but had to be postponed for several months due to the pandemic. Despite travel restrictions, 41 participants from eleven countries found their way to Hamburg. In the previous year, before the onset of the pandemic there had been almost twice as many (see [report in EWC News 1/2020](#)).

On the first day, two EWC chairpersons reported on their practical experiences, namely from the TUI tourism group (see [report above](#)) and from the US telecommunications group Verizon (see [report in EWC News 2/2021](#)). The second day focused on the handling of confidential information, which is often defined in an overly restrictive manner by management (see [report in EWC News 2/2020](#)). The next EWC Conference will take place again in the normal rhythm, i.e. on 24 and 25 January 2022.

### 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, 855 employee representatives from 295 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](#)

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### 14th Hamburg conference for European and SE Works Councils

As every year, our annual conference will be held in 2022, on the usual date of 24 and 25 January. To start with, 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 case studies from companies. On the second day, working groups on various EWC topics will be organized.



[Conference program](#)

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### EWC and SE Seminar at Montabaur Castle

From 19 to 22 April 2022, our annual seminar for members (including future members) of European Works Councils, SE Works Councils and Special Negotiating Bodies will take place in Montabaur. Several seminar modules will be offered for beginners as well as for advanced participants. The castle is located directly next to the ICE railway station halfway between Frankfurt and Cologne and can be





reached in four to five hours from Amsterdam, Brussels, Paris or Zurich with a single change of train. The travel time to Frankfurt Airport is 28 minutes, to Cologne/Bonn Airport 29 minutes.

As all works councils in Germany will be newly elected in spring 2022, we do not expect many registrations from Germany. The seminar will therefore be held in English and without interpretation. The same seminar will take place again in autumn 2022 - in German.

[Introductory seminar program](#)

[Report from an earlier introductory seminar in Montabaur](#)

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### First EWC conference in Ireland

In recent years the EWC Academy has held six European Works Council conferences 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 13 to 15 June 2022 and will be simultaneously interpreted. The evening program will include a visit to the Guinness Storehouse (photo), the historic brewery with a panoramic view of the city. Participation is not only open to EWC members who are subject to Irish law, but to all those who wish to share their working experience with Anglo-Saxon management.



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### In-house events

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

[Examples for In-house seminars](#)

## 14. Imprint

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