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Welcome to issue no. 4 / 2021 of EWC News

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1. New government wants to stop exodus from codetermination

Centre-left government in Germany for the first time since 2005



On 8 December 2021, the former Finance Minister Olaf Scholz (photo) was elected as the new Federal Chancellor. This means that the Social Democrats are once again the head of government in Germany, and for the first time in a three-party coalition with the Greens and the Liberals (known as the "traffic light" coalition after the party colors). The so-called "Alliance for Freedom, Justice and Sustainability" wants to "dare more progress", which is the title of the coalition agreement.

The new government wishes to raise the statutory minimum wage, which will be €9.82 from 1 January 2022, to €12 per hour. Only Luxembourg would then have a higher minimum wage in Europe. This will affect 8.6 million people, especially women, workers in East Germany and in companies not covered by collective agreements. Major efforts are planned in climate protection and the construction of new housing. Digital transformation of the administration, basic child security, guaranteed apprenticeships and stable pensions are also included in the coalition agreement.

[Full text of the coalition agreement](#)

[Evaluation of the coalition agreement by the Confederation of German Trade Unions \(DGB\)](#)

[Recent study on raising the minimum wage](#)

Further development of the EU into a federal state

In the opinion of the coalition parties, the conference on the future of Europe, which began in May 2021 (see [report in EWC News 2/2021](#)), should result in a constituent convention and lead to the further development of a European federal state. They want to strengthen the European Parliament, enforce EU rule of law instruments more consistently and promptly (e.g. against Poland and Hungary) and secure the conditions for an independent judiciary. On page 134 the agreement states:

"We want to promote and effectively develop democratic co-determination at the European level as well as European works councils. National participation rights must also be respected and safeguarded in cross-border conversions, mergers and divisions of companies."

The strengthening of European works councils and co-determination in European companies was already included in the coalition agreement of the Grand Coalition in 2013 (see [report in EWC News 4/2013](#)), but was never implemented.

Strengthening corporate co-determination

On page 71 of the new coalition agreement it says: "We will further develop co-determination. Works councils should be able to decide for themselves whether to work in analogue or digital form". On page 72 it continues with corporate co-determination, which the coalition wants to preserve:

"We want to prevent abusive circumvention of existing co-determination law. The federal government will work to ensure that corporate co-determination is further developed so that the growth of SE companies no longer leads to complete avoidance of co-determination (freezing effect). We will transpose the group attribution from the Co-Determination Act to the One-Third Participation Act if there is de facto real control."

A legislative initiative of the Greens from March 2021 (see [report in EWC News 2/2021](#)) has therefore found its way into the coalition agreement. In addition to an amendment to the SE Participation Act, however, the circumvention of German co-determination laws through the use of foreign legal forms would also have to be prevented (see [report in EWC News 2/2020](#)). Following the publication of the coalition agreement, law firms close to employers reacted immediately and are now recommending new constructions that should be implemented "in good time" in order to keep supervisory boards free of employee representatives in the future. The Hans Böckler Foundation, which has close ties to the trade unions, was still trying to influence the coalition negotiations in November 2021 through a press campaign. Now the federal government wants to "campaign" for this issue. This doesn't sound like a firm intention.

[Hans Böckler Foundation's press campaign](#)
[Summary of SE facts on co-determination avoidance](#)
[Podcast on co-determination in the coalition agreement](#)

European Works Councils may hold video conferences again

As of 12 December 2021, European Works Councils, SE Works Councils, Special Negotiating Bodies, Conciliation Bodies and Economic Committees may again meet virtually. This was previously permitted between 1 March 2020 and 30 June 2021. The new regulation on the Corona pandemic is also limited in time, until 19 March 2022. The special regulation only applies to bodies governed by German law. Employers cannot prohibit face-to-face meetings. The decision is to be taken by the works council unilaterally, and this has already been confirmed by the courts (see [report in EWC News 3/2020](#)).



Since June 2021, all meetings of German works council bodies may be held as video and telephone conferences, unless at least one quarter of the works council members object and that it can be ensured that third parties are not able to have access to the contents of the meeting. However, face-to-face meetings are considered the norm. The German legislator had not provided for the possibility of virtual meetings for European works councils; but this can be stipulated in the EWC or SE agreement. Unlike in France, where video meetings may be recorded (see [report in EWC News 3/2015](#)), this is not permitted in Germany.

[Full text of the special regulation](#) (from page 5170 on, articles 5 to 9)

2. Recent developments at the European level

European Parliament wants minimum wage and to increase collective bargaining coverage



On 25 November 2021, the European Parliament adopted a report calling for higher levels of collective bargaining coverage and more protection for trade union activities by 443 votes in favor, 192 against and 58 abstentions. If collective bargaining coverage in an EU country is less than 80%, the respective government should present a clear timetable and take concrete measures to reach the 80% threshold. With their demand, the parliamentarians have gone beyond the proposal of the European Commission, which

envisaged 70%. In Germany, collective bargaining coverage is only 52% with a downward trend.

The debate began in January 2020 when the European Commission presented ideas for an appropriate minimum wage to the public and consulted the social partners (see [report in EWC News 3/2020](#)). It finally presented a draft directive on 28 October 2020 (see [report in EWC News 2/2021](#)). A much more explosive issue than the minimum wage, however, is the targeted promotion of collective bargaining, which is also included in the legislative text. If the 80% threshold were to be applied, 21 EU countries would have to take legal measures, e.g. by making collective agreements generally binding. Only the Scandinavian countries, France, Belgium, Italy and Austria currently have collective bargaining coverage above 80%. In addition, the planned EU directive calls for an increase in the capacity of the social partners to actually conduct collective bargaining. Weak trade unions, e.g. in Central and Eastern Europe, would have to be made capable of acting through state support. The directive is to be adopted at the beginning of 2022 and is running up against strong opposition from employer organizations.

[Full text of the original proposal for a directive](#)
[Report on the European Parliament's amendments](#)
[The amendments of the European Trade Union Confederation](#)
[European Parliament press release on the vote](#)
[Press release from the metalworkers and electrical employers' federations](#)
[Levers to strengthen collective bargaining in Germany](#)

Better protection for 5.5 million platform workers

On 9 December 2021, the European Commission presented a proposal for a directive that aims to improve working conditions on digital platforms. Workers who meet certain criteria would automatically be classified as employees, unless the platform is able to prove otherwise. They would then be entitled to workers' rights and social benefits, and would be allowed to engage in collective bargaining. The new EU directive is intended to set minimum requirements across Europe. There have already been court rulings on the subject in some countries (see [report in EWC News 1/2021](#)). Most recently, the Federal Labour Court in Germany ruled on 10 November 2021 that a bicycle courier's work equipment (bicycle and smartphone) must be provided by the employer.



Platform workers should also be better protected from algorithmic control and receive information on how their work is evaluated and how they are assigned jobs. Algorithmic decisions with a significant influence on working conditions would furthermore always have to be checked by humans. There have already been court decisions on this as well and most recently a fine of €2.6 million was imposed on the food delivery service Foodinho in Italy in July 2021 (see [report in EWC News 3/2021](#)).

[European Commission press release](#)
[Full text of the proposed directive](#)
[Press report on the proposal for a directive](#)

European Parliament to extend democracy in the workplace



476 members of the European Parliament voted in favour of strengthening employee participation rights at a plenary session held on 16 December 2021 in Strasbourg. There were 115 votes against and 99 abstentions. The resolution, entitled "Democracy at Work", was drafted by Social Democrat Gabriele Bischoff, who worked for the German Trade Union Confederation (DGB) before becoming an MEP. The draft was presented in July 2021 (see [report in EWC News 3/2021](#)).

The resolution calls for a framework directive on information, consultation and participation of workers, a strengthening of co-determination in supervisory boards and a revision of the directive on the establishment of a European Works Council. The trade unions expect the European Commission to present a draft directive in 2022. This should also close loopholes for avoiding co-determination, which the SE Directive currently still offers.

[Full text of the resolution](#)
[Press release from the European Trade Union Confederation](#)
[Political assessment of the resolution](#)

Forthcoming Event

The author of the resolution, Gabriele Bischoff, will present further developments at the Hamburg conference for European Works Councils on 27 June 2022.

[EWC conference program](#)



3. News from individual countries

Environmental competence for French works councils

On 24 August 2021, a comprehensive law called "Loi climat et résilience" for short was adopted in France to combat climate change and to strengthen resilience in view of its impact. Its 305 articles contain important milestones in the fields of environment, energy, consumption, construction, transport and working life. In chapter two, under the heading "Adapting employment to environmental change", articles 40 and 41 give the Economic and Social Committee (CSE), which is the new name for local works councils, a remit for environmental issues. From 2019, the former works councils have been merged with the occupational health and safety committees to form the new CSE (see [report in EWC News 1/2018](#)).



The employer must now inform and consult the CSE on the environmental impact of its projects: regarding the economic and financial development of the company (e.g. restructuring), work organization, vocational training and production techniques. In France, access to experts for the works council is legally possible and to a major extent, is common practice. For regular analysis of the economic and financial situation of the company, as well as for workforce downsizing and social plan negotiations, the employer must pay all consultancy costs. As a consequence, the Climate Change Act has now also extended the competence of experts to environmental issues. Also new is the right of the works council to attend training on environmental issues.

New role for collective bargaining

The Climate Change Act introduces the obligation to take environmental change into account in collective bargaining on future-oriented employment and skills management. This applies to all collective workplace agreements in companies with 300 or more employees and to all sectoral collective agreements. Every three to four years an update (renegotiation) of existing collective agreements in these areas is required by law.

[Full text of the law](#) (see page 17 onwards)

Will Polish EWC members lose their protection?



If the right-wing populist ruling party PiS has its way, Poland will no longer belong to the EU's legal community. On 8 October 2021, the Polish Constitutional Tribunal, which consists exclusively of members of the ruling parties, decreed that Polish law takes precedence over EU law. For the first time in the history of the EU, the highest court of a member state denies its own judges the power to examine the compatibility of national legal acts with EU law. This "de facto exit" of Poland from the EU also calls into question the EWC Directive, as the

European Court of Justice is now barred from reviewing Poland's EWC law.

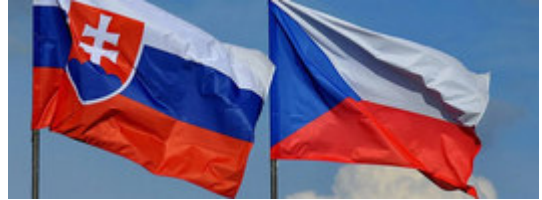
In 2018, a disciplinary chamber was formed at the Constitutional Tribunal, which can dismiss any judge who disagrees with the political orientation of the government - a typical feature of the judicial system of dictatorships. The European Commission had already launched the Rule of Law Mechanism against Poland in 2016. In July 2021, the European Court of Justice issued an order that the Disciplinary Chamber be abolished with immediate effect and that judges who had already been dismissed be reinstated. On 27 October 2021, Poland was ordered to pay a daily penalty payment of €1 million. The European Commission is withholding €36 billion from the EU Reconstruction Fund for Poland, a measure which has been explicitly welcomed by 61% of Poles.

Majority of the population wishes to remain in the EU

According to a recent poll, 88% of Poles view their country's membership in the EU positively and only 9% view it negatively. The ruling PiS party is struggling against this backdrop: in the opinion polls it has slumped from almost 44% in the 2019 elections to 37%. The pro-European opposition (the Civic Coalition, the new Polska 2050 party and the left-wing Razem party) has a combined 47%. On 10 October 2021, 200,000 people demonstrated in 126 cities in Poland under the slogan "We are Europe" against the Constitutional Tribunal's ruling.

Labour shortage in the Czech Republic coming to a head

Czechia has had the lowest unemployment rate in the EU for many years; in October 2021 it was 2.6%. During the Corona pandemic, the country had to give up this top position only temporarily to Poland. Poland later fell back again, even behind the Netherlands, where the lowest rate in all of Western Europe is recorded at 2.9%. Spain is at the bottom of the scale in the EU with 14.5%. In the Czech Republic, Prague and Central Bohemia with 1.3% are running at only half the national average. Parts of Bavaria, which is geographically close, also have the lowest unemployment rate of any region in Western Europe at 2%.



Despite full employment and labour shortages, working hours have fallen by 2.8 hours a week from 2019 to 2020, more than in any other EU country. Added to this are wage increases, which the trade unions have been specifically demanding since 2015 with their campaign "An end to Cheap Labour" (see [report in EWC News 4/2018](#)). Most recently, the annual wage increase was 11.3% and average earnings were €1,500 (in Prague €1,800). The statutory minimum wage has also increased significantly in recent years (see [report in EWC News 1/2021](#)). Labour shortages lead to increased immigration. For example, 15% of all workers in the Czech Republic today come from abroad, many from Southern Europe and Ukraine.

In the parliamentary elections held on 8 and 9 October 2021, the Social Democrats and the Communists, who had supported the previous government, failed to clear the 5% hurdle. Both parties are no longer represented in parliament for the first time since the founding of the Czech Republic in 1993. The new conservative government, supported by the Pirate Party and the Mayors' Party from the green-liberal spectrum, has been in office since 17 December 2021 and is clearly committed to the EU. This includes measures to prepare for accession to the Eurozone, even if it is not to be completed in the current legislative period. The new government wants to promote dual education and facilitate the employment of workers from third countries.

Slovakian firms can't find applicants either

Even more than in Czechia, the automobile industry plays a significant role in Slovakia, which introduced the euro as a means of payment in 2009 (see [report in EWC News 1/2018](#)). Although Slovakia does not have full employment with an unemployment rate of 6.3%, 92% of all companies with ten or more employees report difficulties in finding suitable applicants for vacancies. In no other EU country is this percentage higher, according to a report from the European Foundation for the Improvement of Living and Working Conditions (Eurofound) on "Tackling labour shortages in EU Member States".

[Report on the situation in the Czech Republic](#)
[Analysis of the parliamentary elections in the Czech Republic](#)
[Report on the situation in Slovakia](#)
[Report on tackling labor shortages in EU countries](#)

4. Recent court rulings

Better coverage for collective bargaining in the UK



On 27 October 2021, the German family-owned company Kostal from North Rhine-Westphalia lost a legal dispute in the UK Supreme Court against the trade union Unite in the last instance, thus making legal history. At Kostal's Rotherham (South Yorkshire) branch, management had tried to get the workforce to walk out of ongoing collective bargaining by making direct offers. The 55 claimants will now receive compensation of £7,600 (about €8,900) each, totaling £418,000 (just under €500,000). The automobile supplier has 20,000 employees worldwide and has had a

European Works Council since June 2017 (see [report in EWC News 4/2017](#)).

In February 2015, the Rotherham plant management reached an agreement to recognize the Unite trade union as a collective bargaining party after the majority of the 700 workers had demanded this in a ballot. Wage negotiations began in October 2015. After management's initial offer was rejected by the bargaining committee, it made the same offer directly to workers, threatening to sack anyone who did not accept it. A Christmas bonus of £270 (€370 at the time) was also paid only to those who accepted the offer. The Sheffield employment tribunal ruled the attempt to break a union and divide members as illegal in February 2017. The case then continued through the courts.

Historically, collective agreements have never been enforceable

In the United Kingdom, with its conflict-oriented tradition, labour law has never offered the kind of protection for collective agreements that is common in continental Europe. To this day, the principle is that collective agreements are not enforceable unless they contain a clause stating that they are legally binding or the individual employment contract makes express reference to them. All labour law is based on the freedom of trade unions and employers, who can largely do as they please. Restrictions on trade unions came later through the Thatcher laws and on employers through EU law. The new ruling represents a break with the "free play of forces" and a milestone for the legal security of collective bargaining. However, any employer will still have the option of opting out of a collective agreement without compensation if it first fully exhausts negotiations with the union and can demonstrate these efforts in court.

[Summary of the court ruling](#)

[Full text of the court ruling](#)

[Report on the ruling](#)

[Statement from the Unite trade union](#)

No restructuring without SE works council

On 9 December 2021, the Versailles Court of Appeal issued a temporary injunction allowing Atos' SE works council to resume its work. The French IT group is one of the ten largest in the industry with 110,000 employees worldwide. After terminating the SE participation agreement, the central management had declared the SE works council dissolved in April 2021 and proceeded to establish a Special Negotiating Body. In the first instance, the application for an interim injunction against this had been rejected (see [report in EWC News 2/2021](#)).



The court of appeal considered that there should be no period "without works council". Either a new agreement is concluded after the termination of an agreement or the standard rules apply (SE works council "by law"). For the court, the convening of a Special Negotiating Body does not mean that an existing SE works council ceases to exist. Until the end of the statutory negotiation period of six months in March 2022, the SE works council will initially continue to operate on the basis of the terminated SE Agreement on Employee Participation. Whether and for how long this will be extended, or from when the standard rules will apply, will possibly have to be clarified in further court proceedings. The company must bear all costs for the legal dispute, including those of the first instance, and pay the SE works council compensation of €6,000. The Atos SE agreement dates back to 2012 and is still considered one of the best concluded in France (see [report in EWC News 1/2013](#)).

[Report on the judgement](#)

5. What sanctions for infringement of EWC rights?

Completely new territory for jurisdiction



failed.

In recent years there has been an increase in litigation concerning the European Works Council. Most of the cases have concerned Anglo-Saxon groups, mostly from the USA, and companies in the packaging industry. One focus was Great Britain, where half a dozen EWC lawsuits were filed every year before Brexit. The European Works Councils were able to win many of these cases. So far, however, only in France and Belgium have they succeeded in obtaining injunctions to provisionally stop the implementation of measures. Several attempts in Germany and the Netherlands have

The EU Directive on the establishment of a European Works Council states in recital 35: "The Member States must take appropriate measures in the event of failure to comply with the obligations laid down in this Directive" Recital 36 speaks of "sanctions which are effective, dissuasive and proportionate to the seriousness of the offence". But what is an effective and dissuasive sanction? In France the highest fine ever imposed was €15,000 (see [report in EWC News 1/2019](#)) and in the UK it was £40,000 (see [report in EWC News 3/2020](#)). No fine has ever been imposed in Germany. There is also no European Court of Justice case law on the matter.

[Overview of court proceedings on EWC matters](#)

The EU General Data Protection Regulation provides guidance

The General Data Protection Regulation has been in force since May 2018 (see [report in EWC News 1/2016](#)). Article 83 provides for fines that must be "effective, proportionate and dissuasive" and can amount to up to 4 % of the total worldwide annual turnover of the preceding financial year. On this legal basis, the Hamburg Commissioner for Data Protection and Freedom of Information imposed a fine of €35.3 million on Hennes & Mauritz Online Shop in October 2020 for keeping files with confidential personnel information (see [report in EWC News 4/2020](#)). As the wording "effective, proportionate and dissuasive" is similar in both legal acts, this order of magnitude could also be considered for violations of EWC law. Shortly before the end of 2021, there are three EWC lawsuits currently underway which have the potential to bring this issue all the way up to the European Court of Justice: one in Austria, one in Germany and one in Ireland. The plaintiffs are being advised by the EWC Academy.

Austria's implementation of EWC Directive patchy

On 15 December 2021, the European Works Council of Mayr-Melnhof Packaging filed a complaint with the Vienna Administrative Court. The first instance for setting fines, the Magistrate of the City of Vienna, had rejected an application by the EWC against the company's managing directors because the Labour Constitution Act does not provide for sanctions for violations of EWC rights. Fines can only be imposed in Austria if the rights of a Special Negotiating Body are infringed. This apparent loophole in the text of the law violates recitals 35 and 36 of the EU Directive.



Since April 2019, the central management of the Austrian packaging company with almost 10,000 employees has refused to finance meetings of the Select Committee and to reimburse the costs for advisory services, interpreters and travel. A lawsuit on this is pending before the Labour and Social Court in Vienna (see [report in EWC News 3/2019](#)). The Municipality of the City of Vienna is responsible for setting fines, which is why a complaint was filed there. The EWC of Mayr-Melnhof Packaging operates on the basis of subsidiary requirements ("by law") after negotiations on an agreement failed. The complaint to the Administrative Court contains the request for a preliminary ruling before the European Court of Justice.

Further legal action in Germany

Since 22 January 2021, proceedings have also been ongoing before the Oldenburg Employment Court. The chairperson of the EWC of Mayr-Melnhof Packaging works at the Delmenhorst plant and wants to hold the management in Germany jointly and severally liable for the reimbursement of legal fees in Austria. The central management in Vienna refuses to pay. The Oldenburg Employment Court had approved the reimbursement of travel expenses in January 2020 (see [report in EWC News 1/2020](#)). The question of principle goes far beyond this specific case. Should a German employer also be jointly and severally liable alongside the central management abroad, European Works Councils would in future be able to take legal action in the jurisdiction of their choice. This would consequently create a "level playing field" vis-à-vis multinational companies, which are often able to choose the jurisdiction of their choice. This question should be referred to the European Court of Justice, according to the plaintiff's application.

Application for sanctions against US group in Ireland

On 27 December 2021, the Verizon European Works Council applied to the Department of Enterprise, Trade and Employment in Dublin for a review of the EWC Act. It wants to initiate criminal proceedings against central management of the US company for failing to inform and consult on the sale of Verizon



Media. In April 2021 it was announced that Verizon Media (Yahoo and AOL) was to be sold, which took place on 1 September 2021. But the participation requested by the EWC never happened.

Verizon's central management deliberately and regularly ignores the rights of the EWC and tries to obstruct its work (see [report in EWC News 2/2021](#)). In the UK, the company was fined £40,000 in October 2020, the highest fine ever imposed in Europe (see [report in EWC News 3/2020](#)). Apparently, however, this sum was not "effective, dissuasive and proportionate to the seriousness of the offence" as required by recital 36 of the EU Directive. The EWC requested a fine of €90 million, citing similar orders of magnitude for breaches of the EU General Data Protection Regulation. However, the Irish EWC law does not provide for such a fine. Therefore, the case could lead to a clarification before the European Court of Justice.

[Press release of the SIPTU union](#)

6. European Works Council interviews prospective buyers

French energy group writes social guarantees into the purchase agreement

On 5 November 2021, it was announced that Engie will sell its technical services division Equans, with 74,000 employees in 17 countries (including 27,000 in France alone), to the conglomerate Bouygues. The transaction is expected to be completed in the second half of 2022. It is the biggest reorganization since 2008, when Gaz de France and Suez were merged to form the current Engie group. At that time, the Gaz de France EWC blocked the merger for a year and a half through the courts (see [report in EWC News 1/2008](#)). In order to avoid such a risk, management now involved the EWC in the selection of potential buyers at an early stage.



Information and consultation on the planned sale began as early as 18 February 2021. The EWC rendered a negative opinion on 23 June 2021, although central management was prepared to demand social guarantees from the buyer, including a job guarantee of two years. On 7 and 8 October 2021, the EWC select committee was able to meet the four bidders for the Equans takeover and question them for one and a half hours each. In addition to a top manager from the US financial investor Bain Capital, the CEOs of the construction group Eiffage, the industrial services provider Spie and the conglomerate Bouygues came in person to explain their offer. All four were prepared to extend the employment guarantee to five years. The EWC presented each bidder with a catalogue of further demands to reduce the risks to the future of employees:

- The company's headquarters is to remain in France for at least five years
- Temporary agency work and subcontracting to be limited to strictly necessary levels
- Workforce to receive 5% of the share capital and one-third of the seats on the board of directors
- Shareholders from outside Europe must not hold more than 50% of the shares
- Equans' debt must not be used to reimburse the purchase price, pay dividends to the buyer or carry out a share buyback.

The aim is to reach an agreement between EWC, Equans and the future buyer before the completion of the sale process. After hearing from the prospective buyers, the EWC select committee, with the support of a consultancy firm, was able to prepare an evaluation of the bids submitted. However, this document was only published after the decision of Engie's central management to sell to Bouygues had been taken. The EWC had not made a recommendation for a particular bidder. In addition to no compulsory redundancies in Europe for five years, which Bouygues' CEO had already promised the EWC at the hearing, 10,000 new jobs are to be created over the next five years.

Separate EWC for the new division

With regard to the structure of the European Works Council, an agreement was also reached that goes far beyond the law. A Special Negotiating Body is to be set up for the technical services division to negotiate the composition, powers and functioning of a European Divisional Works Council. Without this special arrangement, Equans would have been integrated into the Bouygues EWC, which last updated its EWC agreement in March 2021 (see [report in EWC News 3/2021](#)).

[Press release from the EWC on the evaluation of the bidders](#)

7. Negotiations on SE conversions

Employer takes over chairmanship of SE works council with voting rights



Edenred from Issy-les-Moulineaux (near Paris) has been operating as a European Company (SE) since 9 June 2021. The company is the inventor of the Ticket Restaurant System and today the world market leader in meal vouchers, the digital processing of petrol, toll or parking fees as well as virtual credit cards for company payments. Out of 10,000 employees worldwide, 4,100 work in 21 EU countries, which were represented by 26 delegates in the Special Negotiating Body (SNB). The SE agreement of 23 March 2021 largely follows the EWC agreement concluded in September 2014 (see [report in EWC News 4/2014](#)), but lacks typical SE features such as the double consultation procedure. The competence of the SE works council is also more narrowly defined than in the SE Directive.

In the future SE works council, the same distribution of seats applies as in the SNB. It is in the process of being newly elected and will replace the old EWC, but will continue to be called EWC. The HR Director not only takes the chair (which is common in France), but has the casting vote in the event of a tie. The EWC elects the secretary and four other members to the select committee. It may seek advice from an expert firm and a representative of the European trade unions. Deadlines for submitting a list of questions as part of the information and consultation process are very tight - similar to the French local works councils. The 26 EWC members meet once a year for a face-to-face meeting and can request an extraordinary meeting at any time by majority vote. In June 2015, the EWC Academy had provided training for the EWC (see [report in EWC News 2/2015](#)).

Unlike in Germany, where SE conversions are often misused to escape from co-determination (see [report in EWC News 2/2020](#)), in France they are part of an internationalization of the corporate structure, especially in IT-related sectors. In terms of numbers, France, with about 15%, is second only to Germany, which accounts for more than 80%. All other EU countries play a very minor role in terms of numbers. The two employee representatives on Edenred's board of directors will retain their mandates until the end of their term of office, after which one mandate each will be attributed to the French Central works council and the EWC.

[Full text of the conversion plan](#)

SE conversion fails for the time being due to Corona pandemic

On 29 October 2021, the Supervisory Board of Bechtle decided to terminate the plan to convert the company into a European Company (SE) for the time being. The grounds given for this was the Corona pandemic. Although the election of the Special Negotiating Body had started in autumn 2020, the constituent meeting planned for the beginning of November 2020 had to be cancelled again due to travel and contact restrictions. The legally required face-to-face meetings could not take place. "And there is no certainty at this time as to whether in-person meetings within the required time frames will once again be possible in the coming months", a press release states. The company reserves the right to revisit the project of an SE conversion at a later date.



In other companies, however, SE negotiations take place by video conference, especially when time is short with a view to escaping co-determination (see [report in EWC News 3/2021](#)). The need for face-to-face meetings at Bechtle indicates that serious negotiations were planned. An escape from co-determination is no longer possible, because the Supervisory Board already has full parity representation. With 12,000 employees in 14 European countries, Bechtle is the largest IT system house in Germany and has its headquarters in Neckarsulm (Baden-Württemberg). There is not yet a European Works Council.

[Company press release](#)

Mobility service provider avoids full parity co-determination

On 9 December 2021, Tier Mobility was converted into a European Company (SE). Founded in 2018, the startup from Berlin operates a digital platform for renting small electric vehicles and has 1,900 employees in 13 countries within the EU, including nearly 1,400 in Germany and 200 in Finland. Due to its rapid growth, it could soon reach the threshold of 2,000 employees in Germany, which would



lead to full parity co-determination. Following SE conversion, the workforce has now been excluded from the Board of Directors.

The SE involvement agreement of 12 November 2021 provides for the establishment of an SE works council with twelve members, which meets twice a year. Large countries receive their own mandates, smaller countries are grouped into regions and send regional representatives. The executive committee has three members. Virtual meetings are only possible if the SE works

council does not request a face-to-face meeting. In the case of restructuring, a two-stage consultation procedure is provided for, as formulated in the SE Directive's standard rules. The right to experts and training is in line with the legal standard.

Extensive competence in small countries

The SE works council can be involved in national matters at the request of 20% of the workforce if there is no works council in the country concerned or if an issue surpasses the powers of the subsidiary's management. The SE works council is also competent if more than half of the full-time employees in two countries are affected. It has a right of access to all company premises and a right to reimbursement of travel expenses in order to discuss matters with employees on site. In addition, it has the right to take the initiative in harmonizing and developing working conditions within the SE. The EWC Academy supported the Special Negotiating Body in drafting the agreement.

8. Contractual policy of European works councils

Logistics company renews EWC agreement

On 6 September 2021, Geodis renewed its EWC agreement. The largest logistics company in France has 41,000 employees worldwide and has been a subsidiary of the French public railway company SNCF since 2008. The European Works Council was established in 2000, when Geodis was still independent. It includes three representatives from the group's management (the CEO, the CFO and the HR director) and 26 employee representatives, 17 of whom are from France. The other countries are Italy, Spain, Germany and the Netherlands. The EWC meets twice a year and can call on the assistance of an expert who analyses the company's balance sheets. The EWC select committee consists of two representatives from central management, seven employee representatives from France and one from another country. It is always chaired by the employer and the employee representatives elect a secretary. A special feature at Geodis is that the secretary of the EWC can attend all meetings of the supervisory board in an advisory capacity.



All travel and interpretation costs are borne by the company. In addition, the EWC has its own office and an annual budget of €12,500 for other activities and €10,000 for training. Each EWC member has 120 hours time-off work per year in addition to the time for normal meetings. In addition, there is an allowance of 650 hours that the EWC can freely allocate to individual delegates. The parent company SNCF also has a European Works Council, which was established in 2012 (see [report in EWC News 1/2013](#)).

[Full text of the EWC agreement](#)

Sustainable development as an EWC issue in the construction industry

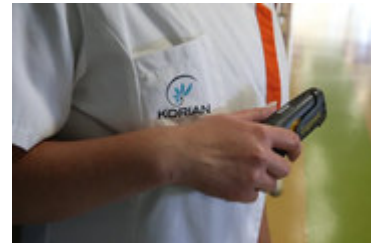


A revised version of the EWC agreement for the French construction group Eiffage was signed on 9 September 2021. The EWC has been in existence since 1998, but its responsibility for environmental issues and sustainable development is new. The company's climate report and biodiversity action plan are also on the agenda of its biannual meetings. All other features remain largely unchanged compared to the previous EWC agreement of December 2016 (see [report in EWC News 1/2017](#)).

[The company's climate report](#)

Occupational health and safety in care services group

On 16 November 2021, the management of Korian, the second largest European care services group, signed a protocol on health and safety including the prevention of occupational accidents with its European Works Council. The listed French group with 57,500 workers in seven countries was the first in the sector to establish an EWC in April 2019 (see [report in EWC News 2/2019](#)). At that time, it was already agreed to establish a permanent working group on promoting occupational health and safety.



The care sector has a higher accident rate than the construction industry or other sectors. Even if there are mostly minor accidents, many days are lost due to muscular-skeletal injuries. The protocol aims to evaluate best practices from different countries and make them accessible across Europe. For example, Italian legislation provides for a strict monitoring system with multidisciplinary health and safety committees. According to central management, this is one of the reasons why Italian facilities achieve the best results within the Group. The protocol builds on a health and safety agreement concluded with the French trade unions in May 2021. A follow-up committee at European level will meet twice a year to assess progress.

[Company press release](#)

[Critical report on co-determination in private health and care groups](#)

9. The view beyond Europe

Growing pressure on German building materials manufacturer



On 13 and 14 October 2021, 70 HeidelbergCement employee representatives from 20 countries discussed the impact of the Corona pandemic on the cement industry, occupational health and safety, clean technologies and global workers' rights in a video conference. In a statement, they demand an end to the abuse in the use of subcontractors and temporary work. Also, the Group management should finally start negotiations on an international framework agreement, which has been demanded by the unions for years. HeidelbergCement has 53,000 employees worldwide. A European Works Council under German law has existed since

1996 and includes delegates from Italcementi after the acquisition of the Italian company in 2016 (see [report in EWC News 4/2016](#)).

[Report on the video conference](#)

[Full text of statement](#)

Strike at the world's largest manufacturer of agricultural machinery in the USA

On 2 November 2021, 30 employee representatives of John Deere from Europe, Brazil and the USA met for a video conference to discuss the economic and collective bargaining situation in the company as well as joint strategies for social dialogue with management. The American trade unions were introduced to the new structure of the European Works Council, which has existed since 1996 and operates under German law. The networking of the trade unions could soon lead to the establishment of a World Works Council (see [report in EWC News 2/2018](#)).



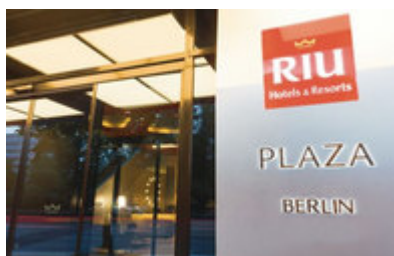
Between 14 October and 17 November 2021, 10,000 workers went on strike at 14 of the US company's plants in the Midwest. It was the first strike in 35 years. The new collective agreement runs for six years and provides for a 10% wage increase in the first year. The strike at John Deere is part of an unprecedented wave of industrial action that has swept various industries in the US, dubbed "Striketober" by the media.

[Report from the video conference](#)

[Report on the strike in the USA](#)

Spanish hotel chain with two global agreements

On 4 November 2021 in Palma de Mallorca, RIU management signed two agreements with the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers'



Association (IUF) on trade union rights and against sexual harassment in the workplace. All 24,000 workers in 24 countries may join a union and demand collective bargaining. To ensure the prevention of sexual harassment, guidelines are developed with local unions in each hotel. Both agreements are subject to joint monitoring by RIU management and the IUF. The largest minority shareholder of the company, which originally started as a family business, is the German tourism group TUI, which operates and markets hotels in a joint venture with RIU.

[Report on the signing](#)
[Full text of the agreement on trade union rights](#)
[Full text of the agreement against sexual harassment](#)

10. Interesting websites

No profit on Corona pandemic

Since November 2020, a European Citizens' Initiative has been demanding concrete legislative action from the European Commission to make pandemic vaccines and treatments a global public good, freely available to everyone. Big pharmaceutical companies should not be able to profit from the pandemic at the expense of people's health or decide who has access to treatments or vaccines and at what price.

The initiative is supported by consumer and social organizations as well as trade unions from 20 EU countries, with a particularly high number of signatories from Belgium and Italy. The website is available in 26 languages.



[Citizens' initiative website](#)

Digitalization of the working world in Central and Eastern Europe



Since July 2021, a website presents the research results of a project on Industry 4.0, digitalization and artificial intelligence in countries of Central and Eastern Europe. The project, which is financially sponsored by the European Union, is being carried out jointly by employers' organizations and trade unions in Hungary, Romania and Slovakia. In doing so, they not only want to underline the importance of a strong social dialogue in their respective countries, but above all to put the European Framework Agreement on Digitalisation of June 2020 into practice (see [report in EWC News 3/2020](#)). The collective bargaining partners in all EU countries must report annually to the Social Dialogue Committee in Brussels.

[The project website](#)
[Report from a seminar in Romania](#)
[Report from a seminar in Slovakia](#)
[Report from a seminar in Hungary](#)

The Digital Transformation in the construction industry

The two-year EU-funded project DISCUS (Digital Transformation in the Construction Industry: Challenges and Opportunities) was concluded in October 2021. Project partners from Belgium, Bulgaria, France, Germany, Italy and Spain were involved. They investigated digital transformation and technological change in the sector in a cross-country comparison and what contribution innovative labour relations can make to improving the working conditions of construction workers in environmental and social terms. The project was led by the Fondazione Giuseppe Di Vittorio in Rome, the foundation of the Italian trade union confederation CGIL for historical, social, economic research and trade union education.



[The project website](#)
[Executive summary of the project report](#)
[Case studies from six countries](#)
[Fondazione Giuseppe Di Vittorio website](#)

Database on collective agreements in Europe

COLLECTIVE BARGAINING DATABASE

Since the beginning of November 2021, the results of collective bargaining as well as information on socio-political and economic developments in European countries are available in a new database. The European

Federation of Industrial Trade Unions (industriALL) in Brussels hereby aims to help negotiators at national and local level to learn from the practice, trends and achievements of other countries. The database is supplied with documents from some 150 collective bargaining experts from over 35 countries and is divided into four areas: Collective Bargaining, Work Organization and Working Conditions, Environmental and Digital Change, and Gender Equality.

[The database on collective agreements](#)

11. New publications

The age of surveillance capitalism à la Amazon

In July 2021, the umbrella organization of service unions (UNI Global) presented a report on workplace surveillance at Amazon, the world's second largest private employer with 1.3 million employees (in the EU there are 100,000). The authors from the University of Toronto point out the barcode scanners that can be used to determine the position of an item on the shelves. Without these technologies, which digitally monitor every move, workers cannot do their jobs. Delivery drivers are monitored via phone apps and cameras installed in the vehicles and controlled by artificial intelligence. Amazon is at the forefront of innovation in digital surveillance technologies and sells them to other companies in logistics and other sectors of the economy. Workplace democracy, privacy and workers' health and safety are at stake here.



In September 2020, the US headquarters posted two job advertisements for union busters to prevent the establishment of employee representations worldwide (see [report in EWC News 3/2020](#)). In Italy, a company collective agreement was successfully enforced for all sites on 15 September 2021, for the first time in an EU country, after a logistics center made a start in May 2018 (see [report in EWC News 3/2018](#)). UNI Global's report is available in nine languages.

[Download the report](#)

[UNI press release and download all language versions](#)

[Report on the national company collective agreement in Italy](#)

[Study on Amazon's distribution center in Erfurt, Germany](#)

Strategies for targeted EWC information and consultation



The results of a project carried out by the European Federation of Building and Woodworkers (EFBWW) on some special aspects of the work of European Works Councils are available since September 2021. The project was tailored to the construction, building materials, cement and woodworking sectors. This has resulted in four guides in eight languages, which are also useful for European Works Councils in any other sector. The booklets show how an EWC can use its information and consultation rights on health and safety, training, subcontracting and demographic change to play an active role in organizational change. There are checklists on how to prepare for EWC meetings, what tools are available to the EWC and what negotiating rights it can assert.

[Download all four EWC guides in all languages](#)

Forthcoming Event

The author of these guides will be holding a workshop on the role of the EWC in outsourcing and temporary agency work at the Hamburg European Works Council Conference on 28 June 2022.

[The EWC guide on subcontracting](#)

[Program of the EWC conference](#)



Are trade unions allowed to communicate electronically with the workforce?

The Corona pandemic with its lockdown and home office has left works councils and trade unions wondering how they can maintain regular contact with the workforce. What electronic means can they use to communicate? A legal opinion from the Hans Böckler Foundation was published in October 2021. It analyses the right of access to the digital workplace and gives an overview of possibilities for works councils and trade unions to communicate in digital spaces. So far, many companies refuse to allow the use of company email addresses, company intranets or virtual notice boards. An exemplary court case on this issue is currently pending against the sports goods manufacturer Adidas in the second instance. In the rubber sector, the IG BCE trade union reached an agreement with the employers' association in May 2021 on the first social partner agreement on digital access rights in Germany.



[Press release on the study](#)

[Full text of the study](#)

[Report on the agreement in the rubber sector](#)

[Full text of the agreement](#)



Enforcing human rights along global supply chains

Legal tactics and good tools exist for transitioning from voluntary forms of corporate social responsibility to mandatory human rights due diligence. This study, published in October 2021, gives an insight into the legal toolbox and explains how trade unions can use them. Global framework agreements with multinational companies, multi-stakeholder initiatives, enforceable trademark agreements, OECD Guiding Principles, compensation funds and transnational litigation are analyzed. To ensure binding due diligence, the European Commission announced the drafting of a supply chain law by the end of 2021 (see [report in EWC News 1/2021](#)). 46 organisations protested in an open letter on 8 December 2021 after this was postponed for the third time running with no reasons given.

[Download the study](#)

[Information on global economy and corporate responsibility](#)

[Protest letter to the European Commission](#)

12. The EWC Academy: examples of our work

Europe's largest pharmaceutical retailer makes acquisition

On 12 and 13 October 2021, the semi-annual meeting of the SE Works Council of Phoenix Pharma took place via video conference. The Mannheim-based company has 40,000 employees and is active in the wholesale of pharmaceuticals in 26 European countries and has its own pharmacies in 14 countries. Since December 2016, there has been an SE works council, which replaced the European Works Council established in 1996 (see [report in EWC News 3/2017](#)). In July 2021, it was announced that Phoenix Pharma would take over large parts of the European business of McKesson, a US pharmaceutical wholesaler. In view of this upcoming reorganization, the EWC Academy provided training for the SE Works Council on the consultation process and was commissioned to accompany the merger with its advisors.



[Press report on the acquisition](#)

First training for European Works Council in new structure

On 14 and 15 October 2021, the members of the EWC of KWS Saat met for the first time since the start of the Corona pandemic for a face-to-face meeting. The EWC Academy held a training session at the company's seminar house near Northeim (Lower Saxony). The seed manufacturer from Einbeck had changed its legal form in July 2019 and converted the SE works council into a European works council. Although this is not provided for by the legislator, the delegates were able to continue working



in the new structure without interruption and without renegotiating the SE agreement (see [report in EWC News 4/2019](#)).

Training for SE works council at adhesives manufacturer

On 26 October 2021, EWC Academy conducted a training session as part of the biannual meeting of tesa's SE Works Council in Hamburg with several working groups. It was the first face-to-face meeting in a long time. In spring 2020, the adhesive manufacturer had centralized its accounting departments in Europe. In the process, the SE works council was advised by the EWC Academy during the consultation process. The last training had taken place in November 2019 (see [report in EWC News 4/2019](#)).



13. Current seminar schedule

The EWC Academy and its forerunner organization has been organizing 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](#)

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 be held in German from 4 to 7 October 2022.

[Introductory seminar program](#)

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

14th Hamburg conference for European and SE Works Councils

As every year, our specialist conference will take place in 2022, but due to the Corona pandemic it will not be held on the originally planned date in January but on 27 and 28 June 2022. 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 a case study from a company and an investigation into transnational company agreements. On the second day, working groups on a specific EWC topic will be organized.



[Conference program](#)

First EWC conference in Ireland



In recent years the EWC Academy has held six European Works Council conferences in London. After Brexit we are now moving them to Dublin, as many UK and US companies have done with their EWC (see [report in EWC News 1/2021](#)). The conference will take place from 19 to 21 October 2022 and will be simultaneously interpreted. The evening program will include a visit to the Guinness Storehouse (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.

In-house events

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

[Examples of in-house seminars](#)

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