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## Welcome to issue no. 4 / 2022 of EWC News

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## 1. Concrete demands for the revision of the EWC Directive

### Vote in European Parliament Committee

On 30 November 2022, the Committee on Employment and Social Affairs made a decisive vote on the report for revising the EWC Directive in Brussels. It was adopted by a large majority of 33 (with six against and eight abstentions). The first draft of May 2022 already contained many proposals for improvement aimed at reinforcing the legal situation of European Works Councils (see [report in EWC News 2/2022](#)). Until the end of June 2022, the political groups were able to submit proposals for amendments to the text, which were voted on point by point on 30 November 2022. The final vote in the plenary of the European Parliament is scheduled for 19 January 2023 in Strasbourg. The report calls on the European Commission to initiate the legislative process for a new EWC Directive by 31 January 2024. The points in detail are as follows:



- The transnational competence of the EWC will be clarified. It is to be responsible for all matters that concern only one country, provided that the decision was taken in another country or has a major impact on the European workforce.
- Consultation is to be reinforced. The EWC should always receive a reasoned response to its opinion before the final decision is taken by central management.
- In future, male and female delegates are to represent at least 40% of the Special Negotiating Body, the EWC and the Select Committee.
- The role of the European trade union federations is to be strengthened by having at least one expert paid by central management in addition to the trade union coordinator, and by giving both of them access to meetings with management.
- The negotiation period for establishing an EWC is to be halved. If no agreement is reached on an EWC agreement within 18 months (previously three years), the subsidiary requirements will automatically apply (EWC "by law").
- The abusive use of confidentiality clauses by central management is to be restricted by setting out objective criteria and defining the duration of confidentiality.
- During an information and consultation procedure there should be enough time for the EWC to consult with employee representatives at national and local levels.
- Legal recourse for the EWC and the funding of court costs and legal fees by central management shall be ensured. This includes court proceedings to request a temporary halt to central management decisions ("interim injunction").
- A new Article 11a is to define the fines for violations of EWC law, which can be up to 4% of the worldwide turnover in the preceding business year. The liberal Renew Europe group has taken a critical view of this.

- All "voluntary" old agreements are to be automatically subject to the new EU directive, unless they already contain better regulations.
- The subsidiary provisions are to provide for two plenary sessions a year in the future.

[The current version of the report following the committee decisions](#)  
[European Trade Union Confederation press release](#)  
[Brochure on democracy at work](#)

### Missing points

The report addresses many of the issues that can improve the legal status of European Works Councils, but it also contains loopholes. Two important points of contention are the following:

- Who decides whether to call a face-to-face meeting or a video conference? This question is crucial for the EWC's ability to work (see [report in EWC News 1/2022](#)) and has already been the subject of court disputes. In June 2020, the Court of Appeal of Tuscany ruled that an employer has an "anti-union" behaviour if it only agrees to pay for video conferences (see [report in EWC News 2/2020](#)).
- What happens when notice is given to terminate an EWC agreement? Is the EWC dissolved as in the case of Hewlett-Packard (see [report in EWC News 1/2017](#)) or is an EWC immediately established on the basis of the subsidiary requirements as explicitly prescribed by Austrian law? The dissolution of an SE works council was declared illegal by the Versailles Court of Appeal in December 2021 (see [report in EWC News 4/2021](#)). The legal situation would probably be similar for an EWC, but there has been no ruling on this yet.

### Forthcoming Event

The current state of the proceedings in the European Parliament will be on the agenda of the Hamburg EWC conference on 30 and 31 January 2023.

[Conference program](#)



### Current studies in the run-up to the planned legislation



How do European Works Councils function, what are the challenges, what are the solutions to existing problems? These questions were investigated in an empirical study commissioned by BusinessEurope, the umbrella organisation of employers' associations and published by the European Foundation for the Improvement of Living and Working Conditions in Dublin as a working paper on 24 November 2022. The 14 companies selected (three of them still without an EWC) were assessed qualitatively according to a predefined grid of criteria. These included the question of how "transnational competence" is defined and how the information and consultation procedure is actually organised in practice. Moreover, the role of certain persons (e.g. chairpersons or experts) or access to training also play an important role for effective EWC work. The study is not representative, since most of the companies are based in a Mediterranean country and Germany is strongly underrepresented. Nevertheless, the study is quite revealing, because it also examines how European Works Councils bring added value to companies. This includes strategic orientation and the development of a corporate identity, the EWC's contribution to effective decision-making and social peace, as well as reinforcing social dialogue.

[Download the working paper](#)

### European Commission commissions its own study

In view of the current discussions in the European Parliament, the European Commission now also wants to take action. In August 2022, it launched a call for tenders for a "Study exploring issues and possible solutions in relation to the recast Directive 2009/38/EC on European Works Councils". The aim is to prepare for a possible legislative procedure. After a selection process, the contract was awarded to a consortium to which the EWC Academy belongs. This is the same consortium that already prepared the study published in 2018 (see [report in EWC News 2/2018](#)). The kick-off meeting took place on 16 December 2022. We will report on any results as soon as they are published by the European Commission.

## 2. Fines for violation of consultation rights

### Finnish engineering group has to stop relocating its production

On 23 September 2022, the Trieste Labour Court issued an injunction order to put a halt to the dismissal of 451 Wärtsilä production workers at its San Dorligo della Valle site and ordered the company to pay €150,000 in damages to the three applicant unions. The management had announced

collective redundancies by video on 14 July 2022 without carrying out any information and consultation with local union representatives or with the European Works Council. According to the judge, they were being presented with a fait accompli. There had been no opportunity to seriously discuss alternative plans. The trade unions were prevented from fulfilling their institutional duties, since they should in any case have been informed "in advance". The European Works Council operates on the basis of an agreement from January 2016 (see [report in EWC News 2/2016](#)).



### No consultation on grounds of "confidentiality"

In court, the company's lawyers argued that the Italian branch was not able to inform the unions in time because the Finnish parent company had obliged it to maintain "confidentiality". However, the judge considered that the constitutionally protected principle of employee involvement outweighed the company's requirements for confidentiality. On 7 October 2022, Wärtsilä announced that it would not appeal against the ruling and would initiate a fair dialogue with the unions and politicians about the future of the site. The trade unions are demanding an employment guarantee. A similar situation had arisen in 2014 with a planned plant closure in Spain (see [report in EWC News 1/2014](#)).

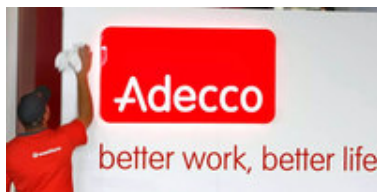
On 3 September 2022, 15,000 people had held demonstrations in Trieste against the relocation. The then Socialist Labour Minister Andrea Orlando visited the plant that day and announced changes to the legal consultation periods for collective redundancies. Even before the change of government, they had been extended from 30 to 120 days.

[Press report on the court ruling](#)

[Trade union report on the events](#)

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### Swiss temporary staffing firm must pay fine in London



The Employment Appeal Tribunal in London ruled against Adecco on 13 December 2022. The UK subsidiary in its role as central management (acting on behalf of management in the non-EU country of Switzerland) had lost against the EWC in the first instance proceedings before the Central Arbitration Committee (CAC), in March 2021 (see [report in EWC News 1/2021](#)). The company which then filed an appeal, has now lost again and has also been fined (which is only possible in the second instance).

At the beginning of the Corona pandemic, the central management had neither informed about collective redundancies nor disclosed the business figures for individual countries, as these were purely "national" decisions. Employee downsizing would never be ordered by European or Corporate management, but decided in each country under its own responsibility within a predefined budget. The Employment Appeal Tribunal rejected these arguments and considers redundancies in more than one EU country to always be a "transnational matter". Central management must provide information in an extraordinary meeting and enter into dialogue with EWC members. Furthermore, any redundancies do not require a common justification, but are always a subject matter for the EWC if they take place at approximately the same time in more than one country.

The fine of £25,000 (€29,000) is made up of two parts:

- £20,000 for breach of the EWC agreement by not convening an extraordinary meeting with the EWC Select Committee for information and consultation on collective redundancies in Sweden and Germany.
- £5,000 for breach of the EWC agreement and UK EWC law by not providing country-by-country breakdown of figures on sales performance.

Central management intends to challenge the ruling in the Court of Appeal for England and Wales. As the legal dispute began before Brexit, it has European-wide significance and could end up escalating all the way up to the European Court of Justice. In October 2020, the Employment Appeal Tribunal in London had imposed a fine in EWC law for the first time: £40,000 against the English branch of Verizon Communications from the USA (see [report in EWC News 3/2020](#)).

[Full text of the ruling](#)

## 3. Developments at European level

### Directive on adequate minimum wages has come into force

On 14 September 2022, 505 MEPs voted in favour of the Minimum Wage Directive, 92 voted against and 44 abstained. On 4 October 2022, it was finally adopted at a meeting of the Ministers of Economy of the EU countries in Luxembourg. Already in June 2022, the European Parliament, the European

Commission and the EU Member States had agreed on the content of the directive (see [report in EWC News 2/2022](#)).



On 19 October 2022 the Directive was published in the Official Journal of the EU and it has been officially in force since 14 November 2022. Member states now have exactly two years to transpose it into national law. The directive not only prescribes appropriate minimum wages, but also aims to strengthen collective bargaining. 20 EU member states where less than 80% of the working population is covered by collective agreements must now draw up national action plans to bring collective bargaining up to this level. Only the Scandinavian countries, Belgium, France, Italy and Austria currently have collective bargaining coverage above 80% (see [report in EWC News 3/2020](#)).

[Full text of the new directive](#)  
[Video explaining the new directive](#)

### Who has how much influence in the European Parliament?



On 18 October 2022, the think tank EU Matrix in Brussels presented a study that examines the influence that European Parliament Members and political groups have on EU legislation and on the positions of the Parliament in general. EU Matrix specialises in examining the EU's political machinery. Overall, the delegations from Germany and France are the most influential in the European Parliament; they are also the two largest countries. However, the Germans wield much more influence and, as the largest group, are one of the most powerful. The French delegation is highly fragmented: around one third belong to isolated groups and most come from parties that are in the opposition in Paris. Among small countries, Malta, Luxembourg and Finland perform the strongest.

Social democrats have a high average influence, but Christian Democrat MPs remain the most influential overall and make up the largest group. Liberals exceed their numerical weight when it comes to leadership positions and important legislation, while Christian Democrat and Social Democrat MEPs have stronger networks. Among the small groups, the Greens are the most influential. Due to the relatively strong involvement of anti-EU conservatives in individual governments (e.g. in Poland and the Czech Republic) and their higher proportion of experienced MEPs, this group has a relatively large influence. However, they cannot compensate for the prevailing centre-left majorities. Right-wing populist MPs remain isolated, which is reflected in few leadership positions in parliament, little legislative activity and the small size of their network.

### Hardly any influence for governing parties from Poland and Hungary

The influence of the Polish ruling party PiS is stagnating, as it belongs to a parliamentary group with small parties, in which it represents more than one third of all MPs. This makes it very difficult to influence important legislative projects. Proportionally, the Hungarian ruling party Fidesz performs worst when it comes to legislative activities, as it does not belong to any parliamentary group and is not able to steer legislation in parliament.

[Press report on the study](#)  
[Detailed results of the study](#)

### The Eurozone expands: Croatia switches currency

On 1 January 2023, Croatia will switch from the national currency, the Kuna, to the euro and become the twentieth country in the eurozone. It is the first entry into the common currency since 2015, when Lithuania adopted the euro. Croatia has only been a member of the EU since 2013, and is a relatively small and, by EU standards, rather poor country. Tourism accounts for a quarter of the gross domestic product, which should benefit from the currency changeover. To join the eurozone, a country must fulfil conditions: Inflation similar to the eurozone, healthy treasury, stable exchange rate and a low interest rate on government bonds.



Croatia has been a member of the European Exchange Rate Mechanism (ERM II) since July 2020, but the Croatian Kuna has been pegged to the euro exchange rate since 1994 and is very stable. Bulgaria, on the other hand, which is also a member of ERM II (see [report in EWC News 3/2020](#)), still has to wait another year for the introduction of the euro. The industrialised countries of Poland, the Czech Republic and Hungary have not yet set a date for the introduction of the euro. By treaty, all EU Member states except Denmark are obliged to introduce the euro. On the day of the currency changeover on 1 January 2023, Croatia will also join the Schengen area and abolish all border controls with neighbouring EU countries.

#### 4. News on labour law in individual countries

##### Severance compensation in France violates European Social Charter



On 26 September 2022, the European Committee of Social Rights of the Council of Europe published its decision on the severance payment tables (the so-called "Barème Macron") that have been applied in cases of unfair dismissal since September 2017. These legally imposed upper-limits violate Article 24 of the European Social Charter, which provides for protection against dismissal and adequate compensation. The Committee hereby contradicts the rulings by the three highest French courts; however, Council of

Europe decisions are not legally binding on the 46 member states.

The proceedings were filed by the two French trade union confederations, CGT-FO and CGT, with the support of the European Trade Union Confederation (ETUC). The European Committee of Social Rights considers that a cap on severance pay provides an incentive for unlawful dismissals "on the basis of a cost-benefit analysis". The cap is also "not sufficiently high to make good the damage suffered by the victim and be dissuasive for the employer". For example, the maximum severance payment is ten months' salary if the person has been with the company for ten years, and a maximum of 20 months' salary if he has been with the company for 30 years or more. In February 2020, the Committee had also condemned the comparable Italian rules on severance pay (see [report in EWC News 1/2020](#)).

[Full text of the decision](#)

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##### Ireland to strengthen collective bargaining

On 5 October 2022, the government in Dublin presented the report of a high-level working group on the reform of the collective bargaining system. Since March 2021, ten experts appointed by trade unions, employers' associations and the government looked into the collective bargaining landscape in Ireland and developed detailed proposals for change. To date, there is no binding collective bargaining legislation for the five million inhabitants of the island state. Employers are free to decide whether or not to recognise a union and enter into negotiations. By contrast, the UK, which has a similar tradition in labour law, introduced a legal obligation to recognise a union in June 2000 if 10% of the workforce are members.



The working group wants to strengthen the Joint Labour Committees, which can draw up universally binding sectoral collective agreements ("Employment Regulation Orders"). As these committees are voluntary, there are currently only two such collective agreements, in the cleaning and security sectors. In future, the Labour Court will be able to establish collective agreements if employers refuse to participate in the sectoral committees. The role of the Labour Court is also to be reinforced in the arbitration of labour disputes, particularly to avoid strikes in the negotiation of in-house collective agreements ("good faith engagement"). The planned reform in Ireland already has in mind the new EU directive on adequate minimum wages, which requires collective bargaining coverage of 80% of the working population from November 2024 (see [report above](#)). Whether the proposed measures will achieve this goal remains to be seen. Currently, collective bargaining coverage in Ireland is only 34%.

[Press report on the proposed reform](#)

[Full text of the report](#)

[Trade union position on the legal situation in Ireland](#)

##### Forthcoming Event

Industrial relations in Ireland will be on the agenda of the conference to be held in Dublin from 29 to 31 March 2023.

[Conference program](#)



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##### Reform of the collective bargaining system in Romania adopted

The Parliament in Bucharest (photo) overwhelmingly approved a bill on social dialogue on 23 November 2022. This repeals a law from May 2011 that represented the most far-reaching restriction on collective bargaining since the fall of communism and had led to a lasting rift between the government and both social partners. The law in 2011 abolished collective bargaining at national level and caused a drastic decline in collective bargaining coverage (see [report in EWC News 3/2019](#)). The



International Labour Organisation (ILO) considered the law to be a violation of core international labour standards.

The new law is linked to the European Commission's disbursement of €30 billion in Corona aid. As in Spain, these funds promoted social reform of the labour market (see [report in EWC News 1/2022](#)). Romania already has its sights set on the new EU directive on adequate minimum wages, requiring collective agreement coverage of 80% of the labour force from

November 2024 (see [report above](#)). Currently, this rate is only 15% in Romania, almost all of which are company collective agreements. The only sectoral agreement in the private sector is in banking (see [report in EWC News 2/2022](#)).

Since November 2021, Romania has had a "grand coalition" with social democrats participating for the first time in several years. They were able to push through the fact that sectoral collective bargaining will be compulsory in the future and national collective agreements are possible again. Furthermore, political strikes against the government's social and economic policies are once again authorised, and the restriction from the 2011 law by which trade unions cannot engage in political activities, has been removed.

### **Workplace employee representation to be reinforced**

Works councils do not exist in Romania, so employee representation in the workplace is carried out by company trade unions. They can be established if there are at least 15 employees in the company. This threshold will be down to ten in the future, or 20 from different companies in the same industry. Collective bargaining is required by law in companies with 21 or more employees, and in future it will be required for as few as ten. Since 2011, a company trade union may only negotiate on wages if it is "representative", i.e., if more than 50% of the workforce is a member. If this threshold is not met, negotiations on company collective agreements can be delegated to the relevant sectoral federation (since 2016). Trade union density in Romania is currently 23%.

Workers are free to decide whether to exercise their right to collective bargaining by establishing a company union or by electing independent representatives. If there is no union, individual workers can form an initiative group (election committee). Previously there were no precise rules for their election. The new law provides clarity and obliges employers not to interfere or prevent the election. Senior managers are not allowed to stand for election. The number of representatives can be negotiated with the employer. If no agreement is reached, there is a sliding scale starting from two representatives in workplaces with up to 100 employees to six representatives in workplaces with over 2,000 employees. The regional labour inspectorates are required to verify the correct implementation of these provisions. The term of office is two years and all elected representatives will have protection against dismissal.

[Trade Union Monitor Romania](#) (as of May 2022)

## **5. Court rulings on EWC law**

### **Will easyJet's EWC end up in Berlin or Luton?**

On 4 November 2022, the Employment Appeal Tribunal in London ruled on whether the UK courts have jurisdiction for European Works Council disputes post-Brexit. The judge upheld the Central Arbitration Committee's (CAC) decision from June 2021 by which UK companies remain subject to UK EWC law (TICER). TICER was not abolished with Brexit, rather the term "member state" (of the EU) was replaced by "relevant state". Relevant states are all countries of the European Economic Area plus the United Kingdom. However, this view is not shared by the European Commission, which considers the United Kingdom to be a third state.



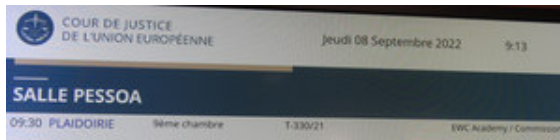
The airline easyJet, based at Luton Airport north of London, must therefore continue to operate its EWC on the basis of TICER (see [report in EWC News 2/2021](#)). This applies to all companies with their corporate headquarters on UK soil that were in negotiations to establish an EWC or already had an EWC in place on 31 December 2020. As of 1 January 2021, European Works Councils can no longer be newly established on the basis of UK law. This legal opinion was explicitly confirmed during the proceedings by the UK Department for Business, Energy & Industrial Strategy, which was involved as an intervenor in court. The central management of easyJet now wants to challenge the ruling before the Court of Appeal for England and Wales and establish the EWC in Berlin under German law.

[Full text of the court ruling](#)

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### **European Commission may not discriminate against European Works Councils**

On 21 December 2022, the European General Court in Luxembourg ruled that a EWC may claim EU funding for projects even if it does not have its own bank account. The court case was filed by the



EWC Academy represented by the former German Federal Minister of Justice Herta Däubler-Gmelin. The oral hearing took place on 8 September 2022 (photo).

The EWC Academy had developed a two-year project with three European Works Councils from the packaging industry and in January 2021 received a commitment for funding of €243,000 from the EU budget line under the title "Information, consultation and participation of workers' representatives". In April 2021, the approval for funding was withdrawn when the European Commission discovered that the participating works councils did not have their own bank accounts and were therefore not eligible for funding. In practice, this would mean that only works councils in France could receive such funding, which is incompatible with equal treatment in the EU.

The ruling is important for assessing the legal status of European Works Councils. They are put on an equal footing with other applicants (trade unions and companies). The judges consider that no bank account is necessary to establish legal rights under the EWC Directive. All running costs of an EWC must be borne by central management. Therefore, EU-funded projects can also be carried out without obtaining prior consent from the employer or without having to rely on trade union bank accounts.

[Full text of the court ruling](#)  
[Summary of the reasoning behind the ruling](#)

## 6. Innovative EWC agreements

### German lift manufacturer with outstanding EWC agreement

An EWC agreement was signed for TK Elevator on 21 June 2022. The company with 50,000 employees worldwide is based in Düsseldorf and has been owned by financial investors since August 2020. Under the umbrella of the former parent company ThyssenKrupp, the lift division had a divisional committee within their EWC, which has now been replaced by an independent EWC. The new EWC agreement also covers Switzerland and the UK. The five members of the Select Committee have the right to visit any site (right of access). The EWC holds three face-to-face ordinary meetings each year and the select committee four face-to-face meetings, plus a three-day workshop. Extraordinary meetings may also be held by video and telephone conference if the select committee so decides.



The catalogue of information and consultation explicitly includes occupational health and safety (especially occupational diseases and psychosocial risks) as well as measures for environmental and climate protection. For issues requiring information and consultation over a longer period of time, the EWC may establish "Monitoring Committees". All EWC members receive the necessary time off work for their duties, with no defined hourly allowance. Any absence from the workplace must be reported; the employer's consent is not required. Since November 2012 there has been a pan-European contract on idea management in occupational health and safety (see [report in EWC News 2/2012](#)) and since November 2020 there has been a worldwide framework agreement with the international trade unions (see [report in EWC News 1/2021](#)).

### French construction group establishes pan-European health and safety committee



A new EWC agreement for the French construction group Vinci was signed in Nanterre near Paris on 13 September 2022. For the first time, it provides for the establishment of a committee dealing with occupational safety and environmental issues, which meets twice a year. It monitors the health and safety agreement reached in June 2017 (see [report in EWC News 1/2018](#)) as well as the environmental guidelines of November 2020 (see [report in EWC News 1/2021](#)). The EWC can establish additional working groups with five members each, which deal with e.g. socially responsible subcontracting or due diligence in the supply chain. The EWC agreement also increases the time-off work allowance for the Select Committee and its budget compared to the old agreement of September 2018 (see [report in EWC News 4/2018](#)).

[Full text of the EWC agreement](#)

## 7. Pan-European company agreements

### Social commitments and curbing absenteeism

On 18 November 2022, Korian's new SE works council signed a joint declaration with central management with concrete recommendations to strengthen social dialogue and reduce absenteeism. The French nursing home operator has 60,000 employees in seven countries and has recently

converted its business into a European Company (SE). The SE works council takes over the role of the European Works Council established in June 2020 (see [report in EWC News 3/2020](#)).



The declaration is the result of discussions between a working group of the EWC and management on the causes of absenteeism. Based on this, social commitments were developed in three areas to curb absenteeism: Quality of management and working atmosphere; work organisation and shift schedules; and social and psychological support. Each country represented in the group will draw up action plans and report to the SE Works Council every six months. At least twice a year, local works councils will receive data on absenteeism to identify the most vulnerable groups of workers by gender, age, length of service and job. The care sector suffers from staff shortages and unplanned absenteeism leads to a further increase in work overload. For Korian, this is already the second pan-European company agreement. Since November 2021 there has been a protocol on occupational health and safety and prevention of accidents in the workplace (see [report in EWC News 4/2021](#)).

[Press release on the reduction of absenteeism](#)  
[Press release on the establishment of the SE works council](#)

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### Principles for hybrid working models



On 22 November 2022, Generali's central management agreed with the European Works Council on a joint declaration on new forms of sustainable working practices. This sets out principles for hybrid working models in the Italian insurance group throughout Europe, which include both in-person work at the workplace and teleworking. Every employee has the right to completely disconnect from the system at the end of working hours and not to respond to communications from the company outside working hours or during break times.

The EWC had already concluded a joint statement on telework for the first time in May 2017 (see [report in EWC News 3/2017](#)) and agreed on a permanent framework to adapt to crisis situations in May 2021 in view of the Corona crisis (see [report in EWC News 2/2021](#)). The EWC will monitor the implementation of the new declaration, which is intended to help countries with small workforces or weak representation. At Generali, these are mainly countries in Central and Eastern Europe.

[More information on the Generali EWC](#)

## 8. Employee participation in the SE

### SE negotiations fail for the first time in France

JCDecaux has been operating as a European Company (SE) since 27 September 2022. The world market leader in outdoor advertising (e.g. bus stops), based in the Paris suburb of Neuilly-sur-Seine, has 10,700 employees in over 80 countries, 5,900 of them in Europe. The Special Negotiating Body meetings with central management failed to reach agreement, so the standard rules for establishing an SE works council now apply. Proposals of the management were below these minimum requirements. JCDecaux did not have a European Works Council before the SE conversion. In Germany, the new SE is represented by the Berlin-based subsidiary Wall with 1,000 employees in 25 locations across the country (see [report in EWC News 4/2015](#)).



[Press release on the SE conversion](#)

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### German software company must change composition of supervisory board



The European Court of Justice in Luxembourg ruled on 18 October 2022 for the first time on employee participation for the conversion of a company governed by national law (AG) into a European Company (SE). This should not reduce the chances for union officials to be elected to the supervisory board. With the ruling, the union federations ver.di and IG Metall were able to win against the central management of SAP. They had lost in all previous instances, and finally it was the Federal Labour Court who referred the issue to the European Court of Justice in August

2020 (see [report in EWC News 3/2020](#)).



SAP may not restrict the existing prerogatives of the (external) trade unions when reducing the size of the supervisory board from 18 to twelve seats. They retain their previously guaranteed seats on a pro-rata basis, which are elected separately from the other employee representatives. However, not only German trade unions can propose candidates, but all trade unions represented in the SE from all countries. The case now goes back to the Federal Labour Court, which can order a new election of SAP's supervisory board. A second case on co-determination in the SE has been pending in Luxembourg since May 2022. It concerns the Japanese optics and photography group Olympus (see [report in EWC News 2/2022](#)).

[Background report on the legal dispute](#)  
[European Trade Union Confederation press release](#)  
[Interview on the consequences of the ruling](#)  
[Report on escaping co-determination through SE conversion](#)  
[Report on the new election of the SE works council](#)

## 9. The view beyond Europe

### Spanish textile group sets global standards

On the 15th anniversary of its International Framework Agreement from 2007, Inditex signed a new protocol with the International Trade Union Confederation (industriALL) on 3 October 2022. Inditex is the world's largest textile retailer with 144,000 employees and operates brands such as Zara, Massimo Dutti, Bershka and Pull & Bear. The framework agreement was the first ever concluded in the textile industry and it also covers around 3 million factory workers in the producing countries (see [report in EWC News 3/2007](#)).



Under the new protocol, Inditex and industriALL will develop an action plan focusing on respect for freedom of association, the right to collective bargaining and the provision of training for employee representatives all along the supply chain. A global trade union committee which has been in place since November 2019 (see [report in EWC News 4/2019](#)), met at the company's headquarters in Arteixo (Spain) from 3 to 6 October 2022. In August 2020, an agreement was reached on how to deal with the Corona pandemic (see [report in EWC News 3/2020](#)) and the European Works Council was able to push through a declaration on digitalisation in December 2020, which includes a guarantee for no compulsory redundancies (see [report in EWC News 1/2021](#)).

[Report on the signing of the new protocol](#)  
[Report on the trade union committee meeting](#)  
[Full text of the framework agreement](#)  
[Trade union handout for investors in the textile industry](#)

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### French retail group renews framework agreement



The international framework agreement between the worldwide umbrella organisation of service unions (UNI Global Union) and Carrefour was renewed and extended on the sidelines of a European Works Council meeting held in Paris on 5 October 2022. It applies to all 320,000 workers in 39 countries around the world. It focusses on important topics such as the promotion of social dialogue, diversity and respect for fundamental workers' rights. The new provisions include a clear commitment against harassment and violence in the workplace and better protection

against discrimination.

Over the years, the framework agreement has helped to ensure better working conditions, stronger employee representation and collective bargaining in Carrefour branches in many countries, including Argentina, Colombia, South Korea, Romania and Turkey. More recently, it played a key role in the recognition of trade union representation in Uganda and the Dominican Republic, paving the way for collective agreements in both countries. The agreement dates back to 2001 and was substantially revised in September 2015 (see [report in EWC News 4/2015](#)).

[Report on the signing](#)  
[Full text of the framework agreement](#)  
[The Carrefour anti-discrimination report](#)

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### German commercial vehicle manufacturer establishes global works council

On 24 November 2022, the Daimler Truck World Works Council held its inaugural meeting at the truck assembly plant in Wörth am Rhein. With over 10,000 employees, it is the largest of the 40 sites in the

group, which has 100,000 employees worldwide. After the spin-off of the truck division from the Daimler Group and the IPO in December 2021, it was necessary to create separate international works council structures for Daimler Truck. The Daimler Group is now composed of the passenger car division only and has renamed itself Mercedes-Benz.



With the establishment of the European Works Council for Daimler Truck, a World Works Council was launched at the same time. It has 34 members from 23 countries who meet every six months. It has the same information and consultation rights as the European Works Council, which is unique in the world. A six-member Board is responsible for European issues, a four-member Steering Committee coordinates worldwide issues. It wants to help shape the transformation with regards to zero-emission vehicles in a fair manner across continents and protect human rights in the supply chain, even at small suppliers of Daimler Truck.

[Report on the inaugural meeting](#)  
[Declaration of Principles on Social Responsibility and Human Rights](#)  
[Interview on the topic](#)

The works councils of Daimler Truck have had their own presence on the company's web page since 18 October 2022, which is an absolute novelty in Germany. The management wants to demonstrate the importance of modern and innovative co-determination in times of industrial change. On the employee representation part of the web page, for example, there is an activity report in the form of a news broadcast as a video and as an ePaper. There is also a report on the activities of employee representatives on the supervisory board.

[Press release on the launch of the works council platform](#)  
[Presentation on the international works council structures](#)

## 10. Interesting websites

### Gender inequality in Germany



The WSI GenderDatenportal is a project from the Institute of Economic and Social Research (WSI) of the trade-union linked Hans Böckler Foundation. It presents extent and determinants of occupational and social inequality between men and women in Germany through graphs, data and analyses. The portal examines the following aspects: Education, employment, unpaid care work, income, co-determination and time. Equality reports are also published regularly.

[The Gender Data Portal](#)  
[The Gender Equality Reports](#)

### Digital further education in the telecommunications industry

On 22 July 2022, the sector's social partners presented the results of the two-year project "Digital Further Education for All!" (DUFA!). With financial support from the European Commission, the project addressed the challenges for a digital training strategy in telecommunications. The social partners identified an untapped potential for new talent among women, an ageing workforce, disabled people and other minorities. The results of the project are available in 19 languages.



[The project website](#)  
[End of the project press release](#)  
[Summary of the project results](#)

### Global initiative for social dialogue and inclusive growth



The Global Deal is an initiative of governments, businesses, employers' organisations, unions and civil society organisations to highlight the value of social dialogue and promote cooperation on economic and social policy issues. Under the auspices of the OECD and ILO, a comprehensive report is published every two years, most recently in mid-November 2022, on how to combine decent work and inclusive growth, and is presented on a dedicated website.

[The website with the current report](#)  
[Explanation: what is the Global Deal?](#)

### Industrial policy for a green economy and quality jobs

The European Federation of Industrial Trade Unions (industriALL) attaches great importance to building a pathway to fair structural change ("just transition") with the participation of all stakeholders. On a new website, it presents examples from all over Europe of how the green transition is being implemented on the ground. This is not only about climate policy goals, but also about sustainable development and decent work. The examples are sorted by country, company and sector and can be accessed in a targeted manner.



- [The new website](#)
- [The Manifesto for a Just Transition](#)
- [Background information on the Manifesto](#)
- [Case studies from several countries](#)

## 11. New publications

### Co-determination in French supervisory and administrative boards

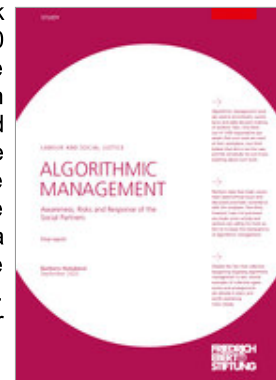


In mid-August 2022, the European Trade Union Institute (etui) in Brussels presented two working papers dealing with employee representatives on supervisory and administrative boards in France. Since June 2013, employee representatives with full voting rights have had to be included on supervisory or administrative boards in the private sector. Previously this was only common in state-owned or formerly state-owned companies (see [report in EWC News 3/2015](#)). One of the employee representatives is elected from the European Works Council or the SE Works Council. This is already the case in 72 companies and there are employee representatives from Germany in at least seven cases. In contrast, German co-determination laws do not recognise an internationalisation of employee board members. The first working paper analyses the French system and challenges for European works councils. The second working paper examines the ban on concurrent mandates, since employee representatives on supervisory or administrative boards must resign from both the works council and the EWC. However, this does not apply to representatives outside France.

- [The Working Paper on Challenges for European Works Councils](#)
- [The working paper on concurrent mandates](#)
- [Portrait of a German employee representative on a French administrative board](#)

### Risks of surveillance tools in the workplace

In mid-September 2022, the Friedrich Ebert Foundation's Future of Work Competence Centre in Brussels published the analysis of a survey of 1,400 employees in more than a dozen European countries on their experience with automatic monitoring tools in the workplace. The respondents work in the telecommunications and technology industries, banks, insurances and call centres. The report examines whether they were informed before algorithmic management practices were introduced and whether these are covered in collective agreements. Many of the respondents speak of undue pressure: permanent monitoring all day and at all times, tracking whether a mouse or keyboard is not used for more than ten minutes, measuring the daily lunch break, which can lead to poor ranking and a loss of overtime pay. The study is available in four languages and has six recommendations for trade unions.



- [More information on the study](#)
- [Download the study](#)
- [Download other language versions](#)

### Best Practice Guide: digitalisation and employees' rights

In mid-October 2022, a guide was published that aims to support employee representatives in monitoring data protection, workers' rights and health and safety at the workplace throughout the digital transformation of companies. It was published by the umbrella organisation for professional and managerial staff (Eurocadres) affiliated to the European Trade Union Confederation, which elaborated the guide in a two-year EU-funded project. The aim is to promote the framework agreement on digitalisation which was concluded by European social partners in June 2020 (see [report in EWC News 3/2020](#)). A particular focus of the guide is surveillance by the use of artificial intelligence, job security through digital skills and the right to disconnect are also covered. The brochure is available in four languages.



[Download the guide](#)  
[Download other language versions](#)  
[Checklist for an ethical assessment of artificial intelligence](#)  
[Interpretative Guide to the Framework Agreement on Digitalisation](#)

## Working conditions and co-determination in transport logistics

At the end of October 2022, the Hans Böckler Foundation published an empirical study on the impact of digital technology on the quality of work of professional truck and courier drivers. Digitalisation is particularly advanced in logistics. Work processes are being streamlined, standardised and condensed: communicating devices in the Internet of Things (e.g. RFID), logistics platforms, traffic and fleet telematics, mobile terminals (smartphones, tablets, handhelds) and smart tachographs. At the same time, work activities are being simplified to such an extent that companies can fall back on low-skilled workers, on an "industrial reserve army" of migrants and solo self-employed workers. Especially in the courier, express and parcel services, there is a huge drop in the representation and involvement of employees. In July 2021 a similar study was published on Amazon, the US online retailer which is the world leader in digital surveillance technologies (see [report in EWC News 4/2021](#)).



[Further information on the study](#)  
[Download the study](#)  
[Short report on parcel services](#)

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

### EWC training in Swedish bank



A face-to-face meeting of all members of the European Works Council of Skandinaviska Enskilda Banken (SEB) was held on 17 and 18 October 2022, for the first time since the outbreak of the Corona pandemic. At the beginning of the current term of office, many new delegates had joined, and at the meeting held in the German branch in Frankfurt am Main they were finally able to get to know each other personally. It was also the right time for a basic training session which was delivered by the EWC Academy. SEB is one of the leading financial institutions in the countries around the Baltic Sea. The EWC Academy had already been involved in discussions concerning its current EWC agreement, which was concluded in February 2016 (see [report in EWC News 1/2016](#)).

### Plenary session discusses improving EWC work

From 25 to 27 October 2022, the bi-annual plenary meeting of Unilever's European Works Council was held in Rotterdam with the support of the EWC Academy. The EWC has 36 members from 21 countries, including Switzerland and the UK. The select committee made up of eight representatives meets once a month. In rapid succession, the British consumer goods group has been restructuring and selling off entire business units, e.g. in 2018 the margarine division to a financial investor (see [report in EWC News 2/2017](#)).



The EWC has been campaigning for years under the slogan "People before Profit" and has been able to demonstrate that increasing profitability is perfectly compatible with the expectations of the workforce in terms of qualifications and skills. In 2013, it was awarded the German Works Council Prize for its "Barcelona Agenda". As a guideline for EWC work, there is a "Protocol for Managing Consultations at European Level" within the EWC agreement. In March 2019 it was able to conclude a European framework agreement on the future of work (see [report in EWC News 1/2019](#)), followed by an agreement on combating sexual harassment in November 2019 (see [report in EWC News 4/2019](#)).

[Video on the 25th anniversary of the EWC](#)

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## Power engineering group after the split



From 28 to 30 November 2022, ABB's European Works Council met for its bi-annual plenary session in Baden, Switzerland. The small industrial town in the canton of Aargau was one of two founding sites of the Swedish-Swiss power engineering group, which was established as the result of a merger in 1988 and now has 105,000 employees worldwide. Starting in 2018, the power grid division was sold in several steps to the Hitachi Group from Japan and an independent European Works Council was established for the new company Hitachi Energy. This had a direct impact on the composition of ABB's EWC, similar to the spin-off of Siemens Energy (see [report in EWC News 3/2020](#)).

The current EWC has 21 delegates from 15 countries (including Switzerland and the UK), many of whom were newly elected. Therefore, the EWC Academy provided basic training on the rights of individual representatives and the consultation process. The Select Committee with its six members meets regularly twice a year, but usually every two months due to constant restructuring. It is competent whenever more than 50 employees in Europe are affected by a planned measure. The EWC agreement was updated in April 2013 (see [report in EWC News 2/2013](#)).

### 13. Current seminar schedule

The EWC Academy and its forerunner organization have been holding conferences and seminars for the members of European works councils, SE works councils and Special Negotiating Bodies since January 2009. So far, 857 employee representatives from 295 companies have taken part including many of them for several times. This represents around 25% of all transnational works council bodies in Europe. In addition, there are numerous in-house events and lectures given to other organizations.

[Overview of the forthcoming seminar dates](#)

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### 15th Hamburg Conference for European and SE Works Councils

After the restrictions due to the Corona pandemic, our annual conference will once again take place on the usual date, namely 30 and 31 January 2023, where the latest developments in the EWC and SE landscape, case studies ("best practice") from companies and recent court cases are always presented. This time the conference will focus on a report on the planned revision of the EWC Directive.

[The conference program](#)  
[Flashback: Report from the last Hamburg conference](#)



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### EWC Conference in Ireland for the first time *(date change)*



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 29 to 31 March 2023 and will be simultaneously interpreted. The evening program will include a visit to the Guinness Storehouse, the historic brewery with a panoramic view of the city (photo). Participation is open not only to EWC members who are subject to Irish law, but to all who wish to share their working experience with Anglo-Saxon management.

[The conference program](#)

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### EWC and SE Seminar at Montabaur Castle

The next introductory seminar for (future) members of European Works Councils, SE Works Councils and Special Negotiating Bodies will be held in Montabaur from 11 to 14 April 2023. The castle is located at the ICE railway station halfway between Frankfurt and Cologne. Several seminar modules are offered for both beginners and advanced participants.



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

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### In-house events

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

[Examples of in-house seminars](#)

## 14. Imprint

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