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1. Revision of the EWC Directive

Employers' organisations willing to negotiate, trade unions not



On 4 October 2023, the second and final phase of consultations with the social partners, which the European Commission began on 26 July 2023, came to an end (see [report in EWC News 3/2023](#)). One of the questions was whether the social partners would be willing to enter into negotiations with one another on the content of a new EWC Directive. A joint proposal could have then been implemented without a time-consuming legislative process. The employers' associations announced on 4 October 2023 that they were offering to negotiate with the trade unions. However, the trade unions are not prepared to do so. They fear that the employers' organisations are merely playing for time and are therefore demanding a draft directive from the European Commission. The scenario is the same as in April 2008 during the last revision of the EWC Directive (see [report in EWC News 1/2008](#)). At that time though, negotiations had taken place later, but under great time pressure and only after the European Commission had presented draft legislation (see [report in EWC News 3/2008](#)).

[BusinessEurope press release](#)

[European Trade Union Confederation press release](#)

[Press release from the metalworking employers' organisations](#)

[Press report on the current situation](#)

[Critical commentary from the employers' perspective](#)

The position of the European Trade Union Confederation (ETUC)

Unlike BusinessEurope, the ETUC has responded in detail to the European Commission's questions in a 15-page statement. Many points were already identified during the first phase of consultations in May 2023 (see [report in EWC News 2/2023](#)). Some have now been consolidated or formulated more precisely:

- The special status for so-called "voluntary" agreements concluded before September 1996 is to be ended for good. These agreements are to continue to apply without renegotiation, but the improved provisions of the EWC Directive should apply automatically.

- External trade union officials ("EWC coordinators") are to be appointed on a permanent basis and allowed to attend all meetings with management. In addition, the EWC should decide for itself which additional experts (e.g. lawyers, auditors) it wishes to commission.
- Access to justice is of particular concern to the ETUC: "A right is not a right if it is not enforceable, or if the legal process is blocked by obstacles. Any weakening feeds doubts about the rule of law and undermines the democratic foundation of our society." All court and legal costs should be borne by the employer. The EU member states should either give the EWC legal personality or ensure that it can be party to legal proceedings.
- If an EWC agreement is terminated, the subsidiary requirements should automatically apply so that there is no period "without a works council". This was last confirmed by a French court in December 2021 (see [report in EWC News 4/2021](#)).
- According to the ETUC, the maximum period of three years for negotiating an EWC agreement should not be shortened, but negotiation meetings must take place at least every quarter so that central management does not play for time.
- The ETUC rejects fixed gender quotas because there are many countries that only have one or two seats. National employee representatives should not be restricted in the selection of delegates.
- The EWC's remit is to be expanded to include the following topics: the company's decarbonisation strategy, the introduction of artificial intelligence in the workplace, respect for human rights and environmental standards in the supply chain.
- At least two plenary meetings and four meetings of the select committee are to be held annually, in person. Additional virtual meetings or ad hoc meetings require the approval of the EWC and should be agreed on a case-by-case basis.

New proposal: a permanent monitoring committee

The ETUC would like to pre-empt negative experiences with the implementation of the EWC Directive, such as in Ireland, which have led to infringement proceedings (see [report in EWC News 2/2022](#)). It proposes the establishment of a permanent monitoring committee which, through regular dialogue, would ensure the correct application of the EWC Directive and resolve practical problems arising from its implementation. It should include representatives from the governments of all EU member states, the European social partners and the European Commission.

[The ETUC position paper](#)

Employers' organisations subsequently submit position paper

As there will be no negotiations between the social partners, the European Commission announced on 9 October 2023 that it would prepare draft legislation. The umbrella organisation of employers' federations BusinessEurope then published a position paper on 30 November 2023 with the most important messages from the employers' perspective. Much of these were already included in their statement from May 2023 (see [report in EWC News 2/2023](#)).



BusinessEurope continues to be concerned about the European Parliament's proposals (see [report in EWC News 1/2023](#)). European works councils should not become co-determination bodies, as a right to injunctive relief in the event of a breach of information and consultation rights would be a real threat to competitiveness. Under no circumstances should company decisions be delayed. Existing old "voluntary" agreements from the period up to 1996 should also not be subject to the EU directive.

To resolve disputes between an EWC and central management, BusinessEurope proposes alternative mechanisms such as conciliation, mediation or arbitration. Italy is cited as an example, where a special conciliation committee has been set up to submit proposals for resolving EWC disputes within 20 days. If European works councils were given the right to pass on all the costs of a dispute to the employer, this would create unnecessary conflict and undermine trust. Apparently BusinessEurope is not familiar with the situation in Germany and the Netherlands, where employers have always covered these costs.

[BusinessEurope position paper](#)

Conference of the German Federal Ministry of Labour on EWC and SE

On 6 November 2023, a "Social Europe" conference was held in Berlin on the initiative of the German Federal Labour Minister, Hubertus Heil (Social Democrats). It was attended not only by EU



Commissioner Nicolas Schmit, but also by the labour ministers of four other countries: France, Belgium, the Netherlands and Bulgaria. The German government wanted to use the conference to send out a signal that economic progress must be combined with good working conditions and social security. Important points were the upcoming revision of the EWC Directive and the European Parliament's call in December 2021 for more democracy in the workplace and the strengthening of co-determination in supervisory boards (see [report in EWC News 4/2021](#)).

A workshop on the European Works Council Directive was led by Dr Werner Altmeyer from the EWC Academy (photo).

[Ministry press release](#)

[Background information on the workshops](#)

[Brief message from the Minister on European Works Councils](#)

The next steps

The European Commission is expected to decide on the draft text of the new EWC Directive on 16 January 2024. The item is on its official agenda, which has already been published. This marks the start of the legislative procedure requested by the European Parliament in February 2023 (see [report in EWC News 1/2023](#)). However, the new EWC Directive will probably not be finally adopted until after the European elections in June 2024.

Forthcoming event

The draft legislation will be analysed in more detail for the first time at the next EWC conference to be held on 29 and 30 January 2024 in Hamburg.

[Conference programme](#)



2. Further legislative initiatives at European level

Breakdown in negotiations on teleworking

After 15 working sessions and over one year of intensive exchange with logistical support from the European Commission, the negotiations between the European social partners on a framework agreement on teleworking and the right to disconnect broke down on 9 November 2023. This came as a surprise and is seen as a serious setback. European social dialogue can lead to agreements which can be implemented like an EU directive if both social partners so wish. It is in fact an alternative legislative procedure. As a consequence, the trade unions are now calling for a legislative initiative by the European Commission, as was the case with the EWC Directive (see [above](#)).



In June 2022, the European social partners (three employers' organisations and the European Trade Union Confederation) had announced a historic declaration of intent: they wanted to negotiate a legally binding agreement on teleworking and the right to disconnect. This agreement was to build on the framework agreement on digitalisation that they had concluded in June 2020 ([report in EWC News 3/2020](#)). In the 1990s, the social dialogue that has existed since 1985 brought concrete results: directives on parental leave, part-time work and fixed-term employment contracts were implemented by these means. In 2001, negotiations on temporary agency work failed and no legislation has emerged from the social dialogue since then.

[European Trade Union Confederation press release](#)

[Demands of the Federation of Services Trade Unions](#)

[New study on the right to disconnect](#)

[Overview of the European social dialogue](#)

Agreement on artificial intelligence (AI) regulation

On 9 December 2023, an agreement was reached in the trilogue on the content of the new EU regulation on artificial intelligence. The trilogue is a tripartite meeting between the three legislative institutions of the EU, a sort of "conciliation committee": the European Commission, the Council of



Ministers and the European Parliament. The law, which the triilogue agreed on after negotiations lasting 36 hours over three days, is considered as "a world first". It defines obligations based on potential risks to health, democracy, the environment or security.

Certain applications are completely banned, such as biometric categorisation systems that use sensitive characteristics such as ethnic origin, political opinion, sexual orientation or religious beliefs. The indiscriminate capturing of images for facial recognition or emotion recognition in the workplace and in educational institutions are also not permitted. Exceptions apply, for example, in the event of a terrorist attack. This point was the subject of intense debate, as the European Parliament originally wanted a complete ban. The MEPs had defined their positions in June 2023 (see [report in EWC News 3/2023](#)).

Another point of contention was the regulation of so-called foundation models, very powerful AI models that are trained using a broad set of data. Germany, France and Italy only wanted to regulate specific applications of AI, but not the basic technology. The negotiators have now agreed on certain transparency obligations for these models. The AI regulation provides for fines of up to 7% of the company's annual turnover for violations of the prohibited applications. The regulation still has to be formally adopted in the coming months and will then come into force two years later, with the bans coming into force after just six months.

[European Commission press release](#)
[Report on the negotiations](#)
[Action guidelines for works councils](#)
[Training modules for works councils](#)

Supply Chain Directive clears important hurdle

On 14 December 2023, the three EU legislative institutions agreed on the content of the Due Diligence Directive. In future, companies with 500 employees or more and a global annual turnover of €150 million or more can be held liable for violations of human rights and environmental standards in their supply chain. For high-risk sectors (textiles, agriculture, food, minerals, construction), the threshold is lower: 250 employees and a turnover of €20 million. Companies from third countries are also affected if they operate within the European Single Market.



Companies will also be obliged to adopt and implement climate plans. There was a contentious issue right up to the very end as to whether the financial sector should be included. Investment and credit transactions remain excluded from the scope of the directive, but there is a review clause. Violations of the directive can be penalised with fines of up to 5% of a company's global turnover. The draft legislation was presented by the European Commission in February 2022 (see [report in EWC News 1/2022](#)) and the European Parliament adopted its position in June 2023 (see [report in EWC News 2/2023](#)). Following the adoption of the directive in the coming weeks, it must be transposed within two years.

German law comes under scrutiny

Germany has had a supply chain law in force since January 2023 (see [report in EWC News 1/2023](#)), which will consequently have to be tightened up in some areas. On 2 November 2023, the aid organisation Oxfam filed a complaint against the supermarket chains Rewe and Edeka on the basis of this law because of human rights' violations on banana plantations in Ecuador and Costa Rica.

[Press release about the agreement](#)
[Press report on the agreement](#)
[Oxfam report on its complaint](#)
[Press report on the complaint](#)

3. Individual country reports

US electric car manufacturer refuses collective bargaining agreements

Since 27 October 2023, more and more Tesla garages in Sweden have been out on strike. The IF Metall trade union initially called a strike for Tesla workers in twelve garages, but 100 garages are now



already affected. Since 7 November 2023, there have been extensive solidarity actions by the transport union blocking the unloading of Tesla cars at Swedish ports. Since 17 November 2023, the cleaning of Tesla sites has been boycotted. Electricians have stopped installing and repairing Tesla charging stations. Since 21 November 2023, the Painters' association has refused to paint Tesla cars, and mail and parcels are no longer being delivered. All construction work has been suspended since 28 November 2023. The Musicians' association has threatened to ban certain types of music in Tesla cars. The conflict could escalate further and spread to ports in Denmark and Norway.

Solidarity strikes can completely paralyse a company

The last time such a strike took place in Sweden was in 1995, when deliveries and rubbish collection for the US retail chain Toys "R" Us were blocked for three months, handling mail stopped and all bank transactions boycotted through the finance union. The company did not want to sign a collective bargaining agreement, but finally had to give in. Amazon also faced the same threat, but then outsourced the business to subcontractors who then signed collective bargaining agreements. The payment service Klarna recently accepted a collective bargaining agreement after a long dispute under the threat of strikes. There have also been attempts to persuade the streaming service Spotify to sign a collective bargaining agreement.

Such solidarity strikes are prohibited in most countries, but are legal in Sweden. Tesla is not a member of the Swedish employers' organisation and rejects collective bargaining agreements worldwide. In the USA, Tesla was convicted of illegal measures to prevent employees from organising themselves into a union. The current labour dispute is ostensibly about 130 workshop workers in Sweden. In reality, however, the conflict is of a more fundamental nature. Tesla wants to ensure that a possible collective bargaining agreement in Sweden does not spread to other parts of the world. For the trade unions, the Swedish model with 88% collective bargaining coverage is at stake.

Tesla is also not very cooperative in Germany

Electric vehicles are being manufactured in a new gigafactory in Grünheide (near Berlin) since March 2022. There are now 11,000 people working there. Wages are 20% below the industry collective agreement, the works council is dominated by senior employees close to management and IG Metall trade union has so far tried in vain to push through a collective agreement. Tesla has also completely excluded co-determination on the supervisory board by converting the business into a European Company (SE) in good time (see [report in EWC News 4/2019](#)).

[Background information from the Swedish Metalworkers' Union](#)
[Trade Union Monitor Sweden](#)
[Press release from the European Confederation of Industrial Trade Unions](#)
[IG Metall press release](#)
[Report on Tesla in Germany](#)

No statutory minimum wage in Italy

On 6 December 2023, an initiative by the centre-left opposition to introduce a minimum wage of €9 failed in parliament. This would have benefited one in every four employees. Like Austria and Sweden, Italy is one of the few countries that is not obliged to introduce a statutory minimum wage because collective bargaining coverage is above 80% (see [report in EWC News 3/2020](#)). However, despite the high level of collective bargaining coverage, there are entire sectors in Italy with very low wages. The right-wing conservative government would rather strengthen the trade unions so that they can help prevent a statutory minimum wage.



The EU Minimum Wage Directive has been in force since November 2022 (see [report in EWC News 4/2022](#)). The Italian Supreme Court of Cassation, the highest court in labour law, referred to it in a landmark ruling on 2 October 2023. The judges ruled on the level of an "appropriate" minimum wage to ensure a "decent existence", as required by the Italian constitution. The plaintiff is a security guard at a Carrefour supermarket in Turin who wants to be retroactively paid over the last 20 years for the difference in pay for comparable jobs, e.g. compared to the better pay for gatekeepers under the collective agreement for the construction industry. According to the judgement, he is entitled to higher pay than under the collective agreement for the private security services sector. The consequences of this judgement are far-reaching: Italian judges may now cancel any collectively agreed remuneration

and replace it with a higher amount from other collective agreements in similar sectors or use statistical indicators, as recommended by the EU Minimum Wage Directive.

[Press report on the vote in Parliament](#)
[The opinion of the trade union confederation CISL](#)
[Full text of the Supreme Court of Cassation ruling](#)
[Commentary on the court ruling](#)
[Trade union monitor Italy](#)

Change of government in Poland



Since 13 December 2023, a pro-European centre-left government is in place in Poland under Prime Minister Donald Tusk (photo), who previously held this office from 2007 to 2014. His liberal-conservative policies at the time provoked protests due to social cuts - one of the reasons for the electoral success of the national-conservative PiS party, which formed the government from November 2015. This government expanded the welfare state and dismantled democracy (see [report in EWC News 1/2017](#)).

In October 2021, the Constitutional Court, from which all members who were not close to the government had previously been evicted, declared the primacy of Polish law over European law (see [report in EWC News 4/2021](#)). This de facto withdrawal of Poland from the EU legal community is now to be reversed. It is one of the key points of the coalition agreement, which is only 13 pages long. Courts, public prosecutors, the media and universities are to be independent and free from political pressure. The new government is committed to social dialogue between trade unions and employers and wants to expand social benefits for families, the disabled, caring relatives of dependant persons and pensioners. The Minister of Labour and Social Affairs is the activist Agnieszka Ewa Dziemianowicz-Bąk from Wrocław from the left-wing party Razem (similar to Podemos in Spain), who became known throughout Poland through women's demonstrations against the tightening of abortion laws.

[Press report on the coalition agreement](#)
[German translation of the coalition agreement](#)
[Trade union monitor Poland](#)

Forthcoming event

An EWC seminar will take place in Gdańsk from 16 to 18 September 2024. In addition to an introduction to the Polish system of employee representation, current developments following the change of government will be highlighted.



4. Recent court rulings

Strengthening European works councils in Austria

On 29 August 2023, the Austrian Supreme Court of Justice in labour and social matters dismissed an appeal by the central management of Mayr-Melnhof Packaging against the ruling of the Vienna Higher Regional Court of February 2023. This decision was communicated to the parties on 18 October 2023. The central management of the packaging group did not want to pay invoices from experts and interpreters because the trade unions should be responsible for paying such costs. However, the judges in all three instances see the obligation to bear the costs as lying exclusively with the employer.



This means that the fundamental conclusions of the Vienna Labour and Social Court of First Instance from March 2022 are now legally binding (see [report in EWC News 1/2022](#)). The grounds for the judgement in Austria are in line with the findings of the British Central Arbitration Committee from January 2020. At the time, the food manufacturer Princes Group wanted to refer its EWC to the free legal advice provided by the trade union Unite and was unsuccessful. The EWC can decide for itself which experts it commissions (see [report in EWC News 1/2020](#)).

[Full text of the ruling](#)
[Explanation of the court ruling](#) (from page 4 on)

Repercussions as far away as Ireland

To date, no other EU country has had a supreme court ruling on this issue, and the European Court of Justice has never been called upon to rule on the matter. The decision from Vienna is therefore an important reference in the ongoing proceedings for the US telecommunications group Verizon in Ireland. The first hearing at the Labour Court against the decision of the Workplace Relations Commission of April 2023 took place there on 25 October 2023 (see [report in EWC News 2/2023](#)). The hearing is expected to continue in February 2024.

Courts in Spain must decide on Brexit issue



On 18 September 2023, the Social Chamber of Spain's highest labour court ("Audiencia Nacional de España") ruled on a lawsuit filed by the European works council of the International Airlines Group (IAG), a holding company of airlines including British Airways, Iberia and Aer Lingus. The action was originally filed on 3 June 2020 and dismissed by lower courts for lack of jurisdiction. However, the Supreme Court then clarified on 24 February 2023 that courts in Spain do have jurisdiction over the case. The EWC agreement had been concluded in April 2017 under Spanish law, i.e. long before Brexit.

The complaint relates to the layoff of 12,000 employees at British Airways and 500 at Aer Lingus at the beginning of the coronavirus pandemic (see [report in EWC News 2/2020](#)). The EWC was neither informed nor consulted on the matter. The complaint did not cover the staff cuts at Iberia and the closure of a low-cost airline based in Vienna and Amsterdam during the same period. The court decision confirms that central management should have informed the EWC about the employment situation of the entire group. However, there was no obligation to consult because only one EU country (Ireland) was affected. Although the EWC agreement explicitly includes the United Kingdom, the consultation only applies to EU countries. The EWC has since lodged an appeal against the judgement with the Supreme Court. This court had already ruled on the obligations of confidentiality for EWC members in October 2020 (see [report in EWC News 4/2020](#)).

[Full text of the court ruling](#)

[Press release from the European Trade Union Confederation](#)

European Court of Justice tightens the General Data Protection Regulation

A ruling by the European Court of Justice on 5 December 2023 will make it easier for data protection authorities to punish violations of the General Data Protection Regulation and impose higher fines on average. Two courts (in Lithuania and Germany) had asked the European Court of Justice for guidance on the imposition of fines. The German case concerns the property group Deutsche Wohnen, which is refusing to pay a fine of €14.5 million.



Previously, a fine could only be imposed on legal entities (companies) if the offence was attributable to a natural person. The judgement now clarifies that it is not necessary for the infringement to have been committed by the management body or for this body to have been aware of it. A fine can also be imposed if the data processing was carried out by an external processor, provided that these operations can be attributed to a controller within the company. If the addressee of the fine is part of a group, the fine can amount to up to 4% of the group's global annual turnover. The EU General Data Protection Regulation has been in force since May 2018 (see [report in EWC News 1/2016](#)). Since then, fines totalling almost €4 billion have been imposed. Workplace surveillance also plays a role. For example, the Swedish textile retail chain Hennes & Mauritz had to pay a fine of €35.3 million (see [report in EWC News 4/2020](#)).

[Court of Justice press release](#)

[Report on the ruling](#)

[Full text of the ruling in the German case](#)

[Full text of the ruling in the Lithuanian case](#)

5. Pan-European company agreements

SE works council strengthens local employee representation



On 25 October 2023, a charter to improve social dialogue was signed at the headquarters of the care group Clariane in Paris. It applies to all seven European countries (including the United Kingdom) and sets out a number of principles. The contracting partners of central management are the SE works council and the European Federation of Public Service Unions (EPSU). There are already two transnational company agreements in place in the Group which has 70,000 employees (former name: Korian) (see [report in EWC News 4/2022](#)).

The charter gives the staff of every care facility the right to establish an employee representation body that deals in particular with occupational health and safety. Representatives are protected from discrimination, receive training, the equipment necessary for their work, time-off work and their own office space. The charter also describes the role of managers with respect to employee representatives. If a central works council does not yet exist in a country or there is no legal basis for one, it is to be established on a voluntary basis. The charter will be refined in each country over the next six months and evaluated for the first time in November 2024 using key criteria. These include: percentage of employees covered by a collective agreement; map and percentage of care facilities that have established employee representation bodies; percentage of managers who have received co-determination training.

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

Diversity, equity and inclusion at Italian insurance group

At a meeting in Athens on 14 November 2023, the select committee of Generali's EWC signed a joint declaration with central management. It consists of 13 points that are to be promoted in all European branches. Diversity is seen as a source of enrichment, innovation and creativity. Diversity includes gender, sexual orientation, ethnicity, age, physical and intellectual abilities, religion, marital/parental status, educational background and qualifications.



Equity means having equal and fair processes so that all employees have equal opportunities throughout their working lives and that barriers, discrimination and intolerance are eliminated. Inclusion means an environment and culture where everyone feels safe, valued and able to realise their full potential. The declaration expands on an agreement on diversity and inclusion concluded in September 2019 (see [report in EWC News 3/2019](#)). Generali's European works council, with 43 members from 17 countries, has concluded several pan-European company agreements (see [report in EWC News 4/2022](#)).

[Full text of declaration](#)

French insurance company wants to improve support for older employees



On 16 November 2023, Axa's EWC signed a charter with central management in Paris to promote the role and position of employees over 50. The charter is based on the principles of the "Club Landoy", an association of companies that have developed guidelines for the inclusion of older employees in an ageing society. The Axa Charter covers recruitment policy, training, job retention, career development support, well-being at work, retirement, but also raising awareness of age stereotypes. Axa's European works council is one of the most active in the insurance industry and has already negotiated several transnational company agreements - even a charter on global health in November 2020 (see [report in EWC News 4/2020](#)).

[Press release on the signing](#)
[Full text of the charter](#)
[Report on the principles of Club Landoy](#)

6. Newly established European Works Councils

Swiss pharmaceuticals manufacturer establishes EWC under German law

On 25 September 2023, an EWC agreement was signed for Siegfried Holding, based in Zofingen (Canton of Aargau). The pharmaceuticals group has 3,600 employees worldwide. The ten members of the "Siegfried Euroforum" from Germany, France, Spain and Malta (plus two guests from Switzerland) meet twice a year, including once via video conference. The face-to-face meetings take place at different locations in these countries. A select committee of three members meets with central management every six months. By mutual agreement, its meetings can also be held by video, but the committee can always insist on a face-to-face meeting.



The agreement already anticipates parts of the planned new EWC Directive

Its transnational competence is regulated more comprehensively than in the current directive. The EWC will also be regularly informed at an early stage in the implementation planning of strategic projects. In addition to the usual catalogue of topics, the EWC will also be informed about the company's social responsibility, sustainable development and due diligence obligations in the supply chain. In the event of unscheduled restructuring, the central management agrees a timetable for information and consultation with the select committee. The EWC must render its opinion within 20 working days. If new information is available that represents a significant change to the already identified situation, the EWC must be consulted again. In the case of projects that run over a longer period of time, the EWC is regularly informed about the project status and key implementation steps.

It can be assisted by two experts of its own choice: a trade union "coordinator" and "independent" experts. An annual budget of €25,000 is available for this purpose. Training for the entire EWC takes place at one of the ordinary meetings; in addition, each delegate has an individual training entitlement of ten days during the four-year term of office. If the EWC agreement is terminated and no new agreement is reached within twelve months, an EWC is established "by law" on the basis of the subsidiary requirements.

Australian healthcare group establishes EWC under French law



On 5 October 2023, an EWC agreement was signed in Paris for Ramsay Santé, the European subsidiary of Sydney-based Ramsay Health Care. It applies to 36,000 employees in France, Sweden, Norway, Denmark and Italy. On 1 January 2024, Ramsay Santé's EWC will replace Capiro's EWC, which was established in 2006 (see [report in EWC News 1/2013](#)). Ramsay Santé had already acquired the Swedish healthcare group Capiro in 2018.

As this was a "change in the company structure" within the meaning of Article 13 of the EWC Directive, the special negotiating body included two delegates from Capiro's EWC in addition to the country representatives. The new agreement is based on the core labour standards of the International Labour Organisation (ILO) and defines the transnational competence of the EWC more comprehensively than the EU Directive. The employer chairs the twice-yearly meetings, while the employee representatives elect the secretary and four other members to the select committee. In addition to the time for meetings, each EWC member has 20 hours' time-off work per year, the members of the select committee 60 hours and the secretary 100 hours. These hours can be used to visit sites. Travelling expenses are covered.

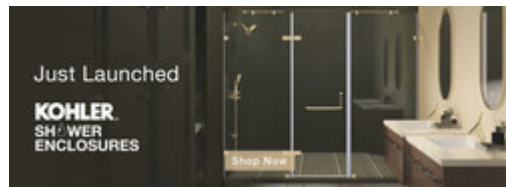
In the case of reorganisations, the opinion of the EWC must be rendered four weeks after it has been informed. In the event of a dispute, an arbitration committee is established consisting of two representatives from each side. If the arbitration is unsuccessful, legal proceedings can be initiated. The central management pays up to €7,500 for legal fees and court costs. If the EWC agreement is terminated, the EWC is dissolved if a new agreement is not reached in time. This regulation is likely to be unlawful, as in December 2021 a French court declared in another case that there is no such thing as a period "without a works council" (see [report in EWC News 4/2021](#)).

[Company press release](#)

EWC negotiations fail once again in a US company

On 16 November 2023, Kohler's special negotiating body unanimously declared the breakdown of negotiations to establish a European works council. The reason was the negative attitude of management. A European works council will therefore be established in accordance with the subsidiary requirements in France, the country with the largest workforce in the EU.

The family-owned company from Wisconsin with more than 40,000 employees worldwide produces bathroom and kitchen fittings and industrial motors. In Europe, there are production sites in France (1,800 employees), Italy and the United Kingdom, as well as small warehouses and sales offices in nine other countries. The EWC has 19 delegates and represents 3,000 employees. Since Brexit the British workforce is not been represented in an EWC "by law". The failure of such negotiations is rare, but has occurred more frequently in recent times (see [report in EWC News 1/2023](#)).



7. Revised EWC agreements

Chinese agrochemical group relocates EWC to the Netherlands after Brexit



On 14 June 2023, the period of old "voluntary" agreements came to an end with the signing of a new EWC agreement for Syngenta. Syngenta is one of the largest suppliers of seeds and crop protection products and was acquired by the Chinese state-owned chemical group Sinochem in 2017. However, the company is still headquartered in Basel (Switzerland). An EWC was established in the predecessor companies as early as 1995 (hence the "voluntary" agreement). Syngenta then had its own EWC under British law from 2001 (see [report in EWC News 3/2014](#)). After Brexit, it was relocated to the Netherlands and is now fully subject to the new EU Directive.

The "Syngenta European Employee Consultation Council", as the EWC is called, has 25 members, four of whom are from Switzerland, three each from the United Kingdom and France and two from the Netherlands. Five delegates from these four countries are represented on the select committee. Up to six external trade union officials can take part in the EWC's internal meetings, three of whom also attend the annual plenary meeting chaired by management as observers. In the event of reorganisations, ad hoc working groups are established for information and consultation and a detailed timetable is agreed with the employer in each individual case. There is no specific deadline for the EWC to render its opinion.

Training for all EWC members takes place once a year. The agenda and venue as well as additional training for new delegates are determined by the select committee. In the event of disputes regarding the interpretation of the EWC agreement, the EWC can appeal to the Enterprise Chamber of the Amsterdam Court of Appeal (Ondernemingskamer). All costs of legal proceedings shall be borne by central management if it has been informed in advance of the costs incurred.

Better equipment for EWC of French aircraft supplier

A new EWC agreement for Safran was concluded in Paris on 5 September 2023. The technology group supplies engines and electronics for the aviation industry. As before, the EWC will be chaired by the Group's CEO. The 21 EWC members from eight countries (including the UK) elect the secretary, treasurer and five other members to form the steering committee, which has its own travel budget of €10,000 per year. In addition to the twice-yearly plenary meetings, an internal EWC meeting is held once a year without the employer in a country of its own choice, including a site visit. All substitute members also take part in this meeting. The EWC also has a general right of access to all sites.



The timeframe for information and consultation is one month, but can be extended to six weeks for projects with a significant impact on jobs. The annual budget for experts will be increased from €40,000 to €60,000. Interpretation costs for meetings of the select committee are no longer deducted from this budget. The time-off work allowances will also be increased: from 120 to 160 hours for the secretary, from 60 to 120 for members of the steering committee and from 21 to 40 for all other EWC members. The mandate of the individual delegates will also be more strongly recognised: at the beginning of the term of office, there will be a meeting to raise awareness of line managers and local HR managers on the role of the EWC and the associated restrictions. The experience gained as an EWC member is to be taken into account in professional career development. The EWC was established following a merger in 2008 (see [report in EWC News 3/2008](#)). In recent years, several

pan-European company agreements have been concluded, most recently an agreement on skills development in June 2021 (see [report in EWC News 2/2021](#)).

Luxembourg packaging group with EWC agreement under Irish law



On 29 November 2023, an updated EWC agreement was signed for the Ardagh Group. The manufacturer of glass and metal packaging for the food and beverage industry has Irish roots but is now based in Luxembourg. The EWC was founded in 2005, represents 9,500 employees and continues to operate under Irish law. It has 25 members from 11 EU countries and the United Kingdom. There is also one observer each from Serbia and Switzerland. As the largest country, Germany has six seats, the United Kingdom four. Concerning the distribution of seats, both glass and metal divisions are adequately represented in all

countries.

The EWC members meet once a year for a whole week and elect their chairperson and the select committee (three members from each of the two divisions). The select committee together with two employer representatives form the "EWC Coordination Team", which meets in person four times a year. In addition, internal meetings of the select committee as well as video and telephone conferences with central management can take place at any time. There is no precise deadline for the implementation of information and consultation procedures. The select committee has the right to refer national matters to the responsible management of the respective country. All members of the EWC receive all necessary time-off work in addition to the time for meetings without a precise upper limit. The financing of training courses and experts has also been generously regulated.

8. SE conversions and escaping co-determination

Escape from co-determination in a single day of negotiations

Since 28 June 2023, the family-owned company Stockmeier from Bielefeld has been operating as a European Company (SE). It is engaged in the production and distribution of speciality chemicals and has grown to over 2,000 employees through acquisitions in recent years. As in many similar cases, the owners were able to use the SE conversion to ensure that the supervisory board remains free of employee representatives in the long term. However, there is one aspect that differs from other SE conversions: in addition to escaping co-determination, the rights of the future SE works council were also severely curtailed.



On 18 April 2023, the special negotiating body held its first meeting and signed, on the very same day, an SE participation agreement which had presumably been prepared by the employer's law firm. According to this agreement, the new SE works council, known as the "SE Information Committee", consists of just five members, with each country with 35 or more employees receiving one seat. This also applies to Germany, which accounts for more than half of the European workforce. An oral information and consultation procedure is carried out once a year; the only written document is the company's annual report. In exceptional circumstances, meetings are generally held as video or telephone conferences, and consultation procedures are concluded within two weeks at the latest. There is no entitlement to training or experts. In the event of termination, the agreement continues to apply until a new agreement is signed. The statutory standard rules are explicitly excluded, as it offers better framework conditions for the works council.

[Press release on the SE conversion](#)

East German bioenergy producer establishes SE works council



Verbio was entered in the commercial register as a European Company (SE) on 30 November 2023. Based in Zörbig (Saxony-Anhalt), the company employs 1,000 people and produces fuels and energy for industry, transport and agriculture, including straw for biogas production. In addition to the administration in Leipzig and production sites in the Bitterfeld region, Schwedt/Oder and Szczecin, there is also a research centre in Budapest.

The SE participation agreement concluded in Leipzig on 21 June 2023 provides for an SE works council under the name "Special Participation Committee". Its five members (three from Germany and one each from Poland and Hungary) will meet once a year with central management, plus up to four extraordinary meetings. The chairman and deputy chairman jointly constitute the steering committee. All meetings of the SE works council are generally held by video or telephone conference, unless otherwise agreed. Resolutions may therefore be passed by video or telephone conference or through circular written e-mails. The deadline for carrying out consultation procedures is nine weeks, in urgent cases four weeks. There are very detailed election regulations that provide for online election procedures for all countries and ensure gender balance. There is no provision for co-determination on the supervisory board.

[Press release on SE conversion](#)

Expert opinion on curbing the exodus from co-determination

The legal form of the European Company (SE) is increasingly being misused to limit or completely avoid employee participation on the supervisory board. For this reason, 85% of all SE conversions throughout Europe are concentrated in one single country: Germany. The legal form is particularly attractive for family businesses and start-ups. Time and time again, SE conversions take place shortly before the statutory thresholds of 500 employees in Germany (one-third participation) or 2,000 (full-parity co-determination) are reached. In this way, the status quo can be frozen for all time (see [report in EWC News 2/2020](#)).



In their coalition agreement in December 2021, the three governing parties agreed to take action against the abusive practice of circumventing co-determination rights through SE conversions (see [report in EWC News 4/2021](#)). A report by the University of Göttingen, which was presented by the Hans Böckler Foundation on 10 October 2023, shows how this can be implemented in practice. It recommends amending the SE Participation Act to define the use of the freezing effect as an abuse of rights. In such cases, renegotiations should take place with the standard rules based on the current size of the workforce. This would allow the level of co-determination to grow in line with the size of the company. Such a clause could also be applicable to existing companies in the legal form of an SE, according to the report.

[Further information on the topic](#)
[Full text of the report](#)

9. The view beyond Europe

French environmental group introduces basic social security benefits



On 11 September 2023, Veolia's Group management announced the introduction of the "Veolia Cares" program. In future, all 213,000 employees worldwide will be entitled to at least ten weeks' parental leave, sickness and death benefit insurance (six months' pay in the event of death), support for caring for relatives and one paid day a year to work for charity or environmental protection organisations. While other companies negotiate such programs with the trade unions or the European works council, this is not the case at Veolia. The Group does business in the water, waste and energy sectors.

[Press release on the introduction of the programme](#)

French cooperative bank extends global framework agreement

On 9 October 2023, Crédit Agricole's central management signed a new framework agreement with the Global Federation of Services Unions (UNI) at the bank's headquarters in the Paris suburb of Montrouge. It covers 75,000 employees in 46 countries and builds on a framework agreement signed in July 2019 (see [report in EWC News 3/2019](#)). It is the first agreement in the financial sector to grant teleworkers full trade union rights, collective bargaining and protection against potentially negative effects of AI and surveillance tools. They will have the same access to training and career development as all other employees. The



introduction of teleworking must be negotiated with employee representatives. Paternity leave of 28 calendar days is new.

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

Taking stock of the implementation of global agreement



After one year, the parties to the framework agreement for Teleperformance can look back on a successful collaboration. On 1 December 2022, the central management of the French group concluded a global framework agreement with the Federation of Services Unions (UNI) for the first time (see [report in EWC News 1/2023](#)). It applies to almost 500,000 employees in 95 countries and is implemented locally through national agreements. They already exist in Colombia, El Salvador, Jamaica, Poland and Romania and are still being negotiated in other countries. At international level, a working group on occupational health and safety has begun its work. Teleperformance is the global market leader in call centres and continues to expand. In November 2023, the Bertelsmann subsidiary Majorel from Germany with 82,000 employees was acquired.

[Press release on the anniversary](#)

Forthcoming event

The secretary of the Teleperformance SE works council will present a report at the next EWC conference on 29 and 30 January 2024 in Hamburg.

[The conference programme](#)



10. Interesting websites

List of the damage caused by Brexit

Brexit Carnage is a website promoting efforts for the UK to rejoin the EU. The professionally edited live news stream draws attention to the damage that leaving the EU is doing to the UK economy and global political influence. There is a briefing every morning and the latest opinion polls can also be consulted. The website is operated by the United Kingdom pro-European Network (UKPEN).



The next elections in the United Kingdom will take place on 28 January 2025 at the latest. Since the end of 2021, the opposition Labour Party has been leading the ruling Conservatives by a considerable margin in all opinion polls. A change of government seems almost inevitable. On 22 September 2023, Labour leader Keir Starmer declared that his party did not want to join the EU or the single market, but also did not want to "deviate" from the standards of the European Union. Conservative politicians accused him of wanting to rejoin the EU "in all but name". Top managers and business associations backed the Labour leader.

[The Brexit Carnage website](#)
[Press report on the Labour leader's statement](#)
[Press report on voices within the business community](#)
[Chart on current election polls](#)
[Press report on the forecast of election results](#)

European Centre for Digital Rights



In May 2018, the new General Data Protection Regulation came into force - with serious new enforcement mechanisms (see [report in EWC News 1/2016](#)). However, many companies are ignoring the strict data protection laws in Europe. This is possible because it is too complicated and expensive for individual users to claim their rights. The European Centre for Digital Rights (noyb) in Vienna aims to close the gap between the law and reality by thoroughly analysing cases of privacy violations and initiating legal proceedings. The cases are described on the website, which also provides the latest news on data protection. The website is available in ten languages.

Respect in customer interaction in the retail sector

For three years, the Westphalia Employees' Academy, the Technical University of Dortmund and other partners carried out the RespectWork project. Employees whose profession is "working on and with people" have been exposed to increasing disrespect from customers in recent years, particularly in the retail sector. Against this background, the project aims to promote quality of work and service through respectful interaction. The focus is on following topics: improving interaction with customers, training employees and works councils, optimising operational organisation, but also the supportive use of technology. The website contains practical information, training and counselling products that can be transferred to other sectors and that support respectful interaction at various levels.



[Description of the project](#)
[The RespectWork website](#)

Campaigns against problematic bank financing

BANKTRACK BankTrack is a non-profit international organisation based in Nijmegen (Netherlands) that investigates commercial banks and the activities they finance. The aim is to call on commercial banks around the world to take action against the climate crisis, the destruction of nature, the risk of pandemics and the violation of human rights. The focus is on "dodgy deals": High-impact bank financing with a negative impact on people and the environment. To this end, BankTrack organises campaigns to exert public pressure to ensure that banks meet their own voluntary commitments and refrain from financing dodgy deals.

[The BankTrack website](#)

11. New publications

Background information ahead of the European Parliament elections

In July 2023, the Friedrich-Ebert-Foundation published an 18-page brochure presenting the institutions of the EU, in particular the composition of the European Parliament. It is elected every five years, the next time in June 2024. Germany sends 96 out of 750 MEPs. The largest group is the European People's Party with 25% of all seats, to which the German Christian Democrats belong. The second largest group is made up of the social democratic parties, which account for 20% of all seats. They are followed by the liberal group (Renew Europe) with 14% and the green group with 10% of the seats. Since 2009, the European Parliament elects the Commissioners (the members of the European Commission) and can also dismiss them. The Parliament is involved in drawing up the budget and in the legislative process, but has no right of initiative. It can only ask the European Commission to submit a draft law, as was the case, for example, with the revision of the EWC Directive (see [report in EWC News 1/2023](#)). The brochure "How the European Union works: The European Parliament in focus" shows facts and figures as well as the legislative process using the example of the European Climate Law.



[Brochure download](#)

Sectoral study on sustainable mobility

The European Commission's strategy for sustainable and intelligent mobility states that the transport sector must reduce its greenhouse gas emissions by 90% by 2050. At the same time, the entire transport system is being digitalised. This study was published on 9 September 2023 and examines the consequences for employment in transport modes and among manufacturers. Four chapters are dedicated to the following sectors in detail: maritime/shipbuilding, road transport/automotive industry, civil aviation/ aerospace, rail transport/rail equipment. The study, which analyses the extent of the challenges for employment, skills and working conditions in more detail, was developed in a joint



project of the European Confederation of Industrial Trade Unions (industriALL) and the European Transport Workers' Federation.

[Report on the project](#)
[Study download](#)

Software systems for digital control in the workplace

A study published on 19 September 2023 examines the effects of process mining on the surveillance and control of employees. It documents a wide range of data practices: Insurance claims processing, manufacturing, creative work, warehouse order picking, from low-wage through to knowledge work. With process mining, business processes are digitally mapped and analysed for hidden process knowledge. Most employees are unaware of the data flows that take place in the background. Companies use this aggregated data to organise work, automate workflows and monitor employees. The study was carried out by Cracked Labs, an independent research institute in Vienna, in cooperation with partners from Austria, Germany and England as well as the European federation of service sector trade unions (UNI). It is only available in English. A comparable study in German was published in September 2021.



[Further information on the study](#)
[Download the study](#)
[Download the German-language study from 2021](#)

Work-life balance in Germany and the UK



This working paper, published on 6 November 2023, questions what the UK may learn from Germany about work-life balance. According to the author from the Fabian Society, a social democratic think tank in London, the UK has a lot of catching up to do. More so than in Germany, there is work overload and a blurring of the boundaries between work and private life, unfair contracts for part-time workers, a lack of control over working conditions, high work pressure due to staff shortages and unequal access to the labour market. In Germany, these problems are less pronounced due to the higher level of protection provided by labour legislation. The next government, which will probably be led by the Labour Party, should combine industrial policy with labour law reforms in order to improve the work-life balance. Suggestions from Germany could be helpful in the matter.

[Download the working paper](#)
[The Fabian Society website](#)

12. The EWC Academy: Examples of our work

German software provider for the retail sector continues with SE works council

On 17 and 18 October 2023, the EWC Academy held a training course for the SE works council at GK Software's headquarters in Schöneck (Vogtland) near the Czech border (photo with a working group on the structure of a consultation procedure). The SE works council has many new members who prioritised their work and developed concrete action plans. The former start-up has been operating as a European Company (SE) since 2018 in order to keep the supervisory board free of employee representatives (see [report in EWC News 1/2019](#)). In April 2023, GK Software was taken over by the Japanese technology group Fujitsu, which has had a



European works council since 1995. The SE works council of GK Software will be continued in parallel.

Training on the consultation process for adhesives manufacturer



From 6 to 10 November 2023, the SE works council of adhesives manufacturer tesa met for its bi-annual meeting in Hamburg. The delegates had to deal with a planned reorganisation. The EWC Academy therefore provided training on the legal intricacies of a proper consultation procedure. The SE works council has been in existence for 14 years and works on the basis of an SE agreement, which at the time was exemplary for German companies with one-third participation in the supervisory board. The

EWC Academy consultants have already supported the special negotiating body (see [report in EWC News 4/2008](#)).

Legal EWC seminar in Bremerhaven

From 14 to 17 November 2023, the EWC Academy organised a seminar on EWC law with participants from six companies. The focus was on case studies on "transnational matters" and sanctions for violations of EWC rights. Recent court rulings from Germany, Austria, Italy, Britain, France and Spain as well as the procedure for revising the EWC Directive were also on the agenda.



[Overview of relevant court rulings](#)

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, 906 employee representatives from 308 companies have taken part including many of them more than once. This represents around 25% of all transnational works council bodies in Europe. In addition, there are numerous in-house events and guest lectures given to other organizations.

[Overview of the forthcoming seminar dates](#)

16th Hamburg Conference for European and SE Works Councils



The next Hamburg conference will take place on 29 and 30 January 2024. As always, the latest developments in the EWC and SE landscape, a case study ("best practice") from a company and current court decisions will be presented. This time the focus of the conference will be on the ongoing developments for the revision of the EWC Directive. The European Commission announced on 1 March 2023 that it would start a legislative process for a new EWC Directive at the end of 2023. The conference will provide an initial legal assessment of the draft legislation.

[Conference programme](#)

EWC and SE seminar in Paris

From 25 to 28 March 2024, a seminar will be held in Paris for the fourth time after a long break. The objective is to gain a better understanding of French industrial relations and trade union systems. This is particularly important for employee representatives at European level because the features of information and consultation in the EWC and SE Directives have been strongly influenced by the French model. The special highlight of the seminar will be a visit to a trade fair for French works councils.



EWC and SE seminar at Montabaur Castle



From 2 to 5 April 2024 the annual introductory seminar for members of European works councils, SE works councils and special negotiating bodies will again be held in Montabaur. The castle is located at the high-speed railway station halfway between Frankfurt and Cologne. Several seminar modules are offered for both beginners as well as advanced participants.

[The seminar programme](#)

[Report from the last seminar in Montabaur](#)

EWC and SE seminar in Gdańsk

From 16 to 18 September 2024, a seminar will be held in Gdańsk for the second time. In addition to an introduction to the Polish system of employee representation, there will be an opportunity to discover the recent developments following the change of government. Poland is the most important EU country in Eastern Europe and its economy is tightly connected with Western Europe. For this reason, Polish delegates can be found in more than half of all European works councils (see [report in EWC News 1/2017](#)). The seminar program will be available shortly.



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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