

European Works Councils in complementary perspectives

Edited by
Markus Hertwig, Ludger Pries and Luitpold Rampeltshammer

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New approaches to the study of
European interest regulation

edited by

Markus Hertwig, Ludger Pries and
Luitpold Rampeltshammer

European Trade Union Institute (ETUI)

Part of the research for this book has been conducted in the research project ‘The European Works Council as a Transnational Organisation’, funded by the *Deutsche Forschungsgemeinschaft* (German Research Foundation, DFG).

Brussels, 2009

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Print: ETUI Printshop, Brussels

D/2009/10.574/27

ISBN: 978-2-87452-162-1

The ETUI is financially supported by the European Community.
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Preface

Over the last 20 years, there has been a growing interest within labour regulation research in the processes, effects and challenges of what is often broadly referred to as internationalisation or globalisation. Within the European Economic Area, European Works Councils (EWCs) have often been regarded as one possible instrument for coping with the negative side-effects (regime competition, downgrading of working conditions, etc.) of economic internationalisation. Research on EWCs began even before the passing of the directive in 1994 and its transposition into national law by 1996. Since the mid-1980s, predecessors of EWCs have been founded in French companies and in 1990 the *European Volkswagen Konzernbetriebsrat* (European Volkswagen works council) was established. Since the mid-1990s, an increasing number of studies concerned with the evolution of EWCs have been published.

Concerning the points of interest as well as the theoretical approaches, most EWC research is based on an (traditional) industrial relations framework, analysing processes of interest representation against the background of the capital-labour relationship. With respect to the contents, most of the early research tried to evaluate whether EWCs have been able to become relevant actors despite the fact that the EWC-Directive provides only for rights of information and consultation on transnational issues. Thus the conditions influencing the strength of an EWC as an effective instrument for the interest representation of employees was at the centre of the research agenda. The emphasis of most research on EWCs lies on the degree of their strength as interest representation bodies in inter-organisational bargaining with the management side. This focus has led to shortcomings concerning the intra-organisational bargaining between the plant and national representatives on the labour side and with respect to the role of structural organisational conditions.

The aim of this volume is to expand the prevailing research perspectives by focussing especially on the intra-organisational bargaining dynamics and stressing the 'organisational fit' between the European structures of the companies as for-profit-organisations and of the EWCs as not-for-profit-organisations dealing with and acting in these companies. In order to expand the conceptual outline of EWC research, in addition to the industrial relations focus there are some other concepts that might prove fruitful for the study of EWCs. The repository of research on organisations and internationalisation processes reveals theoretical ideas and concepts that, in large part, have been neglected by industrial relations approaches. For example, in addition to the analysis of processes of interaction and bargaining, the

sociology of organisations has developed several concepts for analysing how organisational structures are influenced by (external) market conditions or their embeddedness in cultural-institutional environments, why certain organisations fail to adapt to new environmental challenges but follow certain paths or trajectories, or how decisions are made in organisations. Theoretical approaches to internationalisation strategies of international companies have emphasised the importance of the cultural conditions of the countries in which a company is active or the problems of coordinating different subsidiaries of the organisation distributed over several countries. Economic or management science approaches have developed typologies of international organisations (companies) in order to analyse and illustrate the problems of coordination and integration of geographically removed organisational processes with respect to the overall organisation's aims.

Combining all of these different concepts into one coherent but still empirically useful concept is – to put it mildly – a quite ambitious endeavour. But since research into EWCs today still demands systematic concepts, it makes sense to envision different possible strands of research. In this respect, the chapters in this volume are a documentation of such a quest for arguments, elements and approaches that might contribute to a more systematic and theoretically informed study of EWCs.

The book is divided into three parts. The *first part* reviews some current theorising on EWCs. Chapter 1 outlines the broad concept of EWCs as not-for-profit organisations working in and focused on European wide for-profit companies, whose members are distributed over several countries and, thus, need to be integrated in order to effectively regulate complex and differing interests on the labour as well as on the plant side.

Chapter 2 by Hans-Wolfgang Platzer has two aims: first, the concept of 'Europeanisation', which has been developed in Political Science discourses on governance, is adapted for the study of EWCs as an integral part of an emerging 'European multi-level system of employment relations at group level'. Second, a case-study based typology of EWCs is introduced and evaluated against recent research. Especially the type 'participative EWC' is further differentiated in the light of a growing number of substantial agreements on company restructuring negotiated by EWCs.

Recent research has focussed on the role of 'identity' in the ability for EWCs to become actors in the interest regulation processes of a company. In chapter 3, Volker Telljohann examines both the conditions under which a European collective identity is likely to emerge within EWCs as well as the factors impeding EWCs' development into European-level actors. The

arguments are based on results taken from case-study research projects investigating the role of EWCs in the context of restructuring processes in the automotive and household appliances industries. The chapter analyses the ways in which EWCs have been involved in restructuring processes and the implications for the identity building process. It examines cases in which EWCs have succeeded in taking on a bargaining role and identifies what the prerequisites were in these cases for successfully defining strategies based on common objectives. The chapter also discusses the implications and prospects of a European-wide trade union coordination strategy and argues that close cooperation with European Industry Federations can enable EWCs to play an active role vis-à-vis management by autonomously identifying common interests and objectives.

The *second part* comprises five country chapters (4-8), which deal with the institutional and cultural background of EWCs' action in the specific countries, the national transposition laws, and the main streams of research conducted on EWCs in the respective country. While Matinez Lucio (UK), Rehfeldt (France), Köhler and González Begega (Spain), and Rampeltshammer and Wachendorf (Germany) review the current state of EWC research conducted in Western European Countries, Rudolph and Stegemann focus on EWC research in Poland.

Given the complexity of EWCs as institutions that act within international companies, case studies which concentrate on the analysis of single EWCs or on comparisons between EWCs have composed the dominant methodology for accessing EWCs in empirical research. The case studies in the *third part* highlight different topics in the history of EWCs in automotive companies. Klemm and Weyand, in chapter 9 entitled "Communication and Solidarity in Cross-Cultural Employee Relations," discuss the way in which "culture" shapes communication in European employee relations, e.g. in European Works Councils. The authors argue that the international institutional background for European employee relations is only weakly structured. Furthermore, actors remain nationally "embedded" and their experiences are mainly shaped by national cultural settings. Under these circumstances, the successful development of international forms of collective action and transnational solidarity also depends upon so-called soft factors, i.e. culture. As the initial findings from a corresponding research project, these soft factors in European employee relations are presented. The empirical findings show that different historical-cultural experiences and different forms of "self-" and "other-perception" do indeed pattern international communication among employee representatives. Transnational biographical networks tend to deal with these differences more easily.

In Chapter 10, Huijgen, Knudsen and Whittall focus on how EWCs function or do not function – as is often found to be the case. To understand what differentiates the good from the bad examples they consider the EWC as a network, defined as a structure that brings together geographically dispersed actors. Here, however, lies a fundamental problem of existing research on EWCs: up to now, the network concept has been only rarely and weakly applied to EWCs. The authors address this problem in their chapter by providing examples from BMW and GM, and in so doing lay a better conceptual basis for studying EWCs in the future.

In their article on unions and works councils' strategies in site-selection processes (chapter 11), Bartmann and Dehnen document and analyse the case of the so-called Delta site-selection process at the automobile manufacturer General Motors. The strategies of trade unions and works councils are analysed with regard to the Delta Group – a group involving employee representatives of the affected plants and union officials. The authors analyse how employee representatives dealt with the Delta site-selection process and explain which basis for and obstacles to transnational cooperation shaped the work of the employee representatives. The example of General Motors shows that transnational cooperation and the coordination of employee interests can work and successfully constrain management strategies of playing off workers against each other.

Acknowledgements

Most of the contributions in this book derive from a workshop in the context of the research project “The European Works Council – A Transnational Organisation?” funded by the Deutsche Forschungsgemeinschaft (German Research Foundation – DFG) and carried out from 2007 to 2010 at the Ruhr-Universität Bochum, Chair of Sociology / Organisation, Migration, Participation (www.rub.de/sozomm).

The editors would like to thank the ETUI for publishing this volume and providing support in the editing of the manuscript. At the Ruhr-Universität Bochum, we thank Jessica Buchholz and Valentina Mählmeyer who compiled and edited the manuscript, and Peter Ikeler for language checks and translations.

Bochum, August 2009

Markus Hertwig, Ludger Pries and Luitpold Rampeltshammer

Part I

Theoretical perspectives on EWCs

Chapter 1

European Works Councils as international non-profit-organisations: an organisational research approach to a crucial element of Europeanisation

Markus Hertwig, Ludger Pries, Luitpold Rampeltshammer

1.1. (Why) are European Works Councils so important?

After a lengthy period of discussion, proposals and negotiations the European Council of Ministers adopted the Council Directive 94/45/EC on the establishment of European Works Councils on September 22nd 1994. According to this EWC-Directive, workers and employees in all companies with a total of at least 1,000 employees working in at least two nation-states with at least 150 employees each in the European Economic Area should have the opportunity to elect a European Works Council (EWC) as their interest-representation body. European management of the companies falling under the Directive should inform and consult their EWC. The signing nation-states were required to adapt the EWC-Directive to their specific institutional traditions by national transposition laws by September 1996. At the company level, management and labour representatives should agree upon the nature, composition, delegation modes and working conditions of their EWC.

By this, the very nature of EWCs is quite unique in the world and in the landscape of European organisations, because they are effectively (1) European law-based non-profit organisations, (2) based on the different national transposition laws of the countries where the corresponding companies are active, (3) working on the basis of an agreement negotiated at the European level between management and labour representatives, and (4) directed towards European-wide active companies as profit organisations embedded exclusively in the corresponding national legal systems. At first glance upon this complex national, supranational and company-level organisational network, EWCs appear to be a promising answer to the problem of interest regulation in times of increasing economic internationalisation.

But EWCs are not only very interesting and unique in organisational and institutional terms. In recent years, they have also become very important in

practice. Despite the fact that only about one third of all companies falling under the EWC directive have actually established an EWC, their significance and impact upon labour regulation at the European level should not be underestimated. At the time when the European Union consisted of fifteen member states they represented a total of about 17 million people working in companies with an EWC. Taking into consideration the new EU member states, the number of people directly represented by them is even higher. As EWC coverage increases with the number of employees and countries in the EEA in which the companies are active, almost two thirds of all workers and employees engaged in European-wide active companies actually are represented by an EWC (Kerckhofs 2006). Therefore, it is not surprising that there exists a broad stream of political debates and scientific research about EWCs. In particular, the European automotive industry is of crucial interest: first, due to the high share of companies falling under the Directive and, second, because of the significance of some explicit debates and conflicts that have affected the European level of labour regulation (like the General Motors case or the Volkswagen-Porsche conflict).

The scholarly debate on EWCs concentrates on the character, function and reach of the EWC: Is this new European-wide body an unsuitable instrument to cope with economic internationalisation (Keller 2001)? Will it mainly function as an information and communication channel for the management side (Hancké 2000)? Or can it develop into a powerful and effective means of organising and expressing workers' interests at the supranational level (Müller and Platzer 2003)? Are EWCs merely extensions of the labour regulation patterns and dynamics of the countries where companies' headquarters are located (Streck 1997)? Or can they actually introduce, under specific circumstances, a genuine European dimension into labour relations and a new logic of transnational labour negotiations (Kotthoff 2006)?

Empirical research that attempts to answer these questions is focused mainly on two issues: first, developing an adequate typology of EWCs (based on their internal structure, the pluri-local plant relations as well as their relations to management and unions) and, second, controlling for variables (such as sector, founding date of the EWC, country of company's headquarters) influencing these types of EWCs and their corresponding output and efficiency as means of interest mediation and conflict regulation. There is some empirical evidence of the impact of (1) country of headquarters, (2) sectoral characteristics and (3) period of negotiation and signing of the EWC agreement on the form and outcome of an EWC's working dynamics. Previous studies have pointed out that EWCs vary extremely regarding their activities and their ability to effectively influence

company decisions and represent employee interests. While some EWCs operate on a low level (as simple ‘tools’ for the distribution of selected management information), others play an important role in the overall communication and interest regulation of the company at the European level (e.g. Marginson et al. 1998; Lecher et al. 2001a; Lecher et al. 2001b).

Up to now, however, little attention has been paid to the impact of company structures on the corresponding structure and activities of EWCs. To explain the variation of EWC cooperation structures and characteristics, the majority of literature is based on (extended) industrial relations approaches. EWCs have, often implicitly, been conceptualised as more or less homogeneous actors and counterparts to the (supposedly existing) European Management of their respective company while at the same time not exhibiting the structural conditions and basis of their existence and efforts. Taking into account that structural properties – such as structures of the company and the national-cultural setting in which each of the EWC members is situated – are important in order to understand EWC dynamics, it seems necessary to enlarge the (traditional) actor-focused perspective by adding elements of a structural approach. Therefore, this chapter aims at widening the dominant research perspective on EWCs. It mainly offers an integrated view from an organisational research approach. It is argued that in order to understand and explain the actual nature and dynamics of interest regulation in EWCs one also has to pay special attention to the specific form of distribution and coordination of resources, power, culture, and knowledge at the European *company* level.¹ Based on a concept and typology of international (profit) organisations, this chapter analyses the development of EWCs – which will be outlined in section 1.4 – as global, focal, multinational or transnational non-profit organisations working in and addressing global, focal, multinational or transnational for-profit-organisations. In general, it is held that an organisational research approach may serve to enrich and differentiate the traditionally industrial relations-focused research and discussion on EWCs. In this perspective the issue of potentially emerging *transnational* organisational forms of EWCs is crucial in estimating the dimension and impact of EWCs as border-crossing bodies of labour regulation.

¹ The term ‘European company’ is used in this chapter in a broad sense to denote those companies that are active in a substantial way at a European level in a cross-border manner (one could think of the definition in the EWC Directive, that is: in at least two countries with at least 150 employee in two countries and with at least 1.000 employees in Europe). The term is neither restricted to the European Company as *Societas Europaeae* nor to those companies having an EWC, but used to facilitate reading in the sense of a ‘cross-border active company working in different European countries’.

As a first step, the existing literature of scholarly research on EWCs is briefly reviewed. As the EWC Directive became compulsory in 1996, studies since then have generally concentrated on questions of the coverage, agreements and characteristics of EWCs. The dominant theoretical approach has largely been, basically, to extend the industrial relations-approach known from national studies to the European level (section 1.2). Because of the shortcomings of such an approach deriving from the national industrial relations perspective, some alternative theoretical concepts are discussed. It is argued that the EWC has to be analysed as a genuine European body and that approaches developed in the line of “methodological nationalism” (Wimmer and Glick Schiller 2002) are not sufficient, although they might be helpful if situated in a broader framework for actually analysing border crossing phenomena (section 1.3). Then, an organisational research perspective is presented which originally was applied to profit organisations. It is argued that combining this with more recent research on transnational social movements and NGOs offers a suitable framework for analysing EWCs and integrating some additional aspects (section 1.4). Finally, some elements for an extended explanatory model of EWCs, their dynamics, outputs and ‘organisational fields’ are presented which may be helpful for further research (section 1.5).

1.2. What do we know about EWCs?

Analyses of EWCs have been conducted in various disciplines: Interest in and research on EWCs started even before the Directive was transposed. *Historical* accounts of the development of EWCs typically distinguish three phases (Platzer and Weiner 1998: 393ff.; Keller 2001; Rivest 1996). During the first period, which covers the time-span before the adoption of the Directive, research was directed at voluntarily established bodies for information and consultation of employees (EWC precursors). According to Kerckhofs, in this period 49 EWCs were set up in 46 companies (Kerckhofs 2003: 15). Despite the voluntary character of the negotiations, these pioneer projects were important as practical role models (Nagel 1999: 325f.). The second phase ranges from the adoption of the Directive in 1994 until the completed transposition into national law in 1996. During this period roughly 400 voluntary agreements (so-called ‘Article 13 agreements’) were concluded (Kerckhofs 2003)². This bargaining ‘under the shadow of the

² The peculiarity of Art. 13 agreements is that they did not have to conform to the obligatory requirements and procedure set out in the Directive. Rather, company actors were free to deviate from these parameters and to tailor company-specific procedures (Hoffmann 1997; Lecher et al. 2001: 194).

law' (Bercusson 1992), however, ended with the implementation of the Directive. The third period marks the time after the implementation and the setting up of a 'legal standard procedure' (Lecher et al. 2001: 11) according to Art. 6 of the Directive.

While the juridical literature on EWCs focuses mainly on the specific national transposition either in one country or from a comparative perspective (e.g. Bercusson 1996 for the UK; Blanke 1999 for Germany; Hayes 1996 for Ireland; Buschak 1997 and Bueggel 2002 for EU-wide comparisons) and on a comparative legal evaluation of the effectiveness of the EWC-Directive (e.g. the country chapters on France, Germany, Belgium and the Netherlands in Rigaux and Dorsemont 1999), *economic* studies focus on quantitative aspects such as distribution and compliance rates and the relationship between EWCs and specific company factors. In their econometric analysis of voluntary EWC agreements, analogous to studies on German works councils, Addison and Belfield (2002) found no correlation between establishment variables, productivity and performance and the existence of an EWC. By contrast, *political scientists* stress the institutional, power and interest aspects of EWCs. Looking for and evaluating the economic and political factors to explain the existence or non-existence of an EWC, Streeck and Vitols asserted the superiority of political variables (strength of works councils in the country of headquarters and the influence of the French socialist party) over economic variables (concentration of production and internationalisation of employment). Thus, Streeck and Vitols conclude that "voluntary supranational works councils are rooted in diverse national political and institutional conditions, especially the power and access to political and legal resources of national unions and employers" (Streeck and Vitols 1995: 268).

In contrast, studies from an *industrial relations*' perspective mainly concentrate on the 'web of relationships within the triangle of industrial relations' (Müller-Jentsch 1997), i.e. on relations between (1) employees' representatives and trade unions, (2) management and employers' associations and (3) the state and public organisations. In this tradition, the main objects of research are the functions and the modes of operation of EWCs. In terms of the *functions* of EWCs such questions have been treated as whether EWCs contribute to industrial democracy (e.g. Ramsay 1997), to the advancement of industrial citizenship (e.g. Streeck 1999), to the development of a European labour identity (e.g. contributions in Whittall et al. 2007) or in respect to the emergence of a European system of industrial relations (e.g. Müller and Platzer 2003; Weiss 2007; Platzer in this volume).

Coverage, agreements on and characteristics of EWCs

According to the database of the European Trade Union Institute (ETUI), by the end of 2005, 909 EWCs had been created of which 784 were still in existence. EWCs exist in 772 out of 2,204 companies which are covered by the EWC-Directive. Therefore, the coverage rate of companies amounts to 35% whereas the coverage rate of employees working in companies with an EWC is 61%. These figures indicate that large companies are more likely to have an EWC than smaller companies, a fact which is confirmed by the ETUI database: 23% of all companies with less than 5,000 employees that are covered the EWC-Directive have set up an EWC compared to 61.3% of all companies with more than 10,000 employees. With respect to the number of EWC-agreements the database lists 1,141 EWC-agreements that have been concluded so far (Kerckhofs 2006: 33).³

In addition to studies on the spread and coverage of EWCs a second important stream of research has emerged dealing with the company-related agreements on which EWCs are based. The main findings in this area reveal that EWC-agreements are important for the concrete determination of the fields of activity and the means of action for the EWC (Carley and Hall 1996; Gilman and Marginson 2002). Furthermore, these analyses also show considerable differences between these agreements and the structure and capacity of the EWCs in question to act (Gilman and Marginson 2002; Lecher 1999). In their analysis of 344 EWC-agreements, Gilman and Marginson detected four influencing factors which explain the variation of the provisions of the agreements: aside from (1) the influences of the sector and (2) the country of headquarters of the company, the authors also found (3) a statutory model effect, i.e. influence of the subsidiary provisions of the EWC-Directive, and (4) a learning effect, i.e. imitation of good practice carrying explanatory value (Gilman and Marginson 2002: 46ff.). ‘Voluntary’ EWCs, being founded before 1996, play an important role insofar as they served as models and blueprints for legislation (Nagel 1999: 352f.). Nevertheless, analyses of ‘voluntary’ EWCs and EWC agreements can only provide a first step towards examining the factors that contribute to the emergence, form and output of

³ In addition to the activities of the ETUI a project conducted at the Technische Universität in Munich is concerned with the details of problems of definition and measurement. One such problem consists in defining the companies falling under the Directive given that the term ‘controlling undertaking’ used in the Directive has different connotations in different national legal and institutional contexts. In some companies, EWCs are built at the peak level of European holdings; in other cases there exist different EWCs in a European conglomerate of companies, shared properties and joint ventures (see Lücking et al. 2008; Whitall/Knudsen/ Huijgen in this volume).

EWCs. Moreover, as Müller and Hoffmann show on the basis of an evaluation of EWC case-studies, actual practice in many cases exceeds the content of EWC-agreements (Müller and Hoffmann 2002: 108).

Furthermore, in addition to the evaluation of EWC-agreements, a third strand of research focuses on the analysis of the functions and modes of operation of EWCs. These studies concentrate on three topics: (1) the conditions influencing the structure of EWCs as well as their effectiveness for the interest representation of employees (e.g. Lecher et al. 1999 and Waddington and Kerckhofs 2003); (2) the internal dynamics and the feedback effect of EWCs on national employee relations (e.g. Müller and Hoffmann 2002); (3) detailed case studies on individual EWCs in which specificities or singular historic problems of employee representation have been analysed; most prominently about EWCs in companies of the car industry (e.g. Whittall 2000 on BMW; Fetzer 2008 on GM; Hancke 2000 more generally on the car industry). In the following, some important findings of these strands of research will be sketched out.

Concerning the first aspect of structure and direct outcome of EWCs, the focus of early EWC studies was on identifying “different types of EWCs, the variables that influence their operation, and the phases through which they develop” (Waddington 2003: 305). On the basis of four fields of interaction or dimensions of communication (among EWC members, between management and EWC, between trade unions and EWC and between the respective national employee representations and the EWC) Lecher et al. (1998 and 1999) proposed a useful typology of EWCs according to the intensity and effectiveness of employee representation: symbolic, service-oriented, project-oriented and participatory EWCs. However, “only a fraction has so far developed real actors’ quality” (Lecher et al. 2001: 200).

Moreover, there is also substantial variation in the quality of participation of EWCs according to different issues which are prescribed by the EWC-Directive as subjects of information and consultation. As Waddington shows on the basis of an empirical survey of 473 European Works Councilors, important issues such as the economic situation of the company were either not addressed by management (5,5% of the respondents) or information on this topic is insufficient (7%) (Waddington 2006: 564)⁴. These findings show that in many EWCs important issues are

⁴ According to Waddington, 59% of the respondents reported information but no consultation, whereas 28% reported information and consultation (Waddington 2006: 562). Furthermore, in the case of company restructuring only 24,2% of the respondents were informed before the final decision was taken (20% consulted), 37% before the decision was made public

excluded from the agenda and that participation is deficient according to the standards set by the EWC-Directive.

With regard to the second topic, a string of more recent research addresses the analysis of internal EWC-practice, i.e. the internal modes of functioning, the flows of communication and interaction among the members of the EWC and the emergence of internal cohesion within the EWC (Miller 1999; Wills 2000) and of an EWC identity (Köhler and Gonzalez Begega 2007; Kotthoff 2006; Telljohann 2005 and the contributions in Whittall et al. 2007). In contrast to earlier studies the centre of attention is increasingly the role of 'downward effects' (Hoffmann et al. 2002: 2) emanating from the EWC and affecting national employment relations, interest representation bodies, management and providing for the potential emergence of supra-national collective bargaining structures.

The analytic scheme offered by Lecher et al. (1999) which conceptualised EWC practice according to the above-mentioned four dimensions or relationships (EWC – management; EWC – trade unions; EWC – national interest representation and EWC's internal relations) plays an increasing role in the conceptualisation of these studies (e.g. Telljohann 2005). In their study on eight UK and US-based companies, Marginson et al. (2004) found a wide variation among the influence of various EWCs on national employment relations and on company-wide structures of interest regulation. In all of these cases the flow of information has improved, and an "increase in the amount and quality of information (...) resulting in increased transparency of business decisions and their IR consequences" (Hoffmann et al. 2002: 21) can be identified. This is especially true for companies in which management has adopted a positive stance towards the EWC and in addition, provides an explicit contact person for EWC representatives. Finally, it is also of importance whether the EWC can resort to stable forms of national interest regulation at the company level.

EWCs in the European automotive industry

Regarding the third group of EWC studies, a whole range of them are concerned with analysing specific cases of EWCs or EWCs under specific conditions (plant closures etc.) and in particular sectors. In this respect, the European automotive industry is of crucial interest (cf. Bartmann and Blum-Geenen 2007; Bartmann and Dehnen in this volume; Eller-Bratz and Klebe

(29,7% consulted), 26% after the decision was taken (20% consulted) and 13% were not informed at all (30% were not consulted) (Waddington 2006: 564).

1998; Fetzer 2008; Haipeter 2006; Haipeter and Banyuls 2007; Hancké 2000; Kotthoff 2006; Rehfeldt 1998; Rott 2008; Schulten 1992; Whittall 2000; Whittall et al. in this volume). The large European car producers were pioneers in the establishment of EWCs. In 1996 – even before the expiration of the so-called Art. 13 phase – all European car producers had installed European information and consultation bodies (Hancké 2000: 55). Meanwhile, almost all large car suppliers have set up an EWC (EBR-Newsletter 2004; eiro-online 2003; ETUI-database).

Eller-Bratz and Klebe (1998) show how the EWC at GM succeeded in 1997, against the stern resistance of management, in reaching a cross-national position on a benchmarking analysis and implemented the right to be informed and consulted. The EWC succeeded in containing, and monitoring competition among employee representatives of the different subsidiaries. This was possible due to the help of ‘a fanciful and prompt combination of national information- and co-determination rights’ (Eller-Bratz and Klebe 1998: 449). In the end, this conflict helped to strengthen not only the national forms of interest representation but also the EWC at GM in general with respect to increased internal cohesion. Moreover, in recent developments at GM where management planned considerable restructuring measures that would have affected several European production locations, the EWC was able to achieve a degree of participation that goes beyond the codified stipulations of the EWC-Directive (Bartmann und Blum-Geenen 2007; Bartmann and Dehnen in this volume).

The idea of establishing a European body of interest representation at the (German) company works council (Konzern-Gesamtbetriebsrat, henceforth KGBR) at BMW arose during the acquisition of the British Rover group in 1994. The main reason for this was the fear that the integration of Anglo-Saxon subsidiaries could result in a lowering of the relatively high standard of regulation at the German BMW plants. The initial negative attitude on the side of management changed – anticipating the advantages of a voluntary arrangement – under the influence of the EWC-Directive (Whittall 2000: 67f.). This study confirmed the oft-stated thesis of the dominance of the headquarters on the moulding of EWC-characteristics (Lecher et al. 1998). In the face of far-reaching structural differences (in labour relations in the UK and Germany, the distribution of seats and competences), so-called ‘soft factors’ such as trust-building, regular interactions and network-building gained increasing importance. During the Longbridge crises of 1998 and 1999, the resources of the German KGBR played an important role, especially when compared to the more restricted capacity of the BMW EWC to intervene. The main function of

the latter was to create “a basis for bilateral trade-union cooperation” (Whittall 2000: 78).

In 1990, Volkswagen (VW) set up the first EWC in an automotive company.⁵ According to Helbig, the decision to establish an EWC was motivated by the wish “to play a leading role in the social dimension of the EU” (Helbig 1999: 247). Despite the fact that research states a dominance of German *structures* of interest representation within the EWC at VW, positive *results*, i.e. the influence of the EWC on company decision-making processes have been confirmed (Mertens 1994; Haipeter 2000). This influence has been explicated in respect to four developments: (1) the competences of the EWC at VW have been extended beyond the codified rights laid down in the EWC-Directive; (2) the company-internal competition among production locations has been restricted and moderated, and a transfer of the relatively high level of German employee regulation to locations outside Germany has been achieved (Helbig 1999: 259); (3) the set-up of the EWC at VW advanced the development of a world works council and thereby supported the emergence of a “global multi-level structure” (Müller et al. 2004: 14); (4) despite the fact that the formal and direct co-determination competences of the EWC are very limited, Helbig points to the fact that the EWC affects to a large degree “the context of action for decisions which are taken in other bodies of the company” (Helbig 1999: 259).

Despite the above-mentioned bias towards agency in the industrial relations’ perspective, the importance of structural factors, especially the structure of the national system of employment relations, the sector, the company, and management attitudes towards EWCs have been acknowledged in some contributions on EWCs (Marginson et al. 2004 212; Kotthoff 2006: 174). Marginson’s studies (1992; 1994) suggest that a one-dimensional approach towards explaining the existence and modes of operation of EWCs may be too simplistic. Instead it is the interplay of the entire set of structural features of a company that influences the decision in a company to set up an EWC. Among these structural features Marginson lists single ownership of the company, the existence of a European-level management structure and the existence of an integrated production structure.

Later on, Marginson et al. built on this line of research and conducted a study in which the impact of EWCs on the process and the outcome of

⁵ First initiatives for the installation of cross-border employee representation started as early as 1966, the EWC was founded in 1990 and in 1998 a world works council was established.

management decision-making in eight UK and US-based multinational companies were analysed (Marginson et al. 2004). Results indicate that the variation in the extent of EWC-influence on management decision-making processes can be explained by six variables: three structural (business alignment, management structure and industrial relations platform) and three agency-related factors (management policy towards the EWC, employee-side organisation and EWC interaction). In the (four) cases where the EWC did exert influence on the outcome of management decision-making, Marginson et al. grouped the issues involved under two headings: first, decisions of cross border restructuring that have consequences for employment security, and second, transnational decisions that impinge on employees' rights and/or working conditions. According to Marginson et al., "the actual occurrence of decisions on these two issues is the crucial factor separating the four cases where some impact was observed from those where no impact was evident" (Marginson et al. 2004: 223f.). However, among the second group there was no consistent picture on cross-border restructuring. Therefore, the nature of the issue at stake seems to be a necessary but not sufficient condition for the exercise of EWC influence on management decisions.

1.3. Shortcomings of current research and the organisational approach

To summarise, the focus of research has been on the analysis of EWCs in international companies in different countries and sectors. Hence, research focuses on banks and insurance companies, the food industry, metal and electronics and the construction industry. Research on the automotive sector has produced detailed case-studies (e.g. on Volkswagen) as well as analyses which focus on selective and historical incidents (e.g. on Renault, GM or BMW; Helbig 1999; Müller et al. 2004; Rehfeldt 1998; Whittall 2000). Methodologically, many inquiries focus on case studies of EWCs in some companies combined with more or less extensive analyses of the relevant documents (e.g. EWC-agreements), and on the systematic evaluation of secondary sources (company reports). During the last ten years or so, surveys and document analyses with a quantitatively broader, but qualitatively narrower scope have also been developed (e.g. Gilman and Marginson 2002; Waddington 2006). On the one hand, the complexity of the object of research makes it difficult to use standardised survey instruments; but on the other hand, the representativeness of in-depth case studies should be checked and counterbalanced by broader inquiries (Lecher et al. 2001: 177ff.; Vitols 2003). In most case studies interviews have been conducted

only within the headquarters and one additional subsidiary (e.g. Lecher et al. 2001: 55; Telljohann 2005: 83). This course of action, which is often used in traditional concepts and methods of nation-state focused industrial relations research, does not seem balanced enough to provide an integrated view of the differentiated structure and the dynamics of interaction of EWCs. Given the complex constellation of the actors involved, it seems inevitable to take into account the perceptions and views of strong and weak EWC members or groups inside the EWC as well as management representatives from different subsidiaries, i.e. local plants.

On the other hand, many studies relying on the framework of an industrial relations perspective have failed to develop richer theoretical groundings for the study of EWCs; especially the rich repository of concepts and insights that organisation research has provided since the 1920s, has been neglected. Although most studies on EWCs differ in their emphasis on action-theory or structure-theory, they remain predominantly within the framework of a particular industrial relations perspective that has up to now been biased towards ‘methodological nationalism’ (Wimmer and Glick Schiller 2002). In particular, three sets of influencing factors on the establishment and quality of representation of EWCs have been prominent in the literature. These factors were mainly extracted and extended from the logic of national research and of inter-national comparison in the field of industrial relations to the field of EWC studies. But rarely were these aspects of the EWC context treated in a more theoretical or conceptual manner. As Müller and Hoffmann (2002: 108, 111) emphasise, there is still substantial demand for a conceptual systematisation of research on EWCs. This subject will be elaborated on in the remainder of the chapter.

The first influencing factor for understanding EWCs is the so called *headquarters’ homeland* effect. In many studies there was a clear influence of the national political and especially the industrial relations regime of the home country of the European company (e.g. Cressey 1998). The internal structure of the EWC, the management-employee relation, the role of trade unions, the prevailing understanding of the function and internal working of the EWC – all these aspects are influenced by the specific labour regulation regime in the headquarters’ homeland (e.g. Lecher et al. 1999). This is not at all surprising, since in the research on international companies the headquarters’ effect on the overall cross-boarder organisational culture and behaviour is well proven (see e.g. Perlmutter 1969; Hofstede 1978).

A second factor influencing EWC structure and dynamics that was first identified in the 1990s is the *sector* influence. Depending on whether a

European company is working in the automotive industry, the energy and power production industry, the chemical or the service sector, the structures and working dynamics of the EWCs will differ (e.g. Lecher et al. 1999; Gilman and Marginson 2002). Taking organisational research into account, the significance of the sectoral influence is more than expected, since there is substantial empirical evidence that this is – in addition to size – one of the most significant elements explaining the structure of nationally active and international companies in general. The contingency approach dealt with the sector aspects of organisations' structure since the 1950s; the so-called Aston School of organisational research organised British and international comparative research related to the size and sector effects (for an overview see Brown 1992, chapter 3). Other theoretical approaches in the sociology of organisations attribute the effects of sectors to the specific logics or cultures of organisational fields or societal sectors, which are characterised by distinct institutional settings that shape organisational structures and behaviour (DiMaggio and Powell 1983; Scott 2008).

A third factor identified in (relatively early) EWC research was related to the *point in time when the basic agreement between management and workers was signed*. According to the EWC Directive of 1994, the procedures and rules for building an EWC differed significantly before and after 1996 (Art. 6 and Art. 13 of the Directive). Therefore, the analysis of the EWC agreements revealed significant differences according to the application of the Article 6 or Article 13 regime (Gilman and Marginson 2002 and Marginson et al. 2004). These findings could be directly related to what in the sociologies of work and organisations is termed the trajectory or path-dependency effect (Freyssenet et al. 1998; Pierson 2004; Djelic and Quack 2007). According to this argument the current structures and dynamics of organisations are influenced by the specific timing of their foundation and the prevailing legal and societal context situation, by the strategic decisions and critical situations of the past and by deeply influential events or personalities throughout their history.

With regard to these three factors influencing EWCs' structure and dynamics, there exists a well developed focus on important *explanantia*, but the framework for conceptualising the *explanandum* – the structure, dynamics and strategies of EWCs' internal lives – is still quite underdeveloped.

A critical evaluation of the discussion on EWC research displays a predominance of studies conducted from an industrial relations' perspective, i.e. claiming the central importance of the capital-labour relationship. In the centre of this line of research are studies on the historical evolution, shape

and effectiveness of EWCs as dependent variables, whereas the objective framework conditions (embeddedness in national or EU-level institutions of employment relations), company and management related factors (EWC-agreements, management's stance towards the EWC) as well as decision-making processes within the different groups are treated as independent variables. In terms of research concepts and categories used, the four dimensions of relations proposed by Lecher et al. 1999 are predominant (EWC – management, EWC – trade unions, EWC – national interest representation and EWC-internal relations) which have been used in analyses of works councils in Germany (e.g. Fürstenberg 1958; Kotthoff 1981 and 1994; Müller-Jentsch and Seitz 1997). From an industrial relations' perspective, important insights have been gained into the 'inner dynamics' of EWCs, their formation as a group, the strategies of actors involved, the central importance of trust among the delegates to overcome competition between production locations and the web of relationships in which EWCs are integrated (e.g. vis-à-vis management, trade unions at the regional, national and European levels). But in a general sense, up to now little explicit reference has been made to the very fact that an EWC is not just an extension or expansion of national bodies of interest regulation but that it is a very complex multi-level and multi-dimensional power field of labour regulation. The traditional approach of 'methodological nationalism' (Wimmer and Glick Schiller 2002), which forged the industrial relations research approach, falls short. The same is true for simple dualistic capital-labour or triadic capital-labour-state approaches – research on EWCs has to take into consideration the emerging transnational textures of labour regulation (Pries 2008). And it also has to take into account the complex interrelations of intra- and inter-organisational bargaining that are taking place within EWCs (see section 1.4 and 1.5).

In summary, the EWC literature of the past fifteen years has identified some crucial influencing factors, long before prominent for organisations generally, but specifically necessary for understanding and explaining the structures and working dynamics of EWCs. In particular, the long tradition in the sociology of organisations and in interdisciplinary organisational research since the 1950s was not exploited for EWC research due to the prevailing rather narrow focus on industrial relations. There are some other disciplinary and interdisciplinary fields from which EWC research could learn. This is especially true for European multi-level integration research in political science and sociology (e.g. Jachtenfuchs and Kohler Koch 1996; Münch 2001; Heidenreich 2006), the debate about the convergence or divergence of national institutions in the process of globalisation (e.g. Hall

and Soskice 2001; Katz and Darbishire 2000), and the perspectives of a sociology of internationalisation and transnationalisation processes (Pries 2008). But it is especially organisational research that provides a promising field of theoretical and methodological inspiration, as will be shown in the following.

In order to understand the complex multi-level network of local, national, transnational and supranational institutional embeddings and actor constellations of EWCs, they should be conceptualised as *complex and composed, multi-level and multi-dimensional cross-border non-profit organisations working in and focused mainly on international for-profit-organisations*. First of all, EWCs are organisations in the very basic sense. In general, *organisations* are defined as relatively stable and formal forms of cooperation with (1) specific, more or less explicit goals, (2) criteria for differentiating themselves from their environment by membership (rules), and (3) at least a minimal degree of internal structures and division of labour. The organisational aims and goals must not be formally fixed, but they should be generally accepted by the members and perceived by the environment – even though they might be contested internally and/or externally. Related to EWCs, there are quite clear formal goals defined by the EWC Directive: EWCs should organise information and consultation of workers in European companies. EWCs also fulfil the second criterion of having clear membership rules: the basic agreement fixes the number and method of EWC membership appointments. Finally, EWCs have a specific division of labour and structure. They consist of representatives of different plants and nation-states, they have a steering committee and often other types of subgroups. Just like any other organisation, EWCs face the problem of integrating and coordinating the locally dispersed contributions of their parts (the members) while at the same time balancing their sometimes heterogeneous interests in order to maintain stability and realise the goals of the organisation as a whole.

Characterising EWCs as *complex and composed* organisations means that it is inadequate to define them as simple interest organisations. In general terms, organisations could be differentiated into for-profit and ‘not-for-profit’ organisations, as well as into governmental and non-governmental organisations. EWCs are ‘not-for-profit’ and nongovernmental organisations. In this sense, their character is quite simple. But concerning their nature as collective or corporate actor constellations, they are very complex. Organisations can be understood as *collective* actors if their members share at least some more or less homogeneous interests and if the organisation depends strongly on members’ resources (such as unions or political

parties). If organisations (such as companies or universities) rely on greater autonomy from their members and the latter have highly differentiated or even opposing interests they are referred to as *corporate* actors. EWCs fall generally in between these two ideal types of collective and corporate actors. This is not only due to the two different models of being either only composed by workers' representatives (the 'German model') or integrating management and workers' representatives (the 'French model'). In both cases EWCs could either represent a relatively independent European resource structure, interest platform and identity as a collective actor or build a platform for discourse and interest mediation between different collective actor groups. Therefore, EWCs should be considered as complex organisations composed of different collective actor groups.

EWCs should be analysed as *multi-level and multi-dimensional* organisations because their structure, internal dynamics and external impacts include driving forces and fields of power and interests from the local plant level, through the national companies' and unions' level up to the European level. The work of EWCs is multi-dimensional insofar as their goals and action dynamics could be read (1) in the logic of management's communication strategies, (2) in the logic of employees' voice formation, (3) in the logic of inter-organisational bargaining between management and labour or between plants and companies and (4) in the logic of intra-organisational bargaining as looking for common interests, e.g. at the workers' side against management. As far as EWCs are cross-border organisations and as non-profit organisations work in the power field of profit organisations, the approach of international organisations is of special interest.

1.4. EWCs in an international organisational research perspective

As demonstrated in the foregoing section, EWCs are analysed predominantly as a special type of works council or as an interest mediation body between capital and labour. Due to the complex multi-level and multi-local configuration EWCs work in, it is useful to extend this traditional approach. A *first* striking point is the distinction between an intra-organisational and an inter-organisational bargaining perspective that was first proposed by McKersie et al. (1965) and Walton and McKersie (1965).⁶

⁶ For further reading and discussion of this approach see e.g. Greenhalgh/Lewicki 2003; McKersie/Walton 1992; this perspective is similar to the well-known distinction between the (internal)

In the literature on EWCs this is taken into account to a certain extent by referring to the internal EWC structure, on the one hand, and the management-EWC relation, on the other (see the four dimensions of Lecher et al. 2001). But in general, the topic of internal EWC structure is treated more in the sense of conditions and mechanisms of cooperation than in the sense of internal interest bargaining *between* the different plant and national delegates in the EWC. Taking the Walton/McKersie argument seriously, the EWC should be considered not only as inter-organisational bargaining unit negotiating with European management but as the most important platform for intra-organisational bargaining between the different interest groups *inside* this body.

These dynamics and dialectics between intra- and inter-organisational bargaining are even more important at the European level of EWCs than they are e.g. at the plant level of works councils (Fürstenberg 1958) or at the national level of trade unions (Müller-Jentsch 1982). This is due to the very fact that EWCs are durable organisations integrated by actors and groups from a variety of European countries with different cultural-institutional contexts and common as well as diverging partial-local interests. In general, local management and local labour have common interests in all plants and companies, that is, the interest to maintain production and employment. Furthermore, labour representatives in the EWC are not elected by all European workers and employees, but delegated according to country-specific mechanisms and by local or national decision making. This makes an important difference to comparable intra-organisational bargaining processes, e.g. in local works councils or even in national unions where representatives are elected by the entire membership. Therefore, the intra-organisational balancing and negotiation of standpoints and interests is a crucial, perhaps even the main function of EWCs as such. Any inter-organisational play between management and labour at the European level depends on the outcome of intra-organisational mediation and homogenisation. This aspect of the very nature of EWCs as platforms of multi-level and multi-local standpoints, worldviews and interests underlines the crucial significance of differentiating conceptually between intra- and inter-organisational bargaining.

A *second* element derived from organisational research refers to the character of EWCs as international non-profit organisations based on European and national law that are working in Europe-wide active profit organisations

logic of membership and the (external) logic of influence as developed in economics (e.g. Olson 1971: 125ff) and political science (Streeck 1981).

based exclusively on the national laws concerning their corresponding parts. This gives EWCs a unique and tremendously interesting character. In order to understand the logic of EWCs one has to understand the logic of international companies as cross-border profit organisations as well as taking into account the theoretical lessons drawn from the analysis of international non-profit or non-governmental organisations. Some of these aspects could be approached by the rich literature on international companies produced by the sociology of organisations and management since the 1960s. Other characteristics were focused on by more recent studies on international non-profit organisations, transnationalisation and transnational relations.

Figure 1.1. Four ideal-types of international organisations

Coordination Distribution	Weak	Strong
Centralized	focal	global
Decentralized	multinational	transnational

Source: own compilation; see also Perlmutter 1969; Porter 1986; Bartlett and Ghoshal 1989; Hofstede 1997; Welge and Holtbrügge 2003; Doz et al. 2001

The development of ideal types of international companies can fall back on a broad tradition in the *sociology of organisations* and in *organisational research* in the social sciences in general. The main point of interest was the intense relation between the constitution of rules, norms and institutional structures by nation-states, on the one hand, and the resource structures, coordination and controlling mechanisms as well as value and norm orientations within the internationally active companies as ‘performance organisations,’ on the other (see Dunning 1979 and 1995). Based on studies by Perlmutter (1969) and Porter (1986), Bartlett

and Ghoshal (1989) developed four ideal types of international companies which, in modified form, can be used as a framework for analysing EWCs. Bartlett and Ghoshal (1989) differentiate two dimensions of international companies: the form of resource distribution over countries (centralised or decentralised) and the degree of activity coordination between the different local units (strong or weak). By crossing the two values of each of the two dimensions they define four ideal types of international companies: two company types follow a rather centre-periphery relation of resource distribution (focal for weak, global for strong coordination) and two types are defined by decentralised and multi-polar structured resource distribution (multinational for weak, transnational for strong coordination). They regard the 'transnational corporation' as more promising with respect to future company internationalisation than the global, focal and multinational company types.

Transnational organisations therefore display aspects, which characterise them as a specific ideal type of cross-border organisation. The main aspects among these are particularly the following: (1) the border-crossing dispersion and decentralised structure of material resources, locations, employees and knowledge stocks; (2) a not simply 'cosmopolitan-global' but a polycentric, organisation-specific culture; (3) rather heterarchical and spatially dispersed power and interest-bundling instead of marked centre-periphery structures; and (4) simultaneously close reaction ties and an interdependency of dispersed organisational units in the sense of more intense coordination. Transnational organisations are also labelled 'global learning networks' or 'multi-centre structures' due to the above-mentioned factors. It is especially the transnational coordination and controlling processes that enable a dynamic embedding of transnational organisations in their complex and heterogeneous environment. Normally, strong coordination requires a clear centre-periphery situation (global organisation), and – the other way round – decentralised resource distribution correlates with weak coordination mechanisms (multinational organisation). A centralised distribution of resources could combine with weak coordination (focal organisation), but the transnational organisation is the 'quadrature of the circle' in that it combines strong decentralisation with strong coordination. Theoretically, this transnational combination of distribution and coordination patterns would best allow for adapting to the specific local conditions and, at the same time, exploiting the decentralised resources all over the world where the units of the transnational organisation are located.

These aspects of decentralised resource distribution and strong coordination refer not only to the primary activities of the international organisation, e.g. producing cars. The logic of combining the decentralisation of local resources with strong coordination refers also to the underlying information, communication and decision-making processes. These are not only the basis of the effective completion of primary tasks, but also form the foundation for learning- and therefore for evolutionary processes. It is assumed that in transnational organisations, classical hierarchical structures and processes are not sufficient to take account of global complexity and heterogeneity. The embedding of organisational units in different local contexts with simultaneously strong supra-local coordination facilitates the emergence of recursive and reflexive structures and processes in transnational organisations. With regard to the coordination forms it is of major importance which relationship exists between traditional control functions such as technical or bureaucratic control and innovative forms of coordination through target indicators, recourse-to-value orientation and discursive negotiation.

Bartlett and Ghoshal (1989) provide demonstrative descriptions of distribution and coordination structures for the four (ideal) typical forms of international profit organisations they distinguish. In a sense, Doz et al. 2001 developed their concept of the 'metanational enterprise' as a continuation of the Bartlett/Ghoshal thesis and under more intense focus upon the processes of knowledge coordination. Besides the critique that the Bartlett-Ghoshal-approach and in a minor sense also the Doz et al.-approach have a touch of best-practice- and prescriptive notions, it remains quite undetermined empirically how this knowledge coordination is actually organised. The stronger linkage of studies on international profit- and non-profit organisations is a research desideratum also.

In the area of research on international non-profit organisations, one line of research has developed rather independently from the organisational approach, but could be combined with the above-mentioned internationalisation analysis; this is the more recent transnationalisation research. *Transnationalisation* research integrates the various social science disciplines (sociology, politics, law, cultural studies etc.; see also Pries 2002; Pries 2008). Central issues are not limited to the questions of knowledge coordination and the overlapping value and strategy orientations but encompass – in addition to other topics such as migration or value-chain management – the study of the so-called efficiency-legitimacy dilemma (Scharpf 2000). The starting point here is that international organisations need to secure, on the one hand, a minimum of efficiency and, on the other,

their internal legitimation towards their members (the organisation as a whole as well as in the individual units) and external legitimisation towards share- and stakeholders (the organisation as a whole and in the individual countries) through their distribution and coordination patterns.

Besides the traditional industrial relations perspective the various research approaches to international and especially transnational organisations sketched out here offer an important and innovative platform. EWCs can then be viewed as genuinely international non-profit organisations which become active and effective within the framework of international profit organisations. While (local and national) works councils are usually viewed as sub-units or parts of a company organisation subject to a unitary national law and institutional *setting*, the classification of EWCs is significantly more complex. EWCs are based mainly upon European law (the EWC directive) which is transposed by the respective national legal provisions.⁷ The different national units of the companies as business organisations remain – in contrast to the *societas europeae* – exclusively subjected to the respective national law and institutional *setting*. In formal-legal terms the EWC is thus a European organisation in the sense of clear-cut membership rules, a predetermined structure and the unambiguous purpose of representation of employees and dialogue with the ‘upper-most management’ at the European enterprise level. The EWC is therefore a European non-profit organisation.

1.5. Towards a model of EWCs’ internal life and ‘organisational fields’

A perspective on EWCs as *European non-profit organisations within nationally based for-profit organisations active throughout Europe* appears to be scientifically relevant. For it enables EWCs to be studied not primarily in the narrow capital-labour, that is, employer-employee relation, but in the wider perspective of their significance with respect to the European integration process. If it turns out that EWCs are either *multinational* or more or less insignificant conglomerations of national or location-oriented particular interests or that they, following a clear centre-periphery relation, represent the strong (*global*) or weak (*focal*) dominance and enforcement of headquarters’ interests, then the assessment of EWCs “as neither European nor Works Councils” (Streeck 1997: 328) might indeed be appropriate. If,

⁷ On the legal provisions for EWCs see http://ec.europa.eu/employment_social/labour_law/index_en.htm

on the other hand, significant coordination and interest regulation mechanisms and perhaps even a 'European identity' (see Telljohann in this volume) of EWCs at the European level can be proven, without there being an unambiguous centre of resources, power, knowledge and culture, then we would be dealing with a rather *transnational* European constellation.

With respect to the European agreement process as a multilevel system, so far mostly intergovernmental negotiations (e.g. of the European Council of Secretaries), the creation of supranational institutions (e.g. the European Parliament or the European Court of Justice) and multinational interest regulation between independent organisations (e.g. in the coal and steel, the agriculture or the electricity industry) as well as the interplay amongst these three levels have been dealt with (König et al. 1996; Kohler-Koch et al. 2004). Making an issue of EWCs under the sociology of organisations-based question of transnationalisation could shed some new light on the development of this important European institution so far.

In an organisational research perspective, besides the impact of the type of company on the EWC, there are three other analytical dimensions which can be identified for explaining and understanding EWCs and their internal structures and dynamics: (1) trajectory or path dependency, (2) culture and social institutions as nation-state effects, and (3) actors' strategies.

Path dependency refers on the one hand to the history of the company (see, for example, Freyssenet et al. 1998; Pierson 2004; Djelic and Quack 2007). Company structures and cultures reflect the incidence of certain events and developments of the past. On the other hand, the history of the EWC itself describes an evolutionary path. This concerns striking events in the EWC history such as the founding conditions and major conflicts, but points also to learning effects and the evolution of, for instance, trust, solidarity, or identity. Some research streams suggest that EWCs need a certain amount of time for interaction and solidarity to evolve (Telljohan 2007, 2009; Whittal et al. 2007) because communication patterns and routines, shared understandings and views do not emerge by design but through consecutive interaction (Berger and Luckmann 1968; see also Klemm and Weyand in this volume).

International companies and EWCs are embedded within specific *socio-institutional environments* – cultures containing typical practices, understandings, perceptions and beliefs (Granovetter 1985; Hofstede et al. 1990; Hofstede and Hofstede 2005; Scott 2008). The way companies and EWCs – or actors in general – behave in a given situation is in large part shaped by cultural conditions and social institutions. One main aspect here is the

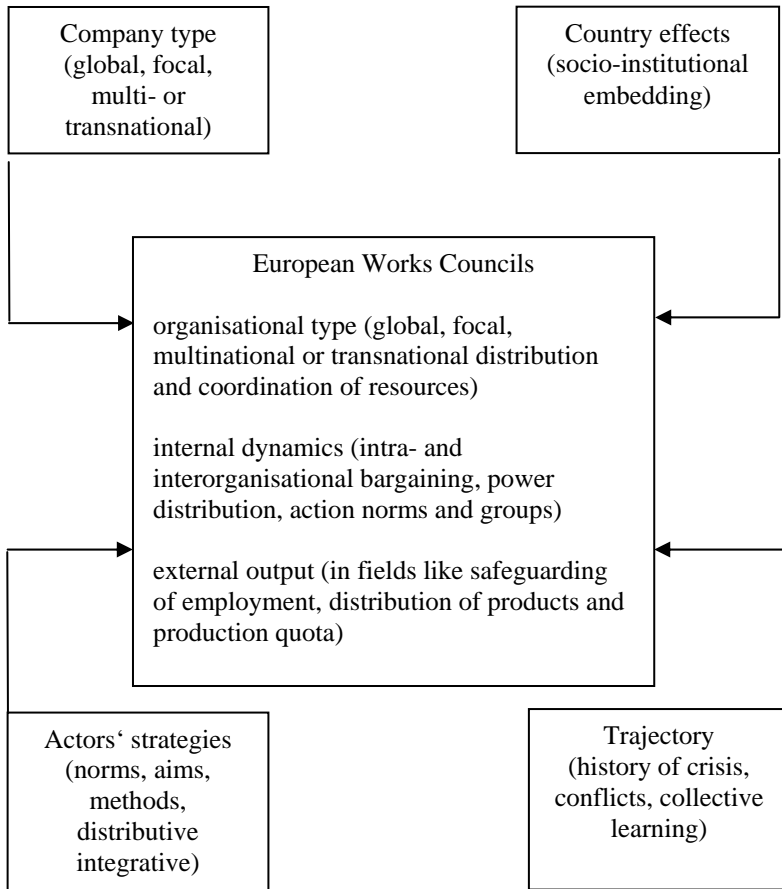
system of labour relations in the country in which the headquarters is located. But also the institutional and cultural contexts of the different local plants are of importance, at least when these subsidiaries face contradictory expectations from headquarters and their national institutional environment (e.g. Child 1981; Rosenzweig and Singh 1991).

Actors' strategies refer to the attitudes and activities of management and employee representatives. This dimension is to some degree shaped by the dimensions of path dependence and institutions/culture because strategies will resemble the institutional-cultural conditions as well as issues of path-dependency. However, paths and cultures may constrain and enable actors choices, but actors are never fully determined by their institutional surroundings (e.g. Child 1997; Scott 2008). Thus, the question is in focus which strategies managers and employee representatives will develop. For instance, top managers who experienced the benefits of employee participation, who pursue a non authoritarian leader style, and view employees as most valuable resources of the company will surely choose more participation-friendly strategies towards the EWC. In contrast, managers who experienced confrontation with unions or employee representatives, who deny the benefits of participation, and perceive employees as cost-factors may be cautious to accept the EWC as negotiation partner.

The aforementioned main influencing factors (company structure, path-dependency, actors' strategies, and socio-cultural institutions) can probably explain not only the specific type of EWC structure and action dynamics, but also the *output* of this new type of employee interest representation. As described above, previous studies on EWCs have put emphasis on the differentiation of EWC types according to their strength in terms of participation and interest representation (Lecher et al. 2001; Kotthoff 2005). However, as the conditions for EWCs to influence management decisions vary, EWCs can hardly be analysed in terms of the German co-determination model, which usually distinguishes between certain levels of participation. Therefore, in order to get an impression of the output of EWCs, it seems sound to rely on indicators that touch the central concerns of EWCs, such as dismissals, relocation, and plant closure.

In some cases, where EWCs have evolved into negotiation partners for management on issues such as relocation or plant closures (e.g. at General Motors, Ford or Volkswagen), they have developed an actor's quality that extends their competencies as prescribed in the EWC-Directive.

Figure 1.2. Model of EWCs' internal life and 'organisational fields'



This transformation towards a negotiating EWC is, however, a demanding process with at least three prerequisites. First, there has to be a *need for organisation*⁸ of employee interest representation at the European level. This demand is higher in companies where resources (personnel, production locations etc.) are distributed widely within Europe (for example at General

⁸ The conceptualisation of organisational need and the ability to organise was developed by Traxler 1999 with a focus on trade unions and industry federations.

Motors and Ford Europe) as opposed to companies where the distribution of resources is relatively centralised at the headquarters (e.g. Daimler, PSA). In addition, platform strategies and parallel production increase competition among production locations and thereby potentially threaten job security at these locations (Fetzer 2008; Haipeter and Banyuls 2007). This therefore intensifies the demand for cooperation of employee representatives at the European level. This organisational demand is to a large degree the result of the company-specific structure (distribution of resources and coordination strategies).

The second prerequisite is the *ability* of employee representatives to organise at the European level (organisational capability). This aspect encompasses questions of coordination among EWC members, resources and knowledge. Moreover, as recent studies have shown, issues such as trust-building, solidarity and identity (Telljohann 2007 and in this volume; Müller and Rüb 2007), the development of strategies of EWC members (e.g. Bartmann and Dehnen in this volume) as well as networking with trade unions (at the local, national and European levels) (Lecher et al. 2001) all play an important role in this respect. Finally, the willingness and the ability of management to engage in negotiations with EWCs is of crucial importance. Influencing factors are the existence of a European management structure (eye-level interactions) and company-specific culture of employment relations. Under certain conditions, management's 'willingness' to negotiate might be promoted through constant pressure from the EWC and national employee representatives.

In summary, the prevailing industrial relations focus on EWCs is well established and helpful but too narrow to explain the specific characteristics and dynamics of EWCs. EWC research should learn from and integrate elements from the well-developed approaches of the study of (international) organisations, of the broad literature on Europeanisation as complex multi-level analysis, and of the sociology of internationalisation and transnationalisation. One important issue is developing adequate typologies of international organisations. Here, the above-mentioned distinction between centralised versus decentralised and between strongly coordinated versus weakly coordinated distribution and coordination of resources, power, interests and culture leads one to differentiate global, focal, multinational and transnational type of international organisations. These ideal types of international organisations could be fruitful for EWC research in at least two ways. First, characterising EWCs referring to these four ideal types of international organisations offers a deeper understanding of their internal structures and action dynamics. Second, the *organisational fit* between (the

internationalisation type of) EWCs, on the one hand, and the European companies they work in, on the other, helps to understand and explain the structural tensions and power fields in which EWCs are situated. Thus, the organisational approach may help to deepen the conceptual and methodological dimensions of EWC research and to interpret different strands of EWC research (structures, identity, output, relations to trade unions, feedback on national institutions). However, a lot of empirical and theoretical work has to be done in order to develop the possibilities offered by organisational research.

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Chapter 2

Approaching and theorising European Works Councils: comments on the emergence of a European multi-level-structure of employee involvement and participation

Hans-Wolfgang Platzer

2.1. Introduction

The adoption of the directive on the “Establishment of European Works Councils or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees” (94/95/EC) in 1994 opened the way for the establishment of (at present around 900) European Works Councils. From the very beginning, the European Works Council (EWC), as the first genuine “European Institution” in the field of EU collective labour law, attracted research activities from different disciplinary backgrounds.

More than one decade later there is still a broad, ongoing and controversial debate over the character of the European Works Council as part of a European system of industrial relations and on the EWCs nature as a source of European employee identity building, as well as its capacities for transnational bargaining and coordination of action.

The academic controversies turn mainly on the following three interrelated issues:

First, how can we empirically assess the preconditions, scope, functions and prospects of these emerging cross-border institutions of workplace interest representation?

Second, how should we analytically approach these new settings and mechanisms of industrial relations in MNCs?

Third, how should we theorize or interpret in theoretical terms (by means of different disciplinary paradigms offered by corporate governance, sociology or political science, etc.) these “European” cross-border, trans- and supra-national structures?

The respective academic debate has been and still is characterized mainly by two contrasting arguments: on the one side, there is the “pessimistic” view of EWCs as “neither European, nor Works Councils” but rather as further instruments of national interest representation (Streeck 1997) and vehicles for inter-state competition between labour regimes (Hancke 2000); on the other hand, there are the more “optimistic” views of EWCs as institutional settings for the development of transnational collective identities and actions (Marginson and Sisson 1996), and as instruments for counteracting internal company competition and for the articulation of joint cross-border employee positions.

The differences between “euro-pessimistic” and “euro-optimistic” assessments of the EWCs’ functions and potentials and – more generally – their impact on the Europeanisation of workplace industrial relations and trade-union cooperation result, to a certain extent, from the application of diverging normative and theoretical frameworks.

Against this background, one intention of this contribution (part 2) will be to sketch some basic problems and perspectives theorising empirical EWC research (Platzer 1998a, 1998b and 2001). Part 3 briefly discusses case-study based approaches and findings and introduces an EWC typology, resulting from EWC research performed by the author and his colleagues (Platzer and Rüb 1999; Lecher, Platzer, Rüb and Weiner 2001 and 2002; Müller and Platzer 2003).

Given the specific legal character of the EWC directive – which could be qualified as “regulated self-regulation” (Platzer 2002: 114) – and the “open-ended” nature of its implementation, a main focus and interest of this research was to analyse the transnational actor attributes of EWCs.

With regard to this focus on employee involvement and participation and the EWC’s “capacities to act”, in the final section (part 4) the analytical framework will be reflected upon (or re-examined) in light of new EWC developments and the insights of current EWC research.

2.2. A European multi-level-structure of workplace industrial relations and patterns of Europeanisation

We have proposed conceptualising the EWC in terms of an emerging “European multi-level-structure” of workplace industrial relations (Müller and Platzer 2003).

This term and analytical model was originally developed within political science approaches and ‘governance’ analyses of the EU political system (Jachtenfuchs and Kohler-Koch 1996; Scharpf 1999). In the meantime it has also been adopted in some industrial relations analyses of EU-level industrial relations developments (Falkner 1998). We have argued that such a European multi-level industrial relations system, encompassing the relevant and interdependent levels of these relations, is still at an “embryonic stage” (Platzer 1998b); yet, comparing the different arenas of cross-border industrial relations – in official EU-terminology, the “Social Dialogue” at the company, sectoral and multi-sectoral levels – the EWC is by far the most dynamic pole of “Europeanisation” (see below), of cross – border and supranational interactions and policy outcomes.

Conceptualising EWCs in terms of an emerging “multi-level structure” of workplace industrial relations in MNCs indicates, first of all, the empirical evidence of distinctive EU-level interaction. Second, it captures the interplay of the different levels of employee interest representation within MNCs and the multitude of “horizontal” and “vertical” Europeanisation processes due to the establishment of EWCs. Third, it avoids the “comparison gap” and the problem of “domestic analogy” inherent to any description of the EWC in terms of singular “national models” of employee interest representation. Fourth and finally, such a conceptualisation can be attached to the empirical assessment and theoretical reflection of the EWCs’ impact on and interplay with other EU-level developments in the field of labour politics and trade-union strategies (such as transnational wage coordination etc.).

To make this multi-level-scheme of analysis, as a formal and descriptive model, operative for empirical EWC analysis, further conceptual clarification is needed. First, one needs to approach the issue of “Europeanisation”. This more recent strand of academic debates and controversies requires a brief discussion in order to identify those patterns or tendencies of Europeanisation shaping EWC developments and structuring EWC-analyses.

The complex and multi-faceted changes in the institutional, political and economic patterns of European integration in the course of the completion of the Single Market program since the mid-1980s and the establishment of the Economic and Monetary Union (EMU) during the 1990s have provided the impetus for new sociological and political science research agendas that have congregated under the rubric of ‘Europeanisation’.

If the question ‘whither Europeanisation?’ (Radaelli 2000) remains controversial, this is mainly due to the fact that processes and phenomena of

‘Europeanisation’ within the different social science disciplines, including industrial relations research, are conceptualised and analysed in widely different ways.

For example, recent empirical research on ‘Europeanisation’ in the field of political science has concentrated on the issue of ‘national adaptation and domestic change’. According to this research, Europeanisation has led to ‘distinct and identifiable changes in the domestic institutional structures of member states’ (Cowles, Caporaso and Risse 2001: 1). Yet, comparing different countries by policy areas and institutional adaptation mechanisms, what can be observed is ‘neither wholesale convergence nor continuing divergence of national policy structures, institutions, and other patterned relationships, (rather) ... domestic adaptation with national colours’ in which national features continue to play a role in shaping outcomes’ (ibid.).

This analytical focus on ‘Europeanisation and domestic change’ also remains a concern of industrial relations research, namely in the form of its traditional cross-national comparison approach. The ‘classic’ approaches adopted by comparative industrial relations research are rooted in the ‘convergence-divergence’ paradigm in which ‘Europeanisation’ is measured in terms of whether and to what extent the economic and political process of establishing an international community – in its specific EU form – generates the same or comparable processes of adaptation seen in the industrial relations systems of the member states. Should a convergent pattern be identified which differs significantly from the developmental path of other industrialised countries, ‘Europeanisation’ may be said to take place (Traxler 1995; Armingeon 1994).

Against the background of growing socio-economic and political inter-dependences within the EU, the industrial relations debate is currently concerned with the following developmental options:

Does the Europeanisation of (national) industrial relations mainly occur as an ‘... incremental process, re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organisational logic of national politics and policy-making’ (Ladrech 1994: 69) – and hence a process of ‘path-dependent’ adaptation of national industrial relations to the EU-environment?

Or, does and will Europeanisation express itself in a significant and far-reaching transformation of national structures and industrial relations policy patterns?

Alongside this analytical focus on Europeanisation processes at the national level within different social science approaches and industrial relations research, the concept of 'Europeanisation' has also been applied to the dimension of 'institution building' at European level.

Within this strand of industrial relations research, attention is given to the following analytical issues: how and at what stage of integration of factor markets and at what degree of macro-economic and monetary interdependence do trans- and supranational needs for regulation arise in order to complement national industrial relations regulatory mechanisms?

Special attention is also given to the interests and capacities of the industrial relations actors at the different levels (workplace, sectoral, multi-sectoral) in establishing such regulations or 'institutions' at the inter-state or supranational level and to the respective organisational and political prerequisites.

Finally, there is also an ongoing controversy over the degree of 'political integration' and the amount of 'authoritative' political decision-making at the supranational level that is needed in order to structure and foster the development of trans- and supranational industrial relations, be this via push or pull effects (Keller and Platzer 2003).

Within the academic industrial relations community the general debate on these issues is, as in the case of the EWC, split into two opposed 'camps': 'euro-pessimists' and 'euro-optimists'. Their divergent assessments of the above-mentioned trans- and supranational dimensions of the Europeanisation of industrial relations can be traced back to different views of the political economy of the European Union and its actual or potential political capacities for de- and re-regulation.

These controversies are also rooted in the application of different analytical and normative frameworks which manifest themselves in different perceptions of the relative importance of structure and actor-related factors for the Europeanisation of industrial relations and in different conceptualisations of a 'European industrial relations system'.

Euro-pessimists, to put it briefly, see a (growing) asymmetry between 'market making' and 'market correcting' EU policies and – structurally enshrined in the logic of EU-integration – a blockade of any substantial supranational social policy regime (Streeck 1998; Keller 1993). On this view, three mutually conditioning and reinforcing factors serve to block the development of transnational industrial relations:

the transnational “power weakness” of trade unions, the transnational ‘organisational weakness’ of employers and the ‘supra-national statehood weakness’ of the EU (Ebbinghaus and Visser 1994).

‘Euro-optimists’ stress, in a more actor-based view, the gradual emergence of cross-border and EU-level capacities for policy coordination within the European trade-union camp (Jacoby 1998; Dolvik 1999), the establishment of transnational institutional settings and new modes of regulation, such as Social Dialogue (Falkner 1998), and the growth of actors with a distinctive transnational capacity to act, as in the case of EWC developments. Adapting the outlined general views on “Europeanisation”-processes for the analysis and assessment of EWC-developments, the following dimensions and of Europeanisation may be identified and discussed:

(a) Europeanisation as „systemic transformation and convergence”:

Following primarily the comparative (convergence-divergence) paradigm of “Europeanisation”, one indicator of the far-reaching impact of EWCs on national workplace industrial relations would be if the development and operational practices of EWCs led to a dominance of “monistic” or “single channel” workplace industrial relations that affect and transform “dualistic” national IR systems.

However, so far there is no empirical evidence of such far-reaching transformation effects or systemic convergence prompted by EWCs that would support this definition and view of Europeanisation. In light of the specific mode of regulation of the EWC Directive that provides for a high degree of adaptability to national – and even company-specific – IR traditions, the path-dependency of national adaptation patterns is prevailing and processes of convergence seem unlikely to occur in the future.

As far as the diffusion of EWCs into, for example, the German industrial relations system is concerned, these new institutions have had to – and will have to – find a place in a consolidated, highly differentiated, and legally balanced and regulated set of arrangements. In contrast to the United Kingdom, where a workplace-centred and largely voluntaristic system has had to adapt to the new institution of the EWC, the main problem in Germany has been to protect a highly developed and markedly juridical system from the prospect of being diluted by an institution which is evidently weaker, especially in the area of codetermination. The German system is also characterised by frequent overlap in the exercise of information and consultation rights between the economic committee (established in workplaces with more than 100 employees as the main site

for information and consultation on the state of the business), group-level works councils, company-level works councils, the employee members of company supervisory boards – and now EWCs.

As case studies of EWCs where the parent company is German show, it is often hard for employee representatives in these various bodies to achieve coordinated and smooth cooperation between their institutions through a jointly planned and synergetic division of labour and effective mutual exchange of information.

As far as these frameworks and challenges are concerned, the findings of empirical EWC research can be summarized as follows. On the issue of the German dualist model, and from a German trade-union standpoint, the development of EWCs could prove problematic were enterprise-based European negotiations to offer improvements at the price of decoupling the European level from the national level of bargaining. Such a development would certainly be detrimental if provisions negotiated under enterprise-specific exigencies were to lead to an erosion or lowering of national standards. Although such tendencies towards a company-based transnational ‘syndicalism’ (Schulten 1996) seem to be one theoretically possible path of EWC development, particularly in MNCs in which trade unions have no strong footing and management dominates the EWC, EWC research has yet to find evidence for such decoupling or ‘downgrading’. In contrast, the EWC Directive not only mobilised workplace employee representatives and managements, but also to some degree strengthened the Europeanisation of trade unions in two respects. First, the establishment of EWCs represented the first genuinely European project for the European industrial federations. As a result they have been able to increase their general standing by playing an important intermediary and even leading role in the initiation and guidance of EWC negotiations. Second, the large-scale introduction of EWCs prompted by the Directive also forced national trade unions to Europeanise themselves by mobilising or re-focusing internal resources, more closely coordinating cross-border activities, and intensifying interaction within their respective European organisations.

At present, developments are fluid and difficult to predict. Views within the European trade-union camp as to the ideal or long-term strategic orientation of EWCs still differ. While some national trade unions, notably from the Nordic countries, argue strongly in accordance with their national traditions that the role of the EWCs should be strictly limited to information and consultation, others have accepted the first steps towards participative and

negotiating EWCs and some national unions even want to actively support and strengthen these developments.

For example, IG Metall, in 2002 – after initial reservations about any ‘negotiating option’ for EWCs – launched a proposal within the European Metalworkers’ Federation for a systematic link between EWC resources and the transnational coordination approach already applied in the field of collective bargaining. The goal of this strategy of a co-evolution of company and supra-company activities at the EU-level is to enter into negotiations and to try to conclude sectoral EU agreements on ‘soft issues’ such as workplace training. Such tendencies could indeed, in a mid-term perspective, support the following scenario: ‘... why should European-wide collective bargaining not have its nucleus in cross-border company and group collective agreements on work organisation, on health and safety, and on out-sourcing?’ (Eller-Bratz and Klebe 1998: 450).

However, it should be noted that it may still be too early to predict the impact of EWCs on national IR systems in the mid or long term. For the time being, the most specific debate emerged in the UK, where various observers reckoned that EWCs might help to close the ‘representation gap’ which exists in the UK due to the absence of statutory employee representation rights (Hall 1992; Marginson 1998). Another often-mentioned projection is that EWCs may trigger the introduction of group-level employee representation structures, which may threaten the union single-channel representation as non-union representatives become involved directly alongside or in the place of unionised colleagues (Wills 1998). However, the few empirical case study analyses which explicitly addressed the knock-on effects of EWCs for national IR in the UK did not produce any supporting evidence for the detrimental effects of EWCs in that respect (Wills 1998; Hoffmann et al. 2002).

(b) “Horizontal“ Europeanisation:

If one extends and redirects the traditional comparativist perspective (convergence-divergence paradigm), the Europeanisation of policy and interest articulation at the national level on the part of parties to collective bargaining can be said to be in motion when the economic and political framework set by the EU impinges on (or alters) the definition of interests and the forms in which issues are tackled (Platzer 1998a and 2001). From such a perspective the course and outcomes of the EWC process have induced specific patterns of “horizontal Europeanisation”: At the European level, the process, politically structured “from above” and supported by a

statutory framework, has required and facilitated – via negotiations – a process of Europeanisation “from below”. Since the negotiations and establishment of EWCs follow similar or comparable processes in all European countries and as these processes are interconnected across national borders, this part of the developmental process can be described as “horizontal Europeanisation”. After the establishment of a European Works Council, horizontal cross-national interactions build an integral part of the whole EWC-communication structure and play an important role in the shaping of the actor-profile of the EWC. These horizontal interactions are, as case – studies show, interest based; they can vary between cooperation and competition or conflict; they are decisive for the organization of a stable flow of information between the different plants and locations and for the balancing of national differences of power and information access between the employee representatives.

Within the academic controversies on the subject of “European integration and industrial relations” “euro-sceptical” observers also stress these tendencies: “Although European integration in the sphere of industrial relations does not proceed vertically and hierarchically, European societies will become more “European”. The Europe that is emerging ... is Europeanising itself via the growing orientation of national actors and institutions to their international environment, in line with national interests and circumstances. One could speak of horizontal Europeanisation in which the horizon for perception and action of what remains national actors are extending beyond national borders along with their social relations (“networks”) and opportunities for action.” (Streeck 1999: 17)

(c) ”Vertical” Europeanisation:

Empirical findings on the development of EWCs tend to go beyond a purely “horizontal Europeanisation”. We have therefore complemented this view with the notion of a “vertical” Europeanisation. This notion is suitable for understanding the distinctive attributes of trans- and supranational actors which characterize a sizeable number of EWCs. Regarding the dynamism of the whole EWC process and the empirically observable performances of a significant number of established EWCs (see the EWC typology below) “...the emergence of EWCs and the first stages of their discernible practice can be interpreted as substantial progress towards a supranational form of employee interest representation and the creation of Europe-wide minimum standards for workplace employee co-determination.” (Blanke 1999: 522)

The relationships between “horizontal” cross-border processes of communication and interaction (between EWC representatives from the parent company and EWC representatives from subsidiaries) and “vertical” interactions involving and strengthening the central European company level for interest clearing and problem solving vary from case to case. And it stands to reason that the scope and quality of providing and distributing information, the timeliness and participative quality of consultation and the degree and outcome of negotiations vary considerably. However, it can be said that “vertical” Europeanisation takes place only where a distinctive trans- and supranational sphere of communication and cooperation is established and – in spatial as well as in functional terms – is used as a level of problem solving “beyond the nation state”.

These observations and arguments on “patterns of Europeanisation” direct the view back to the conceptualisation of the EWC as an emerging European multi-level structure of workplace industrial relations. To be precise, one should even employ the notion of a “subsidiary” European multi-level-structure, insofar as the EWC operations and the employee resources for effective interest articulation necessarily remain anchored at the national level. In the majority of cases interactions and solutions at the trans- and supranational level supplement and support the interactions within the respective national settings. Yet in the meantime we can also observe initial cases such as e.g. in the case of Ford/General Motors (see Haipeter 2006), in which, under certain conditions the supranational level was central for strategic negotiations on corporate restructuring.

2.3. EWC-typology

Within the more general introductory reflections on different patterns of “Europeanisation” and the concept of EWCs as an emerging “European multi-level-structure”, any research on EWCs has to capture the empirical fact that EWCs represent an experimental field or “social laboratory” for transnational workplace industrial relations, that their activities are often characterised by the search for appropriate practice and strategic focus and that their internal structure, cohesiveness and capacity for information, consultation and negotiation all vary considerably.

Given the empirical diversity and complexity of EWC developments, the need for “classificatory instruments for the analysis of EWCs” (Hyman 2001: 6) is evident.

Using typologies to categorise, classify and hence render complex social realities amenable to analysis is a common scientific procedure. Although the heuristic or analytical function of typologies remains controversial, in particular the degree to which it can bridge the gap between description and explanation, in the present state of EWC research, a typology can mark a first step towards generalizing empirical findings in the field of EU-level IR and contribute to further “theorising”.

In the following the conceptualisations and findings of our EWC typology are briefly presented, in order to systematically approach the functional scopes, the institutional settings and “actor-qualities” of EWCs. Empirically, the typology is based on large-scale comparative studies over several years, covering 23 case studies in a cross-country (UK, Italy, Germany, France) and cross-sectoral (metalworking, chemicals, banking, insurance and food sector) comparison.

The underlying analytical approach of this typology is actor-centred, but acknowledges the interdependent relationship between structure and agency which shapes the constitution of EWCs. Accordingly the constitution of EWCs is analysed in terms of both their “inner life” and their relevant external relations according to four different “fields of interaction”:

1) interaction between the EWC (employee representatives) and management, 2) interaction among EWC members, 3) interaction between the EWC and national institutions of employee interest representation and the workforce, and 4) interaction between the EWC and trade unions. Focusing on the EWCs “capacity to act” as the result of the dynamic interplay of the four fields of interaction, four different types of EWCs are identified:

- the symbolic EWC,
- the service-oriented EWC
- the project-oriented EWC
- the participation-oriented EWC.

The “symbolic EWC” is a body which, despite being formally constituted, does not truly operate. Its activities are restricted to (usually) annual meetings with central management. EWC employee representatives behave largely passive, leaving management to set the course of joint meetings. Preparatory meetings or debriefing meetings are not systematically used to build up confidence and cohesion of the forum. For structural, organizational or political reasons – which may differ empirically from case to case – the EWC is unable or unwilling both to obtain information and

process it as well as to develop its own information and action resources that go beyond existing national provisions. Trade unions are included only formally, if at all.

The “service EWC” is a body for mutual information and support. It functions as a “service agency” for national workplace – or enterprise – level employee representation by providing additional information obtained at the European level and via cross-border exchange and the horizontal communication of (national) experiences. Individual EWC members, who as a rule have fairly good access to resources, function as service providers for other EWC members. The service function may include active support for national or local levels of employee interest representation, either through the select or steering committee of the EWC or individual leading figures of the body. Service EWCs are constituted internally to enable them to access, process and forward information with a “European added value”, i.e. information which would not be accessible without the existence of a European level for information and consultation.

The “project-oriented EWC” goes further in its aims and potentials than the service EWC. It is a body which defines and carries out projects based on the systematic development of its internal operational a communication structures. It defines its own tasks (projects) which, if necessary, it can implement independently from management. This systematic and strategic approach serves to consolidate and build the EWC, forging mutual trust and experiences of cooperation between members, as well as creating sustainable structures for practical operations – delivering an “institutional surplus value”. Projects, for instance the systematic collection and exchange of data related to (national) workplace conditions, social standards, IR practices etc., deliver transnational informational resources to be used in interactions with central or local management of the company, and which can demarcate and structure new issues for negotiation.

The “participative EWC” aims to open its scope of activity and participation beyond the remit of information and communication in the direction of formally regulated consultative procedures, negotiations and joint initiatives with central management. The doorway to accords and agreements with group management often lies in the field of consensual issues on which joint projects can be initiated or position papers adopted. Negotiations on “hard” issues, such as working time or workplace protection, entail a complex set of prerequisites to be met and which relate to the internal constitution of the EWC, specific constellations of interests (on the part of both EWC and management), and pressures to act which can engender processes of

exchange. Participative EWCs are characterized by intensive transnational interactions and the development of a genuinely European level of industrial relations. The activities of participative EWCs include, for example, negotiated agreements on health and safety, equal opportunities, information and trade-union rights, Social Charter agreements or – in some cases – agreements on “hard” issues, as the protection of employee rights in the case of de-mergers of suppliers, transnational company restructuring, etc. (see below).

As this typology categorizes, on the one hand, empirically observable institutional EWC capacities and modes of operation and, on the other, outlines and distinguishes four current and potential developmental stages, the underlying logic of this analytical scheme or “typology-cum-developmental trajectory” (Müller and Hoffmann 2001: 77) is as follows: The four distinguished types do not represent a strict linear sequence of developmental stages. An EWC, for instance, may very well go in the direction of a participative EWC without having been a project-oriented EWC. The development, performance and progression of an EWC is not inevitable – in two respects. First, an EWC in any category can remain in that category. For some EWCs, service or project orientation could be an entirely appropriate strategy and final orientation. Secondly, EWCs are not immune to the possibility of regression, especially given the instabilities of corporate structures and strategies.

Finally, the complex and interdependent relationship between “internal” EWC interactions and specific sets of “external”, enabling or constraining, structural framework conditions, introduces some difficulties for the assignment of actual cases. If an EWC, analysed at a given time on a single or comparative case-study basis, is allocated to a certain category, this can either signify an unstable transitional stage in early state of development or a fairly stabilized EWC which can be designated relatively unambiguously to one category. These inherent methodological problems of a typology could only be solved, at least partly, through further research using a longitudinal approach which (repeatedly) investigates the development of single cases over longer periods of time.

Taking the empirical findings and analytical assessments of the 23 cases underlying this typology, approximately half of the cases could be designated as “symbolic” and the other half could be designated – more or less equally – to the three other EWC types. Although of course they are not “representative” in strict methodological terms, these relations between “passive” or “symbolic” EWCs on the one side and the “active” EWCs in

their threefold features, on the other, may help to structure the present “landscape” of EWCs both in their actual operations and their developmental potentials, as will be shown in the concluding chapter.

It should be added here that the “actor-centred” approach underlying this typology and the “employee-side” bias guiding the research interest, has meanwhile been complemented by research designs that focus more on “structural” features (company structure and “business-alignment”) and which include the EWC impact on “managerial behaviour” (Marginson et al. 2001; Müller et al. 2001). Based on the qualitative empirical investigation of eight UK- and US-based companies (four headquartered in each) this research yields two key results:

First, EWCs prompted changes in management-internal communication and coordination procedures as they stimulated the establishment of mechanisms by which central management attempted to ensure that upcoming decisions at the level of those individual business units which potentially entail a transnational dimension are signalled in advance. Furthermore, EWCs stimulated greater cross-border coordination of national and business management by central management through implementing decisions of a transnational nature. However, the fact that these changes in the process of management decisions prompted by the existence of EWCs did not lead to more employee-side involvement in the majority of cases suggests that the employee-side remains the major driving force for the Europeanisation of workplace industrial relations.

The second key finding was that EWCs’ capacity to act, and thereby their impact on management decisions, is crucially influenced by company-specific structural conditions which facilitate or constrain the exercise of influence. According to Marginson et al. (2001), it is the interplay of different sets of structural conditions and behavioural factors that account for the impact of EWCs on management decision making. These different sets of factors are: first, the MNC’s ‘business alignment’ referring to the focus, spread and integration of the company’s European business activities; second, the existence and nature of European management structures which function as a direct counterpart to the EWC, since the existence of ‘fit’ (Hoffmann et al. 2002) between management structures and the EWC is likely to create favourable conditions for EWCs to have an impact on management decisions; third, the existence of an ‘industrial relations platform’ composed of national group-level employee representation structures in the largest countries of operation and pre-existing cross-border networks among employee representatives upon which the EWC can build;

fourth, management's approach to the EWC – whether minimalist and aiming simply to contain the EWC or pro-active and aiming to make the EWC 'work for the company'; fifth, the organisation of the employee-side in terms of its cohesiveness, the interaction between the EWC and national and local structures of employee representation and finally in terms of the employee-side's capacity to mobilise trade-union support; sixth, the nature of the interaction between management and the employee-side – the extent to which it is ongoing and constructive or adversarial.

Changes to the outcome of management decisions were far more likely to occur in single business companies with highly integrated operations spread across several countries, since cross-border interdependencies are likely to promote both more intensive international management co-ordination and identification of common interests among employees. Beyond this, the absence of a European-level management structure – and therefore lack of 'fit' between management structures and the EWC – in combination with management's minimalist approach to the EWC appears to be crucial in limiting the impact of EWCs on the outcome of management decisions. Amongst those companies in which the EWC does have some impact, it is most pronounced in those companies where the employee-side is well organised, whose activities are based on active networking and coordination and where they can rely on an 'industrial relations platform' in the major countries of the MNCs' operation.

It should finally be added that, in addition to the (more) "actor-centred" approach underlying the typology and the (more) "structure-centred" approach of Marginson et al., recent EWC – research has focussed on the issue of "identity" by applying sociological concepts of (multiple) identity (Whittall, Knudsen and Huijgen 2007).

2.4. New trends in the development of EWCs and recent research findings: the typology revisited

As EWC-research continues to expand, in this concluding part it will only be possible to "highlight" some basic findings that characterize the current trends and patterns of EWC developments. With this the conceptual arguments and the typology presented above will serve as a frame of reference (and at the same time be reviewed in the light of recent research findings).

A comprehensive research project commissioned by the "European Foundation for the Improvement of Living and Working Conditions" (to which the

author contributed) set out to throw some light on the internal dynamics of the operation and functioning of EWCs through case studies of 41 companies in five EU-member states. The final report of this research project (European Foundation, Luxemburg 2004), while presenting many empirical facets of the complex and dynamic processes of “EWCs in practice” and underlining the “variety” of EWC developments, does not reveal any fundamentally new trend or pattern with regard to the transnational “actor-quality” of EWCs. The findings around the question of “employee involvement and participation” can be summarized as follows: “(...) Despite the positive aspects of EWCs, the main objective of providing workers with a voice in corporate decision-making processes has only been achieved in a minority of cases researched. Most of the EWCs are committees predominantly for information. As far as consultation and (direct) influence takes place, this concerns the implementation of previous transnational business decisions made unilaterally by the management. In this context, the EWCs are involved in the implementation of management decisions with respect to the impact on the employees.” (European Foundation 2004: 103)

An empirically rich source of employee perceptions of EWCs are the data drawn from a survey conducted by Waddington (2006). This quantitative approach and survey comprised a structured sample of companies covered by six European Industry Federations (EIFs), whereby the EWC representatives that responded to the survey served on a total of 196 EWCs.

In the context of this article the following findings are important:

With regard to the EWC as “a source of information” the EWC representatives report as follows:

25% see the EWC as “very effective”; 56.0% as “effective”; 15.3 % as “neutral”; 4.3% as “ineffective” and 3.8% as “very ineffective”.

Regarding the EWC as “a means of consultation” the answers are as follows: 12.6% “very effective”; 43% “effective”; 29.4% “neutral”; 8.3% “ineffective” and 3.5% “very ineffective”.

Regarding one of the core issues of the scholarly debate on whether the EWC is “a means of influencing management decisions” the findings are as follows: only 0.8% of EWC representatives perceive the EWC as being “very effective”; 13.3% as “effective”; 38.0% as “neutral”; 27.0% as “ineffective”; 16.0% as “very ineffective”.

According to these data, a clear two-thirds of respondents perceive the EWC as a useful source or instrument of “information” and roughly half of the EWC representatives positively perceive the EWC as a “means of consultation”. This contrasts with the perceptions of the EWC’s impact on management-decisions, where only a negligible minority sees the EWC as a “very effective” means of influencing management decisions and only a fifth of the respondents see the EWC as an “effective” body.

As it is generally problematic to compare or contrast findings of quantitative surveys with findings of qualitative case-study approaches, only cautious interpretations are possible: first, one could argue that the survey data in the field of “information” and “consultation” are more or less “in line” with the items attributed to the different “active” (ideal-) types and with the quantitative relations between “active” and “passive” cases found in our sample of 23 EWCs.

Second, what requires further consideration (see below) are the actor – attributes regarding participation and negotiation in the case of the “participative EWC”; here the relatively sceptical perceptions of EWC representatives with regard to EWCs’ potential “to influence management decisions effectively” contrast to some degree.

The fact that in Waddington’s survey about 80% of respondents had been confronted with company restructuring may be one important explanatory factor for the sceptical mainstream of responses with regard the impact and influence of employee representatives on strategic management-decisions.

As a series of case-studies show, the handling of transnational company restructuring has in the meantime become the essential business of EWCs, or as some say, the core purpose and “raison d’ etre” of European Works Councils.

A review of the current state of research on ”European Works Councils and Restructuring” by Carly and Hall (European Foundation 2006) delivers the following insights:

How EWCs deal with transnational company restructuring “(...) cannot be separated from their overall nature and activity. (...) influential and active EWCs will tend to be more involved in restructuring situations, while symbolic and less effective EWCs will tend to be less involved. However, there is also some evidence that dealing with restructuring can help build an EWC’s coherence and effectiveness.”(European Foundation 2006: 77)

For the time being, the central observation is that “(...) active involvement in transnational corporate restructuring, with influence on the employment and social aspects of the implementation of restructuring decisions, seems to be very much a minority practice in EWCs, determined by the combined presence of a number of factors relating to the company concerned, its management, the organisation and coordination of the employee side, and the EWC’s constitution and operation. It remains an open question whether more EWCs can in future take on this more active role.” (ibid.).

In this context of restructuring, although we have not discussed the trade unions’ role in the guidance and steering of EWCs in this article, it is evident, “(...) that the potential to the process of transnational restructuring via EWCs requires strong coordination and cooperation which can be generated only from a genuine process of integration of the trade unions into the activities and functioning of EWCs.” (Pulignano and Kluge 2007: 233).

What conclusions can be drawn if we compare the initially presented conceptual reflections and the EWC-typology with these new tendencies and challenges and if we “test” them in the light of these current research findings?

First, within the “institutional housing” of the EWC, conceptualised in terms of a European multi-level-structure of workplace industrial relations, the European level has “objectively” grown in importance due to the accelerating pace of trans-frontier economic restructuring and the dramatic increase in mergers, take-overs and joint ventures.

Regarding the different “actor attributes” of EWCs, a relevant number of EWCs are able to cope with these trans-frontier challenges in such a way that the transnational level of interaction (inside the employee representatives of the EWC and between them and central management) is used as a “clearing house” for diverging interests and as a chain (in addition to the interactions at the national level) of information and consultation.

These EWCs can be described as a transnational instrument of workers’ involvement and participation (as indicated or questioned in the title of this article)

Second, a significant number (perhaps still a majority) of EWCs have – as newly presented research findings indicate – either not developed these transnational actor capacities, or are, in the case of “active” EWCs, confronted with challenges of corporate transformations that “overstretch” their capacities to act. Under these conditions, the “symbolic” EWC obviously remains an empirically relevant type.

Third, the “participative” EWC needs to be reconsidered and to some extent re-conceptualised, for the following reasons:

The empirical findings and items we used to characterize the “participative” EWC type, were (in this earlier period of EWC developments) mainly found in negotiation on “soft” issues, such as “social framework-agreements”, and only in a few cases on “hard” issues, such as plant closure and restructuring. The first field of action of “participative” EWCs, i.e. their interest and capacity to go beyond information and consultation by negotiating framework-agreements with central management on “soft issues”, has significantly grown in the meantime. In many “active” EWCs it has been a “project” or it is on the agenda of the EWC to conclude such agreements. By the end of 2005 nearly 100 social framework agreements have been negotiated in more than 60 companies. A current example, and at the same time a new category or quality of such agreements (i.e. trying to anticipate restructuring) can be found in the “Master Regulation with the European Works Council on Restructuring the Sales Organization in the European Union” pushed by the EWC at Daimler Chrysler AG (draft June 2007).

However, because restructuring is much more important than other matters, its treatment necessarily highlights the strengths and weaknesses of EWCs. Therefore, it seems promising or necessary (for future research) to make clearer distinctions between participation in and negotiation on “soft issues” on the one side, and the EWCs capacities to act with regard to “hard issues”, namely transnational company restructuring, on the other. Empirical investigations on the latter issue may offer new insights on the potential and limits of the EWC as a transnational actor and deliver additional benchmarks or items for classification. Yet, as the above-mentioned example of the negotiation on a “Master-Regulation” by the Daimler Chrysler EWC shows, the demarcation lines between a “(pre-crisis) soft” regulation and its (potentially) “hard” impact as an obligatory code of conduct in the case of “crisis” (a future restructuring situation) can be fluid.

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Chapter 3

European Works Councils: emergence of a European collective identity or still national bound actors?

Volker Telljohann

3.1. Introduction

In this chapter we analyse both the conditions under which a European collective identity is likely to emerge within European Works Councils (EWCs) as well as the factors impeding EWCs' development into European-level actors. The arguments are based on results taken from three case-study research projects¹.

The first project was designed to draw up a qualitative inventory relating to the operation of EWCs and outcomes produced so far by these new European employee representation bodies. The second project examined the innovative role of the European automotive industry in the field of technology, organisation and quality of work and the role of advanced industrial relations practices at the national and transnational levels. Finally, the third project analysed the role of EWCs in the context of restructuring processes in the household appliances industry. The research project was based on case studies that included four producers of large household appliances: Whirlpool, Electrolux, Indesit and BSH. The influence of European-level actors, such as the European Metalworkers' Federation (EMF) and EWCs on transnational restructuring processes was also looked at.

¹ The project 'Quality inventories on the operation and results of European Works Councils' has been funded from the budget heading B3 4003 of the Directorate General for Employment and Social Affairs of the European Commission. It was carried out in cooperation with the European Trade Union Confederation. The research project 'Relaunching the innovative role of the European automotive industry in the field of technology, organisation and quality of work and the role of advanced industrial relations practices' was financed by the European Commission and co-financed by the Hans-Böckler-Stiftung, Düsseldorf. The third research project 'The European household appliances sector: restructuring processes, innovation strategies and industrial relations at European level – what role for European Works Councils?' was financed by the European Commission and co-financed by the Hans-Böckler-Stiftung, Düsseldorf, and the Friedrich-Ebert-Stiftung, Warsaw.

On the basis of the results of the research projects we try to answer the following questions:

- What are the conditions under which an EWC can become a genuinely European body of employee representation?
- Under which conditions is a European collective identity likely to develop within EWCs?
- Why have EWCs in the household appliances industry not yet been successful in developing a European-level strategy in response to cross-border restructuring processes?

While at the beginning of this contribution we intend to discuss the concept of European collective identity (chapter 2) and identify the prerequisites for identity-building processes within EWCs (chapter 3), in chapter 4 we analyse the role of EWCs in the context of restructuring processes in the automotive and household appliances industries. In chapter 5 we discuss the implications and prospects of a European-wide trade union coordination strategy before drawing conclusions in chapter 6.

3.2. The concept of European collective identity

Before investigating the development of an EWC collective identity, we must first of all address the relevance of a European collective identity (Telljohann 2007). In general, identity is considered the central aspect of consciousness. In the case of EWCs this would mean the appropriation and definition of their specific characteristics as well as the definition of their position in relation to other actors. Identity is therefore the result of a process in which awareness of the specificity of the EWC as a European-level body of interest representation is built.² This process includes the definition of the specific interests and values of an EWC as well as concrete objectives arising from its interests and values. Only on the basis of such an awareness can EWCs become effective bodies of interest representation.

EWCs, therefore, need to develop a stable and consistent identity with the function of orientation and organisation in order to be able to deal with social complexity. The process of identity building takes place through processes of internal and external interaction. In general, identity building is a complex and differentiated process as the EWC members cover different roles. At times it may be difficult to bring them into agreement with each other.

² That means that EWC members do not identify with 'Europe', but with the common interests of labour at a European level (Kotthoff 2007).

If identity has the important functions of orientation and organisation, then not addressing the issue of European collective identity would mean surrendering an important tool of interest representation at the EU level or, at any rate, under-using it. On the other hand, ensuring the identification with the role as *European* employee representative seems to be particularly difficult since for EWCs the development of a European collective identity represents a twofold challenge. First of all, the identity building process is linked with the genuine function of *interest representation*. The second challenge regards the development of a specific *European* identity of EWCs. The two challenges are of course closely linked and they are treated here separately only for analytical reasons.

The first challenge for EWCs, therefore, is that of becoming a *real actor of interest representation*. So far, the rights of EWCs are limited to information and consultation; they do not have any negotiation or co-determination rights which might allow them to try to influence management decisions. That means that up to now the EWC cannot be considered an effective body of interest representation. This lack of rights leads in most cases to practices typical of *symbolic* or *service EWCs* (Lecher et al. 2002) which in many cases have a negative impact on the motivation of the delegates. If it is right that a collective identity is able to develop only on the basis of common activities aimed at achieving jointly defined objectives, it will remain difficult for EWCs to develop such a collective identity as long as the EC Directive relegates them to a more or less passive and subordinate role *vis-à-vis* management. Therefore, the EWC's lack of rights can be considered a major obstacle with regard to the development of a genuine identity in the form of a collective structure of interest representation at the European level (Telljohann 2007).

As a consequence, EWCs have to identify ways to become real structures promoting interest representation. Given the existing legal basis, there are two possibilities for EWCs to develop strategies of action at the European level and, as a consequence, to contribute to the formation of a European collective identity. The first one consists in identifying common interests and trying to obtain a *voluntary* legitimisation by management. The second one is generally the result of conflicts between EWCs and management arising in the context of restructuring processes. In these cases EWCs develop a European-wide strategy in order to obtain an *enforced* legitimisation by management. It is, however, extremely difficult for EWCs to become an evenly matched counterpart as long as there is no clearly defined right to strike. Thus, it can be argued that in order to develop an

effective European-wide strategy EWCs are required to go beyond the provisions set by the EC Directive.

Finally, there is of course the institutional approach to be considered, that of the EWC obtaining real interest representation rights at the European level through a modification of the EC Directive itself. The success of this approach also depends to a certain extent on the success of the EWC strategies aimed at obtaining legitimisation by management.

The second challenge, the development of a specific *European* identity relates to factors such as intercultural learning, mutual trust and internal cohesion. That means that the process of developing a European identity is the result of learning processes and experiences: Of course, both depend very much on the time factor, the availability of resources and the quality of external support.

If, as indicated above, the development of European-wide strategies goes hand in hand with the development of a European collective identity, then the most advanced cases may provide some indications concerning the prerequisites for the development of a European collective identity and the factors that might influence this development process. Thus, in the following, we will refer to the results of the projects mentioned in the introduction.

3.3. Factors and dimensions of identity building processes

The research project focusing on the ‘inner life’ of EWCs analysed the structures and processes of communication, as well as the patterns of interaction both within EWCs and between EWCs and the other actors in the industrial relations system. The project set out to undertake a qualitative investigation into the entirety of the processes of communication and interaction that condition and affect the constitution as well as the shape of the EWCs. This involved a systematic study into the subjective dimension of the interests, motives, expectations and perceptions of the actors involved and of the barriers to socio-cultural interaction characterising the operation of EWCs (Telljohann 2005).

The research results suggest that it is possible to identify at least eight factors influencing the process of identity building within EWCs.

- The first is the *time factor* which is of crucial importance as there are a number of necessary conditions to be met in order to make the formation of a European identity possible. The development of a European collective identity is, therefore, the outcome of medium or long-term processes.

- Time is also necessary in order to allow *internal cohesion* to develop as it is the outcome of learning processes and practical experiences that are at the basis of the development of mutual trust.
- The development of the *subjective factor* consisting, among other things, in an improvement of the individual capabilities is not only relevant in order to foster intercultural learning but also in order to create the necessary awareness with regard to the potential role of EWCs. Besides the development of individual capabilities, it is equally important to guarantee the motivation of the individual EWC members that may also be influenced by a number of other factors described here.
- Another factor influencing the process of identity-building is the *internal functioning* of EWCs. Only an EWC that operates efficiently will be able to organise continuous communication processes which can guarantee an adequate involvement of all delegates in EWC activities.
- The fifth factor regards the dimension of EWCs' external relationships, i.e. their capability for *integration, cooperation and coordination*. In order to be able to define common objectives and a jointly shared strategy, EWCs must develop adequate relationships with both company-level structures of interest representation and trade union organisations in various countries and at various levels.
- Furthermore, the *legitimisation* of EWC activities can have a significant impact on the process of identity-building. In this context it has to be kept in mind that there are different sources of legitimisation. The first one is the institutionalised rights at the European level. In the case of activities that go beyond the EC Directive, EWCs depend on the legitimisation by the management, the national structures of interest representation and in certain cases also on the national and European trade union organisations.
- The improvement of individual capabilities, the internal functioning as well as the processes of integration, cooperation and coordination depend on the availability of adequate *resources*. It is, therefore, of crucial importance for the functioning of EWCs to verify all the existing possibilities of obtaining the necessary resources in order to guarantee effective and efficient operation.
- Resources as well as the extension of rights are equally important to guarantee the *autonomy* of EWCs as European-level bodies of interest representation.

The above-mentioned factors relate to various dimensions of the identity building process. First of all, there is the *individual* dimension regarding the development of the subjective factor. Secondly, we have the *collective* dimension which relates to the internal dynamics of the EWC. The relevant factors influencing the identity building process at this level are the internal functioning, the internal cohesion and the autonomy of the EWCs. The factors 'integration', 'cooperation and coordination' as well as 'legitimisation' represent the dimension of *interaction* between EWCs and the other actors at the various levels. Finally, there are the factors of resources and time that represent a *horizontal* dimension which affects all the other dimensions.

3.4. Restructuring processes and the role of EWCs

So far we have dealt with factors influencing the process of identity building within EWCs. In the following we will analyse in which ways EWCs have been involved in restructuring processes and what the implications were for the identity building process. On the one hand, we intend to examine cases in which EWCs have succeeded in taking on a bargaining role and will try to identify what the prerequisites were in these cases for being successful in defining strategies based on common objectives. On the other hand, we will look at cases in which EWCs failed to become European-level bargaining partners and analyse the reasons for the failure.

Forms of involvement of EWCs in restructuring processes

Enterprise restructuring and the deregulation of employment and working conditions through cost reductions, increased efficiency and the application of short-term performance criteria, represent a widely diffused response to global competition. As the employees of transnational enterprises are particularly exposed to the risks of restructuring processes that in general have an impact on employment levels as well as on employment and working conditions, in a growing number of cases EWCs see this as an important challenge (Waddington 2006). Consequently, EWCs emphasise getting truly involved in such restructuring processes.

Although the rights of EWCs are formally limited to information and consultation, in recent years there have been several cases of more far-reaching involvement of these European bodies of interest representation. Research reports have shown that since the end of the 1990s there have

been a number of cases where EWCs participated in transnational restructuring processes and were to varying degrees, successful (Carley 2001; Carley and Hall 2006; European Commission 2008).

In his overview report, Carley (2001) lists four cases (Danone, Deutsche Bank, Ford, General Motors) in which EWCs had a negotiating function within the framework of company restructuring processes, and two other cases (Vivendi, SLdE) in which EWCs took on a strong influential role with regard to company globalisation and expansion strategies. In other cases, EWCs also managed to encroach upon the field of negotiations. In the case of Deutsche Bank in 1999, a joint position on job security was signed in which the group committed itself to arrangements that went well beyond those set down in the EC Directive (Carley 2001).

Restructuring processes in the automotive industry

The most advanced examples of EWC involvement in restructuring processes are found in the automotive industry. A significant example is the agreement signed between the Ford EWC and central management on the spin-off of the car component producer, Ford Visteon (Klebe and Roth 2000). The agreement, which applies to Visteon plants in Germany, the UK and France, ensured that employees transferring to the new company would still enjoy their previously existing rights. In this agreement, Ford also commits itself to purchasing Visteon components for at least nine years in order to guarantee the new company's sales.

With regard to the General Motors Europe (GME) case in 2000, a European framework agreement (EFA) was signed between the management and the European Employee Forum (EEF) on the consequences of the alliance with Fiat. In this example, the EEF succeeded in obtaining the following rights:

- continuous and timely information about developments within the alliance;
- the alliance must not lead to workforce reductions, plant closures or the worsening of working conditions;
- existing collective bargaining agreements must remain in force;
- workers subject to transfer should have the right to remain and return;
- current national or EU-wide representation bodies and unions should be recognised in any new enterprises that may be formed.

In 2001 another important EFA on restructuring initiatives was signed between EEF and the GME management. In this agreement, management

committed itself to avoiding forced redundancies in relation to the planned restructuring initiatives and to maintaining vehicle production in Luton (UK). This agreement is probably one of the most important signed at the European level since it "...provides for a concrete set of rules to be applied in specific circumstances; and a framework for lower-level action" (Carley 2001: 53).

Faced with a deep crisis in competitiveness in 2004, GME presented another restructuring programme that provided for a reduction of labour costs valued at 500 million Euros a year. The initial plan provided for delocalisation processes with the closing of at least one manufacturing plant, a reduction in employment levels and a cut in wages. In order to maximise the results of the restructuring plan, the Group tried to force the various plants to compete with one another. As had already occurred in 2000 and 2001 with the support of the EMF, a day of European-wide industrial action was organised to oppose company strategy. The day of protest, which saw the participation of the plants in Germany, Sweden, Great Britain, Belgium, Poland and Spain, demonstrated a certain compactness among the various national representation bodies. The demonstration of solidarity between the various plants and the coordinating role played by the EMF had the effect of making management accept the need to negotiate with the workers' representatives at the European level. These negotiations led to the signing of an EFA on 8th December, 2004 between the central management of GM Europe and the EEF that provided for the waiver of plant closures and dismissals for company reasons. The framework agreement laid down the foundations for the subsequently more detailed negotiations at the national level.

The difficulty of developing a strategy and reaching agreements at the European level was demonstrated by the protests of the workers' representatives in Great Britain and Belgium who, in the final stages of the talks, made a formal protest to the EMF. They claimed that their German colleagues from the Bochum plant had infringed on the principle of transparency. Indeed, at Bochum divergent orientations appeared within the trade union, the works councils and among the blue-collar workers criticising the results of the talks with the management. This example shows the EWCs' difficulty in developing a shared strategy at the European level. Since the beginning of the decade there have been several cases in the German automotive industry in which companies threatened to transfer production and/or address future investments towards countries with lower labour costs. In some cases it is a matter of competition between plants inside the old EU; in most cases, however, it involves plants in the new

member states or even outside the EU. It is always management that takes the initiative: asking for cost-cutting in order to improve or regain competitiveness on the international level. This argument is not only used by groups such as General Motors Europe that have had to deal with large losses in recent years, but also by groups such as Audi, BMW and Porsche that in 2004 achieved decidedly positive results. The leading role played by management, which finds itself in a strong position, allowing it to make aggressive use of a global level benchmarking policy, is answered by the defensive stance of trade unions and works councils that mainly try to mitigate the negative effects of global competition.

In the negotiations on the restructuring processes in the automotive industry it can be observed that the EWC was involved only in the cases of Ford and General Motors. All the other cases³ were managed exclusively at the national level. The GME-EEF, which as far back as 2000 had taken on a negotiating role (Telljohann 2004), even in the restructuring process of 2004/05, signed a framework agreement that represented a common point of reference for the subsequent negotiating processes at the national level. The case of General Motors has shown that in order to develop a strategy based on European-wide solidarity, close cooperation between the union federations and the EWCs is essential, combined with an integration of the representation bodies at the European, national and company levels. The positive experience of the EEF is also due to a high degree of internal cohesion. According to the President of the EEF, some working principles have been consolidated over the years. These include transparency, frankness and loyalty. As regards cooperation with the EMF it is worth observing that for the first time a monitoring group has been set up at the EMF with the task of accompanying a restructuring process. According to president of the EEF, this group's work has significantly improved the standard of cooperation between the EEF and EMF.

In the case of General Motors, the protest and strike activities involved various European countries. From the union standpoint, the strikes and protest actions chiefly served to demonstrate solidarity among blue-collar workers, both at the national and European levels. Although the agreement signed in December 2004 between the central management of GM Europe and the EEF provided for the waiver of plant closure and dismissals for company reasons, already in 2005 the EEF expressed fears that in the context of future restructuring processes up to 30,000 jobs could be lost in Europe by 2014, due to the closure of GM European plants and related supply firms.

³ We refer to Volkswagen, DaimlerChrysler, Audi and Porsche.

The main lesson drawn by the works councils and trade unions from previous experience was the importance of their involvement at the early stage of future restructuring processes, in order to avoid plant closures. As a decision was due to be made in 2007 concerning future production of the Delta platform for the Astra and the Zafira, a group known as the Joint Delta Working Group (JDWG) was set up within the EMF in the winter of 2005. The activities of the JDWG were supported by an EU project entitled 'Requirements and Perspectives of the General Motors Europe Employees Cooperation' (GMEECO).

The latter group included plant-level employee representatives and the national unions of the five sites affected, namely: Antwerp (Netherlands), Bochum (Germany), Ellesmere Port (UK), Gliwice (Poland) and Trollhatten (Sweden). The working group aimed to contribute to the development of a joint strategy based on the 'principles for equable and equitable plant utilisation at all European General Motors sites'. After an initial refusal in 2007 the GME management entered into negotiations on the site selection process for the next model generation and in April 2008 the GME management and the EEF signed an EFA regarding the production of the next Astra/Zafira generation and new SUV models to be produced at the Antwerp plant in Belgium (Bartmann and Blum-Geenen 2008; Fetzer 2008).

The EEF obtained the agreement that the Antwerp plant, which had not been chosen for the production of the next Astra generation, would be safeguarded after the run-out of the current Astra production by 2 models of a new SUV generation that was originally to be produced in China. The GME-EEF thus succeeded in avoiding the offshoring of production to Eastern Europe and Asia. Thus, the GME-EEF was able to achieve its most important demands in the negotiations, i.e. no plant closures and no enforced redundancies. General Motors Europe agreed with the GME-EEF not to close the five European plants before the end of 2016 (Bartmann and Blum-Geenen 2008; Fetzer 2008).

It has to be noted, however, that the development of European-wide coordination strategies as a response to the various restructuring processes was also characterised by internal contradictions due to the fact that the various plants operate in very different frameworks. The differences with regard to variables such as the socio-economic setting, the unionisation rate, wage levels and working conditions guarantee scope of action for the management and makes it difficult to develop a joint strategy at the European level (Bartmann and Blum-Geenen 2008; Bernaciak 2008).

In the meantime, GME has already announced that within the next years Western European production and assembly sites will potentially be closed and production offshored to Asian and Central American countries. The strategy of global basis platforms, which enable the swift and global offshoring of production lines, will thus contribute to a further acceleration of competition between the various sites. In order to meet this challenge the national metalworkers' unions, the GME-EEF, the plant-level workers' representatives and the EMF decided once again to exchange experiences and information, to develop ways of anticipating change and to define common bargaining positions at the national and European levels. In particular, the development of innovative measures for transnational information, consultation, participation and organisation processes are planned. At the same time, it is the promotion of discussions with the GME management on the possible role of transnational social dialogue is also planned. This means that the organisation of a site selection process at the global level implies the parallel need to develop a cross-border coordination of interest representation at the global level.

Finally, it can be observed that the cases of GME and Ford also proved the importance of the time factor. They showed that EWCs are not static institutions but a dynamic reality that has the chance to develop and move from one phase to another as the internal and external conditions of action may change in the course of time. This means that EWCs can develop from service EWCs to European bodies of interest representation able to carry out – in cooperation with the EMF – European-wide actions and negotiations.

In all other cases of restructuring processes in the German automotive industry, however, national strategies persist which, from the point of view of a European-wide coordination, could be considered inadequate. Since the agreements, as in the case of Volkswagen, also have repercussions outside Germany, the orientations of the EMF would have required preliminary discussions at the European level (European Metalworkers' Federation 2005a). Lastly, the attempt to find isolated solutions at the individual plant level or at the national level fosters a tendency towards competition either between the individual production sites or between the various national contexts (European Metalworkers' Federation 2008).

Restructuring processes in the household appliances industry

In the household appliances industry, TNEs have also been going through massive restructuring processes since the mid-1990s. Currently, most leading producers of white goods are undergoing far-reaching restructuring

processes aimed at further offshoring production to low-cost countries, including new member states.⁴

In the case of Electrolux, the EWC was already involved in the restructuring process during the second half of the 1990s, but without having played a negotiating role. In 1997, the top management reported to the EWC a lack of competitiveness compared to general international standards in the sector. The management argued that the lack of competitiveness was a hindrance to the consolidation of production and employment at group level. A particular challenge consists in the fact that the sector is characterised by a major production overcapacity, the stagnation of main markets, falling prices, a tendency for consumers to look to the low-end product ranges and, finally, the entry of new non-EU producers. Consequently, the management announced its intention to carry out a group restructuring process involving the closure of numerous industrial plants and major employment cuts. The Electrolux management pointed out to the EWC that though the actual size of the job cuts had been accurately defined (25 production units and 50 warehouses, totalling 12,000 less workers), it had not yet been decided which plants to close and where. The management declared to the EWC members that Electrolux intended to close down the less competitive plants and to concentrate production and investments in the others. The EWC members were thus urged to table national debates in the various countries in order to increase the efficiency and the competitiveness of their own plants. As a matter of fact, a sort of European-wide ‘auction’ was started that actually caused major competition between the countries, during which each plant sought to prove that it had achieved a certain standard of efficiency and productivity to assure the group’s competitiveness benchmarks. As a result, on this occasion there were major disagreements between the national representatives of the EWC, evidently and predictably committed to defending their respective national positions.

From the delegates’ point of view, the involvement of the EWC in the restructuring process revealed several weaknesses. Although the management informed the EWC on a regular basis with regard to the planned restructuring measures, the EWC did not succeed in actually influencing

⁴ This chapter is based on the results of the research project ‘The European household appliances sector: restructuring processes, innovation strategies and industrial relations at European level – what role for European Works Councils?’. The project was aimed at analysing the strategies of social regulation in the context of restructuring processes carried out at the four major TNEs producing household appliances, i.e. Whirlpool, Electrolux, Bosch-Siemens Hausgeräte and Indesit Company. More information can be found on the project website www.fi-pl.it/progetti/prohai/index.html.

management decisions. The main shortcomings were probably the insufficient internal cohesion of the EWC and the lack of coordination between the EWC and the external trade union organisations, especially the EMF. In this case, the involvement of the EWC thus represented a merely formal act. The EWC was limited to a subordinate role *vis-à-vis* management interests as the management succeeded in making an instrumental use of this European body.

In response to global competition, in 2004 Electrolux announced another programme aimed at cutting costs in production and purchasing (Telljohann 2008). At that time, 27 of Electrolux's 44 white goods factories were in high-cost countries; according to the management, half were to be relocated to low-cost countries. When the restructuring programme is completed in 2009, more than half of Electrolux's manufacturing will be located in low-cost countries. In 2005, it was decided to close plants in Fuenmayor, Spain (refrigerators), Parabiago, Italy (lawn mowers) and Nuremberg, Germany (washing machines, dishwashers and tumble-dryers). In the case of the refrigerator plant in Fuenmayor 450 employees were affected; production was shifted to Hungary. The closure of the Nuremberg plant affected 1,750 employees; in this case, production was gradually moved to Poland. The closure of the Nuremberg plant was completed in 2007.

The restructuring programme also included plant closures outside Europe, affecting in particular the refrigerator plant in Greenville, USA, and the washer/dryer and dishwasher plants in Adelaide, Australia. While deciding on cutbacks in Western Europe, USA and Australia, Electrolux invested € 65m in order to upgrade the plant in Hungary, to open a new plant in Russia producing washing machines, and to enlarge the Polish factories in Siewierz (tumble-dryers) and Zarow (dishwashers), to which part of the German production was transferred.

In the face of this global restructuring, the European Metalworkers' Federation decided to set up a European trade union coordination group consisting of the trade unions involved in the company, the EWC, the EMF EWC coordinator and the EMF secretariat; this body was intended for the purpose of developing a coordinated response to restructuring at European level aimed at ensuring a sustainable future for the European production sites. A first outcome of the activity of the European trade union coordination group was the decision to organise a European-wide action day in October 2005 to protest against management decisions to transfer production to low-cost countries without offering alternatives to secure the long-term viability of the Western European plants, employment and the

regions concerned (European Metalworkers' Federation 2005b). At that time, however, the strategy of European-level coordination encountered the problem of a lack of interest representation at the Polish production site that was supposed to benefit from the restructuring programme.

The position of the EMF consisted in demanding socially responsible solutions, also taking into consideration repercussions for the industrial fabric of the regions and an industrial strategy based on innovation and high technology with a view to securing the future of Electrolux in Europe. In order to avoid plant closures the EMF strategy aimed at improving the competitiveness of the existing sites. The EMF urged management to engage in discussions at the European level about alternatives to plant closures. This approach was supported in particular by German and Italian trade unions and EWC members. The demand for European-level negotiations and a European-level framework agreement was, however, rejected by the central management. Thus, after having already decided to close the production site in Fuenmayor, Spain, in December 2005 the Electrolux board announced the closure of the AEG Nuremberg plant, too.

The trade union strategy aimed at entering into European-level negotiations encountered not only management opposition, but also a lack of conviction on the part of the Swedish EWC members and the Swedish metalworkers' union, IF Metall, which basically agreed with the strategy of the central management (Artus 2006). The diverging positions of the Swedish metalworkers' union and EWC members, on the one hand, and the German and Italian trade unions and EWC members, on the other, proved incompatible. As a consequence, the process of developing a shared European-level strategy capable of counterbalancing management restructuring plans entered into crisis. In the case of Electrolux it was thus not possible to link up with the European-level negotiation processes carried out at General Motors Europe in 2004 (Carley and Hall 2006; Da Costa and Rehfeldt 2007); from the point of view of the Europeanisation of industrial relations, the Electrolux case therefore represents a missed opportunity.

One explanation for the failure of the attempt to develop a European-level trade union strategy might be the structural and cultural differences between national systems of interest representation (Müller and Rüb 2007). As Knudsen (2005) shows, there seems to be a specific attitude in Nordic countries towards the Europeanisation of industrial relations, in general, and to EWCs, in particular. This attitude is characterised by a cooperative approach and a tendency to support management strategies. Favouring cooperative industrial relations, representatives from Nordic countries are

not particularly interested in antagonistic approaches. With regard to restructuring processes this position implies also that there is no ambition to influence management decisions. Therefore, representatives from these countries might not even see a need for action at the European level.

Knudsen (2005) also emphasises the fact that collective bargaining is considered the core of trade unionism in Nordic countries. The central role of collective bargaining at the national level explains why Nordic trade unions do not want EWCs to take on the role of negotiation. Thus, Nordic trade unions try to contain the activities of EWCs which, in their view, should be confined to dealing with so-called 'soft' issues. According to this position, a more far-reaching bargaining role for EWCs would tend to undermine trade unionism. It also has to be mentioned that, due to the success enjoyed by Nordic trade unions in their national contexts, the respective national systems of industrial relations are probably considered more effective than any structure of interest representation at the European level.

Another obstacle to concluding framework agreements at the European level is reported by Pulignano (2007). Quoting a Swedish trade unionist, Pulignano points out that Swedish trade unions tend to avoid interfering in company-level trade union activities. According to this principle of independence of shop stewards, framework agreements would be regarded as not representative of the will of company-level trade unions.

In the case of the Electrolux restructuring programme, these 'country of origin factors' may explain the specific attitude towards the Europeanisation of industrial relations which finally blocked the attempt to develop a trade union response at the European level.

In the absence of a joint European-level strategy all restructuring processes had to be faced by the respective national trade unions and company-level structures of interest representation. In the case of the Nuremberg plant, IG Metall developed an alternative proposal aimed at increasing labour productivity, but central management considered it inadequate. In order to prevent the closure of the plant workers then went on strike for almost six weeks; on 28 February 2006 an agreement was reached providing for relatively high severance payments. In this case the Electrolux management had obviously underestimated the trade union's ability to mobilise workers, even over a longer period (Artus 2006). The strike had a serious impact on sales, harmed the company's public image and led to supply difficulties. This was confirmed by the CEO of Electrolux, Straberg, according to whom

‘the strike in Nuremberg lasted longer than expected and slowed deliveries, causing us to lose market share’ (Electrolux 2007: 2).

The negative impact of the conflict at the Nuremberg plant on sales might explain why in 2007 in the case of the AEG Rothenburg plant management adopted a more cooperative approach. The Rothenburg plant, with its 1,150 employees, specialises in manufacturing built-in cookers. As the running model was becoming obsolete, in 2007 IG Metall and the works council decided to enter into negotiations with the Electrolux management on the future of the production site, asking for a guarantee to also produce the next generation of built-in cookers in Rothenburg. Taking into consideration that in the future the Polish plant in Swidnica might enter into competition with the Rothenburg plant the employee side preferred to anticipate the discussion on the prospects of the site rather than to wait for a formal assessment of plant competitiveness by central management. In autumn 2007, a Pact for Employment and Competitiveness (PEC) was signed, guaranteeing that the next generation of built-in cookers will be manufactured at the Rothenburg plant. According to the agreement, production of the new model is expected to start in 2010 and will continue at least until 2013; in exchange, by 2013 the portion of wages exceeding the wage levels laid down in the sectoral collective agreement will be cut – there will be a waiver of not more than 2% of wage raises each bargaining round. In this way, wage levels at Electrolux that in 2007 were about 10% higher will be aligned with the standards laid down in the sectoral collective agreement. Furthermore, a training programme of 52 hours a year will be introduced, subtracting one hour a week from the employees’ working time credits.

Finally, it has to be mentioned that among all the restructuring processes carried out in the European household appliances industry Electrolux represents the only case in which the EMF set up a European trade union coordination group in order to develop a coordinated response at the European level.

Conclusion

Given that it is not sufficient to involve employees only in addressing the social consequences of restructuring, consultation must also entail employee involvement in shaping restructuring processes. As shown by a number of research reports on restructuring, the ability to forecast and anticipate change, and therefore the choice of a more proactive strategy, considerably extends the range of actions and the ability to take a positive approach to

restructuring, characterised by innovation, diversification and quality improvement, not just cost reduction.

Although there have been positive experiences of consensus-based and timely employee involvement in the managing of restructuring processes in the national context, there are two major challenges that trade unions will have to address. In most cases the management determines restructuring strategies and the forms of social regulation. A first challenge thus concerns the need for the employee side-trade unions and company-level structures of interest representation – to focus more on the development of proactive strategies capable of anticipating change processes. In the case of the household appliances industry, the EMF strategy of focusing on energy-efficient household appliances as a way of securing jobs and promoting environmental protection represents an important contribution to the development of proactive and innovation-based strategies (Kern 2007). A second challenge concerns the involvement of European-level actors in the social regulation of restructuring.

3.5. The European dimension of restructuring and the role of European-level actors

In cases of cross-border restructuring, the added value of the effective involvement of interest representation bodies at the European level consists in the possibility of overcoming the limitations of local responses, which are often characterised by a logic of competition between the different production sites. At the European level, in contrast, European Industry Federations (EIFs) and EWCs have the possibility of developing a joint European-wide response to management strategies.

The role of EWCs

Although the restructuring programmes of the analysed TNEs in the household appliances industry involve production sites in several EU member states, the EWCs did not play a role in restructuring. It is also striking that, despite the relatively high number of offshoring processes, only in one case – the threatened closure of the AEG Nuremberg plant – did the EWC convene an extraordinary meeting.

In the household appliances industry restructuring processes and their consequences have been negotiated exclusively in the context of national industrial relations. At best, EWCs were informed, but not consulted (Waddington 2006). As employees of TNEs in the household appliances

industry seem to be particularly exposed to the risk of restructuring, which frequently includes lay-offs and shifts of production at the transnational level, there is thus a need for more effective EWC involvement where restructuring will have a significant impact on employment, as well as on working conditions. EWCs should therefore use their existing rights (for example, timely information and consultation, use of experts, extraordinary meetings) more effectively.

The timely involvement of EWCs in restructuring processes is of course one important indicator of their functioning, but it is not sufficient to guarantee their effective and positive role in restructuring. It is equally important that consultation processes include the possibility of developing alternative proposals to those presented by management (Telljohann 2005). This also implies that, *vis-à-vis* restructuring processes, EWCs need to extend their competences to develop alternative solutions for presentation in the course of consultation.

The need to improve EWCs' consultation and participation competences to enable them to take on a more active role in restructuring includes the development of knowledge in the field of labour policy, process and product innovation and industrial policy. EWCs' ability to play an active role is a prerequisite for obtaining real information, consultation and participation rights which are not of a merely formal character. Adequate knowledge, competencies and capabilities can, however, be achieved only in the context of training programmes and through the use of experts.

Another challenge consists in improving the functioning of EWCs; in particular, their internal and external communication and coordination. EWC effectiveness depends on the quality of cooperation with national structures of interest representation. Research results suggest there is a need to strengthen transnational cooperation and coordination between EWC members, as well as between EWCs and other actors at various levels. Furthermore, a particular challenge consists in improving cooperation with NMS representatives as for example, in Poland it has been difficult to identify the background of the EWC members (Voss 2006; Telljohann 2008). In these cases home-country trade unions might be asked to intensify pressure on central management in order to guarantee EWC representativeness.

Improving EWC effectiveness will also depend on learning processes and experiences. Both, of course, depend heavily on time, resource availability and high quality external support.

European-level coordination strategy

In 2005 the EMF defined its policy approach to socially responsible company restructuring. With regard to cross-border restructuring the EMF identified a need to go beyond the national level and develop joint strategies at the European level (European Metalworkers' Federation 2005a). To this end some common rules were established concerning how the metalworkers' unions should handle restructuring at the European level. Ten principles were outlined which should be applied in the context of cross-border restructuring. One of the principles concerns full compliance with information and consultation rights, including the demand for extraordinary EWC meetings. Another important principle consists in setting up European trade union coordination groups which should be involved in drawing up a platform of common demands, promoting European-level negotiations and organising cross-border actions. Furthermore, it was decided that 'no negotiation at national level or within one company will be concluded before having informed and consulted with the colleagues concerned at European level' (European Metalworkers' Federation 2005a: 4).

As already mentioned, all the major white goods manufacturers are going through cross-border restructuring. In all cases, this involves offshoring and/or the threat of offshoring. In the case of Electrolux it has become obvious that cross-border restructuring processes cannot be effectively discussed at national level, but have to be addressed at the EU level, guaranteeing the presence of the central management and the involvement of the EIF and the EWC.

In the case of the household appliances industry, however, Electrolux represents the only case in which the EMF has set up a European trade union coordination group in order to develop a coordinated response. At the European level close cooperation between EWCs and EIFs has proven indispensable in developing a European-wide strategy in response to transnational restructuring. In these cases trade unions try to mediate between diverging interests and different strategic approaches (Telljohann 2003; Rehfeldt 2004; Pulignano and Kluge 2007). At the same time, close cooperation with the EIF should enable EWCs to play an active role vis-à-vis management by autonomously identifying common interests and objectives.

Trade union intervention, however, involves not only the identification of common interests and objectives, but also the mobilisation and coordination of actions at the European level. Given the existing legal framework, the

ability to mobilise employees and represent common interests at the EU level has proved to be the only way for EIFs to obtain acceptance as negotiating partners in the context of restructuring processes. In these cases EIFs and EWCs develop a European-wide strategy in order to obtain enforced legitimisation by management. So far, EFAs as a form of social regulation in the context of restructuring processes at transnational level represent the most advanced outcome of a European-level trade union strategy of mobilisation and coordination. According to the EMF the value-added of such EFAs "...lies in their ability to act as a safety net, as they establish basic rules, norms and procedures that are valid all over Europe and binding for any follow-up agreement to be concluded at local/plant level throughout Europe" (European Metalworkers' Federation 2008: 46).

Even if in the case of Electrolux the EMF had been able to organise European-wide actions, it has since proven impossible to go beyond the level of protest and to develop a shared strategy capable of counterbalancing management restructuring plans. This means that in the case of Electrolux not all the preconditions for a successful European-level strategy were present. Conflicting interests among the EWC members and national trade union organisations have led to shortcomings with regard to mutual trust and internal cohesion and thus have impeded the development of a specific European identity. EWC members have not been able to overcome divergent views, which can be put down to structural and cultural differences between national systems of interest representation (Müller and Rüb 2007). In addition, the converging positions of all home-country actors have impeded the development of internal cohesion within the EWC.

As a consequence, in the case of Electrolux the EWC has not been able to autonomously identify common interests and values, to agree on common objectives and, finally, to define and carry out a joint strategy. Consequently, the European trade union coordination group was also a failure. From the standpoint of the Europeanisation of industrial relations, the Electrolux case therefore represents a missed opportunity. Due to the failure of the European-level coordination strategy the consequences of offshoring processes in the context of the Electrolux restructuring programme were finally dealt with in the context of national industrial relations.

Thus it can be concluded that in the cases of the German carmakers and the producers of household appliances European-level interest representation did not play a major role. So far, only the cases of Ford and GME show that it is possible for trade union organisations and EWCs to develop European-wide strategies capable of counterbalancing management's restructuring

plans. Nevertheless, one has to be aware that so far these examples represent only positive exceptions, while in the majority of cases, even in the context of restructuring processes, EWCs do not succeed in going beyond the level of a service EWC (Lecher et al. 2002). As has been shown, in order to conclude similar agreements it is necessary to guarantee, first of all, close co-operation between EWCs and trade union organisations at the various levels. Furthermore, the co-operation between EWCs and national works councils as well as between European and national trade union organisations is indispensable for the success of a European-wide strategy of coordination of mobilisation and negotiation. From the point of view of the EWCs the support of both the trade unions and the national structures of interest representation is also an important source of legitimisation for the EWCs' activities.

The added value of an effective involvement of interest representation bodies at the European level consists in the possibility of overcoming the limits of local responses which are often characterised by a logic of competition between the different production sites. At the European level, on the contrary, EWCs have the possibility to try to develop a commonly agreed European-wide response to management strategies. If we consider Ford and GME the two most advanced examples of EWCs' involvement in restructuring processes, it is interesting to note that both cases took place in TNEs with headquarters outside Europe. It is likely that in the case of restructuring processes in the EU-based TNEs the respective national trade union organisations are interested in controlling the process. In these cases the EWCs are often dominated by the delegates of the home country who, in certain cases, consider the EWC an appendage of the national industrial relations system and for this reason prefer not to see the EWC involved. In general, these clearly dominating home-country structures do not exist in TNEs with headquarters outside Europe. This constellation probably makes it easier for European bodies, such as the EWCs and the European Industry Federations (EIFs), to take on a coordinating function in the event of restructuring. With regard to GME Bartmann and Blum-Geenen (2008) note, indeed, that one important difference consists in the fact that there is no dominant country where the local employee representatives have an exclusive relation to central management. This means that in the case of TNEs with headquarters outside the EU the 'country of origin factors' (Hall et al. 2003) seem to be less relevant and EWCs have more freedom to develop a truly European strategy of interest representation.

There is, however, another peculiarity to be taken into consideration when trying to respond to the question of whether the strategy pursued in the

GME case can be transferred to other companies. Bartmann and Blum-Geenen (2008: 18) emphasise that the example of the JDWG shows the importance of resources for successful cooperation at the transnational level. The level of cross-border cooperation and coordination that was reached in the Delta process would not have been possible without the resources of the GMEECO project. That means that developing a European-wide strategy is a rather complex challenge requiring considerable resources. This is probably another reason for the still very limited number of cases in which this approach has been successfully applied.

In addition, there are probably other sector-specific factors that might have facilitated the successful implementation of a European-wide coordination strategy in the cases of GME and Ford. The fact that the most interesting experiences occurred in the European automotive industry is probably also due to the high unionisation rates which are a prerequisite for mobilising members as well as exerting pressure on the management. Another explanation might be that not all European industry federations are convinced of the usefulness of assigning an active role to EWCs in the context of restructuring processes. The policy of European industry federations is therefore another important prerequisite for a successful European-wide strategy of interest representation. Pulignano (2007) shows that there are in fact substantial differences in the strategies of European industry federations.

Following EU-enlargement the development of a European-wide strategy has become even more complex and demanding as the differences between Eastern and Western European sites in terms of costs, working conditions and industrial relations remain considerable, so much even that it might become difficult to develop a common strategy. Therefore, according to Tholen et al. (2005) EWCs are not yet ready to take on an intermediary role in a cooperative network which has to involve Eastern European sites. Again, in these cases the close cooperation between European industry federations and EWCs will prove important in order to overcome its present limitations.

3.6. Conclusions

On the basis of the examples described above, it can be concluded that the development of a European collective identity of EWCs depends on the capability of its members to autonomously identify common interests and values, to agree on common objectives and, finally, to define and carry out a shared strategy. The development of a shared strategy presupposes that the

delegates are faced with a common challenge and agree on the role the EWC should play vis-à-vis this challenge. To assign an active role to the EWC implies that there exists a conviction among the members of the EWC that the European level is the appropriate level of action.

Referring to the classification of Lecher et al. (2002), we can conclude that a European collective identity is likely to develop in project-oriented and participative EWCs as these EWCs are able to take on an active role in overcoming a passive and subordinated attitude vis-à-vis management, which is typical of symbolic and service-oriented EWCs. Project-oriented and participative EWCs are characterised by their capacity to identify common interests and objectives from an autonomous point of view; being able therefore to develop independent agendas and to develop a jointly-shared strategy.

In these cases trade unions are successful in using EWCs to generate common positions and to achieve concessions from management in safeguarding jobs, working practices and conditions. In this context, Ford and GME have to be considered the most relevant illustration. The EWCs at Ford and GME have shown that there is room for manoeuvre and that the chance to influence decisions is much bigger at a higher level than at a local level where works councils are mostly confronted with implementation discussions only. However, Ford and GME are so far the only cases in which it has been possible to develop European-wide strategies capable of counterbalancing management's restructuring plans.

Since there has been no effective involvement of EIFs and EWCs in any of the analysed cases of restructuring at the German carmakers and the producers of household appliances, the application of the EMF Policy approach might be considered inadequate. The cases of missed application thus show a need for more effective implementation of the common rules on the handling of restructuring at the European level.

The fact that the cases of Ford and GME have up to now remained isolated experiences also indicates the particular difficulties for EIFs and EWCs to get effectively involved with central management in the handling of actual restructuring processes. Both kinds of obstacles, i.e. the refusal of management to involve workers' representatives in the handling of restructuring processes as well as possible internal contradictions on the employee side, might be reduced by a strategy of anticipating change characterised by an involvement in an earlier phase. As shown by a number of research reports on restructuring, the ability to forecast and anticipate change, and therefore the choice of a more proactive strategy, considerably extends the range of actions and the ability to take a positive approach to

restructuring (Fraunhofer Institut für Systemtechnik und Innovationsforschung 2004). A first agreement on ‘anticipating change’ was signed at Schneider Electric in 2007. With this agreement between the central management and the European Metalworkers’ Federation, Schneider-Electric shows its commitment to offering employee representatives the opportunity to voice their opinions and potentially influence the company’s future restructuring initiatives (Telljohann et al. 2009; Whittall 2007).

Abbreviations

EEF	European Employee Forum
EFA	European Framework Agreement
EIF	European Industry Federation
EMF	European Metalworkers’ Federation
EWC	European Works Council
ETUC	European Trade Union Confederation
GME	General Motors Europe
GMEECO	General Motors Europe employees cooperation
JDWG	Joint Delta Working Group
TNE	Transnational Enterprise

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Part II

Country reports – The national-cultural embeddedness of EWCs and state of EWC research in selected countries

Chapter 4

European Works Councils activity in Poland

Stanislaw Rudolf and Karolina Stegemann

4.1. Introduction

The Directive on European Works Councils was adopted in 1994 following exceptionally long discussions, which started in the 1970s. Successive projects of directives were created, which was accompanied by very animated discussion¹. For a long time the balance of the EU's social partners and, in particular, a strong objection from the influential employers' association did not permit the adoption of the directive. The situation was also not well facilitated by the arrangement of political forces in the EU. The directive was finally adopted due to the determination of the trade unions and the development of a more favourable arrangement of political forces. From the outset, its adoption was considered a breakthrough for the development of European industrial relations.

Other authors have sought the genesis of the European Works Council in much earlier periods. Three motives are usually mentioned as determining the formation of the Councils, The first of them seems to be linked with the consolidation of trade union initiatives at the turn of the 20th century. Their goal was opposing the expansion of capital. These initiatives led to the formation of the International Labour Organisation in 1919. It was also on the basis of the trade union initiative that a discussion about the concept of the European Works Councils was started in the 1970s. The second motive was seeking protection against the processes of globalisation. These processes were giving increasing power to corporations --not only economic, but also political power. Consequently, the trade unions felt threatened, but so did the governments of some countries. For the trade unions, the growing power of corporations was synonymous with the polarisation of power within companies, particularly at the transnational level where corporations remained beyond social control. Meanwhile, governments feared that the activities of corporations, such as moving plants to countries with cheaper labour and so on, would destabilise

¹ More information about successive stages of work on the Directive can be found in: European Works Councils. Consequences for the European Union and Poland. 'Legal-European Studies,' 1999, vol. IV, pp. 136-190.

labour markets. The third motive is related to European integration processes, which are paving/have paved the way for the democratisation of industrial relations. The EU authorities are greatly interested in developing social dialogue and such interest finds expression in the directives adopted in recent years. Social integration holds an important place in the concept of sustainable development today, representing one of the pillars of such development alongside economic development and environmental protection.

In the following paragraphs we will refer to the institutional context of industrial relations in Poland in order to explain the transposition of the EWC directive and its concrete application in that country. A short overview of the outcomes of empirical EWC-research in Poland will subsequently provide information about the characteristics, activity and experiences of Polish representatives in EWCs. Finally, we will summarise the national discussion about the revision of the EWC directive and give some remarks on the prospects for future EWC development in Poland.

4.2. The institutional context in Poland

It is difficult to speak about real industrial relations under the conditions of the communist system, as there existed only one social partner, the trade unions. It should be added that they included the vast majority of employees and were controlled by the communist party. The communist propaganda endeavoured to convince employees that they were the ruling class and that their interests were the most important. In practice, however, employees were successfully manipulated by powerful elites and treated in an instrumental manner. The role of the trade unions was limited primarily to social-welfare activities, i.e. providing cheap meals, nurseries, cheap holidays and the like for employees.

Employers in communist companies had to cope with an even more difficult situation, as there did not exist employers' associations to protect their interests. Additionally employers were manipulated because local communist party committees appointed them to managerial posts. Their freedom in performing their daily duties was also largely restricted. It was not employers but plan indices that determined the volume of production, suppliers, customers and, for example, prices. The frustration of the employers was additionally increased by the fact that they were antagonized with employees, who were constantly depicted as the most important social class.

The change of the political system in 1989 began a difficult process of both economic and social transformation. Its most important element became the

process of creating modern industrial relations via reference to the experience of industrialised western countries. The beginning was very difficult, as these relations were characterised by a deep asymmetry, which was due to the fact that, initially, only one strong partner existed in the form of trade unions. To change this, far-reaching modifications, especially in legal regulations, had to be made. The following democratisation process of industrial relations therefore affected not only the Polish social actors but also Polish Labour Law. Due to the described circumstances, however, the fundamental changes to the entire Labour Law system were not the result of organic development and were therefore often regarded as a ‘top down’ approach.

The main reason for is to be found in the weakness of the social dialogue in Poland. The existing legal framework for an institutionalised social dialogue was only first established in 2001. It is therefore still in the very early stages of its development. The first attempt to institutionalise the social dialogue at the national level, however, was made in 1994, when the so-called Three-Partite Commission was set up (Wolek 2006). It was solely consultative in character. The main pillar of the social dialogue, the bilateral talks between representative trade unions and employer’s associations, has traditionally been limited to questions of bargaining and concluding collective agreements mostly on the enterprise level only. The tripartite dialogue is, therefore, the relevant form regarding social matters at the national level.

The ability of the main social dialogue body, the Tripartite Commission, to coordinate the social dialogue at the national level is, however, very limited. The reason for that— and, at the same time the main barrier to the social dialogue—is the weakness of the Polish corporative system resulting from insufficient and weak trade unions and employers’ associations and relatively strong political parties. Although the Tripartite Commission was intended as a national ‘platform of agreement and dialogue between the Government and organisations of employees and employers’, it has in fact been, since its beginning in 1994, a place where the confrontational behaviour among the trade unions took place (Matey-Tyrowicz 2005: 341). In connection with that, the high degree of politicisation of all participants have, as a result, led to the very limited efficiency of the social dialogue in Poland.

The main reason for the abovementioned state of affairs is the current situation regarding the social partners themselves. As a result of economic changes and high unemployment, the percentage of trade union membership among the work force has rapidly decreased in the recent years. According to the estimations of the European Foundation for the Improvement of Living and Working Conditions, the union density was only 16% in 2006,

which is one of the lowest rates in Europe (European Commission 2006: 25). Generally, Polish trade unions have lost between 60% and 70% of their members over the last 15 years (Voss 2006: 23). As a result, most trade unions have problems with their legitimacy. Additionally, the membership is very decentralised and organised on the company level. Two large confederations play a leading role: the Independent Self-Governing Trade Union Confederation 'Solidarity' (NSZZ Solidarność) and the National Alliance of Trade Unions (OPZZ), followed by the considerably smaller one, the Trade Unions Forum (FZZ). Due to the predominant links between the largest confederations and different political parties, tensions between them are very common. In addition, many union locals do not belong to any of the above-mentioned confederations, as according to the Polish Labour Law, only 10 members can establish a trade union in their enterprise. Although all major union confederations are looking for strategies to win new members, the trade unions' atomisation, combined with their overall decreasing membership and situation of representation, is still affecting the role of Polish trade unions to a large degree.

But due to legal regulations, the Polish trade unions have a wide range of rights and competencies, especially at the enterprise level. The general statement of Art. 26.2 of the Act of Trade Unions 1991 enables the trade union organizations to present to the employer or works council its option on matters regarding the common interests and rights of employees. Trade unions traditionally represent their interests at this level by the fact that they are entitled to conclude collective agreements. Until 2006 the works councils existed only in state owned companies – this was the other form of workers' participation at the company level. Workplace representation generally took place through the trade union locals. It was often a struggle for trade unions to establish themselves in smaller companies - as a result there was no representation of trade unions in such companies and therefore in the majority of workplaces. The introduction of works councils ('employees' councils') due to the implementation of the EU-directive 2002/14/EU on information and consultation has not improved the lack of representation in Polish enterprises since these can only be established in companies with more than 50 employees.

Legal problems also affect the employers' associations. Due to the fact that until 1989 there was no freedom of association for the employers, the density rate of their organisation was, at 20% in 2004, the lowest in the European Union (European Commission 2006: 37; Van Gyes et al. 2007: 12). Additionally, in most small enterprises of up to 50 employees where there is no trade union representation, the employers use their monopoly on power to solve problems without trade union involvement. Therefore, the

employers often represent the view that there is no need to institutionalise the social dialogue on a national level.

4.3. Transposition of the EWC directive and its application in Poland

Facing the fact that the social dialogue and workers' participation are regarded as indispensable conditions for establishing the foundation of European social rights, these questions have become essential after Poland's entry into the EU. Similarly to other countries, Poland carried out the harmonisation of its legislation with the Directive on time. The obligation to implement the European legal framework also included transposing the European standards regarding social partners' involvement in the further formation of industrial relations. Just like most 'old' EU member countries, Poland chose to use parliamentary legislative instruments to strengthen regulations concerning the EWC activity with their legislative status. Due to specific circumstances of Poland, however, this method seemed to be the only way to set up the standards negotiated by the European social partners and finally stipulated by the EU itself. The Polish Parliament passed the law governing European Works Councils on 5th April 2002². In the same year countries such as Cyprus, Slovakia and Slovenia passed similar laws. Earlier on such laws had also been adopted in the Czech Republic and in Latvia. The Intensity of discussions on these draft laws was connected with progress made in the social dialogue in particular countries. The low standards of such dialogue in Latvia and Lithuania were the cause for the practical absence of discussion on this subject in these countries (Karnite 2004: 1).

Analysis of the above-mentioned laws in new member countries leads to the conclusion that they generally coincide with the Directive. Simultaneously, these countries attempted to make allowances in these laws for the specific nature of their own industrial relations. These notions concern, for instance, issues such as the way of appointing members of the special negotiating body and protection of the Council's members while they perform their functions and even when they finish their duties. Membership of the special negotiating body was enlarged by some laws and adapted to the expanded EU. It is worth noting that in Hungary, for example, members of the special negotiating body are appointed by Works Councils.

² Law on European Works Councils of 5th April 2002, 'Journal of Laws' No. 62, item 556

The Polish European Works Councils Law, which guarantees the rights of Works Councils to be informed and consulted by transnational corporations, makes reference to the Polish Constitution. It defines Poland's social and economic system as a social market economy that includes the employees' right of participation in management. The law in question devotes most of its attention to the European Works Councils, in which the seat of a corporation management board, and thus the seat of the Council are outside Polish territory. It also applies to the situation in which the seats of the management board and the Council are outside Poland's territory and the situation in which Polish representatives are members of the Council. Taking into account the fact – as we will see later on – that the number of entitled companies with management boards seats in Poland is relatively small, the law finds its application mainly in regard to regulations concerning the participation of Polish representatives in the Works Councils located outside Poland.

In all issues where stipulations of the Directive have a detailed and unquestionable character, as well as in the case of such expressions as a company with community coverage or a group of companies with community coverage, the content of the Directive was reflected in the law. The Directive leaves some leeway for domestic regulations in specific cases and there are solutions accepted by the law in these issues which make allowance for specific characteristics of collective labour relations that developed in Poland. Some of these regulations will be discussed further on.

Article 3 of the Polish law specifies the principles by which the number of employees employed by a corporation should be calculated. These principles should be considered important because the number of employees is decisive for appointing the Council. The number of employees is stipulated as the average size of employment during the previous two years. It is counted in such way that the number of employees in every one of the last 24 months is added up and divided by 24. The law in question requires the management board of a corporation to check the number of employees every two years and introduce appropriate changes in the number of the Council's members. The Polish law, unlike the Directive, does not specify the upper limit of a special negotiating body. It is composed of anywhere from 3 members to the number of countries in which a Polish-corporation based has its plants. A country in which a corporation employs at least 25% of all its employees is allowed to delegate an additional person to the team. If the corresponding figure reaches 50% of all employees, a corporation can delegate two additional persons to the team.

Members of the special negotiating body are appointed by a representative company-level trade union organisation³. If more such trade unions are active in a plant, they appoint a member or members of such body jointly. If they cannot agree, employees elect the representatives from candidates nominated by the unions. If there are no trade union representatives, members of the team are elected by all employees. Elections in such situations are organised by the management board. They should have a direct character and be carried out by a secret ballot. For such elections to be valid at least 50% of all employees have to take part. If more than one plant belonging to a corporation operates in a given country, elections have a two-tier character. First, electors from particular plants are elected and then electors choose a member or members of a body at a joint meeting. 3 reserve members are also elected. Reserve members, according to their order in respect to the number of votes each obtained, can replace a body member if such member cannot perform his or her function for a variety of reasons.

In accordance with the act just discussed, the elections of EWC members are carried out according to the same process by which the members of a special negotiating body are elected. This means that the final word in such matters rests with the trade unions (if these are present in the plant). Each member country in which there are plants belonging to the company with community coverage chooses at least one member of a council. In a given country, if more than 20 per cent of the employees of such a company are employed, then representation increases to two persons and grows proportionally to the number of employees. Every two years the management board verifies the number of employees and adapts the number of council members to the number of employees.

The law envisages special protection of the employment relationship, both for members of the European Works Council and for members of the special negotiating body. This protection is the same as that extended to trade union functionaries. It means that such members cannot be dismissed during the time they perform their functions, nor during the calendar year following the end of their performance. Moreover, an employer is not allowed to change these members' employment conditions during this time. The Council members have the right to be released from their professional duties, preserving the right to collect pay when they perform the duties of a

³ In accordance with the Polish legislation, a representative trade union organisation is considered to be such one which groups in Poland at least 500 persons, while its membership in a company reaches at least 7% of employees. A representative trade union is also considered to be a trade union, which groups at least 10% of employees in a company.

Council member. The scope of this right is the same as in the case of trade union functionaries.

In accordance with the Polish law, one member of the Council is elected in every country in which a corporation has plants. However, when it employs at least 20% of its employees in a given country an additional member can be chosen. The number of members increases to 8 if the number of employees in a given country is equal to 90% of all employees. The law also allows to set up the Council's board, but only when the Council has at least 10 members. The principles regulating appointment to the board are intended to counteract a situation in which one country's Council members dominate such board. When the board is composed of three persons, its chairman must come from a country other than that of its two remaining members.

The law stipulates that the European Works Council should have an annual budget. The management board should determine its level jointly with the Council by the end of the calendar year preceding the budgetary year. If the budget cannot be fixed during this time (for example, due to divergent opinions of the corporation's management board and its Council), it will be fixed by the management board. However, its level cannot be lower than the number of the Council's member multiplied by three times the average pay from the last quarter of the year preceding the budgetary year. This solution allows the Council to continually carry on its activity, advance and implement its own initiatives, organise meetings of the board and so on.

The law analysed here equips trade unions with a wide range of powers, much bigger than those in other countries. It cannot be easily understood considering the fact that trade unions had been losing membership for a long time and only about 17% of Poland's employees belonged to them at the time the law was passed. Since that time trade union membership has fallen even further and is currently estimated at 12-15% of employees. Solutions adopted in the law can strengthen the position held by Polish trade unions, both in Poland and in other countries. The authors express their apprehension that Polish members of the European Works Councils will use these Councils not only to represent the interests of employees but also to achieve the strategic goals of trade unions.

As already mentioned, the Polish law on the European Works Councils is devoted largely to those Councils which have their seats in Poland. It does not yet have any practical application, however, because no transnational corporation with its seat in Poland has thus far established such Council. The database prepared by the European Trade Union Institute in Brussels shows that 11 corporations required to establish such Councils operate in

Poland (Kerckhofs 2006: 30). Polish sources are less optimistic and the number of such corporations according to them ranges from 6 to 8. They do not have to be companies with Polish capital. An example could be the US Flextronix Corporation, which has plants in several EU countries. This corporation employs most of its employees in Poland, but there are signals that the corporation may establish its Council in Hungary, as the Hungarian law on the EWCs is less restrictive.

According to information received from the Solidarity National Board, the criterion which imposes the obligation of appointing such Councils is fulfilled by the following corporations: PKN Orlen, Państwowy Zakład Ubezpieczeń (State-owned Insurance Company), Maspex and Fabryka Płytek Ceramicznych 'Opoczno' (Opoczno Tiles Company). These corporations have not begun formal procedures for appointing these Councils as of yet, neither have they established a special negotiation body. Taking into account the long period during which the Council can be appointed, the first EWCs can be expected in Poland within the next two or three years. The delay can be blamed on the trade unions operating within these companies, whose representatives do not try to exert any real pressure on the upper management.

4.4. State of current empirical research on EWCs in Poland

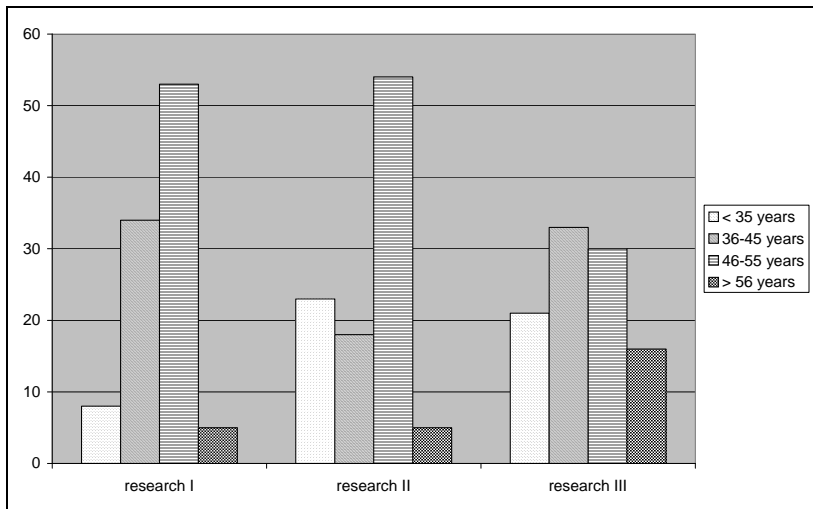
Research focussed on Polish representatives in the EWCs began relatively early, long before Poland was admitted to the EU and thus long before the Polish EWC law came into force. Their goal was to collect the opinions of Polish representatives on the nature and principles followed in the operations of these Councils, their importance for Polish plants, their employees and so on. One can hardly overestimate the significance of these opinions both due to the external character of these representatives in relation to the EU. This means that the Councils were also treated with some reserve, but equally important was respondents' rich experience derived from their trade union activity. The analysis presented below was based on the following four research projects⁴:

⁴ The first research project – conducted in the years 1997 – 1998, covered all Polish representatives in the Councils. 19 persons participating in the activities of 9 European Works Councils were interviewed. (S. Rudolf, Polish Representatives of Company Employees in European Works Council, in: 'Comparative Economic Research Central and Eastern Europe' 2000, No 3). The second research project – conducted in 2000-2001 - covered 42 persons who were interviewed and, as before, all Polish representatives taking part in the activities of 25 EWCs. (S. Rudolf, Polish Representation of Employees in European Works Councils, in: European Works Councils. Polish Experience and Prospects. Solidarity Promotion Foundation,

Characteristics of Polish representatives in EWCs

We will begin our presentation of the research findings with a short description of the characteristics of Polish representatives in the EWCs. These characteristics will include such criteria as: age, educational background and trade union membership. We will also show changes that occurred in this representation during the years 1997-2005 and thus during the period between the first, second and third research projects. We will first show how the average age of respondents changed during this period.

Figure 4.1. Age structure of Polish representatives in the councils (%)



Source: Skorupińska, *Polskie przedstawicielstwo.../Polish Representation .../*, op. cit., p. 43

The average age of the respondents can generally be described as a little above middle age and this situation prevailed throughout the entire analysed period. Simultaneously, we could observe a quite distinct trend of average-age decrease among Polish representatives in the Councils. Such a trend could be observed already between the first and second research projects,

Gdansk 2001). The third research project – conducted by K. Skorupińska in 2005 - covered 57 persons participating in the activities of 50 EWCs (K. Skorupińska, *Polish Representation in European Works Councils*, 'Human Resources Management,' 2006, No. 5, pp. 39-52).

when the share of Council members in the youngest age group, that is, below 35 years of age, increased considerably. Bigger changes could be observed only between the second and third research projects, when the share of those representatives between 46 and 55 years of age decreased significantly in favour of those between 36 and 45. This process should be assessed very positively. Figure 1 contains a comparison of the age structure of Polish representatives in the Councils as shown by the three research projects analysed.

The change in age structure undoubtedly had an influence on the changes in educational background of members of the Councils. Relatively high share of the members with higher and secondary education in comparison with vocational school background should be noted. Some changes could also be observed here, but these were quite small. Throughout the entire analysed period persons with higher and secondary school education represented about 90%, while persons with vocational school background only about 10%. It has to be noted that there existed a bigger share of persons with higher educational background. Their share among the representatives reached 42% in the first, 33% in the second and 45% in the third research project. The high educational background of Polish representatives in the Councils is quite impressive, although – as it will be shown below – it is not necessarily appropriate to work in the Council. These representatives are most often graduates of technical colleges while an economic or legal education would be more useful to them.

The vast majority of Polish representatives are trade union functionaries. They most often perform the functions of chairmen or vice-chairmen of plant committees in the Solidarity Trade Union, and they more seldomly perform such functions in branch trade unions. Further studies revealed that the share of respondents deriving from the rank and file union members tended to decline, but this decline was insignificant. Whereas they represented 95% of all respondents in the first research project, their share declined to 90% in the second and to 80% in the third. Such large trade union representation is hardly surprising, since trade unions contributed most significantly to securing places on the Council, which was either due to the support provided by western trade unions or was the result of negotiations concerning the so-called social-welfare package when a plant was sold.

Trade union influence was also spread by the way in which Polish representatives were appointed to the EWCs. Such representatives were nominated by trade unions—and almost exclusively by the Solidarity Trade

Union— in almost a half of the Councils analysed. It was only a little less frequent that they were elected by the employees in general elections. One of the following two solutions were applied here. In the first solution, trade unions held the exclusive right of proposing candidates, after which general elections followed. In the second solution, both employees and trade unions held the right of proposing candidates and these were fully democratic elections.

Preparation for work in the council

Since Polish representatives have the same or similar status as other Council members, the effectiveness of their work will be determined by their degree of preparation. We will look at their preparation in three aspects: substantive, organisational and linguistic. Their substantive preparation should be assessed generally as quite differentiated, although it tends to improve steadily. A little more than 20% of respondents in the second research project declared that they had received an appropriate amount of such preparation. They had received economic or legal training, proven themselves to be acquainted with the principles according to which the Councils operated, and so on. About half of the respondents declared that they were prepared to some extent owing to seminars, courses or training schemes provided mainly by trade unions or corporate headquarters (e.g. Lafarge, Heineken). As many as one-fourth of the respondents stated that they did not have even elementary preparation for work in the Council.

Although the level of such preparation was not satisfactory, some improvement in comparison with earlier research projects could be seen still, there was no major progress in this respect. Only one-third of the respondents declared that they were even a little bit prepared for such work. The remaining persons said they were not prepared for such work at all or claimed that such preparation was not necessary for them. The favourable changes in this field are the results of, among other things, Polish representatives' participation in seminars or training courses organised by the National Solidarity Commission or also of courses arranged by some EWCs. The third research projects revealed further progress in this field, as two-thirds of the respondents declared they had received relatively good preparation for work in the Council.

However, the respondents' level of preparation continues to be insufficient and representatives are aware of this. The vast majority of them (over 80%) were in favour of organising such training courses and only a few considered them to be unnecessary. The topics most desired in these courses

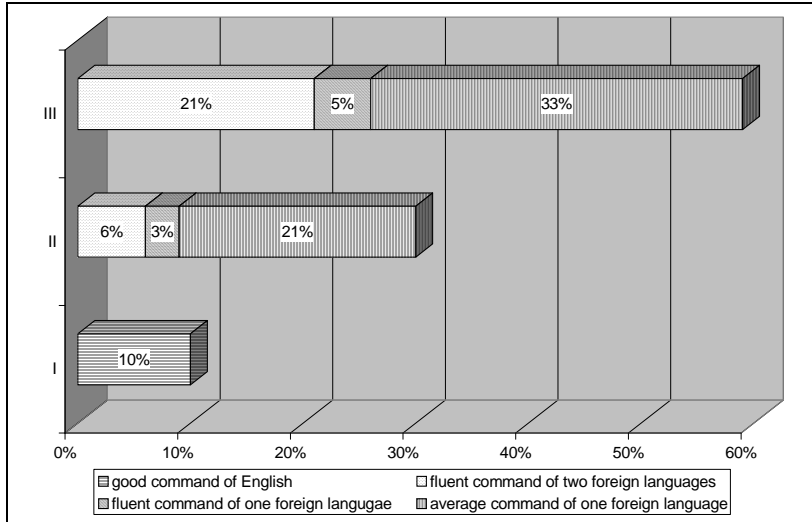
are economic-legal problems and operation of the EWCs. Training courses organised by the EWC were of a different character. They sometimes accompanied meetings of the EWCs, which was possible due to the fact that members were already grouped in one place. Organisation of such courses was in some cases included in the agreement on establishing the Council. Such courses were sometimes organised for members of the EWCs from selected countries, for instance, Poland, the Czech Republic and Slovakia. Courses organised by the Solidarity Trade Union were available for all representatives of this trade union in the Councils irrespective of whether they participated in other courses or not. We can add that such courses were also run by certain European organisations (for example, the Social Development Agency).

The organisational preparation of Polish representatives for work in the Council was much better. Almost all respondents can boast long years of trade-union experience or activity in employee councils, and they often performed management functions in these bodies. Hence, they are able to prepare a meeting, take part in discussions and conduct debates. They also have good experience in negotiating with management. There were very few respondents who assessed their organisational preparation as poor, and these were almost exclusively persons who came from outside the trade unions. The Council members from other countries frequently lack such experience and, hence, Polish representatives look very good in comparison. The preparation of Polish representatives for work in the Council with regard to their command of foreign languages, however, is much worse. Despite some progress in this field, the vast majority of representatives still have to rely on interpreters. Progress has been more visible only in recent years, as a good command of a foreign language in the first and the second research projects was declared by only 9-10% of the respondents. Their share rose to 26% in the third research projects. A bigger area progress, also evident in the second survey, could be seen in the average command of a foreign language. Figure 2 contains a comparison of the command of foreign languages in the successive surveys.

The above positive changes in foreign language command are due, on the one hand, to the fact that this criterion is taken into account when electing the Council's members and, on the other hand, to the organisation of language courses for the Council's members. Almost a half of all respondents attend or attended such courses organised mainly by their companies. Such courses were very seldom organised by the upper management. Respondents stressed that such courses produced rather poor results. Hence, rapid progress in the representatives' command of foreign

languages could hardly be expected. It can be added that half of the respondents do not attend these courses, even when they have the opportunity.

Figure 4.2. Command of foreign languages of Polish representatives in EWCs



Source: Skorupińska 2006: 45

Linguistic preparation is also important when considering the materials received by respondents. In fact, the number of Councils in which Polish representatives receive materials in the Polish language is growing, but even then they still receive a portion of these materials in the so-called official languages (most often English or German). Poor command of languages makes it difficult to study such materials; it prolongs the time needed for responding to problems that arise in them, and involves additional costs (for example, translation costs).

Still, it should be said that a poor command of foreign languages does not exclude Polish representatives from active involvement in the Council's activity. Interpreters, both those from Poland and those provided by the upper managements of the corporations, assisted almost all of the respondents. Such assistance was offered during both preparatory meetings and plenary sessions. Interpreters accompanied them also (although more

seldom) during informal meetings. In only a few cases did respondents not require the assistance of interpreters, although they had the opportunity, due to their fluent command of foreign languages.

The fact that our representatives do not have a good command of foreign languages should be considered their biggest weakness. The representatives' field of activity is very limited in this situation. Their contact with the management board or other members of the Council is restricted and it is difficult for them to carry on sincere and direct talks and the like. It is, however, quite comforting if we add that members of the EWCs from the European Union's countries also do not usually speak foreign languages and know only their own language in most cases.

Assessment of the council's activity

Polish representatives generally assess the activity of EWCs positively, although they have also made some critical remarks. They assessed the climate during the Council's meetings very highly, defining it as good, friendly or helpful. Even if some reserve could be observed at first, the situation has gradually changed and interrelationships are improving. Most respondents admitted that the existing climate was favourable for an exchange of views, for understanding discussed problems, for mutual assistance, and for providing advice and instructions. In principle, no divisions between first and the second category members exist and all members are treated in a similar way regardless of whether they represent 'old' or 'new' EU member countries, or whether they were members or only observers before the EU's eastward expansion. Such a climate prevails even when members do not share their opinions on a discussion topic.

This climate is not affected to any major degree by the fact that the Council's members have conflicting interests. Polish representatives were accused in some Councils that jobs were stolen by Poland, that is, that production was shifted to Poland and employees in other countries were deprived of work. The respondents interviewed complained of suspicion and misunderstandings resulting from this fact (Thomson, ABB). They tried to defend themselves against such accusations pointing out that the situation was sometimes quite the opposite. For instance, when ABB acquired plants in Poland its total export to Poland increased by 60%. However, they shared a view that even if such attitudes existed, they were of a marginal character and did not have any major impact on the prevailing climate in the Council.

According to the respondents, upper management attempted to maintain good relationships with the Council members, as well as demonstrate their

interest in and understanding for their problems. Our representatives were charmed by the openness of upper management, which seldom occurs in Poland. One can always talk freely with them; they come up to you, for example, during an informal meeting or a break and ask about existing problems: 'We can see that they are really interested in us.' Opinions to the effect that relationships with upper management are only business-like and even difficult were very infrequent. Opinions to the effect that the Council is subordinated to the management board or that the management board meets the Council only because it is required to do so by the Directive were even more infrequent.

This prevailing positive opinion about the activity of the EWCs does not mean, however, that they fully meet the respondents' expectations. In particular, respondents expected that the EWC would be a strong, competent and well-organised body equipped with a strong bargaining power and thus a force which the employer would have to reckon with. A portion of the respondents claimed that the reality departs considerably from this image of the Council. According to them, the Council is rather weak and ineffectively organised. In their opinion the Council does not constitute a representation of employees but a collection of loosely-linked individuals. Further, the respondents think that the management board has agreed to establish the Council because such are the requirements of the Directive, but attempts simultaneously to minimise the obstacles connected with it.

The respondents expressed the most reservations in regard to the implementation of the fundamental goal of the Council and, particularly, the limited scope of consultations. The Councils analysed provide a primarily informing function or an informing function with only an insignificant share of consulting. According to a large number of respondents, nothing is agreed upon during the Council's meetings. The management board only 'tells stories,' only informs Council representatives about its plans, and even more often informs them only about its accomplishments and does not take any decisions.

Respondents also have reservations regarding the scope, weight, reliability and punctuality of obtained information. The Council's meetings should provide a proper place for information to be obtained directly from management. However, this is not the case in many of the Councils. Some Councils do not provide opportunities to ask questions and get answers. The reason frequently given for this is shortage of time. In other Councils management avoid answering difficult questions; they either evade the question or give answers in a written form explaining that they are not

prepared to give answers immediately. Respondents admitted that they were quite satisfied in some Councils with the answers given and the discussions that took place, most of which were often of a spontaneous character. A marked improvement of the situation in comparison with the first stage of research should be noted in this area.

These mostly critical opinions about the activities of the Councils collected from Polish representatives should not be surprising, due to the fact that these individuals are accustomed to exerting a much bigger influence on management's decisions in Poland. The respondents also seem to be shocked that important matters for the company and employees ('hot issues') are not decided upon during the Council's meetings. Meanwhile, a lot of time is devoted to matters of secondary importance or those which are of interest to only some members. Such matters could be dealt with by teams appointed by the Council.

A portion of respondents put the blame for the lack of consultations on the Council itself, which according to them 'is not mature enough for partnership relations as yet.' The Council's members from the older EU countries are not prepared to work in the Council; they do not have sufficient experience in this field and do not know how far they can advance their proposals. Members from older EU countries also do not have proper experience for such work. Workers represent 90% of all members in some Councils.

It should not be surprising in such a situation that the Council has only a small influence on management's decision, although opinions on this topic tend to vary. Respondents pointed to the fact that the Council can exert pressure on the decisions made in only a few firms. However, other respondents admitted explicitly that such influence does not exist in most firms. It also happened that respondents did not have clear opinions on this subject, due either to the fact that no earlier attempts had been made to exert pressure on management or to the fact that the Council had been in operation for a only short time or to the fact that the presence of Polish representatives in the Council had been too short. The Councils with which management consult more important decisions are few and far between.

There are some corporations (for example, BOC Group, Thomson, Adtranz) in which such influence practically does not exist, and other corporations, such as Volkswagen, in which this influence is quite large and the Council, for example, must approve decisions such as the moving of production to another location. Respondents in many Councils perceived such influence as possible, although only to a very limited extent. They are aware of

existing constraints, but they are also convinced that such influence is possible when major problems appear. This is not always a direct or immediate influence. Respondents quote positive examples of such influence, which concerned, for example, the construction of a new canteen (Benckiser) or the way in which redundancies were made (ABB). It proved impossible to prevent them in the latter case, but they were spread over time and carried out on terms more favourable to the workers.

Involvement of Polish representatives in EWC activity

Despite their poor language command, respondents described their participation in Council meetings as active. This is connected to, among other things, the experience they derived both from their activity in Polish trade unions and in the Council. Their experience relating to work in the Council depends on the period they worked in the Council as well as the number of meetings in which they took part. This experience is quite rich, as about 40% of the respondents participated in five Council meetings and some participated in more than ten such meetings. Only 10% of respondents had the shortest possible experience, having participated in only one Council meeting. These individuals became the Council's members when Poland joined the EU. Altogether, the experience of Polish representatives in relation to their activity in the Council can be considered relatively rich, although various. After all, it can well be assumed that only participation in several meetings provides full insight into the Council's activity.

The involvement of Polish representatives in the activities of the Councils is visible first of all during preparatory meetings, when a properly documented report is frequently presented on the current situation and problems existing in a Polish plant. Presentation of such report is obligatory at many preparatory meetings. Polish representatives also put forward proposals for topics to be discussed during plenary meetings or, for instance, proposals for questions to be addressed to the management board. Almost all respondents described this form of participation in the Council's activity.

Some respondents also took an active part in plenary meetings by expressing their opinions in discussion, asking questions or submitting motions. The number of proposals raised by them is quite impressive. In many cases they resulted in taking decisions favourable for a Polish plant. This fact indicates that their critical assessment of the Councils as a body exclusively providing information that was already presented earlier is not quite true. Such critical opinions probably result from their inflated expectations. A few examples should be mentioned here. Following a

discussion at the Council meeting the operation of a production plant in Kruszwica (Poland), which was planned to be closed, was prolonged. After an intervention of Polish representatives at a meeting of the EWC in the Nestle Corporation, a decision was abandoned to create redundancies in plants in Kalisz and Poznan. Such intervention against redundancies was also successful in the case of other plants, although not everywhere.

Council's members also transfer information received at the Council meetings to the employees of plants, whom they represent. By far the most important channel for transferring information is the so-called trade-union channel. Almost all members of the Councils hold meetings devoted to this topic with trade-union leaders, during which they present detailed information from the Council's meetings or answer numerous questions. It was only in two cases that respondents admitted that most information was of a confidential character and could not be passed on. Apart from the above-mentioned meetings, the most frequent means of passing on information are notice boards and plant bulletins or other publications, as well as a plant radio broadcast and, more recently, e-mails. Meanwhile, a direct meeting with employees seldom took place and this was especially the case in plants where the Council's members were not nominated by trade unions or in which there were no trade union members.

It is worth mentioning something more about the relationships between Council members and local management. Such relationships tend to vary. About one-fourth of respondents maintain a good or in some cases even very good co-operation with local management. They submit to local management's regular reports on the Council meetings, conduct consultations before approaching meetings of the Council; discuss problems to be discussed during the Council meetings. Transfer of such information in some plants takes place during regular meetings between local management and trade unions. Respondents stressed that local management does not have access to a lot of information received at the Council meetings. However, it happens only quite rarely that such co-operation does not exist at all or its prospects do not look good. When this happens it is usually due to the personal characteristics of the local management board president or the managing director.

Polish respondents maintain contacts with the remaining Council members in almost half of the Councils surveyed. These are generally not well-developed contacts but they take place quite regularly and often on certain occasions like Christmas. Such contacts are maintained with the Council's chairman, members of its Board or with members from particular countries.

Their objective is to agree upon a common stance or, for instance, create coalitions. However, the language barrier hampers these contacts in many cases.

4.5. National discussion on the revision of the EWC directive

The findings of the empirical studies presented above reveal that opinions concerning the activity of EWCs, benefits resulting for both Polish plants and their employees, as well as for trade unions were generally positive. Respondents were explicitly in favour of their continued activity. At the same time they made many critical remarks or advanced various proposals concerning these Councils. Some of these proposals could be implemented within existing legislation, while others would require changes in the Directive itself.

Many critical remarks regarding the Directive were made by members of these Councils at meetings organised by the Solidarity Trade Union, as well as at periodical meetings, seminars, conferences or courses. Those meetings were organised both on national level for all Polish representatives in the Councils and meetings organised by trade unions branches. One such conference was organised by the Solidarity Secretariat of Metallurgists Trade Union in June 2006 with the participation of the Friedrich Ebert Stiftung⁵. It was stated in its conclusion that attempts should be made to amend the Directive, because its provisions depart from actual practice. Critical remarks will be presented below regarding the Directive that derive from the above-mentioned conference or from other seminars and conferences organised by the Solidarity Trade Union. The author participated in some of them.

According to the Polish trade unions it is necessary to change many clauses of the Directive, which refers, for example, to the imprecise formulation of clauses concerning ‘informing’ and ‘consulting’. Imprecise definition of these terms frequently allows corporations to interpret them quite freely and such interpretation differs considerably from the definition of these terms in other EU documents. It does not allow the EWCs to demand information, which they should be receiving, and which is sometimes very general; which does not concern important issues, or which is quite chaotic. Due to

⁵ Undiscovered Potential of European Works Councils. Conference Proceedings, Warsaw 8th-9th June 2006

this situation the Council's members are poorly acquainted with a corporation's problems and are not properly prepared to carry on a dialogue with the upper management, but perhaps this is just what employers want. Hence, the Directive should specify more precisely which information should be passed on to Council members and when. The Directive should also contain a clause on the obligation of the corporation's management board to organise training courses for Council members.

Another shortcoming of the Directive's clauses is the fact that corporations can avoid appointing the Councils relatively easily and particularly in situations when trade unions do not display a strong will to establish such Councils. Additional obstacles also result from frequent change of ownership. The speed of ownership change at the beginning of the 1990s was moderate and hence the Directive did not make allowances for accelerated capital movement processes. At present the speed of ownership change is much faster. Both the owners themselves and the entire structure of ownership change. Thus it happens that, as a result of these transformations, a plant can be shifted from the scope of influence of one EWC to another and then yet another. During this time the plant is deprived of its representation in the Council due to the long negotiation period. The situation is further aggravated by the long period during which the Council is established, which can last up to three years according to the Directive. During this time an owner can be changed several times.

The Council's weaknesses can also result from the fact that particular Council members may identify themselves with their own plant and its interests and not with the interests of the entire Council (the so-called local parish mentality). Such situations can often be observed during the initial period of the Council's operation and this attitude undergoes changes along with a gradual process of Council members' integration. Difficulties that sometimes appear on the integration path result from the attitudes adopted by Council members from western countries, who find it difficult to share powers with Council members from Central and Eastern Europe. As has already been said, they tend to accuse these countries of stealing jobs.

According to Polish representatives, the EWCs primarily play an informing role, as most corporations attempt to restrict their activity to the role of information receivers while providing information that is either imprecise or delayed. At the same time, Polish members are definitely in favour of expanding the Council's right of consultation. Consultation should precede the taking of decisions by the corporation's management board on issues specified in the Directive. Trade unions point out that such practices,

already followed by certain EWCs, can become more common, since ‘bad practices are contagious.’

Another view is that difficulties related to amending the Directive should be attributed to a worsened climate towards the EWCs and the collapse of the Lisbon Strategy. The EU’s ambitious plans aimed at raising the competitiveness of its domestic economies have failed and employers put the blame for it on the excessive burden of social solutions existing in these countries, which pose a major obstacle for companies. Of course, this does not mean that the EU will recall its support for the EWCs or for other solutions aimed at the development of social dialogue and partnership. This is confirmed by successive EU initiatives that support these goals⁶. However, the pace of changes in this direction may be slowed down a little.

To sum up, it can be said that Polish proposals for changes in the EWC Directive are largely convergent with those advanced by the UNICE trade unions and the European Parliament⁷. The proposals comprise, among other things, strengthening the right of obtaining information, the obligatory character of consultation before the management board takes a decision, the right of attending training courses and so on. On the other hand, Polish proposals do not include suggestions such as: lowering the minimum number of employees to 500, which would result in the establishment of a Council or the imposing of severe sanctions on corporations for not observing the Directive, which can be found in the quoted document.

4.6. Future prospects for EWC development in Poland

The further development of EWCs in Poland will be determined by two main factors, one of them of an external character and the other of an internal character. The first factor is related to foreign direct investment and thus, to the operation of companies in Poland that fulfil criteria of the Directive. According to available data, about 400 such corporations have their plants in Poland. The record level of foreign direct investment in 2006 amounting to about 14 billion USD indicates that the number of such plants will grow. Poland continues to be an attractive place for investors due both

⁶ For instance Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in European Community, OJ L 080, 23/03/2002.

⁷ Review of the Directive on European Works Councils. Resolution adapted by the Executive Committee on 2/3 December 1999 (www.etui.org).

to the high level of education among its labour force and its relatively low costs.

The other factor is a derivative of the positions, views, behaviours and policies of trade unions. Members of the EWCs in Poland, more frequently than in other countries, are persons nominated by trade unions and, in particular, by the Solidarity Trade Union. This trade union has worked out interesting forms of co-operation with EWC members in recent years. Their meetings, training courses and discussions take place quite regularly. As already said, the majority of Polish Council members are trade union functionaries. Hence, they can count on the support of their organisation if such need appears. It can generally be said that trade unions are active both in gaining new places within the EWCs and in providing assistance or support for their members.

The interest displayed by Polish trade unions in our participation in the EWCs results mainly from access to information obtained in this way (for instance, information about planned redundancies). They mainly emphasise better observance of the Directive, the inclusion of more precise provisions and so on. Meanwhile, a discussion on the EWCs taking place in the EU goes much further. In their target model they will be perceived as more integrated bodies that will collectively become a real partner for the upper management of corporations. Only when they become such a partner will they be able to take individual steps toward broadening the powers they have enjoyed so far, allowing them to define the scope of received information more precisely, to specify issues that are the object of consultations and other matters. All this implies a major strengthening of the Council's position and this fact is received differently among trade unions in particular EU countries. Some trade unions (including those in Poland) perceive competition for them in this fact and fear that their own position will be weakened.

Practice shows that at least a part of the Councils tend to achieve stronger position. Additional agreements are being signed between the Council and the upper management of corporations which may gradually lead to a Europeanisation of industrial relations. Past experience shows that changes in this direction are advisable. The Councils in their present form are, at best, only the first steps toward such a goal⁸.

⁸ These problems are analysed in greater detail in: R. Jagodziński, *Involving European Works Councils in Transnational Negotiations – a Positive Functional Advance in Their Operation*

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Chapter 5

The regulatory politics of European Works Councils in the United Kingdom: the challenge of connecting

*Miguel Martínez Lucio**

5.1. Introduction

This study presents an outline of the development of European Works Councils (EWCs) in the United Kingdom. It attempts to explain this development, and is presented in a number of sections. The first describes the context of the institutional background and the challenge of a national system of industrial relations where questions of consultation and participation have been unevenly structured. This has mediated the nature of EWCs and their impact in the UK. However, as the argument developed here will suggest, this is not always clear from the evidence. Hence, the second section will discuss the transposition of the EWC directive and the issues emerging from the manner of its implementation. The United Kingdom has one of the most internationalised capitalist classes in Europe, linked with an internationalised structure of capital, which gives it a strong Atlanticist orientation. This section will also draw attention to the sectoral context of the automobile industry, which is highly internationalised and based on transnational corporations which originate outside the UK. The section will also focus on the debates emerging from the research. It will outline the differences between what have been termed optimistic and pessimistic readings of EWC development. The arguments in this respect are about the political and organisational possibilities of EWCs as players in industrial relations. Finally, the study will look at recent developments in the Directive regarding EWCs as they affect the United Kingdom and future prospects and issues. The study will finish with a reflection on the articulation of representation and communication within national systems in the context of a series of different developments at the national and transnational level. That final section will argue that the potential for EWCs

* I would like to thank David Turner for comments and corrections on this chapter.

as vehicles of regulation can only be realised in the context of a clearly co-ordinated and supported trade union approach and a broader view of participation across various dimensions.

5.2. The institutional context of British industrial relations

The legacy of voluntarism

The United Kingdom is a curious instance of industrial relations regulation. The system of industrial relations in terms of its origins has been regulated and organised from below. That is to say, during much of the 20th Century it has not been organised systematically through state legislation and national structures based on consistent state-labour relations. The system has been considered to be a voluntarist one. The regulation of the terms and conditions of employment through collective bargaining has been more important than legal regulation (Dickens and Hall: 2003). What is more, the right to strike has not been so much a question of rights as one of immunities, where unions have not been seen as liable for the consequences of strike action (although this began to change in the 1980s). There are various reasons for these arrangements, which date back to the end of the 19th century and the beginning of the 20th century. In the main, an antagonistic system and a distrust of the state has been an important feature of this system (Clegg 1981). However, the lack of a general discourse of rights in the United Kingdom has played itself out in the terrain of industrial relations as well. The goal of all parties has been to keep the state out and rely on tradition as well as custom and practice – the ‘gentleman’s agreement’ between bosses and labourers.

This voluntarism was challenged by the emergence of a strong policy of de-regulation in the 1980s and 1990s. The election of the Conservative Government in 1979, which stayed in power until 1997, underpinned a politics of privatisation, anti-trade union legislation and economic de-regulation more generally. The confrontation between the state and organised labour during the steel and miners’ strikes of the early 1980s led to a new politics of what Hall called ‘authoritarian populism’, where the state articulated and popularised individual and market rights vis-à-vis collective and traditional rights as represented by trade unions and the welfare state (Hall 1988). This new politics was not solely the preserve of the United Kingdom (Smith 1996). However, industrial relations regulation became a taboo and the centre of political contestation in a way that was not similarly the case in many West European countries. Trade unions and

worker participation were not effectively developed or enhanced in this period. Instead, it was financial participation through the market as an individual or shareholder which was prioritised as a vision of economic democracy.

These characteristics mean that British industrial relations were not organised and articulated – to use Crouch’s term (1993) – as it entered into the late 20th Century. This tested the system of voluntarism as a system of worker representation and participation. The consequences of the Conservative Government policies, and the hostile economic climate, meant that trade unions faced a challenging period of decline.

Bargaining and trade unionism

This decline can be measured across various vectors (see Kersley et al. 2004). The first is the decline in the level of membership; trade union membership has been falling significantly since 1979 when the level of trade union membership was 54%, but by 2004 it was well under 30%. Throughout the 1980s and 1990s trade union recognition for the purposes of collective bargaining has declined. This decline in membership and recognition may not always be a problem, as there are countries such as France and Spain which have lower levels of trade union membership that can offset this with higher levels of collective bargaining coverage. In the United Kingdom this is not the case. Collective bargaining coverage has also declined, with fewer than 40% of workers having their terms and conditions covered by collective agreements. What is more the nature of bargaining in the United Kingdom is that it is highly decentralised and fragmented, with a low level of sectoral and multi-employer bargaining, especially in the private and manufacturing sectors (Waddington 2003). The lack of strong regulation to underpin the process of bargaining and collective agreements in the United Kingdom remains a major issue which has not fundamentally changed regardless of the industrial relations legislation of the Labour Government elected in 1997.

Consultation and firm-level representation

In terms of consultation and firm based industrial relations mechanisms we need to draw attention to the role of the shop steward, the convenor and the senior shop steward. The informal features of communication and dialogue within British industrial relations are an important part of the processes although the union role in them appears to be in decline. British workplaces do not have ongoing elections to determine the representative basis of the

union. Much depends on recognition agreements which may or may not have been the outcome of a workforce ballot. This leads to a trade union branch and set of representative trade union branch officers and roles. However, in the United Kingdom where there is a trade union it is not uncommon to have workplace representatives that are trade unionists normally elected to be the 'shop steward' (the term can vary). These in turn can select a senior shop steward. Stewards may also elect a convenor who leads discussions and negotiations with management and this figure is not to be confused with the trade union branch secretary. The role of the convenor may vary according to workplaces and there may be various convenors where there are different trade unions as in multi-union sites. What emerges from this picture – although one must hasten to add that the role of such figures is not as strong as it was for the mid to late twentieth century in the United Kingdom – is that workplace representation is a key factor in British industrial relations based on a web and network of workplace representatives in the form of shop stewards and convenors. These are central to formal and informal dialogues within the industrial relations systems of the firm.

In terms of broader consultation and communication, according to Kersley et al (2006) 14% of workplaces had a site-specific Joint Consultation Committee, with 25% having a higher level of the organisation in 2004. This is a very low figure compared to averages in most West European countries. This decline in the scope and structure of consultation were paralleled by an increase in new forms of direct communication between management and workers through human resource management techniques. Bacon and Storey (1996) argued that unions were, as boxers often say, *against the ropes*, but not because of any new individualistic logic amongst workers or regulators. The emergence of new management practices within the workplace, they argued, consisted of a collectivist logic and form that robbed the unions of their collective robes. Developments such as direct communication, company-based meetings, and team-working were, if anything, alternative forms of 'collective' representation and involvement that appealed to the worker in terms of their corporate identity and not just their individual interests. These new management practices – variously referred to by names ranging from *Human Resource Management* to *Toyotism* – have to one degree or another *attempted* to tie worker rights to the identity and needs of the firm, limiting any autonomous trade union based approach to such matters.

To this extent the character of representation and participation is fragmented and uneven in the United Kingdom. It gives rise to what could be called a low trust culture and lack of consistent partnership working (Martínez Lucio and Stuart 2004). There are few regulatory supports in terms of worker

rights, especially in the collective dimension, when compared to Germany, Spain or the Netherlands (see Timmings forthcoming). There is also the issue of employers and the extent of their organisation. There is in the United Kingdom a weaker tradition of employer associations and sectoral strategy when compared to France, Germany or most West European nations. The organisations tend to be focused around the policies of de-regulation and marketisation. What this gives rise to is a curious, if problematic, tradition of consultation and social dialogue which, as this study will show, underpins the character of EWCs in terms of how they link into the system of industrial relations.

Legacies and realities of change

There are those who have argued that it is too easy to stereotype the extent of voluntarism in the United Kingdom as, historically, there have been institutions and arrangements that have been robust in their organisation and regulation of the employment relationship (Howells 2006). That the state did not directly intervene did not mean that there was no institutions co-ordinating minimum wages and other issues during parts of the 20th Century. The debate on this issue has recently become vigorous, but what is not questioned is the decline of such institutions during the 1980s and 1990s. There are also narratives that point to the innovative abilities of the trade union movement in responding to the weakness of regulation. There are some key sectors, such as car manufacturing, which in part continue to consist of strong trade union and regulated industrial relations traditions. Yet Howells (2006) also makes the point that during the 1990s the emergent logic of regulation focused on individual rights and issues at work. Hence, the character of regulation remains uneven in collective terms. The system of British industrial relations remains un-coordinated and un-articulated in terms of the approach used by Crouch (1993). This continues to frame the question of union representation and recognition even under the new regulations of recent years (Hall and Terry 2004).

5.3. The transposition of the EWC directive and its application in the UK

The context of transposition

The history of the transposition of the EWC Directive in the United Kingdom is a curious one given the antagonism of employers toward the regulation of employment and industrial relations, and given that the

Conservative Government (1979-1997), in the latter years of its rule, provided the country with an opt-out from the social dimension of the European Union. The story of regulatory change is therefore open to much misinterpretation.

The opt-out meant that the EWC Directive (1994) did not become part of the legislative framework of indigenous labour law due to government policy on the social dimension. However, given the highly internationalised nature of firms operating in the United Kingdom, and the scale of employers, many were obliged to develop EWCs, as they had holdings and operations in other European countries. Moreover, they had the opportunity to develop EWCs which were based on Article 13 and voluntary, and therefore consistent with the traditions of consultation within the UK context. It also allowed UK firms to influence the European dimension by controlling the national UK context and its agendas. So there was a window of opportunity that allowed these firms to influence developments by moving swiftly and responding to the legislation. Yet by 1998 the multinationals in the EU and Norway had 58 EWCs, based on Article 13, in terms of the UK and 7 based on Article 6, which was almost a sixth of the total. So Britain was influenced by the EWC Directive as a consequence of the character and scope of capital (EIRO 1998) but mediated its development by emphasising a more voluntarist approach. Article 13 agreements related to those who already had arrangements for transnational consultation, providing them with a degree of flexibility, whilst those EWCs established after the Directive's implementation (or December 1999 for those covered by the Directive as a result of its extension to the UK) were Article 6 agreements and fulfilled the essential requirements for such agreements. Overall one sees a picture of the national system of industrial relations mediating the introduction and impact of EWCs in the case of the United Kingdom. A further 'headache' in terms of the British context is that where a Special Negotiating Body (SNB) had to be established to oversee the process, the legal reference points for the establishment of such bodies were unclear in terms of British representatives given the paucity and unevenness of legislation in the area of participation and consultation (Terry 2003). These SNB's were normally determined by ballot as there were many occasions when there were no consultation committees to draw from for these processes. Yet one of the main issues in terms of representation in the United Kingdom with regards to European Works Councils is that there are no clear standard mechanisms for selecting or electing representatives. This again relates to the paucity or unevenness of representative principles and processes within the country's system of industrial relations.

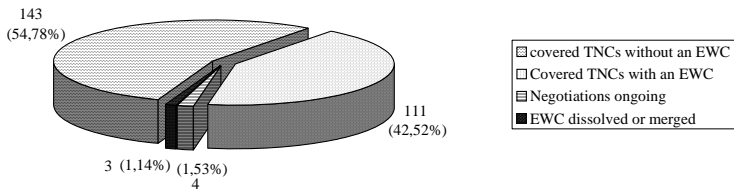
Representatives may be appointed by management or unions depending on the balance of power within the firm and direct elections are not always common. The dominance of union bureaucrats within this process is not uncommon, either. In fact, one is detecting the increasing presence of management representations and management-related representatives whose independence from the firm is questionable. Data on this is hard to acquire but there exists amongst various experts a sense that the autonomy of EWC representatives may become a real problem. Trade unions have not collated systematic data on the question of European Works Council representatives across the unions and sectors within the United Kingdom so the picture remains unclear.

British employers remain in great part opposed to developing EWCs under the terms of the Directive and the remit specified in the Directive. The Confederation of British Employers were concerned that this would intrude into the operations of their member's organisations, and whilst eventually accepting the Directive they have worked methodically and lobbied to limit any further developments (Income Data Services 2002). The view of British business – assuming there is a consistent view – is that EWCs should be built on concepts such as confidentiality and professionalism if they are to impact upon broader agendas and strategic issues – although such broader scope has been rare in the past (Hume-Rothery 2004). There is concern with any potential shift in EWC influence from the employment effects of decisions through to the very nature of the decisions themselves. There is an extensive consultancy business in the United Kingdom which is aimed at union de-recognition, undermining trade union roles, and individualising forms of collective consultation (Perrett 2007). In the area of EWCs there are similar modes of consultancy that are deployed on a variety of occasions. So employers have formed a consistent block against the evolution of EWCs and have intensified their pursuit of increasing management representatives on them.

Hence we see the late return into the social dimension after the Labour Party came to power in 1997 as facilitating the development of EWC Directive in the United Kingdom but not really developing any major impetus, in the initial stages anyway. Many companies had begun to realise that the EU was committed to worker representation at the transnational level and that the final days of Conservative power were in sight by the mid 1990s, so began evolving forms of representation such as EWCs, among others. Yet to suggest that the EWC Directive and the engagement with the social dimension of the EU in general was a major re-engagement with regulation as a feature of British industrial relations would be a mistake.

The reality of EWCs in the United Kingdom needs a more cautious approach given the strategic subtleties of the developments and their context (Terry 2003).

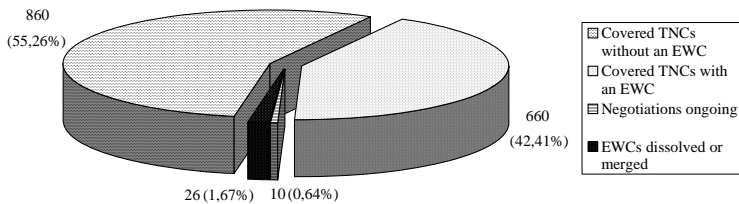
Figure 5.1. TNCs headquartered in the United Kingdom covered by the Directive 94/45/EC with an established European Works Council



N = 261 / Compliance rate with the Directive (43,02%) (111 active EWCs in 258 covered TNCs)

Source: ETUI-REHS Database on European Works Councils (2008).

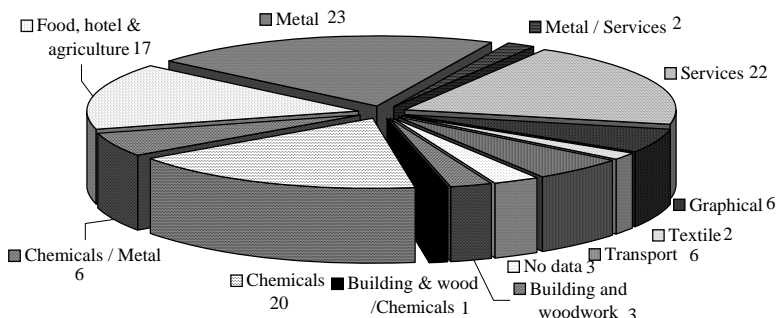
Figure 5.2. TNCs with operations in the United Kingdom with an established European Works Council



N = 1556 / Compliance rate with the Directive (43,13%) (660 active EWCs in 1530 covered TNCs)

Source: ETUI-REHS Database on European Works Councils (2006).

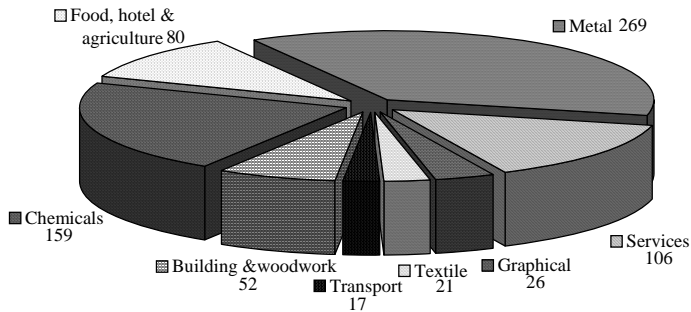
Figure 5.3. TNCs headquartered in the United Kingdom with an established European Works Council per sector



N= 111.

Source: ETUI-REHS database (2008).

Figure 5.4. TNCs with operations in the United Kingdom with an established European Works Council per sector



N= 660.

Source: ETUI-REHS database (2006).

In formal terms it may appear that the development of EWCs in the United Kingdom has been significant. In 2002 there were 232 EWCs covered by the Directive with a UK presence (Marginson et al. 2004). In fact a third of

all EWCs are in UK or US owned companies. So there is a curiously high level of take up in Anglo-Saxon oriented firms (Marginson et al. 2004). Regardless of the opposition to the EWC Directive and the development of worker involvement at the transnational level in the early days, the reality is that the United Kingdom has a significant level of involvement in EWCs be they UK based firms or not. However, the scale of corporations in the UK and their internationalised character may have much to do with this and not any deliberate engagement with the Directive and its ethos. Moreover, EWCs do not have to be registered (ibid).

In terms of the distribution of European Works Councils the ETUI's data from their 2008 database states that there was a slight majority of TNCs headquartered in the UK which were covered by the relevant legislation that did not have one (see Figure 1). This is roughly similar in proportion to those companies with EWCs that have operations in the United Kingdom as Figure 2 shows. In terms of those with EWCs, the chemical, metal and services sectors had approximately a third of the total each as Figure 3 shows. This is a slight variation on those companies with operations in the UK where the proportion of EWCs in the metal sector is greater as can be seen from Figure 4.²

The United Kingdom has therefore seen a range of EWCs developed with an active UK trade union presence. The case of General Motors at the time of writing is a good example of a working EWC with strong collaboration across various dimensions and issues, and even a capacity to mobilise as a co-ordinator of collective action (European Works Council Bulletin 2004). Companies such as British Airways have steadily deepened their level of EWC involvement and engaged with broader EU initiatives in terms of employee consultation (European Works Council Bulletin 2005). In the case of the company that was known as Northern Foods, the development of a EWC was seen to contribute to a modernising and a shift in the nature of internal communications (Income Data Services 2002). This is viewed as a positive feature of EWCs in that it can create a range of internal imperatives for change (Weston and Martínez Lucio 1997 and 1998). In fact, EWCs can actually contribute to internal cohesion as far as management are concerned (Lecher et al. 2001) so there have been intriguing effects within the UK.

In terms of some of the challenges facing EWCs as an effective forum for consultation and representation, in the main they are seen to be uneven in

² I would like to thank Sergio Gonzalez Begega for providing me with the four figures from the ETUI database.

their track record regarding strategic issues. However, research in this area is sporadic and uncertain, yet a pioneering study in tackling the difficult terrain of involvement and effectiveness, by Marginson et al. (2004), attempted to show how UK and US companies have been influenced by their EWCs. Looking at eight cases in detail they have tried to isolate processes and outcomes, as well as the context of the firm and its internal legacies of decision-making, in order to see how EWCs impact on decision making. Their research suggests that it is mainly in very specific episodes of restructuring that some kind of 'animation' occurs in connection with EWCs, but more importantly they point to a series of findings that are relevant to the present study. First, they confirm the findings by Waddington (2001) that the provision of information is better in EWCs which are headquartered in Western Europe and not the UK. This corresponds with Hall and Soskice (2001) in terms of their work on co-ordinated and liberal market economies which is referenced and used by Mark Hall et al. Secondly, this pattern is confirmed in their research by virtue of the fact that there was a greater impact on management decision making in those US-based companies which had more extensive operations and employment in mainland Europe. The research confirms that for cultural or regulatory reasons the UK context of EWCs is less co-ordinated and involvement-based than other cases.

This raises further issues. For example, the highly divisionalised nature of British firms and the problems of 'fit' that emerge between EWCs and management structures are another obstacle to the consistency of EWC roles. The context of organisational change and marketisation also contributes. This can be explained with the example of the car manufacturing sector. Whilst it is not representative of some of the more dynamic aspects of the UK economy, such as pharmaceuticals, it can illustrate some of the challenges facing international co-ordination and regulation in terms of EWCs.

The example of EWCs in the automobile sector is indicative of some of the issues facing worker representatives in the UK. The decline of the indigenous automobile employer is a salient factor. The increasing internationalisation of the car industry in the UK means that virtually all companies have policy dictated, in one form or another, from abroad. This leaves a less strategic orientation in the sector and a greater reliance on overseas decision-making. In their work on BMW and Rover, Tuckman and Whittall (2002) have shown how the British side of the EWC and transnational political structure were severely weakened during the 1990s. The lack of co-ordinated national intervention by capital or the state also

makes the car industry more vulnerable to restructuring decisions. That is not say there are no cutting-edge car manufacturing plants such as Nissan in Sunderland, but these are not always at the strategic centre of transnational corporate concerns. The sector has therefore seen a decline of major players and industrial icons. The fall of Rover and the inability of the unions to truly influence government policy in 2005 when Longbridge was considered for closure can be seen as symbolic of an end of an age in British motoring history. The comments of a Labour Government minister, who argued that the redundant workers could always get jobs in retailing, were met with disdain by the trade unions and seen to symbolise the stigmatising of manufacturing (http://news.bbc.co.uk/1/hi/uk_politics/4102600.stm). This was seen as a major shift in social democratic policy, and acceptance of the inevitable effects of globalisation. The same was witnessed with the sale of Jaguar and the crisis of Peugeot in the past decade. Based in Coventry – the ‘Detroit of England’ – these changes did not meet with major national concern despite serious trade union efforts to raise the issues. The steady weakening of the US presence in General Motors and Ford further curtailed large parts of this UK production base and eroded the role of an organised, high-profile, manufacturing presence in the trade union itself. However, the fact that the Mini car model was resurrected as an icon of British manufacturing brought some solace even if it was under the auspices of a German manufacturer. Within this context of decline, in terms of the presence of high profile and historic workplaces and factories, came the challenge of private equity within particular areas of car manufacturing reducing such cases as Rover (before its eventual fate) to mere commodities. Putting aside the financial concerns that this case brought and the lack of accountability – it was considered to be the fate of a sector left in the hands of an internationalising capitalist class.

The relevance of this short description – which appears to take the form of a tragedy – is that when discussing EWCs we must be wary of the sectoral and economic context. Resources for both trade unions and management in forging a proactive and long term approach to the strategic issues that face them through forums such as EWCs will in part depend on the political status and strategic position of the firm or any particular cluster of workplaces and their location. There are other political and organisational factors, but the declining status of such a strategic sector and the lack of any national government policy of a sustained and proactive nature means that EWCs in this context cannot then lock into alliances and symbolic resources for mobilising alternative visions and projects in relation to production and employment. The sector in the case of the UK has a declining presence in

terms of the significance and number of EWC members and activists. Furthermore, the proscription, or at best restriction, of the role of EWC members in the newer firms, means that they cannot act as a counterbalance and voice for the sector as whole. There appear to be differences in the role of the EWC when comparing those with an embedded history in the United Kingdom (for example General Motors) and those who have invested as part of the new wave of inward investment hailed by the Conservative Government of the 1980s and 1990s, especially Japanese companies. There is little extensive research on the differences between these two categories. Yet it appears at first sight that the EWCs of Japanese firms have not been major players compared to the EWC of General Motors. Access in academic and trade union terms is normally an issue with such Far Eastern companies given the sensitivity to criticism of their production and human resource management processes. Moreover, the lack of inter-company collaboration and sectoral co-ordination means that the sector is fragmented in terms of industrial relations traditions and cultures.

The one issue that may counteract this scenario – and lack of symbolic and political resources – is the changing character of trade unions. Where once stood a fragmented tradition of trade union organisations that were organised around the hierarchy of skills and occupational difference inside the workforce, there now stands a single union for the virtually the whole of the sector due to successive mergers between the trade unions over the past two decades. This has resulted in one trade union – UNITE – that has an automobile section, albeit with different strands. The response to factory closures, political lobbying, and broader sectoral issues has been more notable in terms of the trade union(s) in the past few years, due to attempts at co-ordinating and due to these mergers between them. Whilst some of these campaigns have had a nationalistic tendency and used a nationalist discourse to support the struggle against disinvestment there has been a more proactive approach which is working itself across the political and the industrial relations agenda (e.g. training for EWC representatives and research initiatives). This will be a factor worth observing in coming years.

Research and the British context of EWCs: torn between pessimistic findings and optimistic expectations

Hence, one could argue that the context of EWCs in the UK is slightly more challenging than other contexts due to regulatory, political and economic factors. This general pessimism is reflected in a variety of studies and research projects (see Fitzgerald and Stirling 2004 for an overview of these different positions). It is not always clear what the source of this pessimism

is. It may be empirical and/or it may be a sense of uncertainty about the regulatory capacity of the British industrial relations system that has built up over time.

In a seminal case study of a EWC, Wills (2000) tracked the functioning of a EWC over a three year period. The company was a merger of British, French and American interests. Evidence that was gathered over a long time-frame showed that EWCs were not providing more than symbolic information and that they were highly limited as forms of worker participation. The ability of the EWC representatives to shape and seriously influence decisions was severely limited. Wills acknowledges that the reason for this is in part management strategy but that divisions in the labour movement and the role of national interests also play a role.

These findings of a poor outcome in terms of consultation and participation fit with broader findings by Wills of a wide range of UK based EWCs (Wills 1999: 28f.):

When managers were asked how the information and consultation procedures associated with EWCs might change employee relations in future, they again focused on 'soft' rather than 'hard' managerial outcomes (although three of the managers involved in the survey elected not to answer this question). ...the EWC was seen as a mechanism to foster identification with the corporate mission, to widen understanding of the EWCs in British management process and to improve communication between staff at different levels of the corporate hierarchy. Several managers also thought that the EWC might contribute to the Europeanisation of management practice and HRM in the future, strengthening the active role of the EWC in the long term. Likewise, a number of respondents also highlighted the potential for EWCs to play a part in fostering partnership, which again may strengthen the active role of the EWC in the future. No one saw the EWC as a route to harmonising pay and conditions across Europe or to weakening the role of trade union officials.

Hence the conclusion for Wills (1999: 33) was clear:

In short, British managers in UK-owned firms would appear to have a clear strategy in managing their EWCs and, although trade unionists are accommodated in the agreements, it will prove difficult for them to turn EWCs into institutions of 'bottom-up co-ordination and convergence' across the EU.

In a detailed set of case studies, Marginson et al. (2004) confirmed these trends, as we saw above. There are therefore various studies that suggest EWCs are limited as a vehicle for industrial relations renewal and deepening. The argument in many of these cases is that there is a weak tradition of open and inclusive participation in terms of corporate governance in the UK (Deakin et al. 2005). There are various factors that determine this. The first is the role of shareholder value and influence in corporate decision making. This brings to the fore a set of financial pressures and priorities that are seen to undermine, or at least constrain, the social dimension and concerns of the firm. The second is that there is a purely symbolic trade union presence – if any – in the board of directors or strategic decision making forums of the firm. This means that developments such as partnership working are not really anchored in the more strategic levels of the corporation – something that is the case for the Anglo-Saxon context in general (Kochan and Ostermann 1994). This is reflective of the regulatory context of the United Kingdom and its weak corporatist stance and limited engagement with positive worker rights (Martínez Lucio and Stuart 2004). The relevance is that EWCs are not, therefore, locked into any complementary or parallel structures of effective worker involvement and joint decision-making at the national level (Waddington 2003).

This allows the character of the firm or hierarchies within the firm to influence the form and content of EWCs in quite discreet ways. Internal hierarchies, through the role of full time officers of the trade union, can be seen to further disconnect EWCs from broader trade union or social action (Hancké 2000). There are power clusters within EWCs which reflect the location of ownership and investment, and also reflect the distribution of informal industrial relations between management and trade unions as well as the regulatory capacity of different countries. In a study of BMW in the United Kingdom during its Rover ownership, there were signs that a new form of dialogue was possible between German and British Trade unionists through its EWC (Whittall 2000) but subsequent events and sell-offs showed that British trade unionists and EWC representatives were at a disadvantage due to the lack of consultation rights that they had within the United Kingdom and the close relationship that existed between management and trade unions in Germany, partly due to regulatory and economic factors (Whittall 2007). This situation was not helped by the balance of forces in terms of investment and the mobilisation of economic resources within that sector as outlined above. This type of case also illustrates the early concerns of Ramsay who argued that the link between local customs of participation and more strategic action are likely to be a

challenge in terms of any EWC as an institutional development (Ramsay 1997). The tendency towards low trust within EWCs, and the triumph of national identity over class identity, is a serious one as in the case of the steel company Corus and the tensions between Dutch and British EWC representatives at key points (Timming and Veersma 2007) This has become exacerbated by the increasing decentralisation of bargaining and the fragmentation of the firm in the United Kingdom. This makes the co-ordination of involvement and participation more of a challenge, even accounting for the lack of regulatory support.

A salient example of the disconnected nature of British strategies towards participation and consultation is the case of the new Information and Consultation agenda. The EU's Information and Consultation Directive of the late 1990s was actively opposed by the British New Labour Government due to the desire to revert to a softer form of regulation and to avoid stronger European variants (Taylor et al. 2007: 3). Hence, as the Directive was transposed it became watered down in the British context with management mediating its impact (Taylor et al. 2007: 4). In the course of their research Taylor et al. (2007) studied six cases in the UK – three of which were linked to the automobile industry. The study showed a poor record of participation on key restructuring issues – and a disconnection with traditional forms of trade union-management relations:

'This failure to consult raises wider questions about the wider political and legislative environment in the UK, where the law apparently allows companies peremptorily to make workers redundant... Essentially, the Directive's transposition involved the 'de-Europeanization' of the idea of worker consultation. In continental Europe, the development of consultative structures (e.g. works councils) has represented the idea that labour rights, such as joining a union or being consulted and informed, are basic human rights and an extension of the principles of democracy. The UK's failure is ultimately a political failure as the government opposed in principle the ICE Directive and, under the impact of employers' influence, produced Regulations that significantly diluted what even in the original were hardly radical proposals.' (Taylor et al. 2007: 15)

This study mirrors many concerns in the UK about participation and consultation in industrial relations, and the impact of the national system of governance (Timming, forthcoming). What is more relevant, as far as this study is concerned, is that the relevant EWCs, in terms of their form, practices and content, do not even appear to be connected to the formation

of consultative mechanisms within the UK national context of involvement and consultation. There appears to be a *disconnection* in terms of these different levels of engagement.

The pessimistic approach is therefore well grounded. It questions the ability of EWCs to play an organic and proactive role within a national context where the aim of regulatory change is greater individualisation (Howell 2006) and where the impetus for greater participation is managerialised. What is more, the argument remains that for all the growing regulations in individual employment relations and industrial relations there are still vast gaps in terms of institutional participation in corporate governance, strategic decision making, the management of pension funds, and collective bargaining (Hall and Terry 2004). Hence, EWCs appear to hover above the British context unable to have an impact unless there are strong traditions of trade union-management dialogue already in place. And even when these are in place they appear to skew proceedings and create a hierarchical character to worker participation and the politics of social partnership. The encounter with Europe is torn by the fragmented – bottom-up – traditions of British employment regulation and industrial relations, and the ambivalence of British employers and the left and right of the electoral political spectrum.³

³ Much may depend on how research questions and political expectations are generated. There is a tendency to denigrate developments that do not lead to harder forms of regulation, sustainable transnational worker solidarity or strong systems of joint regulation. That is understandable given the heavy legacy of voluntarism and the game-playing around regulatory issues which is a feature of new forms of social democracy such as the Third Way and New Labour. Yet as Marquand (1994) eloquently stated we have a tendency of 'putting the cart before the horse' when we discuss European integration, and of not always appreciating the longer time frame and potentially strategic nature of institutional developments. It is clear that developments such as the EWC can achieve little on their own, but one has to understand them in a broader context and it is through that context that we need to appreciate the impact of such developments. The more optimistic readings in the United Kingdom are therefore more concerned with the gradual re-adaptation of labour to a new vision of regulation and change. Delanty (1998) has argued that there is a need to rethink our notion of society: 'instead of a 'transition' the kind of social change we are experiencing today is that of social 'transformation', a concept which suggests less the 'end of the social' than an emerging 'network' society based on knowledge. Thus instead of trying to reproduce on the supranational level a model that has reached its limits on the national level, European integration needs to give expression to the emerging power of knowledge. Rejecting the notion of the demos and the ethnos as inappropriate to European integration, the case is made for a discursive understanding of democracy and knowledge'. To this extent the discussion about EWCs needs to be clear about when it is related to regulation, trade union strategy, new forms of networking, industrial democracy and so forth. As it stands, the debate is formed through expectations that appear to be generated on the basis of the frustration with a peculiar system of voluntarist regulation and a firm belief in a counter view of 'strong regulation'. What may

5.4. The revision of the EWC directive and future prospects

However, the story does not stop with this pessimistic analysis. The desire for further regulation and change brings forth a new set of issues and challenges (Waddington 2003). The trade unions have in part completed their road to Damascus and embraced the regulations emerging from the European Union, so this would no longer be an explanatory factor in the retarded development of stronger regulations (Strange 2007; Dorfman 1977). From being opposed to membership of the European Union in some instances, trade unions have since the 1980s embraced the regulatory ideal central to the social dimensions of the European project. The trade union movement in the United Kingdom have seen the social dimension as a series of platforms for regulating the employment relationship and developing a series of rights. Whilst internal debates continue, the commitment to extending the role of trade unions and the ambit of joint regulation has been underpinned through reference to the European Union (Mullen 2007). The early 1990s, at the time of the Single European Market, saw an array of publications and materials produced by trade unions on the European Union which, whilst critiquing the neo-liberal tendencies of European elites, began, nevertheless, to view the alternative not in terms of withdrawal from the EU but of support for its social dimension and legacies. The new forms of regulation may be soft and piecemeal, but they do offer a counterpoint and alternative set of resources to the individualism of the market in the United Kingdom and the nature of social democratic legislation (Martínez Lucio and Weston 2007). As stated earlier, examples such as the EWC Directive, or the Directive on Information and Consultation, may in themselves be very 'soft' when compared to German co-determination or Swedish views of industrial democracy, but the main challenge is not just 'hardening' these elements but 'connecting' them. As the body of rights around the form and content of the employment relation evolves, and as the collective develops alongside the individual in terms of dimensions of regulation, then how these are linked and co-ordinated will be the major strategic challenge for seeing EWCs as part of a new panorama of industrial relations based on broader democratic values and industrial citizenship. Connecting different arenas of regulation is ultimately a key factor in terms of what 'strengthens' and crystallises them (MacKenzie and Martínez Lucio 2005). In terms of trade union action, as Wills (2004: 221)

be required is a realisation that EWCs are contingent on political and institutional factors for their orientations (see Strange, 2002, for a further discussion of these broader issues). Otherwise we may be conflating different and contradictory research questions in discussing the phenomena in question.

points out, activity in a globalised context has to be co-ordinated in terms of a ‘multi-scalar approach’ working across various institutions and social spaces (ibid.). So EWCs, as actors in their own right, cannot be reified or de-contextualised. Even in the United Kingdom political linkages, even if they are across ostensibly weaker forms of regulation, are key factors for the development of such institutions.

Hence, the EWC initiative is seen as a basis for a deeper dialogue on questions of change. The prospect of a stable, if at first limited, dialogue with senior management on key issues was seen by many British trade unions as an advantage that would emerge from a positive view of EWCs. The 1990s began to see various trade unionists engage with their counterparts in the European operations of their companies in a piecemeal manner (Martínez Lucio and Weston 1994 and 1995). The catalyst for this was normally the increasing integration of production and cross-referencing by management in terms of different plants and workplaces within a transnational company. Whilst political ambivalence and a lack of knowledge and even trust of other trade union representatives within the European spaces of a transnational corporation was common, one nevertheless detects trade unionists seeing EWCs as a vehicle for acquiring greater corporate information. EWCs are configured in many ways – sometimes being symbolic and at others highly participative (Lecher et al. 2001) – but they can have an effect on the way trade unionists and representatives perceive the space of a transnational corporation in organisational and political terms. They may not adjust themselves to an ideal typical position in terms of transnational solidarity but trade unionists have steadily begun to see a new space of organisation and strategic positioning. More research on this aspect would be important, but in the case of the United Kingdom EWCs are a reality in the calculations and views trade unions develop. Within projects such as the European Trade Union Congress’s TRACE project – based in part on national trade unions collaborating over the best way to respond to restructuring – British trade union participants were highly engaged in the discussion on EWCs and transnational co-ordination (Pulignano 2006). As British trade unionists begin to develop more co-ordinated and organised ‘super-unions’ through merger activity we may see a greater degree of international co-ordination around training and strategy. One may view this as speculation in the face of research which still draws attention to the real cultural, organisational and political barriers that exist in terms of transnational labour co-ordination. However, the transformation of British trade union responses to transnational issues is a steady, if at times slow, process, as is clear from

their expanding training and communication strategies on EWCs (Stirling 2004).

The final irony in the case of the United Kingdom is the economic context. It is the economic context that for many underpins the situation of pessimism: the international character of capital in the United Kingdom – in terms of inward investment and in terms of ‘indigenous’ capital – makes opposition to regulation by capital greater and the ability by labour to defend regulation weaker. In effect, British capital is not locked into a system of regulation in the same way that German capital is or has been up until now (Coates 2000). Britain’s de-regulated path – a concept not without its critics – has meant that innovation and change have been prominent and higher up the national capitalist agenda when compared to other countries in terms of ongoing restructuring. Yet these characteristics clearly are not mere barriers to the development of EWCs, they make them more compelling than other contexts and provide us with a set of ironies.

First of all, in terms of the international character of British capital and capital in Britain, this makes it more exposed to the question of international co-ordination. The statistic that UK firms are not trailing in the league table of EWCs means that the presence of EWCs is a greater reality – even if there are many devices used to weaken their influence as discussed above. The second point relates to the actions of management (Martínez Lucio and Weston 2007). EWCs are also emerging in the context of new managerial developments: benchmarking, exhaustive (although not always consistent) performance measurement techniques, and an obsession with ‘communication’ (Knudsen 1995; Garrahan and Stewart 1992; Ferner and Edwards 1995). The standardization of production and management processes creates a common template and language in terms of how trade unionists engage with each other across borders. These sectoral effects vary but they are important in cases such as car manufacturing where they can contribute to transnational worker dialogue (Lillie and Martínez Lucio 2004). In this context, information is becoming a major vehicle of transnational management control but, ironically, at the same time it provides a new arena of engagement and a potential resource for transnational employee representatives. This provides ‘windows of opportunities’ into which labour can make effective interventions (Martínez Lucio and Weston 2004). For example, internal benchmarking may well be a powerful mechanism for diffusing best practices by senior management, but it can be met by various forms of resistance from local management as well as from labour that exchange alternative sets of information and use whatever circuits of information are available, including EWCs. To this extent,

opposition or strategic manoeuvring against EWCs and more effective trade unions in the United Kingdom is not solely due to an ‘Americanisation’ of the country’s elites but a realisation that their economic character makes it more exposed to the reality of international politics and regulation. Given this, the structural features of the economic dimension of EWCs will make them if not a glorious story an ongoing one.

The discussions on the extensions of the Directive are therefore illustrative of this point. Britain has seen much opposition from employers and even from the social democratic elites of the country, to some extent. There are concerns about the extension of rights in terms of consultation and in terms of involvement in matters related to restructuring. Organisations such as the Chartered Institute of Personnel and Development, who represent personnel managers, and the Confederation of British Industry, in terms of employers, have raised concerns regarding future developments. The belief in ‘voluntary’ approaches and firm-specific developments means that the legacy of voluntarism is very much alive in the mind set of management and employers. Yet such opposition is activated because of the potential such new forms of participation can have.

5.5. Conclusion

When discussing issues related to EWCs as actors and institutions, the national context – ironically – continues to play a major role. Questions of participation and consultation in a globalised context remain marked by national systems of regulation and national and local practices and processes within industrial relations. It is as if the international is still made in the image of the local in industrial relations (Lillie and Martínez Lucio 2004) as well as in social and economic relations (Spicer 2006). The contribution here does not attempt to cover all aspects of the debate and the specific nuances regarding EWCs in the United Kingdom. It attempts to locate the discussions and vagaries in the context of the national dynamic. The debate on EWCs has been acidic to say the least – or as acidic as an academic debate can be. Yet in policy terms there is still great uncertainty. There remains a great deal of political uncertainty if not opposition from the employers and aspects of management. The political Right are reticent and the centre and social democratic poles of the spectrum agnostic. In terms of the trade unions, the long road that was the engagement with the European Union has been taken. Yet it is in academic circles and in terms of research that many have not felt that this particular institutional development has turned out to be what they anticipated. This study shares these concerns

although this may be as much due to the ongoing peculiarities of the national context as the flaws within European regulation. However, the present study has tried to suggest that much may hinge on how EWCs are viewed, and how they fit within the other projects of regulation being developed nationally and at the level of the European Union. In this respect, EWCs are but one dimension in a series of developments within the European Union and other bodies of transnational governance. Much may depend on how EWCs are used and how they are linked to broader activities and institutions by representatives (and management), and how they form part of the transnational politics and networks of industrial relations. In turn these have to build upon a broad and imaginative attempt at connecting internationally across sectors and various parallel spaces (Pulignano 2007). In Britain, there are *suggestions* that trade unions are locating EWCs in a broader context and connecting them to distinct agendas.

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Chapter 6

European Works Councils in France

Udo Rehfeldt

6.1. The institutional context of industrial relations in France

From a comparative standpoint, the French model of representation is a mixed one. It is neither a single-channel model along Anglo-Saxon lines, nor a genuine dual model like the German approach, with its clear division of labour between elected representatives at the workplace and trade unions at the supra-company level. The French IR system might be characterised as a multi-channel system, since France is the European country with the greatest variety of elected interest representation bodies at the workplace level. Traces of the dual model are perceptible in the early legislative recognition of elected representatives, the workforce delegates and the works committee. On the other hand, unions have kept the monopoly of collective bargaining, including at the workplace level.

Despite numerous legislative backings, collective bargaining in France had difficulties developing in an autonomous, regular and generalised way. Historically, strikes were frequent, because they appeared as the only way to impose negotiations on reluctant employers. As a result, the State played a leading role in IR, not only as a legislator, but also as a direct actor, by fixing minimum wages and extending collective agreements. At the national level, bargaining coverage is high, at around 95% in the private sector, due to the frequent use of the extension procedure by the Ministry of Labour. The number of workplace agreements has increased in recent years, but their content shows a great variety. Thus this increase does not necessarily signify an increase in autonomous social regulation.

The reverse side of this new focus on the workplace level of industrial relations is a relative drying up of the other bargaining levels, particularly the inter-sectoral but also the sectoral. A 2004 law intended to give a new impetus to autonomous collective bargaining. It introduced a sort of “majority principle” for the validity of collective agreements and partially abolished the “favour principle” by which the sectoral level took precedence over the workplace level – which could diverge from the sectoral agreement

only by provisions more favourable to the workers. However, this law did not change the rules for recognised participation in collective bargaining and for the validity of the agreements. Only the so-called representative trade unions have the right to participate in collective bargaining.

The French trade-union confederations

France has the lowest unionisation rate in Europe, according to figures from the Ministry of Labour 8%, with only 5% in the private sector (Amossé 2004). This rate has fallen dramatically during the last twenty years. At the same time, France has the greatest number of union organisations. Because of splits in traditional unions, their number is increasing.

From the legal point of view and until the effectiveness in 2013 of a new law adopted in 2008, five union confederations are considered as representative at the national level. This gives them the right to sign collective agreements and to draw lists for the elections of works committees and workforce delegates (see below). These nationally representative union confederations are the following:

- The CGT (*Confédération Générale du Travail*) is the oldest union confederation and was for a long time the biggest with 707.000 official members (2006). It is still the most important union confederation in terms of electoral results (34% of the votes at the labour courts elections in 2008).¹ Historically linked to “revolutionary syndicalism”, it was dominated after the war by the Communist Party. Its leaders are often still party members, but the confederation has now developed an autonomous “modernist” (reformist) orientation and a critical stance toward the Communist Party, which is in rapid decline. It left the World Federation of Trade Unions in 1994 and joined the European Trade Union Confederation ETUC in 1999 and is a founding member of the new International Trade Union Confederation ITUC created in 2006.
- The CFDT (*Confédération Française Démocratique du Travail*) claims to be the biggest union confederation with 824.000 official members (2006). It is the second most successful union confederation in terms of electoral results (22% of the votes at the labour courts elections in 2008). Until 1964 the CFDT was called

¹ Employees of the public administration (civil service) do not vote in these elections. If one takes into account the elections for the joint union-management committees in this sector, the global ranking is not altered, except for the fact that a more important percentage of the vote is allotted to autonomous unions.

CFTC (*Confédération Française des Travailleurs Chrétiens*). The change in name signified the abolishment of reference to the social doctrine of the catholic church. After a period of leftist orientation in the decade after 1968, it has “re-centred” its orientation to moderate reformism. The CFDT left the World Confederation of Labour (WCL) in 1979, after having joined the ETUC in 1974. It has joined the International Confederation of Free Trade Unions ICFTU in 1989 and the new ICTU in 2006.

- The CGT-FO, generally referred to as the *Force Ouvrière (FO)*, claims to have 800.000 official members, but experts (e.g. Andolfatto 2004) believe there are in fact less than 300.000. The FO obtained 16% of the vote at the labour courts elections in 2008. It represents the split of the anticommunist minority from the CGT in 1947. It officially advocates absolute autonomy from political parties, but is composed of several political tendencies: one close to the Socialist Party (of which the general secretary is a member), itself split between “modernists” and traditionalists, one right wing tendency (historically close to Gaullism), one Trotskyist and one genuine syndicalist. Founding member of the ICFTU and of the ETUC, it often opposes the trade-union mainstream on European social dialogue and employee participation (including EWCs) and has reluctantly joined the ITUC.
- The CFTC (*Confédération Française des Travailleurs Chrétiens*) claims to have 142.000 official members (2006) and obtained 9% of the votes at the labour courts elections in 2008. It represents the minority which opposed the transformation of the CFTC into the CFDT and wanted to maintain the reference to catholic social doctrine, although also remaining open to Protestants. It joined the ETUC in 1990, took over the place left vacant in 1985 by the CFDT in the WCL and finally joined the new ICTU in 2006.
- The CFE-CGC (*Confédération Française de l'Encadrement – Confédération Générale des Cadres*), more commonly known as the CGC, is the fifth representative confederation, although it only represents professional and managerial staff (*cadres*). It claims 150.000 members and obtained 8% of the votes at the labour courts elections in 2008. It is affiliated to the European Confederation of Executives and Managerial Staff CEC.

Besides these five confederations, there are a great number of autonomous unions, some of which have, in vain, made claims to be representative at the

national level.² Most of them are found in the public sector and are organised into two national groupings:

- The UNSA (*Union Nationale des Syndicats Autonomes*) was founded in 1993 by autonomous unions in the public sector. It is also present in the private sector and obtained 6% of the vote at the labour courts elections in 2008. It joined the ETUC in 1999 as part of the CFDT delegation.
- The *Union Syndicale Solidaires* was created in 1981 as the *Groupe des Dix*, a grouping of autonomous public sector unions which was later joined by a series of SUD unions (*solidaires, unitaires, démocratiques*). The SUD unions compose a left wing split from the CFDT and are important in some public utilities such as La Poste, France Telecom and the national railway company SNCF. In 2003 a split from the CGT of the Peugeot plant in Sochaux created a *SUD-Auto* union. The *Groupe des 10-Solidaires* obtained 4% of the vote at the labour courts elections in 2008. It has no international union affiliation.

The CSL (*Confédération des Syndicats Libres – Confederation of Free Trade Unions*) was a confederation of “yellow” right-wing company unions. It obtained 4% of the votes at the labour courts elections in 1997, but in 2002 proclaimed its auto-dissolution, recommending that its members join the FO. At certain Citroën plants of the PSA group, where it had one of its strongholds, the local CSL leaders did not follow this recommendation, but maintained the organisation under a new name, SIA-GSEA (*Syndicat Indépendant de l'Automobile*), affiliated to a so-called *Groupement Syndical Européen de l'Automobile*, which confederates some company unions from automobile plants in France.

The employers' confederations

There are three employers' confederations that play a dominant role in collective bargaining at the national level:

- The MEDEF (*Mouvement des Entreprises de France*) is the main employers' confederation. Until 1998 it was called CNPF (*Conseil National du Patronat Français*). There are no separate organisations for employers' and economic interest representation, except

² Any union that wants to be representative at a sectoral or company level can appeal to the courts. Courts take into account a certain number of criteria contained in the law on collective bargaining, such as independence, affiliates etc., as well as electoral results.

in the metal sector, where the powerful UIMM (*Union des Industries Métallurgiques et Minières*) represents exclusively the social interests of those industries, particularly in collective bargaining and in the joint management of social security institutions. At the European level, the MEDEF is affiliated to *BusinessEurope* (formerly UNICE). The MEDEF claims to represent, indirectly through 85 federations, 750,000 enterprises of all sizes. 70 % of these enterprises have less than 50 employees.

- The CGPME (*Confédération Générale des Petites et Moyennes Entreprises*) represents the specific interests of small and medium-sized enterprises (i.e those with less than 500 employees). The CGPME claims to represent 500,000 enterprises, of which two thirds have more than 50 employees. Formerly, the CGPME was part of the CNPF. Many small enterprises have a double affiliation to the MEDEF and the CGPME.
- The UPA (*Union Professionnelle Artisanale*) represents the very small, often self-employed craft enterprises. At the European level, UPA is affiliated to the UEAPME.

Besides these three organisations, there are specific organisations for the agricultural sector.

Workplace representation

Elected representative institutions at the workplace level

The works committee (*comité d'établissement* or *comité d'entreprise*, abridged *CE*), is mandatory in companies or establishments with 50 employees or more. In 1999, works committees existed in 88% of the establishments falling under the Directive, covering 95% of the workforce (Ruelland 2001).³ Since August 2005, works committees are elected by the workforce for four years (previously: two years). The representative unions present in the company or workplace have a monopoly on drawing up lists for the elections. Only if there are no unions present or if less than 50% of the workforce have participated in the election, a second round of elections takes place in which non-union lists are allowed to be presented. In 2005, the average participation rate was 63.2%. Non-union lists won 23.5% of the

³ According to more recent survey of the Ministry of Labour, they were only 79% in 1998-99 and 81% in 2004-05 (Jacod 2007). Figures on the coverage of the workforce are not yet available.

votes.⁴ The results for the “nationally representative” unions were the following: CGT 22.5%, CFDT 20.6%, CGT-FO 12.5%, CFTC 6.8%, CFE-CGC 6.6%. Other (“autonomous”) unions won 7.4% of the votes.

Originally conceived by the legislator in 1945 as a cooperative body between the workforce and the company management, the CE is now a pure interest representation body. It has a mixed composition of elected employee representatives, union representatives and the employer, who chairs the body. This does not mean, however, that the works committee lacks the autonomy of a German works council, because it also meets separately and has the right to elect its secretary, which is roughly equivalent to the chairman of a German works council. But unlike the latter, the French works committee only has information and consultation rights, and no codetermination or bargaining rights.

Works committees often have an important autonomous budget for “socio-cultural activities”. They often run company restaurants, sports, leisure and holiday programmes. The minimum frequency of official meetings is monthly. The company has to inform the committee on a quarterly basis on the economic situation, on investments and organisational change. Once a year, it examines the annual report (in bigger companies also a “social report”). In doing so, it has the right to be assisted by experts (accountants). Since the Auroux reform laws of 1982, it has also had the right to be assisted by experts in case of technical change, as well as on subjects of their own choice (e.g. employment), in the latter case, it has to pay them on their own budget. The mandatory committee on health, safety and working conditions (*comité d'hygiène de sécurité et des conditions de travail*, CHSCT) is a subcommittee of the works committee.

In companies with more than one establishment, there is a central works committee (*comité central d'entreprise*, CCE), composed of delegates elected by the various works committees (two delegates per works committee). If the company has the form of a publicly listed company, the works committee delegates two or three representatives without voting rights to the board of directors (*conseil d'administration*).⁵

On the basis of the 1982 Auroux laws group committees (*comités de groupe*) can be established in companies which have the form of a group.

⁴ In establishments with 55 to 99 employees, where unions are often not present, they have won 55% of the vote.

⁵ In state-owned or privatised companies there are also elected employee representatives (up to one third of the board) with voting rights.

There are no official statistics, but a majority of big groups have set up such a committee. Like the works committee, it consists of both employee representatives and representatives of management. The head of the parent company has the chair of the committee, the employee representatives elect a secretary. The number of seats is determined by means of negotiations between trade unions and management (if failed by court ruling), with a maximum of thirty employee representatives, which means that some companies within big groups might not be represented. Legally, the group committee is not an emanation of the works committees but exists on the basis of trade-union rights. It is the trade unions that appoint their representatives for two years from the individual works committees in proportion to the results of works committees elections. Non-unionised employee representatives are therefore not present in group committees, unless they represent a majority within the group – a case not found in the reality of big groups. The committee meets at least once a year to be consulted on the economic and social development of the group. Management has to submit the group's consolidated balance sheet. Like the works committee, the group committee has the right to draw on the advice of external experts for this purpose. The group committee has served as a model for the first voluntary French EWCs and also for some of the prescriptions of the EWC directive.

In establishments with 10 or more employees, workplace delegates (*délégués du personnel*) can be elected. This oldest form of legal employee representation dates back to 1936. Workplace delegates are entitled to present individual or collective complaints to the employer. Since 1993, in small and medium-sized firms (less than 200 employees) works committees and workplace delegates can be merged into a unique workforce delegation (*délégation unique du personnel*). In 1999, workplace delegates or unique delegations could be found in 36% of all establishments with 10 or more employees, covering 70% percent of the workforce. They existed in 80% of establishments with 50 or more employees, where they covered 89% of the workforce (Ruelland 2001).⁶

The representation through unions and collective bargaining at the workplace level

In establishments with 50 employees or more, representative unions have the right to nominate one or more union delegates (*délégué syndical*), depending on the size of the establishment. In establishments with less than

⁶ In 2005-07 they were present in 87 % of these establishments (Jacod 2007).

50 employees, they can mandate a workplace delegate to fulfil this function. In companies with 200 or more employees representative unions have the right to nominate a distinct central union delegate (*délégué syndical central d'entreprise*). In establishments with less than 300 employees, the union delegates represent the union in the works committee. In larger establishments, the union can nominate another person as union representative for that purpose. Individual accumulation of different mandates is common. This allows for the accumulation of time-off for union activities. In big companies, unions negotiate supplementary time-off for their delegates, who in some cases have full time-off. Members of the same representative union are entitled to set up a union section (*section syndicale*) with certain facilities (posters, meetings, time-off, equipment). In companies with 200 or more employees the union has the right to a union room (shared with other unions, but distinct in companies with 1000 employees or more).

In 1999 union delegates (or mandated workforce delegates) were present in 67% of establishments with 50 or more employees.⁷ They covered 84% of the corresponding work force. Their presence is concentrated in the big companies (we find them in 96% of the establishments with 500 and more employees) (Ruelland 2001).

The law does not prescribe the role of union delegates. In practice, their main role is to negotiate the collective agreements at the establishment or company level. Such negotiations are legally mandatory for salaries and working time on an annual basis. Until 2004, it was sufficient for an agreement to have been signed by one trade union with representative status in order to be valid. In 2004 and 2008 a majority principle has been introduced by law. In order to be valid, a company-level agreement must be signed by one or more representative unions that received at least 30% of the votes cast in the first round of the most recent works committee or workforce delegate elections and must not be opposed by representatives unions that received at least 50% of the votes cast in the first round of the most recent works committee or workforce delegate elections. In the absence of a sector-level agreement choosing the model to apply, it is the second variation that is to be used. Representative unions at company level are unions that have received at least 10% in the elections.

In order to also allow bargaining on work-time reduction in small workplaces without a trade-union presence, a provision was created for employees to be

⁷ The more recent survey shows lower figures : 58 % in 1998-99 and 63 % in 2004-05 (Jacod 2007).

mandated by one or several trade unions. In order to facilitate the conclusion of collective agreements on other topics as well, the collective bargaining reform laws of 2004 and 2008 allow the social partners to reach sector-level agreements setting out the specific methods for bargaining in these cases. Such an agreement may allow workforce delegates or the works committee to negotiate and sign a company-level agreement. This, however, must be endorsed by the national joint committee for collective bargaining in the sector. If a company has no elected employee representatives, an agreement can be signed by a company employee mandated by a trade union. In that case, the agreement must be endorsed by a majority of the company's employees. In order to ensure his or her independence, this mandated employee may be "neither related to the company head, nor have decision-making powers similar to those of the company head".

The French employers hesitated for a long time before formally recognising trade-union presence. Trade unions were recognised by legislation in 1884, but obtained the legal right to have representatives at the workplace level only as late as 1968. Even afterwards many employers attempted in different ways to marginalise the trade unions in the workplace and to step up the role of the elected representative bodies. The trade unions, in turn, initially regarded the elected bodies with mistrust, because they feared that they would turn into an instrument of class collaboration.

Several sociological studies (Le Maître and Tchobanian 1992; Dufour and Hege 1994, IRES and DARES 1998) show that union attitudes have now become more realistic. Trade-union support for the work of the elected institutions is recognised today as a necessity in terms of promoting both the works committee's capacity for action and the trade unions' role of interest representation. Works committee and workforce delegates represent a necessary bridge to employees for the trade unions. Today, the trade unions are no longer in a position to pursue such strategies by virtue of their own strength, because union density has fallen so dramatically. The works committees in turn need the support of the trade unions in order to be able to counter employers' strategies to obstruct or embrace them. The Auroux laws adopted in 1982 were an attempt to consolidate the synergy described here by strengthening both the rights of the elected representatives (e.g. in relation to technological and economic changes) and those of the trade-union delegates (obligation to conduct regular bargaining). However, the functional division of labour and cooperation that would derive from this consolidation can arise only where both forms of worker representation are in fact present, i.e. only in large companies.

The legislative reforms of 1982 served, albeit unwittingly, to lay the basis for a series of paradoxical developments. Contrary to the intentions of the legislators, the legislative provision for trade-union presence in the workplace did not lead to a revival of the trade unions. On the contrary, trade-union density fell during the 1980s to an unprecedented level. This decrease in the trade unions' representativeness was to some extent offset, however, by the confirmation of their legitimacy gained by them in the elections for workforce delegations and works committees.

A further paradoxical development relates to the observed increase in workplace-level bargaining. In this respect the Auroux laws unleashed a movement which was at first surprising because until then French employers had sought to avoid workplace bargaining as much as possible. In the employer camp a strategic change took place which revealed the merits of decentralised workplace bargaining not only because such bargaining meets the new employer demands for flexibility but also because employers can exploit any change in the balance of power to the detriment of the trade unions much more quickly at the workplace level than at the national level.

Against this background it would therefore be premature to try and interpret the extension in the number of workplace agreements recorded by the annual reports issued by the Ministry of Labour as an increase in social regulation. A representative survey conducted by the Ministry of Labour on industrial relations at the workplace level pointed much more to the rather token nature of much workplace bargaining (Cézard et al. 1996). In terms of pay regulation, there exist several modes of determination: regulation by the State (for minimum wages); joint autonomous regulation by collective agreement concluded at sectoral, workplace or company level; employer paternalism accompanied by pseudo-consultation, unilateral regulation by the employer. In workplace pay-bargaining the outcome frequently corresponds to the employer's initial intentions. Only in a few cases are the trade-union bargaining partners in a position to push through their own demands and resort to industrial action if necessary. The official industrial action statistics show that the previously high level of conflict between the two sides of French industry has fallen from being rather high by European comparison to occupying a below-average position. Only in the public sector have significant strikes taken place, in some cases on quite a major scale (as in the December 1995 strikes).

6.2. The transposition of the EWC directive and its application in France

The transposition of the directive

In France, the directive has been transposed by a law adopted by the French Parliament on the 12th of November, 1996, called “law N° 96-985 concerning the information and the consultation of employees in community-scale undertakings or groups of undertakings”.

As usual, social partners were consulted by the French Ministry of Labour during the process of preparing legislation, precisely before and after the elaboration of the draft law. None of the social partners made any attempt to reach a transposition by agreement. There was a large consensus that the EWC issue is a matter of “social public order” and therefore requires transposition by law.

French legislation has not provided better conditions for workers’ representatives in the EWCs than those given in the directive. In some cases, it has even been more restrictive. For instance, the French transposition law has made full use of the possibility offered by the directive to limit the funding provided by the company to cover only one expert of the special negotiation body (SNB) (respectively of an EWC according to the subsidiary requirements of the directive).

The French participants of the special negotiation body or the EWC according to the subsidiary requirements are appointed by the unions in proportion to their results in the last works committee (*comité d'entreprise*) elections. They must be chosen from among the elected representatives in these committees. This mode of appointment is analogous to the rules of appointment of the French group committee (see above).

The French law of transposition (Labour Code art. L.439-6) repeats the definition of the consultation procedure of the directive (art. 2.1.f), defining it as an “exchange of views and establishment of dialogue”. This is less far-reaching than the consultation rights of the national works committees, which have a right to prior information and consultation on a large number of issues and which must be consulted “in due time” in the case of collective redundancies.

The contradiction between the two concepts of consultation have been subject to a court dispute during the Renault-Vilvoorde affair (cf. below, part 2.2.3).

French companies with EWCs

In France, there are no official data bases containing information on EWCs. All the actors, including the employers' association MEDEF, use the European Trade Union Institute database to identify French parent companies that have set up an EWC. According to Kerckhofs (2006), in 2005, 79 companies headquartered in France had established an EWC, out of 210 companies theoretically affected by the EWC directive. By mid 2008, this ratio was 92 out of 209 (ETUI EWC Data Base). This gives us a compliance rate of 44.9%, which is significantly higher than the average rate of all countries of ownership (35.6 % in 2007 according to ETUI 2008). In 2005, 676 companies with an EWC were operating in France, out of 1539 companies theoretically affected by the directive. These figures reflect the high degree of active and passive internationalisation of the French economy.

French companies were the first to set up EWCs on a voluntary basis, already during the decade before the adoption of the EWC directive in October 1994. The first EWC was set up as early as 1985. The French term generally used for EWCs at that time was *comité de groupe européen* (European group committee), which borrowed from the *comité de groupe* introduced into French domestic legislation in 1982 (see above). Throughout this chapter we will use the term "European works council" (EWC), which was later adopted in the English version of the directive of 1994.⁸

Most of these first agreements of the 1980s were the result of employers' initiatives. There was therefore a kind of "paternalistic" bias in them. Most of these initiatives came from state-owned companies. After 1989 there was a substantial increase of EWCs in French companies, backed up by the clear encouragement of the Socialist government. In July 1989 Prime Minister Rocard wrote to the chief executives of public companies calling on them to behave in an "exemplary" way on the issue of social dialogue and to set up European group committees. The existing arrangements have not, however, been put in jeopardy by re-privatisation.

In addition to political pressure, there were other motivations for French companies to establish EWCs. Whether the companies were nationalised or not, the initiatives have involved managements concerned with fashioning long-term strategies in both the economic and social fields. Such initiatives

⁸ The directive uses in its French version the term *comité d'entreprise européen* (European works committee), borrowing from the terms used in domestic legislation on workplace employee representation.

were part of a broader approach to technical and industrial change which anticipates such change and seeks to prepare the necessary adaptations to it over the long term. This approach seeks to involve the trade unions in corporate decisions by informing them of the economic environment and discussing management's strategic intentions. The transnational and specifically European dimension played a central role here. It was the declared aim of management to use EWCs to promote a common awareness of the problems and a European "corporate identity" amongst employees and their trade-union representatives. Indirectly, EWCs were also used to contribute to the harmonisation of personnel management practices within the group and, especially, to help develop a common policy for dealing with industrial relations, despite continuing differences between personnel management in the individual European subsidiaries.

The voluntary EWCs before the directive of 1994

One might say that the pioneer agreements of French MNCs in the phase before the passage of the EWC directive were success stories, in the sense that they helped demonstrate that EWCs are in no way noxious to the economic competitiveness of MNCs, as the employers' association UNICE pretended. Until 1990, all voluntary EWCs were of French origin. They were then followed by German initiatives, mainly from Volkswagen and the chemical sector. At the time the EWC directive was adopted in 1994, 36 multinationals had voluntarily adopted an EWC, half of them (18) were French. Until the directive came into force on the 22nd of September, 1996, another 23 French companies adopted an EWC, making use of article 12, which allowed for the establishment of an EWC on a voluntary basis without creating a special negotiation body on the basis of article 6. As most of the big French multinationals were required to set up an EWC, "article 6 agreements" concluded since 22 September 1996 generally concern smaller companies. Only some big multinationals like Air France, France Telecom or EDF were late comers in this respect.

The first EWC was inaugurated on the 7th of October 1985 at Thomson Grand Public⁹. The initiative for the creation resulted partly from the initiative of the European Metalworkers' Federation (EMF) to coordinate trade-union activities within multinational concerns at the European level. The EMF also set up a number of working parties for individual companies

⁹ Thomson Grand Public was at that time a subsidiary of the French electronics company Thomson. It later changed its name to Thomson Consumer Electronics, then to Thomson Multimedia. It is now simply called Thomson.

that provided a forum for trade-union representatives from the European subsidiaries of these companies to regularly meet. One of these working parties at Thomson Grand Public sought to enter into discussions with the company's top management on employment problems that had arisen as a result of international concentration and restructuring in this sector. Two conditions favoured the success of this strategy. First, the new top management of the company, which had been installed following nationalisation in 1982, was more open to social dialogue than its predecessors. Secondly, the company had run into unexpectedly stiff trade-union opposition to the closure of one of its plants in Germany and was therefore eager to improve its somewhat tarnished international reputation.

During the period in which the ETUC and Thomson were negotiating the first agreement, similar transnational discussions were taking place between the French company BSN¹⁰ and the international trade-union secretariat for the industry, the International Union of Foodworkers (IUF) in Geneva. The BSN case was special in that it differed somewhat from the model of the other EWCs. BSN was not a state-owned company, but its chief executive, Antoine Riboud, was a member of the Socialist Party and had a strong humanistic and participative approach to industrial relations. It was on his personal initiative that a dialogue structure with the International Foodworkers' association was established. Riboud met the General Secretary of the IUF, together with a group of trade unionists in Geneva in April 1986. An agreement was reached on holding regular meetings, to which the European Committee of Food Catering and Allied Workers (ECF-IUF), the European industrial committee affiliated to the ETUC, was also invited. The result was not an EWC as we now know it, but a bipartite concentration structure. Differently from the other EWCs, it was not only designed to be an information-consultation body, but a truly transnational collective bargaining unit. The initial reservations of the BSN management towards any premature institutionalisation of this arrangement may be explained by the fact that they did not want to come into further conflict with the French employers' association, in whose eyes they had already been marked down as too union-friendly.¹¹ On the 23rd of August 1988 BSN and IUF signed a "Joint Opinion" in Geneva which was followed by a series of international

¹⁰ BSN has now changed its name into Danone

¹¹ A further explanation for the informality in the initial phase may have been the desire not to appear inhospitable to the CGT, which was not a member of the IUF at that time and which was the largest union - by number of elected employee representatives - within the company. In order to compensate the CGT for being excluded from the BSN-IUF dialogue, the BSN management agreed to a CGT proposal for a European Economic Committee in the glass sector within BSN, on which non-IUF unions were also represented.

framework agreements negotiated at that level. After the passage of the EWC directive, the dialogue structure has been brought into conformity with the information-consultation type described in the directive. A formal agreement has been signed to this end.

Before the adoption of the EWC directive in 1994, 16 other French MNCs, mostly from the public sector, followed the same path and established an EWC on a voluntary basis: Bull (1988), Pechiney (1990), Rhône-Poulenc (1990), Elf-Aquitaine¹² (1989), Europipe (1991), AGF (Assurances Générales de France) (1991), Airbus Industrie (1992), Eurocopter¹³, (1992) Saint-Gobain (1992), Renault (1993), Thomson-CSF¹⁴ (1993), Générale des Eaux¹⁵ (1993), Schneider (1993), Usinor-Sacilor (1994), Accord (1994), Credit Lyonnais (1994).

Between the adoption of the directive in September 1994 and its coming into effect in September 1996, another 23 “voluntary” EWCs were set up in the following French companies: Alcatel Alsthom, Axa, BNP, Bouygues, Chargeurs, Club Méditerranée, DMC, Eridiana Beghin-Say, Framatome, GAN, GEC Alsthom, L'Oréal, Lafarge, Lyonnaise des Eaux, Matra-Marconi, Matra Hachette Lagardère, Moulinex, PPG, Primagaz, PSA Peugeot-Citroën, Société Générale, Soparind Bongrain and UAP.

EWCs in the automotive sector

For a long time, the two big French car-manufacturers remained relatively out of touch with the initiatives aimed at the voluntary creation of EWCs in other French multinationals. It was only in April 1993 that Renault signed an agreement on the creation of a EWC called the “European Group Committee”. The agreement was signed by the management and eight trade unions. The ETUC-affiliated unions built a negotiating commission that embraced the CFDT, Force Ouvrière, the CFTC, the two Belgian unions CSC and FGTB, the Spanish *Comisiones Obreras* and the UGT. The French CGC, which is not affiliated to the ETUC, signed in the name of FIEM, the metal federation of the European Confederation of Executives and Managerial Staff (CEC). The CGT, which at that time represented the

¹² Elf Aquitaine has now merged with Total and Fina to become Totalfinaelf.

¹³ After the integration of Airbus into EADS (European Aeronautic Defence and Space Company), created in 1999 by the merger of Aérospatiale-Matra with DaimlerChrysler Aerospace and Casa, an agreement for the creation of a EADS EWC was signed in October 2000. It foresaw the creation of European subcommittee for each of the group's sub-companies: Airbus, Astrium and Eurocopter.

¹⁴ Thomson-CSF is now part of Thales.

¹⁵ Générale des Eaux has now changed its name into Vivendi.

majority of delegates to the French central works committee, did not sign the initial agreement. The European group committee consisted of thirty workforce representatives from nine countries, sixteen from France, four from Spain, and two each from Belgium, Portugal and the UK. Two seats were initially reserved for Volvo employees as observers. According to the agreement, any one of the five trade unions represented at the French parent company were entitled to send a delegate, the number of remaining French delegates depending on the results of the elections to the french works committees. Initially, there were six representatives from the CGT, four from the CFDT, three from FO, two from the CGC, and one from the CFTC. A permanent seven-person select committee (*secretariat*) was set up, consisting of four french and three non-French delegates. According to an internal agreement, it is limited to unions affiliated to the EMF.¹⁶ The select committee had an annual budget of 300.000 FF at its disposal (essentially for travel costs). Its secretary had 150 hours, the other member 100 hours of off-time per year.

The agreement was initially signed for two years. After the failure of the merger with Volvo, a new agreement was signed in May 1995 by the five French unions (this time including the CGT), the two Spanish unions and the Belgian SCS (but this time not the FGTB). It was identical to the initial agreement, except for the geographical composition. After the courts found Renault's management guilty of not having informed or consulted its EWC before announcing the closure of the Vilvoorde factory (cf. below), Renault and the unions signed a rider to this agreement on the 6th of March 1998, establishing the right to consultation over any sizeable restructuring plan. Basing itself on the wording of the Volkswagen EWC agreement, this consultation must be "timely", in order that "parts of the debate can still be incorporated into the decision-making process".

On 27 October 2000, another rider to the agreement was signed by the Renault management, the five French union federations CFDT, CGT¹⁷, CGT-FO, CFTC and CFE-CGC, the Spanish unions CCOO and UCGT and the Belgian unions CSC and FGTB. It merged Renault's EWC and its French group committee into a new "Group Committee Renault", which became de facto a genuine world works council by opening up the EWC to observers from subsidiaries outside the EU. The 30 seats on the new

¹⁶ This was the reason why the CGT, at that time not yet a member of the EMF, did not sign the initial EWC agreement .

¹⁷ This time the CGT metal federation also signed in the name of the EMF, to which it is now affiliated.

Council are currently distributed in the following way: 18 seats for France (one per nationally-representative union, with the rest distributed according to works committee election results, i.e. 6 CGT, 4 CFE-CGC, 3 CFDT, 3 CGT-FO, 2 CFTC), four for Spain, and one each for Austria, Belgium, Germany, Great Britain, Italy, Luxembourg, the Netherlands and Portugal. There are six more seats for observers (with one deputy each) representing Slovenia, Romania, Turkey, Brazil, Argentina and South Korea, respectively. The select committee is composed of a French secretary and seven deputy secretaries (three French, two Spanish, one Belgian, one German). Extraordinary meetings, both of the EWC and of the select committee, are planned “in the case of an exceptional decision having transnational consequences in the European context and being of a nature that will substantially affect the workers’ interests”. According to the French legislation, the national group committee has the right to be assisted by a financial expert (accountant). This expert will now be nominated jointly by the new (world) group committee and the (national) central works committee of Renault. The world group committee now has annual budget of 68,000 Euros. Its select committee has an extra budget for travel costs. The annual expenditure on the chartered accountants is restricted to 45,700 Euros. These costs will be reviewed annually according to the rate of inflation in France. The secretary now has full off-time, the other members 200 hours annually.

As Renault owns a significant share of Nissan and is endowed with managerial responsibility, the meetings of the Renault committee will now coincide with those of the Nissan EWC, in order to facilitate communication between the employee representatives of the two groups.

In April of 2003, a rider to the EWC agreement contained an requirement of the Renault management to respect the ILO principles of basic labour standards. In October 2004, a “declaration on basic social rights” was signed by the Renault management, the International Metalworkers’ Federation IMF, as well as the unions and the select committee of the Renault world works council, which plays a monitoring role in the implementation of this agreement.

The second French automobile producer, PSA Peugeot Citroën, was part of those companies which, like the French metal employers federation UIMM as a whole, were firmly opposed to an EWC directive. PSA finally set up an EWC on 28 August 1996, only a few weeks before the European directive came into force. In 1999 a select committee, called *comité de liaison* was set up, with secretary and deputy secretary positions restricted to candidates

from France. In October 2003 a new EWC agreement was signed by the PSA management, the EMF, the FIEM and the six representative company unions CFDT, CFE-CGC, CFTC, FO, CGT and GSEA. It merged the EWC with the existing French group committee. The select committee's secretary is now open to other countries. French trade-union delegates are now also entitled to be delegated to the EWC, and not only elected delegates from the works committees. In March 2006, the PSA, the EMF and the IMF have signed an international framework agreement on corporate social responsibility. On the basis of this agreement, the EWC has been enlarged to include union representatives of PSA subsidiaries in other continents (particularly in Latin America). Over a time span of three years they will participate as "observers" in the plenary sessions of the EWC. After that period, the parties will meet again in order to evaluate the experience and eventually to formally transform the EWC into a world works council.

Amongst the equipment producers, Valéo set up its EWC in 1999. Faurecia, which was formerly part of PSA and covered by the PSA EWC, has also established its own EWC.

Common features and recent tendencies

Composition: the "French model" of EWCs

Most of the voluntary EWCs established by French companies before the adoption of the European directive of 1994 were set up on the initiative of management. In many cases, the bodies continued to have an experimental and informal character for some time, although most were formalised after a probationary period. In the beginning of the pioneer phase, managements negotiated with trade-union representatives at a high level including, from the outset, at the level of European trade-union industrial committees. But later negotiations also took place at a more decentralised level. Generally, negotiations on updating agreements have taken place directly with the EWC representatives recognised by management.

The modes of operation of the EWCs are just as diverse as the preceding pattern of negotiations. Most apparent is the diversity of names chosen: "European Group Committee", "European Information Committee", "European Committee", "European Dialogue Body" etc. Behind this diversity was the desire of management to emphasise the experimental and informal character of these bodies. Some of the first EWCs were weakly institutionalised, at least at the beginning. Since the adoption of the directive however, the degree of institutionalisation has considerably increased.

Despite this diversity there is a common feature of the French EWCs that stems from the model of the statutory French group committee (cf. part 1.2.1). Like the French *comités de groupe*, nearly all French EWCs are joint bodies chaired by the employer.¹⁸ The institution of a secretary and a select committee that coordinates and represents the interests of the various workforce representatives between meetings has become increasingly common. In 2005, 77 % of the EWC agreements provided for a select committee (Kerckhofs 2006: 54). Where such a body exists, it usually participates with management in the preparation of the annual meeting.

During the pioneer phase, one could distinguish between two different approaches by management to the composition of EWCs. One gave preference to periodic meetings with senior trade union officials at the European level. The other preferred to confine social dialogue to workplace representatives within the company. After 1994, there was a clear tendency towards the latter approach, which borrowed heavily from the structure of the French *comité de groupe*.¹⁹ In some instances there was even a formal link to the coexisting national *comité de groupe*, the EWC either functioning essentially as an extension of the former or, in some cases, replacing it entirely.

As far as the French employee representatives in the EWCs are concerned, management initially wanted to assure that all trade unions represented in the French group should have a seat on the EWC. The appointment of workforce representatives from foreign subsidiaries usually follows national practice. Even where the choice is left to local managements, these generally opt for general criteria such as proportionality to workforce size and representativeness.

In all cases, whether on the subject of unilateral management decision or negotiations, only the number and type of workforce representatives is clearly defined. The choice of the individual remains a matter for the relevant trade union or works council. In order to ensure that the body can function effectively, the total number of representatives is generally fixed at a maximum of thirty, close to the subsidiary rules of the directive.

¹⁸ In 2005, 88 out of 92 French-based EWCs were joint bodies (Kerckhofs 2006 ; 54).

¹⁹ Significantly, the initial combination of the two structures experienced in the first EWC agreement at Thomson Consumer Electronics was later abandoned in favour of a single structure based on the second model.

Information and consultation rights

Despite the fact that many committees have the words “information” and “consultation” in their title, most of the French EWCs established on a voluntary basis were restricted to information disclosure. None of the agreed arrangements provided mechanisms for conflict resolution. Neither the scope nor the timing of information disclosure were regulated in any mandatory way, and no time-limits were set by which the committee was required to express a view. The subjects on which information was to be disclosed were generally defined in only the broadest terms and usually embraced the economic situation of the group, business prospects and business strategy at the European level. In many cases there was explicit reference to the possible effects of strategic decisions and international restructuring on employment as an object of prior information and consultation – but again without any binding regulation as to the timing and scope of the information.

Things have changed, however, since the ruling delivered by the Nanterre and Versailles courts concerning the Renault-Vilvoorde case. In 1997 the Renault EWC brought a case which claimed that the management's announcement of the planned closure of the Vilvoorde (Belgium) Renault plant, without providing prior information and without consulting the EWC, was unlawful. The French court of first instance (*tribunal de grande instance*) in Nanterre ruled in favour of the EWC on the 4th of April 1997, convicting the management of Renault of not having informed and consulted its EWC *in due time* about the closure of Vilvoorde. Renault appealed against this ruling and the Versailles court of appeal upheld it on the 7th of May 1997. The Renault management held that in the voluntary EWC agreement, which had been renewed in 1995 after the vote of the directive, the only written requirement was to hold a meeting once a year and that there was no written requirement to hold special meetings or to give prior information in case of exceptional events. The essential point of the argumentation of the Versailles ruling was that the Renault EWC agreement should be interpreted not only in light of the directive, but also in light of the objectives of the directive as well as of the objectives of the European Charter of Social Rights of 1989, to which the directive refers in its preamble. The Charter laid down as a guiding principle that information and consultation must be implemented “in due time”, particularly in the case of restructuring operations and collective redundancy procedures. Quoting the terms of the directive, the Versailles court considered that any decision “having a significant effect on the interests of employees” must lead to information and consultation of the EWC. Changing the ruling of the

Nanterre court, the Versailles court stipulated that this consultation must not necessarily take place prior to the decision, but must at least have “useful effects”, which means that consultation must leave scope for “observations, contesting and criticism”, in such a way that the initial decision can still be modified.

A matter that is still controversial is that of the relationship between the consultation processes of the EWC and those of national representative bodies. Some jurists argue that the two procedures should run concomitantly. Others give priority to the EWC. Two rulings have recently borne out the latter interpretation. The secretaries of the company-wide works councils of two French firms (Alstom and Altadis) refused to sign the agenda of a meeting called for the announcement of restructuring, on the grounds of the lack of consultation with the EWC. The two courts backed them. In the Alstom case, the Nanterre court of first instance maintained that holding the initial consultation on a European scale was the logical way to proceed in the search for an overall solution that might influence the plan presented in the national consultation. The argument however, was far from over, since in 2003 the same court validated the opposite hypothesis, i.e. that consultation processes should run concomitantly, in another case (STMicroelectronics).

Experts and material facilities

Two additional elements could make it easier for a common view to be reached among national employee representatives: the use of experts and the participation of external trade union officials. Initially, management was often reluctant to take up either of these. But more recently, improvements were made in the agreements in relation to the use of experts and to operating costs.

Some agreements have set out overall annual budgets for the commissioning of experts, for instance 76,000 EUR at Sanofi-Synthélabo; 70,000 EUR at EDF; 45,000 EUR at GDF; and 18,300 EUR at Air France. At Michelin, the budget stands at 60,000 EUR over a three-year period. If more is to be spent, management approval is required, as it is in the selection of the expert. If the EWC is merged with the French group-level works council, the new council will have the right to use the services of a chartered accountant (as is provided for by French law). At Axa, there is an annual operating budget of 76,000 EUR (including the fees of commissioned experts), with payment to cover costs made on the basis of receipts.

Revisions of agreements

Modifications to the company structure make changes in EWC composition often necessary. They also provide occasions for changes to the rights and responsibilities of the EWC. Revisions of EWC agreements are often made by negotiating a rider rather than renegotiating an agreement according to article 6 of the directive with the establishment of a special negotiating body (SNB). This is valid even for those cases in which a new EWC is set up after the merger of two companies, each of which already has an EWC. A good example of this is the establishment of the EWC for Aventis, a group legally based in France after the 2000 merger of the German Hoechst and Rhône-Poulenc. In other cases, the agreement was renegotiated by an SNB as in the case of Arcelor. After Usinor merged with the Spanish Aceralia and the Luxemburg Arbed into the new company Arcelor, which is legally based in Luxemburg, a framework agreement was signed in April 2002 for the setting up of an EWC with large consultation rights in case of transnational restructuring. In January 2004, after a mediation by the EMF, the unions also obtained three representatives on the Arcelor board of directors, one from France, one from Luxemburg and one from Spain. After the merger of Arcelor with the Indian Mittal Steel Company in 2006, the establishment of a Arcelor-Mittal EWC has been agreed in 2007 and the presence of three union representatives on the board has been maintained.

Concerning the changes in the list of subsidiaries and affiliates included in the group, the most recent trend is the transformation of EWCs into world works councils. In 2003, Renault has set up a world group committee in a rider to the agreement on the EWC. PSA intends to do the same. Like Renault, other groups have also merged their EWC with their French group committee.

In respect to the changes in EWC rights and responsibilities, the most noteworthy improvements involve the introduction of the right to prior information sharing with the national works committee, i.e. *in due time*, when restructuring is being planned. These improvements are linked to French case law derived from the Renault-Vilvoorde case in 1997. Recent agreements and riders have generally incorporated this established right. In some agreements, an extraordinary meeting may be held at the request of the EWC executive board, even if restructuring only affects one country. This was the case of the 2002 rider to the Axa agreement, but it is confined to exceptional and particularly serious circumstances having considerable impact on the interests of at least half of the staff employed in one country.

EWCs and restructuring

In the wake of the Renault Vilvoorde case, French companies have usually informed the EWC or the select committee about extensive restructuring plans. Also, a special plenary meeting of the EWC is often called by management.

A smoothly running EWC is not sufficient to genuinely influence corporate decision-making on its own. Achieving this also requires strong coordination with other (national and local) representative and negotiating bodies. In the final analysis, the operation of EWCs seems to be less a substitute for, and more a supplement to the (national and transnational) mobilisation of workers. It is therefore not in spite of, but due to the existence of an EWC that *euro-strikes* and *euro-demonstrations* have been organised to protest particular restructuring plans, such as those of Renault, Alstom²⁰ and Alcatel.

Some EWCs have addressed the issue of corporate social responsibility (CSR). A survey carried out by the Syndex expert cabinet has shown that EWC involvement in this issue varies widely (MARSCEE 2004). In some companies, neither the EWC, nor the management have broached this matter, while in others the management is acting, but basically in a unilateral and discretionary manner. When EWCs do focus on CSR, the subjects tackled are primarily health, safety and training.

Transnational agreements signed by EWCs

French multinationals were among the first to sign international agreements. At Danone (formerly BSN), for example, the first agreement was signed as early as 1988, and others followed which addressed restructuring, union rights and gender equality. Such agreements are now called international framework agreements (IFAs), when they are negotiated and signed by a global union federation (in this case the IUF). A growing number of firms have signed international framework agreements on corporate social responsibility and on compliance with basic, internationally-recognised labour standards. French multinationals are playing a major role in these developments. In many of these framework agreements EWCs (or a world works councils) are involved as a co-signing party and/or as a monitoring institution. This is the case for the IFAs signed by the following French multinationals: Danone, Suez (1998), Air France (2001), Carrefour (2001),

²⁰ On the ABB Alstom Power case see Erne 2008.

Renault (2004), EDF (2004), EADS (2005), PSA (2006). EWCs have also signed a large number of European framework agreements with French multinationals such as Vivendi (1996), Suez (1998, 2002, 2007), Bouygues (2001), Club Méditerranée (2001), Usinor (2002), Air France (2007). Many of these agreements have been co-signed by European industry federations and/or French unions. In a few cases, such as Totalfinaelf (2004, 2005, 2007), Areva (2006) and Schneider (2007), European framework agreements have been signed by a European industry federation without the co-signature of an EWC. However, in some of these cases the EWC was involved in the negotiation process (cf. European Commission 2008; Telljohann et al. 2009).

6.3. EWC-research in France

There has not been much research conducted in France on EWCs. Since French companies were the first to introduce EWCs on a voluntary basis, research began rather early. Despite this precocity, the academic debate concerns only a small amount of research and research centres. Language problems might explain the limitation of empirical cross-national research and the paucity of French participation in the international debate.

During the pioneer phase, empirical research was limited to a small number of case studies, namely those concerning Thomson, Saint-Gobain, BSN-Danone, Bull, Rhône-Poulenc (cf. Couëtoux and Di Ruzza 1990; Jobert 1990, Rehfeldt 1992, 1993).

The research of Couëtoux (1990) and Di Ruzza (1992, 1995) was conducted in the ISERES, a research institute of the CGT. Their results paint a sceptical picture as to whether the EWC constitutes an adequate answer to the challenge of internationalisation. Couëtoux and Di Ruzza think that the strategic dimension for multinational corporations is the world market, whereas for the unions it remains the nation-state.

In her research on BSN-Danone, Annette Jobert (1990) focuses on the new social strategies of management. In cooperation with her Italian colleague, Fausta Guarriello (1992), she was among the first to empirically analyse the effects of an EWC on the industrial relations of foreign subsidiaries.

Rehfeldt (1992, 1993, 1994, 2000, 2002) introduces a comparative and historical dimension. He distinguishes different historical phases in the reactions of the unions to the process of internationalisation. The EWC directive is seen as the result of the provisional failure of an autonomous

union strategy directed towards collective bargaining within multinational companies (MNCs), as was proposed in the 1970s by Ch. Levinson and the international trade union secretariats, which are now called the “global union federations” (GUFs). This failure is related to the absence of a legislative framework at the international level. In his recent research in collaboration with Isabel da Costa on transnational collective bargaining in the automotive sector, Rehfeldt shows that EWCs have reactivated the question of transnational bargaining in which the global union federation can now again play an active role (da Costa and Rehfeldt 2006, 2007, 2008). Rehfeldt was the French correspondent for two comparative studies on MNCs and their subsidiaries in four European countries (Lecher et al. 1998, 2002). These studies show that the best practice of EWCs is found in German- and French-based MNCs, but that it is less dependent on the nationality of the MNC than on the dominant industrial relation and union culture.

This comparative aspect has been further developed in the study directed by Jacquier (1996, 1998) in the framework of the CODE (Centre d'Observation de la Directive Européenne), a bipartite observatory established by the French association of personnel directors ANDCP, the French employers organisation CNPF (now: MEDEF) and four national unions (CFDT, CFE-CGC, CFTC, CGT-FO). Jacquier's study was conducted in association with foreign research centres and concerns 24 MNCs and their subsidiaries in several European countries. The main finding was that there is a great variety of developments and that it is too early to make general conclusions.

Another comparative project was conducted by Giusto Barisi (1999, 2001) for the French Ministry of Labour. It concerns two French-based MNCs and two foreign MNCs with subsidiaries in France. Barisi shows that EWCs do not influence the MNCs decision-making processes very much. They are rarely consulted on strategic subjects. A big restriction on the efficiency of EWCs is the absence of confidence between union representatives of different countries. In some cases, there is an open fight for hegemony within the EWC, in others, the minority representatives do not actively participate in the work of the EWC, preferring to concentrate on action at the national level.

Most previous research has been conducted by sociologists, political scientists and economists. Since the passage of the EWC directive, the juridical literature on the issue has increased. With a few exceptions (Lyon-Caen 1997; Moreau 1997; Didry 2004), law specialists did not pay much attention to this subject before. After the Renault-Vilvoorde affair and the

court rulings cited before, the juridical discussion focussed on the problem of timely consultation in the case of restructuring.

The same issue, combined with the implication of external experts, has been the subject of studies for the European Commission conducted by Alpha Consulting (1998) and Syndex, two expert cabinets working for French enterprise committees, on the “conditions of efficiency of consultation of EWCs in case of restructuring”.

Although they cannot be considered the results of genuine research, several reports have been published by unions, employers’ associations, or civil associations. The Fondation Europe et Société is a prime example, as it has organised study days on the EWCs’ achievements, especially in the context of restructuring (Europe et Société 1994, 2001, 2002, 2003, 2007).

Among the unions, there is a degree of EWC-monitoring fatigue. In June of 2004, however, the CFDT organised a large meeting of elected works council members from multinationals on the topic of corporate social responsibility (CSR). The union commissioned the expert consultancy Syndex to conduct a survey of the role of EWCs in CSR (MARSCEE 2004). This research was carried out in a dozen multinationals in France and three neighbouring European countries with the support of three unions: the Belgian CSC, the Spanish UGT and the Italian CISL (cf. 3.2).

Among the younger researchers, Elodie Bethoux (2004) has conducted research with a lexicographical approach on EWC agreements. She has written a doctoral thesis (2006) on this topic which is not yet published.

6.4. The discussion on the revision of the EWC directive in France

Neither unions or employers’ associations have adopted any specific public stance on the European Commission’s consultation process with a view to the possible revision of the directive. The French employers’ association, the MEDEF completely shared the opinion of the European employers’ association UNICE, of which it is a member, that revision is undesirable. The MEDEF particularly emphasise the possibility of carrying out a survey of techniques for improving the effectiveness of EWCs as part of the European social dialogue process. The French union confederations shared the opinion of the ETUC.

Some small differences in position can be discerned, however. The CGT-FO did not see revision as a pressing matter. Moreover, it was particularly

reluctant to engage in revision through bargaining with employers' associations, and is clearly opting for legislative amendments.

As part of an internal consultation process launched by the European Confederation of Executives and Managerial Staff (CEC), the CFE-CGC stated its position in a working paper dated 12th of May 2004. In it, the union advocated specific representation for supervisory staff in the composition of future SNBs and EWCs. This was justified on the basis of the growing proportion of managerial staff in company personnel. This category of workers is supposedly most affected by occupational mobility within Europe. The particular skills required by managerial posts give such staff a "better understanding of the problems (...) of companies" and enable them "to participate in quality dialogue with management, as they are more capable of making proposals than others, and, due to their overall vision, to be the best defenders of the interests of all employees". The CFE-CGC demanded first and foremost that a revised directive provide SNB's the option of getting help from a representative of either a European managerial staff union-federation, or from the CEC. The CFE-CGC's other claims for revision were similar to those put forward by the ETUC: improved procedures, a shorter bargaining period, more rights and responsibilities for EWCs, etc.

6.5. Future prospects of EWCs in French multinationals

In France, the number of EWCs, their rights and responsibilities, and their practices are constantly developing. Some practices are even ahead of the prescriptions set out in the EWC directive. However, progress has been uneven, and there are still some gaps. On the union side, support for EWC activities is now part of the routine of national union federations, which also serve as intermediaries between the employees' representatives at company level and the European union federations. As this progress has continued, EWCs have become a less important element in the practices of the French union confederations. The question of revision did not disrupt this observed development. The same observation applies partially to employers' associations. The employers' stance on the issue of EWCs has historically been less unified than the union one, as a few companies had set up EWCs on a voluntary basis long before the adoption of the directive and despite the opposition of other firms toward legislation at the European level. The 1994 directive had the effect of bringing employers' positions closer together in practice.

The question of a potential role for EWCs in transnational collective bargaining has re-opened divisions among the employers. Most French multinationals want to see the role of EWCs strictly limited to information and consultation, with collective bargaining taking place only at the national or local level. Others have accepted the EWC as a bargaining partner for the negotiation of transnational agreements. A very small minority has agreed to negotiate directly with a European or an international union federation.

Abbreviations

CEC	European Confederation of Executives and Managerial Staff
CFDT	Confédération Française Démocratique du Travail
CFTC	Confédération Française des Travailleurs Chrétiens
CFE-CGC	Confédération française de l'encadrement - Confédération générale des cadres
CGPME	Confédération Générale des Petites et Moyennes Entreprises
CGT	Confédération Générale du Travail
CGT-FO	Force Ouvrière
ECF	European Chemical Workers' Union (now merged into EMCEF)
ECF-IUF	European Committee of Food Catering and Allied Workers
EMF	European Metalworkers' Federation
ETUC	European Trade Union Confederation
FIEM	metal federation of the CEC
FO	Force Ouvrière
GUF	global union federation
ICFTU	International Confederation of Free Trade Unions
IFA	international framework agreement
IMF	International Metalworkers' Federation
ITUC	International Trade Union Confederation
IUF	International Union of Foodworkers
MEDEF	Mouvement des Entreprises de France
MNC	multinational company
SNB	special negotiating body
SUD	Solidaires, unitaires, démocratiques
UIMM	Union des Industries Métallurgiques et Minières
UPA	Union Professionnelle Artisanale
WCL	World Confederation of Labour

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Chapter 7

European Works Councils in Spain

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7.1. Industrial relations in Spain

Historical context

The current system of industrial relations in Spain is mainly the product of two interlinked historical processes: the democratic transition after the long dictatorship of Franco (1939-1975) and incorporation into the developed western world symbolised by Spain's accession to the European Union in 1986. After the defeat in the Civil War (1936-39) and 40 years of cruel dictatorship, the death of Franco allowed for a relatively peaceful transition towards a modern capitalist democracy with freedom of association and democratic industrial relations.

As regards industrial relations, the period of democratic consolidation from 1977 to 1986 was characterised by a series of tripartite agreements on the basic norms of the new democratic industrial relations system and the impact of the severe economic crisis which led to high unemployment and inflation rates. The unions found themselves trapped between the need to defend the workers' interests against massive layoffs and net-income losses and the pressure to restrain their action so as not to destabilise the fragile democratisation process. Until the mid-1980's inter-union competition was extremely fierce with the main organisations UGT and CCOO fighting for hegemony and reproducing the competition between the two left political parties, PSOE and PCE.

EU accession (1986), the end of tripartite concertation (1985) and the following nationwide general strike against the neoliberal social and labour reforms of the socialist government (1988) represented a turning point in Spanish industrial relations. The unions emancipated themselves from political party tutelage and started to cooperate within the framework of a common action agreement. Since that time they have entered into collective bargaining with common strategy platforms.

Since the mid-1990s Spain has experienced a period of political and economic stability within the framework of the EU. This period has been characterised by decreased labour combativity, considerable economic and employment growth rates and a new de-industrialised economic development model, based on the construction and service (financial, social and above all tourism) sectors. All industrial relations actors have benefited from the employment increase, the sane state, social security and national employment institute budgets and a lower level of industrial conflict. For the unions, however, three main challenges remain on the agenda. The first of these relates to the deregulation policies of the socialist governments in the 1980s which made Spain a leader among nations with atypical employment structures. Employment in Spain at this time was characterised by a wide range of fixed-term contracts with about a third of the work force being employed in precarious conditions. The second challenge is related to EU enlargement which has incorporated the central European low-wage countries and thereby converted Spain into a high-cost economy. The consequence of this has been the relocation of labor-intensive production facilities to the new member countries and the Magreb region, a trend particularly strong in sectors such as automotive suppliers, consumer electronics and textile industries. The third challenge regards the union organisations themselves. Although they achieved social recognition and the right of representativeness, the unionisation rate remains at less than 20%, leaving Spain second-to-last among western European countries as regards its unionisation rate (only France ranks lower).

The agents: unions, employers' associations and the state

The origin of Spanish labour unions is twofold. Some of them were founded in the late 19th or early 20th century, others emerged with the 'new labour movement' of the 1960s, leading the clandestine democratic opposition against the Franco regime (Köhler 1993 and 2004). After the turbulent transition years when hundreds of workers' organisations were competing for hegemony in the new democratic union arena, a bi-union model with regional nuances (mainly in the Basque Country and Galicia) was consolidated with the socialist UGT and the post-communist CCOO being the two dominant unions at the national level. In several (mainly) public sectors –healthcare, public transport and administration, education— there are strong corporatist organisations.

Box: The main Spanish trade union confederations

CCOO (Comisiones Obreras) – Trade Union Confederation of Workers’ Commissions: The Workers’ Commissions emerged as clandestine and spontaneous groups during the late 1950’s leading the so-called ‘new labour movement’ (in reference to the old pre-dictatorial organisations in exile) and the democratic anti-Francoist opposition. At the end of the dictatorship they came under communist control (although never completely) and represented the union most embedded among Spanish industrial workers during the democratic transition. During the course of the democratic transition and the following crisis of political communism they converted into a modern social-democratic, although somewhat heterogeneous, trade-union organisation, affiliating to the European Trade Union Confederation in 1991.

UGT (Unión General de Trabajadores) – General Workers’ Confederation: Founded in 1888 by a small group of qualified workers, the UGT is the oldest Spanish trade-union confederation and has been closely linked to the Spanish Socialist Workers’ Party PSOE since its inception. Virtually absent in Francoist Spain and reduced to a few exile groups, the socialist organisations re-emerged strongly after Francos’ death (1975) with considerable support from the German and Swedish social-democratic parties. Since the early 1980s, the UGT has formed an equally strong trade-union organisation together with the CCOO in the Spanish bi-union model. Under the Socialist governments of the 1980s with their neoliberal policies, the UGT emancipated itself from PSOE tutelage and formed part of the autonomous union movement.

ELA-STV (Euzko Langilleen Alkartasuna-Solidaridad de Trabajadores Vascos) – Basque Workers’ Solidarity: ELA-STV is the strongest and oldest regionalist trade-union organisation, founded in 1911 and linked to Basque nationalism with a strong social-catholic influence. Already affiliated to the European Trade Union Confederation in exile, ELA-STV soon recovered union leadership in the Basque Country and, to a lower extent, Navarra during the democratic transition. These are the two Spanish regions where Basques form a majority of the population. ELA-STV is characterised by pragmatism and well-organised union practice.

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...

LAB (Langile Abertzaleen Batzordeak) – Assembly of Basque Patriot Workers: LAB emerged as part of the radical Basque nationalist movement in the 1970's maintaining an ideological affinity to ETA terrorism. Like the corresponding political organisations ('Batasuna'), LAB represents about 15% of the workers in the Basque country and adopts radical positions and assembly-style organisation in the workplace.

CIG (Converxencia Intersindical Galega/Confederación Intersindical Galega) – Galician Union Confederation: CIG is a coalition of several quite heterogeneous galician regionalist union groups forged together in 1991 by the representativeness criterion of the Trade Union Freedom Act (see below). Loosely affiliated to the Galician regionalist party Bloque Nacionalista Galego (Galician Nationalist Bloc), CIG manages to meet the 15% representation threshold in workplace elections in Galicia.

Besides these 'representative' confederations there are several smaller unions at the local and regional levels and some strong corporatist organisations mainly among the public services and certain professional groups (pilots, healthcare and educational workers). The two confederations in the Spanish anarcho-syndicalist tradition, the CNT (Confederación Nacional del Trabajo – National Confederation of Labour) and the CGT (Confederación General de Trabajadores – General Confederation of Workers) play only a symbolic role in current Spanish unionism. The social-catholic USO (Unión Sindical Obrera – Workers' Trade Unionist Confederation), an important anti-Francoist workers' organisation linked to progressive catholic workers' groups, also lost large a part of their strength during the democratic transition but recently joined the European Trade Union Confederation (2006).

The consolidation of the bi-union model is linked to the system of union representativeness established by the Trade Union Freedom Act (1985). The right to sign binding collective agreements and participate in tripartite bodies depends on the results of workplace elections for works councils and delegates. 'Representative' union organisations need more than 10% of delegates at the national level or more than 15% at the regional level in the case of regionalist trade-union organisations. The UGT and the CCOO are the only organisations that fulfil the national-level requirements while the Basque nationalist unions, ELA-STV and LAB, and the Galician CIG are the only organisations that fulfil the regional requirements in their respective regions.

A basic distinction important for analysing and comparing Spanish trade unions within the European framework is that between 'representation' and 'representativeness' used by the Committee on Freedom of Association of the International Labour Organisation (ILO), which applies universal criteria for recognising trade unions, guaranteeing democracy and avoiding trade-union discrimination. It suggests that representativeness should be defined according to the institutional relations, the conditions of the social partners and the socio-economic situation.

Figure 7.1. Actors representation in Spanish industrial relations



Trade Union Density: Number of affiliates/workforce. Employers' Organisation Density: Number of affiliates/enterprises. Workplace Representation: Number of firms with works councils or worker delegates/total number of firms.

Source: EIRO 2007

The concept of *representation* is in general linked to three criteria: a) the 'associative' criterion, based on the number of trade-union members; b) the criterion of electoral strength, which is based on the principles of democracy and proportionality – i.e. the election of the unions' delegates as workers' representatives to workers' committees, works councils etc; and c) and the 'legal-organisational' criterion, in terms of 'social power'.

Applying the criteria of number of members, number of contributors and strength in relevant workforce elections, the high participation and representativeness, based on the electoral strength, together with the low membership figures, has motivated the labelling of Spanish trade unions as “voters trade-unionism rather than members trade-unionism” (Martínez Lucio 2001: 436) or “more audience than presence” (Köhler and Martín Artiles 2006: 451ff.). It is their electoral strength rather than their membership that is regarded as the source of their legitimacy and representativeness. Membership is low but stable at around 18% of the wage-earning population.

In terms of the results of workplace elections (workers' delegates and works councils), the leading organisations since 1978 have been the CCOO and the UGT (see table 7.1). Since the elections of 1986, these two trade-union organisations have obtained more than 70% of the delegates, at the cost of non-union members, whose presence on works councils has been falling since 1978. The proportion of elected delegates from these groups of workers and small company trade unions, which stand as 'independent trade unions', have fallen from 30.4% in 1978 to less than 2% in 2007. The nationalist trade unions, such as Basque ELA-STV and the Galician CIG, have increased their number of delegates.

Over the years the number of independent trade-union delegates has fallen. Trade-union representation is mainly present in companies with more than 50 workers (about 60%). The main problem of the trade unions' representativeness lies in the difficulty of obtaining representatives in small companies, and the enormous difficulties of representing the large number of workers on fixed-term contracts. Therefore, if one ignores these groups and only takes into account the workers in sectors with stable jobs, then electoral representativeness can be described as is high and the unions as having a high level of legitimacy.

Despite state subsidies and the distribution of the assets of the Francoist vertical union and the historical unions seized by the dictatorship after the Civil War (1936-39), the financial and organisational resources of Spanish unions are relatively poor due to their low membership rates and dues. The union confederations are organised on a dual structure, industrial/sectoral and territorial (provincial, regional and national).

The development of trade-union membership in Spain can be divided into four periods, which follow a pattern very similar to the evolution of employment (see table 7.2). The first period corresponds to the start of the political transition from dictatorship to democracy (1975-8) when membership rose to about 18% of the wage-earning population. Though the figures are not very reliable, this growth was thought to be due to political reasons associated with major industrial conflict and the euphoric climate of the transition. Further, the oil crises of 1973 and 1979 had not yet had significant negative effects on employment. However, this was a period of great division among trade unions and fierce struggle for dominance occurred between the CCOO and the the UGT.

The second period, consisting of the years 1979 to 1985, was characterised by a sharp fall in trade-union membership due to a serious economic crisis and the poor climate for trade unions created by a sharp increase in

unemployment, industrial restructuring, redundancies, a reduction in purchasing power and a policy of social agreements aimed at controlling inflation. Therefore, there was no possibility of using what have been referred to as 'incentives of identity' or 'material incentives' to maintain trade-union membership. However, during this period the unions managed to obtain 'functional incentives' such as the 1985 Trade Union Freedom Act, which favoured the concentration of electoral representativeness within the large trade unions, the CCOO and the the UGT.

Table 7.1. Results of workplace elections. Number of delegates elected, 1978-2007

Year	Total delegates	UGT	CCOO	USO	ELA-STV	LAB	CIG	Others
1978	193.112	41.897	66.540	7.747	1.931	-	1.079	75.270
in %		21,69	34,45	3,87	0,99 (18,9)	-	0,55 (22,3)	38,97
1.980	164.617	48.194	50.817	14.296	4.024	796	1.672	45.614
in %		29,27	30,86	8,68	2,44 (25,6)	0,48 (4,7)	1,01 (17,4)	27,70
1.982	140.770	51.672	47.016	6.527	4.642	925	1.646	29.257
in %		36,71	33,40	4,64	3,30 (30,2)	0,68 (5,9)	1,17 (18,9)	20,78
1.986	177.484	71.327	60.816	6.791	5.190	1.885	2.387	31.136
in %		40,19	34,27	3,83	2,92 (34,9)	1,06 (10,7)	1,34 (21,29)	17,54
1.990	221.886	95.596	83.363	6.729	7.184	2.834	3.527	31.355
in %		43,10	37,60	3,00	3,2 (37,84)	1,27(13,15)	1,5 (23,4)	14,13
1.995	219.554	77.972	82.864	7.811	6.512	2.683	4.199	37.513
in %		35,51	37,74	3,56	2,97 (39,73)	1,22(15,42)	1,91 (26)	17,09
1.999	255.713	95.048	96.215	8.913	7.827	3.405	4.352	39.953
in %		37,17	37,63	3,49	3,06 (40,59)	1,33 (15,2)	1,62 (26,2)	15,62
2.003	284.984	104.882	110.415	8.875	9.220	3.904	4.610	43.078
in %		36,80	38,74	3,11	3,24 (41)	1,37 (15,24)	1,62 (26,2)	15,12%
2.007	314.174	116.729	122.799	9.285	9.804	4.378	5.728	45.415
in %		37,15	39,09	2,95	3,13 (40,2)	1,39 (16,02)	1,82 (28,6)	14,45

The figures in brackets refer to the percentage in their respective regions.

Source: Trade unions, own elaboration

During the third period, from 1986 to 1990, membership again grew moderately, stimulated by growth in employment (though this was largely fixed-term recruitment) and the improvement of economic prospects. During this period industrial conflict broke out again, which may have reinforced the 'incentives of identity' and the 'material incentives' for union membership, insofar as employment improved and purchasing power rose.

In the fourth period, from 1990 to the present, there has been a rise in the number of members. However, the 'net rate' of membership (i.e. union density) has remained relatively stable. The notion of 'material incentives' may explain the sustained growth in union membership. However, fixed-term employment with a high employee turnover rate has hindered growth. Despite this, Spanish unions have begun to modernise over the last five years and have opened their ranks to new sectors such as the service sector. The idea of trade unions composed purely of unskilled blue-collar industrial workers is a thing of the past. The proportion of members in the traditional sectors has fallen. That of sectors with a higher level of qualification such as public administration, healthcare and education has risen.

Table 7.2. Trade union membership and wage-earning population, 1977-2005

Year	Member		Wage-earning population		Net membership rate (%)
	Members	Variation (%)	Members	Variation (%)	
1977	1.606.600	-	8.705.200	-	18,4
1980	1.109.600	-30,7	8.065.600	-7,3	13,7
1985	1.037.000	-6,5	7.309.200	-9,4	14,2
1990	1.561.200	+50,5	9.273.400	+26,8	16,8
1995	1.838.600	+17,7	8.942.700	-3,4	20,5
2000	2.093.500	+13,8	12.285.700	+37,4	17,0
2005	2.700.000	+ 28,9	15.440.100	+ 26,6	17,5

Source: Köhler and Martín Artiles 2007, 458

The Spanish employers, with a few exceptions mainly in Catalonia, lacked a democratic organisational tradition. Faced with a strong union movement and the need to set up democratic organisational structures, Spanish employers founded the CEOE in 1977, building strongly on the administrative structures of the compulsory Francoist vertical union. Within a few years and particularly after the integration of the small and medium-sized

enterprise association CEPYME (1980), the CEOE obtained a monopoly on employer-interest representation in Spain. Currently, 70% to 80% of Spanish employers are affiliated to the CEOE (EIRO 2007). Its structure continues to be based on a mixture of territorial and sectoral bodies combining the functions of trade associations with the industrial-relations role of employers' associations. "The CEOE's inclusive nature and the wide variety of employer interests that it represents have prompted an organizational style that leaves considerable autonomy to member associations and avoids conflict on issues sensitive to its diverse constituents" (Martínez Lucio 2001: 434). The manner of institutionalisation of democratic industrial relations with participation in public bodies (the national and regional Economic and Social Councils, the National Employment Institute (INEM), the universities, the Social Security and several tripartite bargaining councils for the social partners) has helped consolidate the position of the CEOE and its affiliates in modern Spanish society.

The Spanish state has traditionally played an interventionist role in industrial relations and democratisation has only slowly expanded the margins of autonomous relations among private individual and collective actors. All governments since the end of the Franco regime have passed labour reform acts on different aspects of industrial relations, some of them backed by tripartite concertation, others in a unilateral manner against the resistance of unions and, to a lesser extent, employers' organisations. Spanish industrial relations can be considered highly regulated by legal and public norms.

The normative regime

Over the course of the democratic transition the main rights for workers' and union were achieved by the strong and constant pressure of worker mobilisation and collective action. In 1976 freedom of association opened the legalisation process for hundreds of clandestine or exile worker organisations. In 1977 the right to strike was established and in 1978 the first free elections of works councils took place. In the same year the new democratic Constitution guaranteed fundamental civil and labour rights. The Workers' Statute (1980) and the Trade Union Freedom Act (1985) set up the basic norms for the democratic industrial relations system. Since then, several labour reform acts adjusted these two basic laws to the ongoing changes in the labour market and the actors' power relations.

Table 7.3. The workers' representation at the firm level in Spain

Direct representation:	<ul style="list-style-type: none"> • Shop stewards (10 – 49 employees)* • Works Council (> 49 employees)
Union representation:	<ul style="list-style-type: none"> • Union delegates (representing the affiliates of the resp. unions in plants with > 250 employees)
Information and participation rights of the Works Council:	
Information rights:	<ul style="list-style-type: none"> • Economic performance of the firm • Labour contracts • Sanctions, accidents and diseases
Consultation rights:	<ul style="list-style-type: none"> • Changes in the personnel organisation and structure • Training • Classifications and extra pays
Additional tasks:	<ul style="list-style-type: none"> • Control of labour norms • Health and safety • Social policies of the firm • Cooperation in productivity increase measures

* In the case of an agreement among the employees, the Workers Statute allows elections in smaller enterprises with more than 5 employees.

In contrast to other, mainly Nordic EU countries, Spanish labour law establishes the right to strike as a fundamental civic right for all employees independently of union support. Works councils have the same right as trade unions to sign binding collective agreements, but lack participation rights, and are thus limited to information and consultation. Spanish employees and unions don't have co-determination rights in company boards with the exception of some state-owned or recently privatised firms. In this context, the frontiers between firm-level interest-representation and trade-union activity are less clear than in other industrial relations systems. The works councils are highly unionised and the union organisations are dominated by worker delegates from the large firms and administrations.

Collective bargaining and industrial conflict

In Spain nearly everyone can negotiate and sign collective agreements at any level which has led to a highly complex and fragmented multi-level collective bargaining structure. Only recently, particularly after the labour reform of 1997, have serious attempts to rationalise the collective bargaining structure been introduced with the reservation of certain competencies for

the national sectoral level leaving the more specific issues to the company actors (Martín Artiles and Alos Moner 2003).

Table 7.4. Collective agreements in Spain

Year	Agreements		Companies		Workers	
	Number	Variation %	Number (000)	Variation %	Number (000)	Variation %
1999	5,110	0.4	1,122,6	4.2	9,008,1	2.9
2000	5,252	2.8	1,198,3	6.7	9,230,4	2.5
2001	5,421	3.2	1,293,2	7.9	9,496,0	2.9
2002	5,462	0.8	1,302,3	0.7	9,696,5	2.1
2003	5,522	1.1	1,281,4	-1.6	9,995,0	3.1
2004	5,474	-0.9	1,282,4	0.1	10,193,5	2.0
2005	5,776	5.5	1,314,0	2.5	10,755,7	5.5
2006	5,780	0.1	1,443,6	9.9	11,016,7	2.4
2007*	4,936		1,190,3		9,825,6	

* Provisional figures.

Source: Ministry of Labour and Social Affairs

The coverage rate of collective bargaining is relatively high (between 70% and 85%) due to the automatic extension of collective agreements (*erga omnes*) in a given bargaining domain. The bulk of the workforce is covered by sectoral provincial collective agreements, although 75% of collective agreements are signed at the company level, but cover only 10% of the workforce. However, these 10% represent the majority of employees in large firms including all automotive OEMs. Sectoral binding agreements are particularly important in an economy like Spain's where about 75% of the enterprises have less than six and about 85% less than ten employees. Spain has a long tradition of National Intersectoral Minimum Wages adjusted by law according to the consumer price level. In 2006, the Minimum Wage was raised to €540,90 leaving Spain still at the bottom of the EU-15 countries.

The reforms of the labour market regulations in 1994 and 1997, both results of tripartite negotiations after long years of unilateral policies against the social parties, incorporated new elements into the all-too rigid and poorly organised Spanish collective bargaining regime. Firms in economic difficulty can agree with their works councils on 'hardship clauses' which temporally allow them to implement working and pay conditions at levels

lower than that set by the sectoral collective agreement. Since 1996 the main unions and the CEOE have negotiated national intersectoral framework agreements on collective bargaining establishing general orientation marks and issues for collective bargaining at lower levels. Further on, they created a tripartite National Consulting Commission for Collective Agreements (CCNCC – Comisión Consultiva Nacional de Convenios Colectivos) in order to observe and foment collective bargaining. In this way they introduced new issues such as extra-judicial mediation in industrial disputes, equal opportunities and work-life balance, early retirement (hand-over contracts), health and safety, life-long learning, mobbing, etc. into the collective bargaining agenda. The employers are insisting on the flexibilisation of working time and job classifications (functional flexibility) and thus putting the unions under pressure. The latter used to make concessions in return for job security agreements. The general trend of collective bargaining in Spain leans toward a dualistic structure with an increasing number of company agreements in a framework of sectoral and intersectoral general agreements. The increasing number of collective agreements is mainly due to new company agreements in growing sectors such as services. Another trend concerns the increasing number of pluri-annual agreements with a revision clause in case inflation rates are higher than expected.

Spain has continued to be a leader of strike action in Europe although the trend is clearly decreasing and the official figures are distorted by the effects of several general strikes against unilateral labour reform projects pursued by the governments in 1988, 1992, 1994 and 2002. From a comparative perspective it may be said that strikes form to a larger extent part of collective labour relations used quite often during collective bargaining by works councils and by unions as a mean of pressure. The traditionally low degree of trust in management-worker relations and high degree of inter-union competition in Spain are additional factors that explain why this country's strike rates are higher than in other EU countries. Lockouts are legally restricted to situations of particularly intense conflict where company assets are in danger, and are therefore rare in Spain.

Several writers (Alonso 1991; Köhler 1993; Rigby and Marco Aledo 2001; Köhler and Martín Artiles 2006) distinguish different periods of industrial conflict in democratic Spain. The late 1970's were characterised by very intense conflicts reflecting the high political and economic expectations at the beginning of the democratic transition and the high mobilisation of the anti-Francoist social movements.

Table 7.5. Strikes in Spain

Year	Strikes	Workers affected	Lost working days
1986	914	857.947	2.279.390
1987	1.497	1.881.217	5.025.018
1988	1.193	6.692.240	11.641.088
	(1.192) ¹	(1.894,5) ¹	(6.843,4) ¹
1989	1.047	1.382.083	3.685.412
1990	1.231	863.966	2.442.846
1991	1.552	1.944.456	4.421.313
1992	1.296	5.169.634	6.246.543
	(1.295) ²	(1.678,6) ²	(4.055,8) ²
1993	1.131	997.232	2.012.652
1994	890	5.427.708	6.254.669
	(889) ³	(452,8) ³	(1.279,8) ³
1995	866	569.906	1.442.906
1996	807	1.078.034	1.552.872
1997	709	630.962	1.790.100
1998	618	671.878	1.263.536
1999	739	1.125.056	1.477.504
2000	727	2.061.349	3.577.301
2001	729	1.242.458	1.916.987
2002	684	4.528.210	4.938.535
	(683) ⁴	(668,3) ⁴	(1.078,7) ⁴
2003	674	728.481	789.043
2004	707	555.832	4.472.191
2005	669	331.334	758.854
2006	779	499.240	927.402
2007	751	492.150	1.182.782
Total	20.210	39.731.373	70.098.944
Medium	919	1.805.972	3.186.316

1. Not included general strike, december 14, 1988.

2. Not included general strike, May 28, 1992.

3. Not included general strike, January 27, 1994

4. Not included general strike, June 20, 2002.

Source: Estadística de huelgas y cierres patronales (MTAS). Own elaboration.

In the first half of the 1980's the large-scale conflicts declined with the consolidation of democracy and a greater emphasis on factory-level action arose particularly in the traditional industrial sectors of steel, shipbuilding,

coalmining and textiles, as well as in the main regions where these sectors were located. All of these sectors were affected by severe restructuring and downsizing measures. Since the mid-1980's there has been a slow but constant decline in industrial conflict, albeit accompanied by the periodic uprising of political general strikes against unilateral labour reform acts. At the same time, strikes became more regulated through legal and voluntary norms on intermediation and minimum services. On the other hand, there has been a shift from the industrial to the service sectors with new protagonists (healthcare, public and private transport, cleaning) in the labour conflicts.

Trends and prospects

Spain has managed to consolidate a modern industrial relations system unknown in its history of adversarial and violent labour disputes. The main union and employers' organisations participate in a variety of public policies and institutions and have managed to set up a reasonable collective bargaining and representation system. Political and economic stability have provide favourable conditions for this. Globalisation and EU enlargement, however, have posed several new challenges to the system and its actors and while revealing certain of its weaknesses that remained only partly hidden in the national framework up to now. The low level of internationalisation is particularly striking for the unions which in fact need more transnational operative capacities in order to stand up to whipsawing and relocation threats and European regulation trends. The recomposition of the workforce with more female, immigrant and atypical employees in a de-industrialised service economy represents an additional challenge for the Spanish labour movement in the 21st century.

7.2. The transposition of the EWC directive and its application in Spain

In his comparative study of the implementation of the EWC Directive in the EU countries, Pedersini (1998) distinguishes three groups of countries:

1. Countries in which a clear preference for transposition by collective bargaining emerged and was put into effect, even though some sort of back-up legislation was required afterwards to guarantee the full effectiveness and extension of the agreement's provisions (Belgium; Italy; Norway);
2. Countries in which tripartite talks were initially held in order to prepare transposition, but implementation by law became necessary

because the social partners could not reach an agreement (Denmark and Sweden);

3. Countries in which legal implementation was the preferred choice from the very beginning although the involvement of the social partners has been significant in many cases (the majority of EU member states including Spain).

Spain opted for the legal normative path of transposition, not the collective agreement option chosen by Belgium, Italy and Norway (the latter joined the Directive despite not being an EU member). On the 24th April 1997, seven months after the expiration of the transposition deadline set up by the Directive (22nd September 1996), the Spanish government passed the 'Law on the right of employees in community-scale undertakings and groups of undertakings to information and consultation' number 10/1997 (BOE 99, 25-04-1997). Only five countries met the deadline and others were delayed even longer than Spain (Albaladejo 2006). The social partners participated in the elaboration of the law through the Spanish Economic and Social Council, a tripartite consultative organ in which a final agreement on the proposed law was reached. The relevant specific contents of the Law determine:

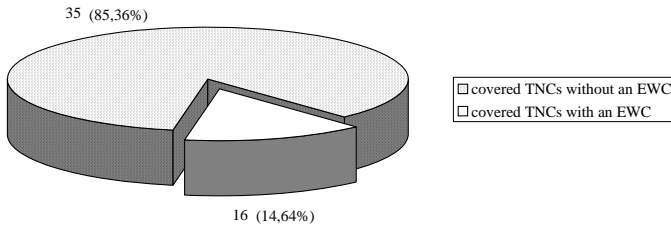
- The worker representatives for the EWCs and the negotiating bodies for setting up EWCs are determined by the representative unions in cooperation with the works councils (Art. 26, 27).
- The EWC delegates are protected by the same guarantees (e.g. against dismissals) as ordinary works council members and are provided with an additional 60 hours per year to dedicate to their representation tasks (Art. 28).
- Concerning the main substantive norms (subsidiary disposition in the case of no agreement, confidentiality of confidential information, etc.) the Spanish law follows the recommendations of the directive.
- In some aspects, the Spanish law 10/1997 goes beyond the directive, e.g. explicitly recognizing the role of trade unions, establishing control and sanction mechanisms on information and consultation rights and the principle of «good will» among the parties.

The transposition of the directive into Spanish law was relatively easy since its contents fit well into the established industrial relations system with the works councils as representative organs at company level. The only significant

particularity is the major role played by the trade unions at the supra-plant level and the lack of group or multi-plant works councils.

The number of EWCs created in Spanish MNCs is far below the EU average with a coverage rate of only 14,6%, as against 34,8% in the EU overall (see figures). In 2000, only two (Repsol-YPF and Cia. Roca Radiadores S.A.) of the 29 companies covered by the directive had an EWC. At the time of the EU enlargement in 2004, another seven (Grupo Praxair; General Electric Power Controls Ibérica; Altadis; BBVA; Industrias Celulosas Aragonesas; SAICA; Grupo SCH) of the then 37 MNCs covered by the directive had followed suit, although the last three of these EWCs stopped working only one year later (Albalate 2006).

Figure 7.2. Transnational companies headquartered in Spain covered by the directive 94/45/EC with an established European Works Council.



N = 41 / Compliance rate with the Directive (14,64%).

Source: ETUI-REHS Database on European Works Councils (2006).

There are relatively few community-sized companies headquartered in Spain, with only 32 prior to the 2004 enlargement. The enlargement almost doubled this number although it should be mentioned that the majority of these new community-sized companies are small multinationals just above the 150 foreign employees threshold. Such companies have been dubbed *pocket multinationals* (White and Vallejo 2004) and are not very likely to set up EWCs. Whereas the main industrial firms were acquired by foreign capital, the only relevant Spanish global players are recently privatised energy and telecommunication groups and banks. On the other hand, about half of the companies covered by the directive operate with affiliates or subsidiaries in Spain (see figure 3). There are three dominant groups by sector: metalworking (including automotive), chemicals and the heterogeneous

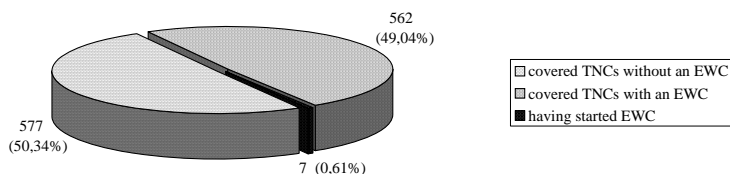
services (including banks and assurance companies) (see figure 4). In terms of country of origin the presence of foreign multinationals is widespread with the USA (217, 100 with EWC), Germany (201, 85), France (147, 72) and the UK (146, 81) leading the way.

Table 7.6. Transnational companies headquartered in Spain with established European Works Councils

COMPANY NAME	NATIONALITY	DATE OF AGREEMENT	TYPE OF AGREEMENT	RENEWED
Altadis	Spain	14/11/2002	Article 6	No
BBVA	Spain	03/06/2004	Article 6	No
Grupo Repsol	Spain	29/04/1998	Article 6	No
Power Control GE	United States	25/10/1999	Article 6	Yes
Roca Radiadores	Spain	31/10/2000	Article 6	No
Tafisa	Spain	07/02/2002	Article 6	No

Source: ETUI-REHS Database on European Works Councils (2006).

Figure 7.3. Foreign transnational companies with operations in Spain covered by the directive 94/45/EC with established



European Works Councils.

N = 1146 / Compliance rate with the Directive (49,04%).

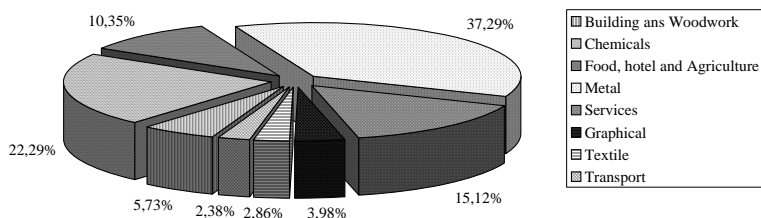
Source: ETUI-REHS Database on European Works Councils (2006).

Figure 7.4. MNCs with an active EWC and operations in Spain per sector

N= 628.

Source: ETUI-REHS database (2006).

Generally speaking, there are two main positive effects of EWC practice on



Spanish industrial relations (Pedersini 1998). First, there is a significant change in industrial relations culture insofar as trade unions more fully recognise the importance of the European, and indeed global, field of operations, and are increasingly taking steps to improve their skills in this area. Second, the move to create EWCs is stimulating, as in some other countries, the setting up of group-level union committees or, more commonly, facilitating the creation of communication channels between workers in different plants across the country. On the other hand, EU enlargement with the corresponding enlargement of EWCs tends to reinforce the marginal position of Spanish EWC delegates in minority positions in these European representative organs.

Until very recently, the statement “no relevant research has been done on this subject in Spain” (Eurofound 2001) was the dominant opinion on Europeanisation of industrial relations issues. The state of affairs of EWC-research in Spain reflects some general characteristics of industrial relations and of industrial relations research in Spain. First, the industrial relations actors are not very internationalised in their orientation and practice and transnational institutions like EWCs don’t generate much public debate and interest. Second, in the academic field industrial relations are still a domain of labour law departments with a low presence of social scientists. Third, the links between academic researchers and universities with trade unions and the labour movement are weak, lacking a strong demand and support for EWC-research. And fourth, the collective bargaining and workers’ representation structure is dualistic, with works councils at the plant level

and trade-union federations at the sectoral level. There is a lack of works councils at the group or interplant level which leaves the EWCs somewhat disconnected without a national institutional basement. These factors explain to a large extent the main characteristics of EWC-research in Spain:

1. Low development of public and academic debate on EWCs and Europeanisation of industrial relations;
2. Low development of scientific research on EWCs in Spain, dominated by juristic analysis;
3. Low degree of internationalisation of Spanish industrial actors;
4. Low participation rate in international comparative studies on EWCs (see e.g. Lecher et al. 1999 and 2001; Carley and Marginson 2000; Hall and Marginson 2004; Hancké 2000; Müller et al. 2004; Vitols 2003; Waddington 2003; Weiler 2004; Kotthoff 2006; Carley and Hall 2006).

The juristically oriented studies on EWCs, by far the majority in Spain, focus on the negotiation process and the contents of the directive and its transposition into national law (Albiol Montesinos 1996 and 1997; Estrada 2000; Gómez Gordillo 2003; Cristóbal Roncero 2003; Galiana Moreno and García Romero 2003). They examine the competences and procedural norms of the bodies and the way they fit into national normative systems.

In the most exhaustive juridical study, Gómez Gordillo (2003) analyses several weaknesses of the directive rooted mainly in its subsidiary and general character which does not give sufficient strength to the legal norm nor put enough pressure on the actors to realize the information and consultation rights. The concept of 'consultancy' is too open and the information rights not clearly defined. Another critical aspect is the lack of guarantees for minority groups and representatives of subsidiaries in the EWCs.

Even sociological researchers often focus only on the problems of setting-up an EWC and the low coverage rate in Spanish MNCs, hardly looking at the operative work and micropolitical processes in and around EWCs. So e.g. Joaquín Juan Albalate (2006) tries to identify the reasons for the slow rate of EWC implantation in Spain. In his qualitative study the absence of control mechanisms and high entrance barriers (minimum of 1.000 employees), the conflictive industrial relations climate, the limited presence of Spanish MNCs in Europe and the organisational limits of Spanish trade unions appear as the main reasons pointed to by the interviewed experts. White and Vallejo (2004) identify two main reasons for the low EWC density in Spain. The first is that trade unionists have not prioritised this

issue as much as their counterparts in other EU countries, in part due to the low number and size of Spanish multinationals. As a second reason, the authors mention the traditional and authoritarian attitudes still present in many Spanish management structures, which are not likely to open negotiations on workers' transnational representation rights.

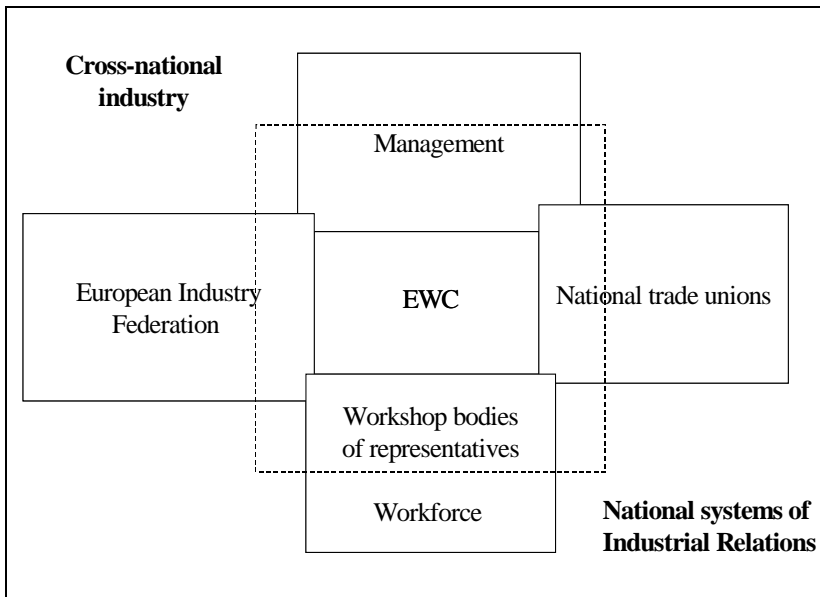
Few research projects have been conducted so far to investigate the quality of EWC practice, their achievements, forms of work and organisation, learning processes, problems, limits and prospects. A pioneering study was presented by a research team of the Foundation 1° de Mayo, linked to the union confederation CCOO (Aragón et al. 2001). It presented a map of MNCs in Spain covered by the directive and an interview-based analysis of the implementation and functioning of EWCs in Spain. The opinions expressed by Spanish EWC delegates on the experiences and relevance of these bodies are ambiguous. On the one hand, all those interviewed underscore the access to information and the knowledge of industrial relations systems in other EU countries as the main progress achieved by EWCs. On the other hand, severe limits and problems of the directive and its application are pointed out. The most prominent is the lack of bargaining competences, union rights, sanction mechanisms in case of no fulfilment of the legal norm, and the general vagueness of the directive.

Another important aspect pointed out by the study and confirmed by further studies is the character of the Spanish enterprise structure which is not very likely to foster EWC implementation. The Spanish economy shows a polarisation between the dominance of small and medium-sized local firms and some big groups often in foreign ownership. Until quite recently (the major economic integration and the EU enlargement motivated some change in this sense) the few Spanish MNCs oriented their foreign investment strategy towards Latin America and only to a much lesser extent towards Europe. Thus the EWC directive mainly affects affiliates of foreign companies where the EWC policy is dominated by non-Spanish groups, traditions and cultures. Adding the limited operative relevance and the communication problems experienced by the Spanish delegates, the low importance given to these transnational representation bodies in Spain is no surprise.

More recently, the studies of Köhler and González Begega (2004, 2007a-c) have gone further on the research path opened by Aragón et al. by applying a comparative case-study approach similar terms to those of Lecher et al. (1999 and 2001), Kotthoff (2006) and Weiler (2004). The authors consider EWCs upon a double perspective: (1) as an institutional basis for the

development of firm-level European industrial relations; and (2) also (and fundamentally) as political ‘arenas’ where the European labour movement can attempt to overcome diversity in order to participate in firm-level decision making, thus combining institutionalist with micropolitical perspectives. They focus on the identification of the different internal and environmental actors of European Works Councils, and especially, in the interconnections they have and the roles they play. The European Works Councils are not only a product of an institutional effort for regulating European industrial relations. They are also related to the particular character of the transnational firm itself. How internal industrial relations are managed, how workers’ participation in corporative decision making is considered, and how labour diversity in the different operations of a transnational firm is perceived are influential factors for the development of European Works Councils. The merit of these authors also consists in bringing the Spanish experience and perspective into the European debate on EWCs and Europeanisation (Köhler and González Begega 2007a and b).

Figure 7.5. Interaction fields in a European Works Council



Köhler and González Begega confirm and extend the findings on the reasons for the low EWC density in Spain:

1. There are few Spanish-owned or Spanish-headquartered MNCs, many of them resulting from privatisation of public enterprises in the energy, transport and telecommunication sectors, and they started their internationalisation process with foreign investments in Latin America. Thus there is a low level of Europeanisation among firms and managers.
2. As a consequence of the former, the Spanish workers have experienced the creation of EWCs from a secondary position, as representatives of subsidiaries, and this has decisively conditioned their attitudes, views and assessments of the entire process. Spanish representatives generally joined EWCs without having taken part in the set-up negotiations, and without knowing the exact meaning of their rights or the specific extent of their participation.
3. The experience with EWC practice often confirmed the initial passive attitude. The novelty of consensual EWC practices, the difficulty of gaining access to the information and consultation rights from a minority position, as well as the language and cultural barriers, all caused a general discontent and engendered a passive attitude amongst Spanish representatives. They simply compared what they observed from the shop-floor level (local works council) and the industrial level (collective bargaining) with EWCs' practice, and concluded that these European bodies would not be useful until they developed bargaining rights.
4. The Spanish trade unions with their low membership rate are still domestically oriented and often lack the organisational and human resources to play a stronger role in transnational activities.
5. The lack of national firm-level representative structures (national or group works councils) causes a disconnection between the EWC and the different shop-floor works councils.
6. The Spanish industrial relations tradition is based on the definition of the social partners as adversaries, and therefore, different from the continental and nordic consensual industrial relations systems which inspired the EWCs.

Since EU enlargement, however, the authors identify some trends that indicate a higher European interest among Spanish industrial actors in the future. On the one hand, Spanish firms are investing and building alliances in the enlarged EU and, on the other, Spanish unions feel the impacts of Europeanisation, particularly the relocation and coercitive competition

practices of firms, and therefore see the need for stronger transnational coordination and organisation.

Another interesting case study was delivered by Warwick's research fellow Miriam Quintana (2003), in which she compared EWCs in British and Spanish banks. The banking sector, like many others, is undergoing a fundamental internationalisation and restructuring process that affects the human resource management practices and the need for worker representatives to establish transnational cooperation. Quintana identifies differences between 'multi-country' banks still rooted in their country-of-origin culture with nationally segmented operations and more internationalised financial groups in which the EWC could play a major role in the transnational coordination of HRM strategies. The author argues in favour of firm-based and trajectory-oriented research in order to capture the variety and complexity of EWC and transnational HRM practices.

7.3. The discussion on EWCs and the revision of the directive in Spain

As previously mentioned, the Spanish employees' and trade union officials' stances on EWCs and the Europeanisation of industrial relations have changed significantly in recent times. In the following paragraphs we will refer to the opinions and expectations of the collective actors with regard to EWCs.

Trade-union officials

Since Spain will experience the consequences of the eastern enlargement of the EU in a unique way, becoming an old periphery area, Spanish trade union officials are paying increased attention to the European level of organisation and industrial advocacy. The two major trade union confederations, CCOO and UGT have followed the ETUC line since 1999 in claiming a revision of the directive to reinforce information and consultation provisions, to clarify the concept of supranational issues to be considered by EWCs and to include a clear status for trade unions. Further development of EWCs requires a clearer set of rights. In the run-up to the EU Employment and Social Policy Council meeting on the 17th of October 2000, the Spanish trade unions, together with the trade union confederations from Germany, Ireland and the UK, presented a joint statement in which they accused their governments of making joint arrangements in order to block the adoption of the directive on national information and consultation

and the European Company statute (see Eironline, 10/11/2000). Although Spanish trade unions consider the revision of the directive a priority, they also emphasize the significance of the day-to-day practices of EWCs. The creation of a common European mindset within EWCs has become a basic component in their objective of avoiding traumatic relocalisations and transfers of production.

Being aware of the limits of EWCs, there is little concern of transnational bargaining as done by EWC representatives, but they do discuss transnational firm non-wage coordination in issues such as labour conditions, health and safety, flexibility and productivity, environmental policy and corporate social responsibility. Both the CCOO and UGT have thus far coordinated their participation in European structures quite well, defining common strategies and standpoints and sharing joint objectives.

Spanish trade-union officials point out two basic obstacles for the development of this kind of European identity in EWCs, complaining about the problem of diversity in EWCs and their functioning as mere forums for national interest representation. To the well-known institutional and cultural diversity, they add the problem of a lack of unionisation and discipline, which might be a particular Spanish difficulty not found in those countries where EWC representatives are well linked to union organisations. In their opinion, the key factor blocking the development of a common identity within EWCs is the existence of an uneven distribution of power in labour representation. In their view, the recent enlargement introduces even more diversity into the construction of European industrial relations. They believe that Spanish participation in EWCs will be harmed, as the redistribution of seats will have negative effects on the old national minority representations. In fact, the enlargement will cause the further fragmentation of EWCs.

To complete this mainly pessimistic evaluation, trade-union officials identify a second, perhaps particularly Spanish problem in giving EWCs an identity. This problem is related to the deficiencies in the relationship between representatives and trade unions and the risk of the appearance of some sort of company trade unionism inside EWCs. The Spanish trade-union officials are aware of the potential that EWCs provide for the management to develop a corporative culture and excluding trade unions from firm-level industrial relations.

The Spanish employers' association (CEOE)

The CEOE serves as an advisor to the Spanish firms covered by the directive. The opinions of their experts basically coincide with our analysis and explain the lack of Spanish-based EWCs as a result of a

(...) lack of interest both from trade unions and management (...). As a result of the very small size of the Spanish firms covered by the directive, they found it very difficult to implement an efficient EWC because of costs (...). In the last five years we only have had five or six Spanish firms interested in EWCs and we don't think this situation is going to change after the enlargement of the European Union (CEOE official).

Concerning the regulative basis of EWCs, the CEOE supports the UNICE position. On the other hand, CEOE officials support our considerations about the significance of the practical dimension of EWCs, when arguing that their successful development depends less on further European legal-normative, but on a true cooperative mindset.

Finally, it should be added that the Europeanisation of industrial relations and transnational workers' rights are completely absent from public political debates in Spain. There is no political party or group with this issue on the agenda and the mass media do not inform the public of the ongoing processes. The recent conflict on the Delphi plant closure in southern Spain may be symptomatic in this sense.

7.4. Prospects and problems of the future EWC development in Spain

Although the balance of the EWCs' impact on Spanish industrial relations and actors is clearly positive, enriching knowledge, contents and transnational co-operation, there are serious obstacles to its further development. These obstacles become even more challenging in the context of EU enlargement. To increase the interest and participation of Spanish workers' representatives and managers in EWCs, these organisations have to gain operativity that demonstrates their usefulness as transnational representative bodies with the capacity to intervene in relevant company decisions. Related to this, the role and participation of trade unions in EWCs has to be strengthened as experience shows that union support is crucial for EWC development and transnational cooperation in general. EWC encouragement also requires an ambitious training programme for

Spanish delegates encompassing intercultural, language and comparative industrial relations skills. Finally, Spanish delegates have to overcome their powerless minority perception in EWCs, which would contribute to building a common identity and effectively coordinating interests within these bodies. The combined fostering of EWCs and sectoral European social dialogue is probably the most promising strategy for the further Europeanisation of industrial relations.

Abbreviations

CCOO (Comisiones Obreras) – Trade-Union Confederation of Workers’ Commissions

CEOE (Confederación Española de Organizaciones Empresariales) – Spanish Confederation of Employers’ Organizations

CEPYME (Confederación Española de Pequeñas y Medianas Empresas) – Spanish Confederation of Small and Medium-Sized Enterprises

CGT (Confederación General de Trabajadores) – General Confederation of Workers

CIG (Converxencia Intersindical Galega/Confederación Intersindical Galega) – Galician Union Confederation

CNT (Confederación Nacional de Trabajo) – National Confederation of Labour

ELA-STV (Euzko Langilleen Alkartasuna-Solidaridad de Trabajadores Vascos) – Basque Workers’ Solidarity

LAB (Langile Abertzaleen Batzordeak) – Assembly of Basque Patriot Workers

MNC – Multinational Corporation

PCE (Partido Comunista de España) – Communist Party of Spain

PP (Partido Popular) – People’s Party

PSOE (Partido Socialista Obrero Español) – Spanish Socialist Workers’ Party

UGT (Unión General de Trabajadores) – General Workers’ Confederation

USO (Unión Sindical Obrera) – Workers’ Trade Unionist Confederation

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Chapter 8

European Works Councils in Germany

*Luitpold Rampeltshammer and Nina M. Wachendorf**

8.1. Institutional context

The German system of employment relations¹ is not only deeply embedded in but also an indispensable ingredient of the institutional structures of a Coordinated Market Economy (Hall and Soskice 2001). Its roots reach back well into the 19th century², its institutional characteristics have been codified mainly by law and court decisions and characterized by a threefold structure: at the branch, or sectoral level, the trade unions, alone empowered to call industrial action, negotiate with the employers' federations (or sometimes also with individual companies) for the purpose of concluding regional and fixed-term collective agreements; at the workplace level the management and works council conduct negotiations on matters of workplace interest in accordance with provisions contained in the Works Constitution Act and at the company level, seats on the supervisory bodies are reserved for employee representatives.

Works councils also supervise the implementation of the outcomes of collective agreements. Article 77 of the Works Constitution Act assigns the results of collective bargaining at the sectoral level precedence over agreements at the company level. According to this provision, matters settled in collective bargaining agreements cannot be taken up again at the company level. Any amendments to or deviations from these agreements require the consent of the collective bargaining partners, i.e. the relevant trade union and the employers' association. Aside from this intra-sectoral

* The authors wish to thank Markus Hertwig, Peter Ittermann, Valentina Mählmeyer, Hans-Wolfgang Platzer, Veronika Dehnen und Torsten Müller for their helpful comments.

¹ Detailed accounts of the German system of industrial relations can be found in Rampeltshammer 2008, Keller 1999, Müller-Jentsch 1997; Weiss and Schmidt 2000. For short and informative introductions see Hoffmann 2001; Jacobi et al. 1998; Keller 2004.

² For a detailed account of the history of German co-determination see Hoffmann 1996; Kissler 1992; Leminsky 1998; Potthoff 1962.

coordination, there also exists a system of inter-sectoral pattern bargaining³. In general, the German system of employment relations can be characterised as a contradictory unity of cooperation based on a division of labour between different actors at the company as well as the sectoral level. This system is densely regulated by an elaborate system of laws and court decisions.

The German trade-union configuration involves a two-way penetration: while works councillors often play a very important role in collective bargaining committees, trade-union officials as well as shop stewards (*Vertrauensleute*) usually act as advisors for works councillors in order to find ways of ensuring that collectively agreed provisions are appropriately and fully implemented. This procedure allows a constant flow of information between these two different bodies of workers' representatives at the company level. In addition, worker representatives on the supervisory bodies of larger firms exert an influence on decision-making at company management level. This twofold structure is, for the most part, prescribed by state bodies (legislation and high court rulings), while it is up to the actors themselves to settle the details of its implementation (cf. Jacobi et al. 1998).

The long tradition of co-determination in Germany has given rise to a specific economic culture which, viewed historically, contributed to the formation of a relatively stable and relatively non-conflictual employment relations system, which for decades determined the channels for action of the parties involved and enabled the actors to plan their actions on the basis of a known set of alternatives (Abelshauser 1999). This arrangement was highly compatible with the Taylorist production method – inflexible mass production – prevalent in heavy industry (Hoffmann 1998; Müller-Jentsch 1997). The combination of the capacity to serve economic performance, social peace and relative social equality (Thelen and Turner 1999) may be said to constitute a basic feature of 'Rhineland capitalism' (Albert 1992), the social institutions of which produced, in their specific German mould, 'high international competitiveness at high wages and, at the same time, low inequality of incomes and living standards' (Crouch and Streeck 1997: 33). In the following section, a short overview of the specific characteristics of the German employment relations system will be provided.

³ According to historical tradition, the IG Metall generally negotiates in one of its strongest regions in order to get a collective agreement which, in turn, serves as an orientation for other regions and also other trade unions. This "locomotive function" played by IG Metall serves as an additional centralization effect within the German industrial relations system.

Co-determination levels

Co-determination in the private sector, as enshrined in German law, takes place at two different levels. However, these levels are not independent of each other; in fact, the systemic interlocking of these two dimensions lies at the very heart of the German co-determination system: At the *company level*, co-determination of workers' representatives, in most cases works councillors and trade-union officials, takes place on supervisory boards and at the *workplace level* through works councillors elected by the entire workforce⁴.

Co-determination on the supervisory board

Co-determination by workers' representatives at company management level takes place in three forms, each on the basis of a separate legislative act:

Co-determination in the mining industries (Montanmitbestimmung) is based on the law of 1951 on the co-determination of workers on supervisory bodies and executives of companies in the coal-mining and iron and steel production industries. The quality of co-determination in these industries, measured in terms of opportunities for the workforce to genuinely participate, is the most far-reaching form of company co-determination in Germany and is described as joint co-determination since half the seats on the supervisory board are held by representatives of the workforce. In the event of a dispute, an independent chairman makes a decision. On the three-member executive board a labour director is appointed to act as a full member of this body and may not be appointed or dismissed against the majority vote of the workers' representatives on the supervisory board. The number of companies covered by this legislation has been subject to steady decline mainly due to the continuing loss of significance of this sector, interrupted only by reunification. By the end of the 1990s there were 40 of these companies in total (some 20 of which have their headquarters in eastern Germany), employing a combined workforce of around 300,000. Since this represents only around 1% of all employees, the secondary significance of the mining co-determination structure is apparent (Müller-Jentsch and Ittermann 2000)⁵.

⁴ For a concise summary of labour law issues relating to this duality see Zachert 2003: 4ff.

⁵ Reliable figures on the number of companies and employees covered by company co-determination do not exist, thus, the cited studies are the only sources but should be treated with caution.

Also at the level of company co-determination, but less far-reaching in terms of the degree of worker participation, is the *minority co-determination* practiced in the large joint-stock companies according to the co-determination law of 1976 which applies to all joint-stock companies with a regular workforce of more than 2000. In companies subject to this law, one half of the supervisory council consists of elected shareholder members while the other half consists of elected representatives of the workforce, and the chairman of the supervisory council, appointed by the shareholder representatives, has a double vote. The final power of decision remains firmly with the shareholders. In 2006, 721 companies were subject to the co-determination legislation with some five million employees (Hans-Böckler-Stiftung 2008).

The *One-Third Employee Participation Act* (Gesetz über die Drittelbeteiligung der Arbeitnehmer im Aufsichtsrat) governs company co-determination practices in the rest of the private sector of the economy. These rules are applicable to smaller joint-stock companies (companies with more than 500 and up to 2000 employees and public limited companies with over 500 employees) and do not (unlike the provisions of both the co-determination law and the mining co-determination law) include a provision for the position of a worker director in the company executive. The number of seats reserved for workers' representatives adds up to a third. The number of companies subject to these provisions is estimated at 1,400 and their total workforce at around one million (Wendeling-Schröder 1991).

These figures show, for the Federal Republic as a whole, that around 6.4 million workers are employed in companies subject to company co-determination legislation. This accounts for around 20% of all employed workers in Germany and signifies in practice that the overwhelming majority of workers in Germany do not enjoy institutionalised co-determination rights at the company level.

Workplace representation and participation

Alongside the co-determination in supervisory boards at the company level, the Works Constitution Act regulates co-determination at the company level in the private sector of the economy (in workplaces with five or more employees). This is conducted by works councils which are elected by the entire workforce every four years⁶. Schmidt and Trinczek list five central

⁶ For a succinct introduction to the German works council system see Müller-Jentsch 1995; also very useful Fürstenberg 2000.

aspects of interest representation at the workplace level that can be traced back to the works council act (enacted in 1920): the dual structure of interest representation (independence of works council from trade unions); the actual exclusion of trade unions from the workplace (legal autonomy); the obligation for works councillors to avoid industrial conflict; the relatively strict legal structure; and the subsidiary position of the works council in respect to legal and collective bargaining regulations (Schmidt and Trinczek 1999: 108ff.). Therefore, works councillors are not primarily workers' representatives; rather, they have to balance the interests of the workforce, trade unions and management and thus act as intermediary institutions or as 'buffers' between them (Fürstenberg 2000 [1958]: 27). Moreover, the basic principle of the Works Constitution Act states that both parties should act in a spirit of mutual trust for the well-being of the employees and the company.

Participation rights of the works council are divided, first according to the *degree of intensity*, into co-participation rights (information, consultation and discussion rights) and co-determination rights (rights of initiative and veto), and secondly according to the *area of coverage* (into personnel, social and economic matters). According to § 87 of the Works Constitution Act, the most important co-determination rights of works councils are in the following areas: working time, overtime, vacation, the use of technical devices to control the behaviour of employees, safety regulations and company-specific remuneration systems. However, in cases of dismissal, management is merely required to consult the works council beforehand (§ 102 Works Constitution Act).

In general terms it can be said that the participation rights of the works council are strongest in social matters, slightly weaker in personnel matters and weakest in economic matters, and thus the farther they are from the strategic company decisions (e.g. concerning production goals and content) the stronger they become (Müller-Jentsch 1997: 271). In the event of disagreements that cannot be solved by the two parties in areas where works councils possess co-determination rights, an arbitration committee with an impartial chairman⁷ can be set up (§ 76 Works Constitution Act) in order to settle the matter⁸. The arbitration committee is the logical corollary of the ban on strike activities for the works councillors, since otherwise co-

⁷ Both parties have to agree on the person: if there is no agreement, the labour court decides.

⁸ In everyday practice, the implementation of an arbitration committee (*Einigungsstelle*) is relatively rare. According to Niedenhoff (1977), in 82% of all companies, the arbitration committee has never been used and in 18% relatively rarely.

determination rights would be a mere facade. The results of the negotiations between works councils and management are laid down in company agreements and are legally binding on all employees (not just trade-union members).

The legal framework of the works constitution led to a centralistic practice in which the individual employee does not play a significant role. Instead, Berkemeier speaks about the ‘monopolization of the works constitution through works councillors and the personnel department’ (Berkemeier and Schneider 1997: 243).

Institutionalised employee participation takes place at different levels: on the level of the *firm*, works council members negotiate with delegates from the personnel department while in companies with more than one firm at the *company* level members of the group and general works councils – to which delegates are sent from the works councils of all firms of the respective group – negotiate with management representatives.

Although works councils exist in only 10 % of the companies in Germany, 46% of all employees work in companies with an operating works council (Ellguth und Kohaut 2007: 513; cf. Hauser-Ditz et al. 2006). The high degree of legitimacy enjoyed by the works councils in Germany is apparent from the high level of voting participation in works council elections (81% in 2006). The close link between trade unions and works councils is evidenced by the high proportion (73 %) of works council candidates put forward by trade unions who are members of the German trade union federation⁹ (*Deutscher Gewerkschaftsbund – DGB*) (Hans-Böckler-Stiftung 2006). Despite the far-reaching participation rights of German works councillors, it would be misleading to assume that these rights are applied by all works councils. As Kotthoff shows, only 66% of all cases in his study can be considered to exhibit efficient interest representation while 33 % are classified as deficient (Kotthoff 1994)¹⁰.

Collective bargaining

As already pointed out above, at the company level works councillors negotiate company-specific issues with management on the basis of the Works Constitution Act. On the sector level, trade unions negotiate terms and conditions (e.g. wages and working time) either with employers’

⁹ In companies with pre-existing works councils.

¹⁰ In comparison to the results of the preceding study this marks a noticeable change: in 1981, 65% were classified as deficient and 35% as efficient works councils (Kotthoff 1981).

associations or directly with individual companies. The legal framework for collective bargaining is provided by the Collective Bargaining Act, which secures the autonomy of the actors involved in collective bargaining negotiations (*Tarifautonomie*). The results of these negotiations are legally binding upon all members of the employers' associations and the trade unions. However, in order to prevent rapid increases in trade-union membership, employers extend collective bargaining results also to non-trade union members. Neither employees, nor employers are allowed to deviate from these agreements. The same applies to works councils; they must not negotiate issues that have been settled by a collective bargaining agreement. They may improve upon the results of collective agreements but must not fall below. The only exception to this rule is the application of opening clauses which need to be included in collective bargaining agreements. Only in cases where opening clauses permit deviation from collective agreements (i.e. falling below the agreed levels) are company actors (work councillors or trade-union representatives at company level) in negotiations with management lawfully entitled to conclude company agreements which, however, need to be ratified by the collective bargaining actors (trade unions and employers' association) (WSI 2006). Since the role of works councillors is defined by law (and since they are elected by the entire workforce, not just trade-union representatives), their role in conflicts, e.g. bargaining on wages and working time, is severely restricted. According to the Works Constitution Act works councillors can participate in but must not initiate strikes; this is true also for German members of the European Works Council (EWC). This division of labour results in a relatively low level of working days lost through strikes (2.4 days lost per year on average between 1996 and 2005) in comparison with other European countries (EIRO 2007).

The predominant result of collective bargaining procedures in Germany is the collective agreement at the sector level. Company-specific collective agreements are, however, increasing steadily. At the end of 2005, 35,000 sector-level and 29,000 company agreements were in place (WSI 2006: 70), 57% of all employees in Western Germany and 41% of all employees in Eastern Germany were covered by a sectoral collective agreement and 8% of all employees in Western Germany and 13% of all employees in Eastern Germany by company-specific collective agreements (Ellguth and Kohaut 2007: 512).

An examination of the literature reveals that assessments of the condition of the German employment relations system and its future are divided into

three camps: The first group stresses the *continuing erosion* of the German system of employment relations (e.g. Hassel 1999 and 2002; Keller 2004):

1. On the level of collective bargaining, collective agreements at the sector level and tariff autonomy have lost significance. Although for most employees conditions of work and wages are still determined by supra-firm collective agreements, predominantly at the sectoral level, the coverage rate continuously decreased (especially in Eastern Germany).
2. On the level of co-determination, a similar trend can also be observed. While the structural framework, i.e. the co-determination law, has so far remained largely unchanged, both the absolute number and the share of employees represented by a works council have decreased.
3. The organisations of interest representation have experienced a steady decline in membership, albeit not as drastic as expected (e.g. by Schroeder and Ruppert 1996).

The second group claims that the German co-determination model, despite its acknowledged problems, has not lost its significance in relation to the collective regulation of the conditions of work and employment (Pries 2002: 59) and that it is *sustainable* and will continue to produce socially acceptable results (Jacobi et al. 1998; Bertelsmann Stiftung and Hans Böckler Stiftung 1998). According to the proponents of this group, the German co-determination model is not only perfectly designed to face future developments but can also be regarded in international comparison as having a locational advantage in regard to globalisation processes (Pries 2002: 71). While most researchers in the third group also point to the stability of the German system, most of them nonetheless see the need for *substantial reforms* (*inter alia* Dörre 1999: 320f.; Keller 1999; Abel et al. 2001: 387).

Whatever the outcome may be, empirical studies show that globalisation processes in product markets and, increasingly, finance-market driven globalisation processes put pressure on the German system of employment relations. This is due not only to the fact that alternative forms of international capital investment may be more promising, but also to the increasing share of institutional investors (e.g. pension funds) in the ownership of German companies in sectors such as pharmaceuticals who focus on short-term returns on their investments and demand a more disciplined shareholder value orientation of the managements (e.g. Rampeltshammer 2008).

Employment relations' actors

Associations play an important role in the German employment relations' system. Collective bargaining agreements especially are most often the outcome of negotiations between trade unions and employers' associations. Nevertheless, membership in trade unions is declining steadily: In 1981, almost 8 million employees were members of one of the 16 DGB-affiliated trade unions; due to German reunification this number increased to 11.8 million in 1991 but has since then fallen to 6,5 million for the (now) 8 DGB-affiliated trade unions in 2006 (DGB 2008). DGB-affiliated trade unions are structured by two features: they are mainly *industrial associations*, i.e. all employees in a sector are represented by one trade union independent of the specific tasks of the employee (white, blue or pink collar employees) and they are *unified trade unions*, i.e. they are independent of political parties.

Employers' associations in Germany can be grouped into three categories:

1. Chambers governed by public law with compulsory membership and whose main task is the representation of the common regional interests of the industry and crafts (*Handwerkskammer*).
2. Business associations which represent the economic interests of their members mainly vis-à-vis government, parliament and the public (e.g. *Bundesverband der Deutschen Industrie* - BDI).
3. Employers' associations which represent the socio-political and collective bargaining interests of the companies (e.g. *Gesamtmetall*).

Membership figures of employers' associations are difficult to obtain. According to data on the Gesamtmetall website, 4,214 companies are full members (with around 1.8 million employees) and 1,897 companies are associated members without compulsory collective bargaining coverage (with around 240,000 employees) (Gesamtmetall 2008). However, all indicators point to a steady decline in the membership of employers associations as well (Keller 1999; Müller-Jentsch 1997).

To conclude, the German system of employment relations is characterised by a historically evolved and densely regulated web of relationships between employers' and employees' representatives at different levels. The legal basis that structures these relationships lays out different qualities of participation for employees' representatives: information, consultation and co-determination. On this foundation, practices of interaction have evolved

which in turn structure the perception and options of the actors involved. In the German context, EWCs fit well into this configuration:

- managements have adapted to the legal requirements of information, consultation and co-determination of employee bodies (works councils);
- works councillors have learned to cope with the requirement of keeping company information secret and, despite this, using information as leverage for their interests in negotiations with management;
- most European Works councillors in companies headquartered in Germany have been involved for many years in employee bodies at different levels and acquired a substantial level of expertise; most of them are also chairpersons of their local (and, in many cases also group or company works councils) employee representation body and some are also members of the supervisory board. Therefore, EWCs are integrated into the fabric of company employee representation and are seen by many members as just one body alongside others;
- the far-reaching financial, technical and personnel equipment of works councils in large companies allows works councillors to devote resources (e.g. staff) to EWCs in order to ensure the constant flow of information and the organizational functioning;
- trade-union officials often take part in the installation of EWCs and are often present at EWC meetings as external experts and through this trade unions secure their influence in many EWCs.

On the other hand, for many EWC members it is difficult to coordinate the activities of these different bodies in such a way as to create potential synergy effects and ensure an effective flow of information.

8.2. The transposition of the EWC directive in Germany

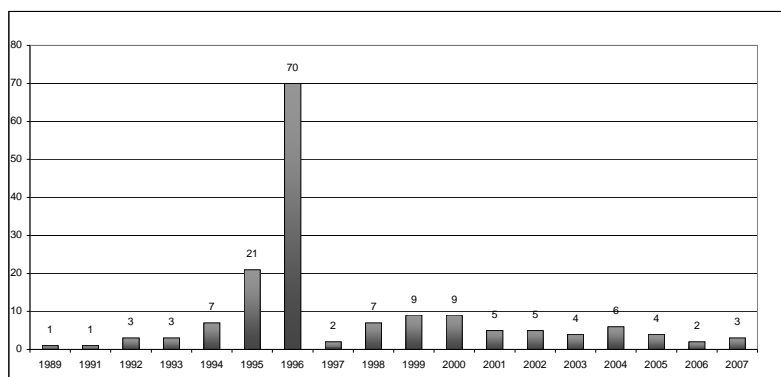
It is plausible to argue that the initiatives by German and French managements, employers' representatives and trade unions were important for the development of EWCs, since the first voluntary EWCs were founded in these two countries; in France already in the 1980s¹¹ and in Germany in the early 1990s¹². Even before the directive was adopted by the European institutions in 1994, 15 EWCs had been founded in Germany (see Figure 1),

¹¹ The first voluntary EWC agreement was signed at Thomson in 1985.

¹² According to Rivest (1996), the first German EWC was founded in 1990; whereas Kerckhofs reports that the first EWC in Germany was founded in 1989 at Schenker.

of which nine were based on a written agreement between management and the works council while the other five were based on informal arrangements (Kerckhofs 2006). According to the ETUI database, a total of 133 EWCs were founded in 178 companies headquartered in Germany during the period 1989-2007.¹³ This is out of a total of 549 companies that could establish an EWC. The time-line shows a marked increase in 1995 and 1996 which can be explained by the fact that many companies wanted to establish the EWC prior to the standard procedure prescribed by the EWC-Directive in order to negotiate company-specific and flexible solutions.

Figure 8.1. Companies with headquarters in Germany (1989-2007)*



For 16 companies no installation date is available

Source: ETUI database 2008

The sectoral distribution of the companies with EWCs shows a clear dominance of companies in the metal and chemical sector, followed by building and woodwork and commercial services (see Table 8.1.).

Nevertheless, despite the positive examples of the existing EWCs, the social partners in Germany did not reach an agreement concerning the implementation of the EWC directive. Therefore, the directive was transposed into German law (*Europäisches Betriebsräte-Gesetz – EBRG*) by Parliament on October 26th, 1996.

¹³ The difference between EWCs established and the number of companies is explained by the fact that first, not all EWCs are still in existence because of closures or mergers and second, the existence of more than one EWC in one company.

Table 8.1. Sectoral distribution of EWCs in Germany in 2007

Sector	Number of EWCs
Building & Woodwork	16
Chemicals	27
Food, Hotel, Catering & Agriculture	9
Graphical	3
Metal	60
Other Services	3
Public Services	1
Services Commerce	13
Services Finance	4
Services IBITS	1
Textile	10
Transport	5

Source: ETUI data base 2008

Even though the Secretary of Labour met several times with executives of employers associations and trade unions, the German transposition of the directive was not much influenced by the opinions of the social partners, and hence the German version of the EU directive was introduced into German law according to the EU directive with only a few revisions¹⁴:

- The first modification relates to the German Works Constitution Act (*Betriebsverfassungsgesetz*). For works councils, there is a legal restriction to only one external expert on the employee side paid for by the central management. This provision has been included into the transposition law. By comparison, paragraph 29 of the EWC-Directive does not restrict the number of external experts in EWC-meetings¹⁵.
- Second, EWC agreements in Germany are also accepted by law, if the representation of the employees' interests at the highest level (i.e. the general works council or the groups' works council and management) sign the agreement¹⁶.

¹⁴ For a description of the implementation process see Blanke 1999, Buschak 1997, Keller 2001, Lecher et al. 1999.

¹⁵ These experts can be representatives of trade unions. In some countries like France or Spain, two external experts paid for by the company are required by law.

¹⁶ In legal terms, these contracts are implemented as company agreements (*Betriebsvereinbarungen*).

- Third, in Germany, according to the EBRG, managerial staff committee members can attend meetings (as guests) of the EWC (§23(6) EBRG).

In general, the German transposition law largely repeats the definition of the composition of the EWC and the Special Negotiation Body (SNB). A European Works Council that is structured according to German law can be comprised of between 3 and 30 representatives. The transposition stipulates that there must be at least one representative of each country where the company is located¹⁷.

According to German law, the Special Negotiation Body (SNB) is composed of one representative of every European country in which the company has plants¹⁸. The representatives of the SNB, like those of the EWC, are appointed by the general or group works council. Every representative of these committees must be an employee of the company (according to §22 EBRG). Therefore, according to this provision, trade-union officials who are not employees of the respective company are excluded. Hence, the German model of European Works Council can be characterised – in contrast to the French model – as an employees-only committee.

According to the directive and the EBRG, the EWC representatives have the right to meet once a year with the possibility of additional extraordinary meetings on the condition of the approval of the general management. In respect to information and consultation, the German transposition law stipulates that the central management has to *inform* the EWC at least once a year in sufficient time and in written form about the development of the business situation, the expected growth of the company, production sales and employment development, capital expenditure, basic organisational

¹⁷ Paragraph 22(2) of the EBRG does not explicitly state that there must be a minimum level of employees in the member states in order to send a representative to the EWCs. It only states that 'Every member state, the company or company group has a plant in, can send a representative to the EWC' (Bundesgesetzblatt 1996). According to the German law, in companies with more than 10,000 employees there is a differentiation for the number of EWC members. A country with at least 20% of the total employees can send one additional representative, three additional representatives for 30% of the employees, five for 40%, seven for 50%, nine for 60%, eleven for 70% and thirteen for 80% of the employees. The number of extra seats in an EWC is seven if 80% or more of the employees of the company work in this country (Buschak 1997).

¹⁸ In the case that 25% of the of all employees of the company work in one country, one additional representative can be sent. If 50% of the total company employees are employed in one country this country can send two additional representatives to the SNB and if 75% of all employees are working in one country three additional representatives can be sent to the SNB (Bundesgesetzblatt 1996, No.53).

changes, implementation of new manufacturing and production processes, the dislocation of company parts, joint ventures, the closure of company parts and mass lay-offs. Moreover, in the case of extraordinary circumstances that will have effects on employees' interests in at least two countries – like the dislocation or closure of company parts or mass lay-offs – the central management has to inform and *consult* the EWC within sufficient time. The transposition, like the directive, does not define the terms “sufficient time” and “information” and “consultation”. In case management fails to inform and consult the EWC on transnational issues, according to the German transposition law, a fine of up to 15,000 Euros can be imposed on the company. Nevertheless, according to Paragraph 10 of the Labour Court Act the right to represent the EWCs is assigned to the EWC as a body and not to individuals (as in other countries, e.g. Finland). EWCs also have the right to take action at the labour court.

These issues are also part of the obligations on management in respect to the participation of employees based on German law laid down in the Works Constitution Act in which the works council has the right to be *informed* and *consulted* in the case of e.g., personnel planning, and hiring and to *co-determine* (see chapter 1.1.2 above). Compared to the rights of German works councils, it is clear that the extent of participation rights enjoyed by the EWC is much more restricted and the quality of EWC participation is much weaker than that of German works councils. Therefore, the pessimistic evaluation of the regulatory potential of EWCs that is prevalent in many studies on EWCs in Germany is based mostly on the comparison between stronger national participation rights (e.g. those of German works councils) and those of EWCs.

To sum up, it is fair to say that the German transposition of the directive is oriented to the recommendations of the EWC working group that was set up by the European Commission. Although the Secretary of Labour had formal and informal contacts to the social partners that were involved in the transposition of the directive, the trade unions were not able to achieve any significant improvement of the directive. On the other side, the German employers' associations were successful in implementing the three exceptions to the directive mentioned above (Lecher 1998).

8.3. Research on EWCs in Germany

In comparison to the scholarly discussion in other European countries, research on EWCs in Germany is relatively well developed; it began already

in the early nineties shortly after the conclusion of the first voluntary agreements on EWCs in Germany in 1990.

Development of EWCs

Research on EWCs in Germany began before the European institutions adopted the directive¹⁹. The era of the foundation of voluntary EWCs in Germany lasted from 1990 to September 1996. Early studies focused on the *historical development of European Works Councils*. Typically, three periods of the development can be distinguished (Rivest 1996; Platzer and Weiner 1998; Keller 2001):

The first period, from the mid-1980s to 1994, is marked by the emergence of several transnational bodies for the information and consultation of employees on the basis of voluntary agreements. According to Kerckhofs (2003: 25), in this period, which is characterised on the political level by the adoption of the Maastricht treaty and its Social Protocol as well as the draft directive which was presented by the European Commission, altogether 49 EWCs were created in 46 companies. In Germany, the first voluntary EWC agreements were signed in 1989 at Schenker, followed by Europipe in 1991, and Passauer Neue Presse and Volkswagen in 1992. According to Nagel, these early and voluntary EWC agreements played an important role in the development of EWCs; without these pioneer projects it would have been hard to create the political pressure for the adoption of the directive (Nagel 1999). The second period lasted from 1994 (the adoption of the directive) until the end of the transposition period in September 1996. During this time, so-called “Article 13 agreements” could be negotiated on a voluntary basis between management and employee representatives. These left considerable scope for individual provisions and, hence, encouraged actors in many companies to conclude EWC agreements before the directive came into force (Hoffmann 1997; Lecher et al. 2001). During this time, roughly 400 agreements were signed on the basis of Article 13 of which 101 were concluded in Germany (Kerckhofs 2006). The third and so-called “Article 6 period” designates the phase after the implementation of the directive into national law according to the standard procedure required by the directive. At the beginning of this period, research on EWCs in Germany focused predominantly on the transposition (e.g. Buschak 1997; Jäger 1996), followed later on by analyses of the successful establishment of EWCs (Whittall 2000 on BMW; Eller-Bratz and Klebe 1998, Haipeter 2006 and

¹⁹ For a short overview of the history of the development of the EWC-Directive see Danis and Hoffmann (1997).

Kotthoff 2006 on GM) and of the activities of EWCs (Bartmann 2005; Bartmann and Blum-Geenen 2007; Bartmann and Dehnen in this volume; Klemm and Siebens 2004 on Deutsche Telekom).

Another branch of research focuses on the quality and the functionality of EWCs. For example, Whittall published a case study on the role of the EWC at BMW during the Rover crisis. Whittall focuses on the genesis of mutual trust and respect between British and German EWC members. The conclusion of the study was that within the EWC, there was no balance of power between representatives of the different plants. In the case of BMW, a decision was made by the German management (together with German EWC members and a representative of the TGWU) which included cost reductions of £150 million per year on the one hand, and the guarantee by management to produce the new Mini and a new medium-sized car at Longbridge on the other. This decision was imposed on the EWC members from the United Kingdom who were not included in this decision-making process, which in itself was characterised by a lack of transparency. However, Whittall concludes in positive vein, stating that even if there are different national systems of industrial relations, the implementation of EWCs provides the first step towards supporting better cross-border relations and unity among employee representatives and thus offers some cause for hope (Whittall 2000: 80).

In 2004, Weiler published the results of a research project on EWCs in five European states (France, Germany, Italy, Sweden and the United Kingdom) on behalf of the European Foundation for the Improvement of Living and Working Conditions. In this project, 41 case studies were analysed according to the internal function of EWCs and the positions and prospects of the social partners. The study reveals an increasingly positive assessment of managements in respect to the roles of EWCs. By contrast, employee representatives regard the low level of influence of the EWCs on management decision-making processes as one of the problems of EWC practice (Weiler 2004).

Evaluation of the transposition of the EWC-directive

From 1996 to 1998, EWC research in Germany focused mainly on questions of the transposition and analysis of the EWC-experience in Germany. In 1996, the Hans-Böckler-Foundation published a special volume on EWCs in the *WSI Mitteilungen*. This volume deals with the topic “EWCs – a fourth level of managerial representation of interests” and was coordinated by Wolfgang Lecher. The main focus of this volume is an

evaluation of the EWC transposition and the historical development of the directive. The authors describe, in various contributions, the historical development and the specificities of the German transposition and possibilities for the development of EWCs. In most of these articles, the euro-sceptic view on EWCs dominates. However, a common view among the authors is that the development of employment relations on the European level is closely connected with the development of the Social Dialogue (WSI Mitteilungen 8/1996). In the same year, the journal *Industrielle Beziehungen* published a volume on change in employment relations. While the *WSI Mitteilungen* focused more on the legal aspect of the transposition and the evaluation of the directive, the contributions in the *Industriellen Beziehungen* focus predominantly on the social dialogue as an instrument for European labour and social policy. The article by Marginson and Sisson deals with the question of whether EWCs could be the first step on the road to collective bargaining on a European level. They conclude that 'EWCs may become the forum for joint opinions or framework agreements on aspects of employment and industrial relation policy' (Marginson and Sisson 1996: 236). Lecher gives an overview on the experience and perspective of already-existing EWCs (Lecher 1996), while Stützel analyses the ways in which the legal requirements were transposed. Stützel's article is based on a survey covering all German-based companies that fall under the EWC-Directive. The main results of this survey are that companies which have already implemented EWCs pay the operating costs and that most managements largely adhere to the information and consultation obligations towards the EWC. Furthermore, the survey shows that employee representatives from Central and Eastern Europe have been increasingly integrated into EWCs (Stützel 1996).

In 2004, Gohde published the results of an analysis of 103 EWC-agreements on behalf of the Hans-Böckler-Foundation. The goals of this study are twofold: first, to describe the different forms and instruments at the disposal of EWCs, and second, to describe best practice regulation for different items (e.g. distribution of mandates, election procedures, meetings, resources). The study aims predominantly at EWC members and practitioners in trade unions working on EWCs. The scientific value lies in the description of the variety of concluded agreements.

EWCs and national systems of employment relations

The critique by Weiss is exemplary for the position of many German scholars working in the field of employment relations. Weiss criticises the European law makers for providing only a very vague and non-specific

framework which leaves considerable room for national implementation. 'The danger is obvious: implementation in each Member State may be significantly different. This could lead not only to decreased transparency of the regulatory framework but also to unintended competitive advantages and disadvantages among the Member States' (Weiss 1996: 229).

In a similar vein, Berndt Keller published a study in 1997 (second edition 2001) on European Labour and Social Policy. Concentrating on the aspect of the different social dimensions essential for the implementation and success of employment relations, the aim of the book is to evaluate the prospects for the social dimension of the internal market. Keller devotes two chapters to EWCs; the first deals with the participation of employees and gives a historical overview of the development of the relevant literature on participation studies of transnational employee representatives from the 1980s onward. At the end of this chapter, Keller evaluates the possible results of the directive and the existing literature on EWCs. According to Keller, the large room for manoeuvre in the different national transposition options is problematic because transnationally applicable proposals should be combined with the conservation of specificities of national regulation. According to Keller, this amounts to 'squaring the circle' (Keller 2001: 80).

The second chapter on EWCs is concerned with the actual situation of EWCs and starts with a review of the development of EWCs and the different national initiatives for the creation of EWCs. According to Keller, the existing research does not point in a clear direction; instead, Keller comes to the conclusion that two different trajectories for the development of EWCs in respect to the Europeanisation of employment relations are realistic: on the one hand, the development of company-internal systems of European industrial relations that exist above nationally fragmented systems or, on the other hand, the development of an integrated system of European industrial relations that would connect different layers and arenas of national and international employment relations. At the end of the chapter, he presents a short overview of the basic problems of EWCs. The most severe problem, in his opinion, is the quantitative gap in coverage of employees through EWCs. He sees this as the result of the slow transposition into national law and as reflecting the aversion of many employers to conclude EWC-agreements. Keller ends with a somewhat pessimistic evaluation of the potential of EWCs for countries with dualistic systems of employment relations. In these countries EWCs could introduce company-syndicalist forms of cooperation and bargaining with management which would lead to a weakening of trade unions and collective agreements at the sector level (Keller 2001: 110).

Role of the EWCs for the emergence of European system of employment relations

The EWC-Directive has been regarded as an important step into the direction of the creation of a European System of Employment Relations (Müller and Platzer 2003; Weiss 2007; Platzer in this volume). Lecher and Platzer regard EWCs as the core of European labour relations (Lecher and Platzer 1996: 511). According to Müller and Platzer, the adoption of the EWC-Directive represents a ‘paradigm shift’ in European legislation which they refer to as ‘regulated self-regulation’ (Müller and Platzer 2003: 58). The novel feature of this shift is the combination of three principles: regulation, subsidiarity and the primacy of negotiations. From this perspective, European employment relations are part of a multi-level system characterised by reciprocal relationships between the national and the supranational levels. Although still in an initial state according to Müller and Platzer, EWCs are the most dynamic element of an emerging multi-level structure of employment relations. According to Weiss (2006: 18ff.), with the adoption of the EWC-Directive several important decisions about the future of European employment relations have been made: first, cooperative as opposed to antagonistic employment relations have been implemented and, second, the legal specificities of the directive and its different national transpositions are flexible with respect to historically evolved structures and have created possibilities for comparative learning processes according to which best practices can be evaluated. Therefore, according to Weiss, the cooperative model of participation of employees is an indispensable ingredient to the European Social model which distinguishes labour relations in the EU from those of all other regions of the world.

In general, in respect to the evaluation of the regulatory potential of EWCs and their contribution to the emergence of a European system of employment relations, two opposite positions in the German literature on EWCs can be distinguished²⁰:

1. The Euro-sceptic position

The main argument for this position is the lack of regulatory powers of EWCs which is taken as an indicator of the actual political integration

²⁰ It should be noted, however, that many of these evaluations of EWCs reflect the ideological background of the respective author rather than theoretically guided and empirically grounded research.

process of the EU. Early observers of EWCs thus spoke of an emergence of a 'neo-voluntarist' system of industrial relations in Europe (Streeck and Vitols 1993). According to Streeck, the role of the European Union is marked by the replacement of the goal of a European welfare state with that of a competitive state (*Wettbewerbsstaat*) whose main goal lies in the opening up of and in making national economies fit for international competition (Streeck 1998: 3). Hence, regulation at the supra-national level does not, in the foreseeable future, replace national systems of industrial relations, but rather national and supra-national levels will coexist. Seen from this perspective, EWCs are a horizontal extension of national action systems rather than a pan-European institution (Streeck 1999b: 17). Therefore, it is consistent when Streeck characterises EWCs as 'neither European nor works councils' (Streeck 1997): on the one hand, because EWCs are seen as mere extensions of dominant national interest representation and, on the other, because they only have information and consultation rights at their disposal which is much less than works councils in the German tradition. Moreover, according to Streeck the introduction of the EWCD will have detrimental effects on the German system of industrial relations: "Especially in countries with high national standards (...) the Directive must be expected to reinforce tendencies towards erosion of such standards" (1999a: 153). Similarly, Keller (2001) does not regard EWCs as an appropriate instrument for influencing managements' decisions on investments or the relocation of production. According to Keller, any expectation that EWCs could help solve problems related to these issues is unrealistic and would clearly overburden the options for action of these bodies (Keller 2001: 100). Moreover, Keller sees the danger that EWCs could reinforce company-syndicalist tendencies which might entail the erosion of the sectoral actors in dualistic systems, i.e. trade unions and employers associations (Keller 2001: 104 f.)²¹. In a similar vein, Schulten (1995, 1997) criticizes the potential of EWCs as vehicles for European neo-syndicalism because they can be used as potential partners for negotiations on wages and working conditions in micro-corporatist constellations and thereby undermine the regulatory power of trade unions.

2. The Euro-optimistic position

Supporters of EWCs usually stress the fact that although the powers and resources of EWCs are limited, they nevertheless have the potential to

²¹ Keller, nevertheless regards EWCs also, at least potentially, as an 'instrument to increase social productivity' (Keller 2001: 52).

develop into an important European interest representation body. According to Lecher et al. 'there are strong indications that EWCs develop into a supporting pillar of the Europeanisation of labour relations' (Lecher et al. 1998: 269). Furthermore, Lecher et al. believe in the potential evolution of EWCs from information forums towards the development of a European body with a collective identity and joint action. As the discussion of the typology of Lecher et al. 1999 above shows, no uniform EWC-practice has emerged. Instead, a multitude of different EWC-arrangements has developed, some of which are merely symbolic while others are developing into a full-fledged negotiation body. Müller and Hoffmann identify a tendency that 'the actual practice usually exceeds the formal content of EWC agreements' (Müller and Hoffmann 2002: 108; cf. Lecher et al. 1998: 229), which would indicate that the longer EWCs exist, the more potential powers they are able to acquire. This position is confirmed by Telljohann who, on the basis of 50 case studies, finds that under certain conditions EWCs can assume a role that goes beyond the competencies described in the EWC-directive (Telljohann 2005). Arguing from a trade-union perspective, Reiner Hoffmann (1997) regards EWCs as an opportunity to transcend the borders of international solidarity and sees the positive aspects of EWCs in the fact that systematic exchanges of information prevent the play-off of different employee representatives by management. The negative evaluation of the potential of EWCs is also refuted by Müller-Jentsch. According to him 'the euro-sceptic view on EWCs is unfounded. Even if a significant number of analysed EWCs (for the time being) only exist and acts symbolically, the more developed examples in the case studies show the inherent dynamics and the positive potential for development of these original European institution' (Müller-Jentsch 2007: 140). Similarly, Blanke regards the emergence of EWCs as 'considerable progress in the direction of a supra-national interest representation of employees and the creation of Europe-wide minimum standards of company participation' (Blanke 1999: 522) which can be used to overcome (company or location) egoistic interests and which opens up chances of politicising transnational company decisions. According to Müller-Jentsch, the eurosceptic position has proven to be unjustified; even though the majority of EWCs exist only 'symbolically' (in the sense of Müller and Platzer 2003), the few examples where EWCs take on an active role shows the inherent dynamics and the positive potential of EWCs (Müller-Jentsch 2007: 140).

The positive stance on EWCs is summarised aptly by Müller and Platzer: 'while the EWC-Directive may not be the one and best way (...) it is perhaps the only possible way of securing EU regulation' (Müller and Platzer 2003: 79).

As a general result, not only do EWCs differ in terms of their structures, remits and powers, but also research on EWCs does not paint a unified picture. In those cases where EWCs exist there is a wide variety between mere information bodies, on the one hand, and negotiation partners on the other. Therefore, in terms of the dichotomous evaluation presented above, both are right and wrong at the same time, it depends on the choice of criteria upon which EWCs are deemed to be a success or a failure. Nevertheless, the sporadic instances in which specific EWCs did evolve into a negotiation partner for management show that there is a potential for development.

Typologies of EWCs

Between 1997 and 1998, Lecher et al. conducted a substantial research project in association with the DGB research institute WSI. The research had two aims: the first was to contribute to the stock of empirical research in this field and the second was to develop a typology and interpretation of the empirical variety of EWCs. In respect to the analysis of the *qualitative dimension* of EWCs, Lecher et al. provide an impressive typology of EWCs based on an actor-centred analysis of the communication structures and interaction patterns among EWC members, between management and the EWC, between trade unions and EWC and between the respective national employee representation structure and the EWC. The main explanatory factors, which were analysed for the typology of EWCs, are the degree of activity, participational influence on management and decision-making. The study built upon an earlier study from Lecher et al. in which they analysed the development of EWCs in the chemical and metal sectors in Germany, France, Italy and the UK. In the follow-up project they analysed 15 EWCs from the banking, insurance and food-service sectors²².

According to their study, four main types of EWCs, based on the four above-mentioned fields of action or dimensions of communication can be distinguished (Lecher et al. 1999: 56ff., see also the contribution by Platzer in this volume):

1. Symbolic EWCs

In such an EWC the activities are restricted and the behaviour is rather passive. It is a body that formally exists, but in practice does no work. EWC-activities are restricted to annual meetings with

²² Later on, the number of case-studies for this typology was extended to 23 (Müller and Platzer 2003).

management. The little information that is obtained from management cannot be systematically converted into strategies of joint action. Trade unions are at best formally included.

2. Service-Oriented EWCs

In a service-oriented EWC there is mutual support and communication between the delegates that can be observed in the cross-border exchange of experiences and the EWC is supported by satisfactory information from management and information is shared among the EWC members between meetings. In general, the EWC provides an additional service by distributing relevant information. Integration of trade unions is possible but not necessary. The access to resources is much easier than in the symbolic EWC.

3. Project-Oriented EWCs

This type of EWC defines its own projects and there is mutual understanding among the delegates. Information and consultation between EWC and management has been established and turned into a systematic strategy by the EWC. In this case, the projects developed by the EWC can potentially become tools for negotiation with management on selected issues. Trade-union integration is again possible but not necessary.

4. Participative EWCs

The activities of this EWC-type extend beyond the tasks prescribed by the EWC Directive because the interaction is not limited to information and consultation. Rather, in this case, the EWC has gained the option of negotiating with management and concluding formal agreements. In this case, the EWC has developed into a full-fledged negotiation partner for management. Cross-border exchange between the delegates is substantial such that intensive transnational actions can be carried out on a European level. Trade unions are included.

Lecher et al. are aware of the fact that only a few participative EWCs exist; the majority can be regarded as merely symbolic or service-oriented. Furthermore, they insist that there is no automatic development from one level to another and that there is no clear trajectory, e.g. from the symbolic to the participative EWC. On the basis of this study, any prediction of the development towards a unitary type of EWC seems to be extremely unrealistic.

In 2006, Kotthoff presented a different typology on the empirical basis of twelve EWCs from different sectors in which he constructed five distinct types of EWCs based on seven research dimensions.

These dimensions are 1) structure and organisation of the EWC and of the company, 2) structure and organisation of the company, 3) the effectiveness of the representation of interests, 4) internal EWC networking, 5) every-day Europeanisation, 6) the relevance of the EWC work to the representatives, and 7) the interaction between EWC and trade unions.

The first type is the 'EWC as a participating working team'. Three cases in Kotthoff's study correspond to this type of EWC, which is, according to Kotthoff, the only one with a European identity and which therefore has an added value. It is defined as a standardised transnational committee with a transnational political understanding and it aims at influencing management decisions. This type is comparable to Lechers participatory EWC. Both define the respective type as an active partner of management and in both cases this type is in respect to the outcome the strongest type of EWC.

The second type is called 'The German works council chair as the advocate for the Diaspora'. In Kotthoff's study, three EWCs were identified which correlated to this type. It is characterized mainly by an ethnocentric approach: the German chair of the European Works Council is influential because of his direct access to the firm's top management and addresses the problems of other EWC members on their behalf. Furthermore, the international subsidiaries of the company are controlled by the headquarter. This type of EWC is analogous to the service-oriented EWC of Lecher et al. since these types perform a service for employees in Europe; nevertheless, there is a difference in the definition of services. While Lecher et al define service as a transfer of information, Kotthoff classifies it as an intercession for the branches.

The third type identified by Kotthoff can be regarded as an ethnocentric type of EWC. While the second type is typical for German-based companies, the third type is prevalent in French-based companies. However, in Kotthoff's sample, this type is represented by only one company which casts doubt on its dispersion. Kotthoff referred to this type of EWC as an 'information analyst' which is characterised by a domination of French delegates and a formal and reserved relationship between management and the EWC. This type is not equivalent with any of Lechers' types of EWCs.

According to Kotthoff, compared to types one to three, the fourth and fifth type of the typology have no added value for employee representatives. The fourth type is characterised as 'EWC running in vain' and is represented by three EWCs in the sample. The real and important events pass by the EWC, which is characterised by an main internal focus on workshops and meetings. It is equivalent to Lecher et al.'s project-oriented EWC, which is

also characterised by internal activities. According to Lecher et al., this type develops internal transnational working and communication structures. By contrast, for Kotthoff this type is considered as a somewhat problematic example of the analysed EWCs, because they do not exert influence on important decisions made by management.

The last type is similar to the symbolic EWC which Lecher et al. identify in their research. Kotthoff calls this type the 'marginalized EWC' since it has no internal cohesion and never develops significantly beyond the start-up phase. Therefore, this type is considered to be the weakest type of EWC. Kotthoff identified two EWCs which belong to this type (Kotthoff 2006).

Despite the clarity and the heuristic value of these typologies, one shortcoming is that they are based on only a few cases (Lecher et al. use altogether 35 case-studies and Kotthoff 12) and it is not entirely clear what the guiding theoretical references for establishing their typologies were²³. The problems arise mainly from the methodological approach of these studies: the cases were analysed according to the pre-established four fields of action and the types were constructed inductively without a coherent theoretical underpinning. On this basis, it cannot be determined whether the results cover the entire spectrum of all potential types.

The transnational aspect of EWCs has also played an important role in the recent research on EWCs: In 2002, Platzer published an article about the Europeanisation and the transnationalisation of employment relations in which he shows that these two aspects lie only at the fringes of EWC research (Platzer 2002). Two years later, Platzer published together with Müller and Rüb a study relating to global employment relations in eight globally active companies (Platzer et al. 2004). The results of the research display different models of transnationalisation with different coverage rates of trade unions, employee associations and collective agreements and different structures and norms of employment relations. According to the authors, the variations can be explained through different structures of globalisation among the companies, the association of problems and strategies of the social partners and the interaction between management and employee representatives. Although the study has no direct connection to research on EWCs, it is nonetheless important for understanding the functioning of employment relations in transnational companies.

²³ To do justice to the study by Lecher et al., it should be noted that in this study the different phases of the operationalisation process are explicated (Lecher et al. 1998: 58ff.).

While most analyses focus on the strategies of the actors in order to gauge the potential of EWCs, other studies focus on the structural frameworks and national employment relations' systems (e.g. Telljohann 2005) in order to identify the conditions of an effective EWC. According to Fetzer, in the case of GME, the perception among EWC members of vulnerability to corporate globalization with respect to shifts in production has been a strong element in the development of the EWC at GME. This development of the EWC has been from a mere information and consultation body to a full-fledged negotiation body (Fetzer 2008: 304).

Similarly, Pries (2008) and the contribution of Hertwig, Pries and Rampeltshammer in this volume locate substantial parts of the participatory potential for EWCs in the structure of the organisations themselves. Drawing on management literature on transnationalisation (Bartlett and Ghoshal 1989; Doz et al. 2001), four types of organisations (i.e. companies and EWCs) can be distinguished along the two dimensions *degree of coordination* (weak and strong) and *distribution of resources, culture, knowledge and power* (centralised and decentralised):

1. *Focal* organisations: centralized distribution and weak coordination
2. *Global* organisations: centralized distribution and strong coordination
3. *Multinational* organisations: decentralized distribution and weak coordination
4. *Transnational* organisations: decentralized distribution and strong coordination

According to Pries (2008), in cases where the structure of the EWC corresponds to the structure of the company, chances are higher for EWCs (transnationally structured company and EWC) or for a nationally-based employee representation body (focally structured company and EWC) to influence management decisions. Moreover, Pries regards EWCs as one building block of an emerging transnational texture of employment regulation whose regulative quality can no longer be gauged by looking solely at national laws and collective agreements. Instead, it is necessary to combine the analysis of national and transnational forms of employment regulation into a holistic perspective in order to capture the newly emerging regulatory potential (in terms of material and procedural regulation) in the field of employment relations (Pries 2008: 353ff.).

Therefore, the general conclusion drawn by Lecher et al. from the results of their case studies that 'EWC representatives of the home-country typically dominate the EWC at the beginning and shape its design' (Lecher et al.

1998: 238) seems somewhat one-sided from the point of view of a sociology of organisations as. Instead, it is the fit between company and EWC structure that provides the basis (but not the guarantee) for the development of EWCs into negotiation bodies. Moreover, from this perspective, the general conclusion of Keller (2001: 339) that the role of EWCs in important decisions (e.g. relocation of production or closures of plants) is severely limited due to the absence of co-determination rights does not take into account the specificities of the trajectories and structures of the different companies and EWCs.

Eastern enlargement of the EU

In 2004, Tholen and Hemmer analysed the quality of co-operation between EWC members in eastern and western European countries. This analysis is based on 50 interviews with representatives of trade unions in Eastern and Western Europe. The main result of this study is that the degree and timing of information and consultation of EWCs on investment policies by managements vary considerably. Moreover, only a few western-European EWCs were able to establish a European network of employee representatives and develop a European identity. According to the authors, the extensive wage differences and the threat of relocation hinder the development of transnational action patterns. Thus, EWCs have not, in most cases, gained a significant level of authority vis-à-vis their interaction partners. However, it is important that EWCs develop an independent profile in order to play a significant role in respect to communication and reconciliation between East and West (Tholen and Hemmer 2004).

In 2005, Kotthoff analysed the problems of EWCs connected with eastward expansion. The study deals mainly with the problems of the integration of representatives from the new member states. The case studies show that the composition, transparency and trust among EWC members all play an important role in the functioning of the EWC (Kotthoff 2005).

In 2004, Kohl and Platzer examined employment relations in eight new eastern member states of the European Union. This research provides extensive information about the representation of interests at the company level in these countries. The most significant problem in this context is what Kohl and Platzer call the 'dilemma of concomitance' (Kohl and Platzer 2004: 20f.). The new member states have to establish and develop democratic political structures and corporate industrial relations at the same time. The research by Kohl and Platzer shows that the development of industrial relations did not keep up with the development of the domestic

market and therefore, created different degrees of employment regulations compared to Western Europe.

Perception of the efficiency of EWCs

In 2006, Waddington analysed the quality of informing and consultation of EWCs by management from the employee point of view. For this qualitative study 473 questionnaires were analysed. Waddington came to the conclusion that although informing takes place, the content and timing varies significantly (Waddington 2006). According to Waddington, 75% of EWC members were informed by management about a planned restructuring of the company either after the restructuring had taken place or not at all. In reference to consultation, 80% of EWC members were consulted either after the restructuring had taken place or not at all (Waddington 2006: 565). Therefore, it is no surprise that in general most interviewees regard the overall efficiency of EWCs as rather modest. This is especially the case with respect to influencing management's decision-making processes; most interviewees regarded the EWC as an ineffective tool for this task²⁴. According to Waddington, the main problems for EWCs are 1) the language barrier, i.e. the restriction of communication among EWC members, and 2) at least in many German EWCs, the uneasy relationship between group and general (*Gesamt- und Konzernbetriebsrat*), on the one hand, and the EWC on the other, which can potentially result in competition between these employee bodies. Nevertheless, according to Waddington, there is an increasing number of cases in which EWCs have developed into negotiation partners on issues such as health and safety, equal opportunity, education and training. This trend can be regarded as an indicator of the increasing importance of EWCs as negotiation partners.

By contrast, Vitols undertook a study in which he analysed the attitudes of Human Resource managers towards the EWC from 165 companies listed in the Dow Jones 600 Index which have thus far established an EWC. On the basis of the responses from 63 companies, Vitols points to the fact that management's perception of EWCs varies considerably: one set of managers regard the EWC as little more 'than a tourism event' and have no inclination to expand the roles of these EWCs in the company, on the other hand the majority of the managers interviewed for this study see their respective EWCs as 'constructive players on a supranational communications

²⁴ This view is confirmed by Carley, who evaluated 386 Article 13-Agreements and 63 Article 6-Agreements; only in 6 Article 13-Agreements and in 3 Article 6-Agreements, were provisions made for the EWC to become a forum for negotiating joint texts (Carley 2001: 9).

platform which exert positive effects on the information of employees, on the acceptance of management decisions and on the quality of management decisions. Many managers from this group would like to extend the role of these EWCs and are, in fact, looking for solutions to improve their effectiveness' (Vitols 2003: 22). According to Vitols, the main problems of effective EWCs from the side of management are the lack of a common language and the cultural and attitudinal differences among EWC members. Nevertheless, many of the managers interviewed hope that the EWC plays a stronger role in the future, especially as regards promoting a partnership approach to managing and modernising the firm²⁵. In respect to the issues taken up by EWCs, Vitols' findings point to the fact that hard issues, e.g. wages (4.8 % of topics in EWC meetings) or working time (9.7 %), only rarely come up on the agenda (Vitols 2003: 14). Nevertheless, despite the limited area of EWC involvement, many respondents viewed the role of EWCs as complimentary to national industrial relations arrangements, mostly because of their transnational character. Vitols comes to the conclusion that EWCs have considerable potential for an expanded role in promoting information exchange and dialogue and thus in realising the goals of a European Social Model.

8.4. Revision of the EWC-directive

The discussion on the revision of the EWC-Directive in Germany has taken place mainly within and between the main actors of employment relations-employers' associations and trade unions. In the public sphere, issues about the revision have surfaced only marginally.

In the debate over the revision of the EWC-Directive, the actors involved have mainly restated their respective arguments as originally laid out during the consultation procedure prior to the directive coming into force. In addition, the German Trade-Union Federation (DGB) as well as the Confederation of German Employers (BDA) support the positions of their European Federations (ETUC and BusinessEurope).

The main demands of the DGB in respect to the revision of the EWC-Directive are (ETUC 2008; DGB 2006; cf. Zwickel 1997):

1. The clarification of important key terms (information, consultation, timely informing, control and confidentiality) in order to resolve disputes stemming from legal uncertainties,

²⁵ According to the findings presented by Vitols, almost 60 % of the respondents are planning to implement measures to improve the situation of EWCs (Vitols 2003: 23).

2. The elimination (or lowering) of the legal threshold for the establishment of an EWC,
3. The improvement of the conditions for EWCs and Special Negotiation Bodies (SNBs) by ensuring sufficient means for training and time-off, requiring two meetings per year and preparatory and follow-up meetings for SNBs and EWCs by eliminating the limit on the number of EWC and SNB members, and by specifying the right of EWC members to obtain unrestricted access to the workforce and workplaces,
4. The reversal of the burden of proof that a specific measure affects only one country,
5. The requirement of setting up an EWC according to the rules of the directive in case negotiations within the SNB begin but are not continued for six months,
6. The strengthening of the role of the European Industry Federations by conferring the right to trigger negotiations when more than 100 workers in two countries are members of their affiliates and to participate in all SNB and EWC meetings.

Prior to the adoption of the EWC-Directive, German employers' associations were very sceptical about the potential of the directive with respect to the informing and consultation of employees. The German Business Research Institute (*Institut der Deutschen Wirtschaft*) even regarded the adoption of the EWC-Directive as the weakening of the European business location (Thüsing 1994: 29). Although the BDA now acknowledges the positive role of the EWCs as a useful tool for the organisation of transnational information and consultation (CEEP et al. 2005), there is still widespread resistance to the revision of the directive. The main argument is that, according to the BDA, the acceptance and efficiency of EWCs can only be improved if flexible and individual answers for each company can be found which would enable the company actors to find the solution that best suits their needs (BDA 2007: 2). This demand is, according to the BDA, incompatible with more extensive legal specifications (BDA 2004). Therefore, the BDA rejects the above-listed demands of ETUC and the DGB and argues for practice-oriented guidelines that allow for company-specific solutions raised either before or shortly after the directive came into force (Hornung-Draus 1997).

8.5. Future prospects

Research on EWCs in Germany has been conducted mainly from an industrial relations' perspective, i.e. focusing on the *actors* (i.e. management, employers' associations, works councils, trade unions and the state) and the *interrelationships* between them. Important insights into the workings and potentials of EWCs have been gained through this approach. But in order to gain convincing explanations of the factors that might contribute to the evolution of EWCs into effective transnational interest-representation bodies, additional perspectives are needed which explicitly focus on the structures of both the companies and the EWCs. For example, Marginson et al. 2004 (in their discussion on business alignment, management structures and industrial relations platforms) and Pries 2008 (by looking at the way in which companies and EWCs coordinate their endeavours and distribute their assets and resources) have already taken up this point. Further research on this aspect from the perspective of a sociology of organisations is needed. In addition, further studies on cross-cultural learning processes within EWCs can lead to an enhanced understanding of the nature of differences in relation to the content of the decision and the appropriate strategies for joint action. Research on EWCs has to translate this aspect into case-studies that shed light on the quantity and quality of Europeanisation from below. Furthermore, from a methodological point of view, further research is needed which will clarify the specific problems of analysing EWCs in different institutional and cultural contexts. The prediction of Abel et al. (2001) that the increasing influence of the European level would lead to the birth of a new arena for industrial relations can only be confirmed or refuted on the basis of a broad stock of empirical research. Ultimately, it is the potential of EWCs to influence management decision-making processes that are related to important questions such as the employment security or the shaping of restructuring processes, these are the most significant and public functions of EWCs. Therefore, case studies are needed on the role of EWCs in conflicts around the closing or large-scale transfer of production and on the actual processes of interest aggregation within EWCs in general.

It remains to be seen what changes the revision of the directive will entail, but the history of EWC development thus far does not point exclusively in one direction. Multiple scenarios are conceivable which cover a wide range of possibilities: from mere information bodies all the way to participatory and negotiating bodies. It is the task of empirically-based research to find the conditions under which EWCs evolve into full-fledged actors. In addition, quantitative as well as qualitative research is also needed on the factors that prevent the creation of EWCs.

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Part III

Case studies on EWCs in automotive companies

Chapter 9

Communication and solidarity in cross-cultural employee relations

Matthias Klemm and Jan Weyand

9.1. Introduction

In spite of the strong emphasis on international solidarity in the history of labour movement European labour representation still has its stronghold in the national systems of industrial relations. Nevertheless, and especially in the case of European Works Councils (EWC), a large number of employee representatives have recently entered the stage of European labour representation. The EWC is therefore seen as a “window of opportunity” against new management practices and in the course of shaping (labour) *identity* in and of Europe (Knudsen et al. 2007: 9f.).

But the EWC directive follows a voluntaristic logic: it requires the establishment of an EWC in multinational companies operating in several European countries, employing at least 1.000 workers and grants European labour representatives information and consultation rights. Further specification is left to national areas of legislation and to micropolitical bargaining on the company level. How labour representatives from the involved national production sites arbitrate between the local interests of “their” workforces and to what degree they are willing and able to use the EWC as a platform to generate collective action and solidarity has to be negotiated in a process of communication across national borders. Communication and the establishment of trans-national solidarity become additionally complex because members of European labour representation not only represent different local interests but also have to draw on resources which originate in their national cultural background.

Having said that, making EWCs (and other forms of international communication between labour representatives) successful seems to be linked not only to so-called hard facts (power, interest) but also to so-called soft facts (cross-cultural communication, solidarity).

In the following sections we will present first findings from a research project which focuses the latter. We ask in which way members of European labour representation bodies on the company level balance the interests of the workforce they represent, how their communication is affected by cultural differences and in which ways the resource of transnational solidarity is negotiated.

First, the discourse about the problems and chances of international employee relations will be presented. The second step will be to discuss the theoretical background of our project called “Communication and solidarity in cross-cultural employee relations”.¹ Afterwards, preliminary results of our empirical analysis will be shown. In the final section the results will be added up.

9.2. The debate about the Europeanisation of labour relations

In retrospective, the discourse about industrial relations can be described as a cyclical development: Up to the late 1980s, orientations towards internationalisation were paralleled by the reorientation towards national “closure”. Whereas the urge for international solidarity belongs to the founding semantics of the European labour movement, its success is closely connected to national organisation of unions, national workers’ rights and national political systems. The history of labour movement is in fact in great parts as successful as it was possible to implement national and therefore diverging systems of industrial relations (see for example Kendall 1977; Cleff 1997). On the company level, the rise of multinational companies called for international coordination, but as long as these companies followed a strong center-periphery-strategy, interest representation at the headquarters of the companies seemed to be the best way to secure workers’ rights in the whole firm.

Since the 1990s, however, the power of the national regulation of industrial relations has declined. On the one hand, the nation state and the national systems of industrial relations are drawn into competition in order to attract business. On the other hand, multinational companies turned into global operating companies or transnational enterprises relocating production with respect to labour costs, workers’ rights etc. In transnational companies

¹ The research project is funded by the Hans-Boeckler-foundation and situated at the Friedrich-Alexander-University Erlangen-Nürnberg, Germany. The research team consists of Prof. Dr. Gert Schmidt, Prof. Dr. Ilya Srubar and the authors. Adrienn Huber and Zuzana Janoušková work as students in the project.

production sites are closely connected, management becomes global and imposes regional competition between the production sites in order to increase performance (see Bartlett and Ghosal 1989; Pries 2002; Mense-Petermann and Wagner 2006; Albert et al. 1999). Last but not least the fall of the “Iron curtain” not only opened new product markets but also new (and cheaper) labour markets for business activities.

Research about the Europeanisation of labour representation mainly concentrated on the area of regulation. At first, as several authors point out, the debate was dominated by a perspective of the installation of the German model of industrial relations on the European level (Nagels and Sorge 1977; Knudsen et al. 2007). In the following years the debate about regulation modes changed towards a mode of different regional adaption possibilities (“delegation of responsibility”; *ibid.*: 8). With regard to institutional forms and cultural convergence most theories and findings on the topic concede that the contemporarily existing framework for European labour relations is and will be different from single models of industrial relations on the national level. Rather, the European system of industrial relations is expected to become „a complementary layer of actors, structures and processes at the European level [...] which are interacting with national institutions and actors“ (Eurofound 2002: 45; Heidling et al. 2004; Platzer 1991; Lecher 1997; Müller and Hoffmann 2002; Knudsen 2004; Deppe 2001; Albert et al. 1999; Durand 2007).

More efforts were made by national unions starting to orient towards the European level and further development of European organisations. Currently, the European directive concerning EWC is seen as one of the most important cornerstones of the contemporary development. EWCs might serve as areas of contact and as infrastructures which pull national differences into those arenas and raise hopes of the establishment of a European identity of labour (Kothoff, 2006; Whittall et al. 2007). That is, European labour cooperation is seen as chance to enhance the vision of a Social Europe next to the mere economic unification.

The question is under which circumstances and to which degree EWCs are able to exercise effective power over their main opponents, the international management. Different degrees in the efficiency of European Works Councils, for example, are identified and typically explained by both “soft” and “hard” factors, such as:

- differences in Works Council agreements,
- the different bargaining levels between management and EWC in different business companies,

- the information policy of the management,
- actors' personalities or character, their approach to knowledge,
- national and traditional differences of industrial relations in Europe and differences in language (Müller et al. 2004).

Comparative research on the work of EWCs consequently reveals different degrees of or capacities for transforming the existing framework of European Works Councils into a “power” relation. A growing number of research findings suggest that cultural aspects play an important role:

„We would suggest that by recognizing and embracing issues of linguistic and cultural diversity, communication processes within EWCs can be improved, and this, in turn can encourage the forum to develop a sense of identity and solidarity which truly reflects inclusivity and the interests of all constituents.” (Stirling and Tully 2004: 87)

The “soft factors” seem to be even more important, if one accepts the notion of the liberalisation of industrial relations in the course of their Europeanisation (Streeck 1998): As stated, the European institutional systems reflect a shift from obligatory to voluntary regulation. Against the background of differences in power positions (voice and exit possibilities for capital) the ability to coordinate labour within the given constraints plays a crucial role in limiting the power of capital.

In summary, the limiting circumstances, as theoretically reflected, highlight two strategic “soft factors” to be developed *within* European labour representation systems: successfully patterning cross-cultural communication and developing transnational solidarity.

9.3. Theoretical background and research questions

Our research project focuses these so-called “soft factors” of communication and solidarity. The main questions we ask, are, how negotiation in European representation systems on the company level is affected by the international and cross-cultural area of cooperation. In turn, we ask how labour representatives perceive and try to pattern international communication in order to develop new forms of transnational solidarity. We assume that EWC members have to “invent” own communication and solidarity patterns, because currently neither pre-existing shared understandings of solidarity nor regulative rules to put solidarity into action exist (Clegg 1997; Hechter 1987).

Theoretical background

In order to analyse these “soft factors” we have to clarify the basic concepts of culture, communication and solidarity. In accordance with the social theory of action from Alfred Schutz (and many others) we assume that culture can be best understood as a stock of knowledge which is “taken for granted”. “Taken for granted” means that certain ways of perceiving the everyday world and acting in this world are held to be the true and to be the right ways of perceiving and acting. Culture includes formative and evaluative elements, i.e. typifications (cats, trees, cars, friends, foes etc.) and structures of relevance (first things first, important, unimportant, good, bad, means, ends etc.). Culture as a symbolic system allows for a pragmatic orientation in situations and towards others. It divides the world into zones of familiarity and unfamiliarity (see Schutz 1964; Srubar 1998; Shimada 2006). Knowledge about other cultures also necessarily carries forms of typifications (or stereotypes) which explain unfamiliar and “strange” behaviour. These typifications do not rest in the culture of “the other”, but in the own cultural stock of knowledge.

Therefore international (or cross-cultural) communication is typically accompanied by a sense of uncertainty and strangeness concerning mutual unfamiliar behaviour, gestures and expressions. We assume that in the context of EWC meetings these notions of strangeness are covered by the situational “framing”: the official program, translators etc. But the etiquette of international encounters might not only reduce uncertainty but also the chance to adequately “translate” and “understand” culturally different motives, strategies and ideas that govern international cooperation (see Jung et al. 2004 for a study in international management communication).

Solidarity, in its broadest sense might be understood as *taking the other into account* not as an opponent but as a colleague (see Zoll 2000; Hechter 1987). On a broad level employee representatives of course are convinced to share basic attitudes and goals, e.g. improving working conditions, fair wages, social standards etc. And especially professional union representatives working on the European level are convinced of shared problem definitions.

“I think that controversies and misunderstandings are rather seldom, because, or at least I think so, the representatives of labour don’t try to showcase themselves [...] and they try to cooperate on the European level because the people gave them the mandate to do so.” (CEE union representative)

But when we consider concrete negotiation processes these goals and common understandings seem to be rather abstract. The pledge for solidarity involves not only convictions but also obligations. If decisions “at home” will probably affect employees “abroad” solidarity may mean to refrain from certain actions which otherwise would have been of advantage for employees at home. In this context communication about the goals, limits and the binding force of solidarity becomes crucial. Refraining from certain possibilities of action presupposes the articulation of the relation between local and common interests of an international workforce. Solidarity cannot simply be ordered, neither can it be sanctioned, i.e. solidarity involves *intentionality* but not necessarily power and domination. As trade unions, works councils and workers representatives are first and foremost obligated to “their” national, regional or local workforce and to their organizations they will lose their mandate if they act in a way that is not accepted by the group they represent. At the same time, exactly these factors constitute the need for solidarity.

That is why neither the patterning of communication nor transnational solidarity are given facts. They have to be established in concrete processes of communication by the actors involved. In this sense we have to ask for the ability to build up reliable communication patterns and transnational solidarity between the representatives from different production sites.

Design and case studies

We try to answer these questions by investigating in three case studies. One case study deals with an original equipment manufacturer of the car industry and two case-studies deal with car component suppliers. Our research method is based on „theoretical sampling“. The scope of the study is determined by the empirical existing formal and informal relationships between works councils of different productions sites. The most important implication of this approach is that research is not restricted to formal institutions (e.g. the EWC) but tries to grasp the range of existing forms of interchange within the European production networks which are analysed. Empirical data to be collected were (and are) interviews, observation of European meetings and document analysis: Empirical data collected so far are 43 interviews and group discussions, conducted with union representatives and Works Council representatives at eleven production sites of the companies in five European countries: four production sites in Germany and seven in the Czech Republic, Hungary, Poland and Spain. The interviews were conducted in the interviewees’ native languages.

Description of the cases

The headquarters are situated in Germany and every company consists of a production network inside and outside Europe with special emphasis of internationalization towards Central Eastern Europe in the 1990s. While the OEM started its internationalization early, the suppliers experienced a strong push towards globalization in the 80s and 90s of the twentieth century. In two cases a EWC was built before the establishment of the EWC directive. In one case the EWC was built afterwards. The following results mainly concentrate on communication between German and Central Eastern Europe (CEE) labour representatives, because the expansion of these connections are currently of high relevance in all cases.

9.4. Empirical findings

In the following section we will present preliminary results of our data interpretation. Firstly we focus on the motives that drive labour representatives into strengthening international cooperation, secondly we briefly describe the specific strategies of our cases. Thirdly we turn our focus on mutual perceptions of the self and the other which govern communication. Our interpretation shows that these perceptions differ between Eastern and Western Europe. Fourthly we discuss interaction patterns. Fifthly calls for solidarity are analysed and sixthly we identify transnational biographical networks as important features for strengthening trust in international cooperation.

Motives for international cooperation

The dominant motives to strengthen international cooperation can of course be connected to interest. Unsurprisingly, key players (not only) at the international level of employee cooperation emphasize bargaining competencies and a professional representation of the interests of “their” workforce. Engagement in international communication must be in line with these local interests. In other words, it is generally accepted that workers’ representatives have a *specific local interest orientation* in common.

International cooperation at the company level is therefore seen less as an aim in and of itself, but as a pressing necessity due to management strategies of blackmailing and modes of “race-to-the-bottom-competition”. The primary features of these strategies are disinformation and delusion which management uses in the context of intra-organizational competition. Because employee representatives lack information about foreign plants and

working conditions, they are not able to verify relocation scenarios which are based on management information about the willingness of foreign workforces to accept lower working standards etc. Labour representatives are not sure whether the information about other workforces or labour representatives is true and whether the scenario will be put into action if their own local workforce refrained from substantial concessions (pay, working time etc.). Consequently, every interviewed employee and trade-unionist articulates the desire to expand cooperation with representatives from other production sites or with representatives from foreign trade-unions. All interviewed employees and trade-unionists also recognize international cooperation as a *conditio sine qua non* for improving their information base in bargaining areas with their local (or central) management. Furthermore, they presume that, in principle, information exchange is in the interest of every labour representative or, in other words, that they have a *common interest* in sharing information and international cooperation.

Local interest orientation and a common interest in international cooperation come along with a notion of sameness. In this view every employee representative in Europe shares the same goal: fighting for good working conditions, wages and social security for the European workforce.

In more general terms the description of the situation of the European workforce states that capital produces overcapacities in Europe, thereby enforcing competition among the workforce, forcing single countries or locations into alliances with management in order to maintain production and safeguard jobs (Hirschel 2007: 115). It is said, then, that the overarching problem situation both forces employee representatives to concentrate on their *specific local interests* and on the *common interest* of sharing information and finding new strategies for action against internationalized capital. This can be called a lock-in-effect which is acknowledged by the actors. They have to bridge the gap between the expectations of their production site (or country) and the interests of international workforce as a whole.

Strategies to aggregate interests

The EWC is the most important way of institutionalizing international cooperation. At the same time most of the actors identify certain weak elements in the construction of EWCs. First, those meetings only happen once or twice a year. Second, the agenda setting is quite formalistic. Third, communication has to take the “backroad” of translation. Taken together, the advantage of regular meetings is outweighed by the disadvantage of static communication.

In the three observed cases different modes of dealing with these problems arose. In the first case (OEM) a *network* is established which is situated beneath the EWC. This network connects production sites which produce roughly the same technical device. The reasoning behind this idea is again the common experience of being put under pressure by the local management in order to reduce costs by forcing the plants to compete against each other. The network exchanges information on a broad scale including the explanation of a single workforce's action with regard to crucial decisions, e.g. bargaining on wages, overtime etc.

„You can make a decision in a fundamental different way. And the Management abandoned to try to cheat on us, because they know: We call.“ (German labour representative)

Last but not least the network has developed a strategy to transcend regional interests. The long term perspective is transnational oriented and contains an action program for sharing production volume between the production sites involved. This strategy has in part already been realized and the future aim can be phrased as “sharing both losses and gains in volume between the participants”, thereby reducing the pressure on the workforce. Especially the Western German representatives try to persuade CEE-representatives to join the network.

In the case of the first supplier the head of the EWC sees himself in a mission to transport information and to generate trust between the national labour representatives. The head of the EWC acts as *trustee* of local labour interests mainly against local management. Apart from important resources the head is provided with by the company (especially a travel budget and the right to travel to production sites at any time) the main power resource lies in the access to the central management. In case of problems, e.g. security or health problems, the head of the EWC visits the plant where the problem arose. The EWC members speak with local labour representatives and then try to solve the problem by processing the information to the central management.

In the case of the second supplier the EWC tries to negotiate minimum standards: the single production sites shall refrain from actively harming other local production sites. The local workforces are exposed to a severe competition against each other.

The strategies have in common that the actors involved have to rely on their colleagues. Additionally, further development depends on the integration of the different actors' perspectives (and interests) in the process of development.

In every case uncertainties about the strategies and the willingness to improve cooperation pertain especially between the East-West-divide.

“The self” and “the other”

Turning our focus to concrete experiences with international information exchange the question is how to deal with “the other” under the condition of uncertainty about the extent of sharing the same strategy. We describe the perceptions of the self and the other from both perspectives.

The Western perspective

Employee representatives from Western Germany are used to a highly professionalized system of micropolitical bargaining. They hold up not only specific local interests, but also a system which they and their predecessors wrenched from capital in the last fifty years. Furthermore they are aware of the balancing act between labour interest and the company’s interests. Both have to be taken into consideration by the Works Council members. The system provides Western employee representatives both with resources and with an accepted position towards the management. Management and employee representatives meet at eye level. They are to be treated with respect. They are well equipped with a technical infrastructure and act in a self-confident, yet trustful manner towards management. German Works Council members do not suspect that their professional and co-managerial appearance can be perceived as a blurring of management and labour interests.

Through the lens of the Western employee representative, many of the problems which are negotiated within the industrial relations systems in CEE countries are problems of the Western past, be it access to internet, overtime pay, rationalisation modes etc. On the background of the Western experience it seems that the current conflicts in the Western Countries will be the future conflicts in CEE. It is therefore not necessary to venture deeper into the terms under which their CEE colleagues have to act, because the direction of the development is already known by the Western representative.

“...at the end of the day they are further behind over there [in CEE] (...) in contrary to the colleagues down there [In Southern Europe] they are further ahead...” (German EWC member)

In this perspective CEE industrial relations often seem to be unclear or even reason for distrust, especially concerning the relation between management and employee representatives.

“Well it’s kind of hard because the trade union’s structure there in the East ++ is very mysterious (...) when we first met in a hotel lobby it turned out that they [CEE union members] weren’t concerned with us at all.” (German EWC member)

The Eastern perspective

While Western employee representatives perceive industrial relations and topics in CEE as system from the past (i.e.: their own past)² CEE representatives not only work within them, but have in many cases fought for them. After 1989, new rules and regulations had to be installed under highly contesting circumstances of the transformation of whole societies, changing directions of transformation and against the real-socialistic heritage. However critical the “outcome” is judged, it documents unique constellations and efforts for improving the rights of labour.

“Their context is completely different from our context, we really had to revise everything. Maybe they had to do the same after 1945, I don’t know...” (CEE company union member)

“We had to start from the scratch, we didn’t even know the meaning of works councils. The Western European colleagues have been collecting experiences for two generations, they are born in into efficient structures.” (CEE EWC member)

The Western perspective is refused and the refusal specified by the remark that current Western observers were “born” into their system of industrial relations. They are not familiar with the problem of creating new ways of labour relations virtually out of nothing. Whereas the West perceives itself as superior concerning knowledge the CEE sees it as having inherited power without too many efforts to achieve it.

The Western, i.e. German system of industrial relations therefore is not perceived as the necessary final point of the development in CEE. The power position of Western labour representatives is seen and acknowledged, but also critically observed: Especially the observable relationship towards management appears to tend to confuse labour and management interests. The overarching Western presupposition the Western solutions of the past were the Eastern solutions of the future is not necessarily one that is shared by actors in CEE (see also Deppe and Tatur 2002 for the cases of Hungary and Poland).

² This is called “nostrification”.

Interaction

These and further differences in reciprocal perceptions do complicate interaction on the international level in different occasions. First, face-to-face interaction involves idioms of expression and self-presentation. Behaviour is expected to follow such idioms. When Western labour representatives meet their CEE colleagues they often describe their behaviour in terms of reservation. They explain this appearance with respect to the legacy of the past:

„They have forgotten how to argue because they were not in a position to do so in the past...“ (German EWC)

„...that is, in part they act with a different self-confidence, with a low one, and that might count for something...“ (German EWC)

Especially on meetings with the central management Western EWC members therefore try to step back and give their CEE colleagues the opportunity to directly talk to the central management. On the other hand the CEE labour representatives recognize the intimate relationship between Western labour representatives and “their” management and are surprised when their own regional management changes its behaviour in contact with Western EWC council members:

“Oh my God, our management is roaming about! We asked ourselves who this might be visiting, what is his rank and it turned out to be the [German] Works Council member...“ (CEE EWC member)

On this background Western conduct of letting the CEE labour representatives take the initiative towards management frequently seems an artificial conduct, i.e. a staging of both management and Western labour representation.

Second, and following from the mutual irritation, both sides are dissatisfied with the “outcome” of meetings:

“...because of the communication deficits of our Czech colleagues we scarcely find out any of their problems.” (German EWC member)

„...we tried to present our achievements on this conference...“ (CEE Works Council member)

Calls for solidarity

Turning our attention to the construction of transnational solidarity differences in perception certainly do not *cause* limitations of “taking the other into

account". But, as can be shown, they provide for diverging explanations of common grounds for solidarity.

When asked to describe the meaning and relevance of solidarity, interviewees referred to a concept of solidarity that rests upon two pillars. In the short term, solidarity is framed as reciprocal prevention of intervention into strikes and collective action at other production sites: no local labour representative should agree to a temporary shift of production during strikes. In the long term some aspects of industrial relations should be harmonized at the European level, e.g. working times and minimum wages (although some countries would disagree on this matter). Although this "thin" form of solidarity is endowed with a high degree of relevance, its practical bonding force at the European level is estimated to be rather low. As already mentioned the members of international networks try to use the EWC as a platform to negotiate solidarity, i.e. finding ways to exculpate local interest representation from management pressure by either collective agreements with management, by acting as trustee against local management or by defining bottom lines which at least should not be undercut by local employer/works council agreements.

In this context the broadening of information transfer between labour representatives is seen as a step in the right direction. But it is also accompanied by a sense of uncertainty. As a German EWC member states the initiative of sharing information clarifies the situation of all participants, but wants this to happen

*"...without cheating on one of them only because he comes from Germany and has better conditions for employee representations."
(German Works Council Member)*

This statement can be interpreted in two ways. On the one hand, it can be understood as signaling both the supremely powerful position of the German employee representation bodies and their will not to use it to their advantage. But on the other hand, this statement could be interpreted as expressing a fear of being cheated by others who tend to "steal" information or even production volume in the light of the asymmetric distribution of wealth between East and West. From a Western European, particularly a German perspective, a rather strong position provided by national law and a large number of company headquarters characterize the field of action. Put the other way round, the internationalization of the core companies is accompanied by the shifting of "German production and money" away from national employee institutions (money and production volume go to Central

Eastern Europe amongst other regions).³ Calls for solidarity from Western Germany rest in this experience:

„...we're all in the same boat, I mean, the interest representation, and we have to arrange that we equally share benefits, that is, not under the motto: If shares rise, they go towards regions ++ where wages and working conditions are not so good, [...] and if shares fall, production is reduced at the so-called expensive production sites, you know...” (German Works Council)⁴

the collective “we” (interest representation sitting in the same boat) is seen as systematically differentiated by the common economic structure: while cheap (Eastern) production sites benefit from it, the expensive (Western) production sites have to carry the costs. From the Western perspective it seems clear that CEE representatives are also interested in this shift of production and are not interested in bargaining as long as production moves to their country and not to others. Additionally, the EEC-actor is seen as one able to actively take part in the process of eastward production shift. The uncertainty is even strengthened by the aforementioned uncertainty about the ways in which industrial relations operate in CEE countries (e.g. the denomination of EWC members). From a Western (and “central”) perspective the first step towards cooperation is seen as the *persuasion* of their CEE colleagues to accept the interdependency of action on both sides against management. The second step would be support of the Western labour representatives. Tendencies not to adopt this strategy are registered with a sense of ingratitude with respect to the past, when Western labour representatives supported economic upgrading in CEE.

From a CEE perspective the same process is perceived in a different way. The eastward shift of capital is not regarded as a move of “their” capital or “their” companies but as a move of foreign Western capital and companies. And Eastern European representatives do not see themselves as actively taking part in the decision processes leading to the eastward shift of capital. Instead they see these decisions as being negotiated at the Western European headquarters between the relevant actors of capital *and labour*.

“At the moment this [bargaining about production volumes] mainly takes place in Western Europe, we have lower costs at our location,

³ The apprehension of the weakening of bargaining power at the headquarters held by “strong” unions and employee representatives could be shown in several studies; see for example Mertens 1994: 126pp.

⁴ This bias is also reflected in the motto “share the pain” adopted by the European metalworkers’ federation.

and that is why capital is not on our side, we cannot draw it to our location and we don't have the coordinating power to stand up against it [...], we have visions for how to achieve this, but they are far from reality.” (CEE EWC member)

In the CEE perspective we find the assumption that the shift of capital is the result of a bargaining-process between Western capital and Western labour. Up to now the decisions have not been made in Eastern Europe but somewhere else in Western Europe. In this perspective the pledge for solidarity does not rest on mutual dependence but in a shift of perception of their Western colleagues.

“...my impression always was that, years ago, they respected us, but they didn't want to speak with us, but now, after capital moves eastward, they see us as a huge threat, and, today, they lay emphasis on communication, they are interested in the information we can provide. And we understand it in the way that, earlier, we weren't good enough for them (...) we would have needed help earlier and we really didn't sense any.” (CEE company union member)

This does not mean, that support from Western Europe, e.g. access to company representation bodies, international contacts and knowledge input, e.g. by the Friedrich-Ebert-Foundation or by the IG Metall, aren't acknowledged. But for 15 years solidarity towards CEE seemed to follow the motive of charity as a CEE unionist expressed it. The current pledge for solidarity, too, is seen as a political move not resting on a “real” mutual acceptance of a common problem situation. It follows that CEE labour representation wants to develop into a position from which solidarity can be negotiated on eye level. Solidarity should in this perspective rest on a symmetric relationship.

Trans-national biographical networks

Whereas trans-national solidarity is all but easily to obtain, one of the most important features to reduce problems of uncertainty and to bridge gaps of diverging interests (and power differences) doubtlessly are personal relationships. Personal relationships foster long-term trust both in information and in future action of the respective other. They emerge during the course of repeatedly getting into contact with each other, build up a fast and trustworthy communication and information exchange structures and can be used to promote “translation” of different local perspectives.

Under the given circumstances these networks are both indispensable for key actors and could eventually be strengthened.

9.5. Conclusion

Labour representatives who are engaged in EWCs (and comparable institutions) act on different stages, international and national. They are obliged to the interests of the workforce they represent. International, European engagement is motivated and restricted by the orientation towards these interests. Efforts to strengthen international cooperation beyond granted information and consultation rights vis-à-vis the management bring forth advantages but, at the same time, limit the scope of action in accordance with local interests at least in a short term perspective (e.g. shift of production during strikes at other plants). In this context questions of stable communication patterns in order to arbitrate national different labour interests in a culturally complex setting and questions of solidarity in order to strengthen the ties between the workforces and to find acceptable rules for action become important issues in practice.

In our cases different strategies are developed to react to common problems of international labour cooperation. The strategies (building networks, acting as trustee, finding common “bottom lines”) can in part be explained by different “external” factors, e.g. the degree of competition forced upon the production sites, the financial and organisational resources of the EWC, contacts to management. But at a certain point they meet in internal hindrances of cross-cultural communication: First, the starting point for international cooperation is not a “clean sheet of paper” situation, but rather one which already carries along perceptions about the other together with elements of distrust inherited in the past. Second, trust becomes a highly valuable medium of international communication. Third, further cooperation can only be achieved by reciprocal communication. Fourth, communication beyond the formal meetings of the EWCs is difficult to pertain. Fifth, uncertainty about the status of the labour representatives, about the practice of interaction between management and labour representatives and concerning typical forms of self-representation in international meetings tend to strengthen doubts about the respective other. Sixth, the uncertainty is reduced by referring to the own knowledge taken for granted, because opportunities for mutual understanding are restricted and therefore, seventh, calls for solidarity are still also differently interpreted, i.e. as a strategy that serves particularistic purposes.

We conclude that becoming aware of different historical and cultural experiences and of different forms of self- and other-perception is an important step on the way to building a European labour identity and to find both “fuel” and forms for trans-national solidarity. Differences of culture and interest are constitutive elements in the process of identity and

solidarity formation. Strategies of dealing with differences, i.e. strategies that enhance mutual trust can be found in building trans-national biographical networks. The strength of a European network of communication between labour representatives would lie in the ability to stay connected although historical, cultural, interest-based differences do exist.

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Chapter 10

A better understanding of European Works Council networks: the case of BMW and GM

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10.1. Introduction

Research into European works councils (EWC) appears to be going through a period of revitalisation. Prior to, and directly after of the passing of the European works council directive (EWCD) in 1994, this new institution caught the imagination of many industrial sociologists across the breadth and width of Europe. In the early to mid-1990s the focus was very much on questions of coverage and the content of agreements. This was closely followed by a growing interest in how such bodies functioned, or rather did not function, towards the late 1990s. With the arrival of a new millennium, however, a marked decline in EWC interest was to be observed. The gusto with which researchers had welcomed the arrival of EWCs was replaced by new research fads. We would argue in fact that a mood prevailed for a time, most noticeable at conferences, in which academics were somewhat relieved at the passing of research into EWC, i.e. “there’s more to life than EWCs”!

In the last years, though, we detect once again a growing interest in this European institution. In addition to the publication of various books and reports (Whittall et al. 2007; Kotthoff 2006; Telljohann 2006; Carley and Hall 2006), a number of conferences and workshops have recently been devoted to the EWC (Brussels (Belgium) 2007; Arezzo (Italy) 2007; Bochum (Germany) 2007; Warsaw (Poland) 2006).¹ Offering a definitive reason for this revitalisation is certainly beyond us and as with most things one should not exclude the role of chance. However, we suspect that the return of EWCs to the research agenda is closely linked to the interconnected

¹ The following conferences and seminars devoted to the EWC were organised by the European Foundation for the Improvement of Living and Working Conditions in Poland (2006), European Trade Union Institute in Brussels (2007), the Istituto per il Lavoro in Arezzo (2007) and Bochum University in Bochum (2007).

issues of restructuring and employee voice in a period of unprecedented globalisation and Europeanisation. As these economic and political developments place in question, what Hyman (2007) calls the “autonomy” of national actors (trade unions, employers and the state) and hence their ability and interest in regulating employment terms and conditions, alternative approaches need to be considered. With national industrial relations increasingly at odds with capital’s “transferability agenda”, particularly the latter’s ability to hold labour to ransom with the threat of exporting jobs to perceived more economically viable regions (as recently occurred at AEG Nuremberg, Artus 2006), it would therefore be irresponsible to ignore initiatives that “potentially” offer solutions to social dumping.

The current empirical interest in EWCs, clearly an extension of earlier work, appears predominantly concerned with understanding how to improve the internal workings of EWCs. Not wishing to go over old trodden ground, often referred to as the Euro-pessimist and Euro-optimist debate in which protagonists discuss the importance of such a body empowered with mere information and consultation rights, the fact remains that few examples prevail in which EWCs have had a noticeable positive impact (Carley and Hall 2006). By positive impact we are referring to instances in which the EWC has been involved in the regulation of employment, i.e. supra-nationally taking on the mantle of structures preformed traditionally within national industrial relations systems such as works councils and industry level collective bargaining.²

This chapter is intended as a contribution to research studying the internal workings of EWCs. To this end we focus particular on the EWC as a network, defined as a structure that can potentially bring together actors geographically dispersed. Certainly, the EWC network, irrespective of the degree of intensity and quality, supports communication between employee representatives in the same undertaking. We argue, however, that there is a requirement to move away from the loose reference to network, a catch-all term which attempts to explain everything but actually explains very little. Although the term is increasingly, either directly or indirectly, mentioned in conjunction with EWCs (Whittall 2007; Knudsen et al. 2007; Pulignano 2006; Kotthoff 2006; Martinez and Walker 2005), the fact remains that a

² We acknowledge here that there is an interesting debate, often referred to as the varieties of capitalism debate, which suggests that national industrial relations systems have been able to adapt to the new political and economic circumstances. Hence it would be premature of us to talk of their total demise.

conceptual understanding of the application of the network concept remains underdeveloped to the best of our knowledge. Too often authors, and here we include ourselves; seem to take for granted the network metaphor, a reference that denotes nothing more than the mastering of space and time. This especially appears a major weakness of current research on EWCs, an inability to acknowledge that the “shape” of a network influences the overall character of a EWC and so in turn the ability of this European body as we shall argue to act collectively.

Central to our argument then is the suggestion that researchers need to be more specific when referring to the EWC as a network. As we will show the character/shape of a EWC network will ultimately determine whether this European institution can develop a sense of a common identity, a quality which we have shown in our previous work is essential if the EWC is to become a structure that can challenge managerial decisions (Knudsen et al. 2007).

We begin by offering the reader an insight into how researchers can better define the EWC network. To this end we specifically draw on the work of Bavelas (1950) who argues that a network’s “shape” influences the nature of communication within a network, or as we suggest the intensity and transparency of a EWC, two factors we claim that ultimately determine whether the EWC develops a collective identity. This is followed by research undertaken on the BMW and GM EWCs, two examples of quite different EWC networks and hence two quite different responses when faced by major periods of restructuring. Respectively the chapter specifically focuses on the break-up of the BMW-Rover Group in 2000, and the closure of GM’s Azambuja plant in 2006.

10.2. EWC network and the question of identity

The network has become a key metaphor in understanding social developments in modern society. Of course, this is not to deny the presence of networks in previous historical periods. On the contrary networks have always been an important quality of human existence, a tool through which actors can structure relations. The difference to the past being, however, that today’s networks are able with the use of modern technology to reach further a field. Hence, defined as a structure composed of communication points, so-called *nodes* and these in turn connected by communication paths, *ties*, the EWC contains a key composite of a modern network structure. It represents an ability to allow actors to enter into discourse

irrespective of distance and time. Undoubtedly, the EWC-Directive represents the legal acknowledgement that the political and economic developments within the European Union have ensured that nationally focussed networks are becoming increasingly ineffective in managing employee relations. The main task of the EWC, therefore, involves bridging such a distance, in short a re-embedding of a system of industrial relations at a European level. This though would involve the EWC addressing labour's Achilles heel, geographical fixity, i.e. a horizontal outlook underpinned by parochial tendencies. The EWC, made up of various *nodes* and *ties* (employee representatives within the company headquarters, employee representatives in foreign subsidiaries, national trade union officers and European industrial trade union federations), represents an organisational attempt to coordinate labour activities at where it increasingly counts, at a supranational level according to Pulignano (2006).

However, experience shows that many EWCs find it difficult to live up to the high expectations of many commentators and practitioners, EWCs to often symbolic of a body referred to by the German sociologist Ferdinand Tönnies (1972) as a *Gesellschaft* (society). Seen from this perspective membership to the EWC involves is very much a utilitarian act, you sign up to the EWC to further the interests of your plant/country. Where relations to other delegates exist, these predominantly exist to glean information about developments within the company as a whole and to lobby management on behalf of one's plant/country as against a platform for developing a common EWC position. Though occasional acts of support between the different EWC nodes should not be excluded, such acts of solidarity, if we can call them these, involve one major precondition, they must not involve sacrifice on the part of the supporter (Whittall 2003, 2007). The position of EWC delegates here can be summed up as follows: "Yes we will support you in whatever way we can, but our actions cannot threaten the jobs here."

Of course, Tönnies developed another major concept, the notion of a *Gemeinschaft* (community), which if applied to an EWC assumes that delegates can be motivated by non-instrumentalist interests. In this sense EWC delegates develop a sense of common identity, a sense of togetherness, which though no guarantee to unlimited sacrifice, is undoubtedly far more sustainable than EWCs in which membership is first and foremost an instrumental act. The EWC characteristic of a *Gemeinschaft*, implies a common identity can emerge, and because of this delegates from the various nodes are willing to empower this European structure with the right of authority usually bestowed on national industrial relations institutions.

The question that remains to be answered is what factors can contribute to a EWC surpassing the *Gesellschaft* stage in its development, which as existing research suggests is the predominant characteristic of most EWCs. As noted above we contend that one key influencing factor concerns the shape of a EWC's network. To further understand the argument promoted here we will now turn to consider more deeply the notion of communication networks as developed by Alex Bavelas (1950).

Communication networks

Communication Networks, a concept widely attributed to the work of Alex Bavelas (1950), offers a means of classifying the shape of a network, the classification of which can help indicate the overall character of the network. In the case of EWCs such a tool can be applied to discern which network shape can best facilitate a *Gemeinschaft* EWC or alternatively factors which ensure this European body does not develop beyond a structure which is viewed as mainly promoting the interests individual nodes. Although there are many aspects of Bavelas' work on communication flows which we find informative, the part of his work which touches on the issues of leadership and the involvement of network members is of particular relevance to this chapter. This brings us to one of our key assertions, that delegates of EWCs and the people they represent will identify, that is buy into the EWC idea only if a number prerequisites can be assured by the network. The first involves the EWC being a democratic edifice, i.e. a body which ensures that delegates are involved in determining the course the EWC is heading, in short the ability to set the agenda. This is of particular importance considering that an EWC represents a network of nodes strewn across the European Economic Area, the successful co-ordination of which will influence whether the EWC becomes a body able to influence central management decisions. The second factor, one linked closely to the first, involves interaction between the different nodes. Though this is primarily the task of the coordinator based at the hub of the network, this represents what we refer to as "indirect interaction", the coordinator a portal through which information flows. Such interaction, though, needs to be complimented by direct interaction, be it by utilizing information communication technologies or face-to face contact. This is because the international nature of EWCs, and with this we mean the often contrasting if not conflicting industrial relations systems, are not factors which naturally lend themselves to high trust relations between delegates (Whittall 2000, 2003). Moreover, such a situation can produce competition between EWC delegates over employee representative practices. In

addition, such a situation is compounded by the fact that management are in a strong position to exploit the potential parochialism of labor through regime competition. For this reason we assert that an EWC network that promotes greater interaction between the various nodes is in a better position to develop trust relations between delegates.

In discussing and analysing different communication flows within networks Bavelas referred to various different communication flows. These include the star, chain, wheel and circle. The networks described by Bavelas (1950) are marked by different degrees of centrality – the extreme cases being that of the chain which depicts a top-down communication flow and the circle marked by a low level of centrality. For this chapter we will focus on the star and circle network shapes. Our choice is premised by the fact that EWCs allow for a two-way communication process, they are not military organizations. For this reason we can exclude extremely hierarchical network structures (top down), because irrespective to what level communication takes place, we adhere to Simmels (1964) argument that networks facilitate interaction and communication between actors (Simmels 1964). As will be demonstrated below, our choice of the circle and star shape networks is based on the fact that they allow for different degrees of communication between EWC delegates.

Star shape

The notion of the star shape network in relation to EWCs has briefly been discussed in the work of Lecher et al (1998) and Whittall (2003), both works emphasizing that a situation arises in which an individual or a steering committee take up a central position through which the network communicates. However, these individuals should not be considered a “switchboard”, they do not connect different delegates together – rather they distribute information through the network – communication to a greater extent is an indirect experience for the majority of EWC delegates. Hence, with the exception of the once a year meeting EWC delegates neither come face-to-face with their counterparts from other sites or have direct access to each other on a regular basis. In addition, due to the fact that the central point in the star functions as a filter through which such information flows a danger prevails that information could be distorted. Whittall (2003), for example, has suggested that actors who take up the central point in the star might even censor the information which passes through the centre, this interpreted as a means of retaining the status quo already in place.

Circle shape

In contrast to the star shape the circle encourages greater inter-communication between the various nodes. Such an EWC is structured in a way which allows delegates to a greater extent to set the EWCs agenda. Although Bavelas (1950) discovered that the circle network was much slower in passing information on and responding to problems compared to the star shape structure, the former recorded much higher in terms of satisfaction. The latter we argue a key quality underpinning a delegates commitment to the EWC.

Another important quality associated with more open communication flows involves the question of empathy. We contend that a sense of *Gemeinschaft*, which as we argue is a key quality of an EWC if it is to develop common and sustainable positions, is dependent on delegates not only understanding the problems of their counterparts but equally demonstrating a willingness to take responsibility for these same people. Seen from this perspective the EWC becomes an important structure through which delegates collectively pull together to influence management decisions. Thus, the horizontal outlook of employee representatives is neither the immediate locality, be this the plant, region or country where they are based, but the “European enterprise”. In short then, while the star shape is perceived to as possessing a quicker response rate and less prone to errors, the circle network is more likely to facilitate a greater bonding between delegates and with this a general sense of collective belonging.

10.3. The case of BMW

For over six years BMW’s stewardship of the Rover Group, 1994 to 2000, dominated the international press. Firstly, the take over of Britain’s last remaining car producer caught the imagination of the media, this step marking a major sea-change in BMW’s hitherto business strategy – the Munich based company no longer a niche player. Secondly, the turbulent years that followed BMW’s acquisition in 1994, made for a stream of negative headlines. Moreover, BMW’s struggle to become a global player ensured that its EWC, founded in 1996, became one of the most prominent EWCs of its time. The BMW EWC helped broker the introduction of working time accounts throughout the BMW group, stop the closure of Rover’s largest and least profitable plant, Longbridge, this on more than one occasion, and finally manage the eventual break-up of the Rover Group in a way that was partly acceptable to the British workforce.

These events, and the role played by BMW's EWC have been well documented (Whittall 2007, 2004). For this reason we don't wish to go over old trodden ground. Instead we will use this section to study why, irrespective of the positive role played by the EWC at times, the BMW EWC network structure was marked by certain limitations.

The break-up of Rover

We contend that the limited nature of the BMW EWC network can be explained by its "star shape" structure. This relates to what social network theory refers to as the question of *centrality*; what we refer to as the problem of centralisation, namely that the centre dominates the network. As Lecher et al (1998: 232) note, such a structure can be associated with disadvantages as the central node:

... decides which information will be passed on and which will be held back... and with that secure their own position of power within the EWC.

In the case of the BMW EWC network all information flowed through the chair's office, an individual based at the headquarters in Munich. Some British respondents were very critical of this, as this they argued led to what Miller (1999) and Scholte (1998) refer to as the transparency/accountability deficit. The problem of centralisation, however, was not necessarily shared by their German and Austrian colleagues. A common position here existed whereby:

At the moment it is not necessary for the chairs of the different German works councils to be in direct contact with England, and to influence things and so on. It (contact) is filtered. When this is necessary, it goes through the central office, and that is for the best, so that [the chair] can take control. This process has proven itself in Germany... (German BMW EWC delegate)

German delegates' support for this filtering process is the result of a number of factors. Firstly, their direct access to management. As other studies have demonstrated this relates to the fear on the part employee representatives within the home country that the EWC could threaten their special relationship to top management (Tuckman and Whittall 2002). Interestingly, Lücking et al (2007) argue that this is a major reason for explaining why many German representatives appear opposed to the foundation of EWCs – which as the authors note is a key problem of German multinationals. By functioning as the filter of information, especially between meetings, the

chair is able to not only to decide on what information is disseminated through the network, but equally they can reinforce their importance for management.

Secondly, there prevailed a preference to impose the German system of industrial relations; in particular a preference for what Kahn-Freund (1979) refers to as “representative democracy”. This supports the Euro-pessimist position that the failure of the legislature to achieve a unified structure, i.e. the emphasis on subsidiarity throughout the EWCD, will lead EWCs becoming nothing more than extensions of national industrial relations practices. Hence, in terms of centrality, specifically the limited degree of interaction between all the nodes, German delegates seemed to favour such a structure. For the German delegates the motto was quite clearly, “why change a winning team?”

The filtering role, though, was not confined to the chair alone. Another, sub-level of centralisation existed, this involving the vice-chairs, in particular the head of the British delegation. Again the problem here was very much related to national practices. In line with the traditions of British industrial relations, the main spokesperson for British employees was a fulltime trade union officer. Convenors and shop stewards played very much a secondary, if any at all. German delegates critically noted that at EWC meetings the fulltime officer dominated proceedings. Even on the one occasion when he could not attend a meeting British lay delegates were not allowed to play a more active role, the fulltime officer in question ensuring that another officer stood in for him. For some British trade unions EWCs are seen as a potential threat to their position as an employee spokesperson, conscious that in countries like Germany the role of trade unions is restricted to sector level collective bargaining and hence by default they have limited access to the shop floor. For example, although the IG Metall helped facilitate the first contacts between Rover and BMW employee representatives, the IG Metall retrieving into the background once the BMW EWC was set up.

All Rover lay officers, irrespective of union affiliation, were critical of the dominant role played by the fulltime union officer. A major concern of lay members related to their lack of involvement in drawing up the agenda:

I am not happy with the ways things are going. I believe that [he-British vice-chair] is at fault. Old [John] is a friend of mine, but I have told him that I believe before an EWC meeting is about to take place we should have a UK delegation meeting. We should have a special meeting to decide what goes on the agenda, fax him [chair] the agenda items that we want. That has never happened...

His is the problem of bureaucracy. They [fulltime officers] will say yes to you because they want to get out of this room and they want to get another point over to you about something else. But when it comes down to laying on the actual time and the release... they don't leave any time for it. And I can say to you now that this is doing more damage to our relationship [to BMW German delegates] than anything else. We have got to have a structured works council. (British EWC member)

The role fulfilled by the EWC officers ensured that they functioned as a buffer that impeded the development of an important bonding process between lay EWC members – a process necessary to achieve a sense of network *cohesion*. This became quite apparent in relation to the so-called steering committee. Designed to co-ordinate the work of the three respective countries, Austria, Germany and the UK, it never really met and if it did the results were seen as insufficient according to respondents. One respondent noted:

There was this steering committee which would be [X] and the guy from [Y] and [Z] who were responsible for developing the agenda and the EWC. I think it is the case that you should not be just doing it on the phone. You should have a debate, tooing and throwing, get a real understanding of what the issues were. And that never happened. I say it never happened. If it happened once that is all. It should have been the case of flying off and, them flying here, see them... (Rover Convenor)

Intermediate summary

Although the BMW EWC agreement only made provision for one yearly meeting, this body had met on no less than three occasions by the end of 1996 a tendency which would continue in the coming years. Although the regularity of such meetings was positive, it says very little about the quality of these transnational events. There was no evidence of Lecher's (1998) notion of a "collective identity" developing, or what Tönnies (1972) refers to as a *Gemeinschaft*. EWC meetings were characterised by shallow plant reports rather than what Pieterse (1997: 57) refers to as 'collective symbolism and discourse', a bonding process which can be reached through common projects.

By utilising Scholte's (1998) notion of "democracy" (see Table 10.1.) the following observations can be made of the BMW EWC star shape network. Firstly, the overall structure would have to be characterised as unhealthy, a

fact that ensured that delegates were unable to achieve a “sustainable” transnational response to problems faced by the BMW Group as a whole.

Table 10.1. Trust relations within EWCs

Variable	Healthy	Unhealthy
Representative	All delegates	Specific interests
Accountable	All delegates	Specific interests
Debate	Open	Closed
Transparency	Open	Closed
Constitutional	Inclusive	Exclusive

Source: Scholte (1998); customised by the authors.

In terms of representativeness, specific interests dominated EWC affairs. Too often the limited information that was gleaned from the BMW EWC network was instrumental in serving national needs. Although there was never a sustained period in which the EWC was used to promote whip-sawing, what Wills (2000) ironically calls “international nationalism”, neither was it used to advance common positions that would lay the foundations for more open and frequent interaction between the different network members. This was because the dominant role played by the EWC officers, a position supported by German delegates, ensured a limited level of debate, and a total lack of transparency. As a consequence there existed a small degree of what network analysis theory refers to as *closeness*, i.e. the interaction levels between members through which information can be accessed. For this reason, once the problems faced by British subsidiaries threatened to engulf German plants in 1999 and the much cosseted independence of BMW was placed in question (Whittall 2007), the tentative relations that had facilitated a degree of co-ordination at times suddenly ceased. Instead of the German delegation using the EWC to debate the problem, German EWC delegates supported BMW management’s decision to break up the Rover Group at an extraordinary supervisory board meeting in March 2000.

10.4. The case of GM – a circle network

A conference or article on EWCs rarely goes by without some reference being made to the GM’s EWC. For many researchers and activists the GM

EWC has become the jewel in the EWC crown. Known as the European Employee Forum, the GM EWC represents the quintessential participatory EWC (Haipeter 2006; Bartmann and Blum-Geenen 2006). Its current status, however, masks the steep leaning curve it has had to climb to become a structure which is able to coordinate industrial action across Europe. Founded in 1996 under Article 13 of the European Works Council Directive, the late 1990s and the first years of the new millennium (Haipeter 2006; Pulignano 2005; Hancké 1998 and 2000), especially the closure of the Vauxhall Luton plant (UK) in 2000, marked a period in which the GM EWC was no different from many other EWCs struggling to come to terms with parochial pressures.

In terms of GM's EWC network structure the dominance of Germany initially, as in the case of BMW, ensured a high degree of centralisation and subsequently problems of closeness between EWC delegates. As a consequence the GM EWC represented a supranational structure in name only. In reality EWC delegates were more susceptible to playing management's game of regime competition.

According to our GM EWC respondent there were two factors which helped propel the GM EWC beyond a star shape network. Firstly, the shock associated with the Luton experience led to a galvanising effect amongst GM workers. This reflects Kotthoff's (2007) assertion that the emergence of an EWC, one in which mutual interdependence prevails, may require delegates to be faced by "change and endangerment". The arrival of a collective consciousness which stretches beyond the *local* according to Kotthoff (2007: 180) involves a realisation that 'What the Other does, and how he or she is doing, concerns me, for it has noticeable effects on me and vice versa.'

Secondly, the change in leadership which helped challenge the hegemonic role that the German chair had previously played was also significant. Bartmann (2005: 3) notes, for example, that for a period of time the Swedish EWC delegates 'saw the EWC as partly an extension of German interests. In the meantime, however, there exists a stronger co-ordination also with Sweden.' By achieving greater access this allowed for a greater sense of belonging, which in turn improved the legitimacy of the GM EWC. A master stroke here involved appointing a Belgium delegate to the position of EWC officer, i.e. someone from one of the smaller countries.

Though the current EWC officers, three in all, the chair, vice-chair and EWC advisor/administrator, all represent central nodes through which information flows, such a structure does not appear symptomatic of the star-shaped network that had prevailed earlier. There appears to have existed an

awareness that centralisation in itself is not necessarily a bad thing. As Bavelas (1950) has pointed out centralisation does have the benefit of both speeding up decision making processes and less susceptible to errors. However, the GM officers were also conscious, as will be demonstrated below, of the need to keep the issue of centralisation in-check and hence the need to ensure that not one individual or country is able to take up a dominant position.

The chair and vice-chair, as well as a fulltime EWC administrator play two key roles: Firstly, they keep all EWC members and ancillary staff (members of various committees and working groups not elected to the EWC) informed of developments throughout the group. Secondly, through their activities they help procure what Kotthoff (2006) refers to as “*Alltägliche Europäisierung*” (day-to-day Europeanisation), i.e. that the day-to-day work of each of the European GM 18 plants is informed of the EWC’s position. This is not only achieved through an incessant flow of information made possible through such a medium as the GM Workers blog, but by the constant mobility of these key actors. The vice-chair, for example, calculates that 80% of their working week is donated to serving the EWC. A vast amount of work requires them to visit and inform the 18 plants of developments within GM personally. In fact mobility proves not only to be key factor in raising the profile of the EWC network, but equally it offers a human face to relations – two factors we argue that are essential in procuring network *cohesion*.

Another structural factor which helped to open up the network as a means of ensuring that delegates were willing to buy-into a collective response to restructuring involved the development of working committees. This process of decentralisation, a key characteristic of the circle network, an act which promoted participation on the part of EWC delegates, helped procure common trans-national positions when addressing management. The most relevant bodies were the:

- Steering Committee
- Joint Delta group (plants that produce GM’s mid-size range, the Astra and Zafira)
- Manufacturing committee
- Eastern European network
- Engineering committee
- High level committee (quasi-supervisory board)

The thought that has been put into challenging a too over-centralised network can be further gauged by a number of organisation developments that were implemented. One such development involved reconsidering how to structure a newsletter. The eventual solution referred to as the “constant newsletter”. Prior to the emergence of the constant newsletter plants were required to meet certain editorial deadlines. Unfortunately, most plants failed to submit information describing important developments that had unfolded within their plant or country. Subsequently the newsletter was dominated by certain countries. In challenging this problem it was agreed that delegates would circulate information through the network as events unfolded. As our GM EWC respondent notes:

The new approach involves sending information as it happens; each plant [then] has to print this new news item and hang it out in the plant. The process of hanging it out on the wall can show, demonstrate, which plants are active, doing their job.

A key factor here, one the GM EWC appears to encourage as often as possible, involves the issue of ‘peer pressure’. Peer pressure denotes a situation whereby EWC delegates feel inclined to follow-suit, i.e. not appearing less active in the EWC network than any of their counterparts at the other 17 GM plants.

The complex and effective employee representative network that has evolved at GM Europe, in which the centre encourages its 30 delegates to be involved in running the EWC, has resulted in the GM EWC negotiating various European-wide collective agreements. These include, for example, agreements with management on corporate social responsibility (2002), restructuring (2004 and 2006) as well as a GM employee solidarity pledge against social dumping (2005). The resilience and worth of such a network, however, was put to the test in 2006 and 2007, when GM respectively closed the Azambuja plant in Portugal and tried to play the Delta plants off against each other. It is the first of these two issues that we now wish to consider in greater detail.

Azambuja

The benefit of a network characterised by a healthy degree of centrality which encourages nodes to play an active role in the network and one that can promote a common approach to problems of restructuring, became most evident in the dispute over the closure of the Azambuja plant in Portugal, 2006. Although the GM EWC was unable to stop the eventual closure of the Portuguese plant, the combined activities of all 18 GM plants in Europe was

not in vain. Two important successes could be recorded according to the GM EWC. Firstly, the pressure brought to bear on management by the EWC strengthened the hand of the local negotiators. As a consequence the best redundancy package ever agreed within the automobile industry, 240% on top of what Portuguese employees were legally entitled to, was made possible.

Secondly, and possibly more telling, the EWC was able to demonstrate its ability to coordinate a European-wide collective response, one unique in its breadth and duration. Our respondent proudly noted,

Though it was a defeat GM knows that next time it will not be so easy.

The way that the GM EWC coordinated the campaign to save the Portuguese plant says a lot about the way the network functions. On the one-hand the transparency that had been achieved through the process of decentralisation helped furnish the EWC with information that was essential in highlighting the kind of action each of the individual plants could be expected to undertake – this an acknowledgement of countries' different traditions in terms of industrial action. It was known, for example, that strike action within the eastern European plants was something very new and for this very reason possibly a too high expectation to ask of workers in Hungary and Poland. As a means of customising the campaign three options were drawn up from which plants could chose from. These included:

- Level 1: 24-hour strike
- Level 2: Information events to stop production (indirect strike activity)
- Level 3: Handing out leaflets

Interestingly, although option three was designed to accommodate plants in Eastern Europe, the Szentgotthard plant in Hungarian opted for level two, stopping production on 23 June 2006 (Tóth and Neumann 2006). The fact that the Hungarian workers felt a deep sense of responsibility towards other *nodes* within the network demonstrates the durability of the GM EWC network. They did not want to appear to be the weakest link in the chain.

Another key aspect of the strategy, one which exemplifies the intricacy of the network and consequently its *Gemeinschaft* character, involves the EWC sending observers to attend the event in question. In the case of Hungary, for example, an EWC delegate from the nearby Austrian plant represented the public face of the GM EWC. The presence of such individuals appears to have a solidifying and possibly even controlling effect (peer pressure) according to Whittall et al (2008). It helps remind, if

not the immediate workforce, certainly their representatives on the EWC, that they are members of a much larger family.

Intermediate summary

Within a ten-year period the GM EWC evolved into what Pulignano (2006) terms a “coordinative virtual network”, the exchange and collation of information used to facilitate collective action beyond national borders. GM EWC delegates have established a complex network of committees designed to refine the work of the EWC, a process that encourages specific informed responses as well as greater involvement in and identification with the EWC on the part of delegates. As a consequence, the GM EWC possesses two key qualities essential for it to function: centralisation and democracy. In this sense the GM EWC network could be considered a hybrid between the star and circle shape network. Although EWC officers understood the importance of having a central co-ordinating committee they were very conscious that the centre should not take on a hegemonic character.

10.5. Summary

The term network is widely used in studies on EWCs today. Unfortunately it has become a catch-all phrase which fails to acknowledge the different forms and internal structures which this European body may display. This chapter represents a first and somewhat modest attempt to rectify this deficit. Hopefully we have been able to demonstrate that only by studying a network’s contours, structure and web of communication is it possible to judge where a EWC is in its development.

As the two case studies demonstrate the character/structure of an EWC network influences the ability of such a network to play an important role in an environment marked by ever increasing employment insecurity. In contrast to BMW delegates the GM EWC acknowledged the need to address the problem of centrality associated with the star shape network. According to Telljohann (2007) a defining factor here can concern the nationality of the enterprise in question, non-European multinationals being more likely to develop greater employee coordination because they are not hampered by the “home country” problem. Home country is a variable that decisively describes the BMW situation, in particular because German delegates had important access to top management. Though we accept there is some validity in this argument the problem of hegemony need not be restricted to the home country variable. In the case of GM the sheer size of

the German workforce ensured that a degree of hegemony prevailed for a period in the early years.

What other factors then explain the different outcomes in, network structure at BMW and GM? Undoubtedly the major difference concerned the fact that the very existence of each and every one of the 18 GM plants was constantly under threat. As a result EWC delegates slowly began to commit themselves to an agenda which tried to “share the pain” - a term used by GM EWC delegates to refer to this strategy – instead of using this international body to promote purely local/national interests. However, commitment to each other in itself is not sufficient, like in all successful marriages a considerable amount of time and thought have to be invested in the cause. Relations not only have to develop a common aim, but they have to be intensive and prevalent at all times.

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Chapter 11

Cooperation versus competition: union and works council strategies in the Delta site-selection process at General Motors Europe

Martin Bartmann and Veronika Dehnen

11.1. Introduction

The European Works Council of General Motors Europe defines its role far in excess of the rules and rights of the European Works Council directive. Whereas the directive provides the right of information and consultation for European Works Councils (EWCs), some EWCs – especially in the automotive industry – have changed their role and become negotiation partners for management (see e.g. Carley and Hall 2006; Eller-Braatz and Klebe 1998; Hancké 2000). In this article we analyse how employee representatives dealt with the so-called Delta site selection process. In this process the GM management opened an existential competition among five European GM plants.

The arguments and results presented in this article are the results of two empirical research projects conducted by the authors between 2006 and 2007 and of the collaboration of one author in the GMEECO-project¹.

11.2. Site selection processes at General Motors

It has become common practice for companies in the automotive industry to produce the same models in different plants and initiate competition of production between their plants. The management's approach using internal market processes is to produce as much efficiency as possible. In most cases

¹ Veronika Dehnen analysed the Delta site selection process in her final diploma thesis (Rott, V. (2008): Europäische Kooperation und Solidarität. Eine Analyse der Bedingungen für Kooperation von Arbeitnehmervertretern am Beispiel der Delta Gruppe bei General Motors Europe. (Diplomarbeit) Münster: LIT-Verlag).

One part of the analysis of Martin Bartmann's ongoing PhD research project is about labour relations at GME (title of the PhD-research-project: Labour relations in the automobile industry. A Swedish-German comparison). In 2006/2007 Martin Bartmann worked as a project assistant on the GMEECO-project (General Motors Europe Employee Cooperation). The project was funded by the EU (social dialogue) and coordinated by IG Metall.

this goes along with the management putting pressure on its employees to make concessions on working conditions and labour costs. But there is a large diversity in the way this management strategy is used. In some companies the competition among plants is more implicit. But General Motors (GM) uses it in a formalized way (see Zagelmeyer 2001; Schulten et al. 2002). GM stages so-called site selection processes. Plants have to compete about the production of models. Employees and their representatives are forced to make concessions in order to enhance their chances to save the jobs at their plant. GM's aim is to initiate a permanent downward spiralling of working conditions to reduce labour costs. One part of this strategy is to negotiate only at the local plant level. The GM management suggests that these site-selection processes are fair, because, as they put it, only 'hard' economic figures (would) should decide which plants get production volume and can survive. But from an employee perspective this has nothing to do with fair competition. The argument of the employee representatives is that employees are not responsible for conditions such as the age of the technical equipment, the age structure of the workforce, and currency changes. Furthermore, GM tactics and the result of the Delta site selection process show that the so-called 'rules' for the site selection processes are interwoven with observations that are not openly communicated, such as the question as to which are the core markets for the company or in which countries is it cheaper to lay off workers (see Rott 2008; Bartmann and Blum-Geenen 2007).

Another phenomenon at GM is that the company creates new production capacities despite the existing overcapacities. Different reasons can be identified for this strategy, among them the fact that for opening up new markets successful local production is often needed. But some of the new plants can be seen as part of GM's long-term strategy of relocating production to low-cost countries. Sometimes one even gets the impression that GM does not aspire to a 100% utilization of its plants – as most of the other automotive companies do – since that would reduce their possibilities of putting pressure on their employees to make concessions concerning wages and working conditions. This is at least a concern voiced by employee representatives of European GM-plants (see Rott 2008).

11.3. Europeanisation of workers' representation/industrial relations at GME until 2000

GM management strategies have had effects on intra-firm industrial relations. Since 1998 the European Employee Forum (EEF) – the European Works Council at GM – has changed its nature from a solely informational

and consultation body to become a negotiation partner for the management of General Motors Europe (GME) (Haipeter 2006; Kädtler and Sperling 2001; Kotthoff 2006b). In addition to this, the EEF has showed competence in organising and coordinating European action days and mobilising workers all over Europe². Through the building of a Trade Union Coordination Group (TUCG) the EEF involved national trade unions and the European Metalworkers Federation (EMF) in the development of European strategies (see Kotthoff 2006b). The building of TUCGs is a strategy of the EMF, but in fact there are currently only a few actively working TUCGs³.

With its first European framework agreement in 2000 the EEF was accepted as a negotiation partner for the first time. The agreement was the result of a conflict over a joint-venture with Fiat which had been established by the management without consulting the EEF over the employees' status in the joint venture. The next conflict with management followed just one year later. At this time a conflict of interest existed between two European plants, Luton and Rüsselsheim. After the management had announced the closure of the English plant in Luton the EEF arranged a European action day and mobilised 40,000 employees around Europe to force the management to start negotiations on how to prevent a closure. The European solidarity, which was shown through the European action day on the 25th of January 2001, is rather astonishing as the German plant of Rüsselsheim would have benefited directly by the closure of Luton. The EEF followed a two-fold strategy for the second European framework agreement with strike actions and European negotiations at the same time. The outcome of the agreement saved jobs at Luton as no layoffs were made and half of the workforce was transferred to another plant in Luton with their previous conditions of employment and interest representation upheld; but on the other side, the production of the Opel Vectra was discontinued. Within the same year the management started the so-called Olympia-plan for the reduction of over-capacities and workplaces in Europe. As the whole European workforce was affected by the restructuring plans, the EEF negotiated the third European framework agreement with the GME management in October 2001. This framework agreement followed the management's argument for the reduction of over-capacity but with the management's promise to avoid plant closures and redundancies (Kotthoff 2006b; Rehfeldt and Da Costa

² With regard to the existing research about shape and work of European Works Councils, the GM EWC can be seen as a highly developed EWC that uses its capacities and possibilities (see Kotthoff 2006a; Knudsen 2004; Lecher et al. 1998; Lecher et al. 2001; Marginson et al. 2004; Müller et al. 2004).

³ For example the Trade Union Coordination Groups for Delphi, EADS/Airbus, Arcelor/Mittal.

2005). The fourth European framework agreement was negotiated in 2004 and was accompanied by a second European action day on the 19th of October 2004. Negotiations were started over the new restructuring plans of the European management to reduce costs and workforces by around 12,000 employees. The management started to merge the production of Saab and the Opel model Vectra into one plant; until then the models had been produced in Trollhättan (Sweden) and Rüsselsheim (Germany). Altogether, the plans were to cut most of the jobs in the German plants (Bochum, Rüsselsheim and Kaiserslautern), which led to a wildcat strike in the German plant in Bochum.⁴ As a reaction to the management's behaviour, the EMF established the "GM-European Trade Union Coordination Group" (TUCG) to coordinate the work of the national trade unions at GME, and in order to support EEF work; the European action day was actively organised and supported by the TUCG. 50,000 GM employees from 18 different countries were involved in the strike actions. One day after the action the management agreed to negotiations with the EEF over the way restructuring would take place and that no plant would be closed. Within the negotiations over production in Rüsselsheim and Trollhättan workers' representatives of both plants agreed on common standards in the negotiations with the management; national collective agreements should not be undercut and both plants should be saved. The dispute between Rüsselsheim and Trollhättan was a formalized site selection process. The national unions were involved in coordination on the employee side and played a more important role than in the Delta process.

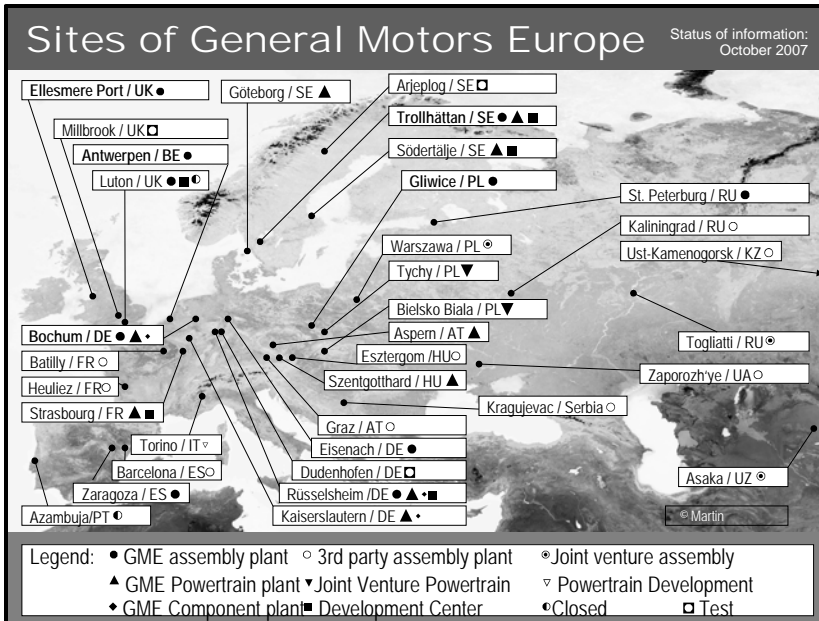
11.4. The Delta site selection process

Five competing plants

After the restructuring processes of 2004, GM management announced a new site selection process in Europe in 2005. The competition concerns the production of the next generation of compact class cars from 2010 on. In Europe these are the Opel/Vauxhall models Astra and Zafira. Both are based on the in GM terminology called Delta-platform. This platform is the most important one for GME, since a large amount of cars are produced on this platform. The production volume in Europe is about 750,000 vehicles per year. In 2005 the Delta platform cars were produced in four European plants: Antwerp (Belgium), Bochum (Germany), Ellesmere Port (UK) and Gliwice (Poland). But GM sent another plant into the competition. In 2004

⁴ For more information about the wildcat strike at the plant in Bochum see Pries 2005.

the Saab plant in Trollhättan (Sweden) lost the competition against Rüsselsheim (Germany) concerning the Epsilon platform products (Opel/Vauxhall Vectra, Saab 9.3 and 9.5). So it was clear that Trollhättan would need a new product from 2010 on. The Delta site selection process directly affects about 20,000 employees in the five plants. When looking at the effects for the regions where the plants are located, it is of course clear that many more jobs would be affected by a plant closure, since many jobs at supplier companies depend directly upon the plants.



The five plants differ in many respects. The differences must be taken into account not only because they may have effects on the point of departure for the site selection process, but also as important framework conditions for the coordination of employee interests. Although the limited space of this article does not allow us to provide a detailed analysis of the variance and combined effects, we will give some important examples of this variance.

The production system is perhaps the greatest similarity among the plants because GM is one of the companies that implemented a standardized production system in nearly all plants, ignoring different framework conditions

and production system traditions. The biggest difference in production technology is found in the body shop where Gliwice has a low degree of automation in comparison to the other plants. Aside from the body shop the production technology does not differ much, although the facility conditions do differ because of the different ages of the plants. In terms of a site selection process, this translates into differences in future investment needs.

Looking at the socio-economic, juridical and industrial relations framework conditions we find many more differences that are important pre-conditions for both the site selection process and the possibilities for a transnational coordination approach on the employee side. There is substantial variance in the industrial relation systems of the five countries. For example, in Germany we find works councils that are formally independent of unions, in contrast to employee representation bodies that are organized exclusively by the unions in the other countries. The organizational structures of these bodies vary from one dominant union (Gliwice and Bochum) to status-differentiated unions in Trollhättan (which hardly ever compete over members), to politically/religiously divided unions in Antwerp (that directly compete over members), to a two-union system in Ellesmere Port (competing over blue collar workers)⁵ (Rott 2008).

The influence of the regional and national union offices on the work of the local employee representatives also has to be taken into account. In the UK, for example, the national union officers have more competencies to intervene at the local level than in Poland or Germany. The degree of organization in the plants varies from 99% to 26%. Only in Sweden and Germany are employees represented in the company boards. Despite all the differences in the organization of employee representation, the Swedish and German employees enjoy the largest co-determination rights at the plant level of all the five countries. But according to other variables the two countries represent antipodes: In Germany the metal sector is one of the pilot sectors of collective bargaining with a relatively high degree of industrial action. In Sweden the last strikes in the automobile industry happened in the 1980s. Also, disputes at the plant level follow very different traditions. Important differences can be found in the general strategic approaches of the national unions involved. Depending on the influence of the national unions at the plant level, these strategies may restrict the action options of the plant representatives in bodies like the Joint Delta Working Group (henceforth referred to as the Delta Group). In the UK, for example,

⁵ The two unions „TGWU“ and „Amicus“ merged in 2007 to „Unite“. There are still TGWU and Amicus sections inside Unite.

the national union officers undermined the position of the plant representatives in the case of the loss of a third shift at Ellesmere Port in 2006. In Bochum the regional IG Metall office (temporarily) stopped some contracts on outsourcing (only because the contracts affected the collective bargaining contracts for which IG Metall had a veto position) (Bartmann and Blum-Geenen 2008).

Labour law creates different rules for the employment of temporary and external workers in the plants. In Poland GM used the opportunities of the Polish labour law to employ up to one third of the workforce as temporary and external workers.

The topic of outsourcing depends not only on labour law but also on the age of the plant. In the relatively new plant of Gliwice many departments and operations were external from the beginning, whereas in the older plants employee representatives often fight against the outsourcing of operations that have traditionally been internal operations.

Wages and working time differ too. Regarding wages, Gliwice has a special position with much lower wages than the West European plants. The variance between the Western plants seems much smaller when contrasting them as a group to the wages at Gliwice⁶.

The regional labour market and the regional unemployment rate form another important variable, especially when plant closure is threatened. The variance of the unemployment rate of the five regions is very large: from 2% to more than 20%. Of course the set of variables should be analysed. The rules for unemployment benefits, early retirement programmes and redundancy payments etc. may have a strong impact on the opinions of employees to leave the company. Regarding these variables the threat of losing one's job may be worst in Gliwice with its high regional unemployment rate, low unemployment benefits and redundancy payments.⁷ But on the other hand the employment chances for laid off workers in Bochum are also bad. In the middle of 2008 the Finnish company Nokia announced the closing of its plant in Bochum. Thus Opel remains the last big employer for industrial workers in

⁶ The unions in Poland, especially in the automotive sector, are currently fighting for massive wage increases, but nevertheless a large wage gap will remain in the coming years. On the other hand, GM's reaction to the wage demands in Poland is similar to their reaction in the Western countries: They threaten the Polish employees with relocations further East (e.g. to Russia), if the labour costs rise in Poland.

⁷ In some time periods many skilled automotive workers left the region/country to work in Western countries not because of redundancies, but because of the high wages in Western Europe. But for those who want to stay in the region a job loss is a big threat.

Bochum. And because of the massive redundancies of recent years, there are practically no workers left who could use an early retirement programme. The scope for socially buffered redundancies is very small today.

The Delta site-selection-process at GME – the five plants in comparison					
	Antwerp	Bochum	E.-Port	Gliwice	Trollhättan
Year of Foundation	1966	1962	1962	1998	1937 aero 1949 cars
Employees (1) (status 2005)	3774	7163	3283	2500 + 1200 external and temp. Workers	2185
Production volume (status 2005)	252000	250000	192000	128000	101000 (2-shift operation)
Installed capacity (status Dec. 2005)	246000 (3-shift)	250000 (3-shift)	192000 (3-shift)	180000 (3-shift)	198000 (3-shift) 130000 (2-shift)
Products (status 2006)	Astra	Astra, Zafira	Astra	Astra, Zafira, Agila	Saab 9.3 + 9.5 Cadillac BLS
Union type	Political/religious + status Segregation - Competition about members	Unified union system	Until merger competition about blue collar workers	Competition about members but one dominant union	Status differentiated unions – low competition about members
Employee representation	Exclusively by unions	Formally union independent works councils – but 100% IGM	Exclusively by unions	Exclusively by unions – but low rights	Exclusively by the union clubs
Board representatives	No	Yes	No	No	Yes
Union density (status 2006)	98%	90%	95%	26%	99,5% (blue) 93% (white)
Working hours	38	35	37,5	40	38
Average wage per hour - blue collar (2)	13,50 €	17 €	16 €	5,50 €	14 €
Regional unemployment rate	6%	20%	2% E-Port: 10%	>20 %	8%
Collective bargaining system	Collective agreements on branch and plant level	Regional branch agreement	National branch agreement	2005: no collective income agreement	National branch agreement
(1) Restricted comparability: Some plants have additional departments like production of components or engines, some not (2) Restricted comparability: E.g. the average age of the workforce has a strong impact on the average wage. Bias because of different social systems, etc.					
Source: Martin Bartmann / GMEECO-project – internal surveys January 2006- April 2007					

As mentioned before this description of the variance of important variables among the plants is incomplete. But even the differences mentioned before and the interdependencies of the variables show the difficult framework conditions for coordinating the interests of employees and finding a joint strategy in the site selection process. Management, on the other hand, is often in a position to put pressure on the employees by referring in each

case to the plant with the lowest standards. Although the management claims to use only economic figures for the comparison of the plants, the aforementioned socio-economic facts influence management decisions as well. In fact, most of the employee representatives feel that the decisions are not economically but rather politically motivated.

Management strategy in the Delta site selection process

GM's strategic goal in playing different sites off against each other is to trigger a downward spiral of concessions on working conditions and pay. The company's aim is to negotiate only with employee representatives at the local level in an attempt to create a bidding war between the individual plants. The management gives the impression that the contest between the plants is fair and transparent, with the winner chosen purely on the basis of economic factors that can be objectively justified. From the employees' point of view, however, the contest is anything but fair.

For example, employees are not responsible for, nor can they influence, factors such as the level of investment in the different plants or their workforce structure. In addition, as the contest for the Delta platform like other similar competitions in the past have demonstrated, GME takes other undisclosed factors into account in deciding where to locate production. These include the location of core markets and indeed the likelihood of industrial action at a plant. The Meriva site selection process between Zaragoza and Gliwice in 2004 and the Epsilon competition between Trollhättan and Rüsselsheim in 2004 clearly showed that GM does not stage competitions with open outcomes and fairly distributed chances for the plants involved.⁸ The result of the Delta-process verifies this conclusion again. One of the most productive plants did not get the future Delta production. But it is not only that GM does not stick to the rules they propagate for the site selection processes; in some cases management operates with irreproducible economic figures. The figures that GM uses for its argumentation often do not withstand the examination of the experts brought in by the unions and works councils.⁹

⁸ In retrospect nearly all involved employee representatives agree that these two site selection processes never were an open race. GM did not seriously intend to relocate the Meriva to the plant in Gliwice and the chances for Trollhättan to become the single European Epsilon production plant (Vectra successor: Insignia, Saab 9.3, Saab 9.5) were not real. In confidential talks GM managers confirmed this analysis.

⁹ For example, during the Delta negotiations in 2007 the economic experts involved by the EEF could not reproduce the figures GME used to show the cost disadvantages of the Antwerp plant.

In the Delta site selection process management put a lot of pressure on the plants and the employees. It spread messages that only three of the five plants would get the future production and that there would be up to two plant closures. When management was not successful in its strategy of splitting the joint position of the five plants, it tried to create more pressure by spreading rumours of more plants joining the Delta competition (Rüsselsheim and Eisenach). Until 2007 GM ignored the demands of the EEF and the employee representatives of the Delta plants for European negotiations on the Delta issues. GM tried to stick to their strategy of local negotiations and refused to negotiate on the joint proposals of the employee representatives. This was not only the case for the decision on future production, but also for problems in day-to-day production. The problem of overcapacity was solved by a unilateral decision to cut the third shift in Ellesmere Port despite the employee's alternative proposals.

There are two patterns of management strategy that can be identified. In the short run for "smaller" overcapacity problems GM takes the path of least resistance¹⁰. To cut a shift in the UK was the cheapest and least conflictive way. In the long run and for major capacity reductions (including plant closures) GM seems to favour getting rid of plants that are fit for industrial action. This could be one reason why Antwerp did not get the future Delta production, even though it is one of the most productive plants in Western Europe.¹¹

Strategies of employee representatives and trade unions

In reaction to management's strategies and actions in the Delta site competition workers representatives of the five plants, the EEF and the EMF built the so-called "Joint Delta Working Group" (JDWG) in 2005. Even though the decision of the management was not to be made before 2007, the workers representatives wanted to have enough time to set common guidelines for negotiations with management. As the five plants were brought into direct competition over the new Astra/Zafira production, the group's aim was to work against this site-competition in building a transnational body and set rules and instruments for cooperation (see Bartmann and Blum-Geenen 2006; Rott 2008). In the light of the experiences

¹⁰ The same is true for the plant closure of Renault in Vilvoorde, Belgium 1998. In this case the Belgium resistance to the closure was expected by the management to be lower than at other European plants. For further information see Rehfeldt 1998.

¹¹ This is of course an assumption. Due to the multitude of factors such as core markets, logistic costs, etc. it is not possible to indicate one crucial factor.




of the EMF and the EEF at GME it was necessary to bring together workers' representatives from the plant level and trade unionists to prevent site-competition. Already within the work of the EEF it was seen as necessary to involve national trade unions due to their ability to implement the demands of workers' representatives on the political level and strongly influence on local decisions in some of the countries. That is one reason why it is important to involve them in bodies like the Delta group.

The Delta Group appointed two chairmen; one of them from the EMF – the EMF coordinator for GM – the other from the EEF – the vice chairman of the EEF. This follows the concept of the group as a bipartite body with the chairpersons of the plant level representation and members of all national trade unions working in the plants involved. In the Delta Group de facto the plant level representatives played the more active part, supported by the coordinator of the EEF.¹² At the time of the group's establishment contact with the GME management was held through the EEF, as the management had not yet accepted the Delta Group as a contact person or negotiation partner. Even though the management does not hinder the work of the group, it does not support it either. The management tried to ignore the group and their proposals for as long as they could (see Rott 2008).

Since November 2005 the Delta Group has been supported and financed by the GMEECO project ("Requirements and Perspectives of the General Motors Europe Employees Cooperation"). The idea of financial support through an EU-sponsored project was developed by the German trade union, IG Metall. The EU budget line "European social dialogue" fostered the GMEECO project as the Delta Group took up the structural changes in the European labour market and developed an internal social dialogue in the company. As the EU is interested in a social dialogue and in negotiations on the European level, it supported the Delta Group in gathering experience in these fields. Through the financial support the Delta Group could hold workshops five times between November 2005 and June 2007 to discuss common goals and actions and to develop a joint strategy as well as share information received from management. The GMEECO project is a model

¹² The use of EMF coordinators can be seen as a strategy of the EMF to assure a sustainable relationship between European Works Councils, the EMF and the national unions. In most cases the EMF coordinator is a union employee of a union from the „headquarter-country“ or in the case of GME from the country with the largest amount of employees and plants. The chairman of the Delta Group representing the EEF and the plant-level representatives was the vice-chairman of the EEF and – simultaneously plant-level representative of the Antwerp plant. The European Works Council of GME has an employee for coordination and organizational work, the so-called EEF-coordinator. He played an active part in the Delta Group.

as its aim was to strengthen the power of the group in order to become a negotiation partner and develop common strategies (Bartmann and Blum-Geenen 2007).

Collective Employee Actors involved in the Delta site-selection-process	
Plant representatives	<ul style="list-style-type: none"> • Different juridical and organizational constructions • Unified trade unions, status differentiated unions, political and/or religious orientated unions
JDWG Joint Delta Working Group	<ul style="list-style-type: none"> • Association of the plant representatives of the 5 plants competing about the next Delta production – founded in 2005 • Representatives of the national/regional union organizations are involved
 GM Europe European Employee Forum	<ul style="list-style-type: none"> • European Works Council of GME – founded 1996 • Since 2000 the EEF defines it role as negotiation body • EEF coordinator - full-time
 Trade Union Coordination Group for GM	<ul style="list-style-type: none"> • Representatives of all European GME plants • Representatives of the involved national unions (only of member-unions of the European Metalworkers Federation – EMF)
Regional and national union representatives	<ul style="list-style-type: none"> • Involvement in JDWG and TUCG – varying engagement • Varying influence on plant union organizations resp. Works councils
 IMF World Action Group for GM	<ul style="list-style-type: none"> • Varying participation of the different countries • No World Works Council at GM – until 2007 the UAW was not very interested in a WWWC • No important role in the Delta site-selection-process

Before the financial support through the GMEECO project, the members of the Delta Group negotiated a common base for cooperation. They adopted the “principles for equable and equitable plant utilization and for the site-selection process” in February 2005. Those principles determined that the group would try to prevent plant closures and the reduction of the workforce in negotiations with management. In order to reach these aims and proceed with the work a financial support through the GMEECO project was urgently needed as national trade unions could not afford to spend money on the group for meetings. E.g. the yearly budget of the Polish Solidarnosz for the region of Gliwice is the same amount as the costs for one meeting of the group. Within the GMEECO project a first workshop of the Delta Group could take place in Gliwice where the “European Solidarity Pledge” was adopted by the members of the group. The European Solidarity Pledge is the comprehensive body of regulation for the group and can be seen as a specification and widening of the Principles for equable and equitable plant utilization and for the site-selection process. It is an answer to the “beauty contest” of the GME management which rates the plants and tries to play

them off against each other. The European Solidarity Pledge contains internal rules about how to behave inside the group, and external rules about the negotiation process with management. By signing the pledge the members of the group committed to preserving a common set of rules and guidelines for building trustful and binding cooperation. Moreover, the Delta Group implemented minimum standards for the negotiations at the plant level, such as the agreement not to undercut existing national collective agreements and that no local negotiations on Delta issues should take place before a European framework agreement would have been negotiated with the management. The common goal is to share the pain by distributing the production volumes to all Delta plants so that no plant has to be closed. Furthermore, the Delta Group demands the negotiation of a European framework agreement with the GME management about the future of the Delta plants: no plant closure, no redundancies and a fair distribution of burdens and growths. To come to an internal consensus about the content and claims of the European Solidarity Pledge has been difficult. Since very different systems of industrial relations exist in European countries, the employee representatives claimed different standards and requests. Therefore, the Delta Group, for example, included the national collective agreements as the minimum standards for negotiation with management in order to respect national differences. As the conditions – regarding the production criteria demanded by the management – of the five plants varied, the Delta Group had to implement measuring tools about what would be a fair distribution of production. To avoid plant closures capacities had to be reduced in all plants. To measure the reduction for every single plant a reference date in 2006 was chosen, which would mark a 100% workload for all plants. On the basis of the production units at this date the Delta Group will distribute further capacities in the future. Those core principles laid down in the Solidarity Pledge have not been questioned during the Delta process and they have structured the behaviour and strategies of different forms of action as well. Of course the Solidarity Pledge could not regulate every detail of the Delta Group's strategy in advance. It is seen as a "living document" that describes the "spirit" of the group's mode of cooperation.

During the Delta process the group was confronted with different management decisions to which it had to react. In 2006 the GME management decided to close down the plant in Azambuja, Portugal and to cut down the night shift at the Delta plant of Ellesmere Port, England.

Whereas the cutting of the night shift in Ellesmere Port was not accompanied by European action or an active involvement of the EEF, the workers in Azambuja were supported by the EEF and workers across

Europe through Europe-wide action weeks. The restructuring process in Ellesmere Port was dealt with on a national basis. European protest could not come about as the English workers decided to accept the compensation payments of the local management (see Batchelor 2006). But the Delta Group and the EEF forced the management to inform and consult the European workers' representation and presented a strategy on how to prevent the cut of a night shift and to reduce production volumes in all Delta plants instead. The management decided unilaterally and did not react to the alternative plan of the Delta Group. Running parallel to the negotiation in Ellesmere Port the management announced the closing of the Portuguese plant in Azambuja. The closure abolished 1200 jobs and the production was shifted to the plant in Zaragoza, Spain. For the national and European worker representation bodies the announcement came very unexpectedly in July 2006 as the plant in Azambuja had just been modernised and the management had invested 130 million Euro in 2001. It was furthermore quite exceptional that the plant was closed during the life-cycle of its product (Opel Combo). Apart from the German plant of Eisenach, Azambuja was the most productive plant in Europe with the second-lowest labour costs after the Polish plant in Gliwice. Nevertheless, the GM management argued that the move from Azambuja to Zaragoza would involve lower production costs (see da Paz Campos Lima and Naumann 2006).¹³ Workers representation bodies from all over Europe started defending the plant and protest actions organised by the EEF started at all 18 European plants.

Proposals of the EEF and the Portuguese workers' representation body on how to increase productivity were rejected by the management. After a three-day strike action in Azambuja the EEF organised European action. At this time a new strategy came into force with decentralized strike actions in the plants on different dates that were centrally coordinated. Through this decentralized strategy all plants could support European actions within the scope of their national legislation. From the 13th of June until the 4th of July protest actions took place in European plants on a daily basis. Although the management decided to close the plant, EEF managed to influence the conditions of the closure through a European framework agreement. The management agreed to actively support the development of alternative industries in the region of Azambuja. (see Bartmann and Blum-Geenen

¹³ GM argued with logistic costs. But in retrospect, the long-term perspective of GM may be to outsource production of the Opel Combo (the model produced in Azambuja – the current Combo is based on the same platform as the models in Zaragoza). The next Opel Combo will not be based on a GM platform but will be identical with the Renault Kangoo.

2006) The closure of the Azambuja plant demonstrated to the Delta group that hard and difficult negotiations would follow for the future of the Delta plants.

The negotiations on the future of the Delta plants at the European level started in spring 2007. Until the end of 2006 the management had followed a strategy of unsettling the Delta plants by promoting new plans of involving the Rüsselsheim or Eisenach plants in the Delta process. On the 17th of April 2007 a first agreement was negotiated which claimed that the new Astra model would be produced in four of the five Delta plants: Bochum, Ellesmere Port, Gliwice and Trollhättan. Although the plant of Antwerp would not produce the Astra model it would produce SUVs of the brands Opel and Chevrolet in the future. But the negotiations especially about the future of Antwerp were long and difficult because the first offer of production volumes for Antwerp actually concealed a closure of the plant. Due to the insecurity of the future of the Antwerp plant its workforce began strike actions on the 25th of April. These actions were supported by the EEF through another European action day on the 3rd of May. In July 2007 the management accepted higher production volumes for Antwerp in order to keep the plant and agreed to negotiate a European framework agreement on the Delta plants, which had been demanded by the EEF and the Delta group. (see Bartmann/Blum-Geenen 2007).

By the editorial deadline of this book the content of the European framework agreement is negotiated but had not yet been undersigned. It guarantees that none of the four future Delta plants will be closed during the life cycle of the next Delta generation but without fixing minimum production volumes for the plants. For the Antwerp plant two new products (Opel and Chevrolet SUV) with a minimum of 120,000 units per year are guaranteed. And a negotiation option exists for a third product.

As the Delta group kept all five plants alive, even though only four of the five plants will produce the Astra model in the future, the main goal of the group was achieved. It stopped the management from closing the Antwerp plant and shared the production for the new Astra model. But sharing the production goes along with sharing the pain. All plants had to accept massive restructuring processes that entail a reduction or outsourcing of many jobs. The workers in the plants in Bochum, Ellesmere Port and Trollhättan have already experienced job losses through restructuring in Bochum and Trollhättan and the cut of a whole shift in Ellesmere Port. On the other hand, the Delta group and the EEF learned that job losses and concessions would have been higher and at least one plant would have been

shut down if all plants had negotiated on their own and with a high probability that there would have been an uncontrolled downward spiralling of working conditions with effects not only on the Delta plants but on all European GM plants. The negotiation of a European framework agreement for the Delta plants shows that European cooperation and common action leads to common standards for the European GM plants that can even exceed the legislation of the European Works Council Directive.

Global platforms and site competition at General Motors – challenges for trade unions and workers

The strategies of global production platforms and site competition set new challenges for the local and European workers representation bodies. Cooperation through the EEF and the Delta group was necessary in order to respond to the strategies and demands of the globally networked management. The direct competition between plants in the case of the Delta process put pressure on local workers representation bodies. On the one hand it was necessary to follow common European rules and cooperate with other workers representation bodies, while on the other hand every plant representation body had to do the best for its own plant as it is elected by the workforce and has first of all to represent the interests of this particular plant. Thus it was a big challenge for the Delta group to constantly inform and involve the workers in the plant “to get them on board,” explaining to them why the only way to save their plants and, as much as possible of their jobs, was by sharing the production volume and acting together as a group. The European action days and especially the action weeks for Azambuja showed that most of the European workforce had been integrated and that European solidarity exists among GM workers. Those actions showed as well that the national systems of workers’ representation follow different legislative bases and resources. That made it important to coordinate the European actions. The strategies of the GM management showed that trade unions and workers had to learn to coordinate their work and forces on a European basis and that purely national negotiation would not have been an adequate response to management’s behaviour. But different legislation and traditions in the countries are also a permanent challenge for the coordination of employee interests. Future site-selection processes at GM will often be global competition. Analysing the ambitious process of European coordination as described before, the big challenge of a global coordination of employee interests is obvious.

Another new aspect that will put pressure on employees and their representatives is connected with the strategy of interbuildability. This

means that global platforms are shared across different GM branches and regions. An Opel compact car shares the same platform and many common parts with a Saturn, for example, that is sold in North America. Furthermore, similarities and shared parts between the neighbouring platforms will be implemented (e.g. between Delta and Epsilon platform). This means that some plants will become so-called flex-plants that can produce models of two platforms. One result of this strategy is that models can be easily relocated from one plant to another even across continents. Currency fluctuations, for example, could lead to relocation aims. Until now plants were normally safeguarded during the life cycle of a model. But in the future there will be a permanent situation of competition.

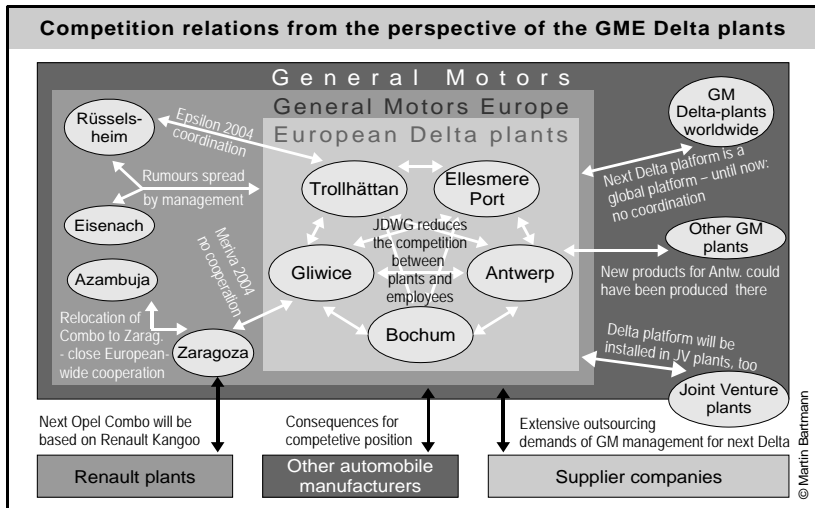
Regarding this permanent competition the aim of the Delta Group and the EEF to fix guarantees for the life cycle of the next Delta generation is understandable.¹⁴

When analysing the strategy of the Delta Group an important motive to be noted is the reduction of competition between the plants and the employees. In fact, this is a very old strategy and has been a motive since the early days of the labour movement. But when analysing the Delta competition it is obvious that the employee representatives have to deal with complex competition relations. The Table “Competition relations” gives an overview of selected important competitive relations from the perspective of the Delta plants. This shows that inside GME the EEF and the local employee representatives have been able to reduce competition not only in the Delta process, but in many other processes. Only in the case of the Meriva competition between Gliwice and Zaragoza did the coordination approach fail. If we widen the view to incorporate the GM global organization the situation looks different and even more complex. At the moment there is no real cooperation on this level.¹⁵ GM products are produced in Joint Venture plants as well (see also the GME site overview). In some cases it is more complicated to coordinate strategies with the Joint Venture plants, because they also have to manage their relations with the other partner company of the Joint Venture. In the automotive industry some products are developed and produced in cooperation between

¹⁴ The flexibility of the global platform and the interbuildability strategy could also be a chance for the employees. Today, plants that produce models with low market success are in a bad position. The new flexibility could be used to distribute production volume in a fair way between the plants. In a company like GM it is obvious that employees will have to fight for such a usage of the potential of the new strategies. The closure of the Azambuja plant showed that GM might close plants during the life cycle of a model.

¹⁵ That does not mean that there is no cooperation at all. For example the employees of a Brazilian plant refused to accept compensation productions during a labour conflict in Europe.

different automobile companies. GME cooperates with Renault in the field of light commercial vehicles. Currently the Opel Movano and Vivaro are identical with Renault models. Because of that the GM plant in Luton is in a competition situation with Renault plants. The future Opel Combo will be based on the Renault Kangoo. So, for the GM Zaragoza plant there will be a similar situation.¹⁶ Until now there has been no similar cooperation between the GM and the Renault employee representatives as has taken place among the representatives within GME.



Another unregulated competitive situation is the relation between GM plants and suppliers. Outsourcing is a big issue at GM and the management demands massive outsourcing. In some cases employee representatives and

¹⁶ The risk that the production of the Combo will be totally relocated to a Renault plant is even higher than for the Movano and Vivaro, because the new Combo platform has nothing to do with the Gamma-platform that is installed in Zaragoza. This scenario would paint a really bad picture for GM management's strategy. After the relocation of the Combo to Zaragoza, management put a lot of pressure on the Zaragoza employees to accept outsourcing. The argument was that the expansion of the workload with the additional Combo-production could not be performed by the existing workforce at Zaragoza. Management proposed that regular employees of the Zaragoza Corsa-production should enter the Combo-production. The gaps in the Corsa-production should be filled by outsourcing operations formerly performed by GM employees displaced to the Combo-production. If the Combo-production is relocated to a Renault-plant, this would mean that Zaragoza would then have to many employees and job cuts will be necessary.

the management also negotiate about insourcing to safeguard jobs in under-utilized plants. It is evident that in both cases there is competition between supplier companies and GME plants.¹⁷

In capitalist economies the strategic options of EWCs or of employee bodies like the Delta Group are also limited by the competition between automobile companies. Proposals and demands that have a massive negative impact on the competitive position can be problematic in the long run. It is always difficult to find a balance between competition and cooperation. In inter-company relations this has become quite clear in recent years. Major concessions of one works council have led to concession demands of the competing companies.

11.5. Employee cooperation at GME as a blue-print for other companies?

Even though we can see standardisation in production systems in the automotive industry,¹⁸ the company's organisations are still different. Thus it is not so easy to decide whether the GME experience is transferable to other companies.

One difference between GME and most other European automobile manufacturers is that GME does not have one dominant country where the local employee representatives have an exclusive relation to the central management. Since the GME headquarters are located in Zurich, the central management is located in a country where GM does not have any production or development site. This absence of one dominant country or site may have enforced the cooperation of employee representatives on equal terms, as there is no direct connection between one national employee representation and the European management. This is the case, for example, at Volkswagen, where the international management headquarters is located at the German plant in Wolfsburg. The German employee representatives have "direct access" to the management and therefore have an outstanding position within the EWC.

One specific characteristic of GM may be the platform strategy and the consequential direct competition between plants. This enormous pressure had the effect of welding together the employees and their representatives.

¹⁷ Surprisingly, nearly no employee representation bodies of automobile manufacturers have systematic relations to the employee representatives of their major suppliers – even in those cases with supplier parks on or near the plant area.

¹⁸ At least on the rhetorical level.

But this is only a difference of degree. In nearly all automobile companies we can discern at least implicit competition between production plants. One could even think of a contrast thesis. In other companies with a not so union-hostile management, approaches like the Delta Group and its proposals might have much better chances of being accepted¹⁹.

We described the needs for global employee cooperation due to the effects of global platform strategies. GM may be one of the forerunners of this development and it is not yet certain if all companies will follow this path in such a consistent, i.e. inflexible way. But global integration of production with more competition between the plants of one company will in effect come about in all companies. The European Works Council of GM as well as other employee representatives at GM plants outside Europe identified the need for more global cooperation. The lack of a World Works Council is a problem for the implementation of effective global cooperation. In other companies with established World Works Councils the preconditions for global cooperation should be much better.

The so-called share-the-pain-strategy of the EEF and the Delta Group is of course an answer to the massive economic problems of GM and an attempt to deal with the massive job cuts at GME in recent years. Of course, not all automobile companies are in such a bad economic situation, but the principle may be transferred to companies in better economic situations, too. For example, decisions about new investments or about where to create new jobs could be coordinated in a similar way by management. As a side note, it is interesting that even in companies with a much better economic situation employees made massive concessions on their working conditions. A coordinative approach like that of the Delta Group creates stop lines for these concession spirals as employee representatives get access to information about the situations of the other plants and can coordinate their negotiations with the management.

In this article we described the difficulties of transnational cooperation according to the distribution of production volume. Some employee representatives and EWCs of other companies argue that these difficulties lead to high risks of such a strategy (see PhD project Bartmann). The

¹⁹ It is a sort of a paradoxical situation. The approach of the Delta Group contains many co-determination elements such as the development of alternatives to the plans of the management. Most times, GM refused to negotiate these alternatives. In other automobile companies the tradition of co-management is much more accepted by management. Up to now, however, the employee representatives in these companies have limited their co-determination strategies to the national level.

conclusion of this opinion is that the distribution of production should be dealt with at the plant level. The risk argument cannot be ignored. There is no guarantee that a cooperation strategy and a share-the-pain-strategy will be successful in every single case. But the conflicts over the Volkswagen Brussels plant show that the strategy of leaving responsibility for production allocation at the plant level may be very risky and perhaps impossible as well. Public pressure and the damage to the reputation of the German Volkswagen works council and IG Metall were so big that there was no alternative to a sort of transnational coordination.

One important precondition for the successful transnational cooperation at GM are trust relations and the open sharing of information between the employee representatives of the sites involved. This cannot be merely decreed, it must be practiced. Internal rules of communication as laid down in the solidarity pledge can support such a climate of trust (see Rott 2008).

Last but not least the example of the Delta Group and the GMEECO-project shows the importance of resources for successful transnational cooperation. The level of cooperation and coordination that was reached in the Delta-process would be unthinkable without the resources of the GMEECO-project²⁰. A functional group like the Delta-group is not provided by the EWC-directive nor have the European Works Councils the resources to finance the frequent meetings of employee representatives that were necessary for developing a joint strategy. Besides the GMEECO-project resources the EEF is very creative in acquiring additional resources for its work. In recent years they received support from the national unions, EMF, or foundations like the Hans-Böckler-Foundation or Friedrich-Ebert-Foundation, etc.. This acquisition of resources can definitely not be a blue print for other EWCs. The listed additional resources are limited and would not be sufficient to support a large number of EWCs. But this is not an argument against the transferability in principle of the Delta approach. At GM it is clear that the company will not provide the EWC with additional resources on a voluntarily basis. At other automobile companies with less conflictive relations between management and employees, agreements on additional resources for transnational work are imaginable. The resources for World Works Councils support this assumption.

²⁰ This line of argumentation is supported by current development. The GMEECO-project ended in July 2007, and afterwards cooperation did not break down but the level of cooperation declined and a partial backslide into the logic of local negotiations can be discerned.

11.6. Basis for and obstacles to transnational cooperation

Transnational cooperation inside Europe is on the one hand regulated by EU directives and on the other hand by a living process emerging through the actors themselves. As multinational companies work within global value chains and production networks, workers' representation and labour has to follow these new tendencies as well. Regarding legislation on workers' representation, the EU began regulating cross-border management strategies which affected workforces in different European countries. One of these regulations is the European Works Council directive, which governs the establishment of EWCs in multinational companies and was set up more than ten years ago. The directive can be seen as a first step in coordinating different national systems of worker representation (Helbig 1999; Höland 2000). But as the example of the European Works Council at General Motors shows, there are tendencies of EWC activities to go beyond the legislative framework. These actions are scarce and require members of the EWC who initiate the transformation from an information and consultation body to a negotiation partner. This work is mainly supported by a process of Europeanisation in the trade unions.²¹ In most branches of industry European federations of the national trade unions exist; but only in a few cases their work and its outcome is as highly recognized as that of the European Metalworkers Federation (see e.g. Anner et al. 2006; Klebe and Roth 2000; Pulignano 2006). One reason for establishing European trade union federations is that trade unions are hardly taken into consideration in the legislation of the EU directive. Thus trade union federations advocate for a revision of the European EWC directive in order to strengthen the influence and the possibilities of action for European Works Councils, on the one hand, to involve trade unions as part of them on the other. A central problem for acting on a European basis through trade union federations or EWCs is the different national working standards and relationships. Within Europe there are different systems of industrial relations with different roles played by the trade unions. Furthermore, labour laws and the possibilities of action for workers representatives at the plant level have varying degrees. It is because of this that transnational cooperation of workers representatives requires strong coordination and possibilities for sharing information about the plants and country systems of industrial relations. As European labour legislation provides only a starting point for cooperation, cooperation is mainly engendered by the efforts of trade unions and EWCs. But the

²¹ In some cases the Europeanization of trade union work goes along with plans to start collective bargaining across borders. But these tendencies are rare (see Gollbach and Schulten 2000; Marginson and Sisson 2002; Schulten 2001, 2003).

challenge is not only to share information and to learn about the different systems. We can also identify different union strategies in the countries that are not simply determined by different legislative or socio-economic framework conditions but reflect different political positions and goals. For example, the strategies for securing the employment chances of employees differ between German and Swedish unions. The German approach can be described as mainly company-centred with employment security contracts between works councils and single companies, whereas the Swedish strategy can be described as a macro-economic approach focusing on a functioning labour market to secure the job chances of the employees and members (see Bartmann 2005a and 2005b). This example clearly shows that EWCs which define their role far in excess of the rights of the EWC directive have to take these strategic differences into consideration. And it underlines the necessity of involving the national unions in processes like the Delta site-selection. Furthermore, the different national unions and the EMF have to start a discussion on the different national strategies and how it can be avoided that these strategic differences destroy the possibility of cooperation at the EWC-level.

As already mentioned, a coordination of EWCs in one branch of industry across company borders could be necessary in the long run to avoid a downward spiralling of working conditions between companies.

The example of GM shows that transnational cooperation and coordination of employee interests can work. But it also clearly shows that it is a challenging job and there is no guarantee that in every single case the interests of the employees in different countries can be balanced and provided for. But in internationalized companies there is no alternative. Otherwise employees and their representatives will be played off against each other without any effective means of resistance.

Abbreviations and “GM-speak”:

Delta	GM internal name for the platform of the compact class cars (in Europe: Astra and Zafira; next Delta platform maybe also a new Saab 9.1 model)
EEF	European Employee Forum: European Works council of General Motors Europe
EFA	European Framework Agreement – Agreements between the EEF and GM/GME. One target of the EEF is to be accepted as

negotiation partner of management and to negotiate European wide binding agreements. The EFA should not be confused with the IFA (International Framework Agreement). IFAs contain normally so called 'rules of social responsibility' resp. 'codes of conduct' wherein companies guarantee basic labour and social rights for their global activities. EFAs are most times agreements about special topics / problems / conflicts.

EMF	European Metalworkers Federation
Epsilon	GM internal name for the platform of the midsized cars (in Europe: Vectra, Signum; next Epsilon platform also Saab 9.3 and Saab 9.5)
EWC	European Works Council
Gamma	GM internal name for the platform of the small cars (in Europe: Corsa and current Combo)
GM	General Motors
GME	General Motors Europe
GMEECO	General Motors Europe Employee Cooperation: EU financed (social dialoge programme) project. Coordinated by IG Metall.
IMF	International Metalworkers Federation
JDWG	Joint Delta Working Group (short: Delta Group): Association of the employee representatives of the Delta plants. Representatives of the central or regional union offices, the EMF coordinator for GM and the coordinator of the European Employee Forum (EEF) are also integrated
TUCG	Trade Union Coordination Group: The TUCGs are strategic instruments of the EMF. The approach is to create a TUCG for each company where there is a need to coordinate employees' interests. The TUCGs are not set up as competitors to the European Works Councils (EWC), but as a cooperating body to integrate the views, resources and strategies in the work of the EWCs.
UAW	United Automobile Workers: US automobile workers' union

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European Works Councils in complementary perspectives

Edited by

Markus Hertwig, Ludger Pries and Luitpold Rampeltshammer

During the last 15 years research on European Works Councils has revealed significant information concerning the structure, dynamics, and ability of EWCs to represent employees' interests. A multitude of factors and conditions influencing the work and results of EWC activity have been identified. That said, until now, there has been little systematic theorising about EWCs and their specific character as 'interest organisations within profit organisations' and the specific relationship or 'organisational fit' between each entity.

The aim of this volume is to expand the prevailing research perspectives on EWCs by drawing on theoretical findings from industrial relations research, organisation sociology, and international management studies. The volume consists of three parts. The first brings together theoretical contributions resuming and enlarging EWC research; part two deals with the institutional and cultural background of EWCs in specific countries and the corresponding research in Poland, France, Spain, the UK, and Germany. In part three, EWCs are analysed using case study research of EWCs in automobile companies like Skoda, General Motors, and BMW.

Price: € 27
D/2009/10.574/27
ISBN: 978-2-87452-162-1



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