

COMPARATIVE EXECUTIVE  
SUMMARY

# EUROPEAN WORKS COUNCILS IN EASTERN EUROPE





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# 1. INTRODUCTION

Currently there are a number of 1194 European Works Councils (EWC) active in the world out of the total of 1634 ever created. 1159 of those are individual multinationals. Germany is the country with the highest number of EWCs and metal is the industry where most EWCs are formed, with public services being the least exposed to EWCs. When it was initially launched, the concept of a European work council was seen as a natural progression on the road to European integration: as the multinational corporations benefitted from the advantages of an integrated single market, so could their employees across different countries would benefit from the same high standards of remuneration and protection across the board.

The novelty of the present study is that it focuses on the implementation of EWCs in a number of Central and Eastern European countries which have been the oft-debated destination of outsourcing of services and the production of goods of multinational corporations. As such, it would be expected that there would be a lot of European Works Councils hosted in those states and that the national workers' representatives would be extremely proactively involved in participating and organizing such meetings in order to ensure that their members who work at the same company as their Western states' counterparts would receive the same degree of protection and remuneration. However, the reality is distinctly different due to a combination of different factors. The first is due to the requirements and limitations within the EWC Directive itself, limiting the level of participation of local entities. The second is due to the unions themselves.

# 2. METHODOLOGY

This publication is an executive summary of the five national assessment reports written in the five project partner countries: Bulgaria, Croatia, Poland, North Macedonia and Romania. Each national assessment report drew upon an analysis of each country's

respective national legislation, relevant reports, strategies and other information in order to document the context and background of the implementation of the EWC locally.

The desk research was developed with the help of two focus groups – one with 8 trade union representatives and one with 8 employer organizations – and 15 in-depth interviews with union representatives and EWC experts, carried out by each project partner.

The following employee and employer organizations were consulted as part of the research process:

COUNTRY	TRADE UNIONS	EMPLOYER ORGANIZATIONS
<b>Bulgaria</b>	<ul style="list-style-type: none"> <li>▪ Confederation of Labour Podkrepa</li> <li>▪ Confederation of Independent Trade Unions in Bulgaria</li> <li>▪ members of their respective federations in a range of industries: brewery, foods, consumer goods, machine building, metalworking, electrical engineering, electronics, etc</li> </ul>	<ul style="list-style-type: none"> <li>▪ Bulgarian Association of the Metallurgical Industry,</li> <li>▪ Bulgarian Chamber of Chemical Industry,</li> <li>▪ Bulgarian Construction Chamber,</li> <li>▪ Bulgarian Soft Drinks Association</li> </ul>
<b>Croatia</b>	<ul style="list-style-type: none"> <li>▪ IKEA Hrvatska Ltd., INA d.d.,</li> <li>▪ PHOENIX Farmacija Ltd.,</li> <li>▪ Raiffeisen Bank Hrvatska d.d.,</li> <li>▪ Zagrebačka banka d.d.,</li> <li>▪ Heineken Hrvatska Ltd</li> <li>▪ MATICA – Association of Croatian Trade Unions</li> </ul>	<ul style="list-style-type: none"> <li>▪ Institute of Public Finance Zagreb</li> <li>▪ Croatian Employers Association – CEA,</li> <li>▪ Heineken Hrvatska Ltd.</li> <li>▪ Faculty of Law of the University of Zagreb</li> <li>▪ Erste &amp; Steiermärkische Bank d.d</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Croatian Union of Banking and Financial Workers</li> <li>▪ CTUPP - Croatian Trade Union in Printing and Publishing Industry</li> <li>▪ A1 Hrvatska Ltd.</li> <li>▪ Infosys Limited d.d.</li> <li>▪ Colas Hrvatska d.d.</li> <li>▪ Siemens Hrvatska d.d.</li> <li>▪ OMCO Croatia Ltd.</li> <li>▪ General Electric Hrvatska Ltd.</li> <li>▪ Hrvatski Telekom d.d.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Colas Hrvatska d.d.</li> <li>▪ METRO Cash &amp; Carry Ltd</li> <li>▪ Strabag BRVZ Ltd.</li> </ul>
<b>North Macedonia</b>	<ul style="list-style-type: none"> <li>▪ Federations of Trade Unions of Macedonia (SSM)</li> <li>▪ Trade Union of Industry, Energy and Mining of Macedonia (SIER)</li> <li>▪ Union of Independent and Autonomous Trade Unions of Macedonia (UNASM)</li> <li>▪ Association 'Glacen tekstilec' for legal protection and advocacy of workers' rights in textile industry</li> <li>▪ Helsinki Committee for Human Rights</li> </ul>	<ul style="list-style-type: none"> <li>▪ Organization of Employers of Macedonia (OEM)</li> <li>▪ Business Confederation of Macedonia (BCM)</li> <li>▪ Macedonian Chambers of Commerce (MCC)</li> <li>▪ Economic Chamber of North-west Macedonia (OEMVP)</li> <li>▪ National Federation of Temporary Employment Agencies</li> </ul>
<b>Poland</b>	<ul style="list-style-type: none"> <li>▪ NSZZ "Solidarność"</li> <li>▪ OPZZ</li> </ul>	<ul style="list-style-type: none"> <li>▪ Warsaw School of Economics</li> <li>▪ Stefan Wyszyński University</li> </ul>

	<ul style="list-style-type: none"> <li>▪ NSZZ "Solidarność", Secretariat of Metalworkers</li> <li>▪ NSZZ "Solidarność", UIF</li> </ul>	<ul style="list-style-type: none"> <li>▪ Flixbus</li> <li>▪ Lewiatan</li> <li>▪ Employers of Poland</li> <li>▪ Nordzucker</li> <li>▪ Heineken</li> <li>▪ Philip Morris</li> <li>▪ Airbus</li> <li>▪ Orange</li> <li>▪ Leonardo</li> <li>▪ Volkswagen</li> <li>▪ Ikea</li> <li>▪ Pfeleiderer</li> <li>▪ Asahi</li> <li>▪ Ideal Standard</li> <li>▪ Brenntag</li> <li>▪ Orlen Energa</li> <li>▪ PEKAO S.A.</li> </ul>
<b>Romania</b>	<ul style="list-style-type: none"> <li>▪ the National Syndicate Bloc (Blocul national sindical)</li> <li>▪ the Federation of Free Unions of Romania (Federatia Sindicatelor Libere din Romania)</li> <li>▪ FGS Familia (FGS Familia)</li> <li>▪ the Free Union Massa Industry (Sindicatul Liber Massa Industrie)</li> <li>▪ Promex union (Sindicatul Promex)</li> <li>▪ Brainconf union (Sindicatul Brainconf)</li> </ul>	<ul style="list-style-type: none"> <li>▪ the Young Entrepreneurs Union of Romania (Patronatul Tinerilor Intreprinzatori din Romania)</li> <li>▪ the National Council of Small and Medium-Sized Private Companies (Consiliul National al Intreprinderilor Mici si Mijlocii)</li> <li>▪ the National Union of Industrial Entrepreneurs (Uniunea Generala a</li> </ul>

	<ul style="list-style-type: none"> <li>▪ the Naval Shipyards Union (Sindicatul Naval Braila)</li> <li>▪ the Damen Free Union (Sindicatul Liber Damen)</li> <li>▪ the Free Syndicate TIAB (Sindicatul Liber TIAB)</li> </ul>	<p>Industriasilor din Romania)</p> <ul style="list-style-type: none"> <li>▪ the National Union of Employers Unions (Uniunea National a Patronatului Roman)</li> <li>▪ the Employer Confederation Concordia (Confederatia Patronala Concordia)</li> </ul>
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In order to learn more about the EWC instrument being implemented into practice, the partners had the opportunity to meet with German union members and EWC experts and to discuss their experiences. Each partner also invited two union representatives from their own country so that they could also learn. There were three virtual round-tables organized in the September-October 2020 period. The first was with Doris Meisner, a long-time EWC Secretary from the part of the IGBCE union on mining, chemicals and energy, within the German Trade Union Confederation (DGB – the largest trade union confederation in Germany). The discussion with Ms. Meisner focused on her practical extensive experience in organizing and participating in EWCs for the past 20 years. The second discussion was with Dr. Michael Bolte and Dr. Norbert Kluge, both EWC experts from the Hans Boeckler Foundation (the DGB research institute). The talks were more theoretical and focused on the legal and socioeconomic context that the EWC Directive was implemented in Germany and why the national context has permitted them to thrive. For the third and final meeting, the partners had the opportunity to hear from the Jorg Hensel, the chairman of the EWC of Deutsche Bahn AG as well as from Jim Moran and Joern Jessen, members of the managing committee of the EWC Deutsche Bahn AG. The discussion focused on the organizational aspects of the EWC, difficulties in its implementation, examples of successful resolutions through the EWC and how the Committee is structured. The meetings were all highly well received, by the partners and union representatives as well as by the German colleagues. The discussions were judged to be productive and informative and allowed for highly valuable recommendations to be distilled.



The findings from the entire research are captured into concrete recommendations for the stakeholders – unions, management and EU-level confederations - which can be expected to inform future policy, practice and research in the field.

### 3. OVERVIEW OF EUROPEAN WORKS COUNCILS

European Works Councils are bodies which represent European employees within transnational companies. In an EWC employees working within the same multinational company but in different European states have an equal opportunity to be informed and consulted of the financial and human resources plans of the management.

The idea of establishing mechanisms for the transnational information and consultation of workers in the European Union emerged in the 1970s alongside the movement for workers' rights. It was first implemented in France in the 1980s, when works councils members at multinational companies decided invite representatives of the company's subsidiaries from other countries to participate in their meetings.<sup>1</sup> The increase in the number of multinational enterprises both hosted and active in the European Union generating significant transnational activity, led to the need for specific European instruments to regulate and protect transnational industrial relations. The European Works Councils Directive was initially adopted in 1994 (94/45/EC) and reformed in 2009 to include more advanced operational aspects. The implementation of the Directive established a framework for the formal representation of employees in multinational companies and the conduct of social dialogue at European level.

The Directive was recast in 2009 (2009/38 / EC) following an evaluation which showed problems regarding shortcomings of the legal framework, the lack of ensuring a reasonable timeframe for consultation and information, poor training and preparation of EWC representatives to be able to advocate their members interests in the transnational forum, and problems regarding the effectiveness of transnational communication. The revised directive was adopted after a long negotiation process between social partners at the European level, the European Trade Union Confederation (ETUC) and the employers' association BusinessEurope. At the time, ETUC insisted on a clearer definition of the terms 'information' and 'consultation', greater rights for EWC delegates regarding training and their free time, and time limits to the periods in which the special negotiating bodies could negotiate the EWC agreement. Furthermore, the ETUC insisted

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<sup>1</sup> *De Spiegelaere, Stan u Jagodzinski Romuald. 2015. "European Works Councils and SE Works Councils in 2015. Facts and figures." ETUI. Brussels 2015.*

on reducing the required minimum number of company employees from 1000 to at least 150 in each country of the European Economic Area and defining the role of unions within the EWC<sup>2</sup>. BusinessEurope strongly opposed the revision of the Directive, claiming that this would lead to the centralisation of the decision-making process within multinational companies and its subsequent slowdown, with a negative impact on profitability.<sup>3</sup> In the end, BusinessEurope's efforts to block the amendment process of the Directive were unsuccessful and a compromise solution was found in which the provisions on time limits for the negotiation process and the reduction of the threshold of the minimum number of employees were deleted from the final text of the amended Directive<sup>4</sup>.

The Recast Directive clarified a series of points, amongst which the following:

- The opening and procedure of negotiations
- The role of trade unions and employer's organizations
- General principles and concepts of information and consultation
- The transnational competence of the EWC
- Links between the levels of information and consultation of employees.

The issue of more robust inclusion of unions was partly addressed through the provision on the necessity to inform the European union associations, such as the ETUC, regarding the beginning of negotiations for a specific EWC. Additionally, the unions were also permitted to seek assistance from representatives of European union associations within the negotiating process<sup>5</sup>.

However, regardless of the improvements in the revised Directive, worker representatives within numerous EWCs continued to argue that the information and consultation processes were far from optimal. An issue in "information" which was often mentioned was the overburdening of EWC members with massive amounts of often

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<sup>2</sup> *De Spiegelaere & Waddington, 2017*

<sup>3</sup> *Hahn et al., 2017*

<sup>4</sup> *De Spiegelaere & Waddington, 2017, p. 295*

<sup>5</sup> *Ibid, p. 296*

irrelevant information and withholding the most pertinent such as changes to company structure. With regards to “consultation”, a commonly cited problem was the lack of a sufficiently strong information base, too little time available, and the fact that consultations were often carried out after decisions were already made and therefore had, a purely formal aspect.<sup>6</sup> At the time the Directive was amended, numerous European unionists had expressed their regret that it did not specifically include “negotiating” as one of the possible activities of the EWCs. There are EWC agreements which envisage an active negotiating function for this body in certain situations, though these are exceptions<sup>7</sup>.

Since the EWC Directive came into effect in 1996, the number of EWCs formed has gradually increased although the speed has slowed down in recent years. According to data from January 2019, there were 992 active EWCs in Europe, while 400 had been disbanded due to company mergers, fragmentation or bankruptcy<sup>8</sup>. It is estimated that EWCs in Europe today encompass about 20 thousand delegates representing some 17 million workers. Nevertheless, by some assessments, there are still many multinational undertakings which have not yet established such a council, preferring instead alternative forms of transnational information and consultation with workers. An additional issue is seen in the data from 2016 in which 39% of active EWCs function on the basis of pre-Directive agreements, on the basis of agreements concluded prior to entry of the Directive into force, and as such do not include the more advanced provisions on information and consultation.<sup>9</sup>

To qualify for the creation of an EWC the company must have at least 1000 employees in the European Union and at least 150 employees in each of at least 2 countries in the European Union. It is important to note that the Directive applies if the company meets the criteria of number of employees even if its main headquarters are outside the European Union - there are companies registered in Japan or the United States of America which have EWCs for this reason.

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<sup>6</sup> *Hahn et al., 2017*

<sup>7</sup> *Kerckhofs, 2017, p. 280*

<sup>8</sup> *Eurofound, 2020*

<sup>9</sup> *Jałodziński, 2016*

The creation of an EWC is triggered by a request of 100 employees from two or more countries or upon the initiative of the employer. Then, representatives of the employees and management are appointed to form the EWC and an agreement is drawn up between the two parties, agreeing to rules of functioning as well the terms of information and consultation. The majority of EWCs agreements include the discussion of the economic and financial standing of the company, corporate strategies, business evolution and reorganisation issues. Issues such as health and occupational safety, professional development, equal opportunity and corporate social responsibility of the company are also discussed, but to a lesser extent. Ultimately, topics that are individual issues, such as working conditions and salary negotiations are not included on the EWC agenda as they are regulated at the national level of individual Member States<sup>10</sup>.

Even though the Directive on the establishment of a European Works Council requires the members to hold at least one plenary meeting per year, nearly 30% of EWCs regularly meet at least twice per year or even more often<sup>11</sup>. The EWC meetings largely follow a standardised format that includes a report by the management pertaining to business evolution and future opportunities before discussing the other items on the agenda which include: corporate strategies, business evolution and reorganisation issues. To a lesser extent, issues such as health and occupational safety, professional development, equal opportunity and corporate social responsibility of the company are discussed. Ultimately, topics that are individual issues, such as working conditions, salaries and negotiation do not find their place at the EWC meetings, as these issues are regulated at the national level of individual Member States<sup>12</sup>.

Most regular EWC meetings last two or three days and are structured in three phases. In the first phase, the worker representatives meet internally to exchange information and prepare for the information and consultation with representatives of central management of the multinational company. In the second phase, the representatives of central management and EWC delegates meet to discuss the points on the meeting agenda. Finally, in the third phase, an internal evaluation meeting is held between the worker representatives (delegates), where they discuss the results of the meeting and

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<sup>10</sup> *De Spiegeleare & Jagodzinski, 2015*

<sup>11</sup> *Ibid, p. 34*

<sup>12</sup> *De Spiegeleare & Jagodzinski, 2015*

make decisions concerning next activities.<sup>13</sup> Some 86% of EWC agreements contain special provisions that provide for the organization of meetings under exceptional circumstances, such as the internal restructuring of a company where there is a potential negative impact on jobs. While most extraordinary meetings can be convened under a normal procedure, in about a third of EWCs, a requirement for convening a meeting due to exceptional circumstances requires authorisation from central management<sup>14</sup>.

A point of contention in the work of the EWCs is the issue of defining transnational activities, and several lawsuits have even been filed<sup>15</sup>. The revised Directive missed the opportunity to include the procedures of transferring manufacturing and service capacities outside the countries of the EU (that lead to reduced employment for those EU countries) under the umbrella-term of “transnational activities”. Moreover, the Directive does not prescribe the timeframe in which measures should be implemented at the transnational level in order to be taken into consideration as “mutually connected”.<sup>16</sup> Another important issue regards confidentiality. Due to the lack of a precise definition of the concept in the Revised Directive, companies are accused by employee representatives of restricting access to information and consultation on issues affecting workers by citing the “confidentiality” of the respective documents or actions.

The Revised Directive introduced provisions on the reporting of EWC meetings. Consequently, over 70% of EWC agreements concluded after the entry of the revised Directive into force include separate provisions on reporting<sup>17</sup>. As a rule, these provisions, bind local management to secure the necessary infrastructure for EWC delegates to share information with employees. This infrastructure may relate to communications via email, newsletters, dissemination of reports via the Internet or intranet, and meetings and visits to production plants<sup>18</sup>.

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<sup>13</sup> *Gohde, 2019, p. 45*

<sup>14</sup> *De Spiegelaere & Jagodzinski, 2015, p. 34*

<sup>15</sup> *De Spiegelaere & Waddington, 2017, p. 295*

<sup>16</sup> *Gohde, 2019, p. 45*

<sup>17</sup> *De Spiegelaere & Waddington, 2017*

<sup>18</sup> *Gohde, 2019, p. 63*

The efficacy of EWCs is highly variable throughout the European Union. On the one hand, there are numerous EWCs that have been marginalised and reduced to the level of a simple instrument for disseminating information. On the other hand, some EWCs have become powerful players in transnational social dialogue. The most successful EWCs have provided a venue for the exchange of ideas between worker representatives in countries where industrial relations are insufficiently developed or weak, creating high value for employees.<sup>19</sup> Optimists regard European Works Councils as instrumental in advancing a truly European system of industrial relations while pessimists view it as promoting social dumping and undermining the current social dialogue system.<sup>20</sup>

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<sup>19</sup> *Mählmeier et al., 2017, p. 227*

<sup>20</sup> *Hahn et al., 2017*

## 4. NATIONAL CONTEXT (ECONOMIC, SOCIAL AND LEGISLATIVE)

The process of accession to the European Union involves the requirement of harmonizing national legislation with European legislation and making legal provisions aimed at ensuring that the supranational principle of European legislation is respected in each country. In terms of industrial relations, Eastern Europe, due to its Communist past, entered the 1990s with powerful unions and a heavily syndicated structure. All of Eastern Europe had been very industrialized, with a large part of the population employed in factories and manufacturing centers, and the unions drew their power from that large membership base. In the 2000s, trade with Western countries and companies intensified following the granting of EU accession status which made Eastern Europe an attractive and lucrative market. The outsourcing of production and services from West to East also became more frequent, many multinational companies opening up branches and new locations in Eastern Europe. One of the results of this influx of foreign direct investment was an increase in the quality of life of Eastern European citizens, as many of them became employed within multinational companies.

Conversely, the opening of the Eastern economies to foreign investment contributed directly to the dismantling of many large local industries, thus directly impacting union membership. The financial crisis of 2009 which introduced severe austerity measures in many of the Eastern European countries researched, weakening collective bargaining rights, dramatically reducing union power, and directly affecting social dialogue. Therefore, union density in the region is quite low – Bulgaria (13,9%), Poland (12,7%) - with only Romania (at 20%)<sup>21</sup> and Croatia (26%)<sup>22</sup> being characterized as moderate.

According to Romuald Jagodzinski in the book “Variations on a theme? The implementation of the EWC Recast Directive” concludes that the implementation of the provisions of the Directive were simply “copy / pasted” by a number of national

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<sup>21</sup> *ICTWSS 6.1 (2019)*

<sup>22</sup> *Butkovic, Hrvoje. National Assessment Report Croatia and EWC. 2021*



governments, with limited commitment of the social partners and without adapting them to national contexts, therefore affecting the quality of the transposed national laws.

Table 2. National implementing measures transposing Directive 2009/38/EC

COUNTRY	MANNER OF TRANSPOSITION
<b>Bulgaria</b>	Decree No 55 'Act amending the Act on informing and consulting employees in multinational undertakings, groups of undertakings and European companies', State Gazette No/year: 26/2011
<b>Croatia</b>	Transposed into Law on European Works Councils (OG 93/14, 127/17)
<b>North Macedonia</b>	Article 21 of the Law on Amending the Labour Relations Law ("Official Gazette of the Republic of Macedonia")
<b>Poland</b>	1265 Act of 31 August 2011 amending the Law on European Works Councils
<b>Romania</b>	Law No. 186 of 24 October 2011 to modify and complete Law no. 217/2005 regarding the European Works Councils

## 4.1. BULGARIA

Bulgaria transposed the EU Information and Consultation Directives with the Information and Consultation with Workers and Employees in MNEs, Groups of Enterprises and European Societies Act ('ICA'). The law was adopted in 2005 after significant delays owing to a lack of interest on the part of social partners (especially employers) and amidst not insignificant concerns of trade unions that the law would be used to seize their power and curtail their influence. Due to the significant amount of content in the four EU Directives and the need to implement multiple amendments in pre-existing legal instruments, the country had to adopt two separate laws. The remaining provisions were transposed in amendments of the Labour Code.

The ICA follows the structure of the relevant Directives, in the following sequence: election of representative bodies; establishment and functioning of a special negotiating body between worker/employee representatives and the central managing body or

bodies; negotiating an agreement; content of the agreements; standard rules and methods for the implementation of the agreements (including standard information and consultations rules for all types of enterprises), and standard rules for participation in the management of a European company and of a European cooperative society. A separate general chapter of the ICA deals with confidential information (which is covered by a separate section in each of the transposed Directives).

The ICA is most relevant to the divisions of multinational companies /enterprises which operate in Bulgaria, because there are still quite few such companies which actually have their headquarters in the country.

## 4.2. CROATIA

As other CEE states, Croatia was required to align its national legislation with the *aquis Communautaire* upon accession. The provisions of the EWC Directive only entered into force with the country's accession in 2013. Even though the Directive has been fully transposed, Croatian legislation provides for the creation of a EWC on the basis of Croatian-law in certain cases. The negotiating procedure for establishing the European Works Council must be completed within a period of three years from the date of filing the application. If an agreement on the establishment of the European Works Council cannot be concluded in that time frame, then the subsidiary requirements come into force. In Croatia, there are no employers in which an EWC has been established based on Croatian law. All EWCs operating in Croatia were established by foreign multinationals operating in Croatia. There is also an obligation to notify the Ministry of Labour of all appointed delegates from Croatia to the EWCs which is not found in the legislation of any other country researched for this report. According to certain Croatian unions, the transposition of the Directive is poor because it was not adapted to the reality of the country's socioeconomic context. Instead, it was transposed first into the Labour Act, and then revised and issued as a special law in which the provisions were slightly amended. Therefore, the strength of EWC activity has been limited to the areas of communication, information and consultation, without the opportunity of making a real impact on decision making. In November 2020 at the European level there were 44 EWCs which include delegates from Croatia.

### 4.3. NORTH MACEDONIA

The republic of North Macedonia presently has Candidate-country status within the European Union. In this context, candidate-status implies that the country has begun to harmonize national legislation with the European Union one. The regulation of industrial relations included the acceptance of several ILO conventions, which practically set up mechanisms that contributed to the promotion of social dialogue and the strengthening of the role of trade unions in the process of negotiation and representation. In North Macedonia the trade union density stands at around 20%. The establishment of the right of the union to be informed and consulted by the undertaking on all issues involving employee rights was of particular importance.<sup>23</sup> In the Macedonian legal system, these issues are regulated by the Labour Relations Law<sup>24</sup> and collective agreements, with the Labour Law providing the legal framework for social dialogue, both bipartite and tripartite.<sup>25</sup> The Law on the European Works Council was adopted in 2012 and amended in 2015<sup>26</sup>. However, although it entered into force eight days after its adoption its final provisions<sup>27</sup>, state that the Law “*will begin implementation with the accession of the Republic of Macedonia to the European Union*”. Therefore, even though theoretically the country does have the European Works Councils Law passed, it is not applied in practice, with the regulation of information and consultation of social partners falling to the Labour Law. The Federation of Trade Unions of Macedonia (SSM) and Organization of Employers of Macedonia (ORM) have both signed the General Collective Agreement

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<sup>23</sup> *Agricultural Union. National directions/ recommendations for improvement of informing and consulting and process of inclusion in the Macedonian agriculture.*

<sup>24</sup> *Labour Relations Law („Official Gazette of the Republic of Macedonia” no. 62/2005; 3/2006; 3/2006; 44/2006; 65/2006; 16/2007; 57/2007; 77/2007; 106/2008; 161/2008; 63/2009; 114/2009; 130/2009; 149/2009; 10/2010; 50/2010; 52/2010; 58/2010; 124/2010; 132/2010; 47/2011; 11/2012; 39/2012; 13/2013; 25/2013; 170/2013; 187/2013; 106/2014; 113/2014; 20/2015; 33/2015; 72/2015; 129/2015; 27/2016; 134/2016; 120/2018; 110/2019 u 267/2020)*

<sup>25</sup> *Center for Research and Policy Making. 2017. “Industrial Relations in Macedonia: Challenges Ahead of Economic Recovery”. CRPM. Skopje 2017.*

<sup>26</sup> *Law amending the Law on European Works Council (“Official Gazette of Republic of Macedonia,” no. 147/2015). 27.08.2015.*

<sup>27</sup> *article 43*

for the private sector in the field of economy, which applies to all employers.<sup>28</sup> According to this collective agreement, the employer has the obligation of at least once a year (or as needed) providing information to workers on issues that are relevant to them. Communication can be in writing or orally, through an authorized representative. At the employer level, the union selects or appoints an information or consultation representative and thus conducts social dialogue. Interestingly, the Labour Law in North Macedonia is somewhat similar to Romania's, in which representation rights are given only to undertakings with more than 50 employees and consultation obligation for enterprises is only with "an employee representative" which, in both countries can mean either a union representative or an employee directly elected by his peers.

## 4.4. POLAND

Although initially Polish unions had little knowledge of activities in the EU-15, the concept of a European Works Council held a lot of interest and, once Poland acceded to the European Union in 2004, actively participated in trainings on the subject. Having developed their skills, the Polish unions, especially NSZZ Solidarność and the All-Poland Alliance of Trade Unions (OPZZ), were actively involved in the development of EWC Directive, contributing with qualitative content and joining the lobbying efforts for the passing of the Directive. The trade unions conducted an ample survey which they used to support detailed proposals. For instance, they called for an increase in the role of trade unions in the Councils and for abolishing Article 13 (now 12) of the Directive, which allowed the creation of various representative bodies during the transition period which did not have to comply with certain provisions of the Directive. The unions also wanted more precise definitions of the information and consultation processes, as well as the possibility to transfer information to the national level. When it came to transposing the Directive into national legislation, it stalled for two years due to frequent amendments and efforts made by some employer unions to prevent the introduction of provisions empowering trade unions to select members of the special negotiating body, suggesting that such a solution was unconstitutional. Although the Constitutional Court sustained the argument of the employer organizations, the Ministry of Labour used the expert study

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<sup>28</sup> *General Collective Agreement for the Economy of the Republic of Macedonia („Official Gazette of the Republic of Macedonia” no. 88/2009; 60/2010; 84/2010; 94/2010; 81/2012; 150/2012; 189/2013; 115/2014; 119/2015; 150/2016).*

commissioned by NSZZ Solidarność when basing their final decision of permitting trade unions to participate in the special negotiating body. Finally, once the Directive was transposed into law, there were no further complaints were put forth by the employer organizations. Currently, there are more than 200 EWCs at European level which include representatives of Polish employees.

## 4.5. ROMANIA

The initial transposition of the EWC Directive into Romanian legislation was finalized in 2005 with the adoption of Law no. 217/2005 with very little consultation of the unions. Taking into account the fact that in 2005 there were still not that many multinational companies present in Romania, the interest of the unions was not quite high regarding the advantages of the EWCs. The Recast EWC Directive was adopted in 2011 through Law no. 186, also with very little consultation of the national unions. A special point of contention for the Romanian unions is that according to the Social Dialogue Law, although it is compulsory for companies with more than 20 employees (where no representative sectoral union exists) to designate an employee representative, it is not legally required for the representative to be part of a union<sup>29</sup>. In this context, it follows that an unaffiliated employee representative can also be part of an EWC, instead of a union member. According to union representatives consulted for this report, this is problematic because it excludes the experience and negotiation power of a union representative, leaving (in the opinion of the unions) purely informational and formal.

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<sup>29</sup> *Romanian Social Dialogue Law no. 62/2011, Art. 135 regarding the representativity of employees*

## **5. EVALUATION OF THE PERCEPTION OF THE SOCIAL PARTNERS REGARDING THE UTILITY OF THE EWC DIRECTIVE**

Each project partner carried out a focus group with at least 16 representatives from national trade unions and employer organizations as well as 15 interviews with syndical partners and EWC experts. The discussions included a number of different topics, focusing especially on the direct experience of those representatives who had participated in EWCs, problems encountered when participating/organizing a meeting, national debate surrounding the concept, and recommendations for improvement of future EWCs. The conclusions of the research will be summed and compared within the most frequent sub-topics mentioned by most participants across all countries.

### **5.1. TRADE UNIONS**

#### **5.1.1. Overview of the knowledge and awareness regarding EWCs**

In Romania, the general knowledge of the EWC is quite good but only amongst the top management of unions, who are generally the delegated members to the councils. Awareness decreases down the management chain reaching the workers themselves who are completely unaware of this instrument and its benefits. From the point of view of utility, the EWC instrument is sometimes viewed with skepticism by some trade union organizations because it is considered as competing with the work carried out by the trade unions. The skepticism stems from the fact that, in the opinion of some trade unions, the EWC discourages people from joining trade unions or may contribute to weakening trust in the trade union organization. Another important element characterized as a minus point in the opinion of trade unions is that both the information and consultation process can be covered by national legislation, as it is not imperative to have an instrument such as the EWC.

In Bulgaria, the discussion with the group of trade union representatives revealed that they are committed to using the EU legal instruments and policies in the area of industrial relations. The participants provided examples of EWCs with Bulgarian representatives at multinational companies which have an official seat or branch in Bulgaria, including Ideal Standard International, Solvay Group, Carlsberg, Heineken, Amylum, KAI Group and more. In Bulgaria, similar to Romania, not all Bulgarian representatives at EWCs are actual trade union members. Unlike Romania, the explanation is that in the Bulgarian divisions of certain multinational companies trade union organizations do not exist or trade union density is not strong enough to enable the election of a representative from the trade union community. Bulgarian unions have mentioned that in cases where the EWC representatives are managers with close links with the employers, the nature of the relations between the two bodies which represent the workers – the EWC and the trade union organization – may pose difficulties to industrial relations.

In Macedonia, taking into consideration the fact that the European Works Councils Directive is not yet applicable, in general, the level of knowledge regarding EWCs is quite low, with only union members being aware of more details. According to union representatives there is a lack of willingness of the management in the multinational companies to use this method of cooperation, despite their familiarity with the existence of these instruments for social dialogue. In their opinion, there is always a danger of “gambling” with certain workers’ rights, if there is no serious structure and trade union organization of workers, even in conditions of more developed industrial relations:

*“How familiar we are with the European Works Councils is shown by the fact about the situation in the companies from the so called free economic zones. You have to know that in those companies, domestic managers from Macedonia are familiar with the works councils and the way they use them to curtail the rights of workers, i.e., not to allow union organization and the like. They abuse them. This is the level at which we are familiar.”<sup>30</sup>*

There is a high degree of concern and fear among trade union workers that EWCs will be abused by management in order to avoid the organizing of workers’ unions.

In Croatia, in reviewing the success of EWCs, the union representatives state that in numerous countries, this instrument has improved the speed of communications between central management and local employees, and therefore advanced social

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<sup>30</sup> Participant number 6. Trade union representative. Focus group organized on 17.07.2020.

dialogue at the local level. There are examples where the processes of establishing worker's councils have been initiated at the local company level for the purpose of inclusion in the EWCs.<sup>31</sup> Also, an exceptionally good accomplishment was the conclusion of collective agreements in countries which did not previously have any<sup>32</sup>. In some isolated cases, the initiatives of EWC delegates successfully contributed to resolving issues of a local characters, such as non-payment of overtime in countries where unions are weak or non-existent<sup>33</sup>. The general assessment of cooperation within the EWCs, as given by union representatives, was primarily positive. EWC meetings are a venue for open discussion on issues in individual countries, where the more developed countries aim to help out the less developed ones. Much information can be learned and experiences and good practices are shared at these meeting. Communication and trust forged between colleagues was assessed as exceptionally useful<sup>34</sup>. However, in certain cases, the cooperation within the EWCs was assessed as somewhat less than in previous years, and the average grade given at the focus group with the unions was just under the score 'very good'. In that sense, they stressed that the EWC is a good and necessary instrument, but that it requires an upgrade today, for if it remains in its current form, it will quickly lose its purpose<sup>35</sup>.

In Poland, there is a high degree of awareness of EWCs from the part of union representatives, the organizations having been instrumental in contributing to the development of the Recast EU Directive. However, there is insufficient awareness of workers regarding the possibility of establishing EWCs. For some union participants, the activity in the EWC is their first contact with collective industrial relations and employee representation.

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<sup>31</sup> *Interview, RBA Hrvatska, 2020*

<sup>32</sup> *Interview, Phoenix-Farmacija, 2020*

<sup>33</sup> *Focus group of unions, 2020*

<sup>34</sup> *Focus group of unions, 2020*

<sup>35</sup> *Ibid.*



## 5.1.2. Perceived benefits of the EWCs

In Poland, apart from opening a channel of communication with the central management and thus strengthening the employee representation in relations with the national management, the establishment of EWCs in some cases is perceived as allowing trade unions to influence the decisions of the company's governing bodies to a certain, usually moderate, extent. According to one of the respondents, the voice of employee representatives during consultations is taken into account, so that even difficult-to-avoid restructuring processes, adversely affecting employees, and the related redundancies, can be communicated and managed in time. A representative of a union operating in another corporation gave an example of another solution: in a situation when employment has to be reduced in some branch of the company, employee representatives identify areas of activity where there is a need to increase employment, and then prepare the ground for the transfer of employees (they cannot always be informed about this right away due to the confidentiality of restructuring plans). There were also some rare cases in which respondents pointed to an important negotiation component of EWC activities in their corporations. One example is described in more detail in the subsection devoted to examples of successful implementation of the institution under study. In another interview, it was even suggested that the corporation withholds implementation of certain strategic plans until they have received the approval of the EWC. If consensus is difficult to reach, arbitration is used, and the management board involves experts in the negotiation process.

There is broad consensus amongst Bulgarian union members that the adoption and transposition of the EWC Directive and of the information and consultation procedures have had the largest contribution to the development of European social dialogue. In this context, the Europeanization of industrial relations is viewed mainly through the prism of EWCs and their role as a bridge between the workforce in Europe and the central management of multinational companies as well as a catalyst of transformative supranational social cooperation. In reviewing the success of EWCs, Croatian union representatives state that in numerous countries, this instrument has improved the speed of communications between central management and local employees, and therefore advanced social dialogue at the local level. There are examples where the processes of establishing worker's councils have been initiated at the local company level for the

purpose of inclusion in the EWCs.<sup>36</sup> Also, an exceptionally good accomplishment was the conclusion of collective agreements in countries which did not previously have any.<sup>37</sup>

### 5.1.3. Organizational issues

In Romania organizing a EWC is considered a difficult step for many trade union representatives. The EWC is not set-up automatically and the lack of deadlines regarding its implementation do not constitute obligations for companies or employees at the level of the Directive. Therefore, there situations in which companies, although they meet the conditions of the Recast Directive, do not currently have a functional EWC. According to the Romanian union representatives interviewed, the Recast Directive did not necessarily contribute to the establishment of new EWCs and in the context of poor communication between trade unions in different Member States the process of setting up a EWC is considered rather difficult.<sup>38</sup> Furthermore, unions allocate very little resources for the preparation and participation in EWCs, preferring to focus on national issues within national fora.

In Poland, according to the experience of the unions, corporations usually provide at least the minimum conditions, required by the Directive and national law, for the functioning of EWCs, such as the frequency of meetings (at least once a year, although there are also schedules that include two or even four plenary meetings). Employers have complied with the requirement to provide the conditions for the discussions by covering the costs of the employees' side in terms of travel, accommodation and meals during the trips, as well as the translation of the proceedings and the provided documentation. Sometimes additional amenities are provided, such as a company laptop and cell phone, or even funding the services of specialised consulting firms, such as those that prepare company financial statements at the request of the employee side. In some corporations, EWC sessions were combined with study visits, enabling representatives of various crews to learn about the functioning of foreign subsidiaries of corporations. Trade union representatives, however, did stress that language can be a significant barrier to the efficient functioning in EWCs. This concerns not only the access

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<sup>36</sup> *Interview, RBA Hrvatska, 2020*

<sup>37</sup> *Interview, Phoenix-Farmacija, 2020*

to corporate documents and the circulation of information within the EWC itself, but also the so-called behind-the-scenes conversations, which are undoubtedly an added value of council meetings. Interviewees in the survey spoke English and sometimes the language of the country where the corporation's head office is located, but they indicated that fluency in a language and a certain degree of boldness in communicating in a foreign language with other council members is still a challenge for some Polish representatives.

The issue of translation is brought up by all union representatives across all countries participating in this project. Organizational challenges can affect the quality of meetings, as revealed by the participants in the research activity. Transmission of documents in a timely manner but also in a friendly format respectively translated into a language established at the EWC level as well as ensuring that all members have all documents pertaining to the agenda are elements that if not met, may affect the quality of meetings by defaulting the information process and consultation at the EWC level. More language-training alongside the development of economic skills was deemed necessary by union members in Bulgaria, in recognition of the fact that the lack of language skills and the insufficient economic literacy are among the factors which may discourage the nomination of representatives to the EWCs. The need for interpreters at EWC meetings together with the insufficient background in important economic and employment law matters can be practical hurdles to the efficient participation of some members. In North Macedonia, the unions face limited conditions for building advocacy capacity, and the possibility of representing employees at European level in conditions when there is a lack of experience in terms of the functioning of works councils, language barriers and the low culture of building partnerships is questionable by the management through social dialogue.

#### **5.1.4. Transnationality and solidarity**

In Romania, a perceived weakness regarding the impact of the Directive, which however, cannot be directly attributed to it, is the lack of trust and cooperation between trade unions. Even though the union representatives interviewed for the study generally rate the cooperation with other European unions as positive and useful, they recognize that what is beneficial for some trade unions is difficult to manage for others a – representative statement in the case of a restructuring process. For example, if a company decides to restructure or lay off certain employees, the representatives of the EWC workers, in the situation of a real consultation process, will act in order to reduce the impact in their country of origin giving rise to a more competitive process between

trade unions. Two deeply antagonistic principles need to be harmonized, namely competition and cooperation, so that this is difficult and certainly not always possible. Building a set of common goals at the level of trade unions is not always achieved. Moreover, there is a situation where certain states are not represented in the EWC so that these workers are disadvantaged compared to those represented. In Romania, the institution of social dialogue is weak and inefficient. Moreover, the country-specific recommendations made by the European Commission were aimed at establishing social dialogue in the sense that it should be reformed and streamlined. In this context, trade unions, encountering weak social dialogue in their home country (Romania) have tried to transfer as many of their problems to a supranational entity, namely the EWC. Obviously, many of these issues did not benefit from a transnational approach, nor were they discussed with trade unions in other states. Many of these issues / topics were rejected because management did not consider them to be of transnational interest. However, the issue of transnationality is not clearly regulated at the level of the Directive so that management has the option to refuse consulting employees on certain topics. The problem of transnationality is vague and it deserves to be improved in the near future. It is necessary to establish at the level of each individual EWC agreement or even in a future amendment of the Directive. This must be done in an imperative manner necessary to ensure a very clear framework for discussion and a clear definition of transnational topics, respectively.

In Croatia, the issue of transnationality is again problematic. Union representatives consider that management boards often try to pass off transnational issues as local ones. Only in later phases, under pressure from unions and EWCs, are such issues raised to the transnational level in some cases<sup>39</sup>. The problem of transnationality arises in Bulgaria as well – the gist of the relations between the various divisions of a multinational company, the inevitably arising dilemma ‘cooperation or competition’ and the practices of creating confrontation between workers from different divisions.

*“I wish to tell you what happens with us, the trade union members of the European Works Council – everyone keeps pulling the rug to their side...When it comes to shutting down or relocating a site, this wreaks havoc at the EWC.*

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<sup>39</sup> *Interview, IKEA Hrvatska, 2020*

*The mindset of a European Works Council is: ‘You have your national level, national legislation and national standards – please be kind enough to follow them.’<sup>40</sup>*

In Poland as well, the issue of transnationality as well with union member representatives believes that there was a lack of transnational solidarity among trade unions, replaced by a logic of competitiveness and a zero-sum game:

*“In my opinion, there was no solidarity among EWC members (and the branches from the West) regarding the economic sphere. It was a colonial approach: the West benefited from higher profits in the East and they did not agree to raise wages in the East because it would mean cuts (of allowances, bonuses) and reduce wage increases in the West. In moments of confrontation, I was told not to push, because the workers in the Western branches would get worse off.”<sup>41</sup>*

### 5.1.5. Confidentiality

A oft-mentioned problem mentioned by unions across all member states is the frequent classification of information from EWC meetings as confidential, an unresolved issue from the Recast Directive. This prevents unions from properly informing employees to matters which concern them directly. Croatian legislation has foreseen this and makes it necessary for the delegate to inform employees about important aspects of meetings. If the delegate has assessed that the meeting topics are relevant for employees, they have the right and the duty to pass on such information, by describing and summarising the issue to employees without forwarding the actual document.<sup>42</sup> Bulgarian trade unions cite the unreasonably strict confidentiality rules as preventing them from fully being involved in the “consultation” aspect of the EWC. Only in Poland did trade unions state that, as a rule, confidentiality clauses do not represent a significant impediment to their activities. On the one hand, company secrecy is not abused by employers to cut off staff representatives from certain information or invoked in situations where its legitimacy would be questionable. On the other hand, trade union representatives learn to use such

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<sup>40</sup> *Focus group discussion.*

<sup>41</sup> *Focus group discussion.*

<sup>42</sup> *Interview HT, 2020*

knowledge responsibly, while other trade union members and workers generally do not pressure them to share sensitive information – as one interviewee noted, such knowledge would be of little use to the rank-and-file worker.

### **5.1.6. Sanctions**

The issue of sanctions was often raised by the Romanian trade unions in the focus groups and in-depth interviews in relation to the EWC in the sense that the company is not constrained in any way if it does not follow an initiative put forward by workers' representatives. The lack of sanctions significantly limits the bargaining and “coercion” capacity of trade unions. The current form of the Directive provides significant room for maneuver for management, with companies being free to approach subjects in a manner that is most convenient to themselves within the EWC. Trade unions have raised the need to integrate a chapter of sanctions into European law, some even suggesting the inclusion of harsher remedies such as suspending certain management decisions in court (such as relocation or dismissals) until the issue is resolved through consultation with the employees.

### **5.1.7. Overall perception of efficacy of EWCs**

For Bulgarian trade unions the overall efficacy of EWCs is severely affected by issues such as the relative short frequency of meetings, weak dissemination of information before and after meetings, and in some cases, the confidentiality clauses. These are issues observed by all union representatives across all project countries, raising the point of the degree to which the European Works Council is a genuine representative body acting on behalf of the workers or just a forum for the exchange of opinions. The experience of some trade union organisations in Bulgaria indicates that certain multinational companies with well-established EWCs consider industrial relations as an exclusively national responsibility.

In North Macedonia, the efficacy of the EWC cannot be measured due to the fact that it is not yet in force, however, the existing instrument for information and consultation is not considered effective by a majority of union members as there are no clear mechanisms for conducting social dialogue between employees and management, as is the case with works councils. Despite the fact that some companies do value the input of unions in times of crisis (such as during the COVID-19 pandemic) the general

impression is that significant issues are not actually broached with unions. Rather, the energy is focused more on individuals than on the collective and the work agreements. The unions stress the fact that the best results are obtained in undertakings where a union exists and collective bargaining can take place at a union-level. This is seconded by the Croatian experience, where the representatives stated that only the union may enter collective bargaining, while the worker's council can request from the management that they are informed in advance, which the union cannot. Experience has shown that in the case the union president advocates something, the employer has a different attitude towards it than when the request comes from a member of the worker's council that is not backed by a union.<sup>43</sup> However, most union representatives believe that multinationals establish EWCs and workers' councils there where the union does not have a strong influence, which threatens the quality of transnational social dialogue and raises the question as to the purpose of this instrument,<sup>44</sup> a sentiment echoed by Romanian union members as well.

In Romania, the efficacy of the EWCs is further impacted by the fact that, according to the existing social dialogue legislation, it is not compulsory to elect only union members as delegates to a particular EWC. In undertakings where the number of employees does not reach the required threshold to establish a union, an employee representative can be elected, who does not have to be a union member. Without the mandate and support of a union to negotiate and without synodical experience, the employee representative is considered by the unions and only formally "ticking off" the requirement of providing a delegate, but without having real powers to effect change. Another point is the fact that as the schedule of top executives is very busy, management sometimes prefers to send lower-tier executives to attend EWC meetings. This affects the efficiency and results of EWC meetings because the lower-tier executive does not have any decision-making power so they have to refer back to their seniors, therefore reducing their presence in the EWCs to merely a "listening" body and not one for debate or proper consultation.

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<sup>43</sup> *Interview, HT, 2020*

<sup>44</sup> *Focus group of unions, 2020*

## 5.2. EMPLOYER UNIONS

### 5.2.1. Overview of the level of knowledge and awareness regarding EWCs

In Bulgaria, the employer organizations which participated in the study were partially familiar with the key pieces of European legislation in the area of industrial relations, including the European Works Councils Directive. However, the level of involvement in and commitment to the process of transposition of the EU legislation in the area of industrial relations tends to be limited, due to a delay in the consultation process at governmental level. The same situation can be found in Romania as well, with the representative from the CONCORDIA employer organization actually having been involved in the process of transposing the EWC Directive into national legislation.

In North Macedonia, the level of awareness regarding the European works councils is similar to that of the trade union workers, as in only a small percentage of them being familiar with the legislation or having been involved in its preparation. According to the organization of Employers of Macedonia, after an intense period of discussion years ago when the Directive was first launched, there have been no new debates on the subject since.

### 5.2.2. Transnationality

Another important element regarding the relationship between the employees' representatives and the management of the multinational company, raised especially in the focus groups in Romania, concerns the way the company is organized and operated. A deeply centralized organizational model allows issues to be discussed at supranational level, making the EWC a perfect instrument for efficient consultation. At the same time, a decentralized way of organizing makes it extremely difficult to address transnational issues at the level of the EWC precisely because of the high level of independence of each local management branch. The situation is also similar in the case of companies with multiple products in their production portfolio. A mono-product company can more easily internalize an instrument such as the EWC in the sense that there is a high similarity between the activities carried out in different states. However, such an organizational framework also makes it significantly more difficult to achieve a common agenda at the level of national trade unions because they are in direct



competition with each other. A decentralized or diversified production structure does not generate a major interest for management in terms of strengthening the EWC<sup>45</sup>.

In Croatia, employer representatives agree that transnational cooperation can differ somewhat, depending on whether the central company views itself as an authority that oversees and controls the local company, or whether it has a guiding role through the dissemination of best practices. Employers are divided on the issue of transnational cooperation, saying that it is at a high level and well organised on the one hand, with constructive informational cooperation and mutual respect, while on the other, they claim that there are examples where the transfer of information and knowledge is poor or insufficiently developed. Further, some state that the function of EWCs in Croatia has not yet matured in the context of connecting companies and in the development of experience practices. In Poland, the problem encountered by employer organizations is that trade unions attempt to escalate national issues to the international forum, if said issues are unresolved at the lower level. Unfortunately, the issue of transnationality cannot be broached with regards to North Macedonia because the EWC Directive has not been applied and companies are under no obligation to ensure an international forum for their workers.

### 5.2.3. Confidentiality

In Croatia, the employers emphasize the fact that the EWC Directive and legislative framework leave sufficient space for the classification of critical information – such as financial reports - as confidential. Therefore, employer representatives stress that it is the task of delegates at the EWC to collect information before it becomes available at the local level, so as to develop their stance. They maintain that it is not necessary to share certain information in detail with the employees as some of it is extremely complex and the dissemination of information would cause more harm (through the distortion of said information) than good. This is something which came up in the discussions with the Romanian employer organizations as well. many top multinational corporations exist in an environment of competition and fear any information leaking to their competitors. Therefore, the confidentiality clause is invoked oftentimes in EWC meetings thus keeping certain important subjects off the consultation table. The problem of confidentiality of information is that precisely that information of interest to employees can be

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<sup>45</sup> *Marginson et al., 2004*

confidential. In an ideal situation the consultation process between the employees' representatives and the trade union organization would imply the exclusion from the sphere of confidentiality of the data of maximum interest for them, such as restructuring or strategic reorientations. This generates a difficult dilemma for both management as well as the employees. The problem is that awarding the EWC more significance also would imply reducing/violating confidentiality rules<sup>46</sup>, an issue which is extremely difficult to solve even for companies which are otherwise very careful and inclusive of employee consultation.

Trust between the parties is an important topic in North Macedonia as well, even if the country does not apply the EWC Directive. According to workers representatives, there is generally no problem in terms of information, as each employer finds a way to inform workers, but there is a slight limitation in the application of the consultation process. Interestingly, the only country which does not seem to have an issue with confidentiality is Poland, where trade union representatives and employer organizations seem to have found a mutually-beneficial balance of sharing information. On the one hand, company secrecy is not abused by employers to cut off staff representatives from certain information or invoked in situations where its legitimacy would be questionable. On the other hand, trade union representatives learn to use such knowledge responsibly, while other trade union members and workers generally do not pressure them to share sensitive information – as one interviewee noted, such knowledge would be of little use to the rank-and-file worker. However, there may be some situations in which obtaining confidential information can be a burden for union representatives. One corporation has a management strategy to involve the largest trade unions very deeply in the decision-making process, so their representatives may also take a management perspective, weighing the arguments of both sides when presenting their views. It sometimes happens that non-representative organisations, not included in management processes, accuse them of being too conciliatory towards the employer. This requires skillful handling of information activities addressed to the staff, constantly “balancing” – as the respondent put it – in order not to be accused of servility.

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<sup>46</sup> *Hannah and Robertson, 2015*

## 5.2.4. Overall perception of the efficacy of EWCs

In Bulgaria, employer organizations highlighted the benefit of participating in various supranational networks for exchange of information and experience with countries which have more advanced systems of industrial relations and social dialogue. Additionally, in Croatia, employers stated that EWCs represent an additional channel through which all employees are included in the discussion of transnationally relevant topics. Positive examples for local companies include the implementation of different transnational company projects. This was a general statement made by all employer organizations in all project countries.

However, when pressed for details, the employer organizations recognized the fact that they did not generally consider EWCs to be useful. In Romania, some employer organizations pointed to the lack of expertise of EWCs members on certain topics as well as to the fact that, under Romanian legislation, an employee representative who is not necessarily a union member can be a EWC delegate, as negatively affecting the quality of talks at EWC level. In Croatia, employer organizations stressed that, in their opinion, EWCs meetings are not organized with the goal of joint decision-making but more for the purpose of providing information. Final significant decisions regarding company strategy are left to the central management and local companies. Cooperation between employees and the employer unfolds exclusively through the local workers' council. In that sense, employers believe that the EWC is a body that should primarily have the purpose of educating members of local worker's councils.

In North Macedonia, the impression of the employers is that this instrument undermines the role of the union (similar to the opinion held by Romanian unions). In Poland, the perception of employer unions is that managers do not receive any valuable feedback from EWC members. EWCs are also viewed as forums where union representatives attempt to resolve outstanding national issues.

## 6. CONCLUSIONS

The Recast EWC Directive was a step forward in the European industrial relations system by generating a framework for dialogue adapted to the particularities of a globalized industry. One of the merits of the Directive was the regulation of the EWC, which is the first instrument of supranational dialogue at company level. The provisions of the Directive generated a united industrial relations path towards a collective approach regardless of nationality in relation to multinational companies.

However, as our research indicates, there are still improvements to be made so that the tool can be used more efficiently and by more companies. The trade unions emphasized formal consultation aspect of many EWCs plenaries as well as organizational problems and language barriers within EWCs. The Directive also continues to have several provisions deemed as „vague” by social partners, such as the transnationality variable and the confidentiality issue, the latter being a point of content for employer unions as well. Companies also believe that the Recast Directive has had a negative effect on business competitiveness, although they do admit that, in some cases, the forum provided by the EWC has helped to improve the relationship between employees and the company.

In order to improve the efficiency of the EWC both unions and employers need to become more actively involved. Promoting and disseminating information on the methodology of organization and functioning of the EWC, ensuring synergy between national and supranational representation, allocating resources for training and qualitative participation in the EWC, developing skills of social dialogue culture, and setting a concrete agenda and representation and reporting procedures are all steps that can ensure better use of the EWC by trade unions. Additionally, establishing a framework that focuses on consultation, ensuring the participation of company decision-makers, more frequent meetings, as well as facilitating access to niche expertise, are all steps that can be taken by companies and that can increase the importance and quality of the EWC's activity.

The rather negative perception of the efficacy of EWC meetings from the point of view of employers as well as their lack of proactive involvement is understandable. Industrial rights is a history of push-and-pull between unions and employers with the former demanding better benefits for the workers while the latter being oriented towards higher productivity and profitability. Even though the European Union is an integrated market of goods and services and there are no customs taxes, remuneration and health and

safety benefits are not standardized nor equal, labor costs being lower in Eastern Member States and providing these states with a relative competitive advantage over their western neighbors. In the present-day competitive globalized market, where multinational companies are in a continuous race to cut cost margins, convincing them to willingly share information which would potentially threaten their competitive advantage was always going to be an exceptionally difficult task. Any successful strategy to improve the efficacy of European Works Councils should first include measures to persuade employer organizations that the instrument will have long-term benefits from a productivity and profitability perspective.

## **7. RECOMMENDATIONS TO STAKEHOLDERS FOR THE IMPROVEMENT OF THE QUALITY OF PARTICIPATION IN AND A MORE EFFICIENT USE OF THE EWC INSTRUMENT BY THE SOCIAL PARTNERS**

The EWC is far from a perfect tool but can be improved by involving the social partners to ensure innovation and benefits for both trade unions and employers' organizations. A higher level of employee involvement, easier acceptance of change, much easier and more efficient implementation of change, and increased efficiency in HR and development strategy can be consequences of a constructive approach by committees. The synergistic and antagonistic interests at the same time between trade unions and employers' organizations are the most important arguments for streamlining the organization and functioning of the EWC, both parties being responsible for improving the positioning of the EWC. The following recommendations are based on information gathered through the focus groups, in-depth interviews and round-table discussions with representatives from German unions/experts in EWCs. Recommendations pertaining to each individual country's trade unions and employer organizations will be presented below, followed by recommendations to European-level union confederations.

## 7.1. NORTH MACEDONIA

### Recommendations for the national decision-makers

- Considering that a relatively small number of companies in the country meet the conditions for establishing a European Works Council in accordance with the Law on European Works Council, and the law itself leaves the impression that it is applicable only if the country becomes part of the European Union, or if Macedonian companies open subsidiaries in Member States in the medium or long term, the legislator needs to think about reforming the existing legal framework. This implies the preparation of a new legal solution for the establishment of European Works Councils, which will cover and regulate in detail all issues related to the establishment and functioning of the council, in order to fulfill the rights of the workers to represent, inform and consult by management in the decision-making process relevant to the workforce and the development of the enterprise. A new legal solution will be a good opportunity for consistent harmonization of the domestic legislation with the European Directive, taking into account their wider significance. The adoption of a new legal solution needs to be implemented with the involvement of the social partners, but also non-governmental organizations that have accumulated relevant knowledge in the field.<sup>47</sup>
- In the short term, it is necessary to enable the application of the Law on European Works Council if the company headquartered in a European Union country through its subsidiary in Republic of North Macedonia reaches an agreement with employees to establish a work council, regardless of the fact that the country is still candidate for membership in the European Union. This recommendation starts from the assumption that the establishment of the council is based on good will and the parties would only benefit from the development of mutual cooperation and social dialogue.
- It is necessary to amend the national Labour Relations Law through a broader understanding of Directive 2009/38/EL and Directive 2002/14/ EL and to introduce the instrument of works council for informing and consulting workers

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<sup>47</sup> *Except of this recommendation, all others referred to the adjustment of the legal framework in accordance with the identified problems within the conducted research.*

which can be applied to national companies. This will enable the establishment of works councils in multinational companies that do not have their headquarters in a Member State of the European Union. The research showed that the existence of a formal channel of this kind can increase the productivity and the sense of belonging of the employee and thus he will contribute with his ideas for the development of the company in the consultation process.

- It is necessary to quickly and urgently edit the existing instrument which provides for the representation of workers (employees) which is mentioned in several articles of the Labour Relations Law. The Law makes no provisions, nor does it clearly explain several important issues that in practice can create complete legal uncertainty and lead to the abuse of labour rights and obligations that the employer has for informing and consulting, leaving the opportunity to replace the roles of the union and the representative of employees, contrary to the ILO Directive and conventions. In addition, research has shown that this legal vacuum can be abused by employers to avoid forming a union or to elect a representative with a subjective loyalty to management rather than to the defence of employee rights. Therefore, it is necessary to regulate the issues related to: the procedure for selection of a representative from the employees, the manner in which the consultations will be conducted, their regularity, the manner in which the other employees will be informed about the outcome, the issue of liability and other similar technical issues that will protect the employees.
- It is necessary to supplement and amend the Labour Relations Law articles that regulate the informing and consulting of employees by expanding and specifying the scope of issues that will be covered by the consultation.
- It is necessary to arrange the costs for providing a room and conditions for meeting the employees and the employee representative
- There should be provisions made for the involvement of the trade unions in the procedure for selection of an employee representative as a guarantee for protection against abuse.
- Conditions should be established for the functioning of the (European) works councils in close cooperation with the trade unions, with the representative from the ranks of the works councils to be elected by the union and secret ballot. This can encourage the formation of trade unions at the employee level, which will strengthen the position of the union in society and will be able to protect the interests of workers in relations to enterprises, given that works councils in



practice will face difficulty and need support. The possibility of reaching an employer-level agreement between the union and the employer will further expand, which will contribute to increasing and promoting the rights and benefits for workers.

### **Recommendations for trade union organizations**

- Trade unions need to work to raise awareness among their members about the existence of formal bodies for employees' advocacy at employer level, such as the European Works Councils and the need for their application in the social dialogue.
- More trainings and workshops should be organized to work on capacity building and exchange of experiences with the inclusion of international experts on the topic of European Works Councils.
- Trade unions should be more involved in organizing trainings for acquiring skills that will enable overcoming the barriers for advocacy at European level such as: learning new languages of communication, acquiring knowledge in the field of domestic and European Labour Law, improving communication skills, as well as the level of knowledge and information about EWC.
- Trade unions should be more proactively involved in best practices exchanges with other European trade unions who have more experience in participating in EWCs in order to get acquainted in detail with the process of establishing and functioning of the European Works Councils, as one of the ways to promote the right to information and consultation of employees.
- In the medium-term, it is necessary for the unions to commit to increasing the union membership amongst workers in the private sector, especially in the multinational corporations from the free economic zones. They can achieve this through continuous activities and campaigns to raise awareness among Macedonian workers and encourage them to start an union chapter in their company.
- Trade unions should encourage union organization in SMEs by promoting the ideas for establishing workers councils, because in enterprises with limited resources (human and financial) any advice from the professional staff within the consulting process, especially in times of crisis can be significant in decision-making.

- Trade unions should work on increasing their presence in the media and social networks through regular updates regarding activities and projects that they implement. Additionally, digital tools can be used to prepare awareness campaigns for (European) works councils.
- Trade unions should be more involved in international networking for the exchange of best practices and experiences, especially in terms of instruments such as European Works Councils that are not applied in the country.

### **Recommendations for employer organizations**

- Organizations of employers need to work to raise awareness among employers and corporate executives about the existence of formal bodies for representing employees at the employer level, such as the European Works Councils and the need for their application in the social dialogue.
- Employers should be more active in organizing trainings and workshops for the strengthening of the capacities of managers in order to exchange best practices and experiences with the inclusion of international experts and representatives of multinational companies, on the topic of European Works Councils.
- Organizations of employers need to implement activities to strengthen the capacity of their staff, in order to facilitate the process of overcoming barriers to the establishment of European Works Councils, and to contribute to building a spirit of cooperation between employers and workers.
- Implementation of activities by multinational companies to strengthen the capacity of managers in terms of European law on advocacy, informing and consulting of employees through European Works Councils, but also in terms of domestic labour legislation.
- Employers should be more active in organizing working visits for managers in multinational companies located in a member state of the European Union in which European Works Councils operate. These activities will contribute to the exchange of best practices and experiences.

## 7.2. BULGARIA

### Recommendations for trade unions

- The study clearly highlighted the importance of introductory and continuing training for EWC members. In many cases, training is provided in selecting an EWC member, but this should not be limited to these efforts. They need to be coherent and built upon in order to achieve full workers' representation.
- More resources should be allocated to specialised educational structures that can develop standardised learning materials for the needs of EWC members.

### Recommendations for employer unions

- An issue often mentioned in the research is the formalism in the work of EWCs, which some of their members share. Cases of late and subsequent communication of substantial decisions already taken at the top level of the companies are allowed. Most often, it is only information and much less frequent — consultation of employees' representatives. The activity presumed to have been selected for EWC participants does not meet the understanding and support of the company's management. Employers should give due consideration to the EWC tool in order to seize the possibilities it offers to coordinate and make mutually acceptable decisions.
- EWC members themselves need to be more active and insisting on their commitments to avoid accusations by their colleagues of poor work and their accusations of backlash collusion.

## 7.3. CROATIA

### Recommendations for trade union organizations

- Workers in multinational corporations should assist and push for their organisation, as their level of organisation is oftentimes of key importance for the establishment of the European Works Councils. The legislative framework gives the opportunity for workers employed with an employer or associated employers to initiate the procedure for establishment of the negotiating body for establishment of an EWC. Unions should raise awareness of this legal possibility amongst workers in multinational corporations, as a large number of EWCs in Europe were established in exactly that manner.
- Unions should organise education for EWC delegates, and this would prevent the representatives of central company management from forcing their meeting agenda. Unions should educate EWC delegates and instruct them to come prepared, and to conduct themselves constructively and proactively at the meetings. Also, it is imperative that the delegates develop a relationship of trust with employees in local companies, always taking care to hear their positions and proposals.
- The EWC delegates should encourage the unions to initiate concrete steps aimed at unifying practices and standards at the group level. This implies adopting legal instruments such as statements, agreements and codes, which regulate certain aspects of work and employment. The practice has shown that this is a good way to improve the position of workers within the entire group.
- Union headquarters and branches should more clearly articulate EWC issues in the public sphere. This topic is poorly known in the Croatian public and media, and this should be changed through targeted campaigns. The aim of these efforts should be to raise awareness of the importance of transnational social dialogue. The problem of the lack of EWCs in multinational companies seated in Croatia should be discussed publicly, so as to stimulate employers to act in that direction.

### Recommendations for employer organizations

- The understanding of EWCs has not yet matured amongst the Croatian employers, particularly in the sense of connecting companies and of the development of experience practices. Therefore, a special coordination of Croatian company representatives that have an EWC should be formed within

Croatian Employers Association. This coordination should stimulate those companies meeting the requirements for the establishment of an EWC to do so, with the aim of strengthening transnational social dialogue and achieving all the benefits that this brings.

- The quality of EWC meetings demands the engagement and participation of both sides. Therefore, employers should become aware of the fact that there is a degree of dissatisfaction among numerous unions with the quality of the EWC meeting outcomes. In order to resolve this poor image, employers should alter their practices, in which, as a rule, they do not take any consideration of the EWC's advice. Further, ignoring the consultation process in cases where they are legally stipulated should also become a thing of the past.
- The successful work of EWCs depends, among other things, on the financial and technical resources made available by the employer. The issue of insufficiently defined financial and technical obligations between central management and the local companies pertaining to the work and organisation of EWC is a common problem in multinational companies in Croatia. Above all, this is an issue of imprecise wording in the EWC agreement. This issue should be resolved to ensure that the result of the work of EWCs is not jeopardized due to technical matters.

## 7.4. ROMANIA

### **Recommendations for trade union organizations**

- Ensuring complementarity between negotiation and representation at national and EWC-level. The relationship between the activity of the representative trade union organization at unit level or the employee representative and the EWC must be a synergistic one, but this is not universally valid. The trade unions active at company level must adequately manage the synergy between the EWC and the national negotiation, an approach that can be achieved by setting clear objectives, with a frequency of approximately 6 months, but also by ensuring a permanent communication process. representatives of workers in the EWC.
- Allocation of resources. The success of the representation process within the EWC requires a thorough preparation on the topics found in the EWC agenda. This involves the allocation of financial and time resources from trade unions holding representatives in the EWC. The allocation of resources to the

EWC is an imperative recommendation given that the complexity of the topics addressed at the EWC level is high. Allocating time to propose concrete positions on the topics, substantiating the solutions to be proposed are steps of maximum interest to trade unions. The allocation of resources should also include discussions with workers' representatives in other countries where the company operates in order to strengthen common positions. Another direction in which resources must be allocated, both financial and time, is to access the specialized expertise. Ensuring a budget dedicated to EWC meetings is both a recognition of the need for this instrument and a very serious approach to the administration of the EWC. The research highlighted the fact that the use of specialized expertise is desired but very little accessed. Moreover, there are very few trade unions which do contribute to the budget of running an EWC, mostly relying on the resources provided by the company.

- Reporting procedures, constant communication, solidarity and teamwork. The EWC is an instrument that requires constant and permanent involvement including in the periods between the meetings of the EWC. Any company-level changes aimed at restructuring, reorienting production flows or upgrading do not generate the same category of effects for all employees, so some will be losers. The construction of a common position, in the interest of all employees, requires an understanding of the phenomenon but also a sustained communication process throughout the year. This is one of the essential points that the project team took away from round-tables with the German experts on EWCs. Communication and teamwork are critical elements for the success of workers in the EWC as they are important elements but difficult to achieve given the existence of interests, sometimes antagonistic. This can be an overlooked point because it seems obvious, but its simplicity is deceiving. Many misunderstandings between trade unions from The process of representation at the level of the EWC should not address the problems of employees in a given state but the problems of employees as a whole and the negotiation of solutions for them. This can only be achieved with a constant flow of communication between trade unions. When asked how members keep in touch between EWC meetings, surprisingly a large number of trade unions responded that they do not. The solution to this would be to take some simple first steps: the creation of an email mailing list between members of different countries, regular updates sent by email/newsletter at least 1 per month, an online forum which includes all members and where subjects can be discusses, questions and problems answered etc. Videoconferences can also be a handy tool for members to use to

meet in between EWCs meetings. Keeping regular communication is an effort that trade unions must implement if they want to maintain the relevance and unity of their EWC. There are also significant difficulties in reporting the activity and data subject to the EWC, especially in a situation where they are not necessarily presented in a user-friendly format. In order to streamline the reporting process but also for an easy understanding of the topics discussed, reporting and structural information procedures are imperative.

- Ensuring an adequate training process is necessary to increase the quality of the representation process. The need for professional training is important for the success of the EWC. Although professional training courses are conducted, they are not likely to cover the full range of topics that may fall under the EWC agenda, referring here to issues such as mergers or acquisitions, relocations of production facilities from one state to another, closures. of production capacities, changes at the level of the global business strategy all these representing subjects that involve extremely diverse and complex knowledge. Language classes are essential in developing better communication and building solidarity within EWC members. Furthermore, skill-creation through training must also include information regarding of the national systems of representation as well as the way of organizing, functioning and promotion of the EWC among the members and among the interested actors. In this regard, it is assumed that the regular organization of training activities involving both workers' representatives and trade union leaders within the trade union organization is likely to increase the quality of the representation process. The training activities can be carried out by the company as well, but this must be agreed with it. Regardless of the organizer, given the diversity and complexity of the issues discussed within the EWC meetings, the vocational training activity must be of a recurring nature, as it must primarily focus on language skills. The integration in training of the leaders within the trade union organization in case the employee representative in the EWC is not this one, is likely to ensure a logical flow of representation or a synergy of the positions adopted between the representation activity at company level and at EWC level.
- Establishing a clear and feasible EWC agenda, based on a negotiation strategy. Negotiation plays a central role in the EWC so that establishing a negotiation strategy that is anchored in concrete objectives and topics at the EWC level is a natural and necessary step in a qualitative representation process. This is another recommendation stemming from the discussions with the German EWC

experts. It is important for members to approach an EWC with a clear agenda suited to the EWC forum and in line with the actual competences of the Committee. One of the problems observed by the German EWC experts was that some trade unions entered an EWC meeting with extremely high expectations for results or with an agenda that included problems which could not be solved by an EWC. This was a set-up for failure as inevitably the extraordinarily high results were not resolved and the respective union concluded that the EWC meeting was a failure. However, it is important to manage expectations. The relevance of integrated topics at the level of the agenda are elements of utmost importance for the success of the respective EWC for a real information and consultation process. Setting an agenda that does not integrate the transnationality variable by addressing issues of little or no relevance to employees generates a framework that diminishes the opportunities offered by the EWC and is a set-up for failure. At the level of the agreement on the establishment of the EWC, a number of topics are mentioned that can be addressed in the meetings, but this list is rather indicative. The cohesion of the EWC members is also very important and for the aggregation of a common position it is necessary that the EWC members be in contact and have early access to the documents that are the subject of the EWC meetings. One of the basic characteristics related to the representation process aims at the concreteness of the activity so that any representation approach must have a concrete result, synergistic with the expectations of the represented members. Therefore, establishing an agenda with topics that have a concrete purpose and which can be resolved within a certain framework of time, is likely to maintain the motivation of members and ensure a high level of quality of the representation process. Whether we are referring to the quality of equipment that ensures health and safety at work or to certain provisions concerning the structure of the salary, it must be borne in mind that both are equally important for employees. Concrete proposals from employees must be correlated with the organizational and operational characteristics of the EWC in the sense that the level of expectations must be correlated with what the employer can deliver.

- Proactive involvement of trade unions in Romania. Proactivity is an important feature for ensuring the active participation of trade unions in Romania within the EWC. The number of multinational companies that have a decision-making structure in Romania is extremely small, so Romanian trade unions must make additional efforts to promote, raise awareness and provide solutions to the problems of the employees they represent. Trade unions have a duty, at least



morally if not organizationally, to get involved in developing initiatives to be promoted at the level of other trade unions that have members in the EWC but also to emphasize the usefulness of this respective tool to promote the problems of Romanian employees in multinational companies.

- Continuous communication even outside the plenary sessions. One of the most important institutional values for trade unions is communication. The cohesion, synergy, but also the involvement of the members is influenced by a coherent communication process which is clear and adapted to the economic and social realities at the company level. The situation is similar even in the case of the EWC in the sense that fluent and efficient communication process between the EWC members can help to facilitate access to common positions and demands. As a rule, the communication between the EWC members takes place around the plenary sessions, a situation that does not generate a solid and coherent synergy between the members. A qualitative representation process at the level of the EWC implies a continuous communication process, adapted to the dynamics and situation of the company of which they are part.
  
- Organizing exchanges of good practices for the management of cultural diversity at the level of the EWC. This material highlighted the fact that the activity at the level of the EWC is not a standardized one, there being significant differences from one company to another or from one state to another. Also, another highlighted element refers to the diversity at the level of the EWC because within this structure there are people of different nationalities, religions or expertise. Ensuring a process of transferring good practice to facilitate understanding, cohesion and synergy is an imperative step in overcoming cultural barriers between EWC members. This was a final point recommended through the interactions with the German experts. The initiative for such an approach can come from any trade union entity that benefits from representatives at the level of an EWC, the transfer process can be done through online communication platforms.

### **Recommendations for employer organizations**

- More consultation, less informing. The main attributes found at the level of the EWC aim at informing the employees and consulting them in the future decisions, decisions adopted by the management of the multinational company. The research carried out highlighted the fact that the informing part prevails at the level of the EWC and the consultation has a rather formal character. It is probably

one of the most relevant issues, given the specificity of the EWC, is that these structures are in fact based on more information and far too little consultation. The ability of employees to influence decisions at transnational level is reduced, as is the case in a small number of cases. Poor organizational capacity, difficult access to expertise, low expertise, a significant discrepancy between the EWC parties but also a dependence on the employer's actions (access to information, meeting organization, etc.) are elements that negatively affect the quality of the representation process and the quality of results. EWC. The preparation of the agenda and materials in time, their transmission to the EWC members to prepare the positions, the discussion and analysis of the proposals made within the EWC as well as the permanent and at the same time transparent communication with the EWC members is likely to generate trust and commitment.

- Increasing the number of meetings and ensuring the participation of decision-makers. As a rule, EWC meetings are held with a frequency of one year or 6 months, most of the rules at the EWC level mentioning this. Most interviewees and union leaders believe that this frequency is low, especially in today's economic dynamics. The usefulness and opportunities offered by an instrument such as the EWC are severely affected by the existence of a small number of meetings. However, the EWC is an extremely flexible instrument and the legislation does not prohibit the establishment of a larger number of meetings. An increase in the number of meetings is likely to ensure an increase in the level of employee involvement in the decision-making process, thus generating a framework in which staff stability, level of involvement and, in essence, productivity at work can increase. Another important element regarding the EWC refers to the quality of the meetings. According to the management representatives consulted, the quality of the EWC meetings is generally poor, mainly being affected by two factors: the participants in the EWC meetings and the timing of the meetings. Regarding the participants in the meeting, in order to ensure a qualitative level of meetings, it is imperative that higher-level executives who are in charge of decision-making participate. A real consultation process must involve the parties who have the capacity, mandate and goodwill to discuss the issues identified at the company level in a way that ensures agreement and involvement from both managers and employees. Moreover, in the event that the frequency of meetings is annual, it is necessary to wait a long period of time to obtain an answer to the questions requested, and they may no longer be relevant by the end. In this sense, the timing of meetings must be synchronized with the

dynamics of decisions taken at transnational level. The lack of such a correlation is likely to diminish the successful achievement of the objectives of the EWC. Transparency and correctness of the parties' information are imperative elements of an ethical and beneficial information and consultation process for the parties involved.

- Facilitating communication between EWC members. Communication and teamwork are crucial elements in ensuring an effective information and consultation process. This is true for both company and employee representatives. However, the company's management has clear information about the employees' representatives in each state in which it operates so that it can facilitate the communication, cohesion and organization of EWC meetings. Technological progress facilitates remote communication through online communication but regardless of the communication channel, such an approach involves time, availability and preparation. Companies can help facilitate communication by providing trade union organizations with relevant contact details, allocating time for EWCs to communicate with colleagues in other countries, and providing them with technical resources (computer, internal connection, adequate space etc.) necessary for such a process.
- Adequate allocation of resources to the EWC. The expenses related to the organization of the EWC are borne by the employer, requiring the allocation of a budget dedicated to the activity of the EWC. The size and administration of the allocated budget must consider the need of ensuring an adequate information and consultation process as well as addressing the complexity of the issues that form an integral part of the EWC meetings. Ensuring an appropriate discussion framework, an appropriate number of discussion days, a discussion framework that allows grouping and consultation during discussions to formulate a common position (a space dedicated to internal consultation and the formulation of a common position) but also with a decent level of comfort are imperative elements for an efficient information and consultation process at the EWC level. Ensuring such a framework requires financial, technical and time resources that are not constantly provided by employers, affecting the results of the EWC and reducing the opportunities offered by the EWC.
- Development of joint projects and activities between management and EWC members. EWC meetings are characterized by a great diversity in the sense that they include people from different countries or backgrounds. Construction of a common point of view and position at the level of trade unions is more difficult to

achieve against the background of existing differences, especially cultural ones. Moreover, the activity of a multinational company is a complex one, a fact which management is obviously aware of and the construction of a common point of view presupposes, first of all, a detailed understanding of the company's activity and the implications of the decisions and topics addressed at EWC level. In this sense, creating activities and projects between the company's management and the EWC representatives aiming to explain and promote the situation and characteristics of the company's activity and to ensure efficient management of differences found at the EWC level can contribute to strengthening and streamlining the EWC activity.

## 7.5. POLAND

### **Recommendations for trade union organizations**

- From the viewpoint of trade unions (and other employee representative bodies), a significant problem may be to win the employer's support for the idea of setting up an EWC. As indicated above, in extreme cases an employer who is reluctant to have an EWC established may block the setting up of such a body for a long time. Therefore, as suggested by some of the respondents, it is important to ensure that the trade union side is prepared to conduct negotiations on the EWC establishment. It means, first of all, knowing how this institution functions and what rights the employees of a Community-scale undertaking are entitled to under the Directive and national legislation. The advisory role of national and sectoral trade union organisations should be crucial here. They must constantly engage in promoting knowledge about EWCs among activists (e.g. by organizing training and information and promotion activities) and must assist company-level organisations in their efforts to set up such councils. Unions should not be afraid to enter into partnerships with employers' organisations in order to raise awareness of EWCs in Poland, as these organisations themselves see the need to fill this gap through training, building partnerships and networks, developing written information materials (e.g. guides, websites, etc.)
- In this context the role of trade unions in engaging employees in the election process is also important. Low turnout in EWC elections is reported by some respondents as a problem which, combined with the issue of proper understanding of the EWC's nature and role, results in low interest in the election procedures and later in EWC's activities.

- The question of the competences of employee representatives includes also their readiness to conduct social dialogue in a responsible way, to present demands in a balanced manner, taking into account the real capability of the employer and the economic situation of the undertaking. Professional attitude of trade unions, at least in some cases, may make the employer less apprehensive about potential risks related to, among others, security of information constituting company secrets, seeing the other side as a responsible and competent partner.
- The EWC will not fulfil the hopes vested in it unless there is more internationally coordinated trade union action motivated by the solidarity of the labour movement. Representatives of eastern trade unions declared their readiness to defend the interests of western workers if they support the aspirations of eastern unions on the issues which are most important for them: a noticeable improvement in pay conditions and strengthening of social dialogue standards (e.g. by concluding collective agreements in Poland and other countries of the region which ensure similar rights for workers in eastern and western branches of corporations).

### **Recommendations for employer organizations**

- Employer's reluctance towards establishment of EWCs may be particularly difficult to overcome in the context of the Polish model of economy and collective industrial relations. Furthermore, a considerable part of employers' organisations, especially sectoral ones, is not interested in developing social dialogue, especially instruments such as collective bargaining. Creation of consultative and informative bodies is also sometimes unwelcome and perceived as interference in enterprises' internal affairs. Despite these reservations, it is recommended to conduct information activities among those business organisations which are more open to social dialogue. However, attempts to raise awareness in this area, e.g. by showing benefits that corporations can derive from greater involvement of trade unions in management and by giving them a voice (lower social tensions accompanying transformation, greater social trust, conflict mitigation, feedback for managers) may turn out to be ineffective. Among multinational companies operating in Poland, the ones with central management located outside our country are still the most numerous. If such central management is not interested in this form of social dialogue, establishing and maintaining EWCs, especially turning them into a true consulting and informing tool, may not be feasible.

## 7.6. RECOMMENDATIONS FOR THE EUROPEAN TRADE UNIONS

- Ensuring the transfer of skills and good practices to EWC members. The need for training and examples of good practice is a recurring need for EWC members, deriving from the dynamics of production flows and technological progress with an impact on the way work is organized and production flows. At present, European trade unions are involved in organizing training activities but these are insufficient compared to the magnitude of the necessity. The number of training activities, sources of information or joint activities that involve the dissemination of good practices must increase significantly. Last but not least, there must be a close correlation with the dynamics of production flows. Moreover, training activities must take into account the economic and development differences between East and West in the sense that there are significant differences in the economic model used and the construction of common positions in trade unions involves understanding, assimilation and respectively the internalization of these differences within the EWC.
- Involvement of EWC members in the negotiation of global agreements and increasing synergy between global agreements and the EWC instrument. The EWC is an instrument that requires information and consultation at the level of a multinational company, as it is not an instrument that is an integral part of the European social dialogue. The negotiation and conclusion of global agreements between European trade unions and employers' organizations is a common approach at the level of European social dialogue, these agreements being applicable at the level of an entire sector. The multinational companies signing the agreement, individually or through the employers' organizations to which they belong, are influenced by the provisions of these agreements in the sense that they generally provide elements concerning the employee-employer relationship. The synergy between these agreements and the EWC must be achieved and strengthened, a process necessary to increase the quality of the representation process. The responsibility for this approach belongs, without a doubt, to the trade unions at the company level, but the research highlighted that there are many trade unions that are quite unaware of the debates and discussions at European level. The European social partners, whether we are

referring to European federations or confederations, must achieve and protect the synergy between the approaches promoted in the European social dialogue and the positions within the EWC. Such a process would contribute to facilitating the achievement of common positions, to the transposition of the provisions of the global agreements at company level as well as to ensuring the complementarity between the two approaches.

- Providing scientific support and specialized expertise. Issues addressed at the EWC level are generally highly complex, with significant implications for employees. A qualitative representation process presupposes knowledge of the approached issues. Access to topical and quality expertise can be achieved by involving an expert in the issue addressed or by providing appropriate scientific support and expertise. The EWC database - <http://www.ewcdb.eu/> - although extremely useful, is not regularly updated and is limited to the presentation of the activity and certain cases at the level of the EWC. Increasing the quality of the representation process at the level of the EWC as well as the usefulness of this instrument implies, at least, the provision of specialized studies with sectoral or multisectoral applicability. It is also necessary to ensure an interactive relationship between European trade unions and EWC members in the sense that access to expertise related to the immediate needs of the EWC members must be ensured, a tailored access to the immediately existing needs. At this moment, the transfer of expertise is not very adapted to the specific and immediate needs, so that the organization of the transfer of expertise is necessary to increase the quality of the representation process within the EWC.
- Successful examples of EWC implementation suggest that support from organisations at the European level can significantly help to improve the functioning of EWCs and increase their presence in EU countries. It is recommended that national organisations cooperate closely with the European actors and maintain their active role in supporting the aspirations of employees to set up an EWC in their company. It is also important to monitor Community-scale undertakings in order to determine whether they meet the requirements of the Directive, especially those that, for various reasons, make it difficult for the employees to start negotiations on establishment of an EWC. Efforts should also be made to disseminate good practice and success stories of EWC establishment and operation, targeting both trade unions and employers' organisations. The European social partners also play a key role in the process of coordinating collective bargaining, e.g. like the EWCs, they are party to the conclusion of

European framework agreements. They should therefore make a greater effort to develop industrial relations on a transnational basis.

- The EWC is a supranational instrument - a European instrument - so the role of representative entities, employers or trade unions, is extremely important. The involvement of these types of entities in the promotion or administration of the EWC instrument is likely to contribute to strengthening its usefulness and importance as well as to increasing the quality of the representation process. The need to involve European trade unions in increasing the quality of the representation process in the EWC is much greater given that they have to manage multiple entities, from different countries, in relation to a single management body. The research activity carried out within the project highlighted the following needs invoked by the participants in the organized focus groups:



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