

EWC: FIT FOR CHANGE



MANUAL ON TRANSNATIONAL RESTRUCTURING PROCESSES



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PREFACE

Restructuring in transnational companies is a permanent feature of company life and development. In fact, it was transnational restructuring and notorious cases of disregarding basic workers' rights that brought about the EWC Directive in 1994. Since then, we have seen various phases and types of restructuring, triggered by drivers such as globalisation and technological change or as an effect of changes in sector-specific market conditions (e.g. market and trade liberalisation). Currently, an accelerated pace of restructuring is taking place: companies are facing new challenges resulting from rapid technological change, driven by digitalisation and increased competition not only from low-pay countries but also from new business models that erode traditional ones (Google Car, Uber, etc.).

In the context of transnational corporate restructuring, European Works Councils play an important role. They are at the heart of European worker representation and social dialogue in multinational companies as well as the only genuinely transnational, European bodies for information and consultation in the workplace.

The purpose of this manual is to provide EWC representatives and in particular members of steering committees with background information and practical tools/checklists for dealing with various forms of restructuring, responding to corporate restructuring and change plans and projects. The manual contains information on legal frameworks, guidance and practical tools that improves the capacity of EWCs to respond to and influence restructuring plans at the company level.

This manual has been prepared in the context of a joint project of ÖGB/GPA-djp (Austria), UNI Europa (Belgium), SBI Formaat (Netherlands), UNITE the Union (UK) in co-operation with ver.di (Germany), OSPO (Czech Republic), OZ KOVO (Slovakia) and VoeGB (Austria). The publication has benefited significantly from the strong link of the project with professional EWC trainers, specifically from the ETUI training department and SBI Formaat, as well as from learning from the experience of senior EWC representatives involved in the project.¹

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¹ See also the other publication that has resulted from this activity: "*Advanced Training Modules for European Works Council Members on the subject of Restructuring.*"

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1 RESTRUCTURING AS A DAILY REALITY

1.1 Restructuring – far from being an exceptional situation in the life of companies

Today's business is one of continuous change, and restructuring is one of the most prevalent approaches adopted by companies to respond to change. The impact of globalisation, improvements in information and communication technologies, new trends in the workplace and sector-specific markets, but also changes in the regulatory frameworks and other factors contribute to change and the need to adjust and restructure.

According to recent figures provided by Eurostat, each year around 9-10% of all European companies are set up, and a similar share are closed down at the same time, affecting around 7.5 million jobs in 2014.² These figures indicate that in the European Union every day around 10,000 jobs are lost and 11,000 jobs are created. It should be noted here that, according to Eurostat, fewer than half of the companies (44% in 2013) that are created every year are likely to survive the first five years after their establishment.

Another indicator for restructuring being a permanent feature of economic life is mergers and acquisitions: statistical findings on the number of M&A deals in Europe indicate an average of 16,500 for the 2009-2016 period. Compared to the 2001-2008 pre-crisis period, the average number increased by nearly 10%. At a global scale, the increase was even 18%.³

Mergers and acquisitions as well as business creation and closure are just two forms of corporate restructuring. However, they are neither the only nor the most important ones. According to the *European Restructuring Monitor* (ERM)⁴, which has been in place since 2002 and is run by the *European Foundation for the Improvement of Living and Working Conditions* (Eurofound), mergers/acquisitions and closures/bankruptcies accounted for

One in three without EWC
According to an analysis of ETUI, about 70% of the companies involved in European restructuring in 2013, 2014 and 2015 had a European Works Council. In other words, in about 30% of the (announced) transnational restructuring cases, employees had no forum to discuss (and possibly prevent) restructuring at the appropriate, European level.
De Spiegelaere, S. 2017: *Company restructuring across borders: with or without European Works Councils?*, ETUI Policy Brief, Brussels.

² http://ec.europa.eu/eurostat/statistics-explained/index.php/Business_demography_statistics.

³ Based on figures of the Institute of Mergers, Acquisitions and Alliances (IMAA). <https://imaa-institute.org/mergers-and-acquisitions-statistics/>

⁴ https://www.eurofound.europa.eu/sites/default/files/ef_files/pubdocs/2013/78/en/1/EF1378E_N.pdf

only 2.2% and 9.5%, respectively, of all 1,500 cases documented in the ERM database. Apart from business creation, the most important form of restructuring according to the ERM database⁵ is “internal restructuring”, a broad term referring to corporate restructuring that results in job cutting.

However, restructuring comes in many guises: apart from various forms of internal restructuring, at least half a dozen different forms and types of restructuring that bear specific features (see overview box) have been identified.

Major forms of restructuring

- **Internal restructuring:** when the company undertakes a job cutting plan that is not linked to another type of restructuring defined below.
- **Closure:** when a company or an industrial site is closed for economic reasons not directly connected to relocation or outsourcing.
- **Bankruptcy:** when a company goes bankrupt for economic reasons not directly connected to relocation or outsourcing.
- **Outsourcing:** when the activity is subcontracted to another company in the same country.
- **Relocation:** when the activity stays within the same company, but is relocated within the same country.
- **Offshoring/delocalisation:** when the activity is relocated or outsourced outside the country's borders.
- **Merger/acquisition:** when two companies merge or when an acquisition involves an internal restructuring programme aimed at rationalising an organisation by reducing personnel.
- **Business expansion:** when a company extends its business activities and hires new workers.

Source: Eurofound 2013: ERM Annual Report 2013: Monitoring and managing restructuring in the 21st century, p. 9.

1.2 Diversity, omnipresence and drivers of current restructuring

The following examples of larger cases of restructuring across all economic sectors taken from the Eurofound ERM database of early 2017 indicate the diversity of different forms of restructuring as well as their omnipresence across all sectors:

⁵ The ERM dataset comprises factsheets on over 20,000 individual restructuring events since 2002 documented by key indicators (date of announcement, sector, country, type of restructuring) and a short summary. Around 100-150 new cases are added each month by correspondents following screening of local media sources. The criteria for cases to be included in the dataset are that cases should involve at least 100 announced jobs gained or lost or that cases should affect at least 10% of the workforce in establishments employing a minimum of 250 people.

Internal restructuring and collective redundancies: also in February 2017, a large French energy group announced its intention to cut 3,500 jobs out of a total workforce of 67,000 employees by 2018. The job cuts mainly affect commercial services and functions such as accounting, communication or HR management. Already between 2011 and 2014, the group cut 20,000 positions because of poor anticipation of changes in the electricity market.

Every month, you can find countless similar cases of restructuring and redundancies that are related to a **lack of anticipation of market changes** or, quite simply, **management failures**: in January 2017 for example, a British bank announced the closure of 79 local branches, approximately one third of its entire network, affecting 400 employees. According to the company, this job cut is prompted by the electronic banking trend. In the same month, one of the most prominent (and rising-star) companies in the field of the previously booming online games industry disclosed plans to cut 200 out of 550 jobs in Hamburg alone. Already in August 2016, the company had announced to cut up to 600 jobs. The job cuts are related to the failure of the company's pricing strategy with "free-to-play" games.

Perhaps the most prominent current case of business failure (or rather fraudulent practice) and lack of anticipation of change concerns the largest German car manufacturer: at the end of 2016, Volkswagen announced a cut of 30,000 jobs, of which up to 23,000 in Germany, as a result of the financial consequences of the diesel emission scandal and the need to radically change the business model of the company. As part of the redesign of the brand, the company intends to invest in the development of electric and self-driving cars; the management pledge is to create 9,000 new jobs in the electric car sector, mainly at factories in Germany.

Internal restructuring does not always or only imply redundancies. Often it is also combined with job creation in other areas or even in the same area but with **inferior employment conditions**: in February 2017, a large British food retailer announced the loss of 1,700 deputy manager jobs. Their jobs are to be replaced by newly created "shift leader" positions, which will be paid at a lower rate.

Outsourcing/offshoring, mergers and acquisitions are forms of restructuring that are very closely linked to globalisation and internationalisation: one typical case of offshoring concerns IT and other support functions to low-pay countries, as illustrated by an example from Belgium in January 2017: the national postal service announced the dismissal of 200 external IT consultants and the offshoring of their positions to India. 200 internal IT experts will remain active within the company: one of their tasks will be the training of the Indian experts ...

Mergers and acquisitions naturally result in the **duplication of positions and functions** within the new company. One of the most prominent and largest current cases is Nokia: following the acquisition of Alcatel-Lucent in 2015, the company launched a cost-reduction programme aiming at the "deduplication"

of functions: 1,300 jobs will be cut in Finland until the end of 2018 as well as 1,400 in Germany, 200 in Italy and 400 in France.

Looking at the major trends in post-crisis corporate restructuring from the perspective of European Works Councils, a joint project of the European Trade Union Federations (ETUFs)⁶ has highlighted in particular the following trends:

Major restructuring trends since 2008

- ▶ Increase in mainly **financial and cost-driven short-termism** in corporate strategies and adjustments;
- ▶ an increasing amount of **bankruptcies** declared by management in order to replace relatively secure contracts with cheaper ones and to circumvent labour law requirements;
- ▶ a growing number of companies that are **restructuring, closing down or moving to other countries in order to dodge consultation requirements**;
- ▶ a significant **increase in highly flexible and often precarious forms of employment** (e.g. agency work) as an effect of internal restructuring.

Different examples of larger restructuring events – all of them resulting in significant job losses – already indicate a number of important drivers, underlying factors and management motivations that often occur in combination: a prime motive is **cost reduction**, be it by reducing staff at the company by outsourcing or offshoring to other and cheaper countries, by reducing staff following an acquisition or a merger or simply by replacing the existing personnel with cheaper workforces.

The need of cost reduction also is often triggered by a **lack of anticipation** of changes in the environment of the company and its specific market. Some of the above examples are closely related to technological developments, specifically in the field of information and communication technologies, that could have (and actually may have) been anticipated already well in advance.

Often, the lack of anticipation of adjustment needs and **management failure** in strategic decisions go hand in hand, as the example from the gaming app sector illustrates. A similar story but affecting a much larger workforce and even the entire Finnish economy is the case of Nokia and the lack of anticipation of change triggered by the first iPhone in 2007. The future will tell whether we are currently experiencing similarly massive cases, for example in the automotive industry.

⁶ The project "*Anticipating change and restructuring in multinational companies through stronger transnational trade union coordination*" was carried out between the end of 2012 and June 2014 jointly by ETUC and industriAll, UNI Europa, EFFAT and EFBWW. The project, which involved a number of meetings and workshops throughout Europe, aimed at enhancing transnational co-ordination among trade union and employee representatives at different levels within multinational companies exposed to or undergoing restructuring.

1.3 Impacts of restructuring

Employee representation bodies and EWCs should be well aware that restructuring has significant impacts on the workers affected by redundancies as well as on those who stay with the company.

Workers often experience situations of change and restructuring at the company or workplace level as a threat to their position as well as their private life. Feelings of fear, threat and insecurity in particular are strong in situations where information and communication culture is insufficient and lacks transparency or where the decision making-process is perceived as unfair.

After the announcement of a forthcoming staff reduction, there will be a certain time span until there is clarity about who will have to leave. This is experienced as extremely stressful by those concerned. These uncertainties add to the stress level and increase in situations of inadequate communication policy.

For those who lose their job, this is an experience of extreme financial and social threat; sometimes it is even a personal disaster. In the worst case, workers made redundant will react with depressive moods, anxiety states and psychosomatic disorders. In such a situation, the personal circumstances, the social support provided by family and friends, and appropriate external support services within the company as well as in the local area (e.g. by a social plan or employment transfer companies) make a significant difference.

It might be expected that those who stay with the company and have escaped layoff are happy about their condition. However, it has been shown that this does not necessarily have to be the case. In addition to the fear of losing their workplace, the thoughts of these employees turn to the retention of their occupational position in order to change their activities and the potential loss of valuable social relationships with colleagues.

There are further impacts: in most cases, reductions of the workforce will result in an increase of work density and often also in an extension of work volumes, responsibilities and tasks. In the absence of support concepts, this will result in a feeling of not being able to meet the requirements of new fields of activity and can lead to fears of failure and overburden. These stresses and permanent anxiety around the workplace can trigger psychosomatic illnesses.

In long-lasting or continuous processes of change and restructuring, with drastic measures affecting many employees, the probability of health risks in the workforce increases. This also can lead to reduced motivation and work efficiency with a negative impact on productivity and the competitiveness of the company. Thus the gap between the intended objectives (maintaining or enhancing competitiveness) and reality is constantly widening.

2 EUROPEAN REGULATIONS AND DIRECTIVES WITH LINKS TO RESTRUCTURING PROCESSES

Employee representatives at the national/local levels as well as within EWCs should be aware of European rights and minimum protection levels that establish a common ground for local standards as well as workers' actions. We can discern four areas where the EU provides tools for workers in the European Union to intervene in restructuring operations at the company level:

EU regulation on workers' rights and protection related to restructuring

- ▶ Fundamental rights of workers regarding information and consultation;
- ▶ Information, consultation and participation rights as laid down in the EWC and SE Directives;
- ▶ Regulations of the social protection of workers affected by restructuring;
- ▶ Workers' rights in the context of economic and company law regulations.

2.1 Fundamental rights of workers regarding information and consultation

Essential information and consultation rights for workers as well as employee representation are guaranteed by the EU Treaties for every worker in the European Union. According to the **Community Charter of the Fundamental Social Rights of Workers** (9/12/1989)⁷, the establishment of the internal market must also lead to an *improvement in the living and working conditions of workers in the European Community*. According to the Charter, key areas of such improvements are workers' rights in situations of collective redundancies and bankruptcies. The Charter also stresses that information, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in the various Member States. A further fundamental right according to the Charter is that information, consultation and participation must be implemented in due time,

⁷ The complete text can be downloaded in different languages from the following website: <http://eur-lex.europa.eu/legal-content/RO/ALL/?uri=uriserv:c10107>.

particularly in connection with restructuring operations that have an impact on the employment of workers.

Information and consultation rights at the national level: Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishes a general framework for informing and consulting employees in the European Community.⁸

Information and consultation across Europe has to cover:

- economic, financial and strategic developments;
- structure and development of employment and related measures;
- decisions likely to lead to substantial changes in work organisation and contractual relations.

It is important for employee representatives to also be aware of their rights with a view to the **quality of information and consultation**. Regarding both, the Directive defines certain minimum standards that must be respected in all cases and across Europe:

- **information shall be delivered in due time** in order to enable employees' representatives to conduct an adequate study and prepare for consultation;
- consultation must take place at the relevant level of management and employee representation;
- timing, method and contents of consultation must be appropriate;
- employee representatives must have the right to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate;
- the purpose of consultation according to the Directive is to reach an agreement.

With a view to **implementing these rights at the national level**, Member States have to determine all practical arrangements for exercising the right to information and consultation.

The Member States must ensure that **adequate procedures** are available to ensure the application of this Directive. **Sanctions** must be effective, dissuasive and proportionate.

In case of **serious breaches** of the obligations laid down in this Directive (serious = change or termination of labour contracts or relationships), the **decisions taken have no legal impact until the employer has fulfilled his/her/its information and consultation obligations**.

⁸ The complete text can be downloaded in different languages from the following website: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32002L0014>.

2.2 Information, consultation and participation rights as laid down in the EWC and SE Directives

The European Works Council Recast Directive 2009/38/EC⁹ as well as the Directive 2001/86/EC supplementing the Statute for a European company with regard to the involvement of employees (SE Directive)¹⁰ regulate the establishment of EWCs and SE Works Councils' responsibilities and rights to information and consultation at the transnational level. A key aim of these Directives is to provide for European-level information and consultation of employee representatives regarding restructuring issues by multinationals.

By adopting the initial EWC Directive in 1994 (94/45/EG), the European legislation aimed at closing a gap in workers' information and consultation rights that had become more and more obvious in the context of the emerging Common European Market and intensified internationalisation of business. The ultimate decision-making in transnational restructuring no longer lay with the national but with the supranational level. In this area, existing information and consultation rights governed by the rules of national regulation are not sufficient. Furthermore, the impact of a transnational restructuring measure affects different countries simultaneously, and there is the need to co-ordinate local information and consultation processes of workers' representatives. Thus the establishment of EWCs and SE WCs was designed to address this mismatch of supranational decision-making and employees' rights to appropriate information and consultation.

Transnational nature of decisions according to the EWC Directive

According to the Directive, the transnational nature of an issue is defined according to the countries potentially involved, the scope of its potential effects and the level of management involved. All matters concerning the whole company or at least two countries are therefore transnational.

The matter of whether a situation is of transnational nature is often debated between management and employee representatives; in this context, management representatives tend to limit transnationality to cases in which at least two countries are involved. However, in reality also issues that concern only one country (e.g. a planned investment or outsourcing of a function) often impact the whole workforce and thus fall within the competencies of the EWC. Moreover, an issue has to be regarded as transnational whenever it exceeds local management competence. In other words, **every decision taken in another Member State, and by a higher level of management, can be considered as a transnational issue.** European transnational restructuring cases in which the impact of a restructuring measure will be felt in different EU Member States therefore clearly lie within the competencies of EWCs. These principles are set out in **recitals 12 and 16** at the beginning of the EWC Directive.

⁹ The complete text can be downloaded in different languages from the following website: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Aem0019>.

¹⁰ The complete text can be downloaded in different languages from the following website: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001L0086>.

Multinational companies having established an EWC are obliged to inform and consult employee representatives in particular regarding the following:

- situation and probable trends of employment, investments and substantial changes concerning the organisation;
- transfers of production, mergers, cutbacks or closures of undertakings or important parts of these;
- collective redundancies;
- new working and production methods and work organisation.

If your EWC is affected by restructuring, such as a merger, division, partial closure or relocation of the headquarters, it is important to make use of improvements introduced by the EWC Recast Directive 2009, namely the **legal right to renegotiate the agreement**, i.e. the so-called “adaptation clause” defined in Article 13 of the Recast Directive. In case of “significant changes” of the transnational company and in case of a lack of respective provisions in the EWC agreement or with conflicting provisions in cases where two or more EWC agreements are concerned, there should be a negotiation of (a) new agreement(s) in accordance with the procedure described in the Directive (establishing an SNB, etc.). This renegotiation might be triggered either by management initiative or by written request of at least 100 employees in at least two Member States.

It is important to note that the principle of adaptation is mandatory and applies to all EWC agreements, regardless of the date of their signature. The new agreement will also be entirely subject to the terms defined of the Recast Directive, including the application of subsidiary requirements.

This means that the adaptation clause is a useful tool to critically evaluate the EWC agreement and to consider renegotiation in order to improve its quality. Although the whole process could take two to three years, the existing EWC(s) will remain in place. This in particular is relevant for those voluntary agreements that were concluded before September 1996 or between June 2009 and June 2011.

Worker **involvement in the European company (SE)** follows similar rules as EWCs with regard to information and consultation rights. However, there are some important differences, as the SE Directive provides for a stronger definition of consultation and outlines the scope and contents of information more clearly. Apart from information and consultation, the possibility opened up by the Directive on Employee Involvement in the European Company¹¹



ETUC: On the Offensive for More and Stronger European Works Councils - The New European Works Council Directive ('Recast'), Brussels.

Picard, Séverine 2010: European Works Councils: A trade union guide to Directive 2009/38/EC, ETUI, Report 114.

¹¹ The complete text can be downloaded in different languages from the following website: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32001L0086>.

(ECS Involvement Directive) regarding **employee representation at board level** is completely novel.

Furthermore, in contrast to the establishment of an EWC, companies that are going to form an SE must hold negotiations on the employee involvement arrangements at board level with a special negotiation body (SNB) made up of employees. Also in contrast to the EWC Directive, the SE Directive explicitly allows external trade union officials to act as SNB members and experts. Other differences to the EWC Directive relate to the duration of negotiations: while negotiations to set up an EWC may last up to three years, the negotiation to set up an SE representation body must be completed within six months (though there is the possibility to extend the period for up to one year).



Stollt, M. / Wolters, E. 2011: Worker Involvement in the European Company (SE). A Handbook for Practitioners. ETUI, Brussels.

It is important to note that in the context of cross-border mergers the EU legislative framework guarantees certain rights of employees. If one of the companies involved in a merger has established employee participation at board level, certain procedures have to be respected in order to safeguard this right. See section 2.4 below on the **Directive on cross-border mergers**.

2.3 Regulations on the social protection of workers affected by restructuring

In case of **insolvency of an employer**, the **transfer of undertakings** and **collective redundancies**, EWCs and local employee representation bodies should be aware of certain minimum protection rights, for example with a view to pay claims, the respect of existing collective agreements, terms and conditions of employee representation, and detailed information and consultation.

In case of **insolvency of the employer**, employees and the bodies representing them should be well aware of **Directive 2002/74/EC** amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer.¹²

The Directive provides for minimum standards regarding employees' claims against employers who are in a state of insolvency.¹³ The Member States have

¹² The complete text can be downloaded in different languages from the following website: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32002L0074>.

¹³ Insolvency is defined as the situation where a request has been made for the opening of collective proceedings based on insolvency of the employer and involving the (partial) divestment of assets and the appointment of a liquidator. It is up to the Member States to define the date of insolvency (this can be the date of the onset of the insolvency, the date of the notice of dismissals or the date on which the contract of employment was discontinued).

to appoint a guarantee institution that will take over the outstanding pay claims and have to lay down detailed rules about the functioning of the guarantee institution.

At the national level, employee representations should check the concrete national provisions: for example, Member States may stipulate that the Directive does not apply to supplementary company pension schemes. They also have the option to limit the liability of the guarantee institution regarding amount and time. However, they have to cover at least three months of the labour contract prior to the date of insolvency – this minimum period can be part of a reference period with a minimum duration of six months.

It is also important to know that in order to ensure the equal treatment of all workers, Member States are not allowed to either set a minimum duration for the labour contract or exclude fixed-term contracts or agency workers.

In case of a **transfer and/or merger of undertakings**, certain rights of employees are protected by **Directive 2001/23/EC** on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.¹⁴

In order to safeguard employees' rights, the Directive provides that:

- all rights and obligations are transferred to the acquiring company. Member States may provide that transferor and transferee shall be jointly responsible for obligations which arose before the date of transfer of the contract.
- Member States may adopt appropriate measures to ensure that the transferor informs the transferee about all rights and obligations to be transferred.
- the transferee shall respect the collective agreements concluded with the transferor until the date of expiry or the entry into force of another collective agreement (Member States may limit the period for respecting such terms but must respect at least a period of one year).

Also under this Directive, Member States are not allowed to exclude part-time or fixed-term temporary workers.

As regards **worker representation**, the Directive provides that in those cases where the transferred business maintains its autonomy, the status and function of employee representatives shall be preserved on the same terms and conditions. In cases where the transferred business does not preserve its autonomy, Member States have to ensure that the worker representatives are properly represented until the reappointment of representatives in accordance with national laws.

¹⁴ The complete text can be downloaded in different languages from the following website: http://europa.eu.int/comm/employment_social/labour_law/documentation_en.htm.

The Directive also provides for **minimum standards regarding information and consultation that go beyond the “normal”**: employees have to be informed and consulted on the date, reasons, legal, economic and social implications as well as any measures envisaged. The information must be provided in good time (in case of the transferor, this means before the transfer is carried out; in case of the transferee, it means that the employees have to be informed before they are directly affected). The companies involved will also have to consult their employees in good time about the moment when measures are envisaged; this with a view to reaching an agreement.

In case of **collective redundancies**, **Council Directive 98/59/EC** of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies¹⁵ stipulates that Member States have to notify collective redundancies to the competent public authority.¹⁶ Workers and their representatives have to receive a copy of this notification and may send comments to this authority. Redundancies can only take effect 30 days after notification at the earliest (but Member States may grant the public authority the power to extend this period to 60 days).

2.4 Workers' rights in the context of economic and company law regulations

Given the increasing relevance of transnational or cross-border mergers and takeovers, EWCs should also be aware of EU legal frameworks of economic and company law regulations. There are two Directives that could be used by employee interest representation bodies and EWCs to improve information and consultation rights as well as to protect employee representation at board level:

Directive 2005/56/EC on cross-border mergers of limited liability companies¹⁷ facilitates transnational mergers of companies with share capital. Under this Directive, each company taking part in a cross-border merger would do so in accordance with its national laws. As regards employees' rights, the general principle of the national law of the company created by the merger applies. However, if at least one of the companies taking part in the cross-border merger has **employee representation at**

¹⁵ Consolidating the Directives 75/129/EEC and 92/56/EEC. The complete text can be downloaded in different languages from the following website: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3Ac10808>.

¹⁶ EWCs should check which national formula for defining a collective redundancy has been chosen by the Member State, since there are two options: either over a period of 30 days, i.e. at least 10 redundancies if the total number of employees is between 20 and 100; at least 10% (between 100 and 300 employees); at least 30 (more than 300 employees); or, conversely, 20 redundancies over a period of 90 days.

¹⁷ The complete text can be downloaded in different languages from the following website: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32005L0056>.

board level according to national rules and if the merged company were to be created under the rules of a Member State where such rules do not apply, then a negotiation procedure, as provided for under the European Company Statute, would apply. This procedure must lead to an **agreement on a regime on employee representation at board level**. If negotiations fail, the employee representation/participation regime of the Member State with the most stringent rules shall apply.

Directive 2004/25/EC on takeover bids¹⁸ provides employee interest representations with extended information as well as consultation rights in the context of takeovers: while aiming at reducing restrictions of the free movement of capital by banning all kinds of defences against hostile takeovers, the Directive leaves national actors significant room to manoeuvre. Regarding workers' rights, the Directive stipulates that **workers have to receive extensive information on the takeover bid and gives them the right to issue their opinion/recommendation**.



Cremers, J. / Vitols, S. (eds.) 2016:
Takeovers with or without worker
voice: workers' rights under the EU
Takeover Bids Directive, ETUI, Brussels.

Similarly, **workers' representation bodies have the right to be heard** during the investigation procedures in the context of mergers according to the **Merger Regulation** (Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings¹⁹). However, this right to consultation (which is triggered by a written request) is limited to the economic impacts and consequences of mergers. It does not include social impacts, as these are not part of the Commission's assessment of whether or not a merger may impede competition, thereby creating a situation where a company is gaining a position that is incompatible with the common market.

Merger Regulation

Mergers with a Community dimension (companies with a combined worldwide turnover of € 5 billion and a turnover within the European Economic Area of more than € 250 million for each of them, unless each of the companies concerned generates more than 2/3 of its European turnover in one country; in this case, the merger is to be examined by the competition authority of that country) have to be notified to the Commission, which will investigate whether or not a concentration will create or strengthen a "dominant position". This principle also applies to situations of "joint dominance" or duopolies and to situations of "collective dominance" or oligopolies. In most cases, a firm is considered to have market dominance if its market share exceeds 40%. But mergers that "significantly impede effective competition" (this refers to merger cases that lead to a 20-40% market share), too, can be prohibited if no sufficient competition remains after the merger to provide consumers with sufficient choice.

¹⁸ The complete text can be downloaded in different languages from the following website:
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0025>.

¹⁹ The complete text can be downloaded in different languages from the following website:
<http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32004R0139>.

3 EWCs AND TRANSNATIONAL RESTRUCTURING

3.1 EWCs can play a role in transnational restructuring

An EWC that is involved in restructuring in a timely manner can have several functions: it should be instrumental in co-ordinating employees' responses to the restructuring and serve as the catalyst for the creation of a genuinely European strategy or action. The EWC should be used to obtain more information and buy some time, which could prove useful at the local level, at which social plans may be negotiated. The EWC can bring in the necessary experts to assist in evaluating the company's plans and suggest alternatives; it can also support local strategies by exerting influence on management at the European level.

As previous surveys have shown, **EWCs have the potential to play an active role in transnational company restructuring** that complements and articulates local and national employee interests. Despite the well-known challenges related to cultural and language differences or site competition across countries as well as the multiple barriers an effective EWC practice is facing due to a lack of management co-operation, there are a number of tools and instruments provided by the legislative framework that seem to be underrated by too many EWCs.

A key instrument in this context is the right to **call for an extraordinary meeting** not only with a view to meeting management but also in order to meet and exchange with other employee representatives, specifically with those from local sites affected by the restructuring. Surveys among transnational companies in the metalworking sector²⁰ have shown that this instrument has been used more frequently in restructuring situations than originally expected. Furthermore, EWCs are using this instrument to hold extraordinary meetings not only for the purpose of gathering information but also for internal consultation and the development of joint positions with a view to reaching an agreement with management or to co-ordinate local negotiation processes.

²⁰ Hoffmann, A. 2007: Europäische Betriebsräte und Umstrukturierung. Erfahrungen in Unternehmen mit Sitz in Deutschland. AiB 2007, No. 5, p. 290-293.

In some cases, EWCs, together with the trade unions represented in the company, have also played a decisive role in **negotiating the terms and conditions of the implementation of restructuring measures** or in negotiating agreements about the “anticipation of change”. Indeed, restructuring is the topic most often treated in all known European Framework Agreements (Schömann et al. 2015; Müller et al. 2013). A survey among more than 80 EWCs in the European metalworking sector also has shown that in about one quarter of the companies surveyed, EWCs have been involved in agreements with management that have a less formal character than a written and signed agreement. These are often the result of consultation processes on issues such as occupational health and safety, transnational restructuring, work organisation, human resources and issues related to transnational remuneration components.

However, **far too often, EWCs do not assume the role they could play in transnational restructuring** according to the legal requirements of the Directive.

Findings from studies on employee representatives of EWCs and on managers involved in EWC activities (Waddington, Pulignano 2016) show that too many EWCs were only informed and involved after the final decision was taken, and that their impact on the restructuring was therefore mostly limited or non-existent.

A recent study on the experiences of EW co-ordinators (see Voss 2016 in the “further reading” box) clearly shows that EWCs face many obstacles in adequately addressing restructuring events. The information they receive is often late and incomplete, they have trouble getting access to expertise and dispose of only few instruments to enforce a company’s compliance with the rules.

The **European Trade Union Confederation (ETUC)** and the **European Trade Union Federations (ETUFs)** have therefore demanded an improvement of the information and consultation framework in order to be able to anticipate and manage changes in the case of mergers, takeovers, plant closures, mass layoffs and other significant changes, such as



Schömann, I.; Jagodzinski, R.; Boni, G. Clauwaert, S.; Glassner, V.; Jaspers, T.

2015: Transnational collective bargaining at company level. A new component of European industrial relations? ETUI, Brussels.

Müller, T.; Platzer, H.-W.; Rüb, S. 2013: Transnational company agreements and the role of European Works Councils in negotiations, ETUI Brussels.

Voss, E. 2016: European Works Councils – Assessments and requirements: Report to the ETUC, Brussels.

Waddington, J., Pulignano, V., Turk, J. and Swerts, T. 2016: Managers, BusinessEurope and the development of European Works Councils, Working Paper, ETUI, Brussels.

reorganisation and restructuring. The ETUC demands are spelled out in the Resolution of the Executive Committee of 2013.²¹

To learn more about the ETUC and ETUF proposal on how to deal responsibly with restructuring processes, we invite you to read an expert report to the ETUC, which is available in several languages.²² The report aims at providing background material and information on current trends and changes in corporate restructuring and summarises key shortcomings in the European frameworks and regulations.

In the context of the ÖGB/GPA-djp project, the participating representatives of EWCs have engaged in

exercises of **self-diagnostics of strengths as well as weaknesses** of their own EWCs.

One of the outcomes has been a classification of different types of EWC practice that also largely shapes the possibilities of meaningful engagement in restructuring.

Four types of EWCs emerge here, and each EWC should reflect on the respective EWC type that would best describe its actual role in a

given restructuring situation and the role it might want to play.

4 types of EWC practice	
<p>Symbolic EWC</p> <ul style="list-style-type: none"> • No common understanding of the ways of working in the EWC • Only one meeting with central management per year • Receives information but conducts no discussions with management • Hardly any communication between EWC members during the year 	<p>Service-oriented EWC</p> <ul style="list-style-type: none"> • Information provided by central management is forwarded to national EWC members without any follow-up • EWC informs central management about developments and problems in countries without making demands • Rare communication within EWC between annual meetings
<p>Project-oriented EWC</p> <ul style="list-style-type: none"> • Selected problems and issues are taken up proactively by the EWC • Issues are dealt with in working groups and consolidated decisions are taken • Results are discussed with management with a view to finding solutions • Frequent communication throughout the year • Good coherence within the EWC 	<p>Participation-oriented EWC</p> <ul style="list-style-type: none"> • Constant dialogue with management regarding a level playing field • EWC receives detailed information about all developments within the company • EWC delivers joint opinions on all planned projects and changes within the company • EWC discusses strategic decisions with management • Alternatives to management plans are developed
<p><i>Source: Based on the typology developed by Hermann Kotthoff.</i></p>	

²¹ *Strengthening information, consultation and participation rights for all workers.* Resolution adopted at the Executive Committee Meeting of 22-23 October 2013. https://www.etuc.org/sites/www.etuc.org/files/Resolution_IC_EC_Oct_2013_EN_2.pdf

²² Voss, Eckhard 2016: *Revisiting restructuring, anticipation of change and workers participation in a digitalised world.* Report to the ETUC. <https://www.etuc.org/publications/revisiting-restructuring-anticipation-change-and-workers-participation-digitalised#.WOCB-31UuKV>

3.2 Crucial internal and external factors of influence

Not only internal factors of influence shape EWC practice and its potential role in a restructuring situation – a crucial external factor of influence is the corporate culture of the company and the respective management behaviour.

Understanding corporate culture and management strategy

Corporate management culture has a strong impact on the involvement of employees in the decision-making process. In order to establish a realistic picture of your company, your EWC should ask:



Checklist 1: Corporate culture

- ▶ *How important is compliance for the company?*
- ▶ *Are key labour rights and workers' protection rights complied with?*
- ▶ *Is the position of employee representation and employee rights regarding information and consultation respected?*
- ▶ *How are employees and their interest representation bodies involved in change projects in the company?*
- ▶ *When and to what extent does management provide information about planned changes at the workplace level and above?*
- ▶ *Does central management discuss issues of strategic orientation and long-term strategies with employee representatives, for example within the supervisory board?*
- ▶ *What competencies do actors (management, employees) have at the various company levels?*
- ▶ *Is there an internal conflict resolution model (e.g. a joint commission of management and the employee representation body)?*
- ▶ *Are there any training programmes in the company? Do training offerings also take the needs of employees into account? How is access to education regulated?*

Are the EWC and employee representation taken seriously?

In particular, the issue of compliance with legal provisions by management in day-to-day business is a good indicator of the expected behaviour of management in case of operational changes, both with regard to the working situation of employees and with regard to serious consultation or negotiation possibilities of local and European workers' representation bodies.

Therefore, your EWC should also realistically assess whether management is taking the existing legal obligations regarding employee interest representation and workers' rights seriously:

Checklist 2: Management and employees' rights

- ▶ *How do employers observe their information obligations?*
- ▶ *Does a local interest representation body exist? Are there regular discussions between employers and the local interest representation body?*
- ▶ *Are the provisions of the Working Hours Act observed?*
- ▶ *Are the provisions of the collective agreements respected?*
- ▶ *Are there any workplace agreements that need to be defined?*
- ▶ *Have there been any conflicts because the aforementioned legal provisions or other obligations were not met?*



Decision-making practice in transnational companies

In transnational corporations, it is often difficult to make direct contact with relevant decision-makers. It should be first worked out who has which competencies. This does not only affect employers. It should also be considered at the works council which body (works council, central works council, group works council, European Works Council, works councils on the supervisory board, etc.) is responsible or best suited. In case of particularly "remote" decision-makers (e.g. with group headquarters in the U.S. or Asia), consideration should be given to who could support the contact.

Checklist 3: Transnational decision-making practice

*With a view to the **employer/management**, the EWC should be clear about:*

- ▶ *Who exactly is the initiator of the change process?*
- ▶ *Which business level is affected?*
- ▶ *Which bodies have made the decision and are responsible for it?*
- ▶ *Which organs are responsible (executive board, management board, supervisory board, annual general meeting, supervisory board or annual general meeting of the parent company, steering committee for projects)*
- ▶ *Which decisions and procedures are actually necessary (for example, the obligation to give consent to the supervisory board when a company is closed, or a general assembly decision in the case of divisions) when these decisions have to be taken?*

With a view to **workers' representation** at the EWC, it should be clarified:

- ▶ *Which local sites are affected by a decision of management?*
- ▶ *In which decisions and at which stage are the works council or employee representatives involved (e.g. via the supervisory board)?*
- ▶ *What kind of contacts with relevant management bodies do workers' representatives already have, and what responsibilities do they bear?*
- ▶ *What can be done if the responsible persons cannot be reached?*
- ▶ *Which trade union organisation could help to establish contacts?*



In particular if establishing contacts with national or local employee representation bodies is proving difficult, the EWC should seek the support of the respective European Trade Union Federation. On the basis of this information, it is essential that the EWC not only develop a position but also a strategy of communication, exchange and articulation.

The functioning of the EWC

The practice and influence of the EWC is determined by its composition, its mode of operation, its qualifications and its relationship with the workforce, the company and the intercompany interest representation.

In addition, previous experiences with restructuring at the company as well as the ability to use resources and all possible means of pressure at the right time are decisive factors of influence for the role of the EWC. In order to establish a realistic assessment on your EWC's capacity, the following questions should be reviewed critically.



Checklist 4: Assessing the capacity of the EWC to influence restructuring decisions

- ▶ *To what extent does the EWC as well as the select committee act as a team, and are the different areas of the company represented on the EWC?*
- ▶ *To what extent does the EWC have experience with a structured approach that includes the development of goals, strategies and success monitoring?*
- ▶ *What is the attitude of the EWC to the concrete project? Are there differing viewpoints?*
- ▶ *Are there persons in the EWC qualified to assess change processes and assume the role of corporate consultants? If not, are there resources available to access external support and expertise?*
- ▶ *What is the relationship between the EWC and local interest representation bodies (information flow, bottom-up and top-down dialogue via national EWC delegates)? Which critical points exist?*
- ▶ *Which relationship does the EWC have to management at the transnational as well as at lower levels (also with a view to different divisions or business areas)? Which strengths and weaknesses exist?*
- ▶ *Has the EWC connected to other organisations in the sector or to other EWCs where similar restructuring projects have taken place? Here, the ETUFs play an important facilitating role.*
- ▶ *What role does (do) the responsible trade union(s) play at company level? What is the trade union density rate in the different countries represented in the EWC?*

Framework conditions of workers' participation in change projects

Apart from general framework conditions and capacities of the EWC, the concrete framing of a change/restructuring project is very important and may differ from case to case. With a view to roles and objectives, it is also important that the EWC should make a distinction between the role assigned to it by management and the role the EWC actually wants to play in the specific circumstances. Here, it is important to clarify the following aspects:

Checklist 5: Assessing the concrete framework conditions of a restructuring project

- ▶ *How does the project organisation established by management for the change/restructuring project look like? Who is involved and why?*
- ▶ *Is there a steering group, and is the EWC involved in it?*
- ▶ *Is the role of the EWC in the change project well defined?*
- ▶ *Are the local employee representatives (via their national EWC delegate) that are affected by the change also involved in the project?*
- ▶ *Is the working method of the change project oriented towards consensus-building or does past experience show that central management usually has the final word?*
- ▶ *Does the EWC have the opportunity to invite experts of its choice as part of the project? Are resources available for this purpose?*



3.3 The EWC as the spider in the net

The EWC and the local workforce

Restructuring first and foremost affects the working environment, workplaces and working conditions of workers on the shop floor. Therefore, it is essential that the EWC should not only take into account but actively address the needs of the local workforce and its representation bodies throughout the entirety of all change and restructuring processes.

If management and EWC are viewed negatively by the workforce, local employees will remain passive. If the role of management is considered to be negative, but the EWC is perceived positively by the workforce, it will actively back the EWC and its actions.

In order to act with strong support of the workforce, your EWC should ask the following questions:

Checklist 6: EWC relations with local workforces

- ▶ *Does the affected site have its own EWC member? If not, is the EWC member of that country in touch with the employee representation of that site?*
- ▶ *Apart from reporting back and forth by local EWC delegates, has your EWC established direct channels of communication with local employees and their representation bodies, for example by a newsletter?*
- ▶ *Do key members of your EWC (e.g. the steering committee) regularly visit local sites and attend workers' meetings?*
- ▶ *Is your EWC steering committee aware of the mood and atmosphere amongst local staff?*
- ▶ *In cases of restructuring: is your EWC aware of expectations of those parts of the workforce that are both directly and indirectly affected?*



Multi-level co-ordination and articulation

In cases of restructuring, it is often necessary that the EWC act as early as possible. This requires **close co-operation** and the exchange of information among EWC members and unions. But it is often unclear to employee representatives at the national level that a measure they are confronted with at this level may be connected to a measure taking place in another country. It is therefore all the more important that EWC members exchange information about what is happening at the local or national level between meetings, and that they try to contact each other directly and via their EWC co-ordinator or their national union as soon as they suspect that a cross-border measure may be planned.

It is important to note that **the right of the EWC to meet in order to consider and respond to restructuring measures does not compete with the rights to information and consultation at the national or local level**: on the contrary, the activities and strategies of employee representatives must complement each other. It is not a question of “who is informed first” but rather of what each level can gain by combining their access to information and their deliberations on the consequences of restructuring measures. This understanding of the relationship between the EWC and the national and local levels is clearly supported by European Court of Justice cases where it was ruled that the meetings of European, central and local works councils must take place in a sequence that enables each level to have the maximum of information that it requires to fulfil its respective role.

As highlighted in a recent essay that is very worthwhile reading²³, the EWC or its select committee constitute the only competent level of workers’ interest representation jointly with representatives of the affected sites rising to the occasion and insisting on an extraordinary meeting or written procedure for the purpose of information and consultation that is appropriate to address any transnational issues as they arise.

²³ Hoffmann, Aline 2016: *Still struggling to connect the dots: The cumbersome emergence of multi-level workers’ participation*, in: Pulignano, V. Köhler, H.-D., Stewart, P. (eds.): *Employment relations in an era of change. Multi-level challenges and responses in Europe*, Brussels, p. 183-205.

4 FIT FOR THE ANTICIPATION AND MANAGEMENT OF CHANGE?

Be aware! – Anticipating restructuring

The EWCs, works councils and trade unions that respond most successfully to restructuring are those which have briefed themselves in good time. The message is: ***Be aware in advance! Anticipate what is likely to happen!***

It is often the case that the EWC is notified during the final stages of the company's decision-making process or when the decision has more or less already been reached. The announcement might come like a bolt from the blue. So the question is: are there any early warning signals indicating that a company might be considering restructuring?

Perhaps the most dramatic form of restructuring is the pressure to adjust in the light of **serious financing problems combined with other factors that undermine the business**. In such a situation, not only a significant restructuring operation is likely, for example selling off parts of the company, a merger or co-operation, but there also is the risk of insolvency. Such a situation is likely to occur if one of more of the following signals should emerge:

Checklist 7: Early warning signals of restructuring

If one or more of the following emerges, a restructuring is very likely to take place very soon at your company:

- ▶ *Technological innovations that affect the company's business*
- ▶ *Changes in the legislative and regulatory frameworks*
- ▶ *Market restrictions in previously served markets*
- ▶ *Emergence of new competitors and increased pressure on prices*
- ▶ *Overcapacities in production sites*
- ▶ *Loss of essential customers*
- ▶ *Increasing supplier costs*
- ▶ *Delays or cost increases in innovation projects or previous restructuring plans*
- ▶ *Rising financing costs or lack of equity*



Therefore it is particularly important for the EWC to keep a close eye on what is happening at group level and in other areas of the group in order to detect early warning signals that something might be in the pipeline.

With a view to **outsourcing and offshoring**, the EWC should e.g. monitor the development of the company along the following questions and comments:



Checklist 8: Anticipating and assessing risks related to outsourcing/offshoring

- ▶ *What is the **current situation in the sector** in which the company operates? Does it operate in a low-margin business with strong **competition**? If competitors are in the process of outsourcing, there is a risk that the company will follow suit.*
- ▶ *What does the **group's strategy** look like? Does it have companies or **units in low-cost countries**? What is the group's strategy for these? If it is already present in low-cost countries, is the process of moving more business processes less onerous?*
- ▶ *Has the company previously outsourced processes or functions? If the company has **outsourced business processes previously** and the experience has been positive, it is highly probable that the company will continue outsourcing more processes.*
- ▶ *Are there any processes that are not working satisfactorily or indicating **increasing costs**, but for which no corrective measures have been initiated? This can be a sign that management wants to solve the problem by outsourcing the processes.*
- ▶ *Which business areas is management **investing in**, or which areas is management neither investing in nor focusing on improving skills development for? If there are any business processes or functions in which management is not investing or focusing on improving skills development, this may be a sign that these processes are going to be outsourced.*
- ▶ *Has the company restructured parts of its business through processes of centralisation and standardisation, e.g. by creating an internal service provider such as a **shared services center (SSC)**? Business is easier to outsource when located in a single place.*
- ▶ *Are there any operations that have been previously outsourced (to a service provider)? These can then be further outsourced, in turn, to low-wage countries by the external provider.*
- ▶ *Has management undertaken a **scrutiny of certain business processes**, providers or low-wage countries by carrying out analyses, company visits or trips to low-wage destinations?*

Understanding the situation of the company and the employer's aims

In situations where signals are indicating a restructuring operation, the EWC has to obtain information about the economic data, the change pressure as well as the motives and objectives of the company management. In addition, the EWC plays a key role in co-ordinating the flow of information both top-down as well as bottom-up with respect to affected sites and local employee representation bodies.

In order to understand the situation of the company and assess the plausibility of a restructuring plan, it is also **crucial that the EWC demand from management a detailed explanation of the reasons and objectives of the restructuring plan and a justification of the plausibility of the planned project.**

The EWC should in particular request management to explain why the intended measures are actually suitable to achieve the defined goals (e.g. cost savings by outsourcing activities). In practice, change projects are often carried out without first defining precise and verifiable goals. In such a situation, the EWC should put even more pressure on management and demand information on the goals of the change/restructuring project. It is also advisable to consider hidden or undisclosed goals and motivations of the employer. Knowledge about motives is an important prerequisite for the development of one's own strategy. In the case of outsourcing, the improvement of quality or customer service is often cited as a goal, but hidden motives could be the escape from collective agreements or the weakening of workers' influence and co-determination.

The EWC has several possibilities to identify the aims and objectives of the employer in the context of a restructuring plan: a key source would be the available concept as well as responses to questions of the EWC. Other sources could be exchange and brainstorming within the EWC in exchange with local EWC delegates, trade union and employee representatives in the supervisory body. Finally, observations are a source of information that should not be neglected.

In order to assess the aims and objectives of a concrete restructuring plan as well as the possibility of the employee interest representation to influence the plan, your EWC should ask the following questions:

Checklist 9: Preliminary assessment of a restructuring plan

- ▶ *Are the strategic and operational objectives of the restructuring project known to the EWC?*
- ▶ *What overall strategy is the company aiming at, and what are the **goals** pursued at process level?*
- ▶ *What are **possible "hidden" motives** according to EWC delegates and other employee representatives involved?*
- ▶ *What **advantages and disadvantages** might the restructuring plan have for the employer?*
- ▶ *Are the goals of the restructuring plan already fixed or are they still **"negotiable"**?*



4.1 Receiving relevant and sufficient information

How to organise the gathering of meaningful information

In order to avoid an overload of often useless information and to gather significant and relevant information, it is absolutely necessary for the EWC to play an active role in the **definition of the agenda for meetings with management**, both with a view to plenary meetings and meetings of management with the select committee.

In this regard, it is the EWC select committee that, acting on behalf of the EWC, should take the initiative to include relevant and meaningful points of discussion in EWC agendas. In many EWC agreements, this role is clearly defined. For those EWC members whose EWC agreement does not yet contain a provision that accordingly empowers the select committee, the following guidelines should be considered in any case as a reference for the daily practice of their EWC and for future amendments of their agreement:



Checklist 10: Preparing meetings with management

- ▶ *The select committee should communicate among its members and with the rest of the EWC in due time before the draft agenda of the meeting has been formulated in order to take stock, at the national level, of the relevant issues that need to be dealt with during the EWC meeting and the information employees want to know about.*
- ▶ *The select committee should share its proposals for new points of discussion to be included in the EWC agenda with all EWC members and should gather amendments, comments and suggestions.*
- ▶ *After collecting all proposals for new points of discussion, the select committee should meet and discuss the points that need to be included in the agenda among its members during the pre-meeting of the select committee meetings. Then the select committee can meet management and jointly create the draft agenda of the plenary meeting.*
- ▶ *The agenda and all related documents must be disseminated as soon as possible to all EWC members after the select committee meeting and before the EWC plenary meeting.*

Taking an active role in the creation of the draft agenda is fundamental but cannot be sufficient to **obtain meaningful information** and, consequently, for involvement in a useful consultation process.

Secondly, it is of crucial importance for the EWC to set up a list of items to be discussed or about **which information should be provided during EWC meetings** by central management.

Experience shows that two major problems concerning information are frequent at EWC meetings: first of all, so much information is provided within a short time that employees suffer from an "information overload" and,

secondly, certain kinds of information deemed of crucial importance are not disclosed due to **confidentiality**.

Checklist 11: Avoiding the confidentiality trap

In many cases, management classifies as confidential all information provided to the EWC. What can be done to prevent this abusive practice? First, it is important to note that the EWC Directive allows EWC members to report back to national workers' representation bodies or even to workers directly. At the same time, national workers' representatives also have the right to access confidential information (according to the EWC Directive, rules of confidentiality are set by national legislation). Furthermore, the Directive is quite strict regarding the information that may be not disclosed to the EWC due to confidentiality: the employer has to justify the reasons why information is not provided in specific cases. He/she/it has to demonstrate that giving this information would seriously harm the functioning of, or be prejudicial to, the undertaking.

The EWC should ask management the following questions (inspired by the Dutch EWC Act, 23 Jan 1997, Art. 19.5):

- ▶ *What is the reason for the confidentiality of the information?*
- ▶ *What written or oral information is classified as confidential?*
- ▶ *For how long does confidentiality apply?*
- ▶ *Are there any persons with regard to whom such confidentiality does not need to be maintained?*

Which information is necessary?

To assist EWC members in determining which information should be provided by management, the *European Trade Union Institute* (ETUI) as well as the *European Trade Union Federations* have produced guidelines as well as lists of basic information that workers' representatives should normally receive during EWC meetings.

The following **overview** is based on a practical guideline for EWC members elaborated by EFFAT (*European Federation of Food, Agriculture and Tourism Trade Unions*).²⁴ It should be noted, however, that, being a general list of items, it does not cover particular situations and therefore needs **to be adapted on a case-by-case basis**.

It is important to stress that with regard to certain kinds of information, namely **relating to employment, social issues or training, there is an obligation of management to deliver this kind of information**. Regarding the other categories, the information that should be requested by your EWC is needed because it **impacts employment development and the terms and conditions of employment**.

²⁴ EFFAT: What kind of information do EFFAT European Works Councils need? Practical guidelines for EWC coordinators and trade union officers, Brussels 2014.

Information that is essential to know for the EWC

Themes	Information
Employment figures	<ul style="list-style-type: none"> • Employment figures and comparison with past years (total, per country, local sites and divisions) • Employment figures concerning number of workers with permanent contracts, number of workers with temporary contracts, number of seasonal workers (where applicable), number of posted workers (where applicable) • Information on employment planning • Gender equality: what are the company policies in this respect?
Financial information	<ul style="list-style-type: none"> • Turnover (total, per country/continent/geographic area) • Profit/loss • Comparison with preceding year • Trends, developments and risks as well as company policies related to turnover, profit/loss
Financial structure of the company	<ul style="list-style-type: none"> • Explanation of balance sheet • Overview of shareholders, shareholder returns and dividends • Developments in stock value, also in comparison with competitors
Production/ service delivery	<ul style="list-style-type: none"> • Figures on production and service delivery (total, per country/facility and product range) and comparison with preceding year • Planned production/service delivery for next year • Trends and developments • Planned changes in production/service delivery (amounts, facilities, production lines) • New working methods or production processes
Social information and disclosure of non-financial information	<ul style="list-style-type: none"> • Health and safety, stress at the workplace, work-related accidents • Overview of sick days • Overview of employment and working conditions of different worker categories (working hours, working environment, labour flexibility, employment protection) • Environmental, social and employee matters • Respect of human rights • Anti-corruption and bribery matters • Equality and diversity policy • Respect for social dialogue and trade union rights • Policies pursued by the undertaking with respect to the above policies
Investments	<ul style="list-style-type: none"> • Overview of investments in current/preceding year • Planned investments for coming year(s)/per site • Trends, short- and long-term objectives and backgrounds of investment policy and its impact on employment
Market position, business and developments	<ul style="list-style-type: none"> • Overview of current market position, trends, developments • Comparison with closest competitors in industry • Growth/decline of markets (distribution over geographical areas/countries, specific product ranges) • Internationalisation

Themes	Information
Technological change	<ul style="list-style-type: none"> • Relevant technological developments • Disruptive technologies that require an adjustment of production/service delivery methods and processes • Company approach to mastering the digitalisation challenge
Mergers/ acquisitions/ restructuring processes	<ul style="list-style-type: none"> • Overview and background of acquisitions, sales and restructuring in previous and current year • Outsourcing • Planned acquisitions, sales and restructuring and related social costs • Cutbacks or closures of undertakings, establishments or important parts thereof • Collective redundancies
Training	<ul style="list-style-type: none"> • Current and planned training options for different target groups of employees • Transnational mobility of trainees • New skill requirements • Human resources and recruitment strategy

Source: Author, based on EFFAT.

The following general points should be taken into consideration regarding the quality of information to be provided:

Checklist 12: Key requirements regarding the quality of information

- ▶ *Information should be provided in sufficient detail. Total figures should be split up according to site, products or product ranges, etc. This will enable a clearer understanding of the developments within the company and at local site level.*
- ▶ *Figures should always be provided of the preceding year(s) to be able to make comparisons and determine trends.*
- ▶ *Apart from figures, background information should be given regarding developments and insight into future plans and intentions.*
- ▶ *Information should be distributed sufficiently in advance of the meeting to enable examination of the – often substantial – material before the EWC meeting and to prepare questions and observations.*
- ▶ *EWC meetings will be most productive if both parties come prepared. Make sure to assemble information from employee representatives and other employees as well as information about relevant developments well in advance of the meeting to be able to determine which issues should be brought up before management. Receiving information from management in advance of the meeting will assist you in this preparation.*



Creative information gathering and cross-checking

Information that cannot be obtained from management can perhaps be gathered through alternative channels (e.g. annual reports, press reports, interviews with senior management representatives, etc.). Information may also be gathered on the basis of information that has to be disclosed by the company in the context of legal requirements accompanying mergers,

takeovers or collective redundancies. Such alternative sources should also be used to cross-check the information delivered in EWC meetings.

Important information and assistance can moreover be obtained from external sources, such as the respective European Trade Union Federation or national trade union organisations. These may also provide support in identifying company experts, works councils of other companies of the same branch or region, experts or industry associations (for economic figures or sectoral expertise).

4.2 Key factors of successful consultation processes

If the EWC engages in a consultation process on the employer's restructuring concept, this process has to be led by the select committee which, however, cannot handle it on its own. The entire EWC is required to agree on the further procedure and the distribution of work and roles, and it is essential to involve representatives of local affected sites in an active fashion.

The following aspects are important with a view to starting, and becoming engaged in, a **meaningful consultation process**:



Checklist 13: Preconditions of meaningful consultation

- ▶ *The works council agrees on its own objectives.*
- ▶ *The work steps and the division of tasks are clarified.*
- ▶ *Local workers' representation bodies that will be affected by restructuring are involved in order to examine the expected results, objectives and work processes.*
- ▶ *Internal and external experts are selected and involved.*
- ▶ *The timetable is co-ordinated, also with the employer.*

Participation of local workers' representatives: the examination of a restructuring concept cannot be handled by the EWC without the involvement and support of local representatives from the workforce.

This is not only to facilitate information gathering or to assess the impact of a restructuring decision on the workplace level or local jobs. Rather, the involvement and participation of local workers' representatives is also necessary for the acceptance of the EWC's activities by the workforce as a whole. EWC experience shows that those change and restructuring projects are supported by workers which they themselves were able to shape.

EWCs should also be aware that this task of linking European and local processes of information and consultation is explicitly specified in the EWC Recast Directive as an obligation of the EWC.

Moreover, the involvement of local workers' representatives has already been highlighted before as a key aspect in the context of extraordinary meetings to deal with restructuring plans (see section 3.3 above).

Therefore, in order to determine the involvement of local workers' representatives, the EWC should be clear on the following questions:

Checklist 14: Involving local sites and their representation bodies in the consultation on restructuring projects

- ▶ *Which areas of the company and local sites are involved in the restructuring?*
- ▶ *Which areas and sites are affected indirectly, for example due to supplier relationships or other knock-on effects?*
- ▶ *How are sites connected to each other? Is there competition between sites?*
- ▶ *What is the expected impact on jobs? Are economic dismissals or redundancies announced?*
- ▶ *Which differences of interests and orientations exist within the EWC and between employee representation bodies of local sites across countries?*



4.3 Assessing a restructuring plan

Plausibility

In the following, key requirements and aspects with regard to checking the "plausibility" (= *acceptable, comprehensible and compelling*) of a restructuring concept of corporate management are summarised: does the concept contribute to the stabilisation of jobs, income and the company's competitiveness? Or does it entail risks to the current and long-term development opportunities of the company?

Before examining and critically validating any calculations provided by company management (the EWC should ask management for facilitating external expert support as needed), the EWC in exchange with representatives of affected divisions, areas and sites should assess whether the restructuring concept can be regarded as a meaningful part of the corporate strategy that will secure the future of the company against the background of market requirements, the competition environment and key competencies of the company.

Key questions regarding which the EWC should demand detailed explanations and answers from management in order to assess the plausibility of restructuring plans or projects are in particular the following:

Checklist 15: Assessing the plausibility of a restructuring concept

- ▶ *Has management provided a convincing answer on the strategic significance of the restructuring project/plan?*
- ▶ *After closer examination, does the intended restructuring project/plan seem meaningful in the economic sense as well?*



- ▶ *Do the objectives and targets set by the employer seem realistic?*
- ▶ *What impact does the restructuring operation have on employment?*
- ▶ *What will be the impact on the competitiveness of the company?*
- ▶ *Which risks inherent in the restructuring plan has management identified regarding the competitiveness of the company? What measures does the company take to mitigate these risks? This question is particularly important in plans for outsourcing or offshoring, disinvestments or acquisitions and mergers.*

Risk assessment: impact on core competencies

In order to check potential risks related to the restructuring, it is essential to have a comprehensive picture of core competitiveness factors and the “**core competencies**” of the company.

Regarding core competencies, the EWC in co-operation with local employee representatives should assess the risks of a restructuring operation, for example the outsourcing of functions or offshoring of parts of the production or services in the light of core competencies and sources of competitive advantages of the company. Such areas of competitiveness might be

- specialisation regarding markets and customers;
- specialisation regarding products and technologies;
- specialisation regarding production and production processes.

Discussions about core competencies are often based on different basic assessments. Therefore the EWC should request management to clarify the expected impact of a restructuring project on core competencies. This may also help the EWC to determine its own strategic orientation with a view to the planned restructuring. The EWC should in particular demand answers to the following questions:



Checklist 16: Assessing the impacts of a restructuring project on core competencies

- ▶ *What are the company's competitive advantages compared to main competitors?*
- ▶ *Which “core competencies” are these competitive advantages based on?*
- ▶ *What are the key factors that enable the company to meet these core competencies?*
- ▶ *What are the likely effects of a restructuring? Will the company possibly lose one of these important factors?*

If the management of the company does not adequately answer these questions, this should be seen as a warning sign. At the very least, it raises questions regarding the seriousness of the restructuring project and the underlying analyses and decision-making.

Identify the risks of a restructuring plan: after assessing the general strategic orientation, the EWC in co-operation with local workers' representation bodies should carry out an assessment of possible impacts of the planned changes on specific business areas and processes, if possible with professional know-how provided by experts. Here in particular, possible risks for the job and income security within the company should be identified.

The German Metalworkers' Union IG Metall has elaborated a detailed checklist to support a **risk analysis and to identify key risks and problems in the context of offshoring plans**. The checklist includes a number of detailed questions with regard to various economic aspects and competition factors that should be requested from management. This very detailed checklist is particularly worthwhile for use as a tool by EWCs. Unfortunately, it is only available in the German language.



IG Metall: Standorte fair vergleichen – Arbeitsplätze sichern! Handlungshilfe für Betriebsräte. IG Metall Bezirksleitung NRW, 2014, p. 38-41.

4.4 Shaping and influencing restructuring decisions

Change projects are often sold to employee representatives as the “only possible” alternative. It seems as if the EWC and local workers' representation bodies have only the possibility to accept it or oppose it.

In many cases, however, there exist not only the alternatives “black” or “white”, but numerous variants and alternatives between these extremes as well. Thus the EWC should also request management to furnish information on possible alternative solutions. This allows for better assessment of the proposed measures to be implemented, as comparisons can be made and the project therefore can be better questioned.

This is in particular relevant for restructuring plans that mainly and foremost aim at cost reductions: with a view to cost-driven restructuring operations, management tends to focus above all on benefits but often does not appropriately take account of possible risks and pitfalls.

There are a number of signals and aspects indicating purely cost-driven restructuring plans that should be reviewed particularly critically by the EWC:

Checklist 17: Identifying purely cost-driven restructuring plans

- ▶ *Does the company tend to focus on short-term approaches and goals rather than on longer-term objectives and orientations?*
- ▶ *Does the company handle human resources generally in a way that only focuses on costs and lacks appreciation of quality criteria and other non-financial aspects?*
- ▶ *According to previous experience as well as perhaps own expertise, does management's assessment of the cost-saving potentials seem exaggerated?*
- ▶ *Are there hidden costs that are not taken into account or are underestimated?*



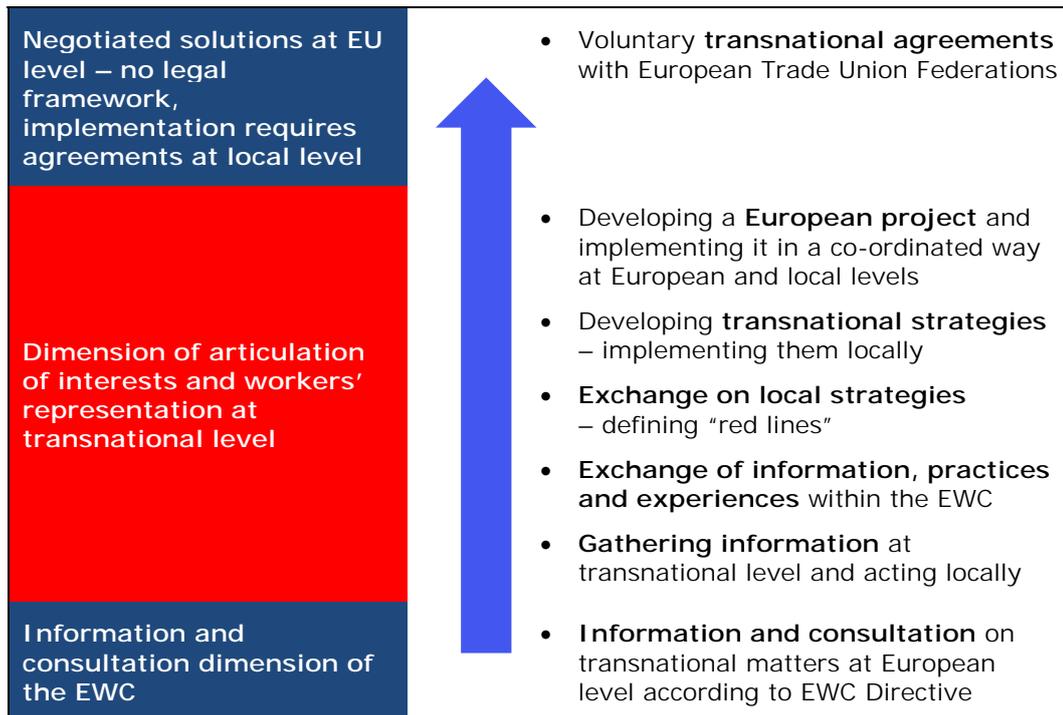
- ▶ *With a view to outsourcing and offshoring: are there signs that management will enter into contracts that may negatively affect quality?*
- ▶ *With a view to offshoring plans: has management provided a realistic assessment of likely risks and critical factors (for example cultural differences)?*

4.5 EWCs, restructuring and negotiations with management

EWCs should be aware of the limitations of transnational interest representation with a view to restructuring: the **legal role of EWCs is limited to information and consultation on transnational matters** – it does not include any co-determination rights, such as these exist in a number of EU countries regarding social and employment matters.

With a view to **potential actions of the EWC in restructuring situations**, it is furthermore important to differentiate between activities where the EWC relies on co-operation by management and activities where it can rely on its own capacities and structures only. This is illustrated by the following diagram:

The three dimensions of EWC practice in restructuring



Source: Author's own sources, based on input by Aline Hofmann, ETUI.

As the above diagram shows, there are many more instances where the EWC is able (i.e. supported by the EWC Directive) to engage in autonomous action than there are areas where activities are dependent on the involvement of the employer, either stipulated (transnational information and consultation) or not (transnational negotiations) by the European legislative framework.

With a view to **negotiations with management** on restructuring plans, either in the context of negotiating general frameworks or concrete agreements on implementation, there are a number of principles that should be respected to avoid becoming trapped in “compromise bargaining” or even becoming an instrument of management strategies to implement a restructuring plan that goes against employee interests.



In the context of a joint project on anticipating and managing change in the European print industry, the European Social Partners (*Intergraf* and *UNI Europa Graphical*) have elaborated a toolkit on how to manage restructuring operations in a sustainable and socially balanced way. The toolkit also includes some guidance on conducting effective negotiations:

See: **Intergraf/UNI Europa Graphical: The future of the European print industry - in our own hands. Restructuring – your toolkit to make it happen**, Brussels, p. 46-49.

Either in cases where your EWC on its own initiative would like to enter into negotiations about a restructuring plan or in cases where management is the driving force to reach a transnational agreement, you should ask yourself the following:

Checklist 18: General principles when conducting negotiations on a restructuring plan with management

- ▶ *Does your EWC have a European mandate for entering into negotiations, i.e. is it supported by all local site representatives involved?*
- ▶ *In particular, do those (affected) local employee representation bodies and their trade union organisations (in countries where no tradition of company-level agreements or co-determination transitions exist) support the approach of entering into negotiations with management?*
- ▶ *Have key objectives and provisions been discussed with the respective European Trade Union Federation/EWC trade union co-ordinator to obtain the support of local trade union structures?*
- ▶ *Is there a general consensus within the EWC that local negotiations with local management should not be concluded with an agreement as long as negotiations at the European level are still pending?*



4.6 After restructuring is before restructuring: evaluation and reflection on lessons learned

A critical review of a restructuring operation as well as the EWC’s own role within the process and its outcomes should be a constituent part of the EWC’s assessment of change and restructuring processes at the company level.

The review should be both a joint exercise of management and EWC but – and this is more important – it should also be conducted by the EWC in exchange with local workers’ representatives and the responsible trade union federation as a separate process.

The **review and evaluation of a restructuring project** therefore should be carried out at two levels, consisting of three simple questions, i.e.:

Checklist 19: Evaluation of a restructuring project and lessons learned

Questions the EWC should address **within the steering committee and plenary**:

- ▶ *What went well?*
- ▶ *What did not go well or what failed?*
- ▶ *What will we do differently next time?*

Questions the EWC should address with a view to **local members and interest representation bodies**:

- ▶ *With a view to local sites affected by the restructuring project, which differences exist in terms of what went well and what failed?*
- ▶ *What are the reasons for differences between assessments?*
- ▶ *What could be done to avoid different assessments and dissatisfaction as regards EWC practice in the future?*



5 USEFUL INFORMATION

5.1 Information on the EWC Directive and EWCs

▶ **Text of the European Works Council Directive**

<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1489143846030&uri=CELEX:32009L0038>

Official text of the Directive in all EU languages.

▶ **European Commission website on EWCs**

<http://ec.europa.eu/social/main.jsp?catId=707&langId=en&intPagId=211>

Information of the EU Commission on EWCs, such as leaflets in different languages and other publications on EWCs, research studies, national implementation of the Directive, law cases at the European Court of Justice, etc.

▶ **EWC database of ETUI**

<http://www.ewcdb.eu/>

This is the only database that gathers information and data on companies in Europe that have established an EWC or SE employee representation body. The database is run by the European Trade Union Institute and regularly updated. There are also annual reports and development trends and key data that are worth reading.

▶ **European Works Councils and SE Works Councils 2015. Facts & Figures, Brussels. De Spiegelaere, S./Jagodzinski, R., ETUI**

<http://www.etui.org/Publications2/Books/European-Works-Councils-and-SE-Works-Councils-in-2015.-Facts-and-figures>

This publication of the ETUI EWC team provides a broad selection of key figures on the basic characteristics of EWCs and SE WCs and the companies in which they operate. It covers both the demographics (e.g. development over the years, establishment, sectoral distribution, etc.) and selected aspects of the content analysis of agreements (composition, competencies, meetings, facilities, etc.).

▶ **ETUC: European Works Councils: a trade union guide to Directive 2009/38/EC, ETUI, Brussels.**

<http://www.etui.org/Publications2/Reports/European-Works-Councils-a-trade-union-guide-to-directive-2009-38-EC>

This detailed guide provides information for trade unionists and practitioners to play an active role in the information and consultation process across Europe and to make the most of the new provisions of the European Works Council Directive as amended by Directive 2009/38/EC. It provides an article-by-article legal commentary written by the ETUC labour law expert in an accessible style and can be used by anybody with an interest in European Works Councils and their functioning.

5.2 Trade union guidelines and tools

► **industriAll – Principles of dealing with restructuring**

<https://news.industrial-europe.eu/p/company-policy-tools>

IndustriAll has elaborated ten basic principles that should be respected by trade unions as well as EWC members in the context of transnational restructuring. With these principles, industriAll Europe aims at enhancing our ability to act in a united way and at avoiding being played off against each other, as well as demonstrating that alternative solutions exist and are viable with lower social cost. The principles are listed in the textbox.

IndustriAll's 10 Principles of dealing with restructuring

1. Develop an early warning system
2. Ensure full compliance with information and consultation rights both at the national and European levels
3. Set up a European trade union network
4. Provide full transparency of information
5. Draw up a platform of common demands
6. Envisage negotiated solutions acceptable for all
7. Develop a communication strategy
8. Envisage cross-border activities
9. Explore all legal possibilities to ensure that workers are heard
10. Binding commitment – any strategy agreed and any decision taken at a European level should be made binding for all players concerned and implemented at a national level

► **UNI Europa, industriAll, EPSU, ETF: Working together for European Recovery: workers' involvement in companies' future as a cornerstone. A toolkit for EWCs.** Available in EN, FR, DE at: http://www.syndex.eu/var/storage/PDF/ToolKitCEE_EN_bdef.pdf

Published in 2016, the toolkit was elaborated by Syndex to provide easily understandable information to EWC members and trade unions so as to make better use of EWCs as an important tool of transnational interest representation, information and consultation. Particular attention has been paid to the new rights and obligations enacted in the 2009 Recast Directive and to advice with a view to the renegotiation of agreements. The toolkit also includes exercises for EWCs to train and improve their functioning.

► **Offshore outsourcing. A handbook for employee representatives and trade unionists.** UNI Europa <http://www.newunionism.net/library/organizing/UNI%20-%20Offshore%20Outsourcing%20-%20A%20Handbook%20for%20Unionists%20-%202006.pdf>

Published already in 2006, this handbook is still very readable, as it contains practical tools for trade unionists and EWC members to anticipate outsourcing and offshoring in their company. It also helps to assess offshoring/outsourcing plans, to negotiate agreements with the company and to monitor offshoring/outsourcing projects.

- ▶ **Enhancing EFFAT’s role in European works councils and transnational companies. Practical guidelines for EWC coordinators and trade union officers. EFFAT**

<http://www.effat.org/en/node/14443>

In 2016, the Secretariat of the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT) published an interactive brochure for EWC professionals and trade unionists dealing with transnational companies. As the document is fully interactive, the best use to make of it is on a PC or tablet without having to print it out.

- ▶ **The future of the European print industry – in our own hands. Restructuring – your toolkit to make it happen. Intergraf/UNI Europa Graphical**

https://www.intergraf.eu/dwl/SociallyResponsible_Toolkit_ENG.pdf

In the context of a joint project of UNI Europa Graphical and Intergraf, the European employer organisation in the printing sector, this “toolkit” was elaborated by reflecting both employers’ and trade union’s perspectives on how to anticipate and manage change at company level in a co-operative manner. The toolkit contains advice, guidance and checklists for managers and workers’ representatives.

5.3 EWC training and competence development

- ▶ **EWC training provided by ETUI**

<http://www.ewctraining.eu>

ETUI's education department offers tailor-made training for European Works Councils. Training services are mainly aimed at workers’ representatives who are members of a European Works Council, SE Works Council or special negotiating body. ETUI can provide this training “on-site”, in any location chosen by the company, or “full service”, providing the pedagogical input but also taking care of accommodation, technical support, interpreters and all other practical aspects. Language courses are offered as well.

In order to be able to respond to the ever-increasing demand for training, ETUI has established a **network of trainers** (called “NET”) who all have experience with **adult education** and working with **multicultural groups**. They have excellent knowledge of transnational issues, and many of them have **practical experience** with EWC or SE Works Council activities.

- ▶ **How to make your meetings more successful – Manual for European Workers’ Representatives. Bruno Demaître (ETUI), Romuald Jagodzinski (ETUI), 2012.**

<http://www.etui.org/Publications2/Guides/How-to-make-your-meetings-more-successful>

The booklet is part of a series of practical and usefully illustrated manuals published by ETUI for workers’ representatives in transnational information and consultation bodies. The manual offers some practical tips on how to make meetings of

European bodies more useful, efficient and successful. The manual is currently available in eight languages.

- ▶ **How to organise your communications network – Manual for European Workers’ Representatives.** Bruno Demaître (ETUI), Romuald Jagodzinski (ETUI), Sjef Stoop (FNV Formaat), 2015.
<http://www.etui.org/Publications2/Guides/How-to-organise-your-communications-network>

This publication is also part of the ETUI series of manuals for European workers' representatives and explains in an easy-to-read format how European Works Council (EWC) members can organise and manage their communications network.

5.4 Other valuable sources

- ▶ **Eurofound: European Restructuring Monitor**
<https://www.eurofound.europa.eu/observatories/emcc/erm/factsheets>

Following the recommendations of a high-level group of experts established by the EU Commission in the late 1990s, this database documents larger cases of restructuring in the EU/EEA, based on announcements as reported in the economic press/newsletter reports that are evaluated by a network of national correspondents of the European Foundation for the Improvement of Living and Working Conditions in Dublin. The database is searchable e.g. for individual companies, different types of restructuring or countries.

- ▶ **Worker-participation.eu**
<http://www.worker-participation.eu/>

The worker participation website of ETUI is the gateway to information and resources regarding industrial relations, legislative and other frameworks of collective labour relations, company law and social dialogue in the European Union. The website also includes an interactive map providing basic information on national systems of industrial relations. EWC representatives should also **register for the *worker-participation.eu News Bulletin*** that reports three times per year on developments at the European level in the field of worker participation and related topics.

5.5 Further reading

Apart from the literature already cited in the “further reading” boxes of this manual, the following publications provide additional information on EWCs and related aspects for interested readers:

- ▶ **Variations on a theme? The implementation of the EWC Recast Directive.** Romuald Jagodzinski, ETUI, 2015.
<http://www.etui.org/Publications2/Books/Variations-on-a-theme-The-implementation-of-the-EWC-Recast-Directive>

This book is a unique source of information regarding the national implementation of the 2009 EWC Recast Directive into national legislation. The authors of the book have looked into the national transposition legislation of the 31 countries of the European Economic Area. The findings are very relevant for EU policymaking, for practitioners having to deal with differing national legislative regimes and for EWC members interested in the national legislative framework of EWCs in specific countries.

► **Der Europäische Betriebsrat.**

Wolfgang Greif, GPA-djp, Vienna, updated edition, 2013

http://www.gpa-djp.at/cms/A03/A03_5.a/1342540636956/betriebsratsservice/europaeischer-betriebsrat-ebr

A handbook for trade unionists that explains the political and legal framework of EWCs and includes assessments on how to use EWCs from a trade union perspective while providing useful orientation and hints for establishing and developing transnational interest representation bodies.

► **Transnational company agreements and the role of European Works Councils in negotiations – A quantitative analysis in the metalworking sector.** Torsten Müller (ETUI), Hans-Wolfgang Platzer (University of Fulda) and Stefan Rüb (University of Fulda), ETUI 2013.

<http://www.etui.org/Publications2/Reports/Transnational-company-agreements-and-the-role-of-European-Works-Councils-in-negotiations>

As a rule, the competencies of European Works Councils (EWCs) are limited to information and consultation. Nonetheless, the number of European company-level framework agreements negotiated by EWCs and/or trade unions has increased steadily since the early 2000s. This publication highlights trends, patterns and backgrounds of such agreements.

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