

**What makes an effective European works council?
Considerations based on three case studies**

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Summary

This article analyses the operation of European works councils (EWCs) in three multinational companies (GSK, Coca-Cola and UniCredit) across six EU Member States (Bulgaria, Croatia, Cyprus, Ireland, Italy and the UK). Based on interviews with EWC members and other employee representatives in these companies, it argues that EWCs are in a process of continual development, and examines the influences on their effectiveness by using a fivefold typology: company type, path dependency, socio-institutional environments, actors' strategies and internal EWC dynamics. The article reveals that our respondents refer most frequently to the internal dynamics of EWCs as the key influence on their effectiveness, and concludes by assessing the policy implications for trade unions.

Introduction

Since the adoption of the European Works Councils Directive in 1994, European works councils (EWCs) have become a key feature in the debate about the Europeanization of industrial relations. The EWC Directive 'set out requirements for informing and consulting employees in undertakings or groups of undertakings with at least 1 000 employees across the member states of the European Economic Area (EEA) and at least 150 employees in each of two or more of those member states' (Cressey, 2009: 141). The total number of EWCs has reached 1 258, of which 1 029 are currently in existence across 955 eligible multinational companies (MNCs) (ETUI database, 2013). Moreover, following the adoption of the Directives providing for worker involvement in the European Company (2001) and in the European Cooperative Society (2003), the adoption of the European Works Council Directive (recast) in 2009 has helped to refine the operation of EWCs, for example by clarifying definitions of 'information' and 'consultation', improving their integration into other union and employee representative structures, and ensuring access to experts when necessary (Jagodziński, 2009). Though the consequences of the recast Directive require further research, EWCs have already been playing a critically important role in the transnationalization of industrial relations and the improvement of worker rights for around 20 years.

The literature analysing the growth, impact and significance of EWCs has burgeoned, based to a large extent on the accumulation of case study findings. Much of this research has been small-scale, based occasionally on up to 15 case studies (Lecher et al., 2001), but generally on between one and eight (see, for example, Hann, 2010; Huzzard and Docherty, 2005; Wills, 2000).

An important question is whether this accumulation of case study material has led to any advance in theoretical understanding of the conditions under which EWCs perish, stagnate or flourish: indeed, are EWCs a success or a failure? (Jagodziński, 2011). Clearly, this question, as Jagodziński argues, is too crude as such. EWCs vary greatly in scope and practice and may succeed according to some criteria yet fail according to others. The picture is more patchy than an 'either/or' formulation would suggest. The key issue, rather, is to identify those factors that promote or hinder the effectiveness of EWCs. Such an identification may allow unions better to target their efforts and resources when planning policy towards EWCs, a point we explore at the end of this article.

One group of researchers (Hertwig et al., 2011), basing their conclusions on a review of the literature, has advanced the following fivefold typology of the diverse influences on the effectiveness of EWCs:

- company type (structure and coordination, such as degree of integration);
- trajectory or path dependency (corporate history and circumstances of the foundation and evolution of the EWC);
- socio-institutional environments (institutional, legal and cultural contexts);
- actors' strategies (role of managers and unions as agents); and
- internal dynamics (relationships amongst EWC members and other union and employee representatives).

This breakdown of influences is compatible with one of the conclusions of a recent extensive empirical survey of EWCs – that an EWC is ‘an institution in process’ (Waddington, 2011: 21), meaning that it has no end point and is in a state of continuous development. The term ‘in process’ emphasises that EWCs evolve along a number of dimensions, for example trust amongst representatives, deepening objectives and strengthening relationships with other labour organizations (Waddington, 2011: 211). Such an approach also helps to explain the circumstances in which, at best, EWCs have managed to create their own ‘labour identities’ which transcend national interests to form an overarching, European labour interest (Whittall et al., 2007).

This approach, which places the dynamism of EWCs at the heart of the analysis, has three consequences. Firstly, it casts doubt on the usefulness of pigeon-holing EWCs as, for example, symbolic, service-oriented, project-oriented or participative (Lecher et al., 2001), which emphasizes their static and unchanging qualities rather than their dynamic qualities. Secondly, it helps to shift debate away from the Euro-optimist/Euro-pessimist polarity, which has characterized much research until now (Cressey, 2009). Each ‘side’ has tended to focus on a limited range of criteria for evaluating EWCs – for example, the Euro-optimists have stressed their potential, particularly for training and networking, while the Euro-pessimists have emphasized concerns over the possible erosion of national labour standards and the lack of union capacity to support their activity (Waddington, 2011: 212–219). A more ‘process-based’ approach, which examines the trajectory of individual EWCs in an attempt to build up a nuanced understanding of the influences at work, helps to explain their complexities and dynamics in greater depth.

Thirdly, a focus on process helps to clarify the issues involved in the ‘reflexive approach’ towards the negotiation of EWCs, tailored to individual company structures and requirements, adopted in the Directive. The EWC Directive, along with the Directives on the European Company Statute (2001) and information and consultation of employees (2002), promotes the flexible introduction of employee participation by requiring employers and employee representatives at company level to negotiate customized arrangements, in the ‘shadow’ of the imposition of statutory fall-back procedures in case of failure to agree. ‘Reflexive’ law therefore establishes a framework for negotiation within which outcomes will vary according to the resources and power relationships of the parties concerned (Barnard and Deakin, 2000; Koukiadaki, 2009). It also focuses on ‘process’, but at the formation stage of the EWC. While reflexive law moulds the contours of the EWC as an institution – its structure, membership, rights, frequency of meetings and so on – a broader process-based approach can be used to examine its subsequent operation and effectiveness.

Our article contributes to this literature on process – the focus on the influences that mould and develop EWCs – by examining three case studies, each one a major multinational

company operating across a range of countries that generally feature less frequently in the literature.

Methods

The INFORMIA II project, on whose findings this article is based, analysed the role of EWCs within eight MNCs operating across six EU Member States: Bulgaria, Croatia, Cyprus, Ireland, Italy and the UK (though at the time of the research in 2011/12 Croatia was still an accession country). The focus of the research was driven largely by the findings of the previous INFORMIA I project which had analysed workplace information and consultation systems in Bulgaria, Croatia, France, Ireland and Italy (Ribarova, 2011). These suggested that the scope of representation and the impact of information and consultation procedures tend to depend on the quality of information shared by employers, as well as on the ability of individual representatives to obtain and use this information. INFORMIA II aimed to explore these points in more detail by investigating various aspects of the operation of EWCs, including the principal influences on their internal dynamics.

Case studies were conducted in eight MNCs across four sectors (chemicals/pharmaceuticals, food and drink, financial services and hospitality). From chemicals/pharmaceuticals, two main case studies were prepared: GlaxoSmithKline (subsidiaries in Ireland and the UK) and Solvay (subsidiary in Bulgaria). From soft drinks, the case of Coca-Cola HBC involved subsidiaries from Bulgaria, Croatia, Cyprus, Italy and Ireland. Financial services focused on UniCredit Group subsidiaries in Bulgaria, Croatia, Italy and the UK; Société Générale and Popular Bank in Cyprus; and Aviva in Ireland. There was only one case study in the hospitality sector, the Hilton Hotel in Cyprus. That case, along with the other single-country case studies (Aviva, Popular Bank, Société Générale and Solvay), have been excluded from this analysis on the grounds of their limited nature. This article is therefore based on GSK, Coca-Cola and UniCredit.

All the researchers, apart from the current authors, work for trade union confederations across the countries covered in the project (they are listed in the acknowledgements). Our principal interest, therefore, was *practical* rather than theoretical – we wanted to discover the principal factors that influenced the effective operation of EWCs for union policy reasons. Although the literature informed our approach, we had no preconceptions about the nature of ‘process’: our research was inductive and interpretivist – we allowed our respondents to express themselves as they wished in semi-structured interviews so that we could understand their circumstances and attitudes entirely in their own words. Respondents included employers’ representatives, usually human resource (HR) directors, as well as employee representatives (EWC members, information and consultation representatives and trade union representatives at company and sector level, such as shop stewards, members of executive bodies and chairs of sectoral federations and unions). We also gathered economic and statistical data about the sectors, as well as information on the state of industrial relations and social partnership in the relevant companies.

The case studies

GlaxoSmithKline

Headquartered in the UK, GSK is the world's fifth largest pharmaceuticals company, with offices in over 100 countries and major research centres in Belgium, China, Spain, the UK and the USA. This case study is based on its operations in the UK and Ireland. GSK is organized into business units, and in its Global Manufacturing and Supply unit – where the majority of our UK respondents were located – two unions (GMB and Unite) are recognized for bargaining purposes.

There are 33 EWC members (members are from 28 countries, all EU Member States plus Norway). About half the total EWC membership is unionized, though the unions are active in a number of countries in the election of EWC members. The EWC has an operating sub-committee of six members (plus one substitute). This meets five or six times per year, as the company prefers to deal with a small group rather than having diverse communication across the full EWC membership. The agenda, both for the annual meeting and the operating sub-committee, is drawn up by joint chairpersons who determine management's participation in the meetings. Employees do not appear to raise their own issues on the operating sub-committee and tend rather to respond to management agendas: 'we have brought nothing in particular to the table', said one UK interviewee. UK employees tend to raise issues at the UK national forum – the national consultative committee – rather than at the EWC.

The GSK EWC constitution was amended in September 2011 in light of the terms of the 2009 recast Directive. The EWC now has the right to receive information on takeovers and to discuss with their EWC counterparts in the targeted company, if they exist, how to integrate that EWC into the GSK EWC. It also has the right to information on, and to discuss with management, any restructuring which will impact on one country and the employees in that country. The operating sub-committee may request the assistance of an expert, and if management do not agree the onus is on management to show that an expert is not necessary. The UK substitute member of the operating sub-committee regarded access to an expert as the most significant improvement resulting from the recast EWC Directive because 'EWC reps can't be expert on everything'. Another interviewee stated: 'We asked for experts in the past, but it fell on deaf ears'. GSK were obliged to respond because of the new legislation.

During the 10 years from 2000 to 2010, GSK had been characterized by ongoing reorganization, and so the EWC's agenda had been dominated by this background and the need to respond to redundancies, site closures, outsourcing, restructuring and technological change. Its main aim, as one respondent put it, was 'to make sure management told the truth'. Since 2010, the former chair of the EWC believes GSK is becoming a more stable company and the EWC would now be able to focus better on the 'nitty gritty'. He also believed that, while younger managers were wary of the unions, they were also increasingly convinced of the benefits of consultation, especially as more highly technically qualified staff are given opportunities for involvement.

Heads of business units give presentations on transnational issues at the EWC annual meeting, including financial and business reports. Information gets fed back to the business units and to the operating sub-committee. According to interviewees, the company's main objectives in organizing the EWC were to 'satisfy legislation' and to 'tick boxes'. 'They do it to us, we are not really involved', said one. Indeed, the company has not attempted to use the EWC proactively to create or project its own identity at a European level.

There are certain informal links between EWC members, with emails sent back and forth, and the occasional 'round robin' circulated, requesting information about what other countries do in respect of a particular practice or piece of legislation. Issues have included pay negotiations, redundancy policies and employment security. For instance the former EWC chair gave specific examples of support on best practice to the Hungarian representative. He also maintained that information from the EWC had fed into collective bargaining agendas and, with more success, into the national forum agendas, including matters regarding health and safety and research and development.

The employees' side had requested training on pensions, which had been provided in-house, but no such request had been made concerning company finances. The Chief Financial Officer makes presentations at the national forum and the EWC. The information presented is often quite detailed in scope, but according to the interviewees, members tend not to ask questions, which might reflect their lack of training. However, the former EWC chair, also a member of the EWC operating committee for 10 years, pointed out that training EWC members was difficult because of their high turnover, in addition to which Unite and the European Mine, Chemical and Energy Workers' Federation (EMCEF) had given training to union members. According to him, members of the operating committee, whose membership is more stable, are trained in areas like financial matters.

The former EWC chair observed that management had learnt to explain to the EWC not just their own proposals on a particular issue but also why the alternatives would not work. In this way, management tried to pre-empt possible objections that might be raised. On the other hand, he felt that the EWC had influenced a variety of matters, including organization of the company's distribution networks, and he gave the EWC an overall rating of 'six out of ten'. The Irish EWC member agreed that, on the whole, the EWC works well, but noted that it is just an information forum, although management do actively engage with the operating sub-committee on a range of issues and proposals. However, there had been little or no support from the trade union movement when he was first elected to the EWC.

UK business units at GSK, such as its Global Manufacturing and Supply unit, have their own websites on which minutes from the national forum and EWC are posted, so everyone can see what information has been disclosed. However, interviewees agreed that the company 'complied with the legislation but doesn't go beyond it'. One respondent said 'We may get small, small changes, but otherwise very little'. These views reflected attitudes expressed at all levels on which the company provided information and consultation – site, business unit, national and EWC.

Coca-Cola

The Coca-Cola Company (TCCC) is a US MNC which manufactures, retails and markets non-alcoholic beverage concentrates and syrups, with operations in over 200 countries. Regarding its European operations, TCCC Europe Group operates as a holding company wholly or partially owning two other companies. Coca-Cola Enterprises (CCE) manufactures, bottles and distributes the product across Europe, while Coca-Cola Hellenic Bottling Company (CCHBC) – the most important of the three companies from the point of view of the INFORMIA II project, with operations in five of the six countries (the exception being the UK) – makes the syrup concentrate and is the biggest bottling and distribution company in the group.

Each of the three companies has its own EWC and their activities are coordinated through the European Federation of Trade Unions in Food, Agriculture and Tourism (EFFAT),

which also provides expert advice. Indeed, joint meetings with representatives from the three EWCs have been organized through EFFAT, with four such meetings held each year.

The EWC for TCCC comprises members from all countries belonging to the EEA, with the exception of smaller countries, such as Luxembourg and Liechtenstein. This EWC now seems to have entered a more constructive phase, following a somewhat turbulent period in 2008, when trade unions were unhappy with what they considered as management's unfair conduct in relation to a downsizing process in 10 countries across Europe. Management argued that these were individual, national restructurings and, consequently, not for discussion with the EWC, which raised serious problems from the EWC perspective. The company is in a continuous process of restructuring and change and, in general, it is the view of both the TCCC and CCHBC EWC members that management is good at sharing information with them. However, a number of EWC members argued that management still controls the information flow and, as one put it, 'you are never quite sure if you are getting the full picture'. One of the challenges for EWC members is that management frequently insists that issues which the EWC would like to discuss are national rather than transnational.

The advantage of the TCCC EWC is that all members are able to communicate in English and are familiar with all the technological means that allow them to be in contact at all times. In addition, many of them meet for reasons related to the international nature of their work and not only for EWC duties. This stimulates information sharing, unlike the situation in other EWCs where exchange takes place almost exclusively during EWC meetings, once or twice a year. The TCCC EWC members are able not only to circulate their messages but also to push them through in a single voice, to the appreciation of the management.

The CCHBC EWC was established in 2002. The CCHBC Chief Executive Officer (CEO), or another senior manager delegated by him, is a member. The workers' representatives elect five of their members from different countries to sit on the standing committee, whose functions include agreeing the agenda for meetings, regular contact with management, inviting external experts and encouraging the training of EWC members. The EWC meets in plenary session once annually, but the standing committee may call additional extraordinary meetings should they be considered necessary. Members meet before or after the plenary session to plan for common action. In the past two years there have been a number of extra meetings to deal with key issues, such as the management proposal to pool services through the Omega Shared Services Centre, which threatened redundancies in other countries. The 2012 annual meeting discussed how communications with the local/national levels can be improved, in line with the requirements of the recast Directive.

A number of the CCHBC EWC members interviewed said that the EWC provides the opportunity to 'see the big picture' and is a good source of information, both for unions and for management. For example, a new outsourcing policy was presented and discussed with the EWC before local management saw it. However there is a view that there is some reluctance on the part of Coca-Cola companies to share information and to consult with the EWCs. The EFFAT expert maintained: 'If you go beyond face value, the truth is that companies would willingly avoid having to go through all this. They inform you but they don't actually consult you and the information they give is often incomplete, sketchy and late'. Language and interpretation are also identified as an issue, in particular when a clear understanding of the topics being discussed is needed. This problem has only been partially addressed and the Standing Committee has tried to deal with it by arranging language courses for its members. Another problem is how to deal with information that management designates as confidential,

presenting worker representatives with difficulties in terms of what information can or cannot be disclosed to the wider workforce.

Overall, there is a general view that the Coca-Cola companies are open and forthcoming with relevant information at the national and EU levels, but there are concerns that information is too closely controlled and filtered by management. There is also a view that the EWCs are a key source of information for workers and trade unions, although there were some concerns expressed about managements' control of the information provided to the EWC and the serious lack of genuine consultation. While Coca-Cola states its commitment to good employment relations, its companies in Croatia, Cyprus, Ireland and Italy (four of the INFORMIA II countries) have been involved in serious disputes in recent years, mainly as a result of redundancies, the outsourcing of jobs or changes to contractual arrangements. The influence of the EWC on management processes and decision-making is minimal in most countries. The links between the EWCs and any national information and consultation arrangements have, up until now, not been developed, and it is left to the individual EWC members to organize a reporting-back procedure. The support of EFFAT and the provision of experts to the three EWCs are therefore vital for the functioning of the EWCs and the effective input of employee representatives.

UniCredit

The UniCredit Group is the outcome of a merger involving nine of Italy's biggest banks, which together formed Gruppo UniCredito Italiano in 1998. In 1999, UniCredito Italiano started its expansion in central and eastern Europe (CEE) with the acquisition of Bank Pekao in Poland. International presence was further boosted with acquisitions in Bulgaria, Croatia, Czech Republic, Romania, Slovakia and Turkey. In 2005, UniCredit merged with the German banking group HVB, which had an existing strong presence in the new Europe, allowing UniCredit to strengthen further its European operations. The Group now operates in 22 European countries.

The initiative to set up the EWC came from the bank. HVB already had an EWC in compliance with the 1994 Directive. A key role during the process leading to the Special Negotiating Body was played by the bank. As one respondent put it: 'Against a backdrop of improving industrial relations, the bank realised it would make good sense to have someone representative to talk to'. The UniCredit European Works Council founding agreement was duly signed in January 2007. The EWC covers all the European countries where the bank is present, including both EU and non-EU members. According to the agreement, employee representatives have the right to timely information and consultation by the Group management on all relevant cross-border issues, in particular those which impact on employees. Twice a year the employee representatives appointed to the EWC have the opportunity to meet top management (plenary ordinary meetings) to be informed and consulted on the Group's current business situation. Subsequently the results of these meetings are disseminated at local level through EWC members. A select committee comprising seven employee representatives, in addition to the President, represents the EWC as a point of contact with central management.

During the first part of the ordinary meetings, top management present and explain results, future challenges and current projects. In the second part of the day the EWC members from three selected CEE countries present an analysis of the current state of industrial relations and social dialogue jointly with the respective heads of HR, focusing on expectations and priorities for the future, as well as tangible suggestions and initiatives for the company to support. A continuous flow of information and interaction between company and employee representatives is managed by the 'Industrial Relations – International' function, which

constantly informs the EWC members about the most relevant Group issues and market situation.

The EWC and the Group have produced two Joint Declarations, one on 'Training, Learning and Professional Development' and another on 'Equal Opportunities and Non-Discrimination'. Although the EWC does not have negotiating rights, these declarations are considered by the unions as de facto agreements, even if not named as such. They can be considered as transnational company agreements (TCAs), independently from their legal status, and guaranteeing their implementation and respect is key for the image of the company. Dissemination of the Joint Declarations – for example, through websites, newsletters and training material – is considered a fundamental step in raising awareness of their principles, creating a common culture and a shared direction.

One of the EWC select committee members provided an outline of the work carried out over recent years. The topics discussed centred on three areas: (1) the training of EWC members through participation in workshops focusing on industrial relations, participation and social legislation in various countries; (2) reporting on the performance of the Group with a special focus on the employment front, especially in eastern European countries; and (3) the strengthening of industrial relations at both central and local levels, especially in those countries where trade union relations are weakest (such as Poland). As one respondent explained: 'The quality of the people involved is high, and so is the information that is provided at the plenary session. But the same cannot be said regarding consultation. Consultation takes place at the EWC select committee and deals with issues concerning the country involved'.

At EWC level, trade union representatives from various countries have the opportunity to get to know each other and compare their respective situations. One commented: 'The work of the EWC seems to be quite fruitful not only for the exchange of information with the Group's management, but also for proactive activity to promote, in all countries, social dialogue and constructive industrial relations'. Trade union representatives noted the difficulty in disseminating TCAs in countries where trade unions are not present, and stressed the need to link TCAs with European sectoral social dialogue, referring in particular to the link between the UniCredit agreements and the 2002 declaration on lifelong learning in the banking sector.

The EWC agreement was recast in April 2011. The document was then fully endorsed by the whole EWC assembly at the 2011 First Ordinary Meeting. The EWC in its new form (2011–2014) has seen the re-formulation of its membership, confirming the 44 EWC members but increasing the number of representatives from Hungary, Italy, Russia and Ukraine, and reducing the numbers from other countries. The new EWC has already begun with a plenary meeting of the select committee. The immediate purpose, according to the Italian delegate, was the signing of a Global Framework Agreement setting out certain basic common rights throughout the Group, and covering all countries. This would enshrine the case for freedom of union association, respect for human rights and dignity in terms of working hours, safety and working conditions, employment and skills development, social security, health and insurance coverage.

Of the three cases, the overall approach of UniCredit towards information and consultation can be seen as the most positive. There is the commitment to pursue a socially responsible orientation, to disseminate good practice among the Group's companies across their various operations, and to define better the notion of information and consultation in positive anticipation of what is contained in the recast Directive. There are also the innovative Joint Declarations, which constitute the prerequisite for fully-fledged transnational group agreements. There is, in addition, a broadening of the topics covered by the information and consultation procedure, beyond those prescribed in the EWC Directive or by Italian law. Two

ordinary plenary EWC meetings are held every year, with two additional ones possible should extraordinary events arise.

Discussion and conclusions

Application of Hertwig et al.'s (2011) typology of influences on EWC activity is less straightforward than it might seem. It is not always easy to establish which element fits into which category, and sometimes an element may fit into more than one. For example, EU directives and trade union structures could both be viewed as part of the socio-institutional environment of EWCs. Hertwig et al. (2011), however, view them as elements in their internal dynamics: EU directives because they are legal resources that EWCs can exploit, and trade union structures because they influence the EWC's capacity to organize. That said, it is clear from these three case studies that our union respondents generally perceived factors linked to the internal dynamics of EWCs to be the most significant in terms of their influence on effectiveness.

Our respondents barely refer to *company type* as an issue. This is possibly because the structure and integration of the company within which they are working is a given and cannot be controlled. The division of Coca-Cola into three separate entities is an issue only insofar as it requires an effort, coordinated by EFFAT, to ensure that the three EWCs communicate with one another.

Respondents do refer to *path dependency*, which they expressed in terms of company history and the circumstances in which their EWC was formed. In both GSK and Coca-Cola, for example, they mentioned the recent turbulent past of the company and the degree to which the EWC had 'settled' once a period of major restructuring and internal reorganization had been completed.

The influence of *socio-institutional environments* emerged in the importance of a shared language. For example, while members of the TCCC EWC were all able to communicate in English, those on the CCHBC could not, which led to the organization of language courses for them by their standing committee. Informal links amongst members of the TCCC EWC were more frequent and fruitful as a result. Furthermore, employers and unions interpret 'information' and 'consultation' in various ways, depending both on the countries where the subsidiaries are located and on the country of origin of the MNCs, even though there are now explicit definitions of both in the 2009 recast Directive. These variations reflect management practices and styles across the three case studies, which are themselves heavily influenced by socio-institutional factors.

Actors' strategies also play a major role in respondents' understanding of influences on EWC activity. Management at GSK are seen as having a 'tick box' attitude towards the EWC – though younger managers are considered more positively – while at Coca-Cola (both TCCC and CCHBC) management was regarded as good at sharing information, though the information itself was closely controlled. UniCredit management, meanwhile, had generally adopted a positive attitude towards the EWC from the outset. In all cases, the executive committee of the EWC was pivotal in coordinating cross-border activity: executive committee members were more likely to enjoy training opportunities and to be consulted by management (rather than being merely informed) than ordinary EWC members.

However, employee representatives were generally regarded as playing a reactive rather than a proactive role on their EWCs. There is no evidence that the worker representatives on the bodies analysed here regularly place their own items on the agenda or – still less – develop their own alternative policies towards, for example, closures and

redundancies. Furthermore, there are some restrictions on freedom of expression, arising from fears of management reaction (Bulgaria, Croatia, Cyprus). Such fears may result from the interpretation of the provisions on confidentiality of information. In some cases, employers insist more strongly than necessary on observance of these provisions, which can frustrate the functioning of workers' representation and the distribution of information.

The *internal dynamics* of the EWC – which, for Hertwig et al. (2011), include trade union and representative structures as well as EU directives and national legislation – were most frequently considered as significant influences on EWC activity. In general, directives and legislation are the driving forces for the implementation of information and consultation rights in all the countries participating in the project. In all three companies studied, respondents referred to the significance of the 2009 recast Directive in stimulating improvements in their EWCs. At GSK, for example, they listed a variety of improvements, notably access to experts, which they had been denied until the change in the law.

In each company, there are established structures in which worker representatives already participate. Trade unions are well represented on these but, compared with main workplace representation structures, there are also cases where trade union representatives, or even trade union members, are not directly involved in the EWCs. This could result from the striving of some MNC management teams to keep within the law but without trade union representation. The UK subsidiary of UniCredit, for example, was non-union, and its representative on the EWC was also, accordingly, non-union.

There was a view that EWCs worked better as a source of information than the local/national consultation arrangements in some countries (Ireland, UK), although there were some concerns expressed across the three cases too about management control of information provided to the national information and consultation structures, and also to the EWCs. In GSK, there was evidence that the national forum (the national consultative committee) was operating rather more effectively than the EWC because local workers were seen to be more interested in their own particular issues than in the issues of other subsidiaries, or of the MNC as a whole.

Many EWC members in GSK and CCHBC complained that, while the information disclosed by management was generally good, consultation was much weaker. However, those in UniCredit, an Italian company that had grown under strong German influence, had managed to negotiate a couple of transnational collective agreements, on health and safety and equal opportunities respectively.

A further significant aspect of EWC internal dynamics centres on trade union engagement. There is clear national variation in union engagement in the process of information and consultation and in the work of EWCs in particular. In some cases there is a longstanding tradition of workplace trade union and representation structures complementing and supporting the whole process in a promising way (Cyprus, Italy). Engagement is average in Croatia, tends to be average to low in Bulgaria and Ireland (with even some resistance to the new structures), and is comparatively low in the UK (also with some resistance). The isolation of trade unions, when it occurs, results from low membership densities, the anti-trade union behaviour of employers (whether covert or overt) and their search for mechanisms for informing staff without the participation of the trade unions.

In almost all countries the trade unions prefer either to control the function of information and consultation or at least to be well integrated into them and to have substantial influence on the process. Usually they see rights to information and consultation primarily as an instrument for ensuring respect for workers' rights contained in other legal sources. This applies even in countries like Croatia, even though information and consultation rights there

extend beyond EU standards, and a whole section of the Labour Code is even entitled ‘workers’ co-determination’.

A way forward?

In this final section, we summarize our respondents’ overall considerations regarding the effectiveness of their EWCs and ways to deepen that effectiveness, with consequent implications for the development of union policy. Respondents generally agreed that there were many benefits of EWCs, including: the strengthening of social dialogue; providing a company-wide vehicle for a regular, transparent and timely flow of information; improving employees’ understanding of the reasons behind management decisions at group level; diffusing a culture of social dialogue within the top levels of management; innovation and change, based on mutual understanding and cooperation; and developing a European corporate culture. However, while the information and consultation rights and procedures were assessed as relatively useful instruments, in general, they are not seen as tools for productive discussions between management and workers’ representatives for finding new solutions in fields such as productivity and competitiveness, which would be beneficial for both the workers and the company, nor as tools for ensuring higher levels of workers’ rights than those granted by applicable legal minima.

Indeed, a serious constraint on the development of EWCs is lack of employee interest, not just in reluctance to accept nomination for EWC election but also in their operation. Employees appear to be more concerned with issues related directly to their workplace, and may not appreciate how European group level activity affects them. Some respondents believed that the ongoing financial crisis may also drive employees away from the unions and increase mistrust towards them. Furthermore, there is very limited information available on the role of EWCs, both at national and European levels, which tends to restrict understanding of their function in companies. Information and consultation rights at work are not well understood among the public, or even among most workers and employers. This may reflect the relative lack of influence in most countries of EWC decisions on collective bargaining, especially in Bulgaria, Cyprus and the UK. The situation is much better in Italy, where the structures for collective bargaining and for information and consultation in subsidiaries, which generally supervise and monitor EWC members, are the same.

Links between EWCs and national information and consultation arrangements, or with the workforce, have until now been very much the responsibility of individual EWC members to organize. While it also depends on the integration of information and consultation procedures, the role of the individual representative is decisive. Usually links are much better in those undertakings where there are trade unions and where the trade unions are stronger.

Not unexpectedly, all worker representatives interviewed argued that the only way to make information and consultation rights more beneficial to workers, and to ensure their greater involvement, would be by extending the list of issues on which the employer is obliged to inform or consult. This depends very much on the management side and especially on the level of their understanding of the importance of the EWC process and on their style and views concerning worker rights. However, it was felt that management should be persuaded to do so in the interests of both company results and a more participative management style.

Certain amendments too are required in national legislation, especially with respect to the mechanisms for implementing EWC rights. The mechanisms for providing information, the definitions of ‘confidentiality’, the qualifications of EWC members and the procedures for

electing them could be improved. The role of government institutions in the supervision and control of these processes should also be improved, especially in cases where there are either no trade unions or they are weak.

In particular, our respondents believed that unions need to focus on improving the preparation of worker representatives, especially reaching out to those who are not trade union representatives or members, or who represent workers from a non-union environment. The positive role of EWCs should be more strongly promoted among employees and employers as a whole. This is a task not only for the social partners – notably national and EU-level trade unions and employers' associations – but also for governments.

National and sectoral trade unions need to adopt an active stance towards EWCs and engage in the process of inclusion and election of EWC members. Otherwise, respondents feared that EWCs could be manipulated by local management, citing evidence of reported cases where human resource managers, appointed by management, have been sent to participate in the work of EWCs as national representatives, especially from the central and eastern European countries. However, overall, respondents generally believed that EWCs had great potential and that strong union policy was a means to maximize it.

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