The European Works Council directive deals with a topic which has emerged through the process of European integration. Formally national rules on employee involvement remain untouched. However, it is to be expected that the introduction of this new level of representation will also have consequences for national industrial relations. For their future development the decisive questions are: whether and how far competition develops between company-based and nationally-based industrial relations systems; and whether and how far new genuinely European industrial relations structures develop on the basis of the ongoing experience of the operation of EWCs.

Three development paths

On the basis of what is a very short history, it is not surprising to find that so far one path predominates: European Works councils see themselves simply as extensions of the respective national industrial relations systems and have not developed a new transnational quality. Not to have developed a horizontal communications network in the new body is perfectly compatible with what the directive requires in terms of the EWC’s information and limited consultation role.

There are also clear pointers to the second path: the EWC members based in the country of the parent company, who are also normally the numerically strongest group in the EWC, dominate the new body and tend to marginalise the importance of the various foreign subsidiaries. The only way this can be counteracted is by EWC members from the parent company consciously holding back and ensuring that this is reflected in the structure of the EWC.

The third path, which could be described as “a European Works Council collective”, is the most ambitious. The EWC develops a new European-based collective identity with all EWC members having equal rights. The pre-condition for this is that all EWC members must be consciously prepared to accept the unfamiliar traditions and attitudes towards industrial relations, and to go beyond the information and consultation process provided by the directive and become a democratic working body. In this case the EWC is not an extension of some national body but rather has a role as a genuine participant in the industrial relations system.

Empirical experience suggests that the three paths, which this analysis presents, are not, or at least not in the first instance, alternative ways of developing, but can be seen as stages that follow on from one another. There is, of course, the possibility that EWCs get stuck at a particular stage, either for a period of time or permanently. It is also possible for an EWC to slip back onto one of the first two paths, if the conditions for behaving as a “collective participant” worsen, for example, if key individuals leave or the company merges.

The dangers of the parent predominating ...

The wide variation between the two poles of behaviour when a company is heavily concentrated on its parent is shown by two actual cases with German parent companies. One is an example where the whole EWC is effectively taken over by the EWC chair, who is based at the company.

So far some 500 European Works Councils (EWCs) have begun to function. In a variety of ways their operations are providing a new momentum in the development of European industrial relations. Whether this proves to be a threat or an opportunity for the trades unions depends in no small measure on their priorities in terms of organisation policies and effective actions.

New perspectives on industrial relations

by Wolfgang Lecher
Dr Lecher works in the Economic and Social Research Institute (WSI) in the Hans Böckler Foundation and is responsible for research on national and international industrial relations.

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The dangers of the parent predominating ...

The wide variation between the two poles of behaviour when a company is heavily concentrated on its parent is shown by two actual cases with German parent companies. One is an example where the whole EWC is effectively taken over by the EWC chair, who is based at the company.
headquarters. The other is an example where conscious attempts were made to overcome the negative tendencies of too great a predominance by the parent.

In the first case, that of a major German chemical group, the representational structure in the EWC is built around a single person, who has accumulated the central functions and the resources which go with them. This accumulation of positions and power, is to some extent a consequence of the way the German system of employee representation and co-determination is constructed.

This is particularly the case when the group has been built up from a powerful central location. Cooperation between group management and the key employee representatives is based on an extensive experience of reaching compromises between different interests. The employee representatives have shown that they are reliable partners, who recognise that rationalisation and cost reductions are objectively necessary and who are prepared to back them provided certain co-determination rules are adhered to and sufficient attention is paid to social issues.

The German works council members see the EWC as a fourth level of co-determination, which is logically linked to the third level, that for the whole German group, which has recently been formed. (The two other levels are for the plant and for companies within the group covering several plants.) This view - seeing the EWC as a direct extension of the national industrial relations system - is reflected in the way the EWC was established, without the involvement of foreign employee representatives. It is also reflected in the agreement, which commits both sides to “social partnership”, which allocates the seats according to the number of employees represented, and which retains the powerful position of the EWC chair.

Power lies with the chair of the German group works council, who is also EWC chair, and the individuals in management who are responsible for the EWC. This team has shaped the development of European employee representation so far. Because the group is undergoing a process of large scale and rapid restructuring, the employee representatives from foreign subsidiaries are extremely interested in information from group management.

However, they depend on the EWC chair relaying information, as he is the central contact person with group management. He stands in the centre of a star-shaped structure of communications and is in a position to control the flow of information. This gives him a key role for the internal coherence and effectiveness of the EWC. The fact that he combines multiple functions is both an advantage and a problem. In his relations with management it is a precondition for his particularly crucial role. On the other hand...
→ hand it makes his relations with the EWC more difficult as he is responsible not just to the EWC members but also to his German colleagues in other representative bodies. Above all this produces a problem in terms of the division of resources. In other words how the limited capacity available can be sensibly and fairly split between the four different levels: the works council (plant), the company works council, the group works council and the European Works Council. When the issue is international restructuring this can lead to severe conflicts of interest.

...and how to reduce it

The second case, that of a German metal goods group, is very different. In this case the groups works council chair, who is also the EWC president, has tried to use the strengths of the German system of employee representation for the benefit of the whole EWC. The result is that the EWC is both more European and more democratic.

This EWC has developed successfully on the basis of a dynamic tension between two strong national groups, the representatives from Germany and the representatives from the Netherlands. At the start the struggle between these two groups to dominate the EWC blocked progress, but their relationship has now become a driving force in reducing the predominance of the parent company. For example, the need to involve the Dutch representatives more closely led to the setting up of an executive committee that also includes representatives from other countries. The effectiveness of this EWC has grown particularly through the fact that there are a large number of “employee-side only” meetings. It has also been strengthened through the development of an independent information structure between EWC members. The current EWC president certainly plays a decisive role in this, as he has deliberately pushed back the predominance of EWC members from the parent company and so improved the position of non-German members. This structure and this approach has meant that the EWC has succeeded on three occasions in making its own proposals on problems linked to the location of production and to use these as a basis for agreements with central management.

The impact of EWCs on industrial relations in Britain ...

It is clear that the establishment and development of EWCs can lead to a wide range of possible outcomes, from the EWC being a simple recipient of information to the EWC being an active participant in European level decision-making. However, the question which must now be answered is how compatible is this new body with existing national industrial relations? What impact might it have on two very different industrial relations models, that in Germany and that in the UK?

In the UK there are three problem areas in the establishment of EWCs. Employee representation above plant level is traditionally poorly developed. Only occasionally are there so-called steering committees, which are generally led by convenors freed from their normal duties as employees. This means that British shop stewards have very little access to information above plant level. As a result the EWC has problems in communication, as it cannot build on an existing information network. This is not just a structural issue, it also affects content, because the whole approach and experience of the shop stewards tends to be concentrated on and limited to the horizons of plant. The fact that the EWC directive requires information and consultation at higher than plant level has led some companies to establish so-called company, employee, or partnership councils.

Generally their role is limited to being informed. Only rarely are they consulted and their composition and powers are decided by the employer, sometimes after consulting the union. To prevent the uncontrolled growth of such bodies, the TUC has proposed that, while as far as possible information and consultation rights should be taken up by the unions, where the unions represent less than 10 per cent of the workforce there should be an elected body. This is an extremely controversial proposal within the unions because of its far-reaching implications. It marks a clear break with the British tradition, according to which only unions can represent employees. In this important area, therefore, the introduction of EWCs has already produced a major change in attitudes towards the national industrial relations system.

The second problem comes from the one-dimensional nature of the system of employee representation, which is exclusively via the trade unions on a voluntary basis. The problem emerges because often unions can no longer speak for the majority of employees in a plant. There are likely to be more and more cases, where, because only trade unions represent workers, plants or whole companies are formally represented in the EWC by unions, who have no or only very few members in the plants involved.

A third problem of who can legitimately represent the workforce results from the existence of several unions. This means that the nomination or the election of employee representatives can always lead to complications and competition. Similarly the question as to whether full-time trade union officials or plant-based lay shops stewards are EWC members and the relative proportions between the two groups, is answered on a different basis from case to case. It is also still generally true that British unions and so industrial relations at plant level are oriented towards conflict. There has been no movement towards the rules of co-determination which are oriented towards consensus. This will make it more difficult for British EWC members to work together with management in the “spirit of mutual trust” which the directive requires and which for German EWC members is already part of their national legislation in the “Works Constitution Act.”

On the other hand, there are fewer legal prescriptions in the British industrial relations system giving a greater potential to adapt. This makes it perhaps better equipped to
incorporate and use creatively new elements in the structure.

... and in Germany

German industrial relations in contrast are marked by a highly developed system of co-determination, which far exceeds any possible rights provided by EWCs. As a result there are many ways in which the information channels and decision-making mechanisms provided by existing bodies can overlap with those provided by any future EWC. In the light of the traditionally well tried and highly developed “spirit of co-operation” between the group works council and group management, it is possible for trusted national channels to be seen as more important than the EWC. In these circumstances there must be a tendency for the EWC to be marginalised.

Even if this does not occur explicitly, the danger of the parent predominating is particularly to be expected in Germany for the reasons listed above. This would produce an imbalance in the field of information, which would be reinforced if the headquarters of the group were in Germany. The possibility of such an imbalance is in principle present in every EWC. But it is a key problem in Germany because of the specific nature of its industrial relations system and its economic strength within the EU. On the other hand, the fact that there are so many overlapping channels providing information from management means that the EWC can use this to cross-check the information it receives and so ensure that it is provided to the whole of the EWC in the right quality and quantity.

In terms of the role it plays, what is crucial for an EWC with German parents is whether it sees itself as being on the “parent-dominated” second path, described above, or whether it sees itself as being on the third development path as a “European Works Council collective”.

The need for unions to act

So far trade union activity has been largely limited to initiating and supporting the setting up of European Works Councils. With around 500 existing EWCs, each with a different range of operations, this is no longer sufficient. There are particular difficulties in industrial relations systems with dual channels of representation, both through the unions and through an elected works council type body. Here trade unions often find it more difficult to gain access to EWCs and as result the pressure is increasing for European trade union co-ordination, so that they can give support, and back-up and, on what for them are essential issues, provide direction to EWC policy for the whole group.

There are two ways to do this, which are not mutually exclusive. One way is for the unions with members in the group to each nominate an official at national level who takes responsibility for it. These then form a sort of ring around the EWC, providing an advisory team, perhaps based on the sites where the group operates. The EWC’s external experts are drawn from this group or recommended by it, thus guaranteeing a permanent link between the team, the experts and the EWC. The other possibility is for the unions to set up and support sectoral working groups of EWC members, who meet on specific topics to exchange information and develop mechanisms for transferring good practice between EWCs. Possible topics, which would have a wide interest, include health and safety, eco-audits, the implementation of the EU directives on parental leave, part-time workers and fixed term contracts or personnel and human resources information systems. These are all topics which to some degree have been regulated at European level but which need to be implemented at the workplace. Other possibilities could be equal opportunities, vocational qualifications and additional training.

Such working groups, made up of representatives from several companies, could break through the barriers between companies and help to end EWC members’ fixation on their own particular management. Finally such a link between EWCs and trade unions could help in the development of a transnational collective bargaining policy under the conditions of Economic and Monetary Union.

Further Literature


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