



Supporting the Public Services Sector
for Establishing and Promoting EWCs



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ESTABLISHING EUROPEAN WORK COUNCILS

UNDER DIRECTIVE 2009/38/EC:

Towards Better Involvement of Employees in the Company

MINI MANUAL 1

Supporting the Public Services Sector for
Establishing and Promoting EWCs

We present this **Mini-Manual** on "*Establishing European Works Councils under Directive 2009/38/EC: Towards a better involvement of employees in the company*" (which is complemented by another one on "*Establishing a transnational information system for employees in the public services sector*") developed within the framework of the project *Supporting the Public Services Sector for Establishing and Promoting EWCs*, with the aim of providing the actors involved with a flexible, useful and comprehensible tool, both for those who have already entered the world of EWCs and for those who have not yet had the opportunity to do so.

We believe that the methodology used in its development, with simple questions and answers on the basic content of EWCs, is suitable for use "in the field". Its aim is to help both trade union and employer representatives with the procedures and tasks involved in setting up and running a European Works Council.

Establishment of European Work Councils Under Directive 2009/38/EC: Towards Better Involvement of Employees in the Company

The European Union supports and complements the action of the Member States regarding worker participation, through information and consultation of workers. It is for this objective that the fundamental aspects of European social policy are pursued, such as the improvement of living and working conditions, adequate social protection, a high and sustainable level of employment and the fight against exclusion.

Which rule governs the setting up of an EWC?

The implementation of the right to information and consultation of employees lies in the European Works Councils (EWCs) established by Directive 2009/38/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees Directive 94/45/EC , which amended and repealed the previous regulating such transnational participation.

What is the aim of Directive 2009/38?

To guarantee the right to information and consultation on transnational matters for the employees of European-scale undertakings or groups of undertakings (with at least 1,000 employees) by means of two measures: The establishment of a European Works Council or an alternative procedure for informing and consulting employees.

What is the EWC?

It is the council set up to carry out the information and consultation of employees.

What is information and consultation?

Information is the "transmission of data by the employer to the employees' representatives in order to enable them to acquaint themselves with the subject matter

and to examine it". On the other hand, consultation is "dialogue between employees' representatives and central management to express an opinion".

What is a EWC for?

The main purpose of EWCs is to be informed and consulted on transnational projects.

Who can establish European Works Councils?

On the one hand, Community-scale enterprises which have establishments in different Member States of the European Union or in the countries of the European Economic Area, which employ at least 1,000 employees within the group, and which employ at least 150 employees in each of at least two different Member States.

On the other hand, Community-scale groups of undertakings which have at least 1,000 employees in all the Member States, which comprise at least two undertakings of the group situated in different Member States, with at least one undertaking of the group employing 150 or more employees in one Member State and at least one other undertaking of the group employing 150 or more employees in another Member State.

Who can initiate the procedure for establishing an EWC?

In any event, the central management is responsible, either on its own initiative or at the written request of at least 100 employees or their representatives in at least two establishments of the undertaking or group of undertakings in different Member States.

On receipt of such a request, the central management shall call upon its management in the Member States to set up the negotiating body of the Committee or the procedure for informing and consulting employees.

Who are the stakeholders in the EWC?

On the one hand, the employees' representatives provided for by national legislation and/or practice and, on the other hand, the central management of the Community-scale undertaking or the controlling undertaking in the case of a Community-scale group of undertakings.

What is the special negotiating body?

The special negotiating body is the group set up to negotiate with the central management the establishment of a European Works Council or a procedure for informing and consulting employees.

What is the procedure for the meetings of the special negotiating body?

It is the responsibility of the special negotiating body to determine, together with the central management, by written agreement, the scope, composition, powers and duration of the EWC mandate or the procedures for implementing an information and consultation procedure.

How is an agreement reached in EWC negotiations?

They may decide in writing to establish one or more information and consultation procedures instead of establishing a EWC, setting out the arrangements for meetings between the EWC and the central management.

The special negotiating body may decide, by a majority of at least two thirds of the votes, not to start negotiations or to cancel ongoing negotiations, thus terminating the agreement.

What is the composition of an EWC?

The members shall be elected or appointed in relation to the number of employees employed by the Community-scale undertaking or group of undertakings in each Member State, with each State being entitled to one member for each 10% or part thereof of the number of workers employed in all the Member States. If the EWC has more than 12 members, a select committee of 3 members shall be elected to receive information and attend meetings.

How are the members of a EWC elected?

The manner in which these representatives are elected or appointed is determined by each State for its own territory, so as to ensure that there is a representative even if there is none in the company.

What guarantees do EWC members have for the performance of their duties?

They shall have the means necessary for the collective representation of workers' interests, the right to inform the workers' representatives in the undertaking or establishment, adequate training (without loss of salary) to enable them to carry out their duties, and protection and guarantees similar to those provided for by national legislation.

What powers does the EWC have?

To be informed and consulted on issues affecting the company as a whole; to hold at least one meeting a year with central management; and to be informed in sufficient time to be able to give their opinion on exceptional circumstances which significantly affect the interests of employees, in particular in the case of relocations, closures of establishments or undertakings or collective redundancies.

When and how is the EWC informed?

Workers shall be informed and consulted in an appropriate time to allow discussion of the issue. The information provided by the employer must enable the employees' representatives to be aware of the situation and to develop a response (consultation phase) to the issue raised.

They shall be carried out at the relevant level of management and representation, depending on the subject matter and only on matters of transnational scope; the central management is required to inform and consult the workers' representatives on company developments and any relevant decisions that may affect them, providing the information that will enable negotiations to take place within the framework of the EWC.

What kind of information does the central management need to provide?

- In particular on: The structure, economic and financial situation, the probable development of the activities, production and sales of the Community-scale undertaking or group of undertakings.
- And in specific terms on: The situation and probable development of employment, investments, substantial changes affecting the organisation, the introduction of new methods of work or new production methods, relocation of production, mergers, reduction in size or closure of undertakings, establishments or important parts thereof, and collective redundancies.



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