



Supporting the Public Services Sector
for Establishing and Promoting EWCs



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ESTABLISHING A TRANSNATIONAL INFORMATION SYSTEM

FOR WORKERS IN THE
PUBLIC SERVICES SECTOR

MINI MANUAL 2

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Establishing and Promoting EWCs

We present this Minimanual on " Establishing a Transnational Information System for Workers in the Public Services Sector "Establishing European Works Councils in Directive 2009/38: Towards a better involvement of workers in the company" Supporting the Public Services Sector for Establishing and Promoting CEE " (which is complemented by another one on) elaborated in the framework of the project o with the aim to provide stakeholders with an alternative option to the non-existence of EWCs in the European public services sector.

Establishing a Transnational Information System in the public services sector: An alternative to the impossibility of setting up EWCs in this field

The European Union supports and complements the action of the Member States in the field of employee participation through information and consultation of employees, with a view to implementing fundamental aspects of European social policy, by providing, through Directive 2009/38, for 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.

However, when it comes to implementing this possibility of worker participation in the public service sector, we face certain difficulties that make it impossible to create these EWCs, which do exist in the private sector.

a) The first difficulty: public service and transnationality

Directive 2009/38 provides for the creation of EWCs for Community-scale companies or groups of companies, which are those that employ 1,000 or more workers in the Member States and, in at least two different Member States, employ 150 or more workers in each of them.

A condition that is not met in the public sector of the different countries, given that they do not have this "classification" of "Community-scale company" (the public administration, in which neither a registered office nor a controlling company can be defined, for example) and that, due to their national functions and subjection to the government of their country, they do not enjoy a minimum level of internationalisation, which clashes with the definition of transnationality in Directive 2009/38 itself.

The condition of being present in different countries is not met in the case of the public sector. The public sector does not belong to the category of Community-scale enterprise (the public administration, for example, in which it is not possible to define a head office or a controlling company) and does not have a minimum level of internationalisation due to its national tasks and its subordination to the government of the country. Those characteristics contradict the definition of transnationality in Directive 2009/38.

b) The second difficulty: the exclusion of non-Member States

The second difficulty (impossibility) is of a strictly legislative nature, since the scope of the Directive is limited to the Member States (as stated in Article 19: "This Directive is addressed to the Member States"), thus excluding the candidate countries, which would not have the possibility of being integrated into this transnational information system.

c) The third difficulty: industrial relations systems

The different industrial relations systems in Europe as a whole are also an element affecting the creation of EWCs.

The culture of industrial relations, the existence or non-existence of workers' representatives in the public sector, the way they are elected, their powers, their capacity to act or the possibility of intervening in the regulation of the working conditions of public service employees through collective bargaining are, among other things, indicators of the possibility of setting up EWCs in this sector.

The importance of worker participation, also in the transnational field.

The effectiveness of any organisation depends, to a large extent, on its capacity to carry out the processes of generation and transmission of information, both within the organisation and externally.

Employee participation is important because the decisions an organisation can make have an impact on its future and on its members. Involving employees in the decision-making process contributes to the success of the organisation and increases employee motivation and commitment, as well as creating a better industrial relations environment and contributing to social peace.

In this sense, information and consultation systems (both at national and transnational level) become the necessary instruments to carry out this process of employee participation in the public administration.

Consequently, and given the impossibility of setting up EWCs in the public sector, we believe that a system of exchange of information between trade union representatives and public managers in the different Member States and/or candidate countries can be established. However, we cannot under any circumstances set up a system of consultation, due to the differences in the concept and structure of what is understood by the public sector and the way in which collective bargaining is understood and approached in each country.

That is why we are committed to the creation of a Transnational Information System in the area of public services, because we believe that it can bring benefits to all states, members or candidates that could join it, which we will try to justify.

I. The Transnational Information System can improve the industrial relations systems of countries with less tradition in this respect

We can assume that in countries where there is a strong tradition of social dialogue, the Transnational Information System for public services will work more effectively comparing those with weaker industrial relations culture. It can serve as a coherent tool and a "mirror" for them to look at, promoting social dialogue in these countries and encouraging the development of workers' representation at national level.

Thus, although the aim of our Transnational Information System (and of the EWCs) is to deal with transnational issues, beyond these information and consultation processes, this structure can improve social dialogue at local level and resolve some conflicts at that level.

II. The Transnational Information System can improve the struggle against the impact of new situations such as new pandemics

During the COVID-19 pandemic, all countries had to develop very similar strategies, sometimes supported by proposals from the European Commission.

There is no doubt that COVID-19 has had a major economic and work organisation impact; and that the extent and nature of this impact was clearly affected by the sector of activity, with public services bearing the greatest burden in the fight against this pandemic.

In this respect, a Transnational Information System in public services could lead to greater cohesion between them and the exchange of information and strategies could provide added value in resolving these situations.

III. The Transnational Information System can bring cohesion to the implementation of labour actions that are carried out in a similar way in different countries

We have to consider that neither the economic impact of the pandemic, nor its organisational or restructuring and employment impact are not yet complete in most countries and in the public service sector.

The change in the way of working, in particular in the public sector, accelerated by the pandemic has contributed to the debate on future ways of working such as remote working along with many other issues common to the different Member States and candidate countries, which are being worked on at national level with the respective governments. All countries, to a greater or smaller extent and with very similar considerations, are tackling a series of issues in the framework of collective bargaining, social dialogue or national information and consultation systems, among which, without doubt, are to be found:

- the digitisation of public services;
- the regulation of teleworking;

- the implementation of new technologies;
- the creation of new forms of employment or service provision;
- the implementation of work-life balance measures;
- health and safety measures in the workplace in view of the creation of new green jobs, decarbonisation, workplace conditions or the fight against pandemics;
- training in view of the emergence of new jobs and new forms of employment that require workers to learn new professional skills. Consequently, Transnational Information System in the area of public services, the main recipient of the implementation of the aforementioned issues, we are committed to the existence of a which could facilitate a more homogeneous application in Europe, bringing us closer to fairer and more acceptable employment conditions in all territories.



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