Can anybody hear us?

An overview of the 2018 survey of EWC and SEWC representatives

by Stan De Spiegelaere & Romuald Jagodziński

etui.

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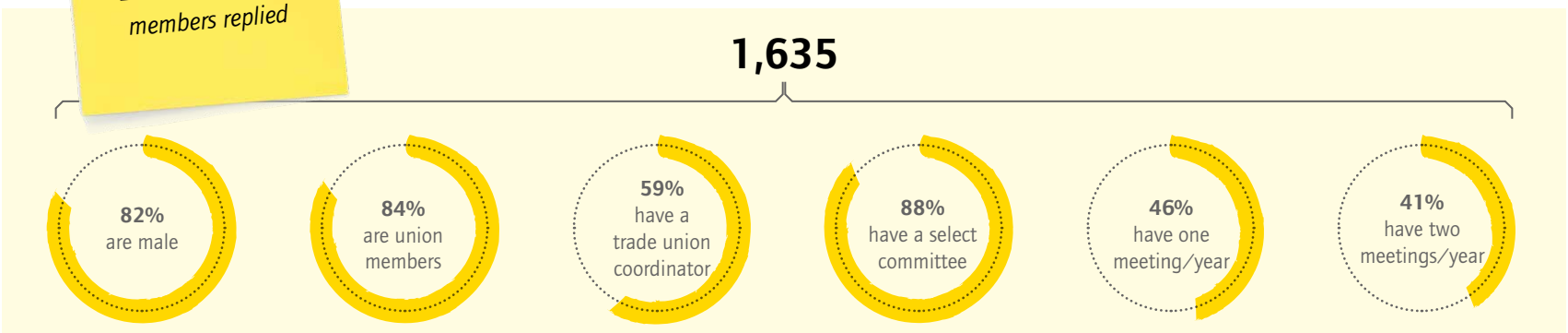
ETUI publications are published to elicit comment and to encourage debate. The views expressed are those of the author(s) alone and do not necessarily represent the views of the ETUI nor those of the members of its general assembly.

Highlights.

1,635
EWCs and SEWCs members replied



Information & consultation

- Only 22% consulted before the final decision

Communication

- 67% always try to align positions between countries

Training

- 38% have received no training

Art. 13, Art. 6 and SEWCs

- Few differences in practice
- Legal base different

Changes over time

- More meetings per year
- Little improvement

Restructuring

- 91% are engaged with restructuring projects
- Less than 13% had a timely extraordinary meeting

Management

- Able: 67% say decision-makers are present
- But not willing: only 39% say management tries to find solutions

Conflicts

- 16% had experienced a serious conflict
- Few cases went to court

Trade union coordinator

- Where a trade union coordinator is present, the EWC's internal organisation is better.

Demands for the future

- Enforcement: 83% want a prohibition of decisions taken without prior consultation

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Terminology and abbreviations.

This study focuses on the views of employee representatives active in European Works Councils and similar representative bodies established in European Companies. To streamline the text, we use the following terminology and abbreviations:

Abbreviation/term	Explanation/comment
(Trade union) coordinator	*Someone from outside the company who, with a trade union mandate, advises and supports the EWC or SEWC in its functioning.*
CEE	*Central-Eastern Europe*
DK	*Don't know*
EEA	*European Economic Area*
ETUI	*European Trade Union Institute*
EU	*European Union*
EWC	*European Works Council*
EWC Directive	*Directive 94/45/EC*
EWC member	*Shorthand for employee representatives active in EWCs or SEWCs.*
HR	*Human Resources*
MNC	*Multinational Company*
NA	*No Answer*
Plenary meeting	*Planned, regular, face-to-face meetings of all EWC or SEWC members.*
Recast Directive	*Directive 2009/38/EC*
SE	*European Company (Societas Europeae)*
SE Directive	*Directive 2001/86/EC*
Select committee	*A smaller group of EWC members which, among other things, is responsible for preparing meetings and which runs the EWC between meetings.*
SEWC	*SE works council: representative body established in a European company*

Notes

Introduction.

During a break in a corporate team awayday for employees of a multinational company, an Irish, a Spanish and a Romanian employee are having a coffee together.

The Irish employee says: 'In Ireland, the company's recently fired fifty employees and argued it was a minor local restructuring.'

The Spanish one says: 'Oh! In Spain, our company outsourced all of its payroll services and consequently got rid of the whole department.'

And the Romanian says: 'Really? In Romania, they closed down the whole factory and shipped it to China.'

Does this sound familiar? Is this the way employees – working people – should find out about their future working lives?

Unfortunately, for many employee representatives in multinational companies, the reality is not very different from this anecdote. Lacking basic information about corporate plans, restructuring and workplaces, and lacking a dialogue with central management, employees are left in the dark about financial and economic performance, the situation in other countries and what their own future is going to be.

To counter this, and to guarantee the fundamental right of employees to be informed and consulted about things going on in their company, the European Union adopted legislation in 1994 on European Works Councils (EWCs) and, in 2001, on works councils in European Companies (SE works councils).

EWCs and SEWCs provide a formal forum for social dialogue at (transnational) company level: they bring together employee representatives from different countries with the central management of a multinational company. Furthermore, they allow for employees to be informed and consulted about transnational issues in the company and, in turn, to influence corporate decision-making via the consultation process.

Unique survey data

In this publication, we give an insight into the functioning of these councils from the perspective of employee representatives. This publication presents the results of the largest survey of EWC representatives conducted to date. The survey documents the opinions on a wide range of topics of more than 1,600 employee representatives from all EU countries representing over 300 different EWCs.

This first publication provides a graphical overview of some of the main results of the survey. It is aimed at a broad public and therefore tries to avoid complicated statistical terminology and methods. We therefore limit ourselves to a descriptive analysis of the data. Further publications will provide a more thorough statistical analysis of some of the topics reviewed here.

Notes

Introduction.

Policy context

This research fills a knowledge gap by looking at the functioning of EWCs and SEWCs from an insider perspective – that of the worker representatives who sit on these bodies. The study appears at an important time juncture when, 25 years after the introduction of the original EWC Directive, a debate is taking place about the current condition of EWCs and their future. This study feeds into the ongoing discussion evaluating EWCs in the period after the Recast Directive and identifying possible ways forward.

The EU passed its first Directive on European Works Councils in 1994, providing a legal framework for the establishment of EWCs. Without going into detail on the legislation, the Directive was an important catalyst for the establishment of hundreds of cross-border works councils mobilising thousands of employee representatives.

Soon after, it became clear that many EWCs were not functioning properly. Employers could easily stall or completely block the establishment of an EWC. Furthermore, once established, EWCs were often informed only after final decisions had already been taken. Obviously, at such a time, there is no room (or time) for real consultation to take place.

Seeking to remedy this, the European Union passed the Recast Directive in 2009 with the aim of increasing the number of EWCs, improving their operation and guaranteeing legal certainty to the parties involved.

The European Commission's evaluation of the Recast Directive was planned for 2016 but then delayed until 2018. As was the case with the first Directive, the European Commission has identified multiple problems with the functioning of EWCs, yet has not translated this even into a willingness to improve the rules governing EWCs, far less bring forward any initiative for doing so.

SE works councils

Inspired by the uptake and evolution of European Works Councils, the EU also passed a regulatory framework on so-called European Companies (Societas Europeae, SEs). This consists of a Regulation specifying how such SEs can be established and a Directive providing for the (potential) establishment of representative bodies for information and consultation on transnational issues.

These SE works councils are very similar in their goals, set-up and functioning to EWCs. We have therefore included SE employee representatives in this survey and discuss their opinions alongside those of EWC members.

Notes

Introduction.

Research context

Over the years, European Works Councils have received much attention from researchers, academics, policy-makers and other stakeholders. A rich literature exists providing valuable insights for practitioners and policy-makers on how EWCs function, what works and what does not, what have been the legal challenges and how EWCs operate internally.

In the run-up to the European Commission's planned evaluation of the EWC Recast Directive in 2018, a series of important studies were published, including:

- a legal analysis of national implementation laws (Jagodziński 2015) and the level of articulation between the local and the European level (Dorssemont & Kerckhofs 2015);
- an overview of the content of EWC agreements and their development over time (De Spiegelaere & Jagodziński 2015);
- longitudinal research into EWC case studies (Kerckhofs 2015);
- a study into the perspective of EWC coordinators on EWCs (Voss 2016);
- an overall evaluation of the Recast Directive commissioned by the European Commission (European Commission 2016);
- analysis of the effects of EWC agreements under the Recast Directive (De Spiegelaere 2016);
- and a study into the management perspective on EWCs (Pulignano and Turk 2016).

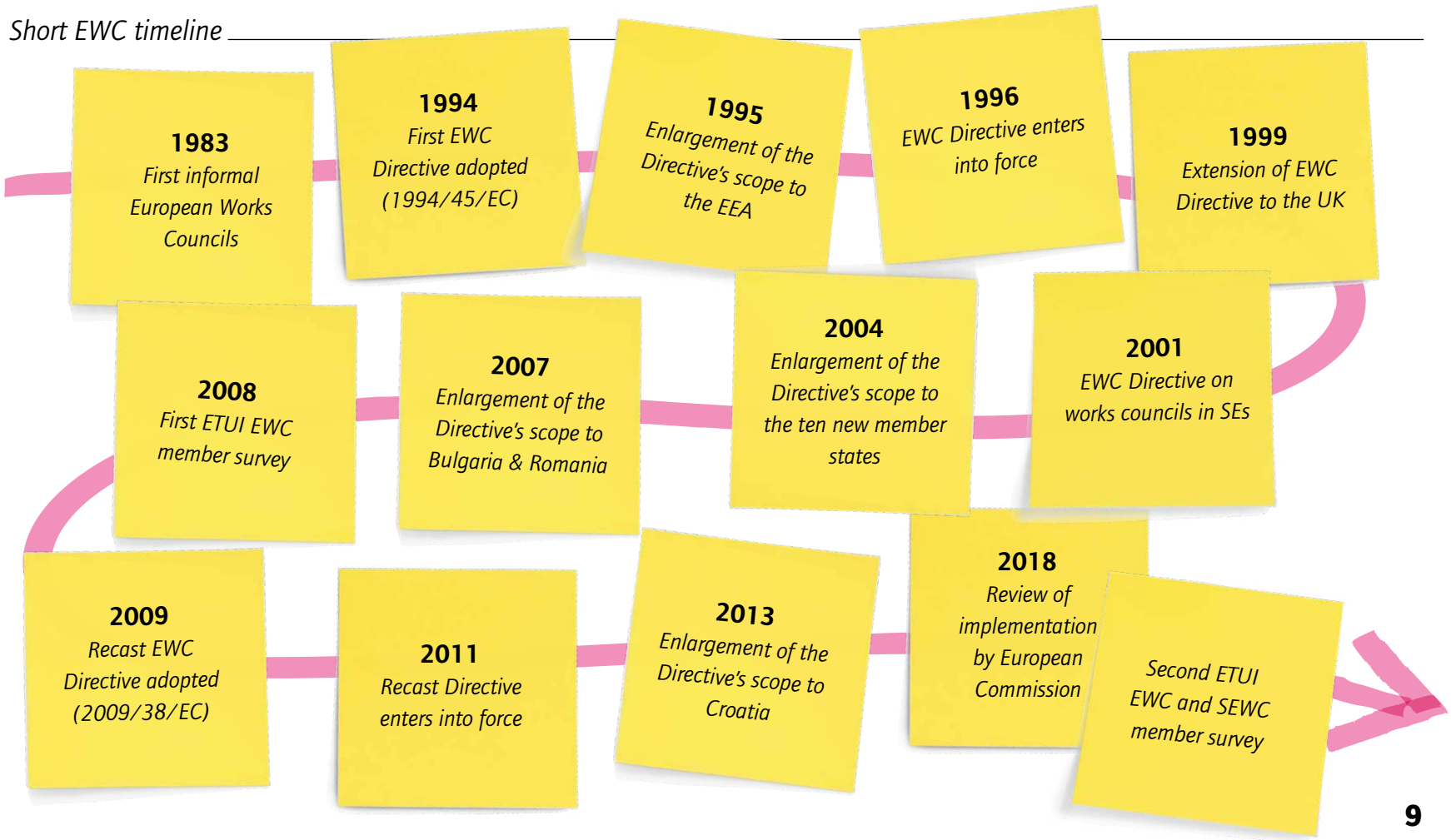
This survey and publication complements this research as it provides a unique insight into the views and opinions of EWC employee representatives themselves.

This enables us to go beyond case study insights and provide a more representative and general perspective, including on the views and perceptions of smaller EWCs and EWC representatives in countries with few EWC members, comparing their assessments and opinions. On the downside, a standardised survey has inherent limitations in that it squeezes and condenses diverse, rich opinions and views into a straightjacket of standardised responses and fixed statements.

However, we are confident that, together with the existing body of research, the output from this survey and highlighted in this publication will enable practitioners and policy-makers to get a full(er), (more) complete view of the existing state of EWCs and the challenges that lie ahead.

Notes

Short EWC timeline



Introduction.

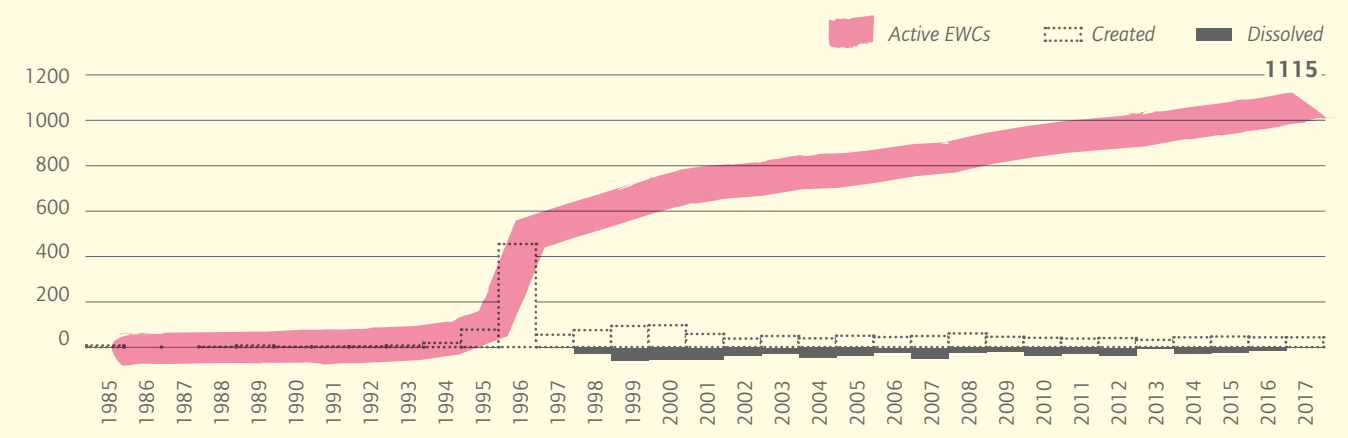
Notes

EWC timeline

In 1983, the need for a form of transnational information and consultation of employee representatives led to the first experiments with works councils at the European level. Foreign employee representatives started to be invited on an ad hoc basis to join meetings of national group level works councils so that they could exchange information with representatives in the headquarters country and align their positions towards management. In other companies, real transnational works councils were established.

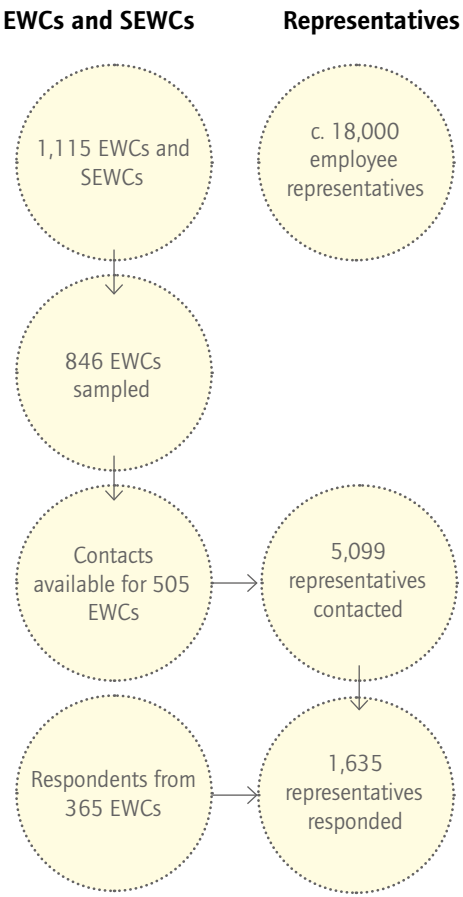
Due to the political climate in the European Community, it took another ten years, until 1994, before the European legislature passed a legal framework for European Works Councils. To encourage the voluntary setting-up of EWCs, the Directive included the opportunity to negotiate and start 'voluntary' EWCs before the Directive came into force in 1996. These so-called Article 13 agreements would not fall under the rules of the Directive. As can be seen in the graph above, the incentive worked and led to a steep increase in the number of EWCs established.

Following 1996, the number of EWCs has increased steadily but at an ever-slower pace (De Spiegelaere 2016). One of the purposes of the 2009 Recast Directive was to increase the number of EWCs; yet there is no indication that this has actually happened. Over the years, the number of dissolved EWCs has also increased. The large majority of EWCs are dissolved as a result of mergers and acquisitions (De Spiegelaere and Jagodziński 2015).



The 2018 EWC Survey.

Who responded?



1,635 *representatives responded from 365 different EWCs and SEWCs*

The purpose of the survey was to collect data from a representative sample of EWC employee representatives. We estimated this population in July 2017 to be around 18,000 people.

Unfortunately, there is no central list of EWC representatives. We therefore decided to start from the EWCs that we have identified in the ETUI's database (www.ewcdb.eu). 846 EWCs were randomly selected and contacted. Contact was successfully made with 505 EWCs and with a total of 5,099 EWC representatives. Of those 5,099 representatives, 1,635 responded to the survey (32%), giving us information from 365 different EWCs.

Notes

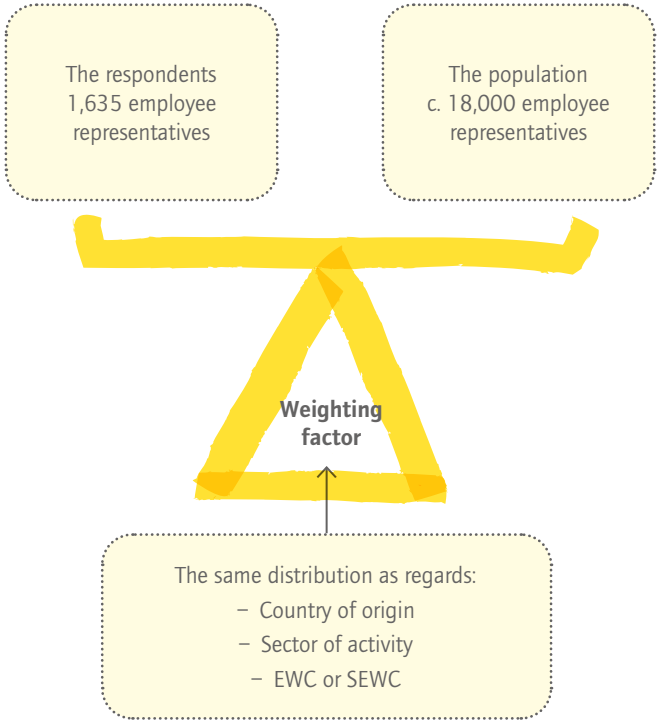
The 2018 EWC Survey.

Representative data? Weighted results

Although we took a random sample of EWCs, the respondents to the survey differed from our (estimated) population in several respects. This is because the survey reached certain groups of EWC representatives more than others and that certain EWC representatives were more likely to take up our invitation to participate in the survey.

To correct for this, we have included a weighting factor in the analysis based on country of origin, sector of activity and whether the representative was from an EWC or an SEWC.

The use of a weighting factor has thus allowed us to rebalance the differences between the population and survey respondents in terms of each of these three aspects.



Notes

The 2018 EWC Survey.

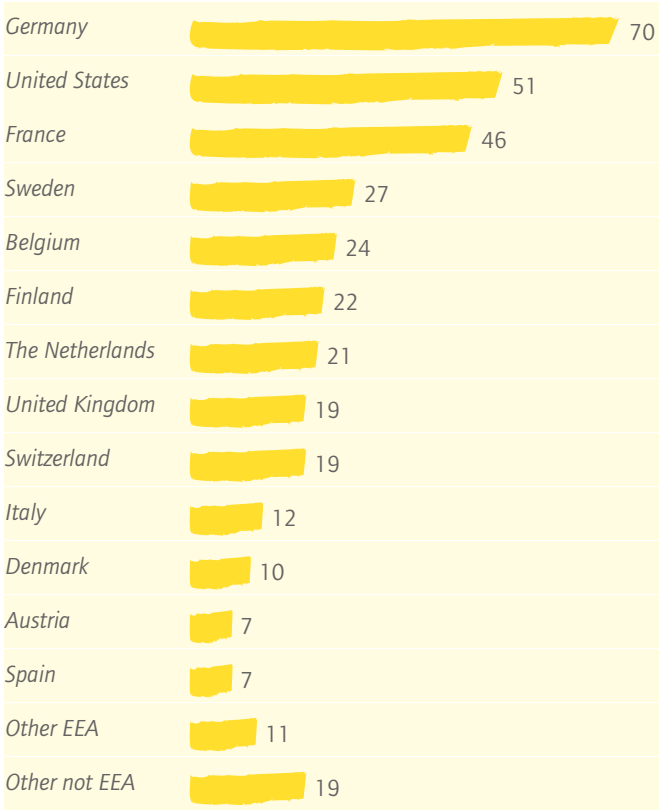
1,635 EWC representatives from 365 EWCs

The survey collected information from 1,635 members from 365 different EWCs and SEWCs. Below, we document these 365 EWCs in terms of the country in which the company has its headquarters.

In line with findings from the European Works Council Database (www.ewcdb.eu), a significant proportion of EWCs that responded to the survey had their headquarters in Germany, the United States and France. Conversely, while there are quite a few EWCs active in companies headquartered in the UK, we observe that we have survey information from only 19 EWCs established there.

Very few EWCs included in the survey were headquartered in central and eastern European countries. This is because fewer than ten EWCs have been established in companies whose headquarters are in those countries.

Company headquarters country of the 365 EWCs included in the survey



Notes

The 2018 EWC Survey.

A focus on EWC representatives

This publication is uniquely focused on the perceptions of individual EWC employee representatives. This means we are not talking about the proportions of EWCs or the differences between EWCs and multinational companies, but about the proportions of EWC members, their opinions and the differences of perceptions between EWC members.

	EWC level	EWC members level
Country	'A large proportion of EWCs are established in Germany'	'A large proportion of EWC members are from Germany'
Timing of information and consultation	'Most EWCs do not get timely information and consultation'	'Most EWC members do not get timely information and consultation'
Training	'In one-half of EWCs, training is delivered to employees'	'One-half of EWC members have been provided with training'

The focus of this report

For example, if we discuss the timeliness of information and consultation, one could discuss this at EWC level or at EWC member level.

Referring to EWC level, one could conclude that most EWCs do not get timely information and consultation.

In contrast, at EWC member level, one could conclude that most EWC members do not get timely information and consultation.

In this publication, all figures need to be interpreted at the level of EWC members and not at EWC level.

Subsequent publication(s) will focus on the EWC level by aggregating data from members, but this is not the case in this publication.

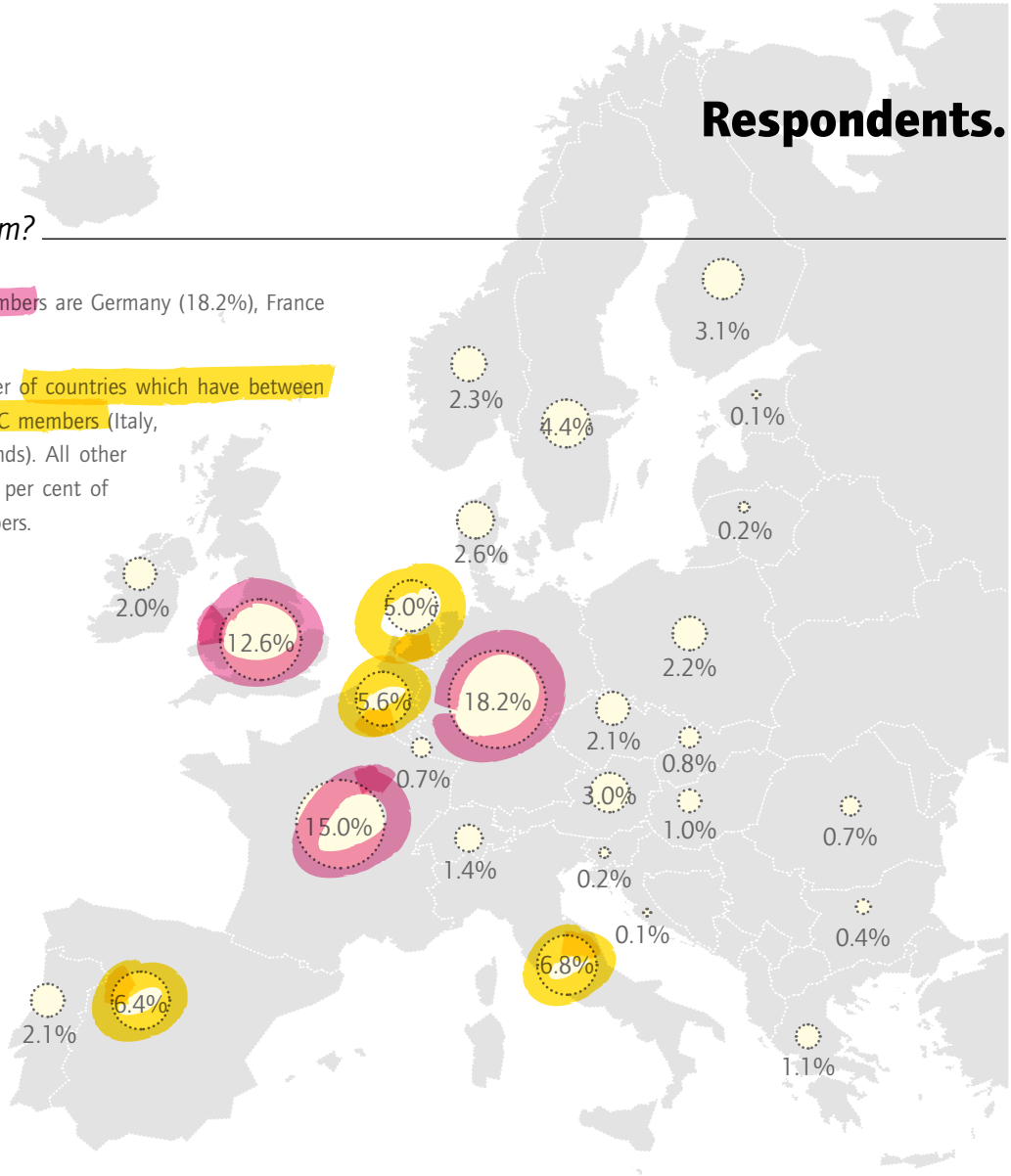
Notes

Respondents.

Where do they come from?

The countries with most EWC members are Germany (18.2%), France (15.0%) and the UK (12.6%).

Following these, there is a number of countries which have between five and seven per cent of all EWC members (Italy, Spain, Belgium and the Netherlands). All other countries represent less than five per cent of the total population of EWC members.



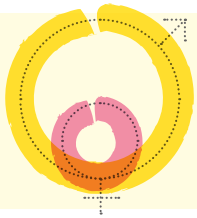
Notes

Respondents.

EWCs: spot the women

Respondents:

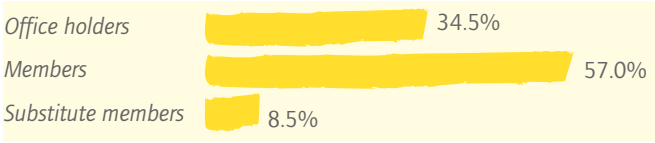
18.4% of the respondents are female



and 81.6% are male

Office holders, members and substitutes

Respondents by function in EWC



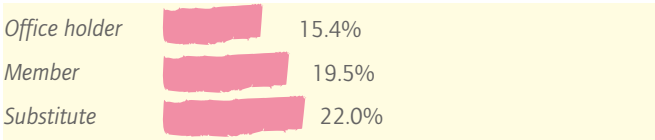
34.5% of the respondents were 'office holders'. These are EWC members who have a function as (vice)-chair, (vice)-president or secretary, and/or a position as a member of the select committee of their EWC.

Most of the EWC members who responded are regular EWC members who have not taken up any additional function.

8.5% of respondents are substitute members.

A glass ceiling for women members?

% female EWC members by function in EWC



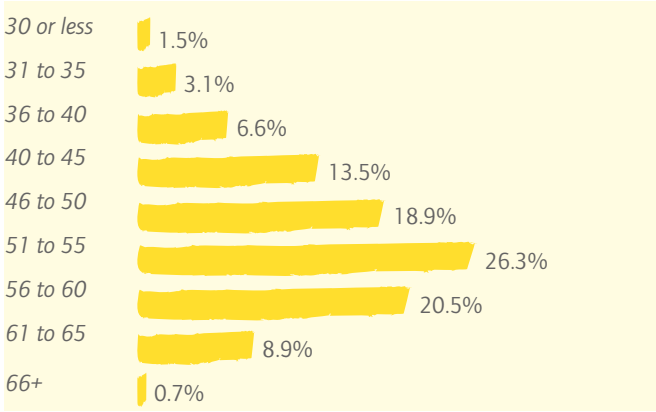
The vast majority of EWC members are men: more than eight out of ten. When we compare the gender of EWC members and their function, we observe that women are less likely to be found in more senior positions. Twenty two per cent of all responding substitute members are women, as are 19.5% of normal members but women constitute only 15.4% of office holders. There is huge room for improvement in terms of gender balance in EWCs.

Notes

Respondents.

How old are EWC members?

% EWC members by age category



On average, EWC members are between 50 and 51 years old. As expected, there are few members who are older than 65, but there are also very few who are younger than 30 (only 1.5%). The youngest EWC member who replied to the survey was 26 years old; the oldest was 73.

Office holders are older

Average age

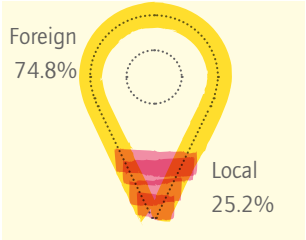
The average age of EWC members who are also members of the select committee or the (vice-)chair (i.e. office holders) tends to be higher on average (52 years) compared to normal members (50) and substitute members (49).

Notes

Respondents.

Local or foreign members?

An EWC brings together employees from different countries. In European multinationals, some of these members will come from the same country where the company has its headquarters. We consider these as 'local' EWC members, while 'foreign members' are those from a different country than that of the company headquarters.



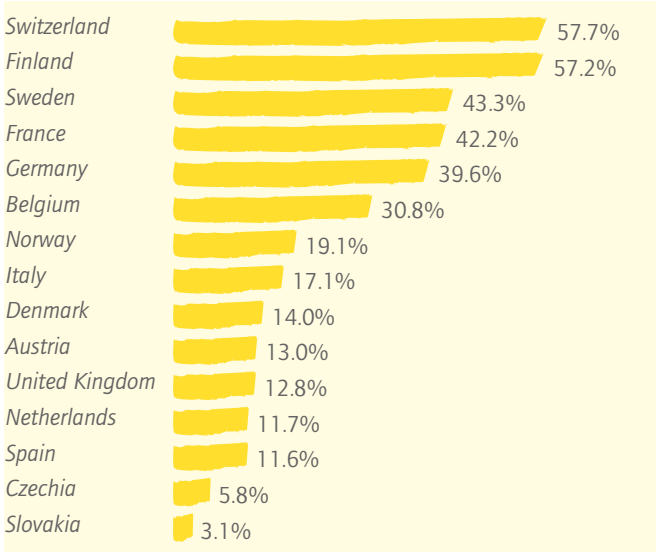
One in four are from the same country where the company has its headquarters, while three in four are part of an EWC that is headquartered in another country. Obviously, all EWC members from companies headquartered in the US, Japan or any other non-EEA country are 'foreign'.

Who has most 'local' members?

The seats on an EWC mostly reflect the employment levels of that company in different countries. Switzerland and Finland have the most 'local' members, meaning that they are members of EWCs in companies that are based respectively in Switzerland or Finland. In contrast, there are many countries who have few, or close to no, EWC members in companies which are headquartered in that specific country.

Almost none of the members from central and eastern European countries are 'local'. This is because very few companies headquartered in CEE countries have established an EWC.

% local members by country

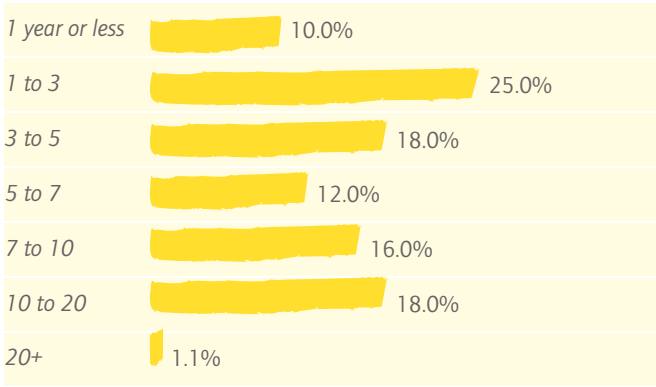


Notes

Respondents.

How long have they been a member?

Years on the EWC



The median EWC member has been a member of that EWC for about five years. About 10% have been members for less than one year and 17.7% have been members for more than ten years. One respondent (in our survey) has been on the EWC for thirty years (congratulations!).

Who has the longest careers?

Office holders tend to have longer tenure on the EWC. The median office holder has been an EWC member for about eight years (vs. five for regular members).

Union members tend to have longer tenure, too. The median union member has been a member for six years compared to three for the median non-union member.

EWC members from central and eastern European countries and southern European countries have, on average, shorter tenures on the EWC than EWC members from other countries.

Notes

Trade union members.

Trade union members.

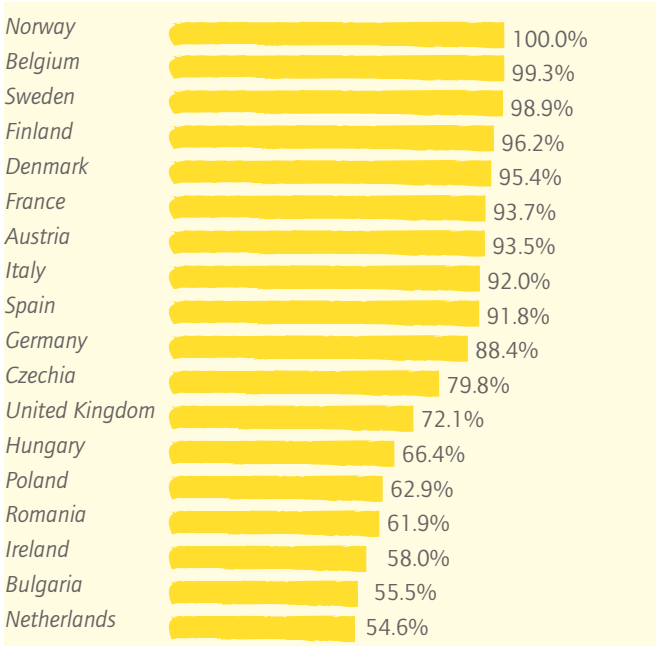
Union members

The vast majority of survey respondents are trade union members. As the survey was distributed in cooperation with trade union federations, we would expect this to be an overestimate. At the same time, as we will see on the next page, the overestimate is probably limited to a couple of percentage points.

83.7% union members

Big variation by country

% union member



Focusing only on those countries with more than twenty members (where there are fewer than twenty, the outcome is not particularly reliable), we can observe a wide variation in the proportion of EWC representatives who are union members. In many countries, almost all EWC members are union members. However, in countries such as the Netherlands, Bulgaria, Ireland, Romania and Poland, less than 65% of EWC members are union members.

These results clearly reflect national industrial relations contexts, overall workforce unionisation levels in a given country and the national rules that govern the selection of EWC members.

Notes

Trade union members.

Trade union members in most EWCs

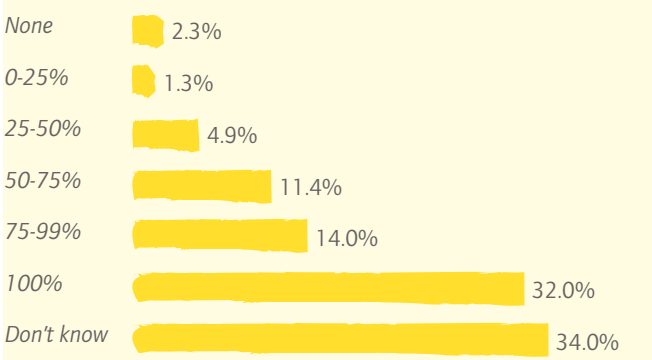
Asked whether other EWC members are members of trade unions, about one-third of EWC members indicate that (according to them) all the members of the EWC were also members of a trade union. A further roughly one in four say that the majority of EWC members (but less than 100 per cent) are union members. One in three, however, could not answer the question.

This means that only 8.5% of members think their EWC contains less than 50% union members.

Taken together, EWC members estimate that, on average, 80% of the members of their EWC is also a member of a trade union. In this survey, 83.7% of respondents were trade union members (see previous page).

This indicates that the overestimate of union members might be relatively small. At the same time, that one-third of respondents did not know the answer to this question shows that it is not possible to be definitive about the proportion of union members on EWCs.

Proportion of union members on an EWC (according to EWC members)



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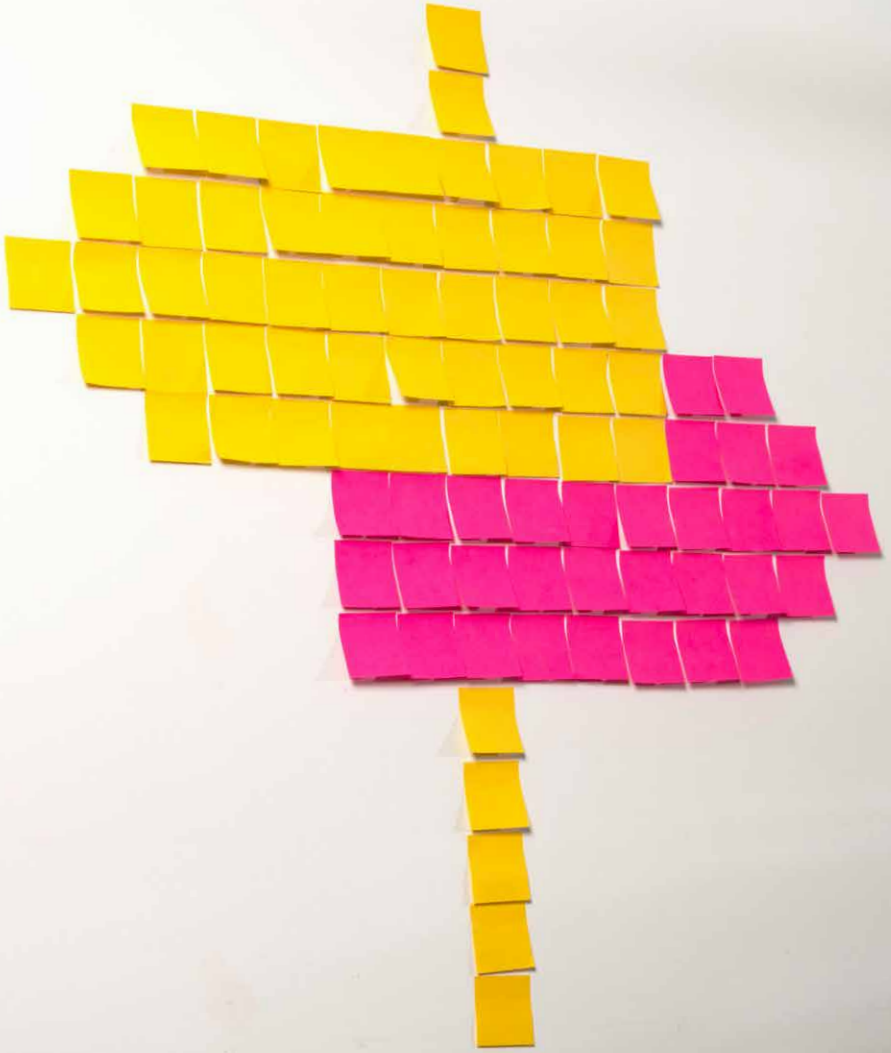


Trade union coordination.

Trade union coordination.

Trade unions are important actors on European Works Councils. First of all, many EWC members are members of trade unions. Second, in many countries local representation happens through the trade unions, making them partners of the EWC for input and reporting back. Together they constitute the fibre and the systems for workers' interest representation. Thirdly, trade unions provide support to EWCs through expertise and training. Many EWCs also have trade union coordinators, who are trade union officials assisting the EWC in its functioning and operation and who form the connection to trade union activity.

Most EWC members are assisted by trade union coordinators...

59% of EWC members say they have access to the help of a trade union coordinator. About one in five don't have a trade union coordinator while another one in five do not know whether there was a coordinator assisting their EWC.

67.7%
of the EWC members consider their trade union coordinator crucial for the EWC

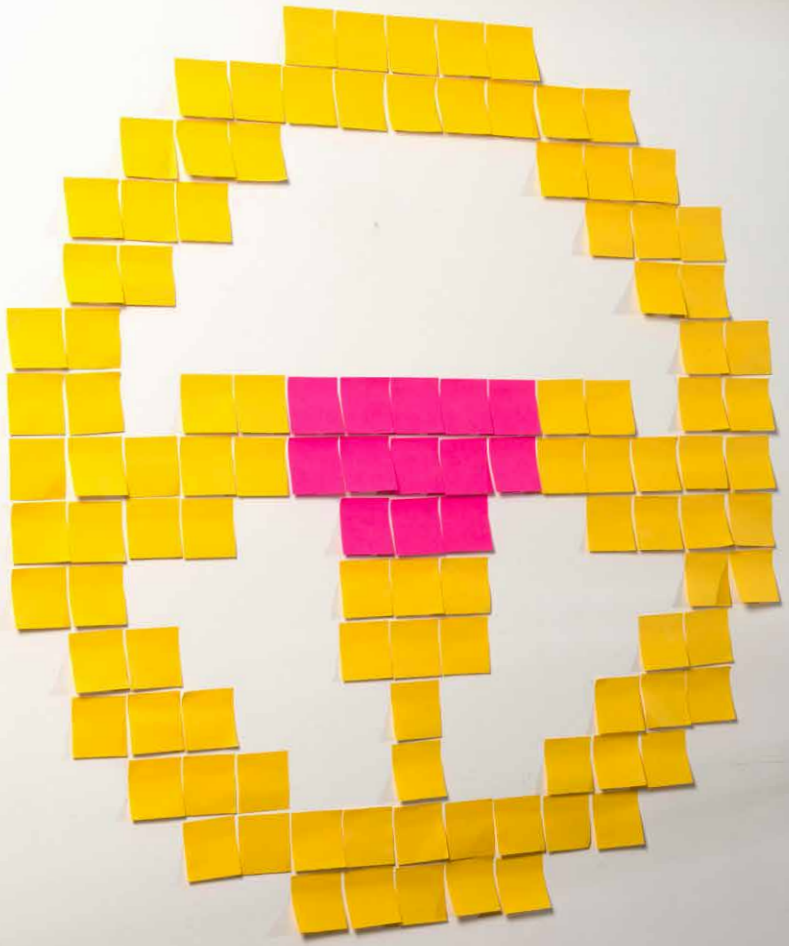
... and they are seen as important for the EWC...

Those EWC members who are supported by a coordinator also generally appreciate the contribution that she or he makes. 67.7% of EWC members agree that the coordinator is crucial for the good functioning of the EWC.

... even by non-union members

59% of non-union members agree that the help of the trade union coordinator is crucial for the effective functioning of the EWC.

Notes



Select committee.

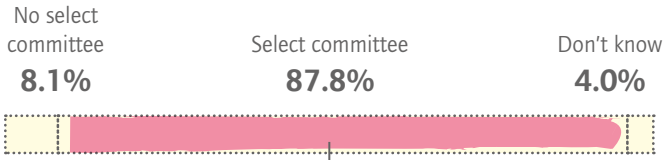
Select committee.

A select committee is a smaller group of EWC members which generally has the task of coordinating and organising the operation of the whole EWC. The committee is perceived as particularly useful in making sure that the EWC is more than just an annual meeting of its members.

Almost everybody says they have one...

% EWC members by presence of select committee

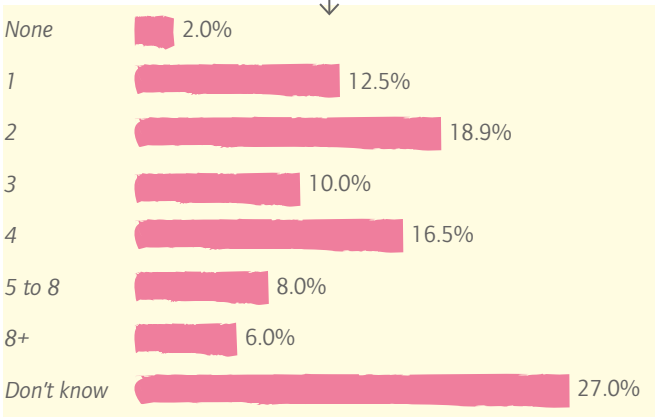
87.8% of EWC members say they have a select committee. EWC members in larger EWCs are more likely to have a select committee.



... but there is a diverse picture in terms of the number of meetings per year

Number of select committee meetings per year

Of those EWC members with a select committee, about one-half say their select committee meets between two and four times a year, while around one in ten say their select committee meets only once. At the other end of the scale, 14% says their select committee meets more than five times a year. However, 27% do not know how often their select committee meets although respondents here are, for the most part, substitute EWC members. EWC members from larger EWCs tend to report that their select committee meets more often than those from smaller EWCs.



Notes

Select committee.

Effective for agenda setting and liaising between meetings

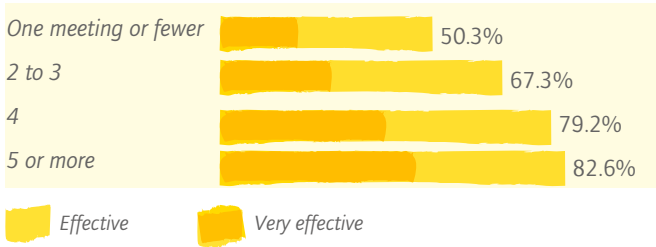
Select committees can have various competences, ranging from purely administrative or secretarial functions to communication, permanent liaison with management and the legal representation of EWCs (De Spiegelaere and Jagodziński 2015: 37). What varies is the frequency of exercising each function and, more importantly, the evaluation of the select committee's usefulness in these roles. EWC members think the select committee is mostly useful for setting the EWC agenda, clarifying issues with management and communicating between meetings; all of these being substantial functions that emphasise the select committee's central role as the 'engine' of any EWC. However, the select committee is a bit less useful in terms of reacting in exceptional circumstances or providing minutes of EWC meetings.

Effectiveness of the select committee

More meetings per year: more effective in exceptional circumstances

There is also an interesting feedback loop mechanism in operation here: EWC members who have a select committee that meets more often are much more likely to see the select committee as being effective in reacting quickly to exceptional circumstances. In other words: the more active a select committee is (as expressed by the frequency of its meetings), the more positive the evaluation of its work.

Effectiveness of the select committee in exceptional circumstances & number of meetings per year



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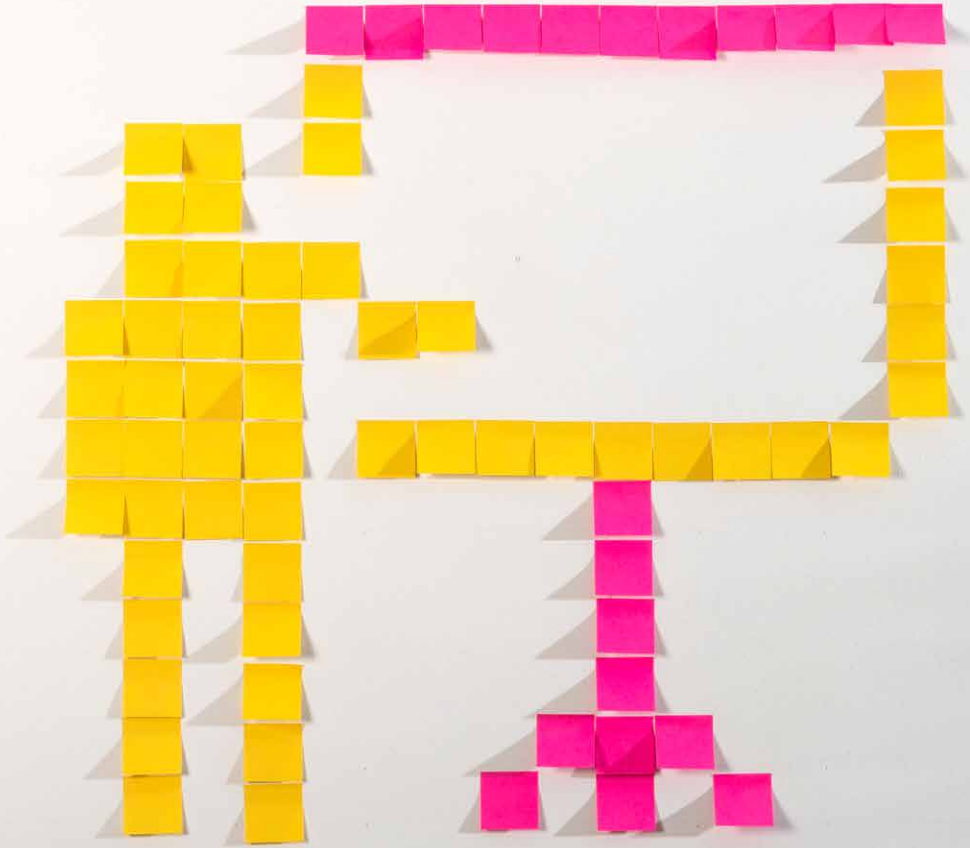


Plenary meetings.

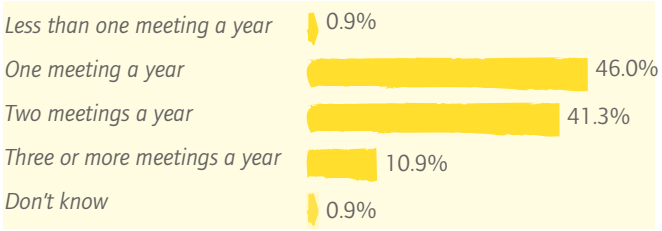
Plenary meetings.

One or two plenary meetings a year

Plenary meetings attended by all members are the central event for any EWC. They give the opportunity for EWC members to meet their colleagues from other countries and discuss matters. They also let members meet with central management and are the main forum for genuine information and consultation on transnational issues.

46% of EWC members say that they have one ordinary plenary meeting a year, while 41.3% have two and 10.9% have three or more. A very small number say they don't even have one meeting per year. In the EWC subsidiary requirements, one meeting per year is defined as the minimum. The observation is that quite a large group of EWCs simply follows this minimum. At the same time, more than half EWC members in total have more meetings per year than this minimum.

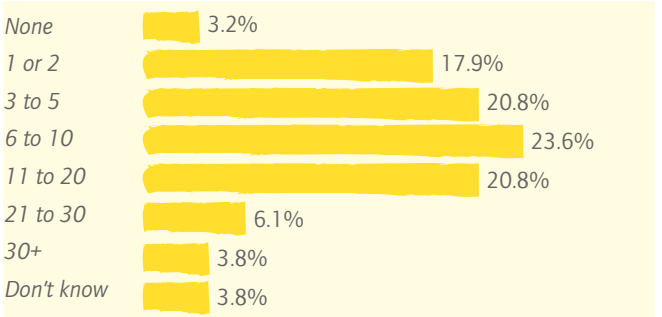
Number of plenary meetings a year



Plenary meetings attended

In terms of meetings attended, most EWC members have attended between three and twenty EWC plenary meetings. Even so, a considerable number has only attended one or two meetings, or even no meetings at all. Roughly one in ten has attended more than twenty meetings; mostly, these are EWC members with long tenure and office holders.

Number of plenary meetings attended by EWC members



Notes

Plenary meetings.

Most have a preparatory meeting

Ideally, EWC meetings with management are preceded by a meeting attended only by employee representatives. Such preparatory meetings serve to formulate questions and interventions, and facilitate the sharing of information and the development of common understanding and positions.

Employee-only debriefing meetings after EWC plenary sessions enable members to evaluate the conversations and agree on appropriate follow-up measures, as well as the drafting of formal opinions.

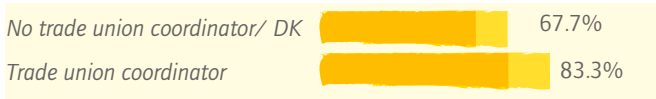
% members who have preparatory or debriefing meetings

EWC members generally say they 'always' or 'most of the time' prepare for plenary meetings by having an employee-only preparatory session. Considerably fewer respondents say they also have a debriefing meeting after the plenary EWC meeting.

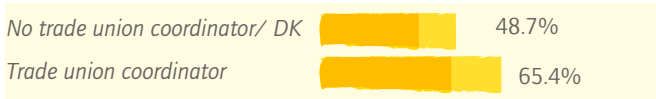
Where there is a trade union coordinator, employee-only meetings are more likely

EWC members who have the support of a trade union coordinator are more likely to have preparatory and debriefing meetings than those without a coordinator. Of the EWC members with a trade union coordinator, 83.3% say they 'always' or 'mostly' have a preparatory meeting, compared to 67.7% of those who do not have such a coordinator. The same pattern can be observed with regard to debriefing meetings. This data suggests that trade union coordinators provide valuable additional structure and continuity to EWC work, as well as stimulating discussion and follow-up work in response to the exchanges with management.

Preparatory meetings



Debriefing meetings

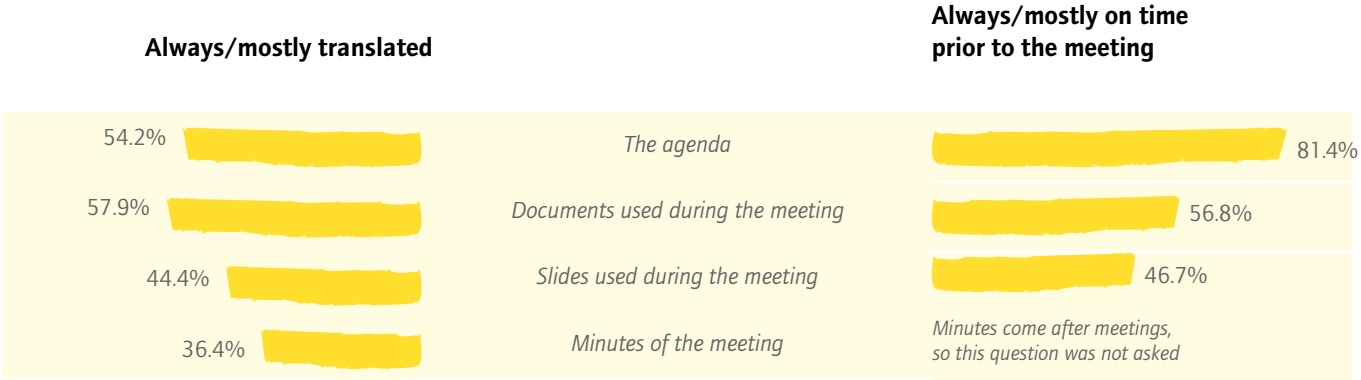


Notes

Plenary meetings.

Documents translated and on time?

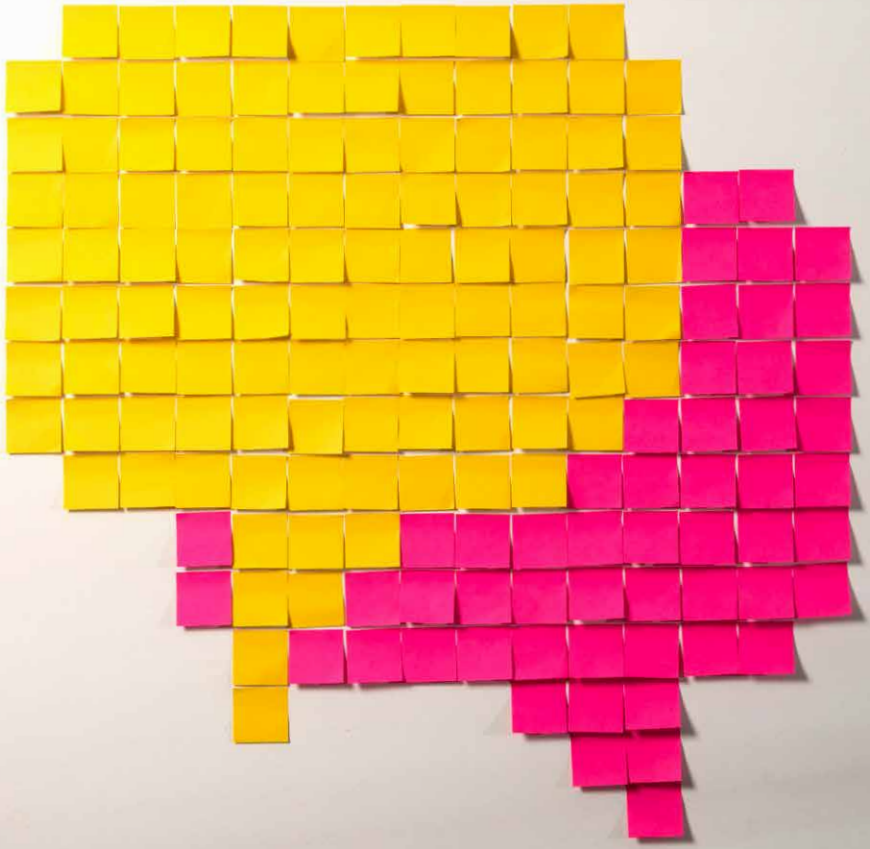
To make the best of EWC meetings (and to respect the requirements of the law), EWC members need to receive the necessary information well before the meetings so they can prepare their questions and opinions and perhaps even come up with alternative scenarios. Ideally, these documents should also be provided in the native languages of the members, enabling them thoroughly to understand the subject matter and allow an in-depth assessment of the information.



A little more than one in two EWC members say the agenda and the documents used in the meeting are 'always' or 'mostly' translated into their native language. Even fewer say the slides or the minutes are also translated.

Generally, in the eyes of most members, only the agenda seems to be delivered in time for the meeting, but only slightly more than one-half of EWC members say the documents are provided to them in time to prepare for the meeting.

Notes



Information and consultation.

Information and consultation.

Information, yes; consultation, no

The fundamental goal of a European Works Council is to guarantee the right for employees to be provided with information and consultation about transnational issues and decisions in the company that may have an impact on their interests. EWCs should analyse the information provided and 'undertake an in-depth assessment of the possible impact' of decisions. Additionally, they need to be consulted, defined as the right 'to express an opinion on the basis of the information provided.'

The main instrument for this is the organisation of plenary meetings of all EWC members from all countries. During those meetings, EWC members exchange information about developments in their constituencies (countries), analyse the information provided by the management and, generally, engage in discussions on a wide array of topics that seem relevant to the interests of the employees who they represent.

EWC plenary sessions are generally perceived as useful for information purposes, but rarely as extending into a meaningful consultation process. Moreover, contrary to the EU directive and national laws, most EWC members think they are only involved in the process after the final decisions have been taken. It is no wonder that EWC members have a very poor perception of their influence on company decision-making.

As is shown in the figure below, we first look at the agenda of the EWC, then at the quality of information and consultation on the topics discussed and at the general timing of the involvement and then, finally, at the general influence and effectiveness of the EWC. In this whole process, the number of plenary meetings a year seems to play an important role. The more EWC members meet, the more meaningful the whole information and consultation process becomes.

Notes

Information and consultation. Agenda and quality

What is (not) being discussed?

What should be discussed at an EWC are all those issues which have a transnational dimension having an impact on workers' interests. The subsidiary requirements defined in the EWC Directive offer guidelines as to what these topics may be, but management and employee representatives can agree to extend the agenda at will and according to their needs.

Virtually all EWC members say corporate strategy and the economic situation of the company had been raised in the last three years. A considerably smaller number of respondents say important issues like employment forecasts had been raised. Restructuring issues, such as closures, mergers and relocation, are also frequently mentioned but not by all EWC members. Regarding the broader EWC agenda, health and safety is the issue raised most often; the others (environment, equal opportunities, etc.) are, according to EWC members, raised considerably less often.

But was the information and consultation useful?

Having a topic discussed is one thing; the real question is whether the information & consultation is actually useful. EWC members were asked to say whether the discussions on the various topics were useful in terms of information and consultation; as regards information only; or were useless in both respects.

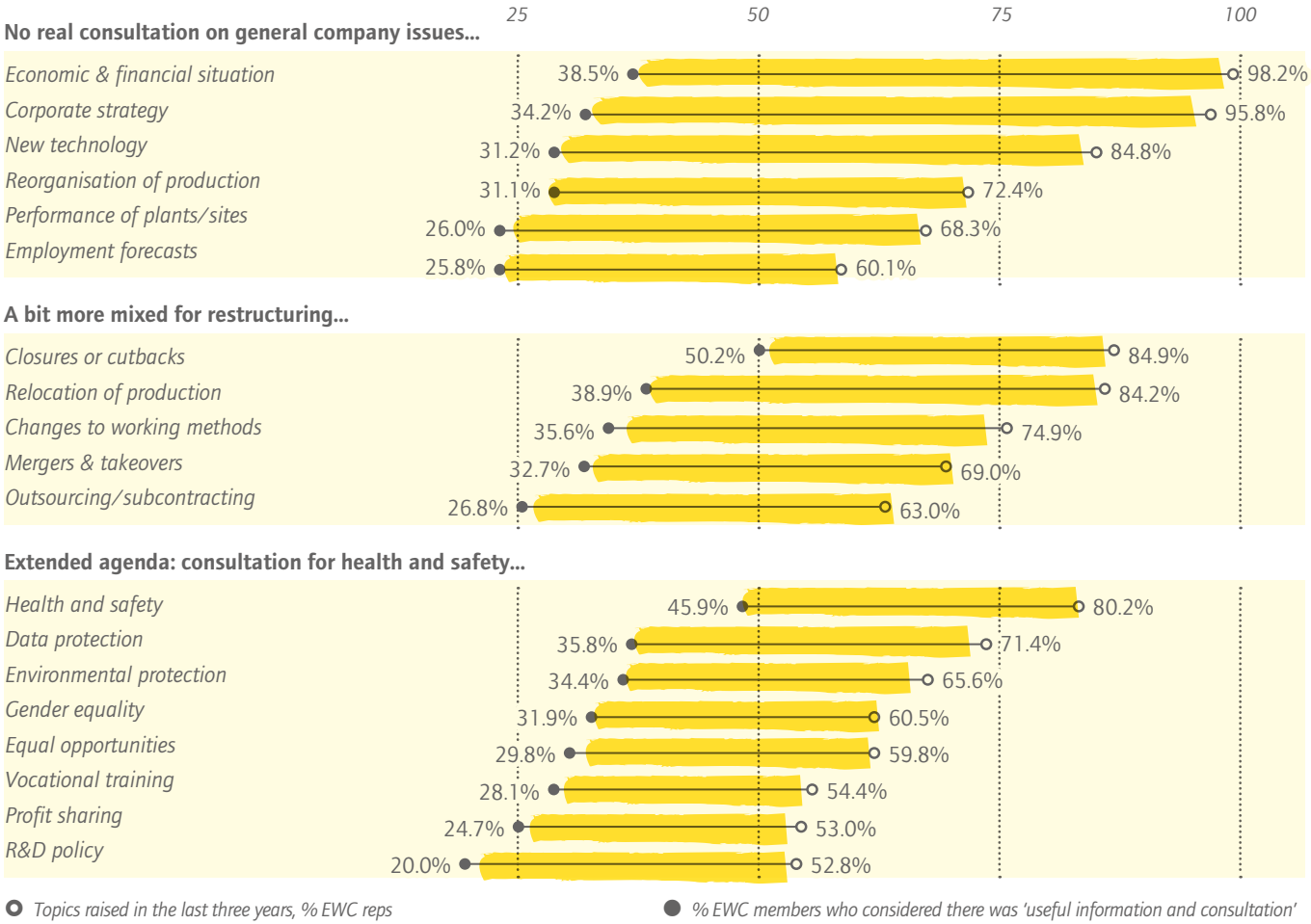
In respect of only one topic (closures and cutbacks) did roughly fifty per cent of EWC members who had discussed it think there had been meaningful information and consultation. On all other topics, less than one-half of respondents considered the consultation to be useful. Discussion seems to be a bit more useful on restructuring issues than on general company topics, although only 26.8% say consultation on outsourcing and subcontracting is useful.

Less than one-half of the respondents considered the consultation useful

Notes

Information and consultation. Agenda and quality

% EWC members who considered there was 'useful information and consultation' on each issue that had been raised



Topics raised in the last three years, % EWC reps

% EWC members who considered there was 'useful information and consultation'

Notes

Information and consultation. Timing

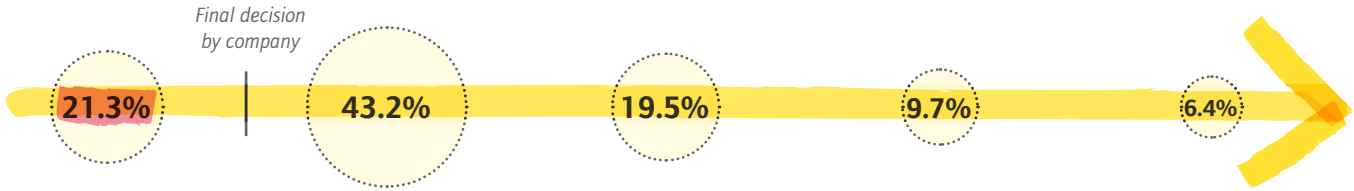
Only a minority of EWC members are consulted before decisions are taken

For a meaningful consultation to take place (and to comply with the legal standards), the EWC needs to be informed and consulted before final decisions are taken. If not, the results of consultation have hardly any potential to be taken into account in the decision-making process and thereafter to influence company decisions.

In the survey, members were asked when they think, in general, the EWC is informed and/or consulted.

Only one in five EWC members think they are informed and/ or consulted before the decisions have been taken

In general, when does the information exchange or consultation take place?



Before the decision on the issue is finalised
Only one in five EWC members think they are generally informed and/ or consulted before the final decision of the company has been taken.

After the decisions are finalised, but before implementation
The largest group thinks information and/ or consultation takes place after the final decision but before its implementation.

During the implementation process
One in five says they are generally only informed and/or consulted during implementation.

After implementation
One in ten even thinks they are generally informed after the fact, after implementation

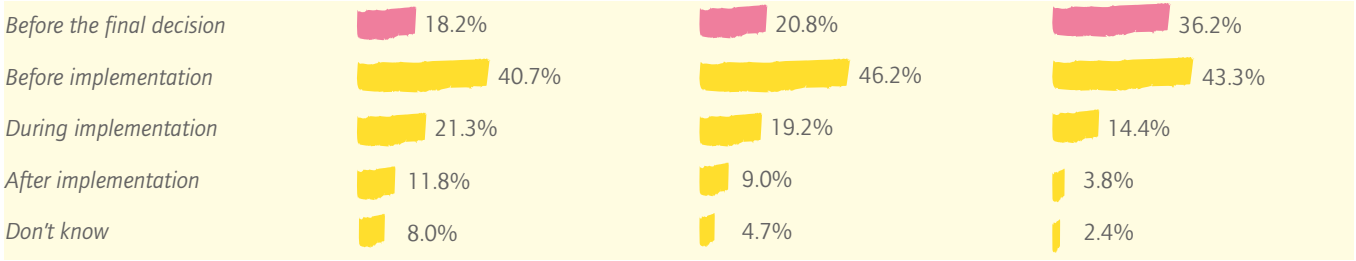
Don't know

Notes

Information and consultation. Timing

More meetings = more timely information

In general, when does the information exchange or consultation take place?



Members of EWCs where there are more plenary meetings are much more likely to say they are generally informed/consulted before a final decision is taken on an issue.

Compared to those who have only one meeting per year, EWC members with three or more meetings per year are twice as likely to say they receive timely information and consultation.

More yearly meetings = more timely information and/or consultation

This of course makes sense. If management holds only one meeting per year, it is quite likely to take decisions during the rest of the year that it could not announce or discuss at the EWC meeting. The presence of a larger number of meetings gives more opportunities to inform the EWC about plans and projects. It also gives EWC members much more scope to ask questions about upcoming issues. At the same time, where a company agrees to have more meetings, this might also show that it takes the EWC more seriously and that managers are willing to share information at an early stage. The relationship clearly goes in both directions.

Notes

Information and consultation. Effectiveness

Good for information; less so for consultation

With such a broad agenda, but such rare opportunities for real consultation, and with the EWC often being involved late in the decision-making process, the question remains: what are these EWC meetings useful for? How effective are they?

Effectiveness of EWC plenary meetings

Internal networking and discussions

Information, and some consultation, but rarely influence

Effective *Very effective*

EWC meetings are mainly useful for meeting fellow employee representatives

Most EWC members think EWC meetings are effective for getting in contact with representatives from other countries and for getting everyone's opinions into alignment. The EWC meetings here have a function in terms of communication between employee representatives.

In terms of interaction with management, a majority of EWC members think the meetings are effective in obtaining information. One in two representatives thinks the meetings are an effective opportunity for the purposes of consultation, although fewer than one in four thinks they are also effective in influencing company decisions. In other words, most EWC meetings are about receiving information from management. They often do not extend to active involvement in discussions, opinion-forming and the influencing of management.

It is remarkable, nevertheless, that EWC members see the meetings as being most effective not for meeting with management but for meeting each other.

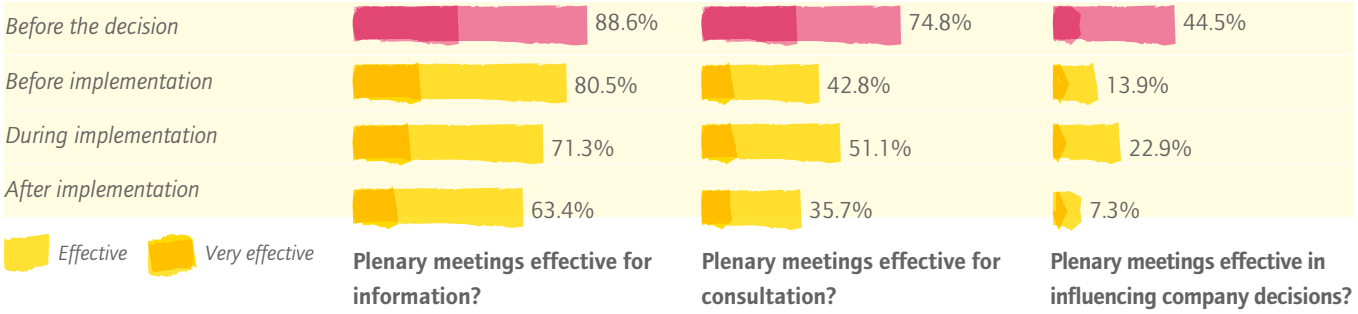
Notes

Information and consultation. Effectiveness

Meetings are effective when they are timely

For plenary meetings to be effective at information, consultation and potentially influencing company decisions, the EWC needs to be involved in the process at an early stage, i.e. before the final decision has been taken.

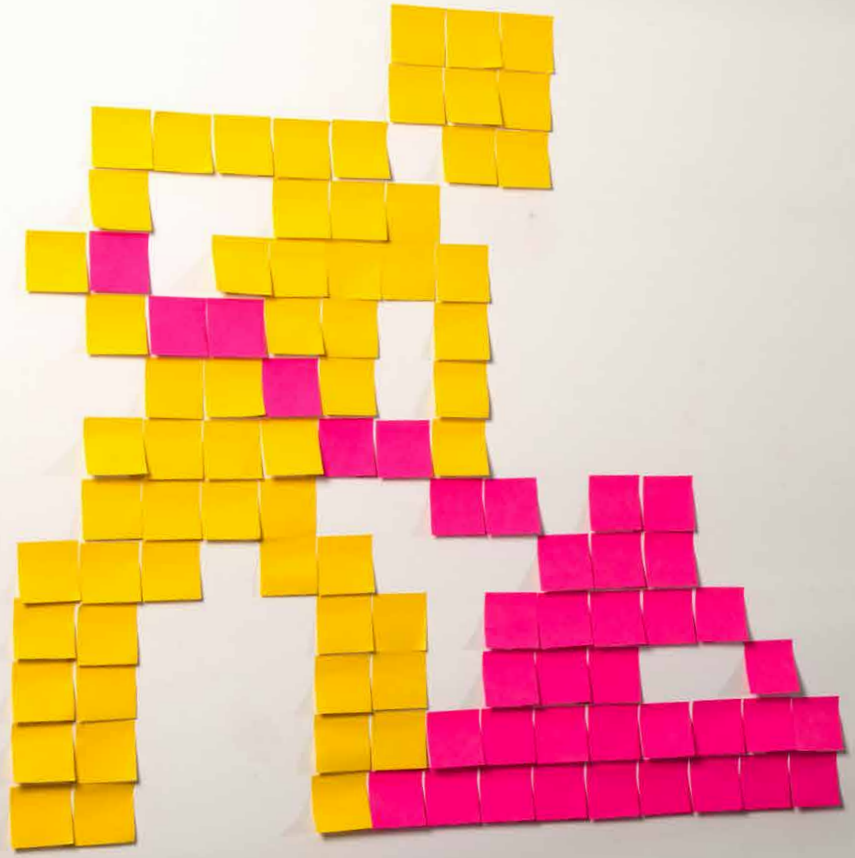
Timing of involvement



EWC members who think they are generally involved before a final decision is taken are much more likely to see their EWC meetings as being effective for information, consultation and influencing company decisions. As for consultation, such EWC members are more than twice as likely to see their meetings as effective compared to EWC members who think they are generally not involved until after implementation. This shows that respecting the timing of information is a game-changer and one of the decisive differentiators between functional and dysfunctional EWCs.

Timing of information and/or consultation is a game changer

Notes



Restructuring.

Restructuring.

Common, but challenging in respect of EWC practice

Almost all EWC members have been confronted with at least one major restructuring in the last three years, making restructuring more or less a regular type of event. Dealing with restructuring is part of the normal work of an EWC member, but EWCs are not well-equipped either to meet the challenge or deal with its consequences.

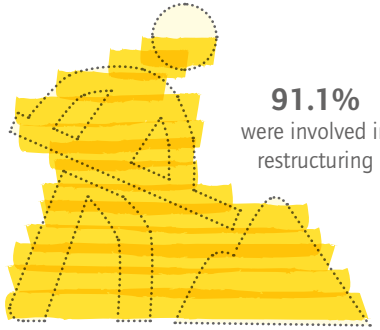
Only a minority of EWC members receive detailed information about restructuring measures and few have access to expert assistance in tackling the situation. About one-half benefit from an additional meeting to discuss the issue, but these extraordinary meetings generally take place after the final decision has been taken, rendering them close to useless. This all results in EWC members considering themselves ill-equipped to influence management decisions.

Those EWC members who have the help of a trade union coordinator, however, seem to be better equipped to handle restructuring issues and report a more positive experience on all the aspects discussed above.

Notes

Restructuring.

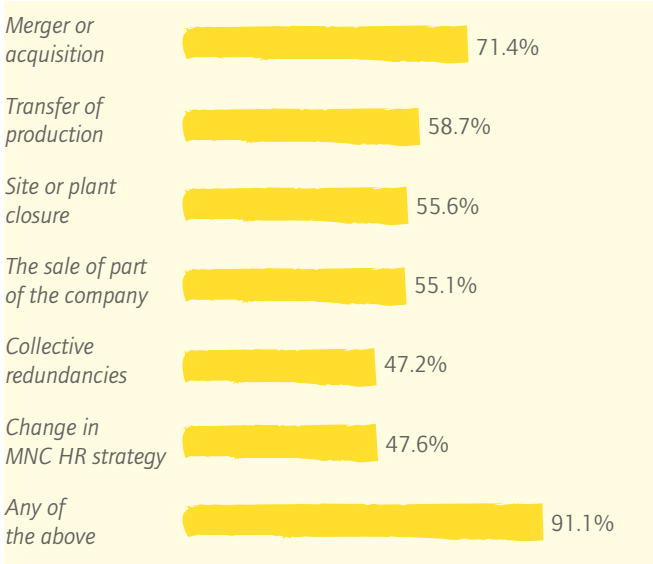
Restructuring is far from exceptional



91.1% of representatives say their company had been involved in mergers, closures, sales, transfers of production, mass redundancies or large HR changes in the previous three years. This is substantial, which means that how restructuring is handled at an EWC is important.

Most EWC members (71.4%) say their company had been involved in mergers and acquisitions during the previous three years. Next most frequently mentioned are transfers of production, plant closures and the sale of a part of the company, where more than one in two EWC members indicate their company had been involved in these kinds of restructuring in the previous three years. Mentioned less often in this respect are major changes in multinational HR strategies or policies, and collective redundancies.

Involved in the past three years?



Notes

Restructuring.

Less than one-half of EWC members receive complete information

Received detailed and complete information

91.1%
members confronted with restructuring

47.4%
received detailed and complete information

Out of the 91% of EWC members confronted with restructuring in the past three years, only 47.4% said that, in respect of the most recent restructuring, they received detailed and complete information allowing them to make an in-depth assessment of the issue.

EWC members supported by a trade union coordinator receive detailed information in restructuring more often

Better when there is a trade union coordinator present

Better when there are more meetings per year

Those EWC members who have the support of a trade union coordinator are more likely to say they have received detailed information.

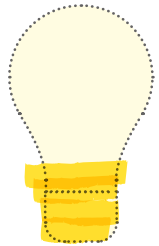
However, a more pronounced difference can be observed by comparing EWC members whose EWC meets once per year to those having three or more meetings per year. Of the second group, more than one-half say they received detailed information in respect of the most recent restructuring project. Obviously, the more frequent the plenary meetings, the more likely management may be to share information about forthcoming restructuring projects and to do so in time for the EWC to react. The presence of frequent meetings and liaison between management and the EWC creates positive information-flow patterns and customs that become automatic. These are important in urgent situations such as restructuring.

Notes

Restructuring.

Few have the support of an expert

Restructuring issues are often complex and fraught with technical information and financial or economic data. Understanding the issue, undertaking an in-depth assessment and developing an opinion on the EWC, and maybe even forging a counter-proposal, often requires competences and expert knowledge which are not commonly found among EWC members. For this reason, the Directive aims to give EWCs the possibility to request the help of external experts.

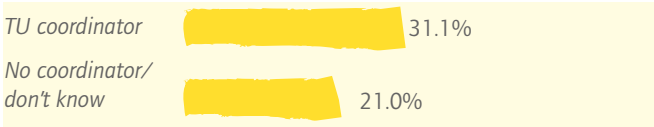


27.1%
had the support of an expert

However, only 27.1% of EWC members say they had the support of an expert (who is not the trade union coordinator) to support them during the most recent restructuring process in which they had been involved.

Better with a coordinator

% EWC members with expert support during restructuring



EWC members who have the support of a trade union coordinator are more likely to have had the support of an expert during the most recent restructuring project with which they had been involved.

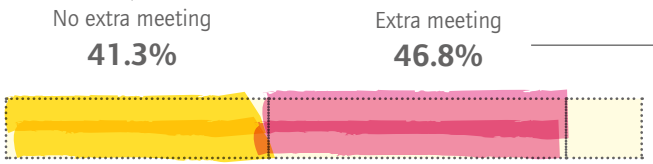
Notes

Restructuring.

Was there an additional meeting during the most recent restructuring project?

Next to having sufficient information, EWC members may need an additional meeting among themselves to discuss the issue in detail and agree a common position and further steps. In large-scale restructuring projects one meeting per year is not enough for an EWC to fulfill it's purpose: receive full information, process the information, complete an in-depth analysis and prepare for consultation on the issue at hand.

Additional EWC meetings during restructuring

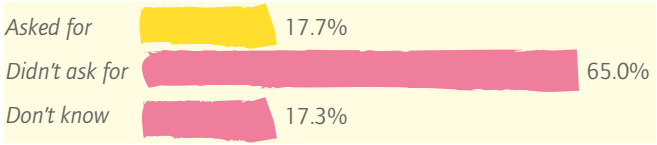


In total, 46.8% of EWC members say they had been able to hold an additional meeting to discuss the most recent restructuring project, while 41.3% said they did not (the rest did not know).

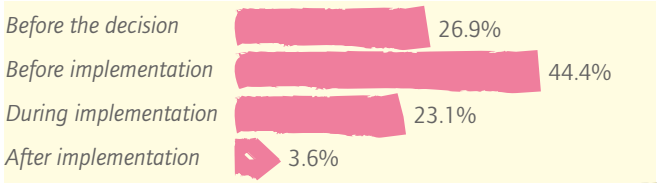
Having an additional meeting is surely a prerequisite but, for this to be effective, the meeting has to be organised in a timely fashion so that employee representatives may still influence the process and ensure that workers' interests are respected. Focusing on those EWC members who did see an additional meeting, only 26.9% say it was organised before the final decision was taken on the restructuring.

Of those who did not have an additional meeting, 17.7% said they had asked for one to be organised but management refused. A large majority, however, said they did not even ask for an extra meeting.

... and few asked for an extra meeting



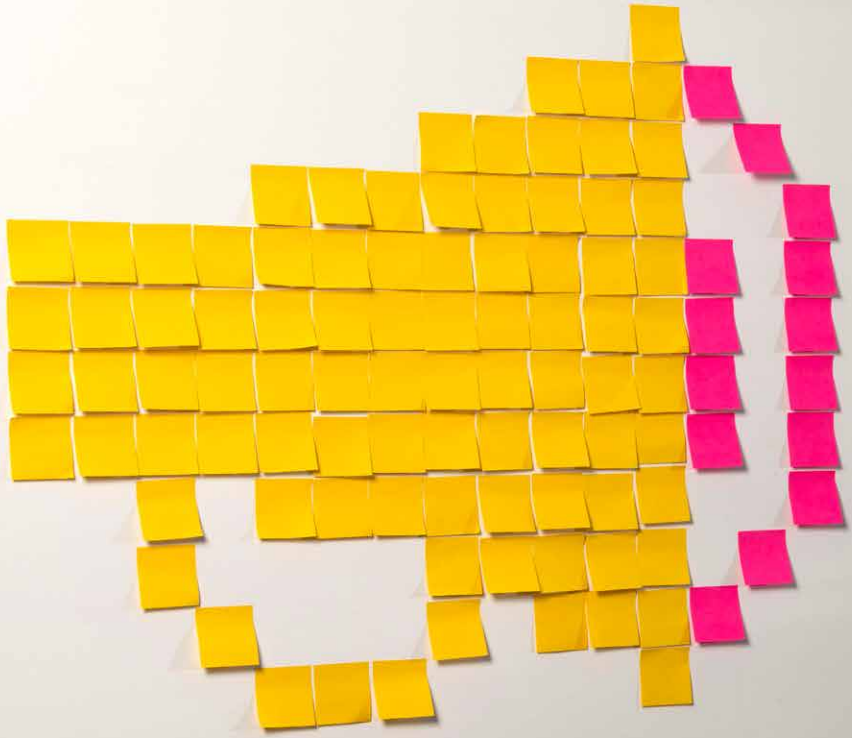
... but the meeting is often too late



Taken together, this means that only 12.6% of EWC members had a timely additional meeting to discuss the most recent restructuring issue in their company. All other EWC members either had no additional meeting or else the meeting took place only after the final decision had been taken.

Only 12.6% had a timely extra meeting to discuss the last restructuring

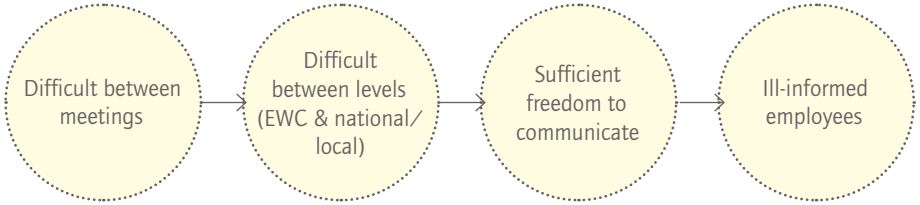
Notes



Communication.

Communication.

Communicating: a challenge for EWC members



EWC members frequently do not establish an intensive exchange with the workers they represent

Communication can be a real challenge for an EWC. First of all, communication between EWC members is difficult as they work in different countries and rarely meet. Added to this, language and cultural differences can make it both hard and tiring to engage in meaningful debate.

However, the problem of communication does not occur only between EWC members but also between the EWC and the national level. Representatives are, logically, required to represent employees but talking to employees about EWC issues is not always easy.

Communication is so essential for the job of a representative that we discuss this issue here at length. What we can observe is that only a minority of respondents say they 'often' communicate between meetings. The same goes for communication with the local level. Fewer than one in two representatives say they 'often' ask for input from their colleagues at local level, although they generally report that they do have sufficient freedom to do so.

As a result, the EWC constituencies, i.e. the workforces within a company, are not informed about the work of the EWC. This evidence suggests that EWC members quite frequently do not establish an intensive exchange about their work on the EWC with the workers they represent.

Notes

Communication.

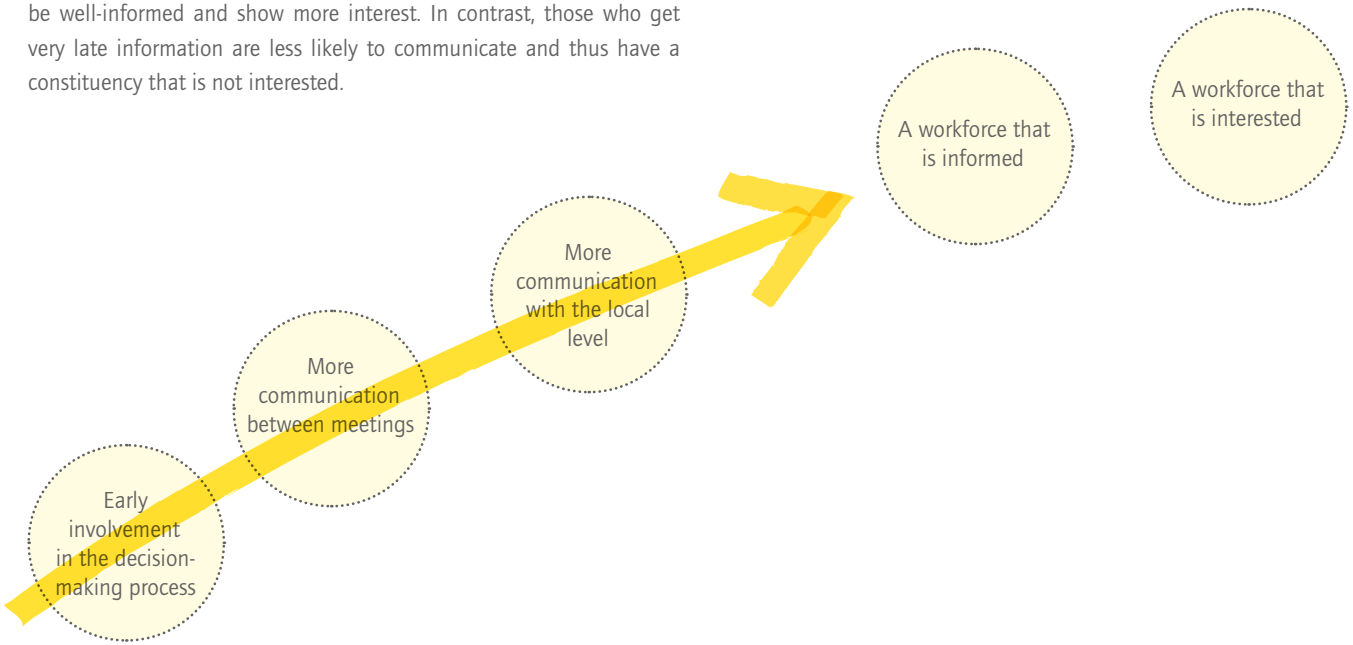
Something to talk about

Communication needs a subject. One of the important factors related to whether or not EWC members communicate between meetings and with the local level is the timing of information and consultation.

EWC members who say they are generally involved before a final decision is taken are more likely to communicate both horizontally and vertically. The consequence is that the workforce is more likely to be well-informed and show more interest. In contrast, those who get very late information are less likely to communicate and thus have a constituency that is not interested.

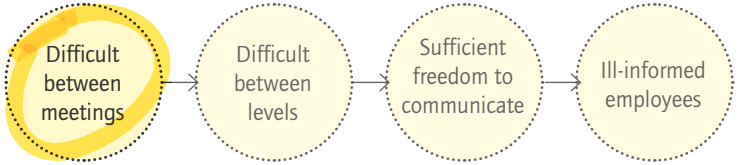
If what is discussed at the EWC is already known, there is little reason for EWC members to communicate fully about it: communication needs a relevant subject.

This suggests that, if EWC members are to communicate more, one might need to push management to give earlier information and make the EWC a more relevant actor in real consultation.



Notes

Communication. Between meetings



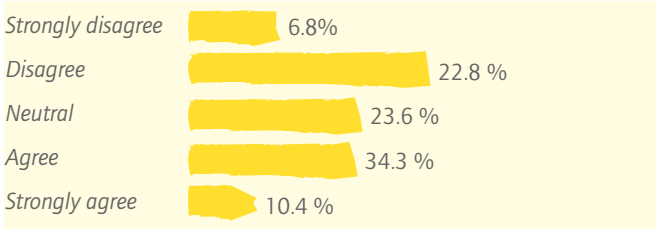
Less than half of all EWC members have frequent contact with EWC members from other countries between meetings

Communication is difficult between meetings...

Communication with EWC members from other countries between meetings seems to be a hard job for many EWC members. Less than 50% of all EWC members report that they have frequent contact with EWC members from other countries between meetings.

Communication is, however, an important prerequisite for EWC members to share information, develop a similar understanding of the issue and be able to build a common position. It is also essential in building mutual trust and solidarity.

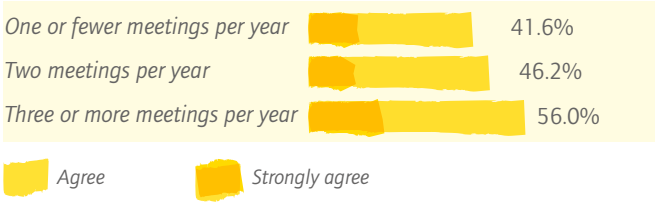
Between EWC meetings I have frequent contact with EWC representatives of other countries



... but better when there are more meetings

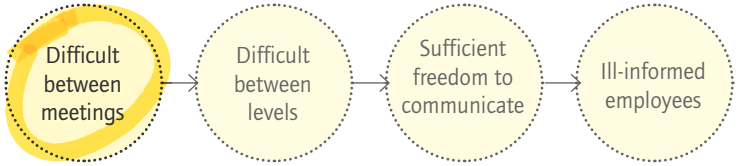
EWC members whose EWCs have more meetings per year are more likely to have frequent contact with each other between meetings. Additionally, it is clear that those EWC members who meet more often in person during meetings are also more likely to contact each other between meetings.

Frequent contact between meetings and meetings per year



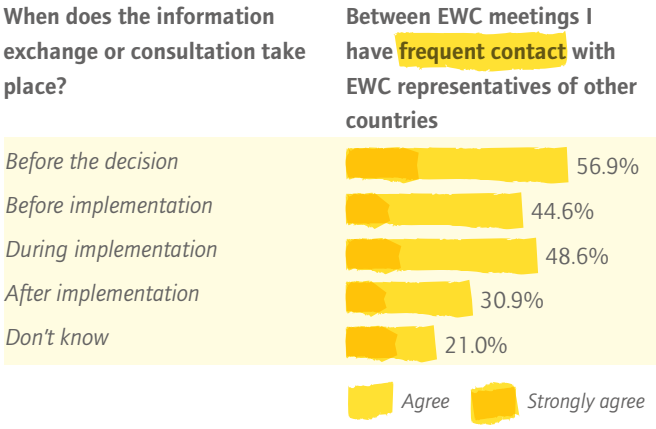
Notes

Communication. Between meetings



Communication is difficult, especially if there is nothing to say

Whether EWC members communicate between meetings is, of course, also related to the existence of anything substantial to communicate. EWC members who have the feeling that they are informed and consulted only once all the decisions have been taken are less inclined to contact each other between meetings. In such cases, there is no real purpose in sharing information let alone trying to develop common opinions.

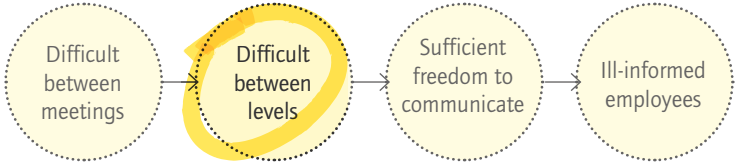


Among those EWC members who think they are generally informed or consulted before a final decision is taken, 56.9% report that they have frequent contact between EWC meetings. This proportion is significantly lower among those who say they are only informed and consulted before, or even during, the implementation of a decision that has already been taken. And, among those EWC members who are informed or consulted only after implementation, fewer than one in three agrees that they communicate frequently.

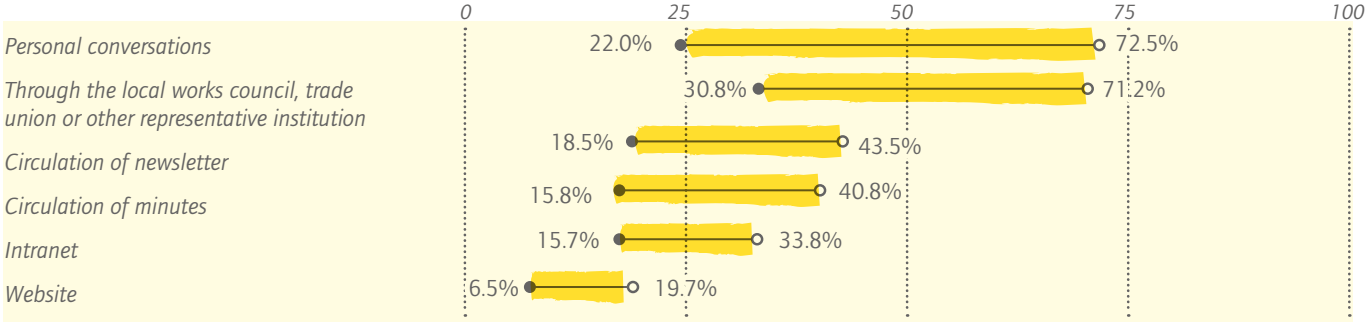
For employee representatives to communicate between meetings, they need something to communicate about and they need to feel that communications have a purpose – i.e. the prospect of some influence on the decisions to be taken.

Notes

Communication. Between levels



Personal conversations and local employee representation



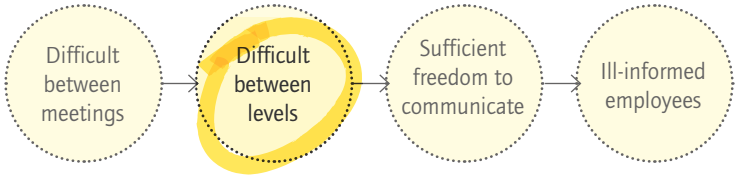
An EWC does not exist for itself – its purpose is to represent the interests of workers; to share with them the information obtained in the course of EWC work and to bring their views together into a coherent European position.

One of the goals of the EWC Recast Directive was to achieve better articulation between EWCs and other (national) forms of worker representation. In the Recast Directive, therefore, the duty to inform the workforce about the content and outcome of information and consultation procedures carried out at the EWC was explicitly introduced as a duty for EWC members. The Recast Directive recognised that, unless the local level of employee representation is closely bound to the work of the EWC, the EWC will fail to be a bridge between workforces in Europe.

When asked how they had communicated back after the most recent meeting, most EWCs members indicate that they had reported back by personal conversation and through their local works council, trade union or other representative body. The latter was also evaluated as the most important means for reporting back. This shows the importance of local level institutions in the functioning of an EWC.

Notes

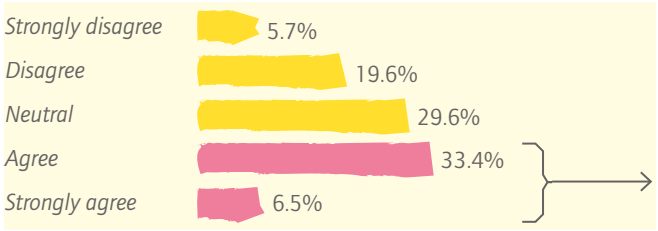
Communication. Between levels



Communication is also hard between levels

Communication with the local works council, trade union or workforce also seems to be hard. Only forty per cent report that they 'often' ask for input from those levels in respect of their work on the EWC. EWC members are there to represent constituents' interests, so a fluent exchange with the local level seems to be required.

I often ask for input from the local works council, the trade union or the workforce on my work in the EWC



EWC members who are union members and/or who have a trade union coordinator are more likely to report that they 'often' ask for input from the local level. Among non-union members, only 30.4% agree with the statement, compared to 41.8% of union members.

Asking input is hard...

... but better when a trade union member...

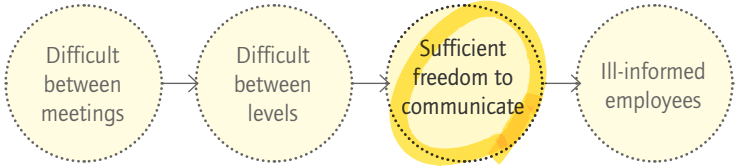
... or where a coordinator is present...

... while office holders ask more often for input

Also, EWC members who are office holders (i.e. members of the select committee or who are (vice-)chairs of the EWC) seem to ask more often for input from the local level. Among office holders, almost one-half agrees that they 'often' ask for input from the local works council, trade union or workforce on their work for the EWC. Even so, it is remarkable that only one-half of office holders say they 'often' do so.

Notes

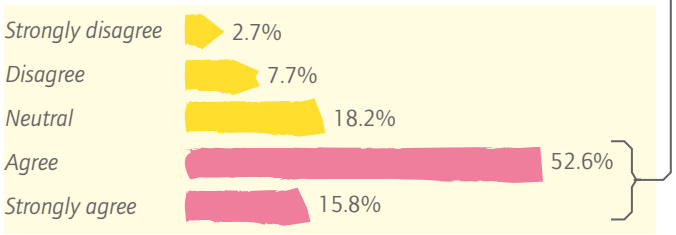
Communication. Freedom to communicate



While EWC members have sufficient freedom to communicate...

One of the explanations for why EWC members have limited exchanges with their constituents could be that they simply do not think they have sufficient freedom to do so. We asked EWC members this question, and it appears that more than one in two EWC members agree that they do have sufficient freedom to communicate with local employee representatives. Few strongly agree, however, and about ten per cent (strongly) disagree, showing that they think they do not have sufficient freedom to communicate with the local level.

I have enough freedom to communicate with national/ local worker representatives about the EWC



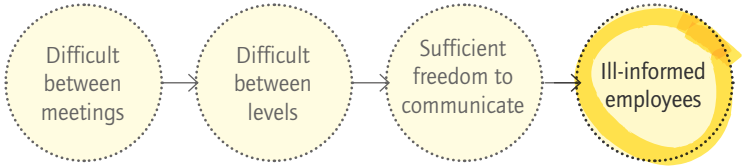
Trade union members have more freedom to communicate

Freedom to communicate with local workers' representatives

EWC members who are union members are more likely to agree that they have sufficient freedom to communicate with local employee representatives about their work for the EWC. That they are union members obviously gives them a more direct line to local representation since this is, in many countries, organised (or at least strongly influenced) by the trade union.

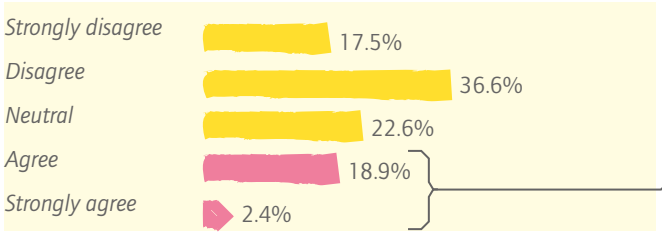
Notes

Communication. Employees



Employees not well informed about EWC

I think the employees in my company are well informed about what we do in the EWC

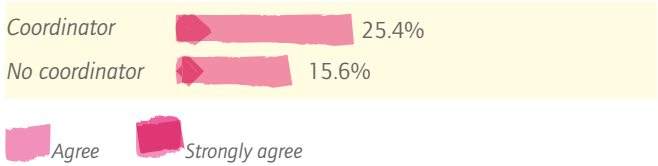


The result of the (problematic) communication between levels is that only one in five EWC members think that employees in their companies are well-informed about the work of the EWC.

This is a consequential finding which indicates a profound problem with how EWCs operate and what impact they have.

Well-informed? Better with a coordinator

Are employees well-informed?



Focusing on the question of whether EWC members think that employees are well-informed, a quite substantial difference exists between those who do and those who do not have the support of a trade union coordinator. Members of those EWCs where there is a coordinator are more likely to agree (25.4%) than those where there is not one in place (15.6%).

Only one in five EWC members think that employees in their companies are well-informed about the work of the EWC

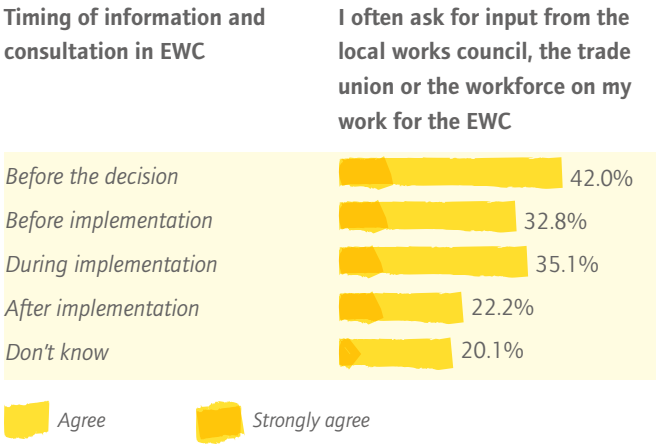
Notes

Communication. About what?

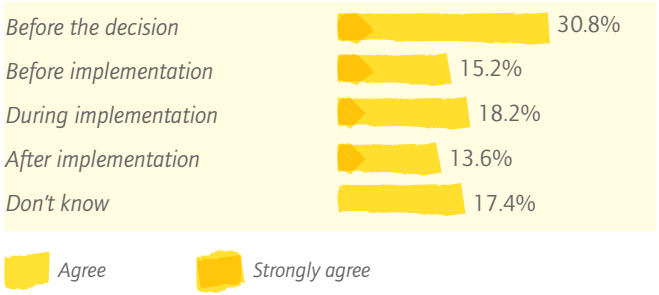
... but, again, there must be something to say.

In order to ask for input from the local level and to keep people here informed about the work of the EWC, there needs to be substance. In other words, an exchange between levels requires a purpose and, for this, one needs timely information and consultation. Just as we have seen with communication between EWC meetings, the timing of the information and consultation process is an important factor in explaining whether EWC members communicate 'often' with the local level.

Late involvement: fewer demands for input from local level



Late involvement: employees are not informed



EWC members who say they are informed and/or consulted before final decisions are taken are more likely to say they ask for input from the local level in every case than those who think they are involved only at later stages in the process. Compared to representatives who are involved only after implementation, they are considerably more likely to seek input.

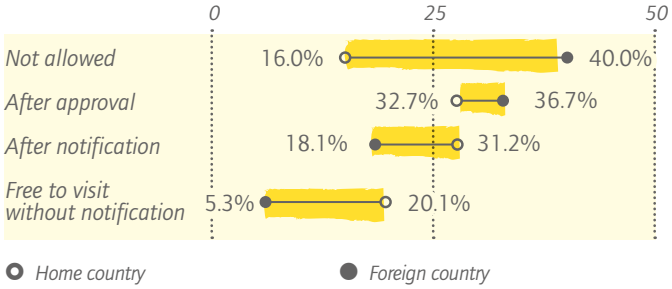
The same goes for the perception of whether employees are well-informed about the work of the EWC: EWC members who are involved before a decision is made are twice as likely to think that employees are well-informed than EWC members who are involved only after it has been implemented.

Notes

Communication. Visits

Most can visit sites in their own country, but not abroad

Are you allowed to visit other sites in your company?

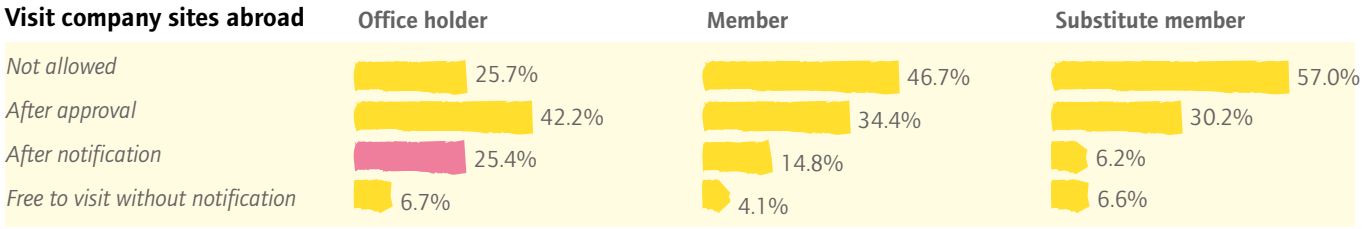


One way of getting into direct communication with the workforce is by visiting other sites within the company. Through such visits, EWC members can obtain a first-hand view of the issues to be discussed and talk to local representatives or works councils about the local challenges, or with employees themselves about their concerns. Earlier research has shown that the large majority of EWC agreements (82%) did not specify whether representatives had the right to visit other premises (De Spiegelaere and Jagodziński 2015: 39).

When asked, a vast majority of EWC representatives reported that they do have the right to visit company sites in their own country (84%), be it after asking for management's approval, notifying management or without the need for either. When it comes to visiting foreign sites, however, the situation is quite different with over forty per cent saying that they are not allowed to visit. Where they are allowed, they mostly need to ask for prior approval: only 5.3% say they can visit foreign sites without approval or notification.

Office holders have more rights in this respect

Regarding access to company sites abroad, there is a clear distinction between office holders who generally do have the right to visit (74.3%) and members (53.3%) and substitute members (43.0%) where such a right is found much less often.



Notes

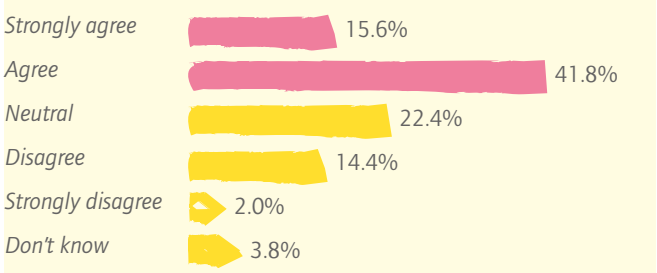
Communication. Interest

The workforce is rarely interested in what you do

There is a flipside to the story about limited communication between different levels: the perception among EWC members about the level of demand on the part of their constituents (workers and employee representation structures at national or local level). We asked EWC members about the level of interest expressed by the workforce in the work of the EWC. Responses on this issue are quite revealing.

Most EWC members (57.4%) think that the workforce rarely expresses interest in the outcomes of EWC work; while only two per cent strongly disagree with this statement.

The workforce rarely expresses interest in the outcome of information and consultation at the EWC

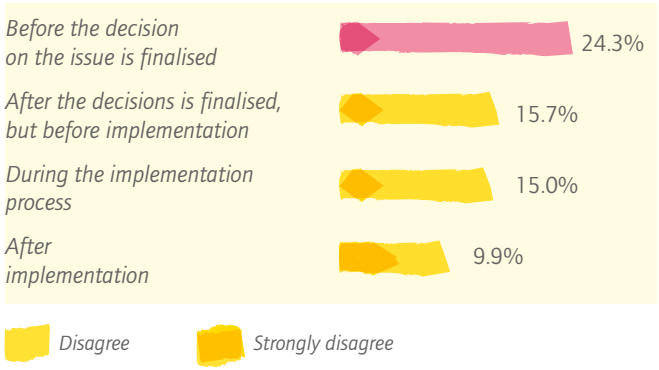


Most EWC members think the workforce is not interested in the EWC

Where there is something to say, the workforce is more interested

Timing of information and consultation

The workforce is rarely interested



If the default is that the workforce is rarely interested in what happens at the EWC, those EWC members who think that they are generally informed and consulted before final decisions are taken are more likely to disagree with it. In other words, EWC members in this situation are more likely to think that the workforce is interested in what goes on at the EWC.

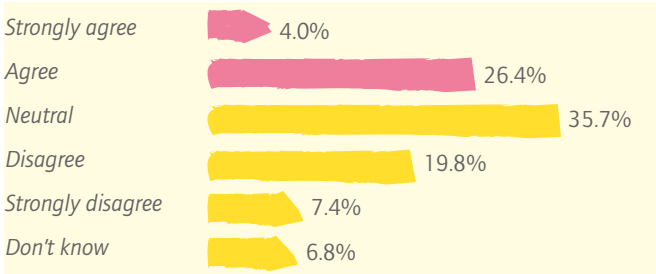
There might be a feedback loop at play here: good timing of information and consultation ensures that there is purpose, meaning and relevance to the involvement of EWCs; in turn, this stimulates EWC members to be more active and to engage more often with their constituencies, with the latter perceiving the EWC both to be more useful and relevant, and to be having an impact. This, in turn, is an incentive to invest time and to engage more at transnational level. When there is something to be interested in, the workforce is clearly (more) interested.

Notes

Communication. Appreciation

Only one-third receives sufficient appreciation

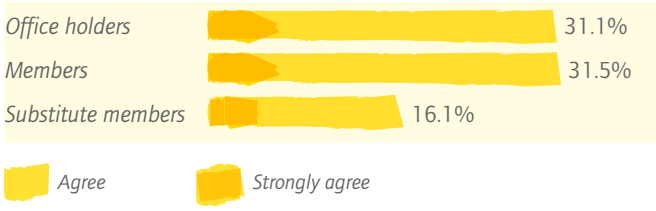
I receive sufficient appreciation for the work I do on the EWC by the employees I represent



As with any job, receiving appreciation is important. To be motivated, an EWC member needs to feel that employees value their work on the EWC. Consequently, we asked whether EWC members felt that they received sufficient appreciation for what they do on the EWC. The results are quite alarming: only four per cent of EWC members strongly agree that they receive sufficient appreciation while another 26.4% agree, totalling roughly one-third of EWC members feeling that they are appreciated at least to a satisfactory level. Another one-third take a neutral position while one in four disagree to one extent or another.

No real difference between office holders and normal members

I receive sufficient appreciation



Interestingly, there is no real difference between office holders and normal EWC members in the extent to which both feel appreciated by workers. In both groups, roughly one in three agree they receive sufficient appreciation, meaning that the majority disagree.

There is a significant difference with regard to substitute members, however: virtually no substitute member strongly agrees and very few agree that they get sufficient appreciation.

Only four per cent of EWC members strongly agree that they receive sufficient appreciation

Notes

Communication. Aligning positions

Notes

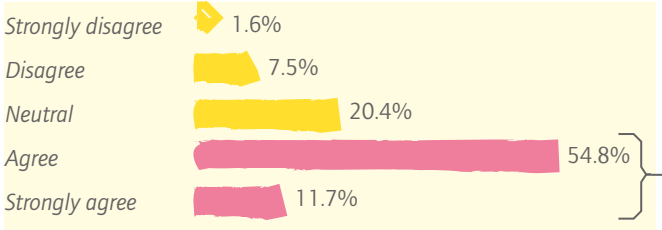
The solidarity issue

One of the more hotly-debated issues with regard to the usefulness of EWCs is whether or not they lead to a form of transnational solidarity between workers. Does everybody on the EWC just defend their own national or local (plant) interests or are we able to see the emergence of a genuinely pan-European perspective on the issues and a transnational spirit of solidarity?

One prerequisite for the establishment of real solidarity is the ability of members to come to common positions and the frequency with which this happens.

Most try to establish a common position

Employee representatives always try to come to a common position with the representatives from all countries

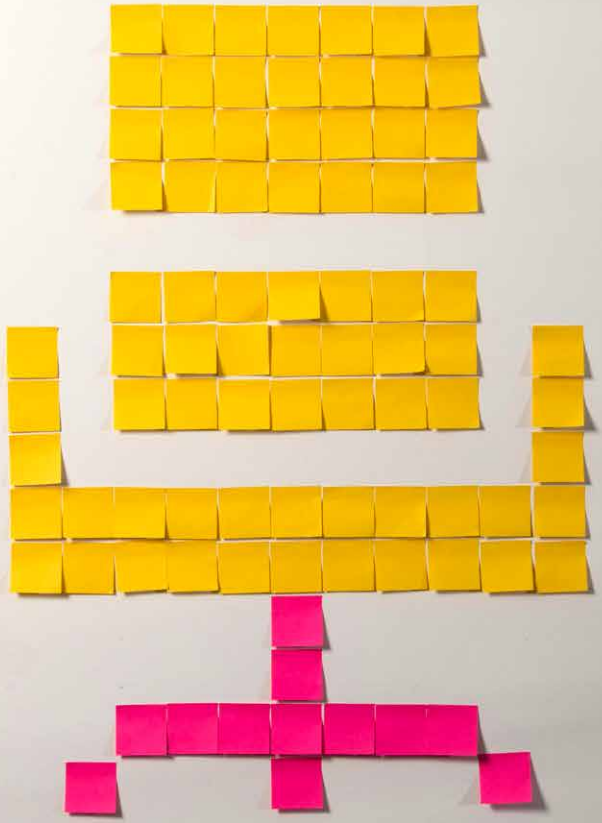


The positive finding from the survey is that most EWC members (66.5%) say they 'always' try to reach a common position with members from other countries. Another one in five members is undecided. This leaves only 9.1% of respondents who disagree that they, as an EWC, 'always' try to come to common positions, suggesting that it is on these EWCs that the priority is the defence of national or local agendas and interests.

Better with a coordinator

On those EWCs that have the support of a trade union coordinator, 72.8% of members agree that they 'always' try to find a common position, compared to 57.1% of those reps on EWCs which do not enjoy the support of a coordinator.

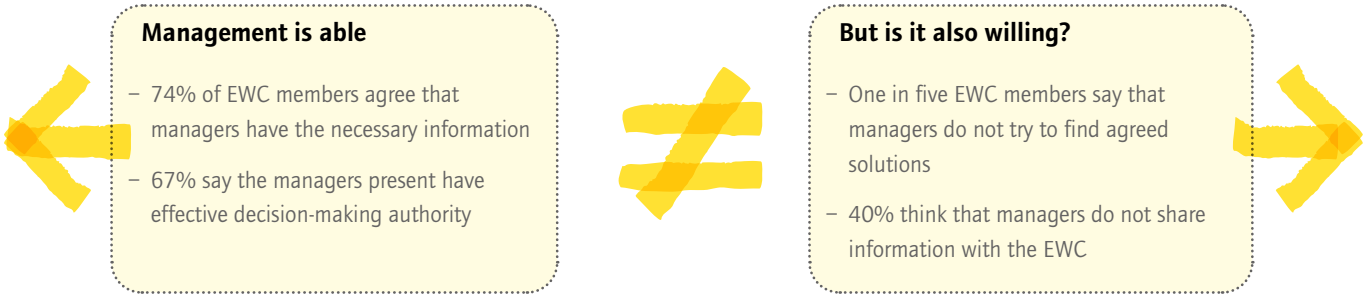
Most EWC members (66.5%) say they 'always' try to reach a common position with members from other countries



Management.

Management.

Management is often able to engage, but is it also willing?



Social dialogue at any level requires and depends on two parties, management and labour, to engage. One prerequisite for a meaningful discussion is that the conversation is with the right person: the one who has the information and is responsible for taking the decisions. Consequently, the EWC legislation requires that central management (or any other more appropriate level of management) is present during EWC meetings.

Without the correct managers being present, employee representatives on the EWC are in no position to have a genuine information exchange, let alone for consultation to be effective and useful or that the EWC might develop an influence on decision-making on the issues at stake.

On top of the legal minimum requirements (full information and decision-making powers), management needs also to be willing to engage with the EWC. Even if the managers present are the correct ones, their attitude needs to be open to discussion and to the seeking of consensus.

What an EWC needs, in other words, is a management that is both able to engage and willing to seek consensus.

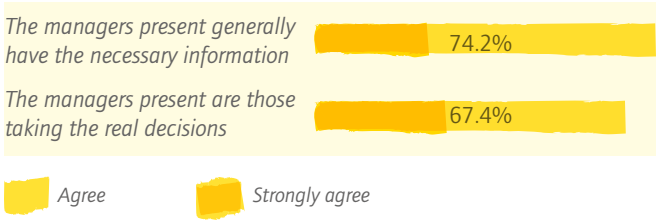
According to employee representatives, managers are generally able to engage, as they are often sufficiently informed and those present are the ones taking decisions. However, a much smaller share of representatives think that management is also willing to engage in dialogue with them.

This is a revealing finding, offering explanation to many of the other findings about the successes and/or failures of EWCs.

Notes

Management. Able

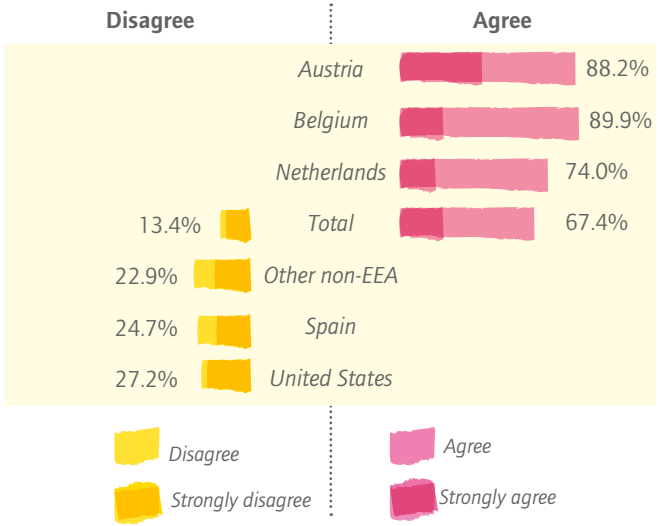
Managers in the meetings are those taking the decisions and are informed...



Most EWC members are of the opinion that the managers present at their meetings are those who have the real decision-making power (67.4%) and who have the information required by EWC members (74.2%).

The country of the headquarters plays a role

Managers present at the meetings are those taking the real decision



Compared to all EWC members, members who are working in companies headquartered in Austria, Belgium or the Netherlands are more likely to say that the managers present in the meetings are those taking the real decisions. At the other end of the scale, those working in companies headquartered in the US, other non-EEA countries or Spain are more likely to say that the managers present at EWC meetings are not those taking the real decisions.

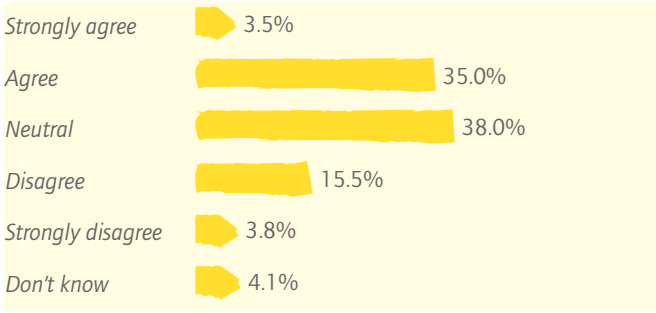
It is possible that the size of a country and its geographical distance from Europe play a role here. In smaller countries, the real decision-makers in companies are more easily able to travel to meet an EWC, while this is perhaps less easy for US and non-EEA companies.

Notes

Management. Not willing

... but managers do not always try to find agreed solutions

Management makes efforts to find agreed solutions with EWC employee representatives



Having informed and decision-capable management in the room is not enough: management also needs to be willing to engage with the EWC to find agreed solutions.

In the survey, we asked for EWC members' perceptions of the willingness of management to search for common ground with employee representatives. The conclusion is rather mixed.

Even though the management representatives present are generally perceived as informed and the appropriate decision-makers, only a minority of EWC members (38.5%) agree that managements do make the effort to find agreed solutions with representatives. Furthermore, one in five (strongly) disagrees with this statement.

Interestingly, quite a large share of representatives take a neutral position on this question. The explanation for this is clearly something for further research, but the previously-made observation that EWCs are, mostly, institutions for information and not consultation or negotiation (see page 35) might mean that they had never had sufficient opportunity to exercise the requirement to search for agreed solutions.

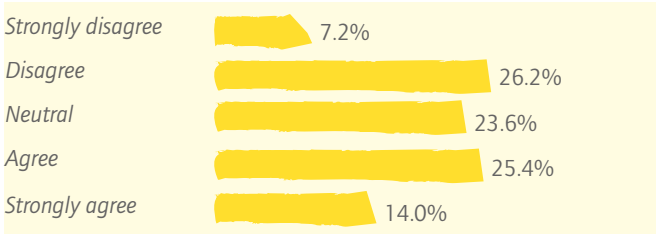
Notes

Management. Not willing

Notes

Management often refuses to share information...

Management often refuses to give information on the grounds of confidentiality



While management is required to give information to the EWC, it has the option not to do so if sharing the information might seriously jeopardise the company's interests. Therefore, we wanted to find out whether managers are ready freely to share information or whether they often use 'confidentiality' as a reason not to share information with the EWC.

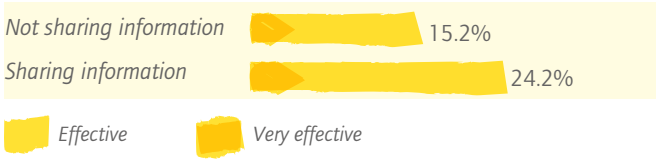
Almost forty per cent of EWC members are of the opinion that management 'often' refuses to share information with them although around one in three EWC members disagrees with this statement.

In other words, only one in three representatives think their EWC is fully informed by the management and is thus able to fulfil its information role. And, given that full information is a condition for real consultation, these figures confirm that many EWCs cannot currently be considered to be forums for consultation.

Almost 40% of EWC members think management often refuses to share information

... with serious consequences

EWC effective at influencing decisions



Whether managements are ready to share information has a strong relationship with the ability of EWC members to influence company decisions. Among those EWC members who agree that management 'often' refuses to share information, only 15.2% think that their EWC is effective at influencing company decisions. Among those EWC members who think their management 'mostly' shares information, this percentage is much higher (24.2%).

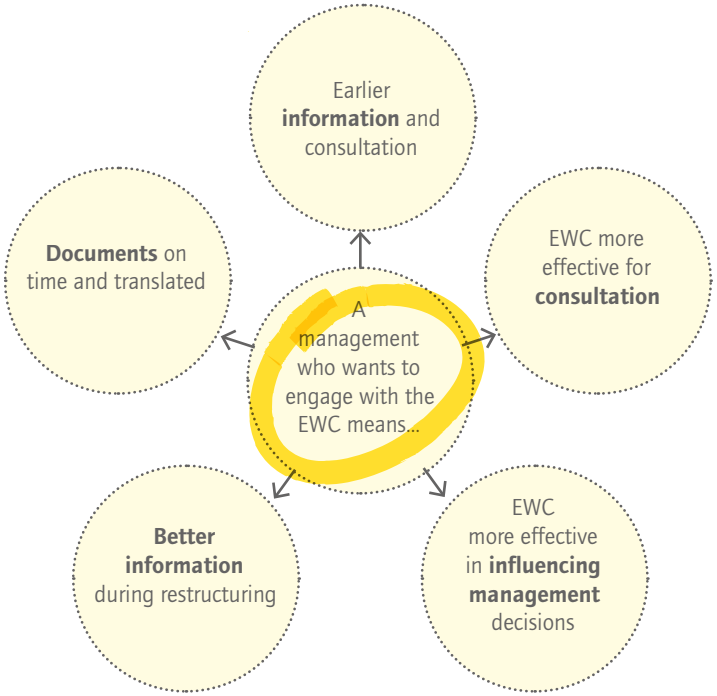
This evidence clearly emphasises that managerial attitude, and specifically its willingness to share information, is one of the key determinants of the effectiveness and fitness for purpose of EWCs. This is also, mostly, out of the control of EWC members themselves.

At the same time, even when management does not want to share information, some EWC members still feel that they are able to have a significant impact on decision-making.

Management holds the keys

Power over the EWC is indeed in the hands of the management. EWC members who think their managers really want to engage with the EWC and establish agreed solutions are in a qualitatively different situation to those who think their managers are not open to commonly-negotiated solutions.

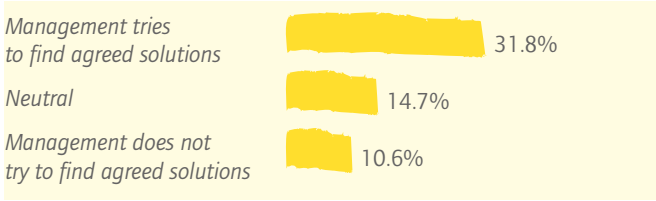
A management that desires engagement means that EWC members feel they are involved much earlier in the decision-making process and have more effective meetings in which consultation actually takes place, with the EWC even having an influence on management decisions. Where there is an engaging management, EWC members are more likely to receive the necessary documentation in time, they are more likely to receive detailed information in cases of restructuring and they are better equipped to make a complete and in-depth analysis of the proposed change. In other words, management – through its attitude – holds the keys to the EWC being both functional and capable of meeting its purpose according to the goals of the legislation.



Notes

If the management wants to...

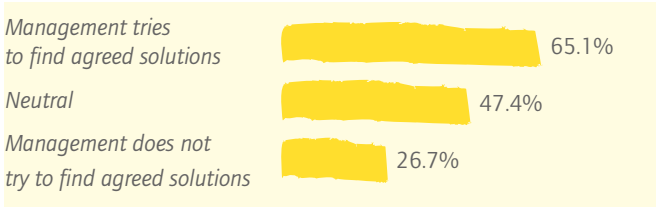
There is timely information for the EWC



Those EWC members who think their managers are likely to want to search for agreed solutions are almost three times more likely to say that they are generally informed and consulted before a decision is taken than those who think their managers do not want to search for common solutions (31.8% vs. 10.6%).

In conclusion: whether the EWC is correctly involved (i.e. before a decision is taken) seems to depend predominantly on management's willingness to search for common ground.

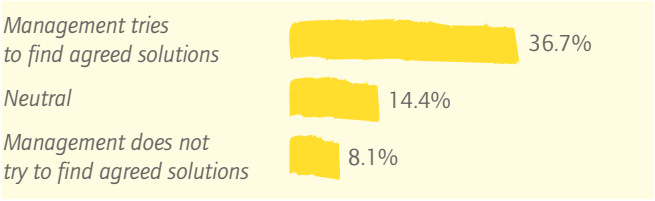
The EWC is properly consulted



Those EWC members who think their managers tend to want to search for agreed solutions are more than twice as likely to think their EWC meetings are effective for real consultation than those who think management does not want to engage (65.1% vs. 26.7%).

In conclusion: whether an EWC is really a forum for consultation also seems to be profoundly dependent on the approach of the management.

The EWC can influence company decision-making



When managers are likely to try to search for agreed solutions, employee representatives are more than four times more likely to think their EWC is able to influence management decisions (36.7% vs 8.1%).

In conclusion: without the explicit cooperation of management, it is very unlikely that an EWC can actually influence management and company decisions.

Notes

If the management wants to...

The EWC receives the necessary documentation in time

When management is reported as likely to try to find agreed solutions, EWC members are almost twice as likely to say they receive the necessary documents for the meetings on time (67.4% vs 38.3%).

In conclusion: whether an employee representative can prepare effectively for an EWC meeting depends on the attitude of the management towards the EWC.

The EWC receives detailed information on restructuring

In times of restructuring, information is key. Those representatives who think their managers tend to strive for solutions are far more likely to receive detailed information about planned restructuring. However, when the management does not tend to act in this way, only one in four EWC members receives such information.

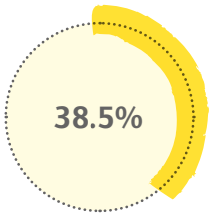
In conclusion: whether an EWC member has the necessary information to assess a forthcoming restructuring depends on the management's disposition.

And, just a reminder: only a minority of managers really desires engagement with the EWC

Whether or not employee representatives receive timely information, whether or not their EWC is effectively consulted and can meaningfully influence decisions, and whether it receives the documentation and information in time, are all, to a decisive degree, related to the willingness of management to engage with the EWC and to strive for agreed solutions with employee representatives.

Unfortunately, only a minority of EWC members think their management actually wants to engage with the EWC.

% managers who try to find agreed solutions with the EWC



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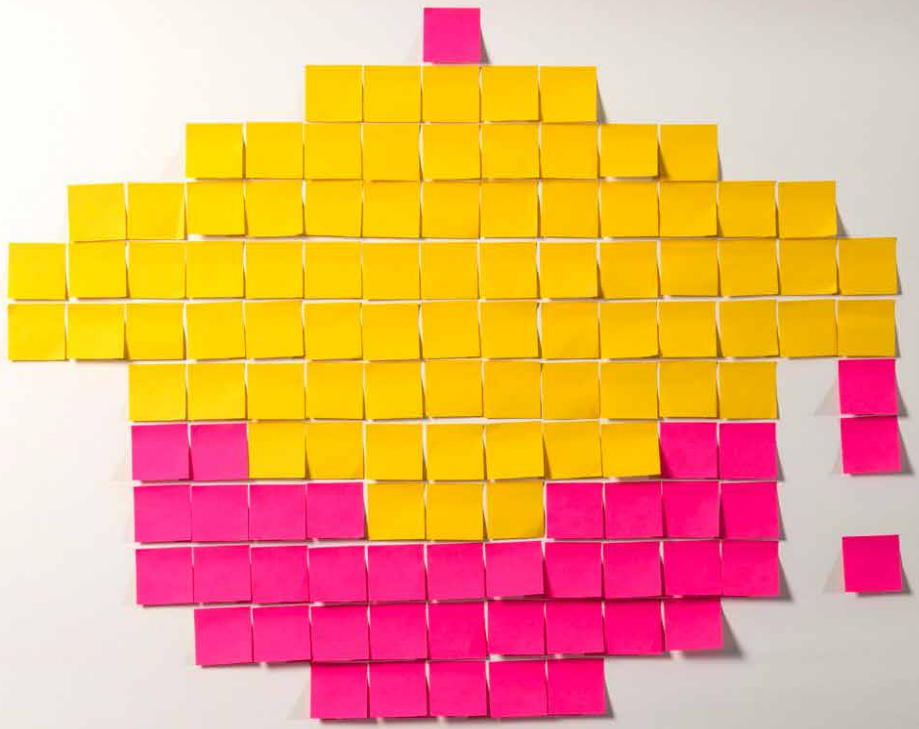
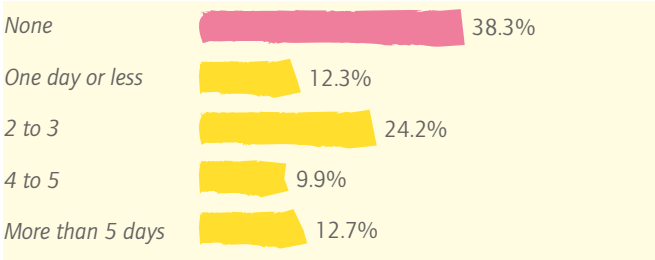


Training.

Training.

Most get some training, but quite a lot get none

Days of training in the last three years



38.3% say they had not attended any training in the last three years

Serving as an EWC member requires much knowledge and many skills. To name but a few: one needs to know the rules and regulations on EWCs and SEWCs; foreign language skills are often handy; one needs to know about working in intercultural settings and about transcultural communication; and an understanding of financial and business principles is important. Without mastering these skills, an EWC member may not live up to the full potential of his or her mandate.

For this reason, the EWC Recast Directive clearly included the right for EWC members to attend training without loss of wages.

Most EWC members say that they have received some days of training in the last three years (59.1%). However, this also means that over one in three says they had not attended any training in this same period.

A right to training is clearly established in the EWC Recast Directive; it is the responsibility of management to provide EWC members with access to training and, most importantly, to cover the costs and release EWC members from work duties. However, based on the results here, we can conclude that having the right to training does not mean that all EWC members actually receive training.

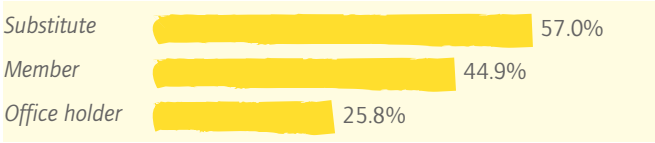
Notes

Training. Who loses out?

Who has received no training?

No training in last three years

Normal members and substitutes



EWC members without coordinators

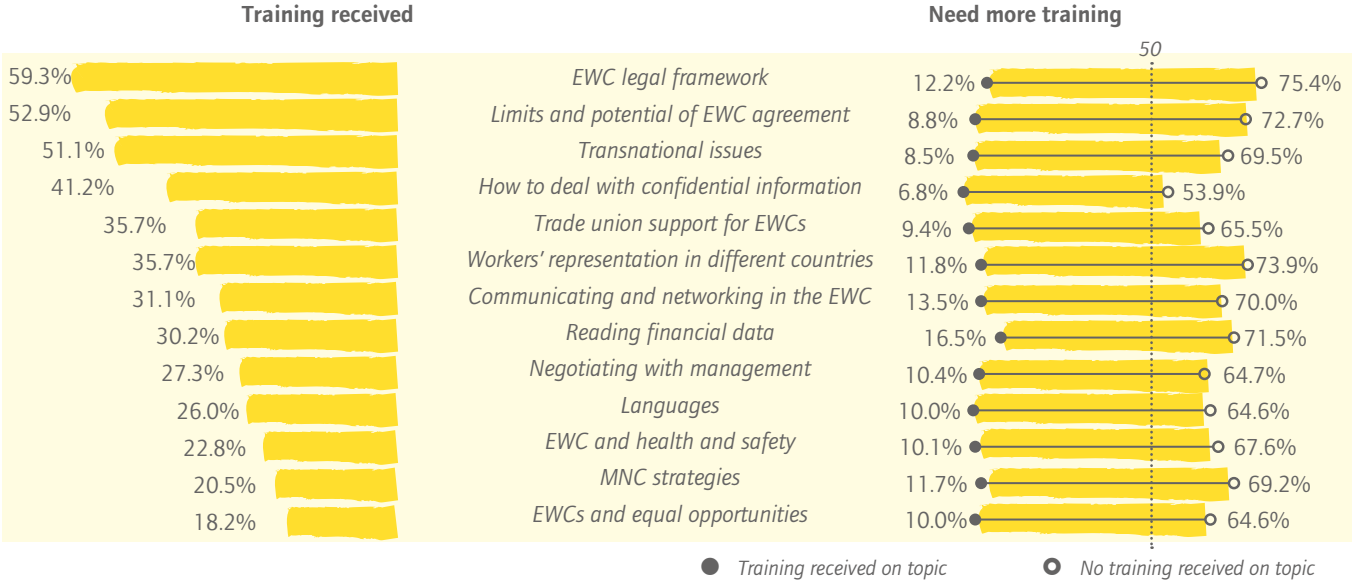
Focusing on those who have not received any training in the last three years, we observe that substitute and normal members are more likely not to have received any training compared to office holders. Among the latter, only one in four has not received any training in the last three years.

Furthermore, those EWC members without the support of a union coordinator are more likely not to have received any training compared to those who have the support of one. Among the former, almost one in two has not received any training in the last three years compared to one in three of those where there is a coordinator to assist.

Notes

Training.

The needs are high



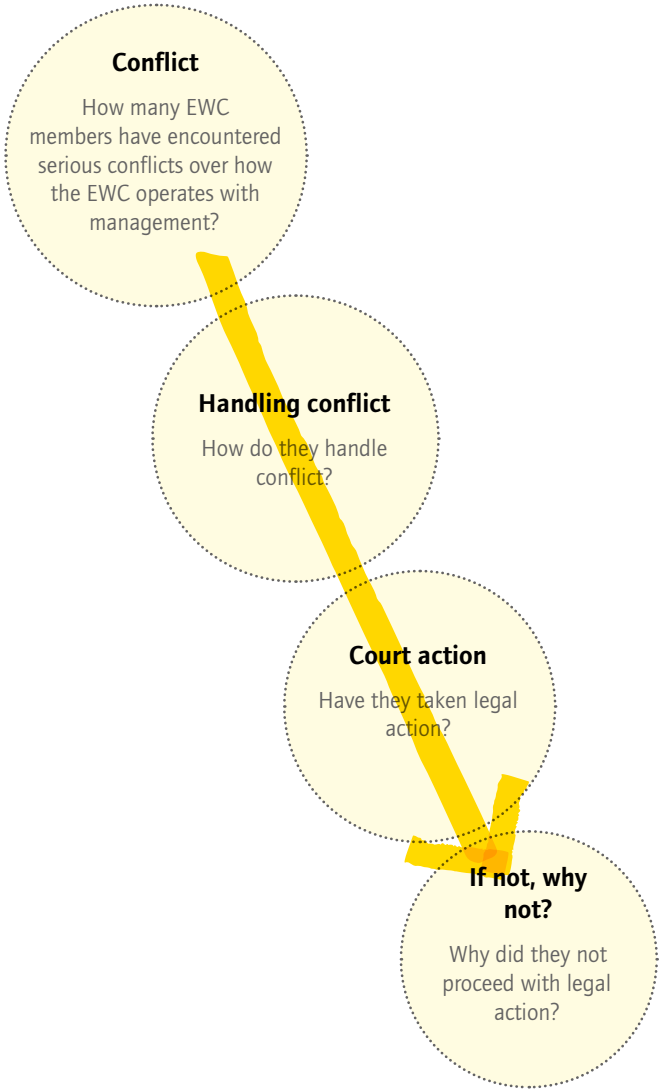
More than one-half of EWC members have received some training on the legal framework, the EWC agreement and on an understanding of transnational issues. The other topics are less common, with only one-quarter having had training on, for example, negotiation or languages and even less on health and safety, MNC strategies or equal opportunities.

In terms of identifying training needs, almost irrespective of the topic around seventy per cent of EWC members who have not received training express the need for training on that issue. The only exception is how to deal with confidential information, for which only a little more than one-half of those who have not yet received such training say that they need it.

As expected, when EWC members have received training on a topic they express less need for further training on that specific issue. However, about one in ten in each case still say they want further training, even where they have already received training on that topic. The outliers here are reading financial data and communicating and networking, where 16.5% and 13.5% respectively of those who have received such training still think they could benefit from more education on the topic.

Notes

Enforcement.



Enforcement.

Many EWC members report feeling most vulnerable in times of conflict. When discussing contentious issues, conflict is part of the package. Most conflicts can be resolved through dialogue, but there are times when conflict becomes serious to the point of confrontation.

In such cases, the quality of enforcement frameworks and fallback legal standards is decisive in setting the balance between unequally-footed parties. Consequently, we are interested in finding out how EWC members handle serious conflicts over how the EWC operates and with what obstacles they are confronted when resolution proves to be difficult.

In the following pages, we first check how many EWC members say they have encountered serious conflicts with management over how the EWC operates. Next, we ask how they sought to handle that conflict and whether or not they had proceeded with legal action. In the latter case, if they had not done so, we seek to obtain an insight into the reasons for this.

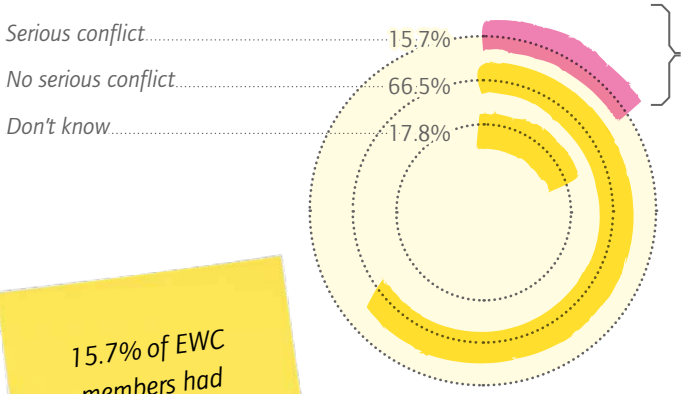
Notes

Enforcement.

Serious conflicts

15.7% of EWC members had experienced a serious dispute with management over the functioning of the EWC in the last three years.

EWC members who had a serious conflict in the last three years mostly referred to their EWC agreement and legislation to resolve the dispute. They did not go to court but argued with management using their agreement or the legal rules. Around one in two had asked the trade union for help, while a significantly smaller share had sought the assistance of independent mediators.



15.7% of EWC members had experienced a serious dispute with management

This data emphasises the importance of two elements. First, one needs precise and well-designed arrangements in EWC agreements. They are the first recourse in the case of conflict and often suffice to resolve the issue.

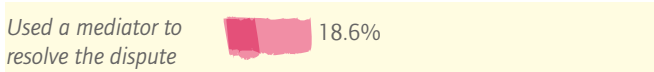
Second, the national statutory frameworks also need to be specific and comprehensive to cover various scenarios and ensure clear fallback solutions for the parties in disagreement, while taking into account the imbalance in their relative power (Jagodziński 2015).

How was it handled?

By referring to legal sources...

... or by asking the trade union for help...

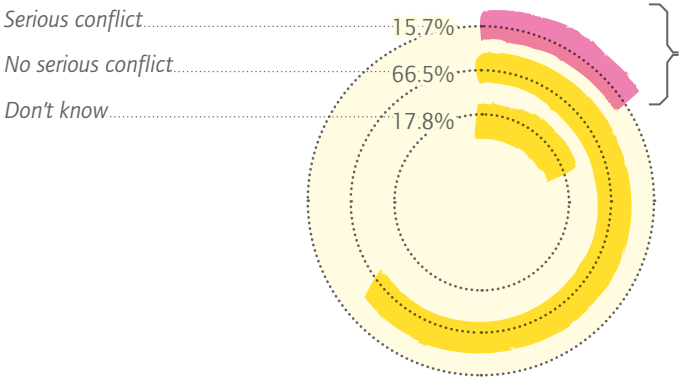
... but not so much by mediation



Notes

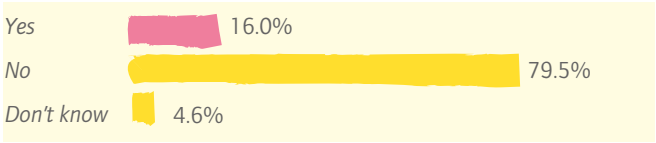
Enforcement.

Serious conflicts



15.7% of EWC members had experienced a serious dispute with management over the functioning of the EWC in the last three years.

Taken court action?



Only 16% of representatives who had experienced a serious conflict actually went to court over the issue. The small share of EWCs that resorted to this ultimate measure is no surprise given the almost full dependence of EWCs on financing by management; the loopholes in national enforcement frameworks (Jagodziński 2015; European Commission 2018); the low occurrence of relevant arrangements in EWC agreements; the organisational effort required to file and pursue a lawsuit; and, finally, the confrontational character of legal disputation.

Obviously, those EWC members who describe the relationship between management and the employee representatives as particularly 'hostile' are also those who are more likely to commence legal proceedings when there is a serious conflict.

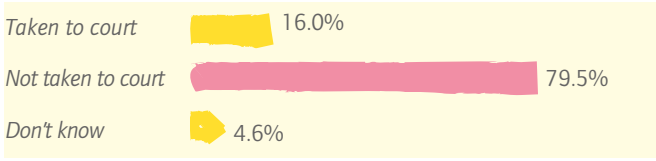
Notes

Enforcement.

Serious conflicts

15.7% of EWC members had experienced a serious dispute with management over the functioning of the EWC in the last three years.

Did they go to court?

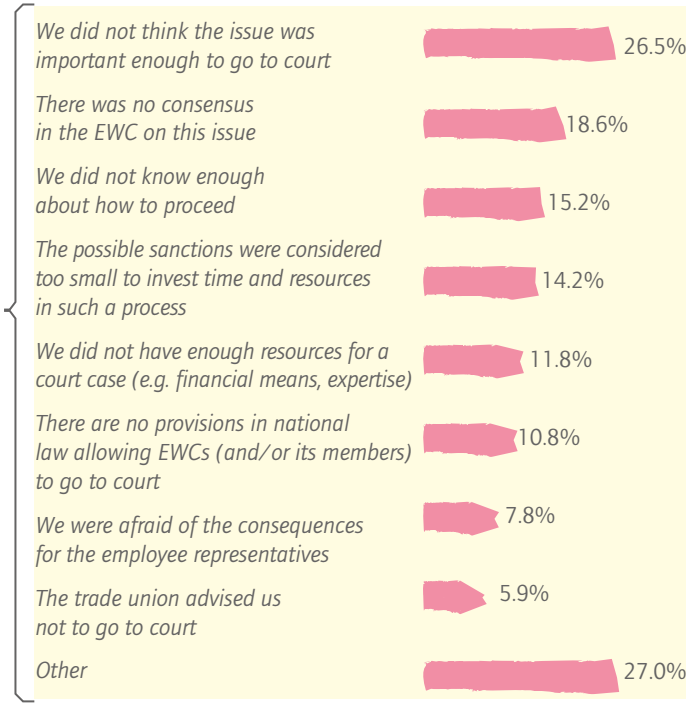


Only a minority of EWC members that had experienced a serious conflict with management decided to take the issue to court.

Among the reasons why EWC members did not go to court, about one in four said the issue was not sufficiently important while one in five said there was no consensus on the EWC about taking legal action. Fewer respondents indicated other reasons, such as the legal deficiencies of the national regulatory framework or having insufficient resources.

Interestingly, the largest share of respondents (27%) indicated 'other' reasons, which might mean the issue was resolved by using other methods, such as referring to the agreement or legislation, rather than going to court.

Why not?



Notes

Article 13, Article 6 or SEWC.

Article 13, Article 6 or SEWC.

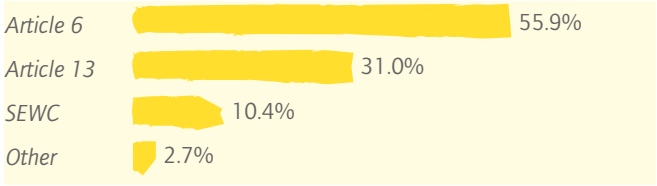
Three different types of transnational works councils

Not all EWCs and SEWCs follow the same rules. Obviously, there is the initial difference between the two given that SEWCs are established in European Companies. Second, depending on when an EWC was created, the legal framework under which they work is likely to differ. Aside from some less numerous types of EWCs (those working under the subsidiary requirements and those working under Article 14.1b of the Recast), we can distinguish between three major groups:

- **Article 13** (or pre-directive) EWCs: EWCs created before the original 1994 Directive entered into force on 22nd September 1996.
- **Article 6 EWCs:** EWCs created under the framework of the original 1994 Directive and its Recast version (2009).
- **SEWCs:** these are works councils set up in SEs which work under a framework that is largely comparable (the separate Directive 2001/86) to that provided by the EWC Directive.

Article 13 EWCs are often called 'voluntary EWCs' in the sense that they are based on an agreement between employer and employees, although the agreement must conform to the very rudimentary criteria defined by the Directive. Article 6 EWCs can refer to the Directive in enforcing some of their rights, but this recourse is more disputed when it comes to Article 13 EWCs.

Most EWC members are active under Article 6 EWCs



As we have seen, most EWC members are active under Article 6 EWCs; however, roughly 31% of EWC members are active under Article 13 EWCs while ten per cent operate under the rules of the SE Directive.

Few differences in performance

One of the interesting questions is whether the type of EWC agreement has any impact on the other characteristics under which the EWC functions, such as the frequency of EWC plenary meetings, the presence of a trade union coordinator or management's attitude.

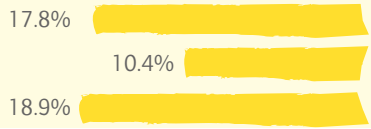
Contrary to the expectations voiced by some experts, we observe little difference in respondents' perceptions between the different types of councils, while EWC members have similar perceptions about the quality of information and consultation, their relationship with rank-and-file employees, etc.

Notes

Article 13, Article 6 or SEWC.

Enforcement more difficult

Serious conflict



Started legal proceedings

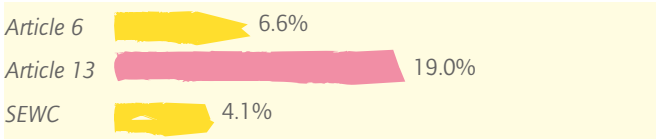
One area in which we could anticipate some significant differences between Article 13 and Article 6 EWCs is the enforceability of rights. According to some, the feeble legal framework for Article 13 EWCs creates '2nd class EWCs' which have a harder time in establishing legal recourse in the case of a serious conflict with management.

Interestingly, relatively fewer EWC members from Article 13 EWCs say they had experienced a serious legal conflict in the last three years (ten per cent) than members from Article 6 EWCs (17.8%) or SEWCs (18.9%).

At the same time, of those who had experienced serious conflict, roughly 17.5% of Article 6 members say they had started legal proceedings as had 14.9% of SEWC members. This percentage is far lower among Article 13 EWC members which had experienced a serious conflict (seven per cent). While the number of members in these groups is relatively small, this nevertheless indicates that establishing legal recourse may well be more difficult for Article 13 EWC members than it is for Article 6 EWC or SEWC members.

One obstacle: no legal provisions

No provisions in the law



Asked why they had not gone to court, members of Article 6 and Article 13 EWCs and members of SEWCs gave very similar answers, other than for the statement that there were no provisions in the (national) law ensuring them access to courts of law. Nineteen per cent of Article 13 EWC members who did not go to court indicated this as a problem compared to only seven per cent of Article 6 EWCs and just four per cent of SEWC members. This finding substantiates the claim that there is indeed no level playing field between the various types of EWCs and that Article 13 EWCs operate to different standards.

Notes

Article 13, Article 6 or SEWC.

Notes

The 2018 Survey was mostly focused on EWC members. However, it also included members of SE works councils (SEWCs), which are similar transnational bodies for employee information and consultation in respect of people working in European Companies (SEs). Their regulatory framework was inspired by the EWC model and is highly akin to the EWC framework with only few, minor differences (Jagodziński 2013). Analysis of EWC and SEWC agreements has shown that the latter tend to be, on average, more advanced than the average EWC agreement (De Spiegelaere and Jagodziński 2015).

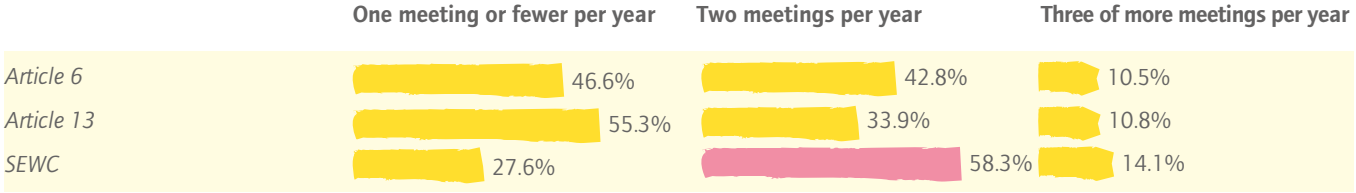
SEWCs are mostly German

In the next pages, we focus on how SEWCs differ from EWCs. Before turning to this, however, we need to note that there were not many SEWCs represented in the survey and that the majority are in companies based in Germany (79.2%). Another 18.6% are in companies based in France while two per cent are in companies based in the Netherlands.

The geographical concentration of SEWCs in the survey does not mean that all the respondents were from Germany or France. While this is indeed the case for a large proportion (respectively 38% and 14%), there were also SEWC members from the UK, Spain, Italy, Belgium, Austria, Hungary, the Netherlands and Denmark.

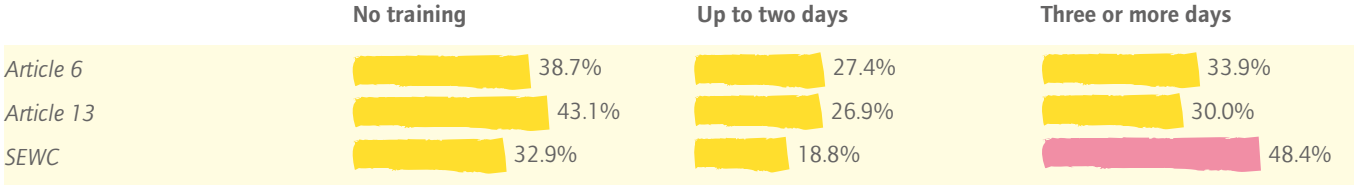
SEWCs meet more often

One of the most pronounced differences between EWCs and SEWCs concerns the number of meetings per year. As can be seen, SEWC members more frequently report that they meet in plenary session three times per year or more, while 58.3% say they have two plenary meetings per year compared to 33.9% of Article 13 EWC members and 42.8% of Article 6 EWC members. This observation is perfectly in line with earlier ETUI analysis of EWC agreements that observed that SEWC agreements envisage a higher number of meetings per year (De Spiegelaere and Jagodziński 2015).



Article 13, Article 6 or SEWC.

SEWC members receive more training



Secondly, employee representatives from SEWCs more frequently report having attended training and that their training also lasted longer. Compared to EWC members (be they from Article 6 or Article 13 EWCs), SEWC members more often say they have received three days or more of training in the previous three years (48.4% versus 33.9% and 30.0%). Again, this perfectly corroborates earlier ETUI research that observed SEWC agreements included more training clauses than EWC agreements (De Spiegelaere and Jagodziński 2015).

But why?

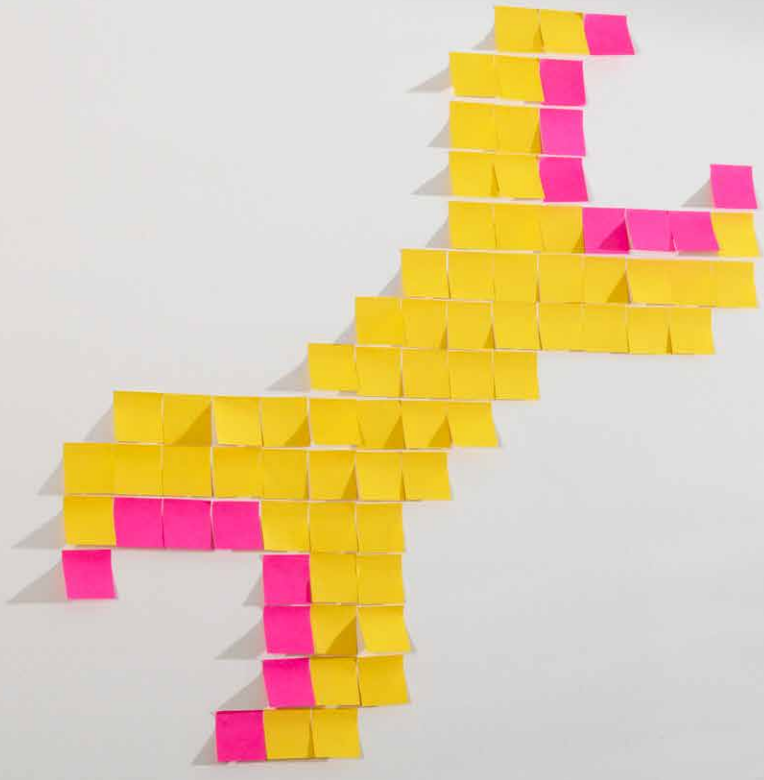
In line with our previous findings, we observe that EWCs and SEWCs are largely similar institutions. On some aspects they do differ, however, with SEWCs meeting more often while SEWC members receive more training. Additionally, SEWC members have easier access to company premises than EWC members.

The question is, therefore: how can these differences be explained? First of all, the observed differences may represent the effects of national context. As we have seen, SEWCs are primarily established in German companies and many SEWC members are from Germany. In this case, EWCs also established in German companies are more likely to have more meetings, while German EWC members are also more likely to have had more, and longer, training than other EWC respondents.

A second explanation could be the regulatory framework. One fundamental difference between EWCs and SEWCs is that the former are optional in the sense that there needs to be an initiative by one of the parties to establish such a body. For SEWCs this is not the case – if a company takes on the statute of an SE, it is obliged to negotiate the establishment of a SEWC. Such a setting puts employee representatives in a better position in negotiations.

Apart from this significant point, there are some differences in the regulation: the timing of information is defined slightly more precisely and there is a more specific list of information that managements need to provide to employees. Any possible effect of these differences is, at this stage, the subject of future research.

Notes



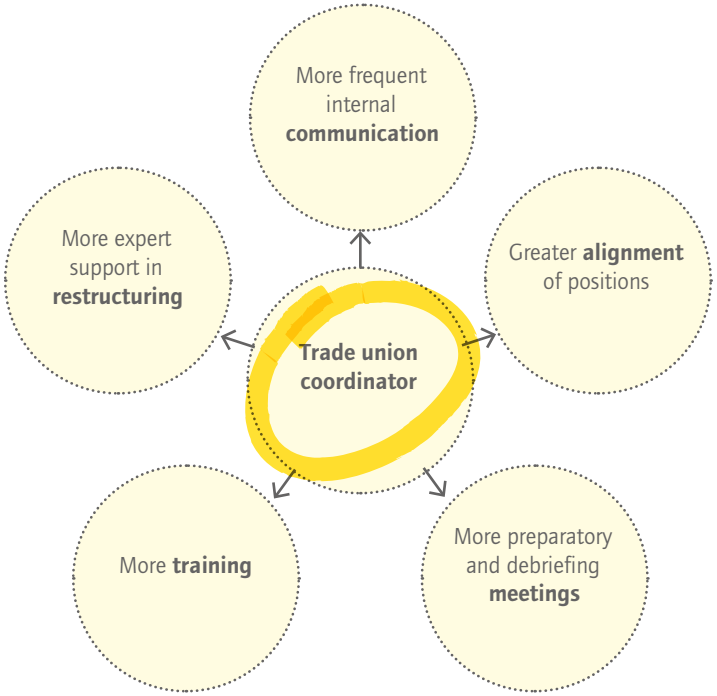
How a trade union coordinator makes a difference.

How a trade union coordinator makes a difference.

Trade union coordination = an asset for EWC operation

As we have seen on several occasions, the experience of EWC members who have the help of a trade union coordinator is clearly different from those who do not. They are in more frequent contact with each other between meetings; they are more likely to try to come to common positions with other EWC members; they organise more preparatory and debriefing meetings; they are more likely to have attended training; and they receive more expert support in restructuring projects.

The presence of a trade union coordinator, in short, is related to an EWC which functions better internally and this is one of the most powerful determinants of EWC performance. These findings largely confirm earlier studies that show that the trade union, as an institution, and the coordinator, as a person, are essential in the setting-up and running of EWCs.



Notes

How a trade union coordinator makes a difference.

Trade union coordination = an asset for EWC operation

Across a range of issues, the presence of a trade union coordinator is clearly related to the way that respondents function as employee representatives and how they perceive the operation of their EWCs.

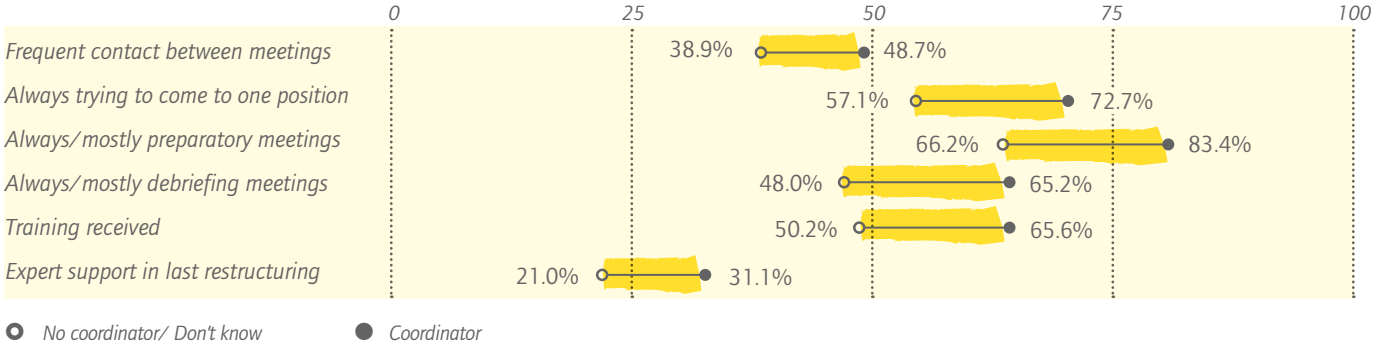
There are several manifestations of this relationship. Where there is a trade union coordinator, the internal functioning of the EWC seems to be better. The graph above shows clearly that EWC representatives who have a coordinator are more likely to answer positively on a broad range of issues related to how the EWC is run.

This clearly supports claims of the importance of trade union involvement in EWCs.

At the same time, a reverse relationship might also be present in which ambitious, active and effectively-functioning EWCs are more likely to ask a European trade union federation to provide a coordinator that will ensure an even more efficient operation. Or, alternatively, that such EWCs are more visible and are, therefore, more likely to have a coordinator appointed by trade unions. A trade union might also be more interested in investing its limited resources in the coordination of the most active, efficient and prospectively strong EWCs.

As a consequence, strong EWCs are more likely to have a coordinator, which strengthens them even further, while feeble EWCs may have to continue to struggle on their own.

Where there's a coordinator, the EWC seems to function better internally



Notes

Changes over time.

Changes over time.

Different possible causes

One of the main questions is, of course, whether there has been any evolution over time with regard to European Works Councils and SE Works Councils. This arises particularly in response to the European Commission's agreement in 2009 on a change in the legal framework for EWCs through the Recast Directive. From a policy point of view, it is therefore interesting to observe whether or not this policy intervention has resulted in changes in practice.

Unfortunately, changes over time are difficult to observe and could be attributed to different effects. Indeed, we can distinguish at least three different effects that could lead to a change over time:

1. **Policy effect:** a change in a certain rule might cause EWCs and EWC members to take a new or different approach. For example, a clearly-established right to training might result in more EWC members demanding and getting training.
2. **Learning effect:** as is generally acknowledged, institutions like EWCs evolve over time. With experience in their own EWC and of EWCs in general, some good practices become copied elsewhere. When applied to training, experience with the positive outcomes of training might cause more representatives to take training courses.
3. **Composition effect:** a third effect which can cause change over time (and sometimes a lack of it) is a composition effect. Over time, the population of EWCs might change as a result of some important factors influencing how the overall population operates. For example, if new EWCs are established in companies that are particularly anti-representation in tone, this could have an effect on the overall measured quality of information and consultation.

Two different surveys

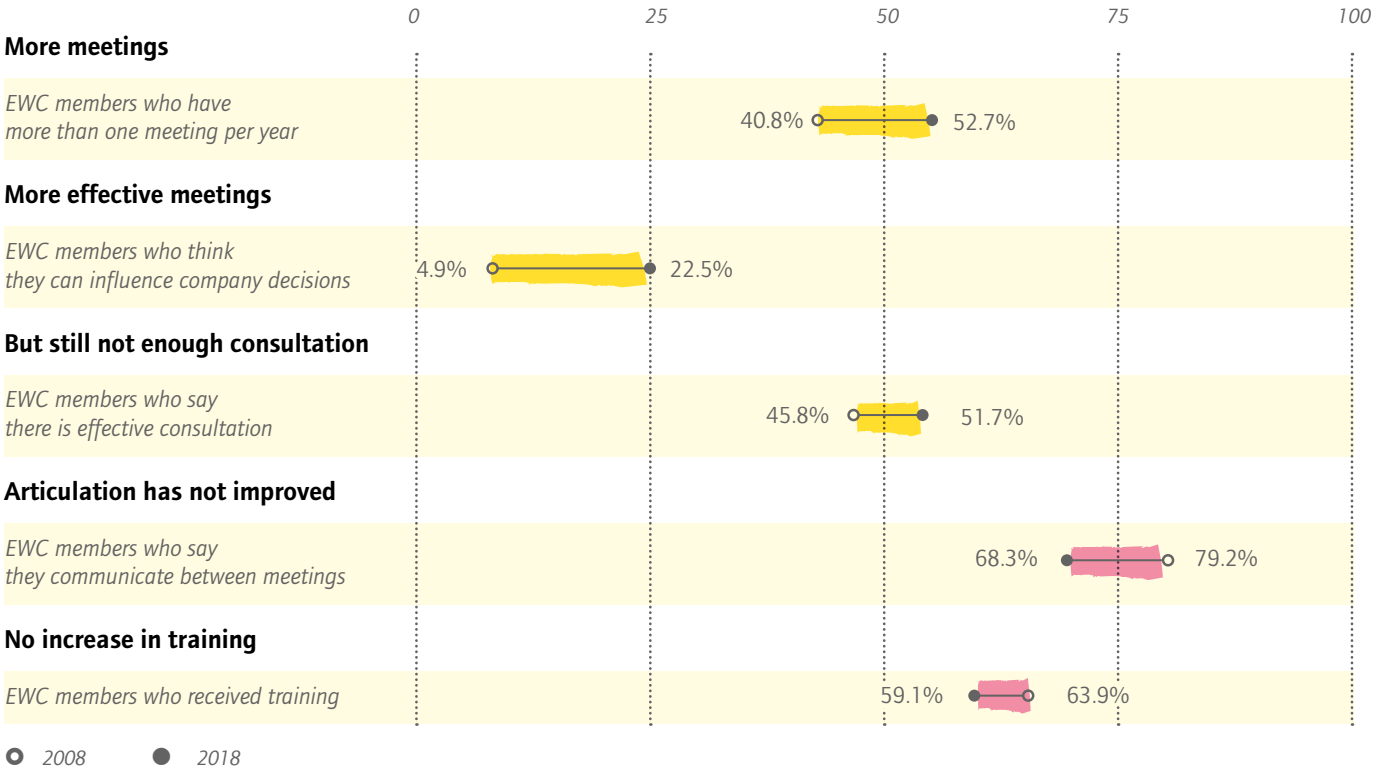
Added to this, there is also a potential method effect in making comparisons over time. In 2008, the first large-scale survey of EWC members was organised by the ETUI (Waddington 2010). This survey collected insights from roughly 950 employee representatives on generally the same topics as the 2018 survey. However, the sampling procedure used in 2009 differs from the one used in 2018, and there was no population benchmark to weight the results. Observed differences over time could well be attributed to this difference in methodology.

Compare with caution

Therefore, it should be borne in mind that any comparison over time which we present here is, at best, indicative. As a result, it is important to focus on general trends and significant evolutions, and use necessary caution in the interpretation of the results.

Notes

Changes over time.

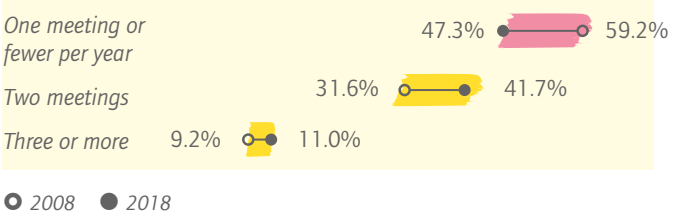


Notes

Changes over time.

More meetings

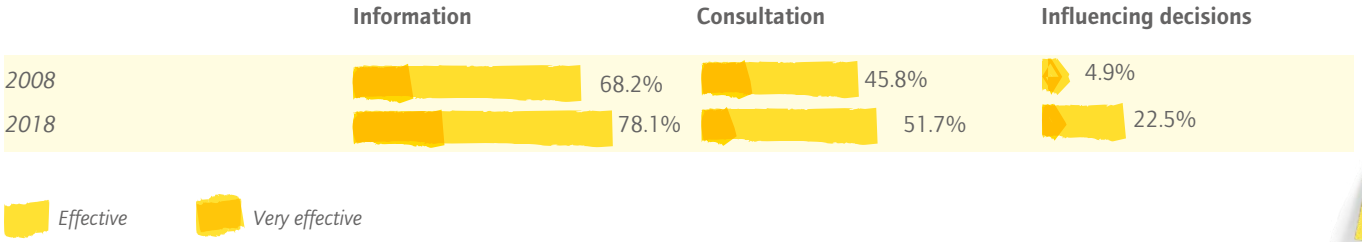
Compared to 2008, more EWC members report that they have more than one meeting per year (52.7% vs. 40.8%). Interestingly, there was no legal change included in the 2009 EWC Recast Directive requiring EWCs to meet more often.



More effective meetings

Regarding the effectiveness of meetings, we can observe some differences with respect to the information provided and the potential for the EWC to influence management decisions. In 2018, almost eight out of ten EWC members considered the plenary meetings as 'effective' or 'very effective' for the purposes of the provision of information. In 2008, this was only the case for seven out of ten. With respect to consultation, the difference is less stark (roughly five percentage points). For both surveys, however, only marginally more than one representative in two thinks the meetings constitute effective consultation.

Finally, a significantly higher share of EWC members in 2018 thinks their meetings are effective at influencing company decision-making. At the same time, the overall proportion is still fewer than one in four, which points to persistent deficiencies in this area.



Less than one in four EWC members considers their EWC apt for influencing decisions

Notes

Changes over time.

More restructuring

In 2008, respondents were asked if their company had been involved in restructuring. Eighty per cent of respondents answered 'yes' to this question. In 2018, we asked respondents whether their company had been involved in a number of forms of restructuring (such as plant closure and collective redundancies) in the previous three years. Ninety one per cent of respondents answered 'yes' to at least one of these options. Consequently, in line with other research, we observe that, over time, restructuring is becoming more and more part of the normal life of a company (and an EWC) and less and less an 'extraordinary' event.

Involved in restructuring

Restructuring is becoming part of the normal life of a company, and therefore also the EWC

Communication between meetings has not improved

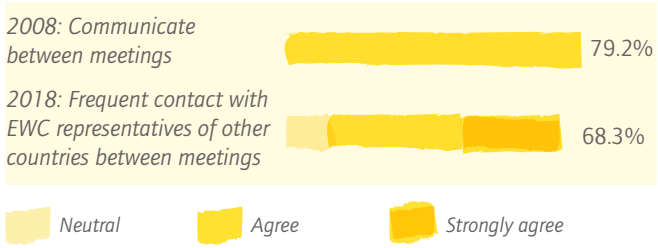
As we have seen, communication among EWC members between meetings is important but not easy. In 2008, respondents were asked whether or not they communicated between meetings with representatives from different countries. Seventy nine per cent said they did.

In 2018, respondents were asked how much they agreed with the statement 'Between EWC meetings I have frequent contact with EWC members in other countries.' In total, 44.7% replied positively to this question by 'agreeing' or 'strongly agreeing' with the statement while another 23.6% indicated a neutral position.

In conclusion, it seems that communication between meetings has not improved in the period between 2008 and 2018.

This might be surprising as the Recast Directive introduced a clearer right (and duty) for EWC members to report back to the national level. Other research has also found that more and more EWC agreements include clauses on reporting back (De Spiegelaere 2016).

In any case, a decrease in internal communication between EWC meetings is a disconcerting trend – and it is one that has consequences, too. Such communication may have an impact on the level of trust within the EWC, its effectiveness, its ability to react and the solidarity or collective identity of the members of the EWC themselves.



Communication between meetings has not improved in the period between 2008 and 2018

Notes

Changes over time.

A right to training, but what about the practice?

Training received

Another clear intervention of the Recast Directive was to install a clear right to training without loss of wages for EWC members. This was a rather uncontroversial intervention as most EWC agreements already included such a right (De Spiegelaere 2016). Even so, one would expect to find a new entitlement being applied more commonly in practice, with more EWC members taking part in training.

A comparison of the 2008 and 2018 surveys, however, does not confirm this expectation. In 2008, 63.9% of EWC members indicated they had followed some kind of training, while in 2018 only 59.1% of members say they have done so. In this case, the legislation has had no effect while other factors must have governed such a regression.

Marginal improvements

Making comparisons over time is associated with an array of problems. While we are aware of these difficulties, we nevertheless decided to compare the results of the survey of EWC members in 2008 with those from the 2018 survey.

There have been a few areas in which improvements in EWC practice may be observed: in the number of plenary meetings and in their effectiveness. At the same time, regarding reporting back and training, the differences observed seem to be rather more negative than positive.

The observed differences are of course mostly rather minor and can be attributed to different causes: policy changes; learning effects; compositional change; or a method effect. However, the main observation is that the motivation of the Recast Directive to 'Improve the functioning of EWCs' does not seem to be being realised. Even where the effectiveness of meetings increases, the overall proportion of EWC members who think they are properly informed and consulted (let alone able to influence company decisions) remains rather low.

These results largely confirm earlier studies on the Recast Directive and show that, if one really wants to improve the effectiveness of EWCs, legal interventions need to be far more extensive and deeper, while they need to be assisted by the development of other subsidiary initiatives.

Notes

What should be changed?

What should be changed?

More effective enforcement and sanctions

Information quality and scope

Resources and expertise

Meetings

What can and should be improved? Having asked respondents to evaluate their EWC in many ways, we asked practitioners what they thought should be changed about the EWC framework in order to make them function better.

Clearly, sanctions and enforcement are at the top of the list. Over eighty per cent of respondents think management should be prohibited from implementing decisions before proper information and consultation has taken place. This is a clear demand for more instruments with which EWC members might oblige their management to cooperate.

Almost an equal proportion of EWC members see a need to improve the quality of information and to widen the scope of topics covered by the EWC. A slightly less numerous, but still very significant, portion of respondents agree that their EWC should get more resources in terms of time, money and expertise with which to exercise its functions.

Less often mentioned is the need for more plenary and select committee meetings. As expected, this was higher where meetings were fewer: seventy per cent of EWC members who have only one meeting per year think this is important compared to forty per cent among those who have three or more meetings. It is worth emphasising that this wish for more meetings is still voiced despite the recorded increase in the frequency of meetings between 2008 and 2018.

Better sanctions and enforcement are on the top of the wish list of EWC members

Notes

What should be changed?

Sanctions: also needed where all is going well

When does the exchange of information or consultation take place?	Management should be prohibited from implementing a decision before consultation			
	Strongly agree	Agree	Neutral	Disagree and strongly disagree
Before the decision	41.8%	35.0%	10.5%	9.2%
Before implementation	47.9%	38.5%	9.7%	2.9%
During implementation	42.3%	42.1%	8.5%	3.5%
After implementation	46.9%	40.0%	11.2%	1.9%

As shown on the previous page, the leading demand, shared by the large majority of EWC members, is for an introduction of a prohibition on management implementing a decision without proper consultation. To be real and functional, such a prohibition would require the introduction of a sanction nullifying corporate decisions on transnational matters taken without consultation with the EWC.

What is more interesting is that this demand is shared even by those EWC members who report being generally involved in decision-making before a final decision is taken. No less than three in four of those representatives 'agree' or 'strongly agree' that such a prohibition is needed.

Taken together with the observation that very few EWCs actually go to court, one might argue that most EWC members do not want to have sanctions in place with which they might continuously take the company to court, obstruct its operation and disrupt management. They obviously want, instead, clearer rules and a clear prohibition as preventive instruments with which to compel management simply to engage in real (and timely) consultation. Therefore, one can argue that bolder sanctions will not represent any new problems or extra burdens for companies with EWCs, as long as management respects the legislation and engages in meaningful dialogue with employees as required by the law.

Notes

Conclusion.

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Democracy at work needs strong EWCs

The most recent European Commission, presided over by Jean-Claude Juncker, started with great ambitions in the social field. The EU was to become a 'triple A' social Europe and the declaration of a 'social pillar', accompanied by the creation of a European Labour Authority (ELA), followed. While the realisation of these ambitions remains to be seen, this publication has focused on the results of an older EU initiative in the social (industrial relations) field: European Works Councils and SE Works Councils.

The regulatory framework for European Works Councils was introduced in 1994 and amended in 2009. This means that, this year, in 2019, we are celebrating over 25 years of experience with EWCs since the formal adoption of the concept. Furthermore, practical experience with some EWCs goes back to the 1980s.

This publication provides an insight into the activities of EWCs based on a large-scale standardised survey of EWC members organised in 2017. We discuss here some of the overall conclusions that can be taken from this exercise.

Information yes; consultation no.

The objectives set by the EU for EWCs and SEWCs are clear: to anticipate and manage change by ensuring that employees are properly informed and consulted, and in a timely fashion, about transnational issues in multinational companies.

Based on the results of the present survey, we conclude that, from the perspective of employee representatives, this objective is scarcely being met. Only one in five representatives have the feeling that they are generally informed and consulted before final decisions are taken on particular issues. For only very few of the topics discussed by EWCs do even one-half of representatives think that effective consultation takes place and, while most think that EWC meetings do constitute interesting sources of information, few say they amount to real forums for consultation with management, let alone ones for giving employees an influence over company decisions.

After 25 years of the EWC legislation, and despite the 2009 attempt by the EU legislature to improve the framework, the reality on the ground is clear: European Works Councils are, according to employee representatives themselves, meetings for information, not for real consultation.

Rights in theory and practice

The EWC Directive, and more specifically the Recast Directive, gives several clear rights to employee representatives, such as: (1) the right to training without loss of wages; and (2) the right (and duty) to inform local level representatives about what happens at the EWC.

In practice, we observe that quite a few EWC members have yet to receive any training in carrying out their function. The need for training, however, is present and spoken out loud. The right to training is evident,

Conclusion.

but this still does not always translate into EWC members getting the training they need.

Regarding EWC members' right and duty to report back, we observe that the majority of EWC members feel they have sufficient freedom to communicate with the local level, and virtually all use some method of communicating back. At the same time, however, only a minority 'often' asks for input and even fewer think employees are well-informed about the EWC's work. But: if there's nothing to report about, a clear right (and duty) on paper will not result in meaningful communication in practice.

Some success factors

Of course, some EWC members are more positive about their experiences than others. The question is, then, what factors are related to the generation of more positive opinions. This publication has provided only bivariate analysis, but some patterns are already visible.

First of all, those EWC members who meet more often in plenary EWC meetings seem to be more positive about the general functioning of their EWCs. Frequent in-person contact increases trust, both between representatives and between representatives and management. Furthermore, it starts an important learning process of how to become an effective EWC. More meetings also gives management greater opportunities to inform the EWC of forthcoming decisions and more occasions for a real exchange.

Second, where a trade union coordinator is present, the internal functioning of an EWC seems to work better. Where coordination exists, there are more internal meetings, more training, more communication with the local level and more trust between representatives from different countries. A trade union coordinator seemingly activates the EWC and supports it to do a better job. Additionally, where there is a coordinator, representatives from different countries are more likely to search for common ground between them.

Where there is a coordinator, representatives from different countries are more likely to search for common ground between them

Third, management clearly holds the keys to the success of the EWC. Even though trade union coordination can improve the functioning of an EWC or SEWC, the real power lies with management. It is managers who determine whether the EWC is informed and consulted before decision are taken and given the opportunity to be involved in that decision-making process. Where management wants to engage and search for common solutions, they will; where management does not really want to engage, the odds that the EWC will be properly involved are very slim. In the latter cases, representation at the EWC is destined to be a mere facade.

Interestingly, these three factors have different controllers. First, trade union coordination is mostly in the hands of the workers and the trade unions. If they manage to coordinate effectively a greater number of EWCs, they might be able to improve the general situation significantly. Second, the frequency of meetings is a factor for negotiation, but also for policy. EWCs negotiate in the shadow of the law and legal intervention in, for example, the subsidiary requirements is likely to result in more frequent meetings. Finally, the approach of the management is, logically, mostly in the hands of that same management. A management who sees the value of early EWC involvement and/or fears the consequences of late involvement, is a lynchpin in EWCs becoming real forums for employee consultation.

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Conclusion.

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Improvement over time?

One of the main questions, absolutely so from a policy perspective, is whether evolution is going in the right direction. In 2009, the EU agreed the EWC Recast Directive specifically to improve the functioning of EWCs. So now, roughly ten years later, can we see signs of improvement?

To answer this question, we have compared the 2018 survey with the very similar survey in 2008, before the policy change was enacted. Such a comparison over time can be highly instructive, but it also presents difficulties as any change over time can be due to several reasons as we have identified.

Taking this into account, a comparison of the two surveys shows indications of a significant level of improvement in terms of the number of meetings taking place per year and more limited advances regarding the quality of information and consultation.

Notwithstanding these signals of improvement, the overall conclusions from 2008 still stand: EWCs and SEWCs are mostly institutions for employee information, not real consultation. While the Recast Directive was undoubtedly a step forward in many ways (providing legal certainty, clarity over definitions and the right to training), it fell short on improving the core activity of EWCs and SEWCs: timely consultation on transnational issues.

Meeting each other

Remarkably, most EWC members saw their EWC meetings as being primarily effective and useful in meeting employee representatives from other countries. Clearly, EWC meetings are not only about meeting with management, but also (and maybe mostly) about meeting each other: through these regular face-to-face meetings, representatives exchange information, learn and understand what's happening in other countries, develop common opinions and positions, and build trust and the common identity of the EWC. While the function of meeting the management has a formal anchoring in the Directive and is thus in the spotlight of analysis, the internal networking function of an EWC represents an equally important outcome.

No time to waste

25 years of experience with a centrepiece of social Europe regulation and a pillar of European industrial relations has, alas, shown to be only a limited success.

It has been a success since a large number of EWCs have been established and these have provided representatives with some rights to transnational information and consultation. Importantly, they afford a greatly-appreciated opportunity to employee representatives from different countries to meet and discuss issues of common interest.

However, this success is limited because both this and other studies have demonstrated that the objectives set for EWC and SEWCs are not

Conclusion.

being met. EWCs and SEWCs do not guarantee timely information and consultation nor, therefore, the protection of workers' interests.

Where management wants to engage and the EWC is properly organised, an EWC can be a forum for real information and consultation. But, in the opinion of employee representatives, where management is not willing to engage there is little or no chance for an EWC or a SEWC to develop into a real forum for consultation – even with proper training and coordination from the union side. In this sense, we emphasise again that the key to the success of EWCs is, mainly, in management's hands.

This means that the exercise of employees' fundamental right to information and consultation is dependent mainly on managerial readiness to cooperate and to accept and include workers in corporate decision-making processes. Employee representatives can demand all they want, but it is management who decides and the EU is standing idly by.

Not surprisingly, the main demand of EWC members is to have more instruments to stimulate management to take a different approach to the EWC. Representatives realise their role depends on the mood of their managements and are searching for ways to counter this.

In a truly 'triple A' social Europe, however, fundamental rights should be guaranteed for all employees and independent of the mood and opinions of their managers.

Notes

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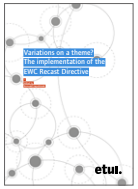
All links were checked on 03.09.2019.

Notes

Further reading.

Too little too late? Evaluating the European Works Council Directive (2016)

Stan De Spiegelaere (ETUI)
ETUI, Brussels
ISBN 978-2-87452-410-3
ISBN 978-2-87452-411-0 (pdf)



Variations on a theme? The implementation of the EWC Recast Directive (2015)

Romuald Jagodziński (ETUI)
ETUI, Brussels
ISBN 978-2-87452-386-1
ISBN 978-2-87452-387-8 (pdf)

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European Works Councils and SE Works Councils in 2015. Facts and Figures (2015)

Stan De Spiegelaere & Romuald Jagodziński (ETUI)
ETUI, Brussels
ISBN: 978-2-87452-378-6
ISBN: 978-2-87452-379-3 (pdf)

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