

Analysis of the SDA Info point Database  
“EWC agreements”

**SDA**  
**- Social Development Agency -**  
**Infopoint Database**  
**“Analysis of the EWC agreements 2004 - 2008”**

**October 2008**

## Introduction

This text is designed as an information brochure, with tables based on the quantitative and qualitative analysis of the Infopoint database of European Works Council agreements, aimed at offering some guidance as to which clauses should be included in an EWC agreement and those which should be avoided. It is also an update of the 2006 SDA analysis (accessible on website), but its primary aim is to highlight the evolution of the contents of agreements from 2004 to 2008 compared to the previous period. Why is such analysis necessary?

The last four-year period has in fact, seen the affirmation and consolidation of a generation of EWC agreements that have significantly innovated the content of previous agreements.

Compared to the “previous generation”, these new agreements stand out in particular due to:

- An enlargement of the “parent” countries of the enterprises or groups of enterprises involved in the process.
- A more important role and greater visibility for trade union organisations and in particular, for European Industry Federations.
- Consolidation of the rights (training, use of experts, etc.) and operating principles (select committees, means of communication, follow-up meetings, etc.)

The benchmark political, economic and social scenario has changed completely compared to 1994, the year directive 94/45/EC was adopted.

In 1994, the European Union comprised 15 member States and the directive was introduced to counterbalance, in favour of workers, the potential risks - above all, the risks linked to employment and social dumping inherent in the process of implementation of the single European market introduced by the Maastricht Treaty (7<sup>th</sup> February 1992)<sup>1</sup>. EWCs were conceived as transnational workers’ representation organisations in enterprises and groups of enterprises on a European level. They were seen as alternatives to procedure-based systems and offered the right to information and consultation on matters of supranational interest.

The directive did not acknowledge a role for either national or European trade unions, indeed it did not even mention them. It was clear that **in no case** could EWCs replace them (above all on a *national* level) in bargaining activities and actions in defence of workers’ interests with regards to the consequences of the processes of reorganisation, employment, wages and working conditions.

Around 2000 the scenario changed radically. Companies had to deal with new competitive challenges, linked to the globalisation of markets and economic systems that went beyond those linked to the single European market alone. In addition to the search for new markets and raw materials and labour at the lowest possible cost, the processes of mobility and relocation of companies accelerated, cases of reorganisation, transfer and merger grew exponentially and the phenomenon of migration towards the west from European Union candidate (and then member) countries and non-EU countries exploded.

On the political and institutional level, in Europe the years since 2000 have been marked by the difficulty linked to relaunching growth and competitiveness linked to the *Lisbon strategy*, creation of a single currency, enlargement of the European Union to 27 member States and the attempt of the European Union to adopt a *constitutional* treaty.

The experience of the EWCs developed in this scenario, which has changed so radically from 1994 to the present day; an experience that, according to many observers, was inevitably destined to face a crisis. This did not occur thanks to at least four reasons:

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<sup>1</sup> Anyone wishing to know more about this scenario should re-read the debate that broke out after Maastricht regarding the *HOOVER affair* (1993).

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1. Although with some difficulty, the activities of the European Works Councils have however grown and become stronger. Meeting after meeting, EWC members have learnt to understand each other; in a spirit of mutual trust they have begun to exchange information and in the most difficult cases, such as in the processes of reorganisation and closure of enterprises, to join forces and stand up to the management.
2. In most cases, corporate management has ended up accepting the coordinating role of the European Industry Federations, the presence of trade union representatives in the special negotiating bodies and the right to information for national trade unions.
3. Consolidating these activities, the EWCs have gone from being *weak* tools, conceived only for *normality*, to gaining a role and presence in the *perimeter of European trade union action*, even in the difficult processes of reorganisation.
4. EWCs have developed procedures which go beyond the mere contents of the directive and the initial agreements: the right to training and the presence of experts, the recognition of select committees, the use of dedicated communication tools, the follow-up meeting after annual meetings, etc.

In the following pages we will attempt, using some data, to show this evolution, starting with the information contained in the SDA Infopoint Database on EWC agreements<sup>2</sup>.

### Agreements

For this analysis, the last update was made on 1<sup>st</sup> September 2008. At that time, the SDA database contained **770** agreements out of an estimated total of around 820 agreements in force.

In the period running from 2004 to 2008 (August), a total of 102 new agreements were analysed, broken down per year as follows:

- 2004: 36 agreements
- 2005: 27 agreements
- 2006: 14 agreements
- 2007: 15 agreements
- 2008 (first eight months): 10 agreements

About a quarter of these are agreements relating to the renewal of previous agreements signed under Article 13 of the directive, while the remainder are agreements relating to the establishment of new EWCs.

### **Applicable law:**

The applicable law is normally that of the Member State that governs the undertaking and in general where central management has its headquarters.

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<sup>2</sup> This database is available on the SDA website ([www.sda-asbl.org](http://www.sda-asbl.org)) and accessible in 6 languages (English, French, Italian, Spanish, German and Swedish). The SDA database is run in close cooperation with the European Trade Union Institute (ETUI). The objective for 2009 is to merge the two tools in one under the direction of the ETUC. **The SDA Infopoint database is based on original signed and existing agreements, subsequently broken down into different relevant criteria in order to further analyse their content and refers only to EWCs currently existing to our knowledge.**

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Table 1: Number of Agreements by Applicable Law: overall and since 2004

| Country         | Overall | Since 2004 |
|-----------------|---------|------------|
| Austria         | 15      | 1          |
| Belgium         | 86      | 10         |
| Switzerland     | 4       | -          |
| Cyprus          | 1       | 1          |
| Czech Republic  | 1       | 1          |
| Germany         | 188     | 19         |
| Denmark         | 15      | -          |
| Spain           | 7       | 2          |
| Greece          | 1       | -          |
| France          | 107     | 19         |
| Finland         | 29      | 5          |
| Hungary         | 1       | 1          |
| Italy           | 39      | 8          |
| Ireland         | 38      | 1          |
| Luxembourg      | 11      | 3          |
| Norway          | 14      | 1          |
| The Netherlands | 65      | 9          |
| Sweden          | 46      | 5          |
| United Kingdom  | 102     | 16         |

Source: SDA Infopoint Database

During the period running from 2004 to 2008, a 15% increase (approx.) was recorded in total EWC agreements; in 85 cases the agreement established new EWCs while the remaining 17 cases referred to the renewal of previous Article 13 agreements. The period also recorded the first cases of EWCs set up in multinational groups whose headquarters were in a new member State:

- In Cyprus, the banking group MARFIN Popular Bank Public Co LTD.
- In the Czech Republic, the electrical group CEZ.
- In Hungary, the petrochemical group MOL.

### **Signatories:**

During the period assessed (2004 - 2008), what stands out is the presence and role of the trade unions at the bargaining table. In 21 cases (out of the 102 analysed), the signature of a European Industry Federation appears next to that of the Special Negotiating Body. The presence of company or national trade unions is equally significant; only in four cases was the agreement signed by what were referred to only as *workers' representatives*.

Table 2

|   | Overall | Since 2004 |
|---|---------|------------|
| Special Negotiating Body                                | 340     | 85         |
| EIF   | 169     | 21         |
| TU organizations of countries or headquarters concerned | 198     | 19         |
| Works councils  | 138     | 1          |
| Unclear   |         | 4          |

## Meetings

### ***Follow-up meeting:***

In addition to the standard yearly or twice yearly meetings and the extraordinary meetings of the EWC, many agreements foresee the organisation of preliminary meetings, which precede these meetings, and/or follow-up meetings to the EWC general meeting. The importance of these meetings lies in the fact that they are supposed to be worker-only gatherings. The preparatory meetings enable employee representatives to discuss and exchange ideas on the issues on the agenda of the plenary meeting. This way they can hopefully come to a joint opinion on the EWC meeting itself. After the general meeting, it would be useful for workers’ representatives to discuss whether or not the information and consultation had been relevant and timely and whether a possible follow-up meeting should be organised in some way.

Employers were traditionally less convinced of the need for a follow-up meeting than for a preparatory meeting. The databank shows the significant evolution of agreements on this theme.

Table 3: Number and Percentage of Agreements Providing for a Follow-up Meeting

| YES or NO | Overall   | Since 2004 |
|-----------|-----------|------------|
| YES       | 265 (34%) | 71 (70%)   |
| NO        | 505 (66%) | 31 (30%)   |

Source: SDA Infopoint Database

During the 2004 - 2008 period, the number of agreements that provided for a follow-up meeting of the workers’ delegation at the end of the annual EWC meeting doubled in percentage terms (from 34% to 70%). A total of 90% of the new EWC agreements explicitly provided for the right to this meeting, along with the right to a preparatory meeting.

### ***Select Committee***

In the context of a current interface for information that concerns the employees of a multinational enterprise, the establishment of a select committee or bureau is recommended. Sometimes this committee will be a bipartite group and other times a worker-only group. In this case too, in the 2004 - 2008 period there has been a significant evolution in agreements: the percentage of agreements that provide for a *select committee*, designed to guarantee continuity to coordination and communication of EWC work, went from 68% to 85.2% of agreements, on the total. This percentage rises to 100% if we consider only agreements signed during the period from 2004 that established a new EWC on the basis of Art. 6 of the directive.

Table 4: Number of Agreements providing for a Select Committee

| YES or NO             | Overall   | Since 2004 |
|-----------------------|-----------|------------|
| Workers only          | 426 (55%) | 77 (75.4%) |
| Workers and employers | 103 (13%) | 10 (9.8%)  |

Source: SDA Infopoint Database

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## Competence

Compared to the previous period, the four-year period from 2004 - 2008 saw a consolidation of the activities of information and consultation and the competence of EWCs on corporate economic, financial and social themes.

### Economic Field:

As can be seen in the table below, from 2004 to 2008 the main concern expressed in the texts of the agreements was to consolidate the right to information and consultation on economic issues, mainly linked to the processes of reorganisation and restructuring of enterprises on European and international markets. There was a reduction, in percentage terms, of indications referring to general economic issues, while strong interest was expressed for themes linked to the merger, closure and relocation of enterprises and production and service activities. More interest was also expressed for technological and organisational changes that can have a direct impact on working conditions and employment.

Table 5: Number of Agreements per Competence in the Economic Field

| FIELD                     | Overall   | Since 2004 |
|---------------------------|-----------|------------|
| Production                | 624 (81%) | 89 (87%)   |
| Market                    | 636 (83%) | 88 (86%)   |
| Field of activity         | 522 (68%) | 78 (76%)   |
| New technology            | 399 (52%) | 79 (77%)   |
| Environment               | 265 (35%) | 38 (37%)   |
| Merger                    | 452 (59%) | 83 (81%)   |
| Closures                  | 429 (56%) | 82 (80%)   |
| Delocalisation            | 467 (61%) | 83 (81%)   |
| Research                  | 44 (6%)   | 9 (9%)     |
| Other                     | 233 (30%) | 14 (14%)   |
| Not foreseen in agreement | 34 (5%)   | 3 (3%)     |

Source: SDA Infopoint Database

### Financial field:

The trend to strengthen the competences of the EWCs on themes closely linked to the strategic and competitive choices of enterprises is also confirmed in the area of themes of a financial nature. In particular, workers' representatives requested more information on the balance sheet content and the profits and losses of enterprises; they wanted to know more about investment strategies and notably reduced the requests for general information.

Table 6: Number of Agreements per Competence in the Financial Field

| FIELD                                      | Overall   | Since 2004 |
|--|-----------|------------|
| Balance sheet (analysis)                   | 609 (79%) | 85 (83%)   |
| Investment                                 | 599 (78%) | 92 (91%)   |
| Joint ventures (shares in other companies) | 16 (2%)   | 4 (4%)     |
| Other                                      | 177 (23%) | 13 (13%)   |
| Not foreseen in agreement                  | 49 (7%)   | 4 (4%)     |

Source: SDA Infopoint Database

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**Social field:**

During the period analysed, as can be seen in the table below, the EWCs also strengthened their competences in all the areas linked to social themes, considerably reducing the discussions on general topics typical of initial agreements. In particular, the EWCs have shown considerable interest in the themes of employment and collective dismissal (linked to the processes of corporate reorganisation and/or mergers) and have consolidated their desire to intervene on important issues such as working conditions, health and safety, equal opportunities and training. What is still too low, in percentage terms, is the competence of EWCs to intervene on strengthening and disseminating trade unions rights - something still considered mainly the competence of the various national industrial relations systems.

Table 7: Number of Agreements per Competence in the Social Field

| <b>FIELD</b>              | <b>Overall</b> | <b>Since 2004</b> |
|---------------------------|----------------|-------------------|
| Employment                | 684 (89%)      | 95 (93%)          |
| Working conditions        | 233 (30%)      | 66 (65%)          |
| Health and safety         | 310 (40%)      | 50 (49%)          |
| Training                  | 213 (28%)      | 32 (31%)          |
| Equality                  | 83 (11%)       | 22 (22%)          |
| Trade Union Rights        | 16 (2%)        | 4 (4%)            |
| Mass redundancies         | 367 (48%)      | 70 (69%)          |
| Other                     | 196 (26%)      | 13 (13%)          |
| Not foreseen in agreement | 39 (5%)        | 3 (3%)            |

Source: SDA Infopoint Database

## Experts

***Assistance of experts:***

Experts play an essential role in the correct functioning of the EWC. These experts may be employees or not and they may be trade union representatives. In the majority of cases, the assistance of experts is foreseen in preparatory meetings and plenary meetings. This is the case for more than half of the agreements signed. During the 2004 - 2008 period this trend became even more significant and the percentage of agreements that provide for the assistance of experts in both preparatory and institutional meetings has increased from 60% to 83%. During the same period, the number of agreements that do not provide for the assistance of experts has decreased by half (from 19% to 8%).

Table 8: Number of Agreements by Provision of Experts: Overall and since 2004

| <b>FIELD</b>                        | <b>Overall</b> | <b>Since 2004</b> |
|-------------------------------------|----------------|-------------------|
| Only in plenary meeting             | 90 (12%)       | 8 (8%)            |
| Only in preparatory meeting         | 72 (9%)        | 3 (3%)            |
| In preparatory and plenary meetings | 463 (60%)      | 83 (82%)          |
| Not foreseen in agreement           | 145 (19%)      | 8 (8%)            |

Source: SDA Infopoint Database

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**Experts’ fees:**

A growing number of agreements and activities resort to the assistance of external experts *not exclusively of a trade union origin*, such as professors, financial experts, balance sheet analysts, and health and safety experts.

In order to use these figures, the agreement of the management (as for the presence of trade union *experts*) is no longer sufficient. It is also necessary to cover their costs (travel and board) and any fees. Extending this right is an interesting indicator of the extent to which workers’ representatives are aware of the importance of the role experts can play and of the willingness of companies to consider this intervention an *added value* in information and consultation procedures. As can be seen from the table below, the percentage of agreements that provide for the possibility to pay fees to external experts proposed by workers’ representatives totals 44%, but if we consider the 2004 - 2008 period alone the percentage increases to 75%.

Table 9: Number of Agreements by Themes of Honorary Expert’s Assistance

|            | <b>Overall</b> | <b>Since 2004</b> |
|------------|----------------|-------------------|
| <b>NO</b>  | 433 (56%)      | 26 (25%)          |
| <b>YES</b> | 337 (44%)      | 76 (75%)          |

Source: SDA Infopoint Database

## Training

**Provision of training**

Initial and continuous training of EWC members is the main condition for ensuring they are capable of carrying out their role with the necessary skill and expertise. Although this right is not mentioned in the directive, it represents one of the most important operational results in the experience of the EWCs. The achievement of this right – conquered through agreements or through practices – has been made possible also thanks to budget line 04030303 that the European Commission annually makes available for social partners in order to support actions promoting the Community *acquis* in terms of workers’ rights to information and consultation.

If we refer to all existing agreements, only 49% of these explicitly provide for the right of EWC members to be trained for their role and competences. If we refer to agreements signed prior to 2004, this percentage is further reduced. Over two thirds of EWC members had not, at the time, benefited from any form of training. If we consider agreements signed from 2004 to 2008, the situation changes considerably; management recognised the right of workers’ representatives to adequate training and in 76% of cases this right was codified in the text of the agreement. About a fifth of cases are agreements for the renewal of Article 13 EWCs.

Table 10: Number and percentage of Agreements by Provision of Training

| <b>TRAINING</b> | <b>Overall</b> | <b>Since 2004</b> |
|-----------------|----------------|-------------------|
| <b>NO</b>       | 389 (51%)      | 25 (24%)          |
| <b>YES</b>      | 381 (49%)      | 77 (76%)          |

Source: SDA Infopoint Database

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**Training theme:**

With regards to training themes, agreements signed during the 2004 - 2008 period better clarified the training needs, while the percentage of agreements that provide for training but do not indicate any priority fell from 72% to 56%.

There has been an interesting percentage increase (from 23% to 37%) in language training, which shows that EWC members are more aware of the need for direct communication, without mediation, with each other and with management.

Table 11: Number and percentage of Agreements by Training Theme:

| <b>TRAINING THEME</b>            | <b>Overall</b> | <b>Since 2004</b> |
|----------------------------------|----------------|-------------------|
| <b>Social</b>                    | 80 (10%)       | 21 (21%)          |
| <b>Economic</b>                  | 103 (13%)      | 26 (25%)          |
| <b>Financial</b>                 | 69 (9%)        | 20 (20%)          |
| <b>Language training</b>         | 179 (23%)      | 38 (37%)          |
| <b>Not foreseen in agreement</b> | 556 (72%)      | 57 (56%)          |

Source: SDA Infopoint Database