

.6.3. Negotiation of EWC agreement -annex: Elements for an EWC agreement

Annex: Elements for an EWC agreement

An EWC agreement must include the standards and definitions set by the EWC Directive 2009/38/EG including the subsidiary requirements, and the provisions of the applicable national transposition law. In addition, UNI Europa recommends inclusion of the following points:

Meetings:

- The EWC must be able to hold at least two meetings per year.
- The right to extraordinary meetings – whenever the EWC considers it necessary - must be included.
- The agenda for the meeting(s) should be worked out between the Select Committee of the EWC and management.
- The official EWC meeting should last at least one day.
- There should be one full day for a preparation meeting and sufficient time for de-briefing.
- Travel time for EWC meetings must be treated as working time.

Select committee:

- According to the subsidiary requirements of EWC Directive 2009/38/EC, the employees' representatives within the EWC must have the right to elect a select committee.
- The mandate of the select committee members emanates from the agreement and is given by the full EWC.
- The EWC agreement must define the role and responsibilities of the select committee so that it at least contains the following rules:
 - It discusses and agrees with management on the location, agenda and structure of the plenary meeting,
 - In co-operation with management it discusses and agrees on the minutes and statements of the plenary meeting.
- The select committee must have the right to hold regular meetings financed by the company.
- It must be informed and consulted by management in good time especially in the period between official meetings if extraordinary transnational aspects become relevant.
- The select committee must have the right to produce and circulate position papers. Furthermore it should have the right to have these papers translated into the relevant languages.
- The select committee must have the right to hold meetings fully or partly without any representation of management.
- Information and consultation that takes place in select committee meetings with management must not replace information and consultation at full EWC meetings.
- In order to have a strong select committee it is recommended to have provision for elected substitutes.

Information and consultation:

- The definitions (“information”, “consultation” but also “transnationality” including Recital 16) of the EWC directive 2009/38/EC should be explicitly incorporated in the agreement’s text. If the national legislation which is going to be applied provides for better and even more concrete rules, then these provisions should be incorporated.
- It should be clear that the duty to conduct proper information and consultation on the part of management must be based on a written report made available in good time prior to the premeeting to all members of the EWC in the appropriate languages.

Languages:

- Simultaneous interpretation from and into all relevant languages must be provided for the main EWC meeting, the pre-meeting, de-briefing meetings and select committee meetings.
- Long-term plans to achieve one major working language with suitable language teaching should be avoided and cannot be used to restrict simultaneous interpretation and translation where this is necessary.

Trade union representatives and additional experts:

- The agreement must provide for a permanent seat for a trade union representative.
- In addition, the EWC and the select committee must have the right to invite experts (financial, economic, legal, ...) of their own choice to all meetings.
- Management should be informed of this; it is however not acceptable that experts can only be invited to certain pre-determined points on the agenda.
- The EWC agreement must ensure that the company covers the cost of at least one expert, at least concerning travel and accommodation.

Composition of members:

- EWCs should be representative of the composition of the company workforce, both in terms of gender and in relation to other factors (for example, different types of employees).
- Equality issues (including antidiscrimination, equal pay, women's health, and other relevant issues) should be included within the remit of the EWC.
- Only legitimate employee representatives (according to national law) should be members of an EWC. It must be transparent to the entire EWC how each member has been elected or appointed in their country.
- Management not to appoint or nominate employee representative members.
- UNI Europa is in favour of including employee representatives from countries that are not European Union member states or in the European Economic Area. Companies operating in Switzerland should include Swiss employee representatives in their EWC. Other countries "beyond" Europe should have the possibility to be represented in the EWC; if full participation cannot be achieved, representatives should be included as observers.
- In order to have a strong EWC, all members should have substitutes.
- A maximum number of members should be avoided.

Confidentiality:

- The rules for confidentiality can only cover such information as has been explicitly and reasonably designated as a business secret.
- The rules of confidentiality must not apply to members of organisations that are already covered by national rules of confidentiality.
- The rules of confidentiality must not apply between EWC members.
- The EWC members should be able to discuss the confidentiality of certain information.
- Infringements of the rules of confidentiality by employees can only trigger sanctions on the basis of the respective national laws, rules and traditions.

Costs and means required:

- All costs in connection with the work of the EWC must be met by management. That includes travel, accommodation, interpretation, translation, communication facilities, training, wages for the time spent on EWC work.
- EWC members should have access to communication facilities (internet access, local and international phone calls, Fax, e-mail, website, webcam).
- EWC members should have access to translation services in order to communicate and exchange information between meetings.

Training:

- Sufficient training for EWC members to fulfil their mandate must be provided.
- New EWC members must be entitled to receive basic training about EWCs and their role.
- Regular possibilities for training and for participation in specialised seminars should be provided to EWC members.
- Trainers and contents of the training should be chosen by EWC members according to their needs.
- Training opportunities should be available to the entire EWC as a group. This is to support the development of group coherence and a common basis of knowledge.

Internal rules of procedure:

- Internal rules of procedure can help to prevent conflicts within the EWC. They can describe the roles and tasks of the chair, the select committee members, and other functions within an EWC. Such rules do not necessarily have to be a part of the agreement but can be an internal document for employees reps only. Such rules do not need acceptance by management.

Applicable national law:

- SNB members and management should jointly decide under which national law the EWC will operate and which is the court of jurisdiction.

This information should be included in the agreement.