

1.6. Negotiation of EWC agreement. Steps

1.6.1. Introduction on negotiations for an EWC agreement: from minimum standards to preferred outcomes

EWC agreements are always a result of negotiation and compromise. However, an EWC agreement must never go below the standards defined by EWC directive 2009/38/EC including the subsidiary requirements, as well as the applicable national transposition law or other applicable legislation. UNI Europa wants to achieve better provisions than those provided by legislation.

These Guidelines include Annex I suggesting several concrete points to be negotiated for in an EWC agreement.

Please see hereunder some recitals of the 2009/38 that have clearly inspired most Uni Europa indications on how to manage an EWC from its roots i.e. from the NEGOTIATION of the Agreement

Let us interconnect them to each other in any negotiation to establish or to renew any EWC Agreement.

LEVEL OF DIALOGUE

Only dialogue at the level where directions are prepared and effective involvement of employees' representatives make it possible to anticipate and manage change. (Recital 14)

TRANSNATIONAL ISSUES : (...) are considered to be transnational (...) matters which, regardless of the number of Member States involved, are of importance for the European workforce in terms of the scope of their potential effects or which involve transfers of activities between Member States. (Recital 16)

PROFESSIONAL BALANCE

In accordance with the principle of subsidiarity, it is for the Member States to determine who the employees' representatives are and in particular to provide, if they consider appropriate, for a balanced representation of different categories of employees. (Recital 20)

CONSULTATION AND DECISION-MAKING

The definition of 'consultation' needs to take account of the goal of allowing for the expression of an opinion which will be useful to the decision-making process, which implies that the consultation must take place at such time, in such fashion and with such content as are appropriate. (Recital 23)

TRADE-UNIONS ROLE AND RECOGNITION

Recognition must be given to the role that recognised trade union organisations can play in negotiating and renegotiating the constituent agreements of European Works Councils, providing support to employees' representatives who express a need for such support. (Recital 27)

LINKING NATIONAL AND TRANSNATIONAL LEVELS TO ANTICIPATE AND MANAGE CHANGE

Such agreements must lay down the arrangements for linking the national and transnational levels of information and consultation of employees appropriate for the particular conditions of the undertaking or group of undertakings. The arrangements must be defined in such a way that they respect the competences and areas of action of the employee representation bodies, in particular with regard to anticipating and managing change (Recital 29)

1.6.1.a. UNI Europa's role in the negotiating process

UNI Europa will ensure, through the communication and coordination role described in its Guidelines, that the employees' representatives have a common approach and that negotiations run smoothly.

UNI Europa will encourage and support the SNB to draw a EWC agreement based on Annex I of these Guidelines. This draft will be presented to management at the earliest possible stage of negotiations.

The role of the expert of the European Federation, appointed in joint agreement with the DSN, is a resource for the negotiation process and to aid the EWC.

1.6.1.b. Signature of the EWC agreement

As provided by the directive 2009/38, for the purpose of the negotiations, the special negotiating body may request assistance from experts of its choice which can include representatives of competent recognised Community-level trade union organisations. Such experts and such trade union representatives may be present at negotiation meetings in an advisory capacity at the request of the special negotiating body.

From another point of view, UNI Europa should be the (co-)signatory on EWC agreements negotiated within its sphere of responsibility. This demonstrates that the trade unions involved stand united and in transnational solidarity behind the EWC.

UNI Europa will not endorse an agreement that is below the minimum legal standards.

During the negotiating process, UNI Europa will decide on a case by case basis how to proceed with the company concerned.

In any case, at the moment there is not a legal provision on the participation of UniEuropa to the agreements.

1.6.1.c. External expert

Go to 2.2.c Business accounting: use of the manual

This is the moment to bargain for useful information to evaluate the condition of the group, both in current and dynamic terms. We are interested in having the right to access balance data and periodical evaluations (trimestral, biannual), and to information on consolidation modalities of data, to orders and relative intergroup pricing, and to the existence and typology of subcontracts external to the group.

The direct information we are able to bargain will a useful analysis tool that is stable in time.

At this step, it's possible to bargain to have an external, independent, accounting expert, that means the EWC has to choose the expert.

Go to 5.3. Glossary annex business accounting

1.6.2. In addition

1.6.2.a. Select Committee and languages

Select Committee: its composition must take in account the best balance possible between operative agility and representativeness. In this sense, no country should express the majority of the SelCo even if largely a majority among workers.

Languages and interpreting: our starting point should be the right to interpreting in all languages of EWC representatives. We should nevertheless consider a common language during meetings and even more during informal contacts, because it makes mutual comprehension and the intensity of relations definitely easier. When we have a decent ability to communicate in such common language, we should test this opportunity starting from the Sel.Co meetings. Of course any waiver to part or all of the interpreting and translation services must be object of an acquired negotiation with the management, whereas the bigger the save in money for them (interpreting is maybe the most expensive voice in the expenditures of an EWC, at least in relative terms), the more rights for the EWC, like more meetings in a year, more training, etc.

Even in this sense so, renouncing to interpreting (within precise limits and conditions) may become an important opportunity/resource.

1.6.2.b. Agreement and standard rules. A way to improve the agreement

Agreement and standard rules. A way to improve the agreement

EWC Directive 2009/38/EC on the elements of the EWC agreement.

In synthesis, the EWC agreement have to include the standards and definitions set by the EWC Directive 2009/38. But it may improve *in melius* the provisions of EWC Directive.

In this sense, it could be useful to analyse the definitions of information and consultation provided by Directive 2002/14 in order to improve the notions that have to be detailed in the EWC agreement.

Furthermore, delegates have to know the subsidiary requirements of EWC Directive 2009/38/EC for two reasons. First: in case of contrast with the central management on the elements of the EWC agreement, the delegates could ask the application of the subsidiary requirements of EWC Directive. Second: in order to grant the improvement *in melius* of the provisions of the EWC agreement.

It's always advisable to put an expiration date of the agreement. This allows you to renegotiate the agreement at regular intervals taking into account legislative and judicial innovations, as well as good practices that occurred in the meantime.

1.6.2.c. Additional accounting data in the agreement text

Go to 2.2.c Business accounting: use of the manual

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