

## 2.A. Trade unionist, Organizer – the role

### 2.A.0. Introduction

If your answer to:  
«do I have a TNC?»  
is  
«Yes!»,  
The national and/or local officer (e.g.. Fabi/Filcams/Handels ... ) will have to verify:

### 2.A.a. Necessary checks

Where is the TNC Head-Quarter?  
Does the TNC cover more than one industry?  
Which countries are concerned by the TNC?  
What are the number of employees in each country?  
Do collective redundancies concern more than one- EWC issue?  
The transformation in SE was communicated to other territories, countries?

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How to do so?:  
Asking workers and delegates  
Asking the national level  
Consulting with the ETUI DB  
Asking Google !!!

Often the EWC delegate is not a trade union officer, and hence finds it harder to get used to the “tools of the trade”; coordination, training and involvement activities must be organized for delegates in territorial and sector union structures.

In addition he will have to know: structure and functioning of European Union Federations.

*Periodically organize moments of collective discussion and exchange of experiences among delegates of TNCs and EWC of various groups, moments that should be organized by national unions, with training aims, to promote the feeling of belonging to a national union (and indirectly European) on which you can count when performing the activities of transnational representative of workers.*

### 2.A.b. Legal checks

Must be verified:

- Applicable European Directives
- National reference law EWC/TNC
- eventual agreements signed by social dialogue committees during sector social dialogue /Decision 98/500/CE of the Commission, of 20 may 1998, that establishes sector social dialogue committees to promote dialogue among social parts at a European level).

EWC establishment agreement (and of EWCs that followed)

- the existence of a “group” (see art. 2 l. b and c.)
- The existence of a ‘controlling undertaking’.

For the purposes of the Directive 2009/38, ‘controlling undertaking’ means an undertaking which can exercise a dominant influence over another undertaking (the controlled undertaking) by virtue, for example, of ownership, financial participation or the rules which govern it.

The ability to exercise a dominant influence shall be presumed, without prejudice to proof to the contrary, when an undertaking, in relation to another undertaking directly or indirectly:

- (a) holds a majority of that undertaking’s subscribed capital;
- (b) controls a majority of the votes attached to that undertaking’s issued share capital;

or

- (c) can appoint more than half of the members of that undertaking’s administrative, management or supervisory body.

For these purposes, a controlling undertaking’s rights as regards voting and appointment shall include the rights of any other controlled undertaking and those of any person or body acting in his or its own name but on behalf of the controlling undertaking or of any other controlled undertaking.

Notwithstanding what above said, an undertaking shall not be deemed to be a 'controlling undertaking' with respect to another undertaking in which it has holdings where the former undertaking is a company referred to in Article 3(5) of the Directive 2009/38 or of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings.

The law applicable in order to determine whether an undertaking is a controlling undertaking shall be the law of the Member State which governs that undertaking. Where the law governing that undertaking is not that of a Member State, the law applicable shall be the law of the Member State within whose territory the representative of the undertaking or, in the absence of such a representative, the central management of the group undertaking which employs the greatest number of employees is situated.

## 2.A.c. What do we want to know

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

**We are a multinational group: what do we need to know?**

**1. Concept of "group"**

**2. Notion of "control"**

**3. What kind of group? Nature and typology of group**

**It's useful to get a:**

**General knowledge of balance analysis, of significant balance figures analysis and tools for a first evaluation of group.**

### **Go to 5.3. Glossary annex business accounting**

**In particular B/C**