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## NEW EWC DIRECTIVE- NEW PERSPECTIVES

TRAINING ATHENS 17-18.9.11

GOLDEN CITY HOTEL

### MINUTES

Training workshop was organised in the Golden City Hotel in Athens in the dates before the transnational Conference, namely on the 17 and 18 of November 2011.

Participants were 23 EWC members and trade unionists (20 the first day and 21 the second day) from Greece (17), Roumania (2) and Bulgaria (3).

Participants were divided into 2 teams of 10-11 members, each team having an animator.

The workshop has been very practical. Pedagogical method used was through role playing. The methodology used was to give each team the same written description of a case study and ask them specific tasks to fulfil. Each team member was assigned a specific role in each case study. Each participant had a file with the directive in his/her national language and in English and its transposition national laws-if existing else its draft. Animators have introduced some questions when there seemed that discussion within teams has reached a dead end. They avoided though making interventions guiding the discussion, which allowed free exchange of experiences and opinions.

In each team for each case study there was elected a chairman/woman to lead the discussion and a spokesman to report the findings of the team to the plenary meeting. Spokespersons shifted from case to case in order that all the participants had the opportunity to be spokespersons. Some of the tasks were to be fulfilled individually and then discussed in the group. The team had a given time available to discuss and decide what to do for each case study, depending on the subject and complexity of the case study. Team members discussed the actions that they had to undertake in order to protect the interests of the employees, and the possible reactions from the employer side.

In the end of each topic, each team has presented its findings in a plenary session and the participants have discussed the actions and the results of each team. At the end of each plenary meeting there were some remarks or subjects introduced by animators.

Case studies used are based on the ones developed by ETUI (with some minor changes to include the participating nationalities). Tasks were elaborated by OBES. Case studies used are:

1. EWC and a Local Conflict (examined on the 17.11.11)
2. Merging of two companies that each of them has an EWC (examined on the 17.11.11)
3. Closure and Relocation (examined on the 18.11.11)

4. Wage freeze or closure (examined on the 18.11.11)
5. Reorganizations (examined on the 18.11.11)

## **ANIMATORS**

Panos Katsampanis  
Sofia Spiliotopoulou

## **LANGUAGES**

English - Greek

Simultaneous interpretation was available for both teams and the plenary meetings.

**Some of the main topics training dealt with are:**

### **The legal framework for EWC's**

The agreement is the first and most important legal document.

- For agreements signed under the Directive 1994/45 there are two distinct cases (article 13 agreements do not have to respect any article of the directive. On the other hand article 6 agreements must be negotiated under the directive conditions and must respect a number of topics as listed in the directive, but are free to determine the content of the agreement).
- New agreements and renegotiation of old agreements, regardless their initial regime, have to respect the new directive 2009/38.
- The subsidiary requirements only have to be respected in case the special negotiating body has decided to adopt those articles or when no agreement has been reached after three years of negotiations.
- In case the agreement previews less than the subsidiary requirements then the agreement prevails than the subsidiary requirements. Hence, it is advisable that the SNB does not accept anything less than the provisions of the subsidiary requirements, which in this way constitute a minimum.

The transposition of the directive.

- The national transposition of the country where the headquarters of a multinational company are, constitutes the legal text of reference for setting up a EWC.
- The national transposition is the legal text of reference for the appointment of members of the special negotiating body and of the EWC for the home country of those people.

### **The importance of communication**

- Accurate, adequate and on-time information is necessary before starting discussions.
- In many instances the central management does not forward information on the topic but makes a general introduction or most of the time of the EWC meetings is spent on procedural discussions.
- Experts are in many cases the key in order that the EWC is able to have an effective discussion with central management. The management can afford to have specialised experts on everything and has got all the time necessary for preparing its positions, Workers' representatives do not have knowledge enough to treat most of the subject. The Directive previews at least one expert, selected by the workers' representatives is paid by the central management to assist the EWC to understand what is going on, what are the implications for workers and to form its opinion. This expert may change according to the subject. For ex. an accountant to analyse the balance sheet, a lawyer to clarify legal uncertainties.

- One has not to take for granted information provided by the central management. It may be misleading and may have been provided in order to orient discussions in less annoying for the management topics. Information has to be cross-checked.
- Mutual information between the EWC and national trade unions is very crucial not only for verifying the validity of information but also in order to be able to co-ordinate actions. EWC cannot negotiate but trade unions can.
- the most important aspect of a EWC is not the legal framework, but the network of workers representatives it creates. This network permits the flow of information from one country to another and if used correctly, it can help workers to be prepared for changes that may occur and foster coordination.

### **International or non-international subject**

- EWC deals only with international issues. In this respect the definition if an issue may be considered as international is of primordial importance. The new Directive 2009/38 previews a broader definition for international issues. In point (16) of the introduction it is preview that: "The transnational character of a matter should be determined by taking account of both the scope of its potential effects, and the level of management and representation that it involves. For this purpose, matters which concern the entire undertaking or group or at least two Member States are considered to be transnational. These include 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". Furthermore, the subsidiary requirements preview as subjects to be discussed by the EWC: "The information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, investments, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies".
- It is advisable though that the EWC focuses on matters that are of more importance than the coffee breaks. In this respect equal working conditions between countries may be a subject to discuss.

### **Confidentiality**

- one has to pay attention with confidentiality. It may be used by the central management in order to prevent the flow of information and the consultation between the EWC members and the national/local trade unions.
- the directive does contain a confidentiality article, but this does not mean management can decide autonomously, when this will be applied. The EWC is not obliged to accept it.
- confidentiality has to have some limits, which the EWC has to settle with the central management. The first is time. Confidentiality has to have a concrete time limit and then information may be circulated. The second is whom this confidentiality includes. Confidentiality has not have to include the expert, because else the workers' representatives cannot formulate a clear view neither documented positions for consultation.

## **The importance of consultation**

- consultation is a very important acquis. Its definition has been improved with the new directive. EWCs have to make use of consultation in order to produce alternatives and lessen negative effects for the workers.
- Consultation needs time to prepare the workers' positions and to document them. Failure of the central management to respect the directive and give the EWC the chance to formulate positions and discuss them with the central management or to pay an expert to assist the EWC may have as result that a court decides on the nullity of the central management's decisions.
- Documentation of arguments or alternatives used in consultation is of cardinal importance. Central management may simply ignore the position of the EWC, if it is a simple no or if it is undocumented, and continue with its plans. On the opposite situation, when the EWC position is documented the central management has to prepare well documented arguments to present in the consultation.

## **Solidarity**

- Solidarity is within the culture of trade unions and workers representatives. However, it is easy to support solidarity as long as this does not produce any immediate problem to others. It is a lot more difficult to support solidarity for workers in another country, if this means that colleagues, who have voted for the specific workers' representative and who are members of his/her trade union, might suffer negative consequences of that solidarity.
- Solidarity may be expressed in different ways and at different levels. EWC is just one; trade unions at national, local and EU level are another.
- Solidarity has no confines. There has to be solidarity regardless if it is for colleagues within the EU or out of it.

There is no single correct answer to these questions, but they need to be discussed among EWC members in order to know what everyone stands for when a real problem presents itself.

Each EWC there are a number of reasons, such as tradition of the country of mother company, EWC agreement, relations with national or local trade unions, specific composition, action of experts, cultural background, relation with management, historical evolution its own dynamic that make it unique. This produces various results in similar situations.

It was interesting though, that although during the training, the two teams have discussed various subjects and maybe pointed out somehow different issues, conclusions made by both were in the same line.

## PHOTOS FROM TRAINING

