

Putting on a different pair of glasses

From co-determination to information and consultation in the EWC

Summary of the bilingual EWC seminar in Montabaur in April 2023

By Udo Verzagt

In April 2023, for the first time after a long Corona pause, it was once again possible to organise the EWC Academy's introductory seminar in the baroque castle of Montabaur. During the pandemic, a large backlog of demand had accumulated which resulted in a large participation of 30 works council members from Germany and four other countries. The seminar is usually held every year from Tuesday to Friday in the week following Easter. Montabaur Castle is a training and conference centre right next to the high-speed railway station halfway between Frankfurt and Cologne.



Alex Schmitt,

Works council member at Saarstahl, a steel company



"We would like to avoid negotiating a bad agreement. That is why it was so valuable to understand the different approaches in the other countries where there is no co-determination. I was able to learn from other people's mistakes so that won't have to make the same."

Long-standing EWC members from different countries had the opportunity to exchange their working experience with representatives from other companies and to reflect on them with the support and input given by experienced and practice-oriented speakers. For the "newcomers", the seminar offered an introduction on various fundamental topics.



Already in the introductory round, the participants reported on the different challenges they are currently facing, e.g.:

1. First-time establishment of an EWC and the role of a Special Negotiating Body (SNB)
2. Further development of an existing EWC
3. Work of an SE works council in companies under the SE legal form (Societas Europaea)
4. Familiarisation with the work of an existing EWC as a newly elected member



Luis Brito,

Deputy EWC chair at the Australian packaging group Amcor



"I now understand how my Spanish colleagues tick! The importance of the EWC for the countries was demonstrated by the conclusion of a good severance agreement for our colleagues in Portugal - my country of birth: 800€ per month of service instead of 180! For the establishment of our World Works Council (248 locations), I am now learning Business English in addition to my Spanish and Portuguese. I have understood that without co-determination in order to think differently, you have to put on a different pair of glasses. For me, it was especially important to learn how to ask the employer the right questions, because if you don't ask, you don't get any answers! The experienced and practice-oriented trainers made it a super seminar."

Kathrin Reuter,

new EWC member from Italy at KWS Saat, a company focused on plant breeding



"I was not aware of the different models of employee representation in Europe previously and the most important thing is that I now have a basic understanding about the work of the EWC. It is so important to meet in person in order to improve communication within the EWC. Last but not least, the evening together in the wine cellar allowed me to talk to people from other companies and to establish connections."



Alexander Kahl,
EWC member at the Hochtief
construction group



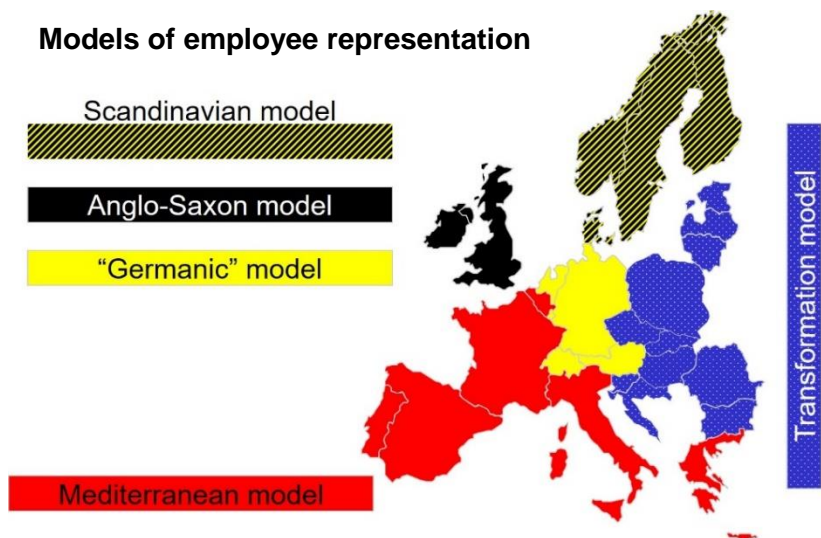
"For me as a new EWC member, the separation into working groups to exchange working experience was ideal to get more legal certainty. I had no idea of the trade union structures in other countries before. An eye opener and a broadening of my horizon!"



On the first day, Dr Werner Altmeyer, Director of the EWC Academy, gave an introduction on the current landscape of European and SE Works Councils. On the second day, the participants familiarised themselves with the industrial relations systems in three working groups on France, England and Germany, each working on a foreign country. This led to an enriching mutual exchange of working experience in the plenary session. Here are some of the insights and topics discussed:

- Did you know that the right to strike in France is an individual human right guaranteed by the Constitution?
- Did you know that a collective agreement is not normally enforceable in England?
- Did you know that there is 98% collective bargaining coverage in Austria, but only 52% in Germany?
- Did you know that collective bargaining takes place at very different levels in different countries?
- Did you know that there is co-determination in only a few European countries and what rights employee representatives have without co-determination?
- Do you know of the importance of jurisdiction, applicable national law for the work and powers of the EWC?

Models of employee representation



On the third day, the participants chose their preferred topic between three trainers:

- Werner Altmeyer covered the first steps of setting up an EWC, the process and negotiations
- Udo Verzagt focussed on the practical challenges of transnational communication in the EWC including the rules on confidentiality
- Rainer Appel shed light on the legal situation and procedures for restructuring by means of an exercise with a card game

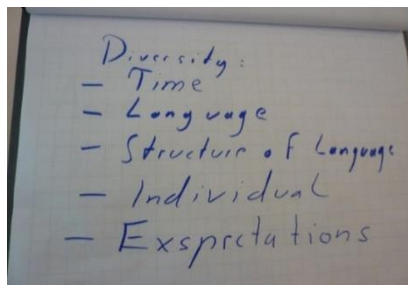
Eric Gombert,

French member of the EWC Select Committee and Supervisory Board at KWS Saat



"It was good to train the new EWC members, to obtain new information and to meet other EWC members in order to look beyond our own company's backyard. It was helpful that everyone has now become familiar with the French rules of employee representation on which EWC law is based."

The participants particularly liked the fact that the lectures were not only theoretical, but that practical competence was acquired through case studies and structured discussions. Two working groups concluded the day on Friday: one on the transnational competence of the EWC and current case law, another on the development of priorities and a work plan for the EWC.



The main findings were that different models require different approaches and that a better understanding of the different cultures reinforces the EWC body helping them to tackle the challenges.

Christine Coenen,

EWC Chairwoman at seed producer KWS Saat



"It was particularly important to me that the newly elected EWC could come together as a group on a training course with colleagues from other companies and that everyone could share their practical experience. I know the EWC Academy through consulting and in-house training and my expectations were fully met!"



Some points to note from the seminar:

- 1. Court rulings in Europe:** From a legal point of view, this is almost always uncharted territory. There are hardly any rulings by German labour courts, but there are significant rulings in other European countries. The decisive factor is the law of the country under whose law the EWC was established or where it has its headquarters.
- 2. The French consultation model** is the underlying spirit behind the EWC Directive. In many EU countries there is no co-determination, which is why German works councils have to rethink the EWC in order to be successful.
- 3. The rights of an EWC** depend, among other things, on the legal situation at the time the EWC is set up, the type of company and the location of the central management. In some cases, the latter is chosen arbitrarily or changed by the employer, also with a view to limiting employee representation rights. Increasingly, Ireland is now being chosen as headquarters.
- 4. Application of the SE Directive:** The employer alone decides on the conversion to an SE. Only the rights of the SE works council and employee participation on the supervisory board are then subject to negotiation. Voting is based on a double majority (heads present and employees represented). This makes consensus voting valuable. In Germany, the number of SE conversions will increase sharply. The aim is often to prevent full-parity co-determination or to reduce the number of seats on the supervisory board.
- 5. Starting negotiations:** It makes sense for the employee representatives to bring their own written draft for an EWC or SE agreement to the first meeting. The mandate of the SNB expires with the conclusion of an agreement or when the allotted time has expired (EWC: 3 years, SE: 6 months). When the time expires, the negotiation is deemed to have failed and the subsidiary requirements of the EWC Directive or the standard rules of the SE Directive apply.
- 6. Cultural diversity:** In addition to good language skills, an understanding of industrial relations systems and the importance of cultural differences makes cooperation much easier. An understanding of national and cultural differences helps the EWC to grow together into an effective body through shared priorities and values.
- 7. Insufficient involvement of the EWC in restructuring** must not be tolerated. No opinion should be rendered before the information and consultation procedure with the assistance of experts has been completed.

Thomas Rückerl,
EWC Chairman at the US
automotive supplier
BorgWarner



"How employee representation works in other countries was a surprise for me and how we can still negotiate without co-determination was an eye-opening experience. This will help us prepare for the next plenary session in our newly established EWC. For us it is now even more important to have an extra day to get to know each other in order to create a good basis for the talks on plant closures and workforce downsizing!"

