

EWC

**Processing financial information as a key
factor for effective communication and
negotiation**

GRUPO DE DIRECCIÓN- ESPAÑA

Project VS/2019/0025



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I. Desk Research

Conclusions

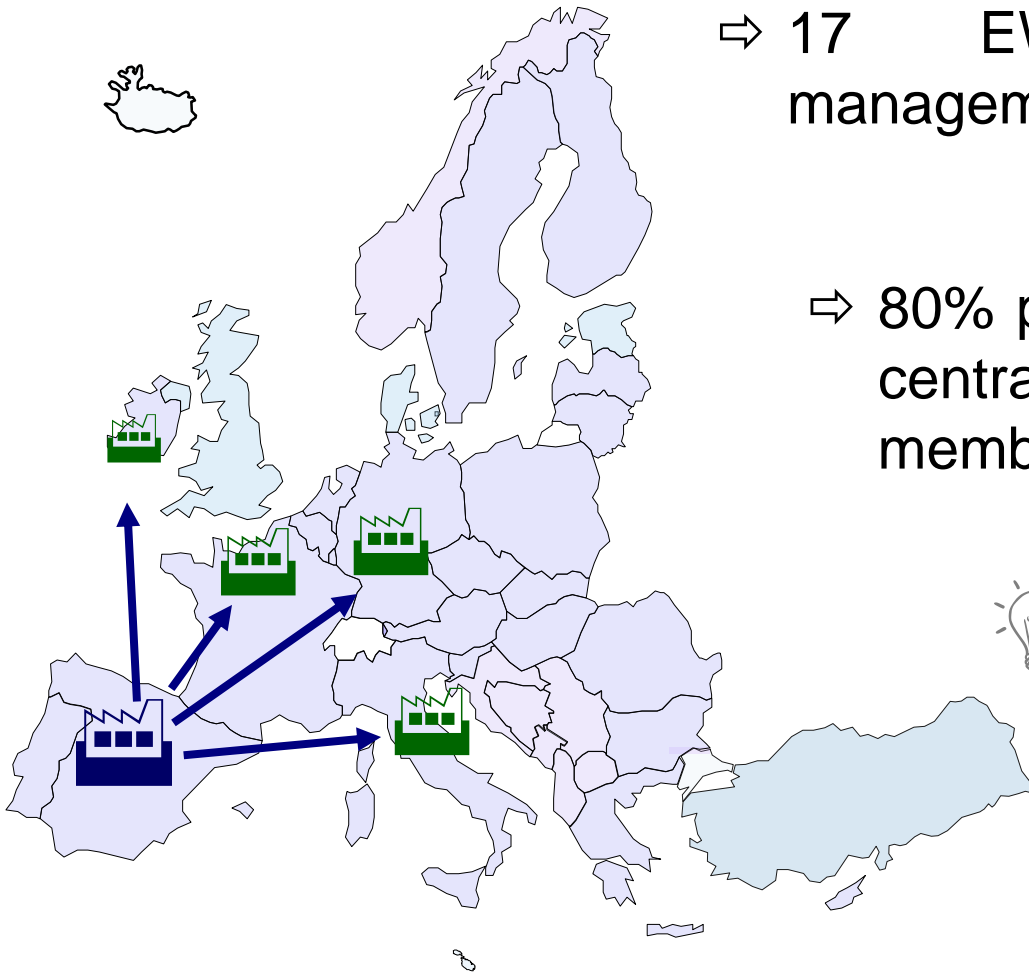
UGT representation in EWC

⇒ 17 EWC with central management in Spain.

⇒ 80% participation in EWC with central management in other member state



Difficult to know how many delegates are part of the EWC



Directive transposition

1994/45/CE
and
2009/38/CE
Directives

Ley 10/1997, de 24 de abril, about the right to information and to consultation of employees in Community-scale undertakings and Community-scale groups of undertakings.

Transposición de la Directiva por la 10/1997

Transposition of directives on EWC not very creative

Interesting
aspects



- ✓ Rules for the constitution of the EWC
- ✓ Duty of confidentiality
- ✓ Right to secrecy of the company
- ✓ Judicial procedures that workers' representatives can use

Rules for the constitution of the EWC (art. 6 Directive)

For the EWC constitution agreement to have legal effectiveness, are required: written form and registration, deposit and official publication.



Warranty not covered by the European standard.

Duty of confidentiality



Our labor regulations provide limits on the application of the duty of confidentiality

Estatuto de los Trabajadores.	Constitutional Court
In order to qualify information as confidential	
<ul style="list-style-type: none">- The information must be expressly qualified as confidential.- This qualification must be based on a legitimate and objective interest of the company or group.	<ul style="list-style-type: none">- Its special relevance must be credited.- Must be proven that its revelation or knowledge may cause real harm to the company.

Right to secrecy by the company (art. 8.2 directive)

Spanish law

(until 2019):

- It does not define which are the specific cases in which the central management is allowed not to communicate the information to the EWC
- It does not establish which are the objective criteria to know if the transmission of the information can cause serious damages to the company
- ✚ It does say that the right to secrecy does NOT include those data about the volume of employment in the company

Right to secrecy by the company (art. 8.2 directive)

➡ On February 20, 2019, Law 1/2019 on **Business Secrets** is published, which transposes Directive (EU) 2016/943

① Define the concept of business secrecy

② It establishes two limits to the right to secrecy of the company:

- The protection of business secrets cannot affect the autonomy of employees representatives or their right to collective bargaining (art. 1.3)
- The company may not act judicially against workers who transmit secrets to their representatives, within the framework of the legitimate exercise of their functions, provided that such transmission was necessary for that exercise. (art.2)

Judicial procedures

1 Judicial procedure to resolve the claims for:

- Problems in the distribution of information by the central management to workers' representatives;
- The decisions of the central management of attributing confidentiality to the information;
- The decisions of the central management of not communicating certain information to the members of the negotiating commission or the EWC
- Compliance by workers' representatives and by the experts who assist them with the duty of confidentiality.

Judicial procedures

2 Sanctionatory Procedure

Serious infraction

The transgression of the rights of information, hearing and consultation of the representatives of the workers and of the union delegates, in the terms that legally or conventionally were established”.

Very serious infraction

The actions or omissions that prevent the effective exercise of the rights of information and consultation of the workers' representatives, including the abuse in the establishment of the duty of confidentiality in the information provided or in the recourse to the disclaimer of the obligation to communicate that information of a secret nature.

II. NCM Conclusions

Participants

➤ **5 EWC members from companies with central management in Spain:**

- GESTAMP
- Roca Sanitario
- NH Hoteles
- Prosegur
- IAG

➤ **3 EWC members from companies with central management in another Member State.**

- Shchneider Electric
- Ford

8 miembros de CEE

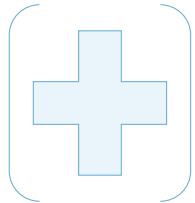


- Gabinete de Internacional de la Federación de Industria Construcción y Agroalimentaria
- Luis Pérez Capitán, Director del Servicio de Estudios de la Confederación de UGT
- Martín Hermoso Fernández

3 expertos

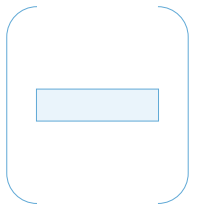
Conclusions

A) Distribution of information and its transmission in an appropriate manner and time



- Most companies (5 of 7) provide “good” information to the EWC, well in advance so that the EWC can examine and assess it.
- Most of these companies provide all the information requested from the EWC

- We also have the case of companies that transfer insufficient information (Prosegur) or that directly do not provide any information to the EWC. (NH)



- Companies that deny the information requested from the EWC, such as NH and IAG.

Conclusions

B) Confidentiality

In almost all of the companies the information provided to the EWC members is confidential.

C) Transfer of information to the work center by worker representation

Only three members of the EWC report that the information is transmitted to the union representatives of the different work centers or plants of the Company, after the EWC meeting.

D) Participation in the decision-making process

The EWC has influenced the decision making of the company = 2 companies.

The EWC has NOT influenced the company's decision-making = 5 companies.

Conclusions

E) EWC problems about the distribution of information

Languages:

There are companies that do not translate the information in all of the languages of the EWC.

In one of the EWC a significant part of the pre-plenary meeting, is used for the interpreters to translate part of the information provided to them by the company.

Information:

Lack of knowledge regarding what information they can request from the company, what information the company is required to give, when it has to provide that information, etc.

Confidentiality

Lack of knowledge about what information they can distribute to third parties and what not.

Conclusiones

F) Proposals

→ It is necessary that the work of the EWC can be transferred to the Union and the rest of the workers.

- The IAG CEE communicates the meetings of the EWC via intranet.

This communication is approved or checked by the company, which eliminates any risk of breach of the duty of confidentiality.


- After the EWC meeting, it is possible to agree with the company what can be transferred to the partners and what not.
- Internal scope: to create a specific channel to transfer information about the meetings of the EWC to the Union Federation.

Conclusions

F) Proposals

- Require the constitution of an EWC if the necessary requirements are met.
- Increase and improve the powers and functions of the EWC.
- Harden penalties regarding information and consultation of the EWC.

- Creation of a white list and a black list of companies that meet or fail to comply with their obligations to the EWC.
- “Pedagogical task” on the benefits and virtues of the EWC.

 **Directive 2014/95 / EU amending Directive 2013/34 / EU with regard to the dissemination of non-financial information** and information on diversity by certain large companies and certain groups.