

## analysis of court cases - Emerson 2016 -



CAC ruling on Emerson Electric EWC (Case Number: EWC/13/2015)

Body: Emerson Electric EWC Company: Emerson

Type: judgment of the Court (on EWCs) Date: 19/01/2016

### Summary, facts

June 2015: Emerson management informed all employees and subsequently made a press statement concerning its intention to restructure the group by repositioning its numerous businesses. The group's strategy initially involved spinning off its Network Power business and choosing between potential operating partnerships, joint ventures, sales or purchases for some of its other businesses. The Network Power spin-off was set for September 2016.

In July 2015 the EWC secretary requested a general meeting in line with what the EWC agreement recognises as extraordinary circumstances. Emerson management denied that the circumstances were extraordinary, indicating the future restructuring decisions were wholly within management prerogative and that the EWC was only competent for treating the consequences on workers of such decisions, once those consequences had been evaluated. Management committed to providing available information at the annual November 2015 meeting as well as calling a meeting of the EWC beforehand, should information on the 'spin-off' become available. Management underlined: even if the 'spin-off' was likely to affect more than 300 staff in two countries (the threshold requirement for launching EWC information and consultation procedures), it couldn't provide any additional information at that stage on what would be a 15-month process. The EWC thus voted to take legal action via the CAC.

### The CAC decided on the following:

- 1) Regardless of whether the project is a worldwide project or not, once it affects workers located in the European Union or in the European Free Trade Agreement Area, and in the proportions laid out in the EWC agreement, the EWC must be explicitly involved. This point is in reply to the argument by Emerson management that in fact the restructuring project did not have just a European dimension but was global.
- 2) The fact management had very little concrete information was immaterial. "It is not necessary for all the information pertinent to a proposed course of action to be available before the information and consultation process can begin. Additional information can be added at a later stage." In reply to management's argument that the costs of a full EWC meeting were too high given the paucity of information available, the CAC stressed that the EWC agreement allowed for an exceptional meeting with just the select committee and it concluded that management had breached the terms of the agreement by not calling the EWC meeting prior to the June announcement.
- 3) Nonetheless, because the company had already begun arrangements for an exceptional meeting with the full EWC, the CAC decided not to deliver a ruling either enjoining respect for, or penalising the breach of the agreement, nor did it make any order as to how such matters should be dealt with in the future.

As this part of the complaint was considered well-founded, the EWC approached the Employee Appeal Tribunal for the imposition of a sanction. The appeal was withdrawn after concessions made by central management.

The complainants also criticised management for not having provided the information beforehand. The complainants argue that the quick-fire pace and density of the information presented during the annual meeting was such that they could not fully comprehend its scope and content. The CAC's response took up management's defence arguments saying that the fact that the EWC agreement allows the delegates to meet for three full days during which time they can discuss between themselves, formulate a reply to management, with the assistance of two experts if needed, in effect gave them ample means to exercise their function without it being necessary to provide them with the information beforehand.

A final dispute lay in the fact that management had questioned an invoice issued by the British trade union Unite for acting as an expert to the EWC. Due to the fact that this expert had been representing the Europe union federation, management did not see why he should be paid. The CAC did not have to rule on this

issue because it was resolved via a financial settlement. Nonetheless, in saying that UK regulations did not require the payment of lawyers, the CAC has blocked this for all EWCs working under UK law.