

## analysis of court cases - Manpower 2017 -



CAC ruling on Manpower EWC (Case Number: EWC/15/2017)  
Body: Manpower European Works Council Company: ManpowerGroup  
Type: judgment of the Court (on EWCs) Date: 24/10/2017

### Facts leading to the case / background

The run-up to the establishment of a EWC at Manpower has been a very difficult one. Although a legitimate application had been submitted by unions from different countries, the company management waited a very long time before taking the necessary steps to organise a Special Negotiating Body. In fact, both in the UK and in France the unions took legal action to increase the pressure once the legal period of 6 months after the original request had expired.

Eventually, an SNB was organised, but negotiations progressed very slowly. At the end of the legal three-year period, there was still no agreement. However, the negotiators unanimously agreed to continue their discussions for a few more months. It was not until nine months later that the agreement was finally signed. At the same time, it was also decided that the SNB-members would continue as EWC-members for the first mandate of four years.

On behalf of a local shop steward, Unite the Union filed a complaint with the Central Arbitration Committee, arguing that a EWC should have been established in application of the Subsidiary Requirements after the expiry of the period of three years. As the parties had failed to conclude an agreement within that time, the SNB should have ceased to exist. The extension of the period of negotiations was invalid. Furthermore, Unite wished to challenge the decision to turn the SNB into EWC without new elections. Another aspect of concern was the fact that the EWC agreement did not cover 90% of the employees as it did not extend to those contracted to a third party.

### CAC decision:

1. Unlike Cinderella's carriage, the SNB retained its shape as a suitable vehicle for delivering an agreed EWC Agreement, and did not become a useless pumpkin on 3 June 2016.
2. At the time of the complaint the SNB was fully functioning and was able to reach agreement.
3. The SNB itself could present a complaint requesting the establishment of an EWC under the Subsidiary Requirements after three years, but this is not an automatic imposition.
4. There is no evidence that the failure to establish a EWC at an earlier date was as a result of any act or omission on the part of the Employer.

For all these reasons, the complaint was dismissed.

The same case was brought to the Employment Appeal Tribunal, which confirmed all considerations of the CAC, in particular the fact that the SNB had effectively continued to exist. On this ground, the appeal was dismissed.