



European Foundation
for the Improvement of
Living and Working Conditions

Foundation research on European works councils 1994–2006

> résumé <

'...European works councils have clearly demonstrated their value, not only in meeting the objective of providing access to information and consultation for employees at the relevant level of decision-making but, equally significantly, in providing a mechanism through which effective transnational employee involvement can make a significant positive contribution to company development, particularly to the successful management of change.'

European Commission: First-stage consultation of the Community cross-industry and sectoral social partners on the review of the European Works Councils Directive, 2004



What is the context?

Increasingly, corporate decision-making takes place at transnational level; however, employees' rights to information and consultation are still defined at national level. To bridge this gap, a 1994 Directive was adopted, aimed at promoting voluntary agreements on the constitution and operation of European works councils (EWCs).¹ These EWCs would bring together employee representatives from each European country in which a multinational company has operations, in order to facilitate information disclosure and consultation with group-level management.

Since the coming into force of the Directive in 1996, nearly 800 multinational companies operating across Europe have set up EWCs. For a company to be covered by the Directive, it must have at least 1,000 employees in Member States, and at least 150 employees in each of at least two Member States. However, to date, only 784 of the 2,204 companies covered by the Directive have complied with it – a compliance rate of only 35.6%. Thus, 1,432, or 65% of affected companies have still to set up EWCs. The introduction of EWCs in a company is not automatic: it requires either an initiative from central management or 'the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States' (Article 5(1) of the Directive).

What research has been done?

Since 1994, the Foundation has been monitoring and assessing developments in EWCs.

- > Between 1994 and 2000, Foundation research supported European social partners in establishing EWCs by analysing EWC agreements signed under the Directive.²
- > Since 1997, the Foundation's European Industrial Relations Observatory (EIRO) has reported on the progress made by national legislatures in transposing the Directive; EIRO has also reported on social partners' views on the issue, and on their involvement in the process of transposition.
- > Since 2001, the Foundation has been drawing up case studies that examine how EWCs function; joint texts prepared by EWCs in different countries have also been analysed, and negotiation activities within EWCs explored.
- > A 2001 report, *Bargaining at European level? Joint texts negotiated by European Works Councils*, considered the extent to which EWCs have

¹ Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council

² This database of EWC agreements is no longer updated and therefore no longer available online. Information held on individual agreements can, however, be made available on request.

become a forum for negotiations between management and employee representatives.

- > A study of case studies of 41 EWCs in five Member States resulted in a report, *European Works Councils in practice*, published in 2004.
- > An EIRO comparative study reviewed key developments in EWCs over the period 2002–2004, including the renegotiation of EWC agreements, the influence of EWCs on transnational restructuring, the impact of EU enlargement, and the debate around enhancing the effectiveness of EWCs, including the possible revision of the Directive. The findings were published in 2004 in the report *Developments in European Works Councils*.
- > In 2005, the Foundation launched two new research activities: the first focused on developments in new Member States, analysing experience of EWCs in the Czech Republic, Hungary, Poland and Slovakia through the use of case studies; the second focused on how EWCs influence the handling of transnational restructuring. This second piece of research analysed EWC agreements, relevant joint texts, and data and findings from different relevant sources. Two reports – *The experience of European Works Councils in new EU Member States* and *European Works Councils and transnational restructuring* – present key findings from the research.

What are the findings?

2001: Joint texts

In 2001 the Foundation explored examples of written joint texts (concerning issues other than the EWC's own constitution or internal affairs) and looked in detail at 14 joint texts concluded in nine multinational companies. The report, *Bargaining at European level? Joint texts negotiated by European Works Councils*, made a first, exploratory attempt at examining the extent and nature of negotiating activity within EWCs.

- > The negotiation of joint texts in EWCs is rare: only 22 examples from 700 EWCs in nine multinationals mention it.
- > The most common themes addressed by the joint texts are company restructuring and social rights, including trade union rights.

- > Negotiating activity in EWCs does not closely resemble what is generally thought of as collective bargaining at national level, which deals with substantive issues such as core pay or conditions; negotiation in EWCs, by contrast, deals largely with principles, policies and frameworks for future actions.
- > Contact and cooperation between trade unions within multinationals' European operations is growing. Through such mechanisms, EWCs appear to have developed a role in the 'Europeanisation' of bargaining, by facilitating the exchange of information on working conditions, pay and hours.
- > Although the negotiation of joint texts by EWCs is a restricted, if potentially important, phenomenon, it could be said to constitute a form of European-level bargaining.
- > Joint texts do not deal with 'divisive' restructuring, where plants in different countries might be set against one another through closure, relocation or competition for investment.

2001–2004: Case studies

An analysis of 41 case studies of EWCs with headquarters in five Member States (France, Germany, Italy, Sweden and United Kingdom) resulted in the report *European works councils in practice*. The studies revealed a considerable diversity of practice among EWCs, ranging from 'symbolic' EWCs whose role is limited to annual meetings, to more 'proactive' EWCs, which maintain regular liaison with management or even engage in negotiating agreements or joint texts with management.

Operation of EWCs

- > Some EWCs have frequent contact between management representatives and employee representatives; in other EWCs, contact takes place only at the annual plenary meeting.
- > Human resources (HR) directors generally represent management in dealings with employee representatives: they are mostly present at EWC meetings.
- > The more centralised the European HR management, and the greater the coordination of management practices and industrial relations, the greater is the involvement of management in the EWC.

- > In many cases, EWCs have smaller select committees, with an executive function, that can meet at short notice. Frequently, management is more willing to involve the select committee in business processes, rather than the EWC as a whole.
- > In some EWCs, joint working groups, comprising both management and employee representatives, have been set up to address specific thematic issues. The presence of such groups can result in a greater acceptance of the EWC by management.

Influence of EWCs on company decision-making

- > The involvement of EWCs in transnational business decisions is the most disputed area of their operations.
- > Employee representatives appear to see EWCs as having little influence on general management practices or on transnational business practices.
- > The majority of EWC committees were informed after the event that business decisions were being taken, leaving little scope for consultation.
- > Management tends to seek the involvement of the EWC in implementing the decision, and ensuring that the decision is accepted.

Factors affecting the influence of EWCs

A number of factors affect the degree of influence that EWCs are able to exert upon business decisions. These include:

- > the business strategy and the structure of the company;
- > national industrial relations practices in the company's home country;
- > the resources the EWC has at its disposal;
- > the degree of cohesion between employee representatives in the headquarters and in the subsidiaries.

Obstacles to effective involvement

Many workers' representatives believe that they are expected to represent primarily the interests of their national colleagues, and only secondarily the interests of the wider European workforce. For EWCs to function effectively, representatives from different countries must develop effective working relations. However, a number of factors can hinder this:

- > the different industrial relations cultures from which representatives come;
- > different approaches to employee representation;
- > particular experiences of restructuring, such as situations where national subsidiaries have competed against one another for investment;
- > language barriers, the lack of continuity of membership and infrequent contacts.

2004: Comparative study

The EIRO comparative study, *Developments in European Works Councils*, looked at the impact of EU enlargement upon EWCs. On 1 May 2004, the EWC Directive was extended to cover the 10 new Member States (NMS).³ This increased the number of countries covered by the Directive from 18 to 28 – the EU25 and Iceland, Lichtenstein and Norway.

- > Following enlargement, the number of companies covered by the Directive rose substantially, from 1,865 in 2005 to 2,169 in 2004.⁴
- > The majority of the newly covered companies are headquartered either in the European countries previously covered by the agreement, or outside Europe entirely.
- > Two thirds of the companies that had pre-existing EWCs also have operations in the NMS, and must therefore enlarge their EWC.
- > Integrating employee representatives from the NMS appears to have added to the existing problems posed by language barriers, legal differences and variations in industrial relations practices.
- > The absence of local representative structures in some NMS operations means that the EWC must organise local elections to find a representative.

³ Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia

⁴ *European Works Councils Database 2004*, Kerckhofs, P. and Pas, I., ETUI, 2004

2005–2006: Case studies and reports

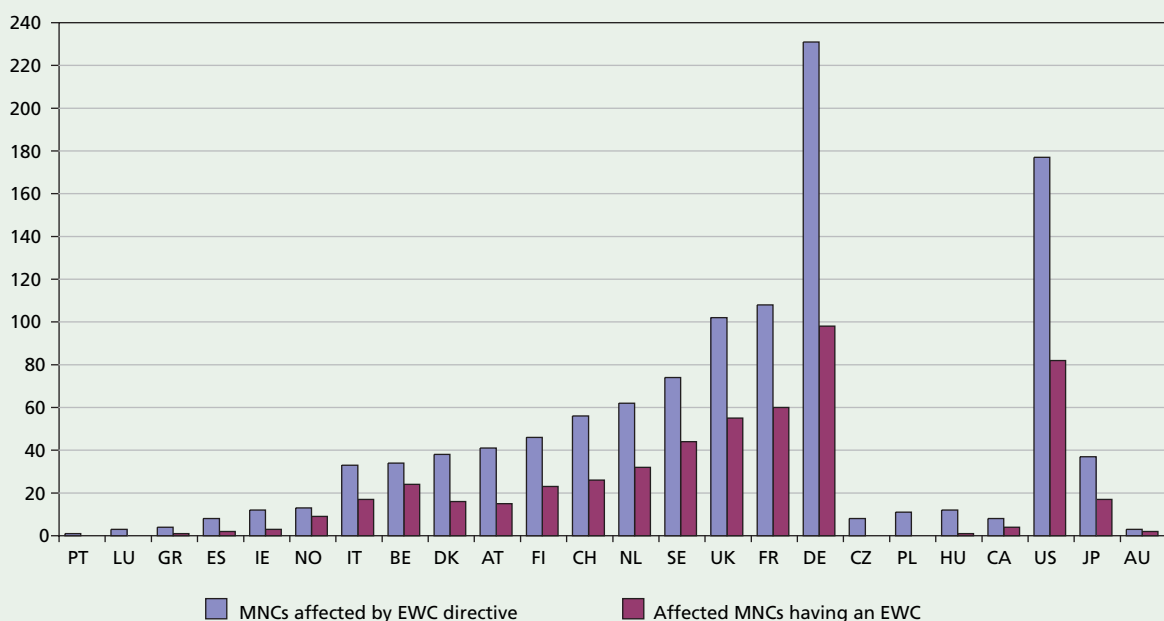
EWCs in the new Member States

Between January and July 2006, the Foundation carried out a series of 10 case studies in four of the NMS – the Czech Republic, Hungary, Poland and Slovakia. Analysis of the case studies indicates that most EWCs are not equipped to deal with the new challenges arising from the growing ‘regime competition’ in economic and social systems and in the field of industrial relations and labour relations culture. The biggest challenge is the growing significance of Europe-wide intracompany competition, relocation and restructuring. However, how such challenges impact on EWC practice depends substantially on how the EWC functions: EWCs that have developed a clear, proactive strategy, or at least a clear understanding of necessary tasks, common interests and broad objectives (the ‘proactive’ EWCs) are generally better equipped to deal with these challenges at group and local level than are the more passive, ‘symbolic’ EWCs. A number of other findings came to light in the study.

- The structures and institutions of shop-floor interest representation, as well as the cultures of social dialogue and employee participation, are quite weak; however, there is a clear trend towards works-council type models of interest representation.
- A strong correlation was observed between strong labour relations and stable institutions of employee-interest representation on the one hand, and EWC participation and good practice on the other.

- There is a clear correlation between early involvement in EWCs (either as observers or full members) and proactive EWC practice at the headquarters level.
- All cases of early and intensive involvement in the NMS (e.g. in steering functions) are characterised by relatively strong trade union membership structures and fairly well developed international cooperation between trade unions.
- A positive management attitude with regard to EWC issues and involvement has a very strong, positive impact on employee representation, social dialogue and labour relations in general.
- Delegates who have been involved in EWC business for a considerable period of time, during the EWC’s early enlargement or as observers, tend to be competent, high-ranking representatives with a strong trade union background and strong local support. Such trade union-based EWC delegates communicate and coordinate better, as their practices are embedded in already established structures and institutions.
- Independent delegates, with no background in trade unions or works councils, have difficulties with active communication and coordination with employee representation institutions at the shop-floor level. Furthermore, independent delegates have very limited time made available to them for their EWC work; by contrast, trade union-based EWC delegates enjoy more favourable regulations regarding time off, as well being better resourced in general.

Figure 1: Multinational companies under EWC Directive operating in NMS (by country of ownership)



Source: European Works Councils database, ETUI-REHS, June 2005

Table 1: Results achieved by ‘symbolic’ and ‘proactive’ EWCs

Areas of impact	‘Symbolic’ EWCs	‘Proactive’ EWCs
Information and consultation	Information and consultation, as well as social dialogue, is seen as a formal practice with no real impact.	Employees are better informed, illustrating the added value of information, consultation and representation of interests.
Industrial relations	EWC members face a legitimacy problem: it is unclear who they exist to serve. EWC may end up undermining the concept of employee involvement and social dialogue. EWC practice might be seen to be determined by management interests.	EWC activity enables learning from good practice and solutions in other company areas, and facilitates skills and competency development in employee representatives. It strengthens the legitimacy of both employee and management representatives and hence the position of the local company within the multinational group.
Corporate cultures	EWC practice simply reproduces the existing balance of power and influence within the company.	EWC practice illustrates the practical benefits of social dialogue and a cooperative company culture.
Company development	Lack of activity restricts any development of joint aims, concepts and strategies at the multinational level.	EWC action enables a better understanding of structural change, and facilitates a joint search for solutions with regard to restructuring and structural change.

Source: *The experience of European Works Councils in new EU Member States*, European Foundation, 2006.

Impacts of different practices

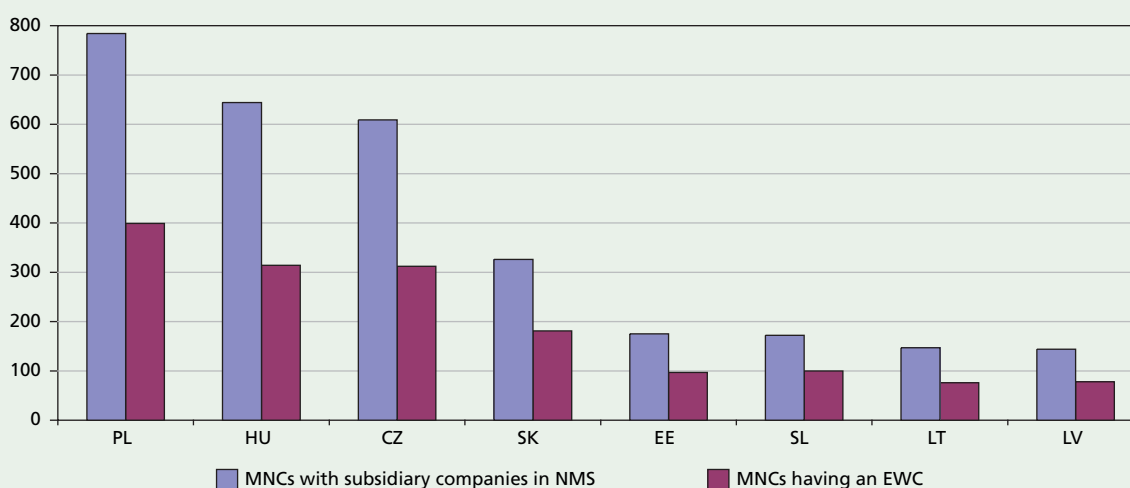
As outlined above, ‘proactive’ EWCs were found to be better equipped than ‘symbolic’ EWCs to deal with the challenges facing EWCs in the NMS and acceding countries. Table 1 outlines the different results the two types of EWC achieve, in terms of practices and institutions.

Key indicators of good practice

Through the case studies, four key indicators of good EWC practice, in terms of information and consultation as well as the involvement and integration of new EWC members, were identified:

1. A strong labour relations culture and active trade union involvement in EWC business and practice, which also includes support from sectoral trade union organisations and the development of concepts and strategies regarding EWC agenda and policy.
2. Active support from the EWC headquarters for representatives from the NMS and for measures of active involvement, which includes language training, special training programmes, joint workshops, manuals and EU-funded projects.
3. The integration and embedding of EWC practice in local industrial relations structures and institutions, namely company-wide information, consultation and negotiation processes, integration in other forms of employee interest representation, participation and social dialogue, reporting and communication processes.
4. A participative management culture and active involvement of management representatives in EWC practice, for example through joint preparation and feedback meetings.

Figure 2: Multinational companies under EWC Directive with subsidiary in NMS



Source: European Works Councils database, ETUI-REHS, June 2005

EWCs and transnational restructuring

The role of EWCs in transnational corporate restructuring is the research focus of the latest Foundation study, *European Works Councils and transnational restructuring*. This study analysed EWC agreements and relevant joint texts, and looked at factors that may help or hinder the effective involvement of EWCs in transnational corporate restructuring.

EWCs in principle

- > According to the agreements that established them, approximately 80% of EWCs should receive regular information and consultation on general topics that may be relevant to transnational company restructuring; a smaller number (around 60%) should be informed about and consulted on specific restructuring-related topics (such as transfers of production, mergers, cutbacks and closures).
- > Few EWC agreements depart from the the very general definition of ‘consultation’ that the Directive (and the national legislation implementing it) uses: ‘the exchange of views and establishment of dialogue’ between employee representatives and management.
- > Restructuring should be on the agenda at normal meetings of most EWCs, but clear, specific provisions on this point are by no means universal.
- > An extraordinary information and consultation procedure is provided for by most EWC agreements if transnational company restructuring occurs between the EWC’s regular meetings.
- > Only a small minority of agreements (one in 10 or so) contain extra provisions that allow for a negotiating role or that enable a more in-depth form of consultation, such as the right for employee representatives to respond formally to management proposals and to receive a considered response from management before it acts.

EWCs in practice

- > In most cases, the role of EWCs seems to be essentially one of communication (or ‘consultation’ in the Directive’s sense), with management providing information at annual regular meetings and at extraordinary meetings and employee representatives asking questions or offering views.
- > Numerous examples were found of EWCs exceeding their formal remit as they grow and develop; conversely, other cases were found of provisions of agreements becoming ‘dead letters’ in practice.

Influence over restructuring process

- > Only a minority of EWCs have succeeded in going beyond consultation, and exerting some form of influence on company restructuring.
- > There are no known cases where an EWC has materially influenced a strategic business decision leading to restructuring. However, there are cases where they have been involved in and affected the decisions on how the restructuring was implemented (examples include cases of restructuring at Aventis, Bayer, Electrolux, Group4Falck, Henkel and Whirlpool).
- > Few EWCs (or the employee side of joint EWCs) have brought court cases or organised Europe-wide protest action against either a planned restructuring or perceived failings in the information and consultation process surrounding it.
- > Stronger EWC involvement in restructuring seems more likely where there are strong trade unions and/or works councils in the multinational’s home country, cross-border networks of trade unions, or other ongoing contact between employee representatives in the EWC (as at Danone, Ford, GM and Unilever).
- > EWCs are more likely to become actively involved in restructuring in companies where management sees benefits in their involvement, particularly in terms of gaining acceptance for change.
- > Many of the EWCs that have had the most visible input into restructuring are in such sectors as the automotive sector, food and drink, and finance, which are characterised by internationally integrated operations.

Review of the EWCs Directive

In April 2004, the European Commission launched consultations with EU-level employer and trade union bodies about ‘how best to ensure that the potential of European works councils to promote constructive and fruitful transnational social dialogue ... is fully realised’.⁵ Included in this process is a possible revision of the EWCs Directive.

In April 2005, EU-level employer and trade union bodies – including the Confederation of European Business (BusinessEurope)⁶ and the European Trade Union Confederation (ETUC) – published a joint text, *Lessons learned on European Works Councils*,⁷ which assessed the operation of EWCs to date and highlighted lessons for the future.

⁵ http://ec.europa.eu/employment_social/news/2004/apr/ewc_consultation_en.pdf

⁶ Formerly UNICE

⁷ http://ec.europa.eu/employment_social/social_dialogue/docs/300_20050407_ewc_en.pdf

In July 2005, ETUC and BusinessEurope responded formally to the European Commission's April 2005 Communication on restructuring and employment; this communication opens the second phase of consultation between the European social partners regarding the social aspects of restructuring and the revision of the EWCs Directive.⁸ Although both bodies have stated their availability for further talks, they differ as to whether and how the Directive should be revised.

- > BusinessEurope is 'strongly opposed' to a revision of the Directive. It maintains that the development of EWCs should be a matter for parties at the company level and would prefer a voluntary approach, rather than legal regulation.
- > ETUC has been pressing for extensive amendments to the Directive in order to strengthen the EWCs' rights, including 'improved definitions of information and consultation'; it has also specified that information and consultation must take place 'before any decisions are taken'.

Table 2: Joint texts concluded by EWCs (or in the context of EWCs) that deal with restructuring or make reference to it

Company	Home country	Sector	Date of joint text	Nature of joint text	Subject
Axa	France	Insurance	April 2005	Principles	Management of the social dialogue in Europe
Danone	France	Food and drink	April 1992	Framework agreement	Skills training
			May 1997	Joint understanding	Changes in business activities affecting employment or working conditions
			October 2001	Agreement	Social standards applicable in restructuring of biscuits division in Europe
Deutsche Bank	Germany	Banking	March 1999	Joint position	New structures, job security and employability
Dexia	Belgium/ France	Finance	December 2002	Principles	Principles of social management
Diageo	UK	Food and drink	October 2002	Statement (appended to revised EWC agreement)	Best practice guidelines on redeployment, redundancy and outplacement
EADS	Netherlands	Aerospace	June 2005	International framework agreement	Minimum social standards
Ford	USA	Motor vehicle manufacturing	January 2000	Agreement	Consequences of Ford's spin-off of Visteon for employees' status, employee representation and sourcing
			2004	Framework agreement	Restructuring ('international operations synergies')
General Motors	USA	Motor vehicle manufacturing	July 2000	Framework	Consequences of alliance between GM and FIAT for employees' status and employee representation
			March 2001	Framework agreement	Current restructuring initiatives
			October 2001	Framework agreement	Restructuring of Opel division
			December 2004	Framework	European restructuring initiative
PSA Peugeot Citroën	France	Motor vehicle manufacturing	March 2006	Global framework agreement	Social responsibility
Renault	France	Motor vehicle manufacturing	October 2004	Declaration	Employees' fundamental rights
Suez Lyonnaise des Eaux	France	Utilities and communications	October 1998	International social charter	Fundamental rights and principles for human resources policy
Total	France	Petrochemicals and energy	November 2004	Platform	Employee relations (joint text signed by unions, but in context of EWC and giving EWC enhanced role)
Unilever	Netherlands/ UK	Household goods	October 2005	Joint statement	Framework for responsible restructuring in transition to 'shared services'

Source: European Foundation, *European Works Councils and transnational restructuring*, 2006

⁸ *Restructuring and employment – Anticipating and accompanying restructuring in order to develop employment: The role of the European Union* http://ec.europa.eu/employment_social/news/2005/apr/com_restruct_en.pdf

What next?

It remains an open question as to whether EWCs can in the future play a more active role in transnational company restructuring, and influence the employment and social aspects of a decision's implementation. EWCs are still at relatively early stage of development, having existed in significant numbers for only a decade or so; they may gain greater influence over time.

It also remains to be seen whether the European Commission's consultations with the social partners will spur EWCs into further involvement, through, perhaps, legislative change or the dissemination of best practices. A perhaps more likely incentive (given deepening economic globalisation) is the spread to more companies of the combination of conditions that encourage EWCs to take a more active role.

The Foundation will continue to monitor developments among EWCs and to provide timely, relevant information over the coming years.

Further information

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Full text of reports and studies

Bargaining at European level? Joint texts negotiated by European works councils
<http://www.eurofound.europa.eu/publications/htmlfiles/ef0152.htm>

Developments in European works councils
<http://www.eurofound.europa.eu/eiro/2004/11/study/tn0411101s.html>

European works councils and transnational restructuring
<http://www.eurofound.europa.eu/publications/htmlfiles/ef0683.htm>

European works councils in practice
<http://www.eurofound.europa.eu/publications/htmlfiles/ef04109.htm>

Negotiating European Works Councils: A comparative study of Article 6 and Article 13 agreements
<http://www.eurofound.europa.eu/publications/htmlfiles/ef0020.htm>

Negotiating European Works Councils: An analysis of agreements under Article 13
<http://www.eurofound.europa.eu/publications/htmlfiles/ef9839.htm>

The experience of European Works Councils in new EU Member States
<http://www.eurofound.europa.eu/publications/htmlfiles/ef0665.htm>

The impact of European Works Councils
<http://www.eurofound.europa.eu/eiro/1998/07/study/index.html>

The two sets of case studies described in the résumé, *EWCs in practice in France, Germany, Italy, Sweden and the United Kingdom (2003)* and *EWC development in Poland, the Czech Republic, Hungary and Slovakia (2006)*, are available at <http://www.eurofound.europa.eu/areas/participationatwork/ewccasestudies.htm>

Updates regarding developments in EWCs can be browsed by sector, country and date at the EIRO site
<http://www.eurofound.europa.eu/eiro/>

Further reports and analysis are available at
<http://www.eurofound.europa.eu/areas/participationatwork/ewc.htm>



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