

A Preparatory Study for an Impact Assessment of the European Works Councils Directive.



European Commission

A Preparatory Study for an Impact Assessment of the European Works Councils Directive

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Main Report

Submitted by the European Policy Evaluation Consortium EPEC (led by GHK
Consulting with support from Technopolis France)

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1 INTRODUCTION

The main purpose of this report is to describe the key findings of the survey conducted among 70 companies operating a European Works Council (EWC). The research was undertaken by the European Policy Evaluation Consortium between January and April 2008. The work was led by GHK Consulting with assistance from Technopolis France.

The report is presented in eight sections, which are as follows:

Section 1 – introduces the study by providing background on the European Works Councils Directive 94/45/EC, presenting the study aims and objectives and summarising the study methodology and the work undertaken to achieve the main objectives.

Section 2 – presents the key characteristics of EWCs that are relevant to this study. The chapter offers background information on the types of companies included in the sample, the formation and composition of the sample EWCs and the types of agreements covered.

Section 3 – offers an analysis of costs associated with operation of EWCs.

Section 4 – provides an assessment of non-quantifiable costs and benefits of EWCs, as viewed by company and employee representatives.

Section 5 – presents information on the role of EWC in restructuring situations.

Section 6 – provides information awareness of companies on best practice publications dealing with EWCs.

Section 7 - covers information on the competency of EWCs in relation to equal opportunities, health and safety and environmental concerns.

Section 8 – summarises views on the introduction of a potential registration mechanism for EWC agreements

The survey instrument and detailed statistical information on the non-quantifiable costs and benefits related to EWCs are included in the Annexes 1 and 2.

1.1 Background on European Works Councils

The European Works Council Directive was adopted by 14 Member States of the European Union (with the exception of the UK) at the European Council on 22 September 1994. The Member States had a deadline of September 1996 to transpose the Directive into national legislation. Since its original introduction the Directive has been extended to the rest of the European Economic Area (EEA), the UK and more recently the 12 New Members States¹.

European Works Councils (EWCs) are standing bodies providing for the information and consultation of employees in Community-scale undertakings and Community-scale groups of undertakings. The thresholds required for an enterprise to be covered by the Directive are 'at least 1,000 employees within the Member States and at least 150 employees in each of at least two Member States'². There are over 2,000 companies that fit this criteria but only a third of them (around 820) currently operate an EWC according to information compiled by the European Trade Union Institute³. The compliance rate remains relatively low because the introduction of EWCs is not automatic but requires either central management initiative or a request from employees⁴.

1.2 Review of the Directive

A review of the Directive EC/94/45 has been the subject of discussion for some time. The Article 15 of the Directive intended a review to take place five years after its introduction. In April 2004, almost five years after the deadline set out in the Directive itself, the European Commission officially started the review by launching the first phase of consultation of the social partners. In response to this consultation, employee organisations came out in favour of a rapid revision, particularly in relation to the role of EWCs in restructuring situations, the role of trade unions and more precise definition of information and consultation. Employers' organisations spoke out against such a revision, preferring the European Community action to focus on implementing the Directive in the new Member States and exchanging best practice.

In March 2005, the European Commission consulted the European social partners simultaneously on the restructuring of undertakings and on the best practice aspect of European works councils, encouraging them to negotiate with a view to reaching agreement on the means to promote best practice⁵. After the consultation the social partners remained divided in their views with regards to the review of the Directive but included promotion of their joint conclusions on EWC's in their 2006-2008 work programme.

Over the last decade a lot of research work has been carried out by a range of different organisations to assess the effectiveness of EWCs, most notably European Foundation for the Improvement of Working and Living Conditions, Social Development Agency, European Trade Union Institute for Research, Education and Health and Safety, Hellmut Gohde & Partner and Training & Consulting Net. On the basis of these studies and other evaluation work, the European Commission has concluded that the following deficiencies contribute to

¹ The affected EEA countries are Liechtenstein, Iceland and Norway. The 12 New Members States refer to Bulgaria, Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovak Republic and Slovenia.

² Article 2(1)(a)

³ Kerkhofs, P. (2006) European Works Councils - Facts and Figures 2006. ETUI-REHS.

⁴ A written request required from at least 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)].

⁵ Consultation procedure took place within the context of EC Communication entitled Restructuring and Employment.

restricting the effectiveness of operation of some EWCs, which do not have their origin in the implementation of the Directive by the Member States but are seen to be endemic to the original Directive¹:

- Complexities are encountered in linking the different levels of information and consultation;
- Uncertainties exist in relation to what happens to European works councils in the event of mergers, acquisitions and other changes in make-up;
- No role is assigned to European trade unions by the Directive, thus limiting the number of councils established since it entered into force;
- Absence of a general response to employee representatives' training needs.

As a result of this analysis, the European Commission has invited the European social partners to convey their opinions on the following matters:

- Measures to ensure the effectiveness of employees' transnational information and consultation rights (concepts of information and consultation; content of subsidiary requirements; role of trade union organisations; role and competence of employees' representatives; and protection of rights).
- Measures designed to resolve problems encountered in the practical application of the Directive and to rectify gaps in legal certainty (adaptation clause; central management and responsibilities of local managements; and composition of the special negotiating body and organisation of negotiations).
- Measures designed to ensure coherence of Community legislative instruments in the field of information and consultation of employees (linking of definitions of information and consultation; transnational competence of European works councils; linking of information and consultation levels; and transitional provisions).

This study is linked to the above mentioned consultation process by feeding into the impact assessment of the EWC Directive.

1.3 Study aims and objectives

The purpose of the study has been to feed into the Commission's impact assessment work in view of a proposal for the revision of the Directive 94/45/EC on European Works Councils. A particular aim of the study has been to provide evidence on the quantifiable and non-quantifiable costs and benefits associated with EWCs and to assess potential effects of some proposed changes to the legislation.

More specifically, the specific objectives of this assignment have been to provide the Commission with independent information on:

- The quantifiable and non-quantifiable costs and benefits associated with the operation of European Works Councils;
- The functioning of EWCs in restructuring situations;
- The impact of EWCs on corporate policies in the fields of equal opportunities, health & safety and the environment;

¹ The following are directly quoted from the following Communication: European Commission (2008) Consultation of the European social partners on the revision of Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

- The impact of the promotion of best practices on the operation of EWCs;
- The additional costs and benefits to businesses of possible changes to the 94/45/EC directive. The following changes were selected for consideration:
 - (1) Change in the composition of the special negotiating body similar to the one in the 2001/86/EC directive¹;
 - (2) Introduction of a right to training for the European works council members;
 - (3) Introduction in the subsidiary requirements of a second annual ordinary meeting and possibility of a further meeting in order to seek agreement in case of exceptional circumstances.
- The current administrative costs and administrative costs associated with the introduction of a registering mechanism for EWC agreements.

Annex 2 includes a copy of the study survey.

1.4 Methodology and work undertaken

The study methodology has centred around a survey of companies that operate an EWC. Interviews were originally planned with 80 companies in order to reflect the views of nearly ten per cent of the companies with an active EWC. Due to the tightened time-scale and a need to run the first analysis of results already five and a half weeks into the primary research, the number of companies covered by the study was reduced to 65. The study team was nonetheless able to complete interviews with management and/or EWC employee representatives from 70 companies between 25 January 2008 and 7 April 2008. Interviewees were arranged with an additional eight companies during the research period but these eight were not present during the arranged interview time and later chose not to respond to email and/or telephone messages left for them to try and re-arrange an alternative time².

The study started with a kick-off meeting in Brussels. The core research team met with representatives of the European Commission on 9 January 2008 after which two weeks was spent on designing the study survey, creating the study sample and briefing the team. The survey tool was finalised on 23 January with the European Commission. The first pilot interview was undertaken on January 25th 2008.

Initially a random sample of 80 companies from 830 companies across Europe with an active EWC was created. The ETUI-REHS database on EWC agreements was employed as the key information source³. The sample companies were classified on the ETUI-REHS website as companies in which “*EWC has been installed and is active*”.

A reserve list of 40 companies was also constructed to which the team could resort if a company from the main list refused to take part in the study. It was however early on realised that a larger sample would have to be created to complete the required amount of interviews in the short time allocated for the research⁴. At the end a sample of 180

¹ Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees.

² Companies, which agreed to be interviewed but at the end were not present or willing to go ahead with the interview came from the following countries: 2 - Germany, 1 - Japan, 1 - the Netherlands, 1 – Finland, 1 – Denmark, 1 – United States, 1 – Sweden.

³ Information accessed from the website 10.01.2007.

⁴ In social research a sample of 3:1 is normally formed. Due to the personalised approach to setting up interviews (interviews were set directly by the senior research team, usually over the phone – as opposed to general email mail-out to companies), it was originally hoped that a smaller sample would be sufficient.

companies had to be generated in order to meet the requirement of the study in the given time of which the research team managed to contact 161 companies. This translates to a response rate of 43%. The main reasons for the larger sample were:

- Five companies on the list had since merged with other companies (other companies from the sample or outside the sample) or had gone into administration.
- For 14 companies it was impossible to find contact details through the details of the original agreement or over the internet. A variety of methods were used to try and locate contact information for the head office but in some cases this proved impossible¹. It proved particularly challenging to get hold of contact details for large American corporations – or if a contact telephone number was found, the receptionists often refused to put the call forward to any department without names of any specific individuals (further information about challenges in setting up interviews can be found below in this section).
- The interview set-up process was slow. In many cases it took several weeks to get a response from the HR team about an appropriate contact, or it took a long while to get a response even from a correct management/EWC representative. As the study period for primary research was so short, a greater number of companies had to be included in the sample in order to ensure an appropriate response rate in the given time.
- A significant number of companies / potential interviewees never responded to emails / telephone messages, which meant that the study team had to view them as companies which were not forthcoming about taking part.

The study sample was created after making a random selection by using Microsoft Excel, hence the selection has not been influenced by any given criteria (e.g. country, language, type of agreement) or stakeholder; each and every company has been chosen entirely by chance. This also meant that we could not include a limited number of companies who contacted the study team specifically to enquire about inclusion in the survey (although all received a reply indicating why they could not be included). To ensure an un-biased sample, we used one of the methods often used to obtain a random sample of customers for market analysis. Every company was allocated a number and with the help of the “RAND” function of Microsoft Excel, the numeric list of companies was randomly mixed up. Following the randomisation, the first 80 companies were chosen to make up the study sample and the following 120 companies were included in the reserve list.

During the first two weeks the study team was also briefed in full. While each interviewer has considerable primary research experience and is fully aware of confidentiality issues and the sensitivities associated with research of this nature, it was still seen as vital for the study that each member of the interviewing team was briefed face-to-face. The briefing consisted of information on the aims and objectives of the study, the timescale for the research and the importance of ensuring confidentiality to all participants. This meeting was also utilised to go through the survey in a systematic manner to ensure understanding and confidence when interviewing.

A comprehensive guidance note was also prepared for each interviewer. This included information on:

- The EWC Directive – the purpose of EWCs, the companies required to establish EWCs and key information on the operation of EWCs

¹ As an example, a shoe manufacturer that was on the list had no contact details on any website. Despite of making contacts with individual distributors and suppliers linked to the company, no contact details were received.

- Views on the Directive – views from employers, trade unions and the European Parliament
- The aims and objectives of the study
- Setting up the interviews – this included information/tips on how to encourage companies to participate in the research and how to go about identifying relevant interviewees
- The method for undertaking the interviews

Background information on companies included in the sample was gathered prior to the set up of interviews and provided for the interviewers. This information included the EWC agreements and annual company reports. The additional benefit of this was the efficiency it brought to the interviews. Often the company representatives could only make available short periods of time and having some basic information, such as the number of employees and the EU/EEA countries the company operated in, and the basic information on the relevant EWC agreement, assisted in undertaking the interviews.

Given the timeframe of the study it was critical to set up as many interviews as soon as possible. Again, due to the timeframe for the study, we concentrated in the first place on contacting companies with headquarters in European countries as significant challenges were encountered in sourcing contact details for appropriate persons from non-European companies. In spite of the challenges, seven companies headquartered outside the EU or EEA have been covered by the study (the US, Canada, Japan and South Africa) and four European companies from non-EU countries (Switzerland and Norway) have also been included.

Companies were contacted by telephone or email. In the first instance interviewers began by reviewing recent EWC agreements and checking for names of company representatives. It is important to note that only a handful of agreements were recent agreements with relevant names.

In cases where there was no obvious EWC contact, interviewers either sought to identify Human Resource/Labour Directors or chairs of domestic works councils who are likely to have knowledge, or be directly involved in the EWC. If this also proved fruitless, interviewers telephoned company switchboards and tried to identify the person responsible for EWCs. In most cases this was the Human Resources Director and in others it was the head of Employee Relations. For a number of reasons, interviewers may not have been given the contact details of relevant personnel; see table below.

Challenges

A range of challenges were experienced during the interview set-up phase:

'Gatekeepers'

'Gatekeepers', for example, receptionists or switchboard operators, were a considerable barrier in arranging interviews and speaking to the relevant EWC contacts. This has been a universal issue, although has affected some countries more than others. Most notably, in the United Kingdom, interviewers have faced this barrier as no names or contact details of relevant people are handed out by secretaries. In such cases interviewers have resorted to 'guessing' email addresses of human resource directors in order to make initial contact.

Detailed information

In a number of cases interviewers have been required to give in-depth information about the study and the company survey before employer representatives have agreed to an interview. This has considerably affected the interview set-up phase, with interviewers

spending large amounts of time setting up one interview.

Pre-interviews

It has been required, in some companies, to arrange a pre-interview with EWC contacts. Some human resource directors have found it necessary to discuss EPEC's role and the level of confidentiality in the study. Again, this has had a marked affect on the study progress, delaying the set-up of the actual interview and affected the interviewer's time as subsequently, they prepared and completed two interviews per company.

Data protection

Generally it has been more difficult to source employee representative names and contact details firsthand. Often interviewers have completed the interview with a company representative and have requested the employee representative contact details at the end of the interview.

While in some companies this has been straightforward, issues of data protection have arisen in other companies. Participants have declined to give contact details over the telephone and have asked that the request is submitted via email, which they passed on to the relevant employee representatives. Consequently, this generated delays in progressing with the interviews and in some cases the EWC members have not come back to us to take part in the study.

Non-European companies

Companies headquartered in countries outside of Europe, such as those in the United States and Japan presented a separate set of challenges. It was often difficult to find a contact person in Europe. To address this, interviewers contacted global human resource directors, who are generally situated outside of Europe. In some cases our enquiry was forwarded onto the relevant contact and interview was set-up successfully. This was not always done immediately, and often occurred after several reminder telephone calls and emails from interviewers. Again, this has added considerable time on to the interview set-up and completion phase, affecting how many interviews we could undertake prior to submission of this report.

In all cases we tried to speak to the relevant contact. Where this was not possible we sent an email explaining the research and requesting their participation. In many cases companies refused to give out email addresses. When this occurred, interviewers used a range of methods to find the contact details for the appropriate person.

In most cases interviews were successfully arranged through telephone contact, although, in many cases this has meant up to 20 and 30 telephone calls per company. We have also had to arrange pre-interviews with HR directors before they would agree to arrange a date for an actual interview.

The variety of nationalities in the study team contributed significantly to the efforts in convincing companies to take part; interviews were undertaken in English, French, German, Finnish, Swedish and Italian. What is also worth noting is that enthusiasm among management and EWC employee delegates to take part in the study grew discernibly during the last two to three weeks of the study. We believe this is down to the growing awareness of the Directive's revision process.

1.5 Completed interviews

Table below shows the locations of the Global Head Offices of the companies interviewed for this project. The interviews for the study were carried out between 25 January and 7 April 2008. A total of 70 companies have been covered most of which Headquarter is located in the EU countries (59 companies). The largest number of interviews were undertaken with French companies, followed by German, British, Finnish and Swedish

companies. In terms of the country of origin, the study sample is largely in alignment with overall country distribution of companies with an EWC, with the exception of the US which are under-represented in the sample despite significant efforts in trying to source correct contacts and convince them to take part.

Table 1: Country location of Global Head Offices

Country location of Global Head Office (EU countries)	Number of companies	Country location of Global Head Office (non-EU countries)	Number of companies
Belgium	3	Norway	2
Denmark	2	Switzerland	2
Finland	7	US (UK, UK, DE)	3
France	14	Canada (FR)	1
Germany	10	South Africa (HU)	1
Italy	4	Japan (BE, NL)	2
Netherlands	3	TOTAL	11
Sweden	6		
UK	10		
TOTAL	59		

Source: Countries in brackets indicate the European HQ's of non-European companies in the sample.

In some cases, further information had to be sought following an interview as the individuals involved did not have all the necessary information readily available. This was particularly true for questions regarding the set up of EWCs, as in most cases this dated back over ten years and the individuals involved were no longer employed in the company. In other cases, financial information is held by different individuals and therefore, separate interviews had to be arranged.

In some instances, we were only able to complete interviews with one side (employer or employee representatives). A total of 58 management representatives and 41 employee representatives were interviewed. As stated earlier, eight interviewees cancelled at short notice or were not present during the interview. To avoid last-minute refusals we always sought to set up interviews with employer side first (as we have found them to be more likely to refuse) but it has not been possible to avoid general and indeed last minute refusals in this way. Furthermore, as well as company refusals, there were also considerable number of EWC employee delegates showing no interest in taking part in the study as no responses were received on email requests and/or phone messages. Indeed, a total of 15 complementary interviews were not completed due to a refusal to take part or lack of interest in being interviewed for the study (includes both employee and management representatives). In a further ten cases one party promised to provide names of potential interviewees for complementary interviews but did not follow up on this promise, which made it impossible to try and locate the EWC representatives as switchboards rarely hold such information. This was however less problematic in countries where trade union representative sit on the board of management, hence information on some relevant contacts was relatively easily available over Internet. A number of interviews also proved impossible as representatives only contacted us very near the deadline for submission of the draft final report and it was no longer possible to make an appropriate appointment or include their answers in the analysis – even though the study team pushed the final day of interviews to 7th of April, just three days before the report deadline.

Reasons given by companies who refused to participate in the research varied. Some companies declined to participate due to their own workloads and could not commit the time, or the study was not considered a priority. In some instances companies were undergoing high profile restructuring at the time of the study. In light of such business changes, companies considered that it was not an appropriate time, due to time constraints and high degree of media interest surrounding the restructuring, for them to participate in a study of this nature. Interviewers have also experienced some ambiguous situations where company representatives have denied knowledge of an EWC being present in their company.

On a positive note more interviews (17) were carried out face-to-face than was proposed in the proposal (10). This is partly as a result of difficulties in convincing some of the highest level executives to take part and suggestions of a face-to-face meeting raised the importance of the meeting in the eyes of the employers who were consequently more receptive to participation.

It is also interesting to note that a number of companies who had previously failed to respond to requests for interviews contacted us after the European Commission's second stage consultation document had been issued and after information regarding the upcoming social partner negotiations on this issue became more widely known. Although we were able to include some of these companies, as described above in many cases their reaction simply came too late.

1.6 Data gaps

Even though 70 companies have been covered by the study, answers were not received from all companies to all questions for a variety of different reasons. As an example, some companies refused to provide answers to closed questions and only provided narrative views. Two interviews were cancelled by interviewees and then moved so close to the reporting deadline that it was not feasible to include all answers in the analysis¹. Three companies felt that their EWC was so recently established that it was too early to assess the impact of the EWC, hence these representatives chose not to answer some questions. In some cases the interview had to be cut short or the time was so limited that some questions had to be skipped.

Gathering information on the set-up costs was difficult but the reason was easy to explain; the EWCs were first established over a decade ago so the information was no longer available or the interviewees were not involved in the EWC at the time.

We also faced challenges in assembling data on the restructuring section. Sometimes when the employer was interviewed first, they often did not mention any key restructuring events – either because of their interpretation of what “transnational” restructuring means; in the hope of cutting the interview short; or in order to avoid difficult questions. In some of these cases, different information regarding restructuring was then received from employees. In a surprisingly large number of cases the individuals in charge of EWCs were relatively new to the role, hence unable to respond to restructuring related questions. A number of EWC employee delegates also struggled to differentiate their role as EWC delegates when discussing restructuring situations due to their concurrent involvement in local and national level consultations on the same event.

Finally, information received from employees and employer representatives on training was often found to be inconsistent, contradictory and/or vague – making the preparation of exact statistics on this topic particularly challenging.

¹ Initial analyses for the survey sections seven and nine had already been run.

2 KEY CHARACTERISTICS OF EWCS

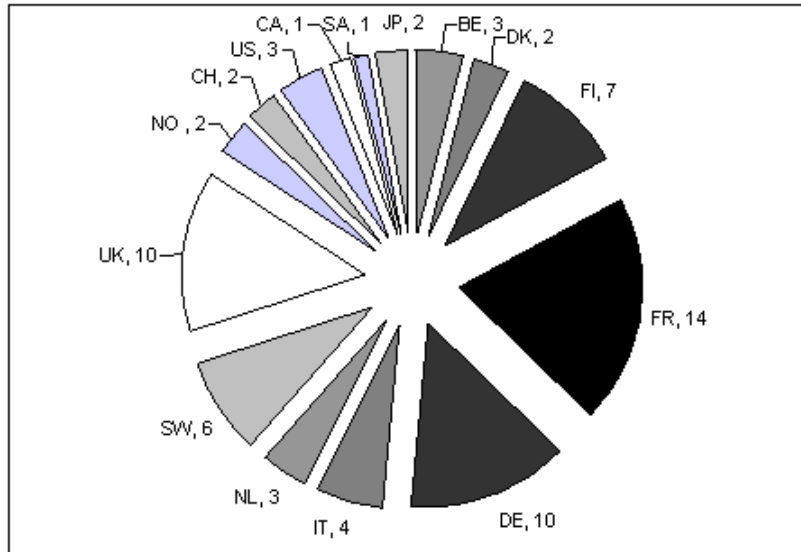
In this section information is presented on the key characteristics of the EWCs included in the study sample and the operation and establishment of EWCs under the current legislation. A thorough, robust assessment of key characteristics is essential to create a benchmark against which the implications of possible legislative changes can be analysed.

This section begins by describing the main features of the companies in the study sample. The second section portrays the types of agreements the companies in the sample hold, including information on how the EWC agreement was negotiated, how long the process took and comments from companies and EWC employee delegates on any possible improvements they would have made to the structure of the negotiation process. The final section defines a 'typical' EWC in terms of composition and number of meetings and other activities.

2.1 Background information on the sample

Of the 70 companies interviewed and included in the sample, 14 have their global company headquarters (HQ) in France. Germany and the UK follow closely behind with ten companies, whilst two companies have their global HQ Canada and in South Africa. The other companies are located in Belgium; Denmark; Finland; Italy; The Netherlands; Sweden; Norway; Switzerland; the US and Japan. Company representatives from certain countries (for example France and Finland) were much more responsive in taking part in the study than companies for example from the United States, which are under-represented in the sample. More difficulties were also encountered in identifying relevant people and getting a direct access to Group HR representatives from many non-European companies.

Figure 1: Countries of the global HQ's of the study sample



Source: Study sample of 70 companies

The number of EU and EEA countries these companies operate in varies between only two and 29 – however companies are on average present in 13.6 of EU and EEA countries¹. Only 20 of the 70 companies interviewed operate in less than ten EU and EEA countries.

¹ Details for eight companies were not available.

Some 27 companies are active in more than 14 EU and EEA countries and 12 have subsidiaries in more than 20 countries. The high number of companies in the study with extensive international operations is not surprising given the general trends in the characteristics of companies which currently operate an EWC. According to an extensive research of Peter Kerckhofs¹ from the European Trade Union Institute (ETUI) on EWCs there is a direct relationship between the degree of internationalisation attained by a company and the likelihood of an EWC being established; companies with operations in fewer countries have a lower compliance rate than companies present in most EU/EEA countries.

The companies interviewed have an average of 29,000 employees across the EU and EEA countries, with the largest company employing 182,200 people and the smallest just over a thousand (1,039)². In global terms the sample companies employ on average 49,000 people³. The largest company in the study sample employs over 207,000 people around the world. These findings on the number of employees in the study sample are also in line with trends detected by other studies. According to the study of Peter Kerckhofs the workforce size is an important factor in the variation of compliance rates. His study confirms that the compliance rate more than doubles with a growth of a workforce from just 5,000 to 10,000.

The turnover reported by companies varied between EUR 54.2 million and in excess of EUR 202 billion. Some 51 companies announced turnovers in excess of one billion Euros, with an average turnover amounting to just over EUR 20 billion.

Most of the companies interviewed are active in the metal, chemical and energy sectors. Within this sample however there are also a significant number of companies who operate in the financial services; the food industry; the transport sector; as well as in retail and in telecommunications. A smaller number of companies are active in the areas of electronics, construction and entertainment.

2.2 The EWC agreements

2.2.1 Background

The Directive was originally introduced in 22 September 1994, providing Member States with a two year transposition phase. This prompted many companies to start negotiations and progress to reach agreements before the 1996 deadline⁴. During this period companies had the option either to reach voluntary agreements with employee representatives on information and consultation arrangements, based on Article 13 or to set up a Special Negotiating Body (SNB), based on Article 5, with a view to developing an EWC under Article 6.

Article 13 permitted the negotiation of voluntary agreements on the creation of employee information and consultation body within the transition phase. Specific conditions applied to agreements under this Article. They include:

- The agreements must cover the whole workforce of the group within the scope of the Directive; and,
- They must provide for information and consultation.

¹ Kerckhofs, P. (2006) European Works Councils – Facts and figures. ETUI-REHS.

² EEA/EU employees = Figures are for 2006 apart from 1 case from 2005. EU/EEA employee number details were available for 54 countries.

³ Details were available for 55 out of 70 companies.

⁴ Kerckhofs, P (2002) European Works Councils: Facts and figures, European Trade Union Institute (ETUI), Brussels

A fundamental element of Article 13 is that it offers companies the option to negotiate an EWC agreement without a Special Negotiating Body that is stipulated in Article 5. Agreements under Article 13 are also exempt from the Directive provisions until their expiration date. This date can also be extended, subject to the consent of both parties.

Article 13 agreements provide a way of tailoring the information and consultation bodies to the specific circumstances of the company. Additionally, they allow for an employee side negotiation team set-up on a basis different to those referring to an SNB. This means that the employee side negotiating team does not have to include representatives from each country covered by the Directive, where the company operates according to a particular numeric formula. There are some country specific exceptions to this; for example, Article 13 agreements in France are required to meet additional standards provided under national law.

Observers often see Article 13 agreements as beneficial as they are not bound by the subsidiary requirements from the Directive, which come into force when agreement cannot be reached.

Furthermore, Article 13 offers companies with headquarters outside of the European Economic Area (EEA) the choice of jurisdiction in which to register the agreement from the EU countries where it has operations.

After the transposition deadline in 1996, agreements had to be negotiated according to Articles 5 and 6 of the Directive (the so-called **Article 6** agreements). These Articles require the establishment of a Special Negotiating Body (SNB) for the negotiation of an information and consultation body. Creating an SNB can be triggered by company management, a transnational constituency of employees or employee representatives.

Country variations on implementing legislation impact on the exact nature of the SNB procedure, constitution and remit of the EWC and the subsidiary requirements for application. Regarding negotiations, procedures for the nomination and selection of SNB procedures differ significantly between EU countries. One example of this refers to the election of employee representatives from the company as opposed to trade union representatives.

Observers have argued that negotiations under Article 6 offer less flexibility than those under Article 13. However, learning from companies who have already negotiated their agreements is a key benefit for companies negotiating under Article 6, giving them more time to develop an appropriate strategy.

In cases where SNB negotiations fail to produce an agreement after three years the Directive's subsidiary requirements come into force. A key element of the subsidiary requirements is the provision of 'extra-ordinary meetings' to allow for information and consultation on 'measures significantly affecting employees' interests'. The subsidiary requirements listed under Article 6 include;

- The competence of the EWC is limited to those matters which concern the enterprise as a whole, or those which concerns its operations in at least two countries;
- The EWC is to have between 3 to 30 members, elected or appointed from existing representatives (or, in cases where there are no representatives the entire body of employees);
- Election or appointment of members is to follow national rules and practices;
- The EWC is to have one employee representative from each country (covered by the Directive) in which the company operates, as well as supplementary members in

proportion to the number of employees in the various establishments or group operations;

- Where its size warrants it, the EWC shall elect a 'select committee' with a maximum of three members; and,
- The EWC will have the right to meet central management annually to be informed and consulted on the basis of a report drawn up by central management.

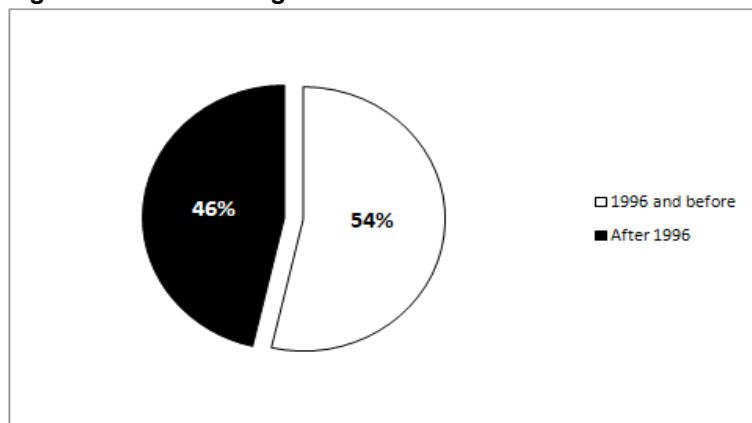
The vast majority of EWC agreements under Article 13 and Article 6 state their purpose is the information and consultation of employees. Consultation is usually defined as 'dialogue' or the 'exchange of views'. A minority of Article 6 agreements permit more extensive consultation of employee representatives.¹

In the following we start to look at the characteristics of the agreements that are included in the study sample.

2.2.2 Typology of the agreements in the sample

Of the 69 companies who responded to this question, 37 had signed their agreements either in 1996 or before, whilst 32 signed their EWC agreement after 1996. Within these figures seven companies signed their agreements before 1995, 26 in 1996 and 21 companies set up their EWCs after 2000.

Figure 2: Year of the agreement



Source: GHK survey based on information from 69 companies

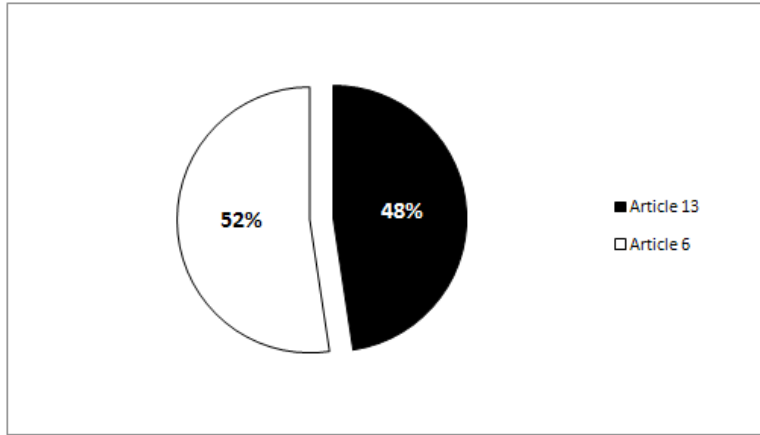
Just under half of the current agreements (for which information was received) are currently governed by the rules and regulations of the Article 13 (48%). Three companies have updated their original Article 13 agreement to an Article 6 agreement. One of the criticisms often levied against Article 13 agreements was that employee representatives find it difficult to request and effect changes to these original texts. In at least one case in our current sample, the company's refusal to amend an existing agreement was particularly highlighted as an obstacle to improved working by the employee side.

One employee representative considered that the agreement, under Article 13, was very weak surrounding consultation. After modifications, it was thought that the agreement improved on this issue. Another employee representative discussed changes to further align the EWC agreement with regulating Directive. They explained that employee

¹ European Foundation for the Improvement of Living and Working Conditions (2000) A review of negotiating European Works Councils: A comparative study of Article 6 and Article 13 agreements.
<http://www.eurofound.europa.eu/areas/participationatwork/ewc.htm>

representatives wanted the management to consult with them, before any decisions were taken, such modifications were introduced.

Figure 3: Share of Article 13 and Article 6 agreements

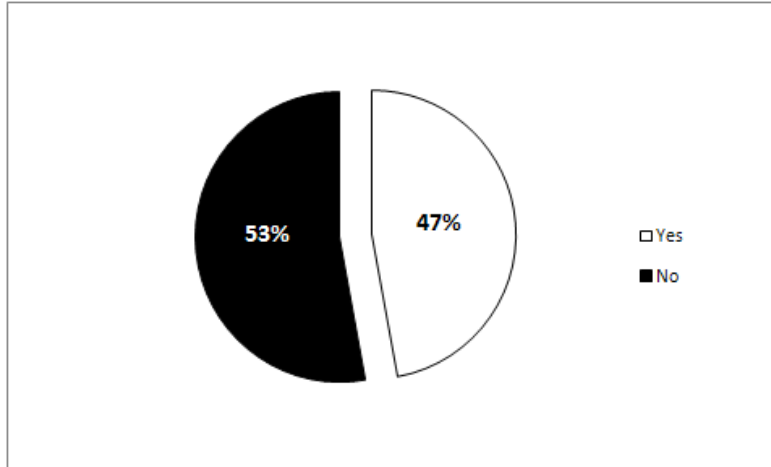


Source: GHK survey based on information from 63 companies

2.2.3 Modification of agreements

Just under half of the EWCs (47%) have renewed their agreement since it was first signed. Of the 33 companies who had modified their agreement, 18 did so within the first five years after signature, whereas eight companies waited eight or more years before renewing theirs. Five companies have modified their agreements three times since it was first signed and 11 twice.

Figure 4: Share of companies who have modified their agreement



Source: Survey based on a sample of 70 companies

A series of reasons for modification were discussed by companies. Four companies reported that they have a renewal arrangement built into their EWC agreements. Under such arrangements the agreements are reviewed and modified as necessary on a systematic basis. The time period varied between two and eight years. Other research has found that agreements containing rules for reviewing typically occur after four years of the initial signature¹.

¹ Kerckhofs. P (2006) European Works Councils: Facts and figures 2006, European Trade Union Institute (ETUI), Brussels

Of those agreements that did not have a renewal period written into the agreement, companies discussed the need for modification, where an agreement had been in place for a few years.

“There is a definite need to modify our agreement. The role of employee representatives needs to be further clarified”

Company representative

The most frequently reported reason for modifications to EWC agreements was reorganisation or changes within the company. Generally, these were the result of acquisitions, mergers and internal reorganisations; 14 companies reported modifications for this reason. The European Trade Union Institute (ETUI) found similar results, mergers within companies with existing EWCs generating re-negotiations to reflect the changes within the company¹. One company, following a merger, has decided to have two EWCs to reflect the different aspects of their business.

Companies also discussed EWC members joining from New Member States and subsequent modifications to their agreements. Four companies discussed this issue. Where an agreement has not already been modified, there was a reported need to modify the agreements to include new countries.

“The agreement was modified to take into account the new countries. It was imperative to integrate the new countries, in spite of their poor trade union traditions”.

Employee representative

“There is a need to review our agreement. We need to take account of representatives from Hungary, Poland and Romania”

Company representative

Generally modifications included the number of representatives, scheduling of meetings, the extension of training hours and to widen the competences of the agreement. One company explained that their agreement was modified to include changes that both company and employee representatives wanted. This included the use of English at all EWC meetings and the inclusion of the right to training for employee representatives. English as the ‘official’ language in EWCs is an increasing trend. Indeed, in Article 6 agreements this has become general practice, compared to a smaller proportion of Article 13 agreements².

Some companies modified agreements in response to requests from employee representatives. One company discussed a request from employee representatives to formalise operational aspects into the agreement. Although all the discussed operations were already taking place, there was no written confirmation. This modification has since been implemented.

One company reported a modification in their agreement as one country was over-represented at the EWC. As a result the number of respective members was reduced.

¹ Kerckhofs. P (2002) European Works Councils: Facts and figures, European Trade Union Institute (ETUI), Brussels

² European Foundation for the Improvement of Living and Working Conditions (2000) A Review of Negotiating European Works Councils: A Comparative Study of Article 6 and Article 13 Agreements
<http://www.eurofound.europa.eu/areas/participationatwork/ewc.htm>

Another company highlighted a request made by employee representatives to increase the number of employee representatives at EWC meetings. This request has been agreed and the company is changing to a percentage ratio.

By in large company and employee representatives thought that modifying EWC agreements was a relatively straightforward process. Difficulties tended to arise between differences in requests between company and employee representatives. Companies repeatedly discussed employee representatives' wishes to include negotiation powers in their EWC remit. Another company described a request made by employee representatives to co-manage the company with management.

In some companies employee representatives have requested the terminology surrounding information and consultation to be strengthened within the agreements. Often requests surrounded the timing of informing employees of strategic decisions.

Although there were differences in requests between company and employee representatives, disputes were usually resolved amicably. Discussions surrounding the consultation rights of employees appear to be ongoing in some EWCs.

"Negotiations between management and employee representatives were tough but fair. Employee representatives tried very hard to strengthen the consultation element in their agreement".

Employee representative

Other difficulties have included changes in the number of plenary meetings. Employee representatives discussed requests to increase the number of plenary meetings each year. One employee representative reported that they have asked for the number of meetings to increase from one to three per year. They considered that not all employee representatives would be able to attend one meeting, although they should be able to make at least one out the three, enabling every country to participate in the EWC.

2.3 A typical EWC

In order to allow us to calculate the financial costs of European Works Councils in their present form as well as the potential cost implications of some of the suggested amendments to the Directive, we have sought to establish the features of a "typical" EWC in order to calculate average costs.

The following table summarises the characteristics of a "typical" EWC in terms of size, formation, number of meetings etc. The following sections provide detailed information on all these characteristics, including some comparisons to findings from other studies and they also explain the evidence base in greater detail. Whenever possible we have also sought to undertake trend analyses on the basis of countries, sectors and sizes of companies.

Composition of the EWC	
Number of employee members in EWC meetings	
-	Number of EWC employee delegates varies from 5 to 47, with an average of 23.
-	French companies display the highest numbers of EWC members (33).
-	Non-European companies display some of the lowest numbers of EWC members (16).
-	Every third member (33%) comes from the same country as the group or European HQ, varying from 7% to 87% at company level. The French and German EWC are characterised by a significantly larger share of employee members of the host country (46/47%)
-	EWC members come from, on average, 9 countries (varying from 2 to 24 countries)

<ul style="list-style-type: none">- Nearly two-thirds of EWCs (62%) have seen an increase in the number of members in the last 3 years <p>Number of company representatives in EWC meetings</p> <ul style="list-style-type: none">- The number of management delegates in EWC meetings varies from 2-13 with an average of 5 management delegates.
<p>Number of EWC ordinary and extra-ordinary meetings</p> <p>Ordinary meetings</p> <ul style="list-style-type: none">- 3 out of 5 companies (60%) organise 1 annual ordinary meeting; 40% manage 2 to 4 annual ordinary meetings.- An average length of an annual ordinary meeting is 2 days.- Preparatory and/or post-meetings for EWC employee delegates alone are held in 96% of the companies <p>Extra-ordinary meetings</p> <ul style="list-style-type: none">- Nearly 9 out of 10 agreements include a provision to hold extra-ordinary meetings (88%)- A total of 38 out of 64 companies (59% of the sample) have held face-to-face extra-ordinary meetings in the last three years. In further two companies extra-ordinary meetings have been held via video-conference and telephone.- Some 78% of extra-ordinary meetings are organised with the whole EWC and the rest with a smaller body (usually steering committee) <p>Total</p> <ul style="list-style-type: none">- An average number of annual plenary meetings (includes ordinary and extra-ordinary meetings¹ is 2.
<p>Operation of steering / select committees</p> <ul style="list-style-type: none">- Nine out of ten companies (88%) organise face-to-face steering committee meetings.- Companies organise on average three face-to-face steering committee meetings per year, with practice varying from 0 to 12 face-to-face meetings per year.- Number of employee delegates varies between 2 and 15 with an average of 5.- Number of company representatives in the steering committee varies between 0 and 4, with an average of 2.- The steering committee meetings normally last one day (usually with travel)
<p>Working groups</p> <ul style="list-style-type: none">- 29% of companies have a working group (or several)- Working groups normally get together 1 to 4 times a year bringing together 3-20 delegates

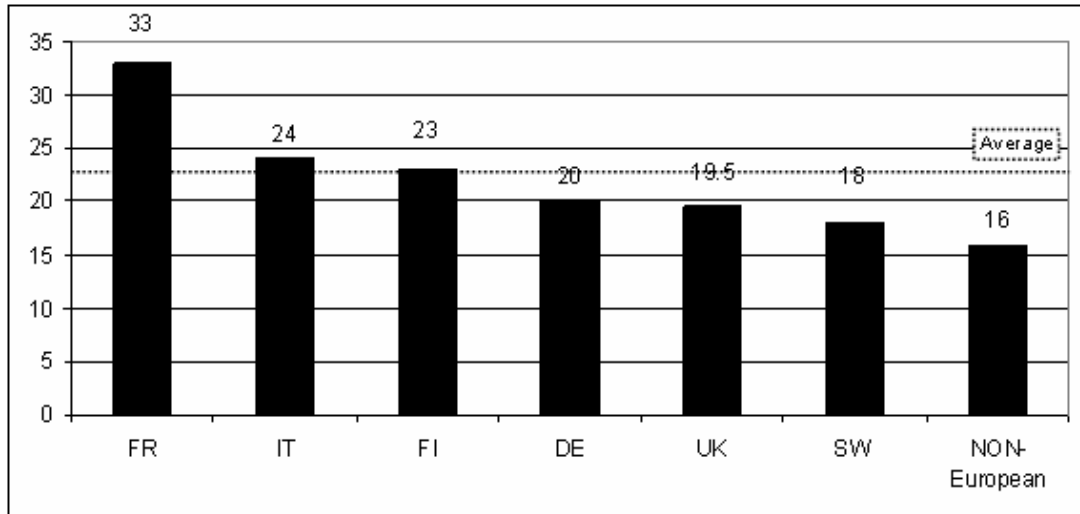
2.3.1 *Information on the EWC employee delegates*

The composition of EWCs in terms of the number of members, whether they are bipartite or employee only bodies, and the representativity of EWC members in relation to the country distribution of the workforce are important in relation to how transnational issues are tackled. For example, if representatives from the country where the company has its HQ predominate in relation to the EU/EEA employee split of the company, this can clearly have an impact on the extent to which the voices of “foreign” subsidiaries can be heard. The permanent presence of employer representatives on EWCs can be beneficial in relation to building up positive employee-management relationships, but can also be considered as a disadvantage if it means employees are unable to exchange information freely without the presence of management representatives. The choice of composition is clearly linked to the industrial relations system of the country in which the company has its HQ.

¹ Includes also the figures for extra-ordinary meetings, which are held with the steering committee only. Information on extra-ordinary meetings is missing for six companies.

On average, the companies surveyed and analysed for this study have 23 employee members in their EWC, varying from 5 members to 47 members¹. The following graph provides a comparison of average numbers of employee delegates by country, though note should be taken of the relative small sample sizes. On the basis of this study, the French based EWCs have the highest number of employee members (33) and the European Works Councils of companies which have their head office outside Europe operate the smallest EWCs with 16 employee delegates on average. This trend is partially attributable to the number of employees the companies have in Europe as the French sample companies have some one of the highest average employee rates in Europe (on average 47,000) and the non-European companies have some of the lowest European employee figures (on average 4,200)². At the same time however the Italian sample companies have the highest employee numbers in Europe (on average 83,000) and the Finnish companies some of the lowest levels (on average 13,000) but the average EWC representation in these two countries stands at around 23-24. The German sample companies employ on average 25,000 workers in Europe.

Figure 5: Average number of employee delegates by country of headquarter



Notes: Please note the small samples sizes (FI 7; FR 14; DE 10; IT 4; SW 6; UK 10; Non-European refers to 7 sample companies from US, CA, SA and JP). Information was not included from BE, DK, NL, NO and CH as the sample included three or less than three companies in each country.

With cost concerns in mind it is important to note that a small number of companies pointed out that all members do not attend every meeting. This was particularly noted by companies that organise more than annual plenary meeting. One company indicated that their EWC has 22 members but the average number of employee representatives that attend is around 15³.

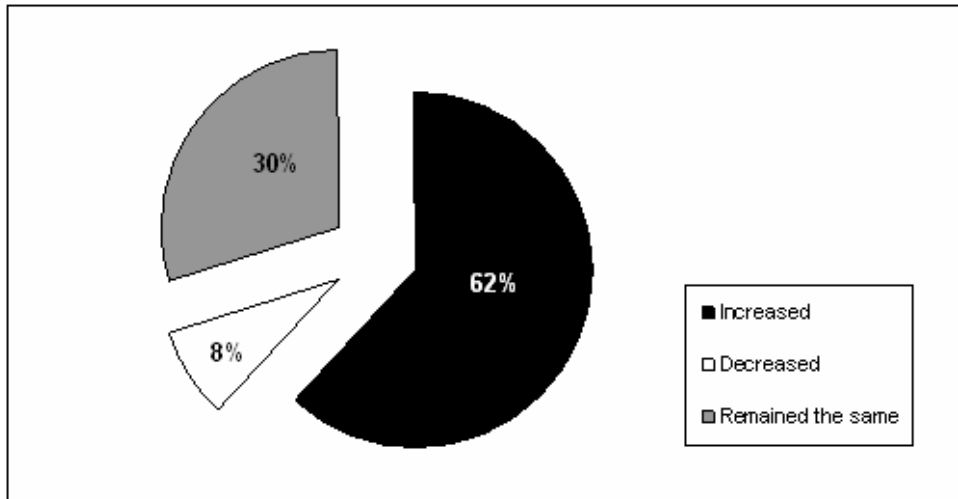
In nearly every two out of three companies in the sample, the number of EWC members has increased in the last three years, largely as a result of the EU enlargement and expansion of operations in additional countries.

¹ Based on information from 68 companies.

² The analysis must be read with caution given the small sample size of the survey.

³ This company however organises four annual ordinary meetings, which can potentially influence the attendance numbers.

Figure 6: Trend in the number of EWC members



Source: Survey sample of 60 companies

On average, the EWC's bring together representatives from nine countries¹. Companies vary significantly in relation to the number of countries their members cover (from two to 24). No significant country specific differences were found although the delegates from the non-European sample companies covered the fewest number of countries. In some companies, certain EWC members are dedicated to looking after the interest of more than one country. As an example, a company that employs only three workers in Spain has appointed a representative of Luxembourg to maintain a dialogue with their Spanish colleagues².

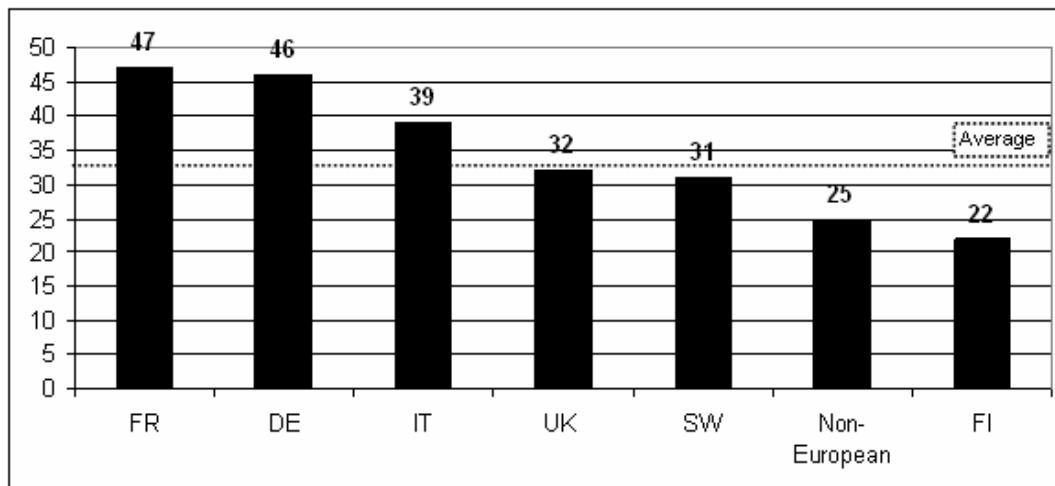
On the basis of information from 60 companies, every third (33%) EWC employee member is from the country of the global or European headquarter. This translates to seven persons (7.5). There are significant variations between companies, with the lowest percentage of host country members standing at around 7% and the highest at 87%.

There is also a noteworthy difference between the European works councils of companies of which headquarter is in France or Germany and those in other countries. The French and German EWCs have nearly half of their employee delegates from the host country. This is partially attributable to high numbers of employees in the host country in comparison.

¹ Based on information from 61 companies.

² The company employs less than 20 employees in Luxembourg also.

Figure 7: Percentage of EWC members from the host country



Notes: Please note the small samples sizes (FI 7; FR 14; DE 10; IT 4; SW 6; UK 10; Non-European refers to 7 sample companies from US, CA, SA and JP). Information was not included from BE, DK, NL, NO and CH as the sample included three or less than three companies in each country.

2.3.2 Information on the EWC management delegates

A typical EWC annual plenary meeting, on the basis of information from 33 companies, is attended by five management representatives. This figure however tends to differ considerably from company to company. Companies were found in which only 2-3 company representatives attend the meeting and in others up to 12-13 management representatives are present. This clearly depends on whether the EWC bodies themselves are employee side only or bi-partite. On average, EWCs have 1-3 permanent management members and others tend to rotate or attend according to the focus of the meetings. Particularly in companies with bipartite EWCs, the meetings are attended by representatives from the top management as well as either general managers, HR directors or managers of employee relations/industrial relations in each Member State. Furthermore, those companies which operate working groups and/or run projects together with EWC delegates have higher numbers of management representatives taking part in the annual EWC activities. In one company a total of 25 management members are engaged in the work of the European Works Council every year.

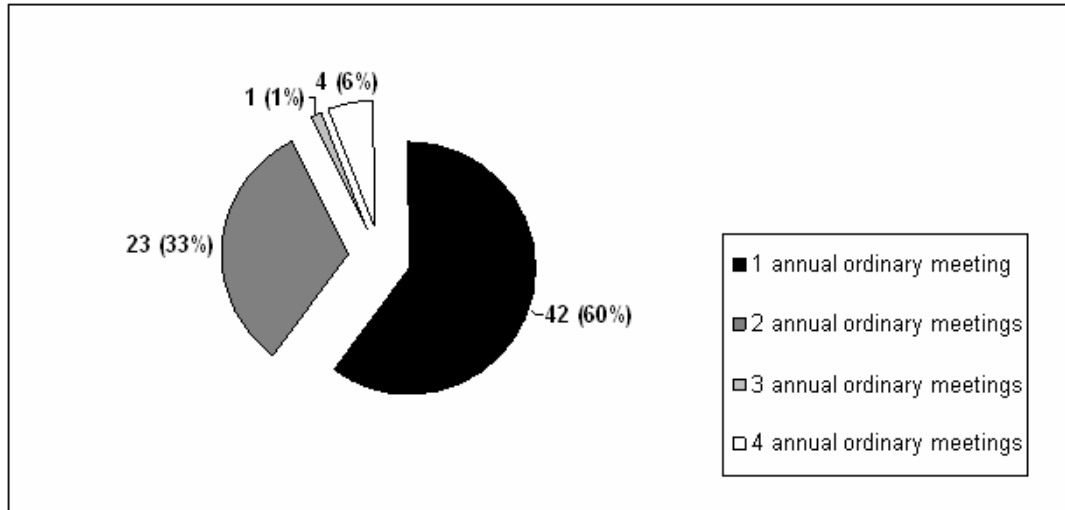
2.3.3 The number of annual ordinary and extra-ordinary EWC meetings

The number of annual meetings of the EWC can impact on the quality of exchange and contact between representatives. Even more importantly, in the context of the EWC's ability to respond to restructuring situations, is the ability to organise and the actual incidence of extraordinary meetings. Current reality in this regard has an impact on the cost of potential changes to the Directive regarding the number of annual meetings and the precisions of provisions regarding the calling of extra-ordinary meetings.

Two out of every fifth sample company go beyond the minimum requirement of the Directive 94/45/EC with regards to the number of **ordinary** plenary meetings they hold each year¹; 40% of the sample companies have two or more annual plenary meetings. As the figure below demonstrates, four companies organise four plenary meetings.

¹ This figure also includes those companies, which in addition to their one to two plenary meetings have one or more annual meetings with employee representatives alone.

Figure 8: The number of annual, ordinary meetings



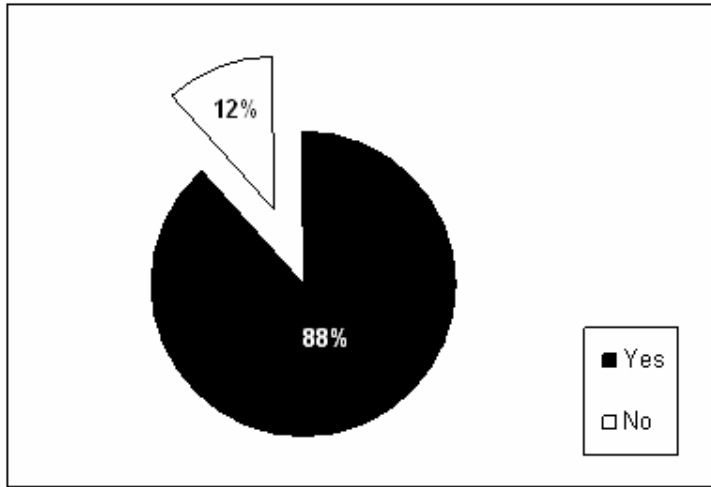
Source: GHK survey based on a sample of 70 companies

The trend in relation to the number of ordinary meetings also side with other EWC studies. The ETUI-REHS reviews from 2002 and 2006 have illustrated that the share of companies organising more than one ordinary meeting has been rising in the current decade. The ETUI-REHS research review of 2006 also indicated that some 18% of the agreements provided a possibility for two or more annual ordinary meetings¹. This means that the share of companies which actually organise more than one ordinary meeting every year is more than double than the figure describing the share of agreements that specify this provision, suggesting that some companies go beyond the requirements of their agreement and/or increasingly recognise the benefit in relation to a continuity and quality of EWCs by organising ordinary meetings more frequently.

Nearly nine out of ten agreements in the study sample (88%) include a provision to hold extra-ordinary meetings. This is a somewhat higher figure than the findings of the more recent study of ETUI-REHS, which found that four-fifths of agreements hold such provision. The reason for this variation can be partially attributable to study methodologies. It has not been possible within the context of this study to review all relevant agreements (the ETUI-REHS database does not include the agreement texts for all EWC or does not have the most up to date version and some companies were not willing to send us the actual text of their agreement) so the data is based on information from company and EWC employee delegates, which in some cases can either be based on more up to date information or on the experience of actual practice rather than the content of the agreement. On the other hand the ETUI-REHS study is purely based on a review of actual agreements, however the Institute does not necessarily have an access to all the latest agreements.

¹ 176 agreements out of 958 for which information was available.

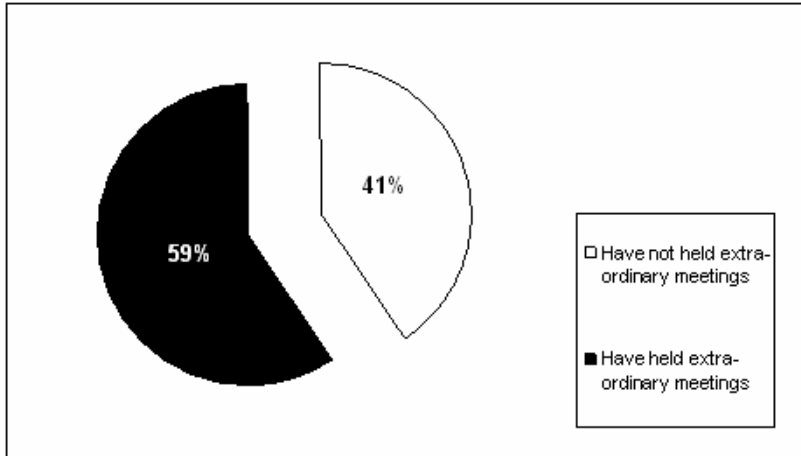
Figure 9: Share of companies of which agreement includes a provision to hold extra-ordinary meetings



Source: GHK survey based on information from 69 companies

A total of 38 out of 64 companies (59% of the sample) have held **face-to-face extra-ordinary** meetings in the last three years. In further two companies extra-ordinary meetings have been held via video-conference and/or telephone. It must be noted that this figure only includes physical (face to face meetings) and does not take account of information provided outside the regular meeting schedule in other ways (written form, by telephone etc.)

Figure 10: The share of companies with face-to-face extra-ordinary meetings in the last three years



Source: Based on information from 64 companies

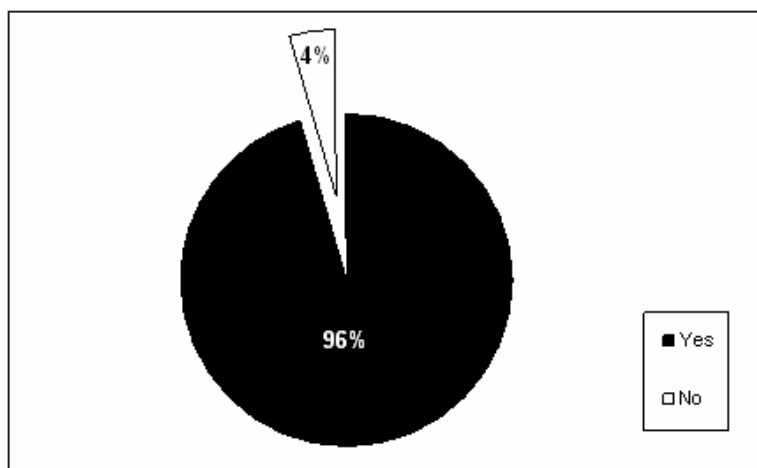
In above mentioned 38 companies a total of 98 extra-ordinary meetings were held in the last three years of which over three-quarters (78%) have been organised with all the EWC members at present and just under a quarter (22%) have been with the steering committee or an alternative body consisting of, for example, the EWC chair and representatives from affected countries.

When the number of ordinary and extra-ordinary meetings is added up¹, the figures at this point of the study imply that a typical company with an EWC organises **two plenary meetings each year** (an average of 2.0)².

2.3.4 Preparatory meetings

In almost all companies employee representatives get together before and/or after the plenary meeting. Only three companies in the sample cited that they do not hold preparatory meetings before their joint meeting³.

Figure 11: Share of companies with preparatory meetings



Source: GHK survey based on information from 67 companies

Anecdotal evidence from the interviews also suggests that a growing number of companies either have run de-briefing sessions (that follow the meeting) from the outset or have introduced them in recent years.

2.3.5 Steering / select committees

Many studies on EWCs have found an upward trend in the number of companies operating steering / select committees, hence have forecast that the steering committees are likely to influence the development of EWCs increasingly in the future⁴. The findings from this study support these arguments.

Research papers that have reviewed the contents of actual EWC agreements have found that on average two out of three agreements (66%) contain a clause enabling a set up and operation of a steering committee. This study has found that in practice a considerable larger share of companies operate a steering / select committee. This implies that although such provision is not in the agreement, many EWCs have recognised the benefits that can be associated with steering committees. Indeed, around nine out of every ten EWC in the sample (88%) have a steering committee. In some companies, these are called working groups, but do in fact perform the function of a steering committee, which is to plan the

¹ Includes an average for the number of extra-ordinary meetings for one year.

² Information on the number of extra-ordinary meetings is missing for six companies.

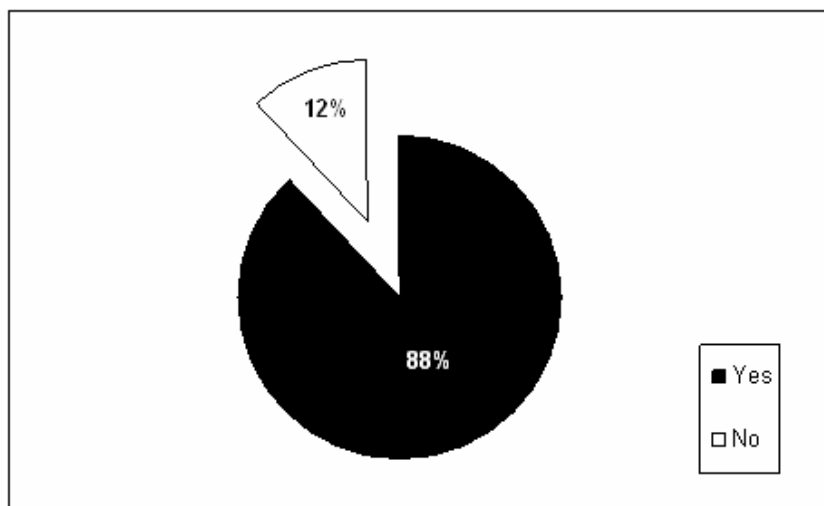
³ Instead the other one of these two companies hold four plenary meetings a year.

⁴ E.g. Kerkckhofs, P. (2002) European Works Councils – Facts and figures. ETUI.

Social Development Agency (2006) Analysis of the Social Developments Agency InfoPoint Database “EWC agreements”. SDA.

activities of the EWC, including the agenda of full meetings, co-ordinate any working groups and receive more regular updates from the management.

Figure 12: Share of companies which operate a steering/select committee



Source: GHK survey based on responses from 67 companies

On the basis of information from 57 companies, the steering committees meet face-to-face on average three times a year. In addition to face-to-face meetings, many companies organise video and telephone conferences and in a number of companies the steering committees have not been set strict rules in relation to the number of meetings but are fairly freely allowed to meet more often whenever there is a need to do so. In others the system is much more regimented and limited. In five companies the steering committee communicates only via telephone and video-conferences and sometimes on an informal basis due to other trade union meetings or conferences. In one particular company their so-called joint committee meets at least once a month besides three to four telephone meetings a week, although the latter is dependent upon relevant developments in the company at any given time. In further four companies steering committee meetings are held six or seven times a year.

With regards to the formation of steering committees, they normally have five employee members and two management members. Normally the number of members is stipulated by the agreements. The number of employee delegates varies between two and 15 and as with the overall composition of EWC's, the French EWCs operate the largest steering committees (on average 8-9 members). While no detailed statistics are available within the context of this study, it can be said the steering committee meetings are attended by zero to four management representatives (with an average of two) and that in most cases the committee does bring together both employee and employer representatives while in others the committee is a dedicated forum for employee representatives, with the management representatives joining only when requested to do so. In several cases the committee meetings are also attended by trade union representatives from national or European confederations and other experts working with the EWC.

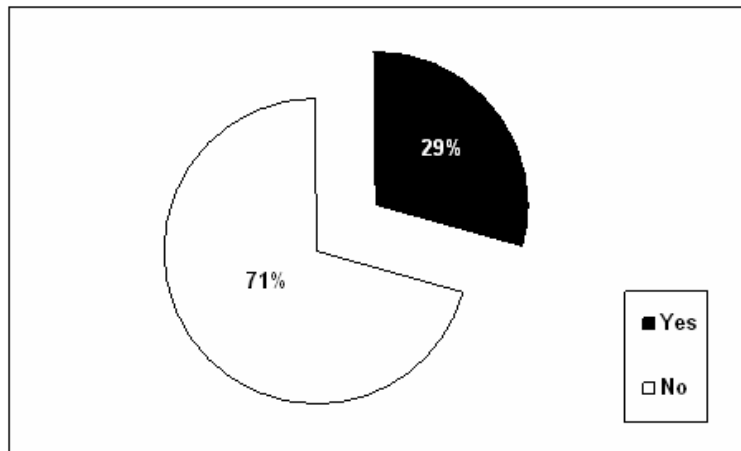
Interviews particularly with management representatives revealed that many find it easier to inform/consult the steering committee in restructuring situations, especially in sensitive cases where communication outside ordinary and extra-ordinary meetings with the whole group is seen difficult without simultaneous interpretation. In addition, many interviewees revealed the importance of time in developing trust between the management and employees, and in some cases the development of this trust had its origin in close

collaboration with few individuals working more closely with the EWC in the context of the steering committee.

2.3.6 Working groups

Three out of ten EWCs (29%) surveyed for the study are currently operating working groups to deal with specific subjects. Interestingly those companies operating working committees usually run several different ones (1 to 13 different ones) at the same time¹ as opposed to just one, or alternatively one is set up to deal more closely with an on-going restructuring process. On average nine persons (including both company and employee delegates) take part in activities of one working group, though the number varies from three to 20 delegates.

Figure 13: Share of companies with working groups



Source: GHK survey based on information from 68 companies

The working groups feature a very diverse mix of structures, compositions and meeting arrangements. Those working groups that operate without any specific time limit tend to meet one to three times a year but working committees set up for a given period to investigate a topic in greater detail tend to meet on more regular basis.

Overall, evidence implies that working groups are mainly organised in order to tackle specific issues more effectively as smaller, informal groups are seen to be more productive. Working groups tend to operate in one language, hence rarely involve interpretation costs: *“at meetings with translation/interpretation people are a bit more reserved”*.

In three companies working groups are established to deal with specific restructuring and re-organisation questions. In further three companies working groups have been set for each individual business unit or sector. This means that one of the companies in question runs four different working groups and another one a total of 13 working groups. In the latter case the company manages on average 25 working group meetings each year.

In five companies working groups were set up to deal with working environment and/or health and safety concerns. For example, in one company EWC members put forward a proposal to improve the working environment at cash points. As a result, the management set up a working group consisting of four EWC members and three of the company’s design team members to create new types of cash points. The working group developed a new prototype, which is currently being tested. The working group met three times a year.

¹ Information from eight companies on their working groups reveals that they run one to 13 different ones at any one time, with an average of two to four.

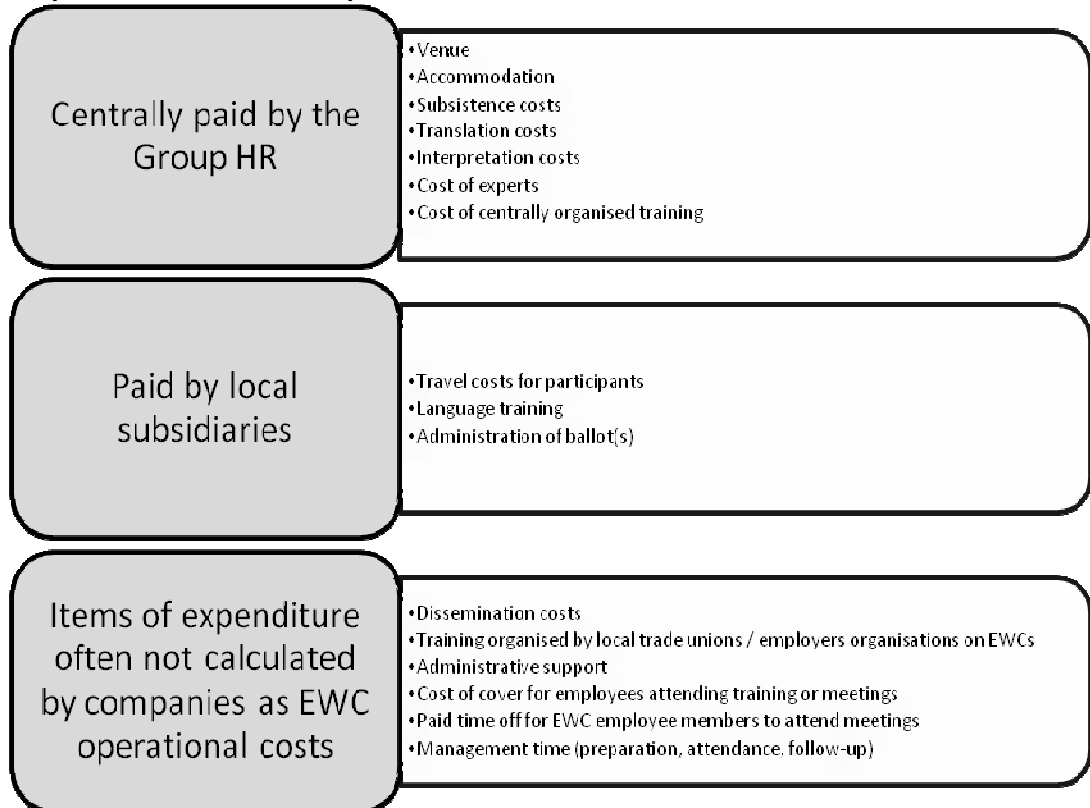
In one company four working groups have been set up; one to discuss training, learning and professional development, another one for working conditions, and further two deal with H&S and equal opportunities. In another one has been formed to tackle the issue of sustainable development and another to look at safety questions. Other topics of working groups are, for example, international secondments, home working, communication and working environment.

3 COSTS RELATED TO EWCS

An important element of the data collection activity is the calculation of costs associated with the establishment and operation of EWCs. In our interviews, we sought cost information under various headings. These included: venue, accommodation, travel costs for participants, subsistence costs, translation costs, interpretation costs, administrative support, cost of experts, dissemination costs, paid time off for EWC employee members to attend meetings, management time, cost of training and cost of cover for employees attending training or meetings.

Some difficulties were encountered in gathering this information due to the limited, centralised budgeting processes kept by companies on these issues. Several different items of expenditure tend to be absorbed by subsidiary offices of EWC members (e.g. travel and language training); therefore information is not centrally collected on these topics. In addition, companies do not tend to measure the costs associated with the time that it takes either for the management or secretarial members of the EWC or the employee members to attend meetings, prepare the agenda and to disseminate information. Venue, subsistence, accommodation, interpretation and translation related costs are normally the items that are centrally funded by the Group HR division or the unit dealing with employee relations. The following graph illustrates these general trends in the EWC budgeting processes at company level.

Graph 1: Division of EWC expenditure



In the following sections we look at different costs that are associated with the operation of EWCs. At first we look at the costs associated with holding a second annual plenary meeting, which is suggested to be included in the subsidiary requirements to apply to those

companies unable to reach agreement within the set timeframe. We can do this by calculating the cost of operating one plenary meeting.

3.1 A plenary meeting

In this section we have analysed item by item the costs associated with the operation of one annual plenary meeting. We will at first bring together all of these elements before we go on to providing a breakdown of costs by each and every item.

First of all, two out of five companies already hold two annual meetings. This means that a possible change to the Directive to increase the number of annual, ordinary plenary meetings from one to two for companies unable to reach an agreement within the set timeframe **could have implications for 60% of the companies** currently operating an EWC.

Secondly, it must be noted that some estimates have had to be made on the basis of limited and averaged data, as many companies were unable to provide detailed breakdowns of cost and many of the costs, particularly for travel and staff time are internalised in the respective subsidiary's costs.

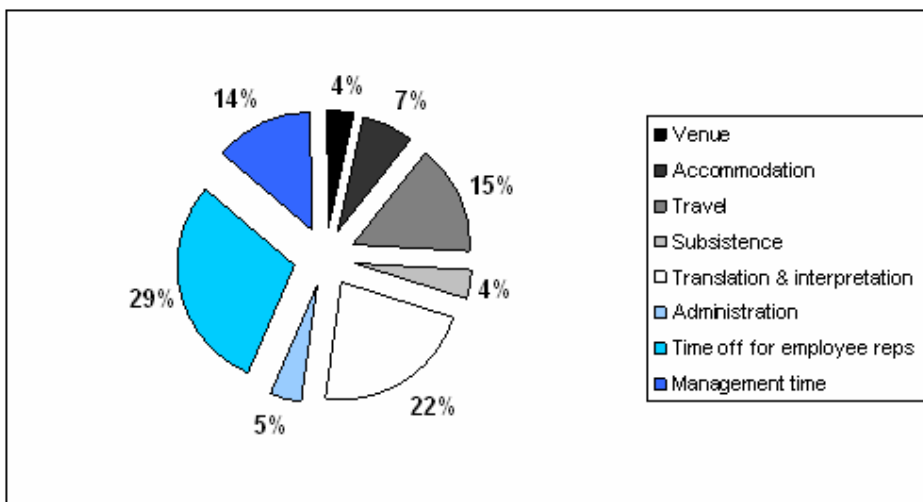
Finally, it must be noted here that the costs seem to vary significantly from company to company, also to a certain extent from country to country

Bearing in mind these provisos, **the organisation of one plenary meeting costs in the region of EUR 101,000**. The organisation of another annual meeting will have similar costs attached to it, as generation of economies of scale is not seen possible within the context of these particular meetings.

Fixed costs, including travel, venue, subsistence, translation, interpretation and accommodation make up just over half of the costs (52%), **EUR 52,500**. The rest covers costs associated with EWC delegate, management and administrative staff time (48%), **EUR 48,700**.

The table below shows the breakdown of these costs into various items listed above.

Figure 14: Share of items of expenditure



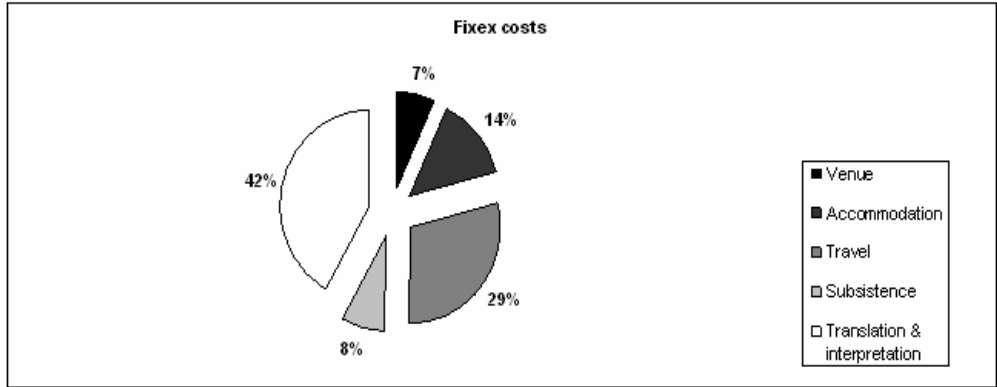
Source: Based on information from 70 companies

The figure above illustrates that paid time off for employee representatives makes up the biggest share of the costs (29%), closely followed by translation costs (22%) and then travel

(15%). Venue and subsistence costs are the least expensive items of expenditure with both taking a 4% share of the costs.

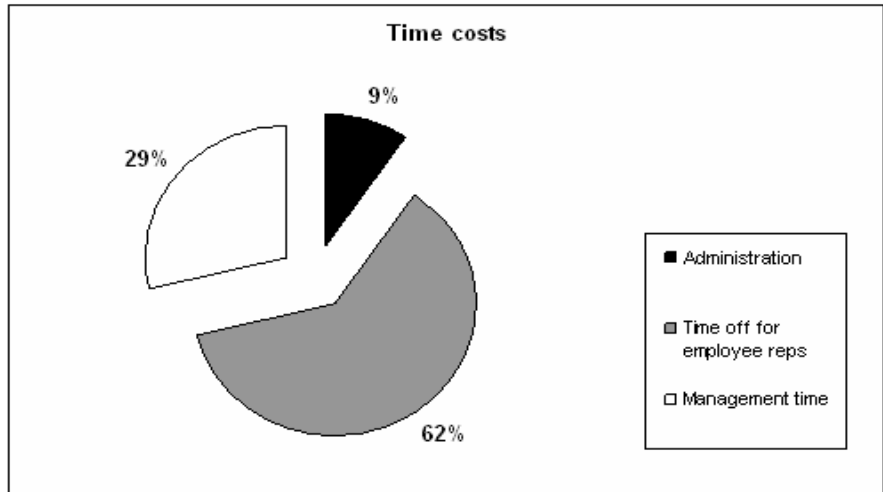
The figures below demonstrate the share of costs by the types of costs (fixed and time costs).

Figure 15: Share of fixed costs



Source: Based on information from 70 companies

Figure 16: Share of time costs



Source: Based on information from 70 companies

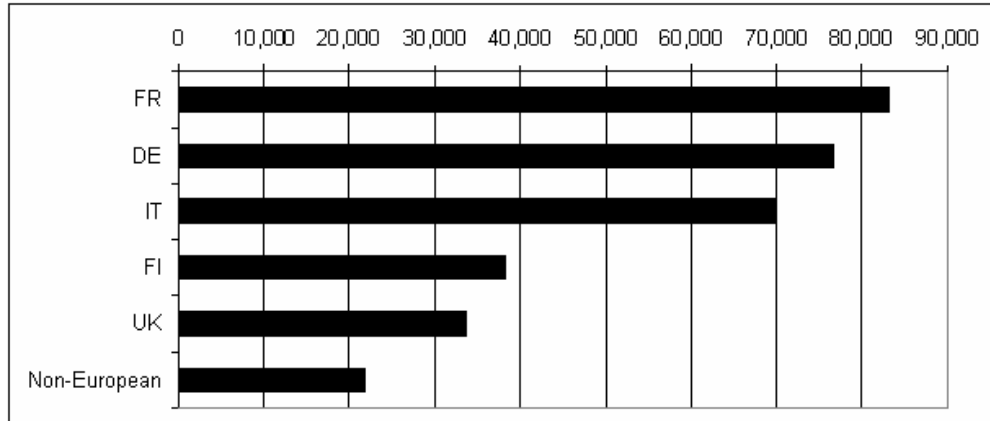
Some companies were able to provide information as a lump sum on the total fixed costs¹ associated with the operation of their EWC. These cost valuations ranged from just EUR 5,000 per meeting to an estimation of EUR 370,000. On average, those 49 companies, which supplied information on their total fixed costs, informed their fixed expenditure per EWC meetings stands at around EUR 61,100. This figure is EUR 10,000 more than the calculations above since some companies included other elements in this figure without being able to generate a breakdown for the fixed costs assessed as part of this calculation only.

Differences between countries are predominant just by looking at expenditure on fixed, operational items. As the table below illustrates the French companies incur the most significant costs and the non-European companies clearly the lowest costs. The French

¹ Referring to travel, venue, accommodation, subsistence, translation and interpretation.

companies are closely followed by German companies, which clearly show the most drastic differences in expenditure as the three lowest estimations come from Germany (just EUR 5,000 to EUR 6,000 per event) as well as the highest one. The cost differences between countries are partially attributable to the sizes of companies, with French companies having much bigger number of both EWC delegates and employees in Europe than the sample companies for example from the UK, Finland and outside Europe.

Figure 17: Fixed costs borne by companies according their country of origin



Note: Information based on a relative small sample (FR – 10 companies; DE – 9 companies; IT – 4 companies; FI – 4 companies; UK – 7 companies; Non-European – 3 US companies, 2 Japanese companies and 1 South African company)

3.1.1 Venue

Plenary meetings are normally held outside company premises, in conference centres or hotels, due to the need to equip the meeting rooms with interpretation booths. On average, companies with EWCs spend EUR 3,700 per venue per meeting. On the basis of a fairly limited evidence base (24 companies), around a quarter of the companies hold the meetings in-house, hence incur no venue specific costs. Those companies, which hold the meetings outside their company premises, spend on average EUR 4,900 on the venue. Costs of venues for a plenary meeting varied from just EUR 580 to a significant cost of EUR 27,000. Most companies paid EUR 1,500 to EUR 5,000 for their venue.

Average venue costs per meeting	COST
Venue cost per plenary meeting	EUR 3,700
Venue cost per EWC member	EUR 170
Cost for those companies who pay for the conference premises	EUR 4,900

Source: Based on information from 24 companies. Information from three companies in the sample also entailed accommodation costs. Information from further 22 companies could not be included in these specific calculations as no detailed breakdown was available for this cost element. Rest of the companies did not provide relevant information.

There seems to be no correlation between the number of EWC members and the costs associated with the venue. A trend of growth is however discernable when it comes to the venue costs. This is a result of a growing tendency to hold the meetings abroad (outside the country where the HQ is located) at the request of employee members who wish to familiarise themselves with different parts of the company. As the central HR team often is not as familiar with venues and prices in locations abroad as they are in their home country, and in some cases not able to rent facilities of affiliated social partner confederations (e.g.

their training centres), the venue costs can increase considerably for plenary meetings abroad.

3.1.2 Accommodation

Accommodation costs per annual plenary meeting vary considerably from company to company from EUR 1,000 up to EUR 21,600 per meeting. Particularly high accommodation costs are borne by Italian companies. One company does not incur any accommodation costs as they own a conference venue with accommodation facilities included in which the plenary meetings are held.

An average, cost incurred by companies from accommodation are EUR 7,340 per plenary meeting. An average, the cost per member per meeting is EUR 295. Attendance normally requires two nights of accommodation.

Average accommodation costs per meeting	COST
Accommodation cost per plenary meeting	EUR 7,340
Accommodation cost per EWC member	EUR 295

Source: Based on information from 23 companies. Information from two companies in the sample also includes accommodation costs associated with steering group meetings. Cost information from further 27 companies could not be included in these specific calculations as no detailed breakdown was available for this cost element. Rest of the companies did not provide relevant information.

3.1.3 Travel costs

Average travel costs for each plenary meeting reach EUR 15,283 per company, amounting to EUR 660 per person. Travel costs vary from company to company usually not directly depending on the size of their European Works Council but on the share of the EWC members coming from the country of their European HQ and the location of the meeting. Travel costs also tend to be higher when the meetings are held outside the country of the European HQ due to the higher number of both employee and company representatives having to travel abroad. One company specified that the travel costs are a third higher when the meeting is held abroad.

Average travel costs per meeting	COST
Travel costs per plenary meeting	EUR 15,300
Travel costs per EWC member	EUR 660

Source: Based on information from 24 companies. Some of the figures for travel costs per plenary meeting also include travel costs for the management team. Cost information from further 20 companies could not be included in these specific calculations as no detailed breakdown was available for this cost element. Rest of the companies did not provide relevant information.

3.1.4 Subsistence costs

Companies spend on average EUR 4,160 on subsistence per plenary meeting. This amounts to around EUR 150 per EWC member. One company does not associate any subsistence costs to the organisation of their plenary meetings as the meetings are held and catered for in their own facilities while another company spends EUR 11,000 on subsistence alone. On average the plenary meetings cost in the region of EUR 3,000 – EUR 5,000 in subsistence costs for most companies.

Average subsistence costs per meeting	COST
Subsistence costs per plenary meeting	EUR 4,160
Subsistence costs per EWC member	EUR 150

Source: Based on information from 18 companies. Cost information from further 21 companies could not be included in these specific calculations as no detailed breakdown was available for this cost element. Rest of the companies did not provide relevant information.

3.1.5 Translation and interpretation costs

Interpretation and translation make up an important share of the costs associated with the operation of plenary meetings every year; only a few EWC meetings are held in English (six out of 70 sample companies). At the same time a considerable number of both employee and employer representatives felt that using interpreters slowed down discussions at meetings and discussions were not always as fruitful as they hoped for, due to the differences in language.

We have grouped together interpretation and translation costs as only a few companies have a separate budget for these items. In general terms interpretation is more costly than translation within the context of EWCs. Indeed, many companies do not even itemise translation costs in their budget but they are absorbed in the general running costs of the company.

The cost of interpretation ranged from just under EUR 1,000 in a British based company where interpretation was provided only for one language to EUR 80,000 per meeting. In a great majority of companies where simultaneous interpretation is provided and for which detailed cost information was available (77%, 27 out of 35 companies), the costs reached tens of thousands of euros per meeting. Indeed an average EWC spends EUR 22,000 on translation and interpretation in each meeting. If the cost information is taken into consideration only for those companies which do provide interpretation (excluding the English only EWCs), this average cost reaches EUR 25,800

Average translation & interpretation costs per meeting	COST
Translation & interpretation costs per plenary meeting	EUR 22,000
Translation & interpretation costs in companies which provide translation & interpretation services	EUR 25,800
Translation & interpretation cost per EWC member	EUR 900

Source: Based on information from 41 companies. The figures include the cost of annual interpretation costs for two companies. Information was not available or could not be used for these calculations from 29 companies.

3.1.6 Administrative costs

Companies can incur administrative costs when, for example, the secretaries of the Group HR team are responsible for booking the venue and all the flights to the meetings. Administrative staff may also attend the meetings to take minutes of the meeting or are otherwise present to help ensure a smooth operation.

Only 14 companies were able to offer information on administrative costs that relate to the organisation of annual plenary meetings. Four of them reported no costs but an average still reached EUR 4,600 per company. This translated to EUR 190 per EWC delegate. Three companies informed that their administrative costs per meeting reach EUR 15,000.

Average administrative costs per meeting	COST
Administrative costs per plenary meeting	EUR 4,600
Administrative costs per EWC member	EUR 190

Source: Based on information from 15 companies.

3.1.7 Paid time off for EWC employee members to attend meetings

There was a considerable degree of inconsistency in estimations of companies on costs they incur as a result of the participation of their employee representatives in EWC meetings. In fact, only a few companies account for staff time spent on EWC activities. A number of companies supplied us with figures that were derived from their company's time

management system but were quick to say that the figures could by no means be accurate as they were so low and believed that the time is not necessarily logged on their accountancy systems as they should. Many companies felt more at ease by providing an average hourly/daily rates.

There were great differences also in the estimations of hourly/daily rates as companies struggled to identify average rates given the differences in the seniority of EWC members and location of their employment. An average day rate however amounted to EUR 505 with estimates ranging from as low as EUR 160 per day (without social costs) to EUR 960 per day. On this basis, a typical EWC which has 23 members and meets for two days (including preparatory meetings) at a time has a staff time of EUR 23,200 associated with it. This again would translate to a cost of EUR 1,010 per meeting.

A greater number of companies (12) had calculated the total costs for this item of expenditure without providing information on the actual day rate or other details¹. With these cases too the cost estimates ranged heavily from company to company, partially taking into consideration differences in the number of EWC delegates and length of meetings (companies in the study sample organised one- to five-day plenary meetings).

An average cost associated with the time-off provided for EWC members to attend a plenary meeting on the basis of estimates from the study companies stands at EUR 30,100. This translates to a meeting specific cost of EUR 1,270 per member.

Average EWC staff time costs per meeting	COST
EWC member paid staff time cost per plenary meeting	EUR 30,100
Employee delegate time cost per meeting	EUR 1,270

Source: Information based on data from 12 companies.

The slight difference in these figures is partially down to the fact that the sample for this particular question included a high concentration of companies who operate very active EWCs (several working groups, long ordinary meetings and/or several annual ordinary and extra-ordinary plenary meetings) – in other words they tended to be more open about the costs that incur for them.

3.1.8 Management time

Management time associated with the operation of EWCs was equally complex for companies to calculate. This is already a clear indication of the fact that only a few companies include management time as an item of EWC expenditure. This is further complicated by the variations in the seniority of Group management members taking part in the meetings and the length of time they spend in the meetings (some are regular members who attend meetings from start to finish, others join to give presentations and/or to take part in specific discussions).

Those companies that had analysed management time (both preparation and attendance) in a greater detail came back with estimates ranging from as little as EUR 2,520 to EUR 39,768, reaching an average of EUR 14,010. On the one hand this reflects the number of Group management members that attend EWC meetings (varying from 2 to 13 management members, as illustrated by findings in the section 2) but on the other the estimations received have not allowed a strong evidence base for the calculation of average management time. There are also considerable differences between countries in terms of participation of the Group management members. It seems that the management time costs are particularly high for example in Italy where EWC meetings are attended by

¹ These figures have been used to define the staff time costs as the evidence base is stronger.

large, senior management teams while in others officers from HR departments play a more substantial role. To paint the picture even more complex, if the travel time of management members of companies of which HQs are located outside European are taken into consideration, the management time costs can shoot up considerably.

Average management time costs per meeting	COST
Management time costs per plenary meeting	EUR 14,010

3.2 Annual costs associated with EWCs

After assessing the diverse range of compositions, structures and meetings arrangements of companies with an EWC, an unsurprising degree of discrepancy was found in the annual costs of each and every EWC. Companies' own calculations and estimates on their annual EWC expenditure range from as little as EUR 7,500 to EUR 2.3 million. This diversity partially reflects the level of EWC activities as well as the level of investment made by different companies but at the same time it also reflects differences in calculations methods of companies (most companies see for example time spent of EWC activities as operational expenses, which are not differentiated in their accounting systems) as well as sizes of companies and their EWCs (in some companies several different EWCs are operated in order to accommodate the needs of all different business units and EWC sizes vary from five to 47 employee members). On the basis of companies' own calculations, companies spend on average EUR 260,000 per year on their EWC.

If we assess the **annual operational costs** in a more systematic manner by looking at each and every item of expenditure separately, as the following table summarises and the following sections of the report explain in greater detail, an average company spends in the region of **EUR 271,900** on their EWC. This figure includes organisation of an annual ordinary meeting, a further annual ordinary or extra-ordinary meeting, steering committee meetings and training. Fixed costs amount to EUR 160,900 making up 59% of annual costs, while time costs constitute about 41% of all costs with EUR 111,000.

Interestingly, certain costs were particularly high among French companies. These included training, but in particular the cost of experts. As experts appeared to be more frequently used by French companies and had a higher cost attached to them, in the table below we have taken expert fees out of the more comparable "standard" items of expenditure to calculate total annual costs. If we look at French companies separately, they spend on average EUR 448,500 on their EWC each year when the expert fees are included.

In addition to the above mentioned items of expenditure, companies with EWC incur costs from legal assistance, possible labour disputes, operation of working committees, administration of ballots, dissemination, preparatory work and other costs. While it has not possible to define average costs for these items of expenditure for each company (because only a small proportion of companies incur these costs), the following table offers some information on these costs and further information is provided on them in the sections below.

Item of expenditure	Fixed costs	Time costs	Total
Annual ordinary meeting	52,500	48,700	101,200
Second annual meeting (either ordinary or extra-ordinary)	52,500	48,700	101,200
Steering committee meetings (3 face-to-face meetings per year affecting 89% of all companies)	12,100	13,600	25,700

Training costs (provided by four-fifths of all companies, 79%) ¹	43,800	-	43,800
TOTAL	160,900	111,000	271,900
Expert fees	3,500 (143,700 FR)	-	3,500 (143,700 FR)
Legal assistance costs (not related to labour disputes) in half of companies			0 – 66,000
Labour disputes in every sixth company in the sample (16%)			0 – 500,000
Working groups in just under a third of the companies (29%)	12,100	13,600	25,700
Administration of ballot			0 – 25,380
Dissemination costs			0 – 25,000
Cost of preparatory work		0 – 238,000	0 – 238,000
Other costs (such as publication of an EWC annual report, field / factory visits, etc.) affecting a small minority of companies			0 - 250,000

3.2.1 *Expert costs*

Experts costs has been calculated as part of annual costs though companies classify them differently, some either as fixed costs associated with plenary meetings and others as annual EWC related operational costs.

One of the most prominent findings is that the use of experts, other than internal experts or experts from social partner organisations, are nearly universally a French phenomena. As the following figure illustrates, the French companies in the sample which answered this particular question (9 out of 15 companies), spend on average **EUR 143,700** a year on experts. The lowest figure from a French company was EUR 26,000 but two-thirds of the companies spend in excess of EUR 100,000 on experts per year². Most of the costs are borne by accountancy expertise for employee representatives as in France companies are obliged to offer accountancy expertise for works councils, though costs incur from the use of other expertise too, for example, from environmental expertise. In one company the high expert costs were down to a wish of employees to have non-biased strategic/industrial policy expert advice available during a course of heavy restructuring in the company, in addition to standard accountancy expertise.

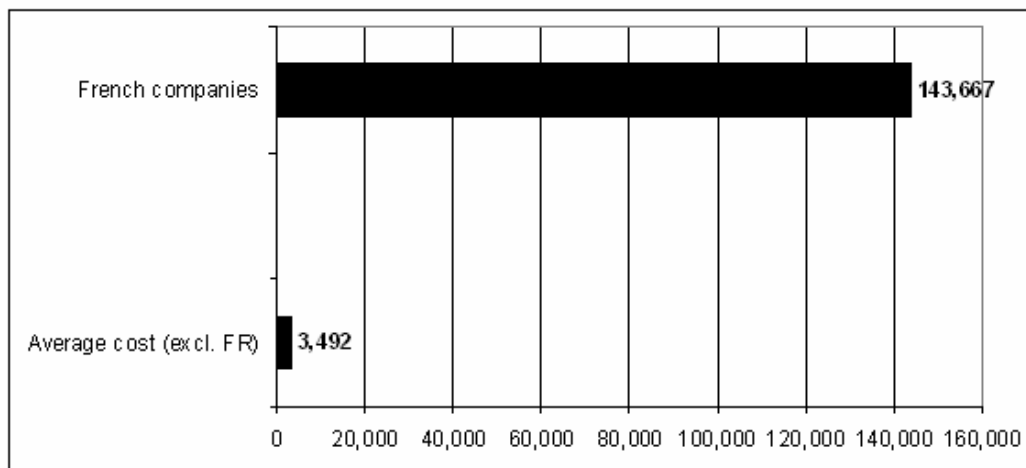
With regards to EWCs from all other countries, no other clear trends are apparent apart from the fact that the level of expenditure is at a completely different level to French companies. Just over half of the non-French companies, which answered this particular question, do not incur any expenses from the use of experts or no external experts are involved in the EWC activities. In those companies where the involvement of experts translates to expenditure, the cost varied from around EUR 750 all the way up to EUR 32,000 per year. In these companies the costs are often related to covering travel and

¹ Estimate on the training costs are likely to be slightly higher than the actual average since training cost information was mainly received from those companies only, which offer a fairly significant amount of training. None of those companies, which provide language training only, put forward any cost information as most of the language training costs are borne by subsidiaries. The average does not include those companies either which bear no EWC related training costs. At the same time, training costs normally exclude the paid time off from EWC members.

² Based on information from nine companies.

subsistence for experts from social partner organisations to attend plenary and/or other meetings. Some cases EWCs have benefited from employment of independent experts on employee relations.

Figure 18: Expenditure on experts (EUR)



Source: Survey based on information from 32 companies (nine French companies and 23 companies from other sample countries).

3.2.2 Steering / select committees

We have already learnt in the previous sections that the steering / select committees of EWCs come in very different shapes and sizes but we have also come to see that nearly all EWCs do operate one (88%). An average steering committee, as defined in the section 2, meets three times a year face-to-face with five employee and two management members¹. As the following table illustrates, the total costs of organising one steering committee meetings therefore translates to just under **EUR 8,600**, with fixed costs making up some 47% of the costs (at around EUR 4,040) and time costs 53% of the total expenditure (around EUR 4,530).

Table 1: Organisation of a face-to-face steering committee meeting

	Total	Per member
Fixed costs:		
- Travel	3,300	660
- Accommodation	738	147.5
Time costs:		
- Employee time off from work	2,525	505
- Management time	2,000	1,000
Total	8,563	n.a.

Source: Based on information from the study survey and the following assumptions about an average steering committee meeting: steering committee meetings last on average one day, meetings are held in the company's own premises with no significant venue or subsistence costs, all the employee members are required to travel to the meeting while the management members do not because the meetings tend to be held in the HQ, the meetings are held without translation, EWC members require one night of accommodation). An average day of EUR 505 is used for EWC members, which is an average EWC member day rate as specified by six different companies. An average day rate for a management representative is assumed to stand around EUR 1,000 as estimates from companies ranged from EUR 350 to EUR 5,000 varying from company to company and the level of seniority of the management representatives taking part in meetings.

¹ Please see section 3.25 for further information on steering committees.

Bearing in mind that an average company organises three face-to-face steering committee meetings every year, the total annual average expenditure on steering committee meetings reaches **EUR 25,700** (annual fixed costs being in the region of EUR 12,100 and time costs EUR 13,600)¹.

A total of 11 companies offered their own cost estimates on the organisation of their annual steering committee activity. These companies' estimates differed from just EUR 2,500 (two meetings with four members) to EUR 200,000 (eight annual steering committee meetings with nine employee members plus management).

3.2.3 Working groups

It has not been possible to define average costs associated with the activities of working groups, which would be supported by strong evidence base. This is partly down to weak evidence base (costs have been specified by one company only) but also down to the extremely diverse mix of structures, compositions and meeting arrangements of working committees (for further information about activities of working groups, please see the section 2.3.6). At the same time it is important to try and gather some information on costs because those companies (29%) that have set one up, are normally running more than one.

The following tables provide a breakdown of estimates for costs that are associated with the annual operation of working groups. The following calculations have been put together partly by using anecdotal evidence from interviews; for example, assumptions have been made that most working group meetings are held in the companies' own premises without translation, even if there is evidence to support that some working group meetings are held outside companies premises in order to be able to provide simultaneous translation. In these cases it is expected that the costs would be even higher. No conclusive information was made available about compositions of working groups, thus it has not been possible to calculate the costs related to time as accurately as hoped.

The estimates, however, imply that just under a third of companies with an EWC spend on average EUR 25,700 per year on working group activities. Around EUR 12,100 are direct operational costs, the rest are related to time. These figures, however, must be read with caution due to the relatively weak evidence base. It is nevertheless clear that this cost estimation is not by no means an over-estimation as the company that did specify the costs they borne from the working group activity spends around EUR 1.5 million every year to run their 13 different working groups that meet at least twice a year each.

Table 2: Organisation of a face-to-face steering committee meeting

	Total per meeting	Total per year (3 meetings)
Fixed costs (travel and accommodation)	4,038	12,113
Time costs	4,545	13,635
Total	8,583	25,748

Source: Based on information from the study survey and the following assumptions about an average working group meeting: working group meetings last on average one day, meetings are held in the company's own premises with no significant venue or subsistence costs, half of the members (5) are required to travel to the meeting while the other half come from the HQ, the meetings are held without translation, those who travel to the meeting require one night of accommodation. An average day of EUR 505 is used for all members as no information has been obtained on what share of members the management members constitute or what is their average day rate (thus the time cost figure likely to be an under-estimate of the actual amount).

¹ Note: Costs related to the organisation of steering committee meetings via video or telephone conferencing are excluded from the figure as mostly only time costs are associated with these meetings.

3.2.4 *Legal fees*¹

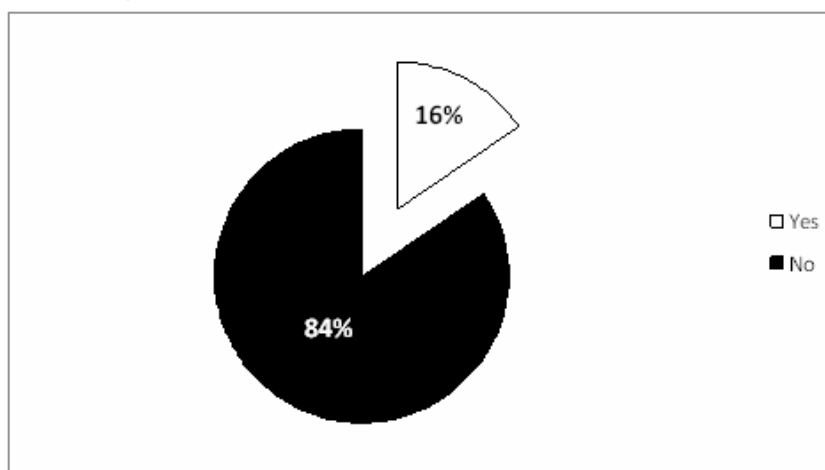
In many companies the need for legal advice concerning the establishment or operation of their EWC has been kept to a minimum by having a lawyer of the Group HR team either to run the EWC or at least to project manage the set-up process. For this reason most of the legal costs associated with EWCs are 'hidden' and impossible to analyse. In other cases, companies reported that they have not found it necessary to pay for external legal advice or they have used legal experts of their affiliated employer's organisation for free as they already pay an annual subscription to these organisations. According to our survey, half of the companies have incurred legal costs either at the establishment stage or during the operation of their EWC². Often the costs have been incurred before or during a restructuring event.

Some 24 companies provided more detailed information on legal fees. Nearly half (11 companies, 46%) stated that these costs were internal and impossible to specify. Further 11 companies were able to generate estimates on annual legal fees and they vary from EUR 1,500 to EUR 15,000. Another company specified that in one year, when the company was going through a significant merger, it spent over EUR 66,000 on legal fees alone. All in all, four out of eleven companies spend EUR 10,000 or more on legal fees in most years and seven out of eleven spend less than EUR 10,000.

3.2.5 *Labour disputes*

Every sixth company in the study sample have faced a dispute with workers representatives over the functioning of their EWC (9 companies, 16% of the sample)³. Of the nine companies affected, a third were not able to provide information on costs with the dispute, another third did not incur any costs from the dispute and the final third of the companies sustained costs from the disputes with figures ranging from EUR 10,000 to EUR 500,000. These figures comprise of costs associated with the organisation of extra-ordinary meetings in two of the cases and expert fees in one case (rather than the cost of any monetary sanctions).

Figure 19: Share (%) of companies which have faced a labour dispute over functioning of their EWC



Source: Survey based on information from 58 companies.

¹ Excludes information on possible legal fees related to labour disputes.

² Based on information from 59 companies.

³ No information was obtained from 11 companies.

3.2.6 *Dissemination*

Dissemination costs were identified only by five companies as being between EUR 285 and EUR 25,000 last year. An average for these five companies adds up to EUR 11,860 and in two out of the five cases the cost are caused by the set-up and/or maintenance of their EWC intranet platform. Others did not state any costs to be associated with dissemination and the rest see dissemination as part of their operational costs or include them into management time.

3.2.7 *Administration of ballots*

Employee representatives are selected according to the national rules and practices of each Member State. In some companies at least some of the EWC members are nominated by the recognised trade unions and the others are directly elected by ballot of the relevant workforce.

Ballot costs were identified by only by four companies as being between EUR 3,980 and EUR 25,380 per year. An average for these four companies amounts to EUR 14,410.

Six companies specifically stated that they do not bear any costs from the selection of their EWC employee delegates. Others either did not answer the question or stated that the ballots are administered by each subsidiary; hence the Group HR is not aware of the costs associated with the ballots and has no responsibility to cover costs associated with them.

3.2.8 *Preparation*

It has not been possible, as part of this study, to define exact time costs associated with preparing the annual EWC activity. Six companies volunteered information on this by stating that on average five days a year is spent by the core HR team on the preparatory activities (time estimates ranging from two to eight days a year). Indeed, the general feeling among most interviewees was that the amount of time spent on organising plenary and other meetings is not particularly significant.

Exceptions to this rule were found particularly from those companies which run several EWCs (dedicated EWCs for each business unit as well as for the Group as a whole and/or several working groups). One company described the preparatory costs as 'significant' as for them the costs reached EUR 238,000 in 2007 (the figures were calculated by using the company's own timesheets). Some EUR 14,000 was allocated to the preparation of ordinary meetings, further EUR 115,000 was spent on preparing the work of their several different working groups and overall, the time used by the HR manager with a day-to-day responsibility for the operation of the EWC amounted to over EUR 100,000.

One company specified that their EWC budget compensates the home division of the EWC chairman for 12 days of work per year in addition to covering four trips around Europe.

3.2.9 *Other costs*

A range of other costs were created by EWCs for some of the sample companies. These items of expenditure are prevalent only in a small number of companies and are often one-off costs or costs that only incur every few years. All of these are activities, which companies are not required by law to offer, but choose to do so in order to meet requests by employees, improve the operation of their EWC, advance the relationship between the management and employees or demonstrate commitment and investment into their EWC.

- Some companies reported of ad-hoc items required for the organisation of large plenary meetings (badges, creation of meeting publications, additional equipment, printing, hostesses who are in charge of operational side of arrangements, etc.). One company specified that these costs amount to EUR 5,000 per plenary meeting and another

company indicated that other items like this can have a cost value of EUR 60,000 every year.

- One of the sample companies publishes an annual report on the activities of the EWC and its working groups. The cost of this publication including printing and design is in the region of EUR 250,000.
- A number of companies reported of field visits / factory inspections arranged for either all EWC members as part of their plenary meeting or additional visits for the steering group or the chairman. One company had recently organised a visit for the whole steering committee to their factory in China. Another company detailed that the cost of these field visits can amount to tens of thousands of euros every year (in 2007 the cost of the field visit for the given company was EUR 57,000).
- One company organised a ten-year EWC anniversary event, including a publication on the achievements of the EWC, which resulted in an additional annual cost of EUR 200,000.

Anecdotal evidence from a considerably majority of the companies in the study sample suggests that the costs are rising due to the request to hold plenary meetings outside of the Group HQ and to rotate the location of the meeting from one country to another.

3.2.10 Training

One of the aims of this study is to assess the additional costs associated with the introduction of “a right to training” for EWC members.

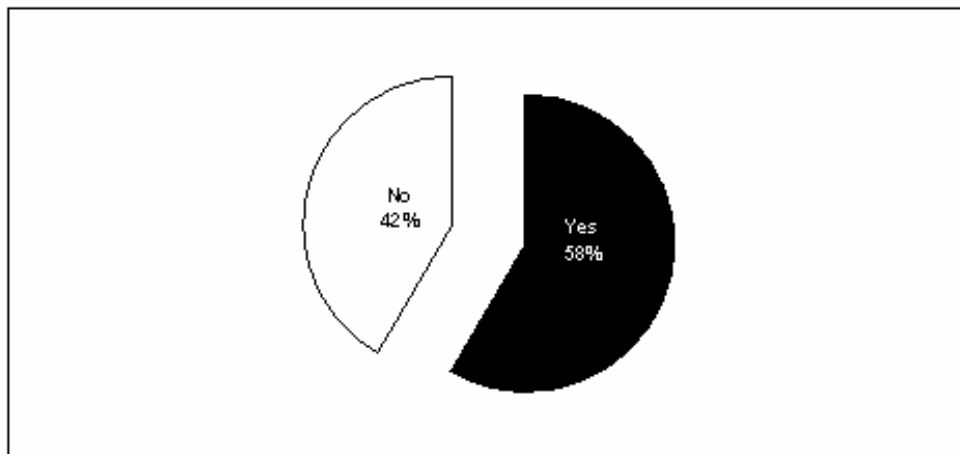
On the basis of information obtained over half of the companies (58%) offer a right for their EWC members to training. It must however be noted here that in a number of cases this ‘right’ referred to English language training only and despite requests by the researchers to provide information only on a ‘right’ that is specified in the agreement, some concerns remain over the reliability of answers from some representatives on this question. For example, many companies and employee representatives indicated that there was a right to training, which in fact related to national rights available to employee representatives. Others simply argued that any reasonable training requested was usually approved as long as it is relevant, which is not the same as a right to training.

Nevertheless, information from companies implies that many offer and indeed deliver training even if their agreement does not oblige them to do so.

In 79% of companies which provided training in the last year, at least some of the EWC members did avail themselves of such training. In around 46% of cases this training was provided to all EWC members. In around 38% it was taken by 10 or more members of the EWC and in a further 15% of EWCs offering training in the last year between 1-10 of EWC representatives took part (although not necessarily in the same training).

Around 28 out of 34 companies which have answered this question and stated that training was provided, gave estimates of the number of training days received by EWC members in the last year; six of them were not able to specify the number of training days precisely as the training is often organised by their subsidiaries, hence information on the number of training days is not gathered systematically. Six companies did not provide any training to their EWC members last year and the average number of training days received by each individual EWC member was 1.6 days (the figure is unlikely to include all language training).

Figure 20: EWC Agreements with a right to training



Source: Survey based on information from 65 companies

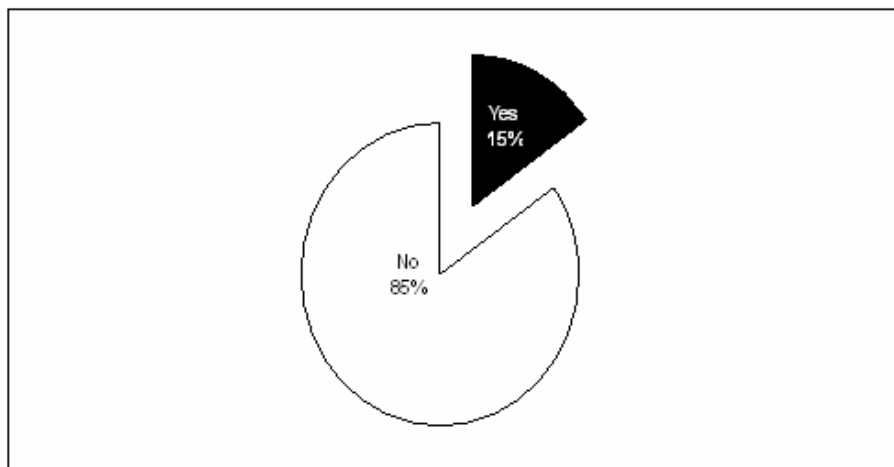
Some of the available training refers to training days or sessions that precede or follow the annual plenary meeting (considered to be a cost-efficient way of organising training). Others refer to intensive or on-going language training or preparatory training for new EWC members.

Little information has been received on the number of EWC members who would take up training if it was available to them. An over-arching feeling among company representatives is however that few training requests are made by EWC members and they tend to prefer day/two day block courses to longer-term language training. A significant share of management representatives implied (and a number of employee representatives confirmed) that very few EWC delegates are interested in language training even if it is available. On the other hand, in some cases employees reported of unwillingness by employers to offer training.

Only ten out of the 65 surveyed companies have a fixed EWC training budget for each financial year. This constitutes a 15% share of the sample. As with most other items of expenditure, the budget for training varies significantly from one company to another. An explanation for this may be the different sizes of companies with EWCs, with some companies having more EWC members than others, which will directly impact on costs.

One company has annual fixed budget of EUR 13,000, although this figure is currently under review. Another company cited a maximum limit of EUR 100,000 and a third company had a maximum budget of EUR 150,000 (though apparently the training costs exceed the budget ceiling every year). Some companies explained that training costs were met on an ad hoc basis. Other companies stated that training was delivered by in-house representatives with no additional costs. However, such companies were not able to provide costs on 'paid time off' for staff to deliver training to EWC members. One company said that the training was provided free of charge by trade unions, although the company paid the costs of travel, venue and accommodation.

Figure 21: Companies with a fixed budget for training



Source: Survey based on information from 65 companies

Estimates on the costs of training days for the whole EWC varied from EUR 1,500 to EUR 50,000 and even EUR 60,000. The cost of training per member per day also varied significantly, depending on whether travel and accommodation was included, as well as depending on the nature of the training delivered and how it was being delivered (in-house, trade union, external consultant etc). These figures ranged from EUR 130 to EUR 4,600 a day.

Based on the information of companies on their average annual training expenditure, it became apparent that there was once again a considerable difference between training costs of French companies and companies from other countries (though this is not as clear-cut difference as the variations in expert costs of French and non-French companies). Some 22 companies offered information on their annual EWC training expenditure of which average amounted to **EUR 43,800**. But a closer look into the cost estimates reveals that the French companies spend on average **EUR 76,700** per year on training while companies from other countries have an average cost of **EUR 24,800**¹. This means that the French companies invest, on average, three times more on training than companies from other countries. All of these statistics however must be treated with caution as overall, the averages given above on annual training costs are likely to be slightly higher than the actual average is since training cost information was mainly received from those companies, which offer a fairly significant amount of training. None of those companies, which provide language training only, put forward any cost information as most of the language training costs are borne by subsidiaries. The average does not include those companies either which bear no EWC related training costs. At the same time, training costs normally exclude the paid time off from EWC members. The estimates of companies on their annual training expenditure ranged from just EUR 1,300 to EUR 150,000.

Company and employee representatives alike expressed a range of benefits associated with providing training to EWC members.

The most frequently reported benefit of providing legal and financial training was the increased clarity it gave regarding employee representatives' role and responsibilities. Several (7) companies considered that this was the most beneficial aspect of providing training to EWC members.

¹ Based on information from eight French companies and 14 non-French companies.

“Training on the roles and responsibilities for EWC members is very useful. It has helped all members, even the most experienced; understand their role and the function of the EWC”.

Company representative

“Training helps to ensure employee representatives understand their role and can fully participate”.

Company representative

Similarly, employee representatives also regarded this as an important benefit of training provision. They discussed that training helps employee representatives understand why they are EWC members. Employee representatives considered that having a clearer understanding of their role placed them in a better position at plenary meetings; they had an improved understanding of management’s perspective and could actively participate in discussions.

“The training helps everything make sense. Employee representatives are able to get to know their opposition”.

Employee representative

“The provision of training enables employee representatives to have a deeper knowledge of the company and therefore be in a better position to negotiate with management”.

Employee representative

Raising awareness of company activities, processes and information was another benefit described by company and employee representatives. One company responded to a request by employee representatives for an explanation of their annual report. Financial training was provided to EWC members to establish an understanding of the company’s annual figures. Another company representative explained that training has given employee representatives a real picture of the company.

“Employee representatives can better understand the complexities of company processes and practices as well as the financial management issues of stock market companies”.

Company representative

“Training helps representatives to understand what the company is doing and the progress it is making”

Employee representative

“Training is very useful. Employee representatives need an expert to explain the financial review and strategy of the company and therefore be able to establish dialogue with the management”

Employee representative

Building effective partnerships with representatives from other countries was regarded as an important benefit by employee representatives. They considered that training activities provided an opportunity to encourage team building and to promote better working

relationships. In some companies, training was delivered in different country locations. Employee representatives valued this, explaining that it provided the opportunity to learn more about trade union systems in other countries.

“Training is a good opportunity to meet colleagues from other countries and discuss with them”

Employee representative

“Training allows employee representatives to meet more often with other representatives and to exchange information with them”.

Employee representative

Cultural awareness training was regularly discussed by company representatives. Representatives from larger companies in particular explained that EWCs are very diverse bodies, which required a level of “cultural” awareness from representatives. One company argued that prior to the delivery of cultural awareness training employee representatives were sometimes insensitive to the range of cultures present in the EWC.

“Cultural awareness training has encouraged cohesion within the group. We had different social representations and it was important for the representatives to understand each other and be more open to European logics. Such training has enhanced the overall effectiveness of the EWC”.

Company representative

Company representatives often discussed the provision of language training available to EWC members. Generally, company representatives explained that English language training was available to employee representatives. They considered the use of one language was valuable, easing the flow of discussions and encouraging representatives to be more open. Additionally, it encouraged ongoing communication, in between EWC meetings.

“English language training is very beneficial as it helps facilitate more functional meetings”

Company representative

Some companies stated that all EWC representatives have to speak English in meetings as interpretation is not provided. One company representative considered that language training would be less useful as it is difficult to acquire the specialised vocabulary used in EWC meetings. Another company representative explained there has been relatively little gained from the provision of English language training. They explained that there has been low motivation among employee representatives to learn another language and of those who have participated; their language skills have not improved sufficiently to hold the meetings in English.

“The management has been somewhat disappointed with the efforts of EWC members to learn English. We do not really see the commitment or ambition...though of course, there are individuals who are different from the majority. As people do not speak English, communication outside of meetings is difficult, if not impossible at times”

Company representative

3.3 Set up costs

One of the purposes of this study has been to try and provide a quantitative assessment of the additional costs to businesses of possible introduction of a Special Negotiating Body (SNB), as laid down in the Directive 2001/86/EC on European Companies.

It is essential, first and foremost, to understand the practical differences in the Special Negotiating Bodies under the different Directives. More precisely, the following table highlights the differences between the provisions on the establishment of a SNB between EWC Directive 94/45/EC and Council Directive 2001/86/EC supplementing the Statute for a European company with regard to the involvement of employees.

Directive 94/45/EC on European Works Councils	Directive 2001/86/EC on European Companies (SEs)
Requires that either the management triggers the process of establishing an SNB or a request is made by at least 100 employees from at least 2 undertakings in at least 2 member states.	No “trigger clause” regarding the establishment of an SNB. If a set of participating companies decide to establish an SE, management must ensure the formation of an SNB to decide on the structure of employee involvement in the new company.
Each member state in which the community scale undertaking has one or more establishments ... is represented by one member. In addition it provides for supplementary members in proportion to the number of employees working in the establishments As laid down by the legislation of the member state where the central management is situated. It is provided that SNBs should have no less than 3 and no more than 30 members (following the 2006/109 amendment of the Directive).	Member States should take necessary measures to ensure that members of the SNB include at least one member representing each participating company which has employees in the member state concerned. Members are to be elected or appointed in proportion to the number of employees employed in each member State by the participating companies and concerned subsidiaries or establishments by allocation in respect of a member state one seat per portion of employees employed in that member state which equals 10% or a fraction thereof of the number of employees employed by the participating companies and concerned subsidiaries or establishments in all the member states taken together. No maximum or minimum number of members is set down.
	Directive 2001/86/EC provides that Member States may provide that SNB members may include representatives of trade unions, whether or not they are employees of a participating company or not.
Decisions to be taken by simple majority of members.	Decisions are to be taken by absolute majority (unless they concern the reduction of participation rights in which case a two thirds majority is required).
The use of experts is allowed by both Directives, but the SE Directive makes special mention	

of the ability to call on the services of transnational trade union representatives.	
Maximum time for negotiation: 3 years	Maximum time for negotiation: 6 months – can be extended to 12 months
If negotiations are abandoned, a new request to convene an SNB can be made after two years (or sooner if such provisions are made	Minimum of 2 years before SNB is re-established and requires that 10% of employees of the SE request this reconvention.

Source: Directives 2001/86/EC and 94/45/EC

A brief analysis of the above suggests that an introduction of SNBs, as laid down in the Directive 2001/86/EC, has the potential of increasing set-up costs as the Directive removes the maximum (and the minimum) limit to the number of employee members in the SNB. Decision-making can also be hampered with the requirement to seek decisions that are taken by absolute majority. At the same time, the introduction of SNBs, as laid down in the Directive 2001/86/EC, has the potential of lowering set-up costs as the Directive establishes a six month limit to the negotiation period, hence remove the possibility of negotiations dragging on for years. This can have several different types of cost implications. It can for example save time from the management side in the long run as they can focus on this issue over a short period of time rather than keep it on the agenda of several management members for longer periods.

In order to analyse which one of the statements are true, the interviewees were prompted to give information on:

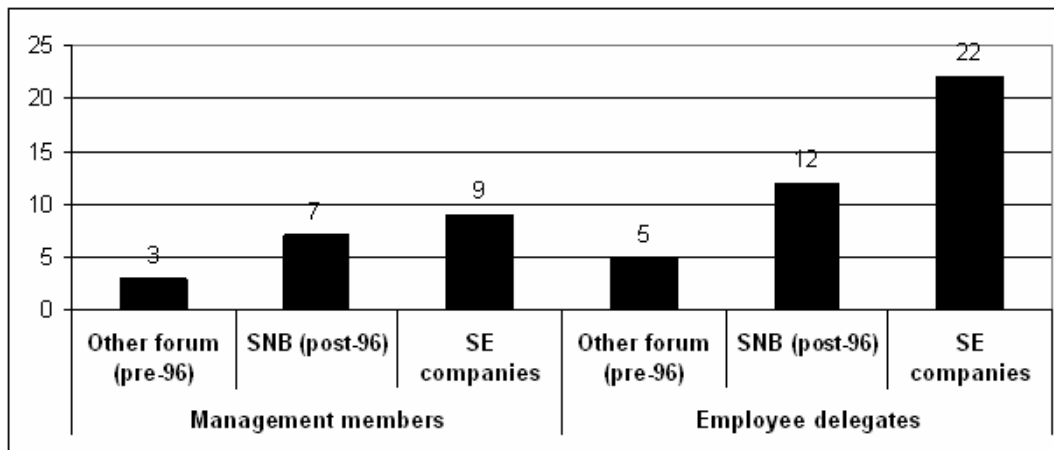
- The number and nationality of employee and management delegates who took part in the negotiation process;
- The number of meetings held during the negotiation period and the overall length of the negotiations; and
- Costs of the negotiation process (per meeting, total for the negotiation period and breakdown of costs to the extent possible).

Only a handful of companies were able to offer any cost information on their EWC process and the available information was largely inconsistent and non-comparable. Furthermore, cost information was only received for SNBs (as governed by the EWC legislation) as for those EWCs that were established over a decade ago, the information was no longer available or the interviewees were not involved in the EWC at the time.

Despite of the difficulties in obtaining information on the set up costs, at the end 40 companies were able to offer some background information on the set-up process (total number of meetings, composition of the negotiation forum/SNB, etc.). On the basis of these details, we have been able to form some indications of costs.

As the graph below illustrates, the SNB's of European Companies (SE companies) are expected to be higher already given the fact that the negotiation forums are significantly larger than an average negotiation forum for European Works Councils. On the basis of information from 16 companies, those EWC's that we founded before the 1996 deadline under the rules and regulations of Article 13 were clearly the smallest fora bringing together 5 employee representatives and on average three management members. Information from 22 companies, of which SNB was responsible for negotiating the original agreement, implies that on average the SNB's are composed of 12 employee delegates and seven management representatives. Finally, the SNB's of the two SE companies surveyed as part of the study was made of 22 employee members and nine management representatives.

Figure 22: An average number of members in different negotiation forums



Note: Findings must be read with caution given the small sample sizes. The findings are based on information from 16 companies for 'Other forum, pre-96'; 22 companies for 'SNB, post-96' and 2 SE companies.

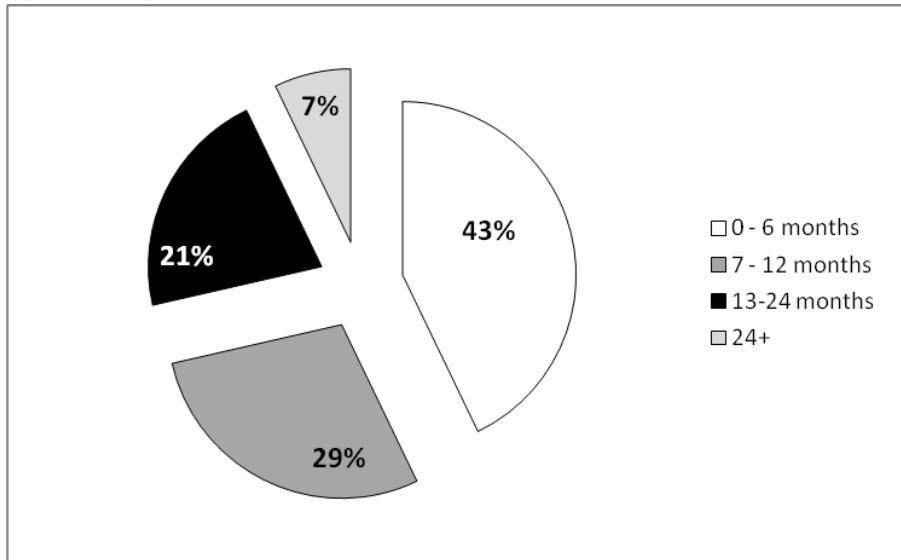
Removal of the limit for the maximum number of employee representatives in the SNB, which currently stands at 30, could have some implications for larger, complex companies, but on the whole would be expected to be minimal. Further calculations on the composition of the negotiation forums and impact of the possible change to the Directive were not possible due to shortages in data from companies regarding the number of employees in each member state and lack of data regarding countries of operation during the negotiation period.

Interestingly, calculations on the average number of forum/SNB meetings reveal that all the negotiations methods and compositions have resulted in an average of four meetings. In other words, all the different forums have come together on average four times before they have concluded the agreement. Both of the SE companies stated that their negotiation period of six months included organisation of four face-to-face meetings. There was a lot more diversity in the total number of face-to-face meetings run by the SNBs formed under the current Directive of 94/45/EC. Some 16 companies provided information on this and the number of meetings in these companies ranged from one to 13, with an overall average of four. 'Other forums' met one to eight times, once again with an overall average of four, before they were able to sign their agreement.

With regards to the overall length of the negotiation period, both of the surveyed SE companies took six months with their SNBs to finalise their agreement. One of them emphasised the importance of thorough preparation work and design of the first, draft agreement before the start of the negotiation period for a successful negotiation process.

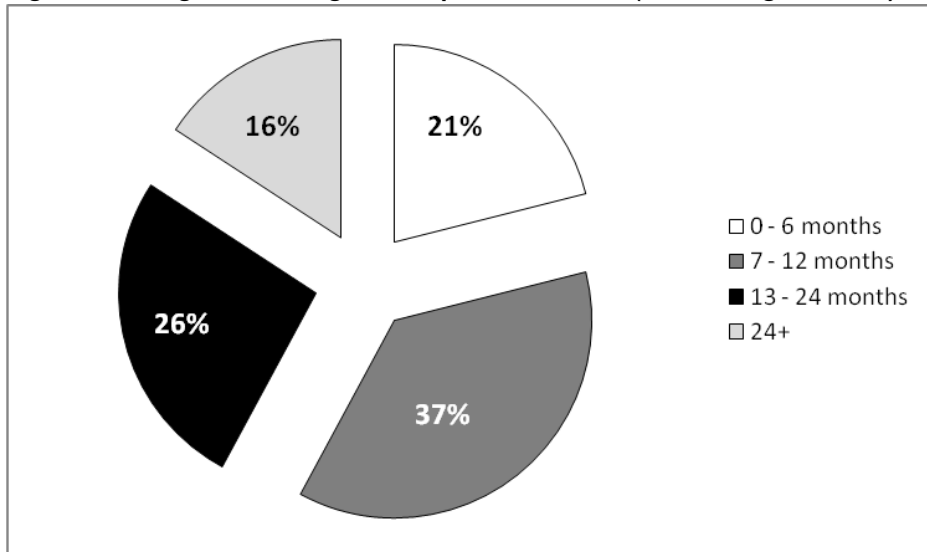
It has taken significantly longer for the companies with an EWC to reach an agreement. The following two graphs show the length of the set-up process for a total of 39 surveyed companies. They demonstrate that the share of companies, which have been able to conclude their agreement within the first six months is only half as many for Article 6 companies than it is for companies which set their EWC under the regulations of Article 13. The tables also illustrate that possible changes to the Directive, which would limit the set-up period to six months, would reduce the negotiation period for four-fifths of the companies who negotiate their EWC under current arrangements (Article 6).

Figure 23: Length of the negotiation process – Other negotiation forums (Article 13 agreements)



Source: Survey based on information from 14 companies.

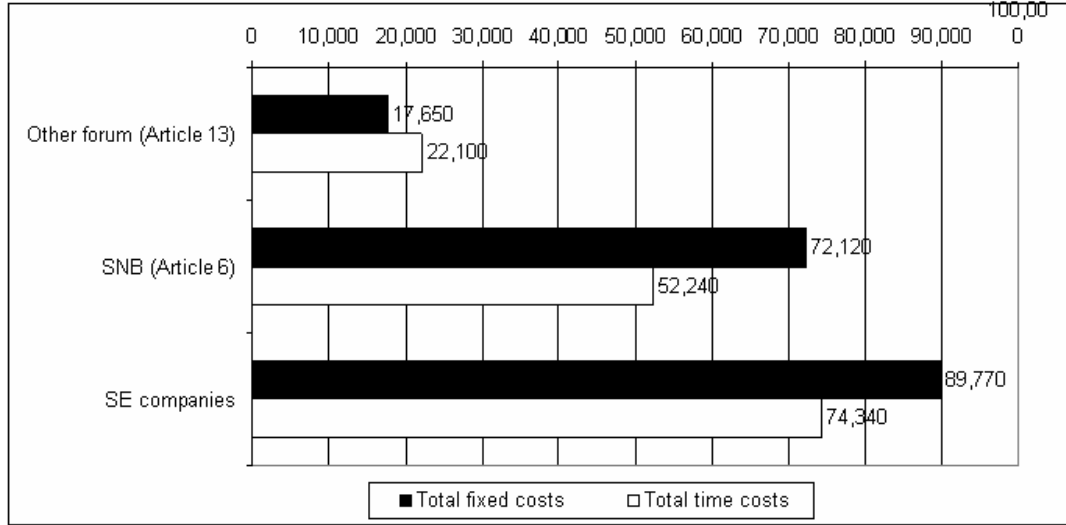
Figure 24: Length of the negotiation process - SNBs (Article 6 agreements)



Source: Survey based on information from 19 companies.

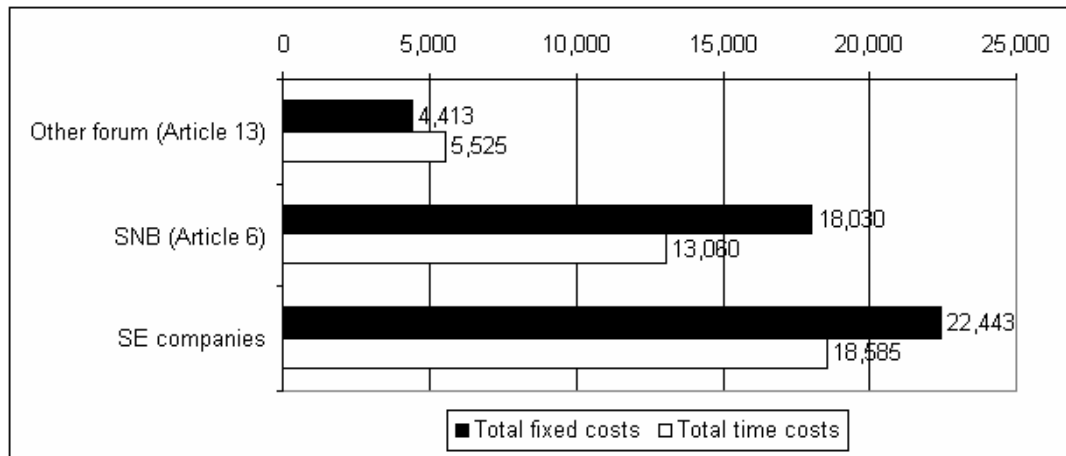
Based on the above mentioned information on the composition of different negotiation fora and cost information on the organisation of EWC plenary meetings, we have been able to calculate **indicative** costs involved in different negotiation processes. The calculations **suggest** that the review of the Directive with regards to the introduction of SNBs, as laid down in the Directive 2001/86/EC, would have a minimal impact regarding set up costs for companies.

Figure 25: Cost of the negotiation period (including four meetings)



Note: These calculations must be read with caution due to the small sample sizes (findings based on information from 16 companies for 'Other forum', 22 companies for 'SNB, Article 6' and 2 SE companies) and the number of assumptions made. All the information based on estimates referring to 2007 as opposed to prices when the negotiations were held. The figures exclude the time spent on preparation, training costs, expert fees and administrative costs due to a shortage of reliable information from companies. The following assumption have been made: all the meetings last one day (thus the subsistence and translation costs have been calculated for one day only), all the employee delegates require travel and one night of accommodation, all the meetings have been provided with translation apart from other forum meetings (based on anecdotal evidence from companies) and four face-to-face meetings have been held during the negotiation period.

Figure 26: Cost of one face-to-face meeting



Note: These calculations must be read with caution due to the small sample sizes (findings based on information from 16 companies for 'Other forum', 22 companies for 'SNB, Article 6' and 2 SE companies) and the number of assumptions made. All the information based on estimates referring to 2007 as opposed to prices when the negotiations were held. The figures exclude the time spent on preparation, training costs, expert fees and administrative costs due to a shortage of reliable information from companies. The following assumption have been made: all the meetings last one day (thus the subsistence and translation costs have been calculated for one day only), all the employee delegates require travel and one night of accommodation and all the meetings have been provided with translation apart from other forum meetings (based on anecdotal evidence from companies).

4 NON-QUANTIFIABLE COSTS AND BENEFITS OF EWCS

This section discusses the non-quantifiable costs and benefits associated with the operation of EWCs. We consider the perspectives of company and employee representatives and discuss any differences. Specifically, the section will focus on:

- Benefits related to the operation of EWCs in companies;
- Costs/Inconveniences associated with the operation of EWCs;
- Whether the benefits outweigh the costs of having an EWC and suggestions for enhancing the benefits and reducing the costs of operating EWCs.

A total of 49 companies and 41 employee representatives answered at least some of these questions. Answers were not received from all interviewees for a variety of different reasons. A small number of companies refused to provide answers to closed questions and only provided narrative views on the benefits and disadvantages of EWCs. Three companies felt that their EWCs were so new that it was too early to assess their impact. In a few other cases, the interviews had to be cut short or curtailed because of restrictions on the interviewees' time. In particular with regard to the question whether costs outweigh benefits, four companies indicated that they found this difficult to assess and did not which to answer this question. The quantitative analysis in this section is therefore based on answers from 49 companies and 41 employee representatives. The section can be read in conjunction with Annex 1 which includes more detailed quantitative analysis of the survey findings.

4.1 Benefits of EWCs

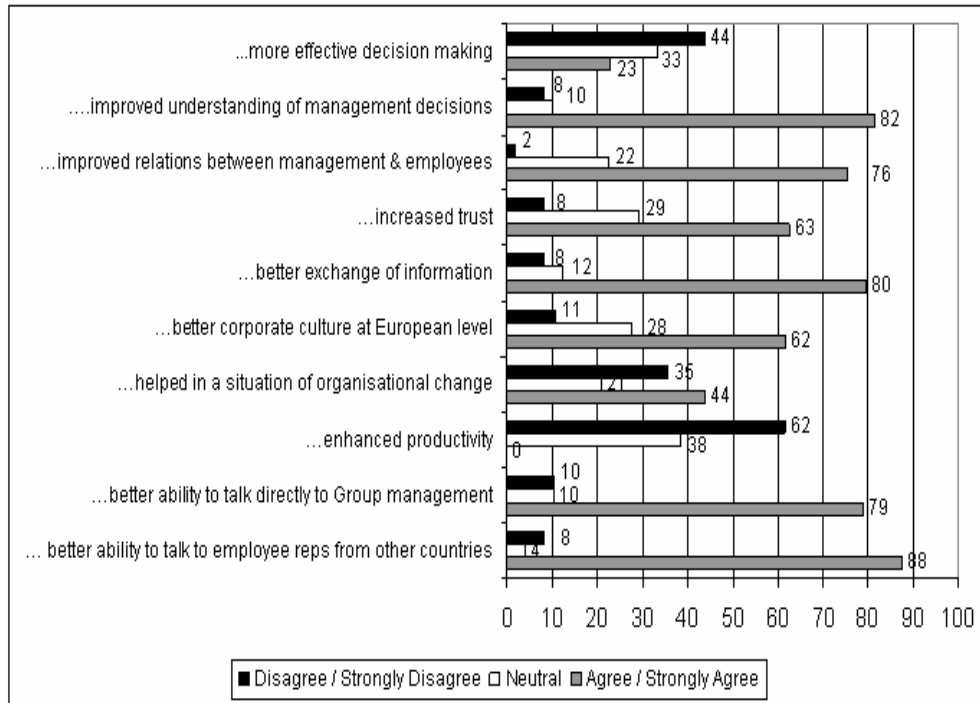
Respondents were asked to discuss the main benefits of operating an EWC in their company. Generally, there was agreement between employer and employee representatives that the main benefit of EWCs lay in the ability to exchange information at the European level; the opportunity they provide to talk to employee representatives from different countries; the ability to talk directly to top level management and the development of an improved understanding of decision making within the company. Hardly any of the respondents felt that EWCs had any impact on improving performance and productivity within the company.

In the following we analyse in more detail the views of employer and employee representatives respectively and the rationale behind their answers.

4.1.1 *Employers*

The figure below provides an overview of the perception of employer representatives regarding the benefits of the operation of an EWC in their company.

Figure 27: Overview of views of companies on benefits associated with operation of EWC (%)



Source: GHK survey based on responses from 49 companies

A. Providing a structured forum for corporate communication and information exchange at European level

“The EWC provides a platform for management to disseminate information about management decisions, changes and other news to a large number of employee representatives from across Europe at the same time”.

Company representative

In our survey, 88% of employers welcomed the ability to exchange views and talk to employee representatives from different countries in one European forum. While this benefit is also considered to be among the most important by employee representatives, the reasons behind this are somewhat different. Employers see the importance of exchange between central management and employee representatives to lie mainly in the possibility it offers management to communicate key strategic initiatives to a wide employee audience and to obtain information about the key issues and concerns of employee representatives on different sites and in different countries.

Employee representatives, on the other hand, are keen to exchange information about developments in the company’s operation in different countries affecting jobs and working conditions. This knowledge and contacts are seen to be particularly helpful in times of organisational change, as it is felt that this helps to assess employer claims regarding the necessity to implement restructuring plans in different countries.

B. Improving understanding or corporate decisions

“If the relationship between the management and the EWC members is handled well, and the EWC functions well, this relationship can help in a difficult situation when the management is able to communicate with workers representatives from different countries.”

Company representative

Survey findings indicate that 82% of companies felt that this better exchange of information (seen to be a key benefit by 80% of employers surveyed) improved the overall understanding of management decisions.

This opportunity to explain a company’s European and global strategies for increasing its performance was considered by companies to be particularly important to help explain the often difficult background to restructuring decisions, thus making employee representatives more aware of and indeed more “sympathetic” of the companies decisions. It was argued that particularly in cases where the dissemination of information obtained in EWC meetings to local employee representation structures was effective, this could assist in managing local negotiations on change management, thus avoiding conflict.

Involving employees early on in company decisions was considered an important benefit of EWCs for a small number of companies. Company representatives explained that discussing business changes well in advance helped the company to gain feedback from employee representatives.

“It is useful for senior management to get feedback from employees in different countries. The EWC creates a mechanism for this to take place at early stage”

Company representative

“Employee representatives can be involved in company decisions at an early stage. This promotes better working relations between senior management and employees, helping the latter group to feel part of company processes”

Company representative

Section 5 of this report discusses the issue of EWC involvement in restructuring situations in more detail. This demonstrates among other things that a significant number of companies are far more sceptical regarding the potential role EWCs *can* and *should* play in restructuring situations, arguing that detailed negotiations regarding restructuring needed to be left to the local level.

C. Building a greater feeling of belonging

“The EWC has created a better “European spirit” in the company. Before operations in different countries used to be more segregated one from the other”.

Company representative

The development of a better understanding of a company’s operations and corporate philosophy was considered to be another benefit derived from the establishment of an EWC in the company. Particularly in the many situations where a company has developed and expanded as a result of mergers and take-overs of different companies from different countries and displaying different corporate cultures, EWC meetings were considered to be valuable to help to build a common identity and feeling of belonging. Company representatives argued that EWCs have helped to disseminate business objectives and

values across countries, helping employees to feel that they were part of the same business.

D. Demonstrating commitment to social dialogue

“Since the company goes far beyond the minimum requirements of the Directive, it is clear to employee members in the EWC that the company is really putting effort into this activity and does not just do what is required by the law. This has led to constantly improving relations between management and employee representatives”.

Company representative

“The EWC cultivates non-confrontational business communication”

Company representative

Providing the opportunity for employee representatives to meet with senior management was considered a significant benefit of EWCs. As indicated above, company representatives explained that EWCs provided a positive discussion forum, where the exchange of company information and business decisions was possible. A second benefit of this high level exchange was seen to be the company’s ability to demonstrate its overall commitment to employee information and consultation and a positive and co-operative industrial relations framework.

One company argued specifically that its industrial relations and conflict solving potential had improved as a result of management exceeding the requirements of the EWC Directive in relation to the number of meetings to be held per annum.

Another company additionally highlighted the importance of introducing a non-confrontational approach with regard to every aspect of the meeting, explaining that that its EWC is deliberately set-up with company representatives set up in the middle, alongside employee representatives, rather than a boardroom style meeting, creating a collegiate atmosphere.

E. Offering the opportunity to exchange and disseminate best practice

A small number of employer respondents also welcomed the opportunity EWCs offered to exchange good practice information. One referred to the EWC providing the opportunity to disseminate and validate a Europe-wide health and safety strategy. Another indicated improvements achieved in the company’s secondment programme which had been made possible has a result of best practice sharing in the EWC.

F. Questioning the benefit of EWCs in a globalised environment and in the context of increasingly decentralised decision making

Having said all this, it is clear that a significant number of companies are not entirely “convertees” to the benefits of EWCs. As will be explained in more detail below, 27 out of 43 company representatives argue that the benefits of EWC outweigh their costs, while 17 argued that they do not. Many company representatives explained that they only have an EWC because it is legal requirement.

A number of companies questioned the relevance of EWCs in an increasingly globalised economic framework. Particularly in companies with significant operations outside the EU, the relevance of a European based employee representation structure was called into question.

Others argued that business decisions were being increasingly decentralised and there were therefore very few transnational matters that needed to be discussed in such a forum.

“We do not see any added value in having an EWC. The company is so decentralised that only very few people work in the European Head Office. All activities have been decentralised to national units and there are therefore very few transnational matters for discussion”.

Company representative

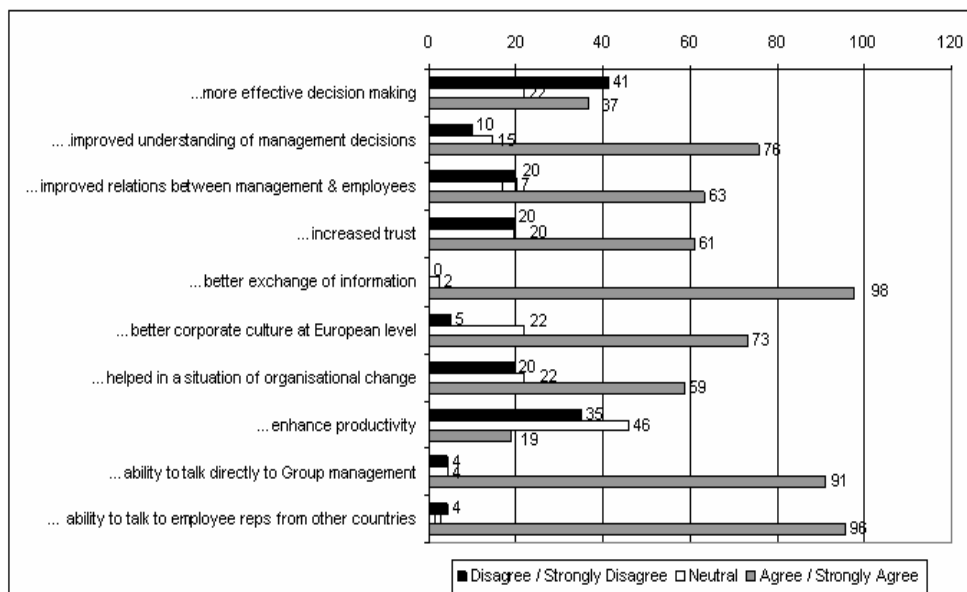
Finally, some company representatives were neutral in their views on the benefits of EWCs. One employer representative summed up by saying that there were “no real benefits or any real disadvantages of operating an EWC, apart from the costs”.

Not a single company perceived any positive impact on company performance or productivity and only 25% agreed that having a European Works Council led to more effective decision making.

4.1.2 Employees

The figure below gives an overview of employees’ perceptions of the main benefits resulting from the operation of an EWC in their company.

Figure 28: Overview of views of employees on benefits associated with operation of EWC (%)



Source: GHK survey based on responses from 41 EWC employee delegates

A. Ability to obtain information in a structured format and building trust

“Thanks to the EWC it is possible to meet representatives from other countries and see whether they have to deal with similar issues. The EWC also provides employee representatives with a great amount of information on the Group’s entities and therefore enables them to understand the Group’s strategy and financial situation”.

Employee representative

“The information is provided in a structured format. It is much better than hearing about things in dribs and drabs, through the grapevine”

Employee representative

Overall, employee representatives considered the existence of EWCs to be very beneficial. Almost all employee representatives surveyed (98%) welcomed the opportunity for a better exchange of information between senior management and other colleagues from European countries. 96% saw a particular benefit in the ability to exchange information and form working relationships with employee representatives from other countries, largely in order to exchange information on company strategy as well as employee rights and terms and conditions.

The estimation of the added value of the transnational forum in this regard depended to some extent on the country of origin of the employee representative and whether they were located in the HQ or subsidiary country. In some countries, where national information and consultation provisions are particularly strong, the feeling that the European forum provided significant additional information was more limited.

In particular for those employee representatives coming from smaller subsidiary companies, often geographically or operationally far from the Head Office, it was seen to be valuable to obtain such first hand information and meet with senior management.

In these situations delivering information through the EWC was considered a vast improvement to previous systems, where employees often found out about decisions through word of mouth.

Employee representatives valued the opportunity EWCs offer to ask questions directly of senior management. The presence of CEOs and high level executives at such meetings was seen by many as a reflection on the company's commitment to employee information and consultation. Importantly, many EWC chairs and members argued that the level and quality of information provided and the openness of discussions had improved significantly over time as greater trust was being established. This was particularly true in cases where there was greater stability in relation to the individuals involved. At the same time, any perceived breaches of trust could set previously co-operative relationships back by a number of years. The importance of key individuals and their contribution to EWC processes could not be overstated.

B. Sharing experiences with employee representatives for other countries

“The greatest benefit is the ability to exchange information with employee representatives from other countries. Some very good relationships have been established which led members to compare practices between countries and introduce improvements”.

Employee representative

“It is useful to speak with representatives from other countries. We are able to share experiences on handling different situations”.

Employee representative

“The EWC brings more advantages than disadvantages. It allows employees to learn about how things are done in different countries. For example some countries have better systems of annual performance review and the method in my country has changed as a result of this transnational learning”

Employee representative

Sharing experiences with other country representatives was regarded a useful benefit from EWCs. Employee representatives described that it was helpful and practical to hear examples of how other countries have addressed certain issues. The EWC was considered a useful way of sharing good practice and lessons learned. In some cases this was considered especially true for representatives from new Member States, who were able to learn from the experiences of more experienced employee representatives.

Nearly 60% of employee representatives felt that having an EWC had helped them deal with restructuring situations, even though the European body itself had no powers to negotiate with management. In these cases, the information obtained within the European employee representative forum and the contact established with senior management was considered to have assisted in local negotiations.

“The EWC has, on occasion, helped in restructuring situations, even if it has not been a question of international restructuring. It allows employee representatives from the countries affected to share information with their colleagues from other countries and enables direct contact with company management, which can have a “soft” impact on the industrial relations climate, even if the EWC cannot be directly involved in the restructuring process”.

Employee representative

Additionally, employee representatives felt that meeting other country representatives was practical when the company makes decisions regarding business locations. Many employee representatives expressed the view that it was beneficial to know who to contact in other countries, should the company ever make any claims over locations. A few EWC members felt that this exchange of information among employee representatives from different countries could contribute to averting potential “social dumping”. Only a limited number of employees argued that the ability to exchange information on employment and social rights, as well as terms and conditions of employment in different countries could – in the medium term – contribute to the development of transnational collective bargaining.

C. Improved industrial relations in countries with no long-term tradition of employee information and consultation

A number of employee representatives were of the view that the introduction of EWCs had helped to improve industrial relations in countries with no long-term tradition of employee information and consultation. This usually included countries such as the UK and a number of the “new” Member States. With regard to the latter, it was often the requirement to nominate an employee representative to the EWC which led to the development of structure to elect employee representatives in relevant subsidiaries in these countries.

4.2 Non-quantifiable Costs and Inconveniences of EWCs

It is clear that from a company perspective, the main concern regarding EWCs as they currently operate is financial cost, both in terms of “actual” expenditure, as well as staff and management time. This cost is also acknowledged the majority of employee representatives. In this part of the survey, we sought to assess perceptions of other, non-quantifiable costs and inconveniences of operating an EWC. This was analysed through a series of open as well as closed questions. It is unsurprising that far fewer employee representatives perceived there to be any such inconveniences. For employers, the main concern in the current EWC regime was over the perceived lack of employee “commitment”, coupled with unrealistic expectations of the role of the EWC and increased bureaucracy. Employers were more likely to be concerned about not being given full access to all necessary information to make informed decisions, the lack of EWC powers, but also the lack of transnational solidarity between employees.

Below we analyse the employer and employee response in more detail. It is important to note that the responses given relate to the status quo regarding existing EWC arrangements. Many employer and employee representatives noted that things could be very different should the legislative framework be changed. Company representatives in particular were keen to emphasise that their views regarding the costs and benefits of EWCs would change significantly if the regulatory framework were to be made less flexible.

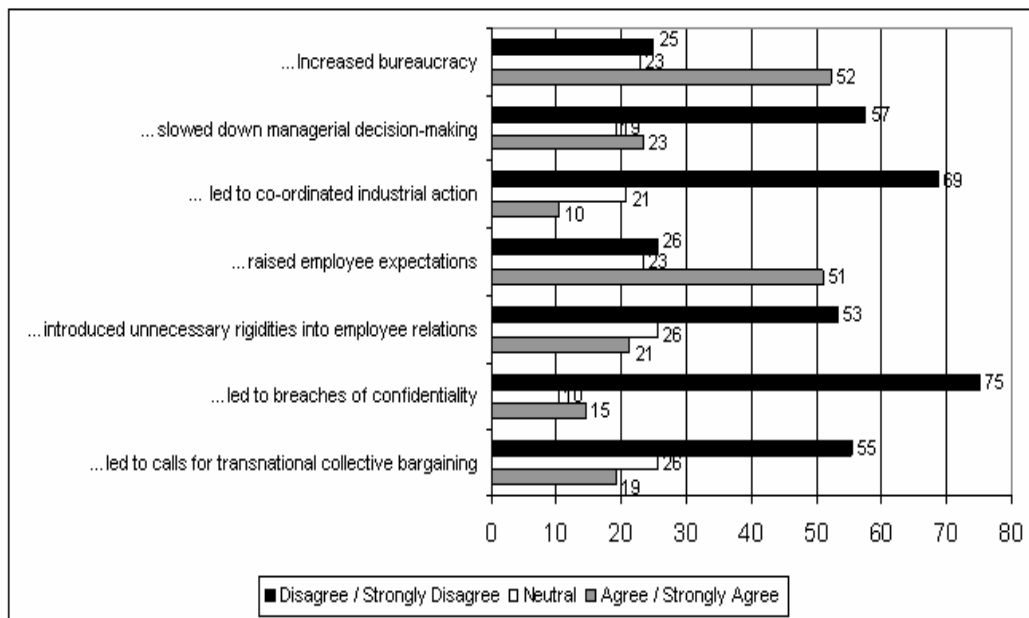
4.2.1 Employers

The figure below summarises the views of companies on the non-quantifiable costs associated with EWCs.

As indicated above, in closed questions just over half of company respondents agreed or strongly agreed that the operation of an EWC in their company had led to increased bureaucracy or raised employee expectations, with around a quarter of employer respondents respectively disagreeing with this statement. As well as largely rejecting that the EWC had led to breaches of confidentiality, nearly 70% of employers also rejected the statement that EWCs had led to co-ordinated industrial action by employees. More than half also denied that EWC had led to increasing calls for transnational collective bargaining,

slowed down managerial decision making or introduced unnecessary rigidities into employee relations.

Figure 29: Overview of views of companies on non-quantifiable costs associated with operation of EWC (%)



Source: GHK survey based on responses from 49 companies

Nearly a quarter of the companies surveyed felt that the process of EWC consultation had in fact slowed down decision making and approximately a fifth of employers felt that EWC had in fact introduced new rigidities into employee relations and led to calls for transnational collective bargaining respectively.

A. Lack of employee representativity, commitment and dissemination of information to the local level

“It is sometimes difficult to accommodate the very different structures of employee representation in different countries in the EWC. For example, it is not helpful that some of the Southern European representatives are simply trade unionists who are not directly employed by the company. This means they have a different agenda from other members”.

Company representative

“Many employee representatives are not committed and continue sending different substitutes to meetings which causes problems with continuity, but also means that the representatives attending often do not have sufficient knowledge to contribute to the discussions”.

Company representative

“A problem is that sometimes trade union experts who attend meetings try to put views across to the management which they claim to be the views of all employees, which is not true as a number of EWC representatives express opposing views. So the use of experts in EWC meetings can cause problems”.

Company representative

In open questions regarding the main non-quantifiable costs and inconveniences of the EWC in their company, in addition to reference to the importance of financial costs, most employer representatives expressed concerns either regarding the representativity of employee representatives, their level of commitment and the lack of dissemination of information received in EWC meetings to the level of local employee representatives. Questions of representativity centred not only around whether the individuals nominated were representative of the workforce they represented, but also around concerns that EWC representatives often did not attend themselves but sent their nominated substitutes, which in their view meant that those attending did not always have the best local knowledge. Significant concern was also expressed by employer representatives from companies not based in southern Europe over employee representatives perceived to be “purely trade union delegates” who were not even directly employed in the company and who therefore were seen to have no knowledge of the company’s operations. It is interesting to note that this point was also made by a number of employee representatives, particularly from countries in northern Europe. In addition, some companies questioned the role of trade union experts, whose input was seen to be unhelpful and irrelevant to the company’s business by some employers.

“The language barrier creates a big problem and also prevents the EWC from operating as effectively as it could and EWC members are not keen to learn English”.

Company representative

“The lack of a common language for EWC meetings really hinders collaboration. At the same time a significant amount of money is spent on interpretation when it could be used for something more useful. Language training is not really bringing results because of low levels of participation and short periods of time spent as EWC members”

Company representative

“Too many employee representatives come to meetings unprepared or are not willing or able to suggest items for the agenda. This means the EWC is not dynamic”.

Company representative

Several company representatives discussed that differences in languages were a significant problem in EWC meetings. The extensive costs of interpretation and translation were acknowledged by a considerable share of companies. Besides it was felt that using interpreters slowed down discussions at meetings and prevented a ‘real-time’ discussion and development of better inter-personal relationships which have an important role to play in building trust. Company representatives explained that discussions were not always as fruitful as they hoped for, due to the differences in language. To alleviate this situation, some companies have introduced clauses into their agreement, requiring all representatives to speak English. Furthermore in small number of the surveyed companies English is the only working language of the forum already. A significant number of company representatives also pointed out that they feel that the EWC members are not committed to learning the language of the company even if training is made available to them. Furthermore, provision of language training is questionable for those who are EWC members only a year or two, which is not a long enough time to learn a language.

In addition, a significant number of employers perceive that employee representatives are insufficiently motivated to contribute to the formulation of the EWC agenda and simply receive information passively without contributing to the debate. The difficulty in reaching

agreement between employee representatives from different countries was quoted as an inconvenience in a number of companies.

Finally, a significant number of employee representatives criticised what they perceived as a lack of cascading downward of the information provided at EWC meetings to the local level. While it was acknowledged that it is clearly also the role of local management to inform local employee representatives of strategic company information, it was argued that there should be further requirements for employee representatives on EWCs to also do their part. In some countries this was seen to work well, but in others the amount of information filtering down was seen to be limited.

B. Unrealistic or erroneous expectations of the role of EWCs

“Some members use the EWC as an opportunity to discuss their own matters related to EU policies, rather than a platform to discuss transnational issues that concern the company”.

Company representative

“Employee expectations are an area of concern. Some representatives continue to see the meetings as a negotiating forum”

Company representative

Just over half of the companies surveyed felt that introducing an EWC had raised unrealistic employee expectations regarding the scope and role of this body. Many criticised that employee representatives often attempted to use the meeting to communicate local and national concerns, which they felt had no transnational perspective and were therefore outside the scope of the EWC. Sometimes it was also insinuated that EWC is not even used as a platform to discuss company specific issues but other trade union matters at European level.

In addition, there was a perception that a number of EWC representatives were keen to use the EWC as a forum for negotiation or indeed transnational collective bargaining. Particularly where EWC meetings were also used to familiarise EWC representatives with the operations in different EU countries, some employer representatives criticised that this led employee representatives from other countries to raise demands regarding the approximation of terms and working conditions between countries without considering the differences in respective costs of living and national regulatory frameworks. Particularly for those employee representatives coming from countries which are used to employee information and consultation structures with much greater rights and responsibilities than those foreseen for the EWC, it was often seen to be different to *“leave their negotiator’s hat at home”*.

A small number of employer representatives considered there to be an insufficient fit within present legislative arrangements between different levels of information and consultation, which was seen to lead to confusion regarding who needed to be consulted on different issues and when. This issue will be discussed in more in the section on restructuring.

C. Slowing down decision making and breaches of confidentiality

“There is an issue around confidentiality – some EWC members change so often that there is a real issue around whether we can really trust some of them. If EWC was smaller, a sense of trust could be created a lot more easily”

Company representative

As indicated in Figure 21 above, only 15% of company respondents agreed that the EWC had led to breaches of confidentiality. However, where this had occurred, it clearly had a significant impact on the level of trust between employer and employee representatives, which can be difficult to restore. In at least one case, where there was seen to have been a breach of confidentiality, this was attributed to frequently changing employee representatives.

Less than a quarter of companies felt that EWCs in their current form slowed down decision making, but where this was felt to be an issue, it was often due to employees challenging the company over the level and timing of information provided in restructuring situations.

D. Removing individuals from their day-to-day job

“There is a certain amount of loss associated with employees attending meetings like this”

Company representative

“Removing people from their day jobs is a significant cost”

Company representative

As was seen above, many companies do not directly put a financial figure on the cost of staff time and opportunity costs for employee and management representatives attending EWC meetings and have therefore interpreted this as a “non-quantifiable cost”.

Removing EWC representatives from their day-to-day jobs was considered one of the largest inconveniences of operating an EWC. Company representatives considered this was a bigger issue for employee representatives, as EWCs do not comprise part of their general responsibilities. Secondary effects linked to employee representatives’ time on EWCs were also discussed by company representatives. Employee representatives often held positions that generated income for the company, such as sales representatives, time away from these positions to attend meetings resulted in a loss of income for the company.

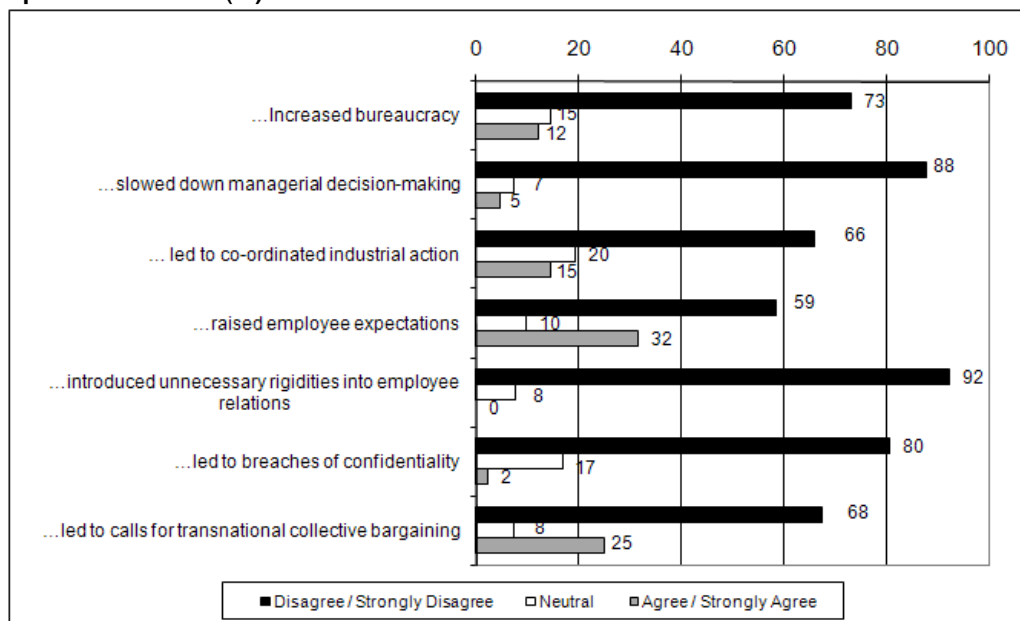
4.2.2 Employees

In general, most employee representatives did not consider there to be any inconveniences associated with the operation of EWCs in their companies. The main criticism brought by some employee representatives of their current EWC arrangements was linked to unfulfilled expectations relating to:

- the lack of early and comprehensive information and powers of the EWC to influence decisions and;
- Difficulties in generating transnational solidarity in the context of change

The figure below summarises the perception of employee representatives regarding the non-quantifiable costs and inconveniences of EWC in response to closed questions.

Figure 30: Overview of views of employees on non-quantifiable costs associated with operation of EWC (%)



Source: GHK survey based on responses from 41 EWC employee delegates

This shows that just over a third of employee representatives surveyed felt that EWCs had raised unrealistic employee expectations and a quarter argued that it had led to calls for transnational collective bargaining. The high number of respondents who felt that EWCs had not led to unnecessary rigidities in employee relations or slowed down managerial decision making is testament to the overall acknowledgement of the currently limited role of EWCs in influencing company decision making.

A significant number of employee representative acknowledged that there had been steady improvements in the operation of their EWC since its establishment as experience in operating this form of employee information and consultation body and trust between participants has grown.

“Five years ago there were many negative aspects of EWCs. Now the relationship between company management and employees is very good. We now feel that we have a direct involvement.”

Employee representative

A. Lack of early and comprehensive information as well as lack of training in understanding company financial reports hinder effective exchange of information and consultation

“The company does not provide enough economic and social information and unless employees have access to relevant experts, they only have management’s interpretation of the figures to draw on”.

Employee representative

“The only disadvantage is that not all the necessary information is always given”.

Employee representative

“One plenary meeting a year is not enough to ensure continuous information flow and the development of positive relationships.”

Employee representative

Four main concerns were quoted in relation to the perceived usefulness of the information provided by companies at EWC meetings:

- Lack of frequency/timeliness
- Lack of comprehensiveness
- Lack of training
- Potential bias

A number of employee representatives felt that one plenary meeting per year was not enough to ensure the continuity and timeliness of information. Infrequent meetings were also seen to hinder the development of positive and mature working relationships between participants. In addition it was felt that information was often provided too late or in insufficient detail to allow employee representatives in the EWC to formulate meaningful questions and inputs to the discussions, even if it was acknowledged that the EWC is not a forum for negotiation.

A few EWC members argued that a lack of training in interpreting company financial statements made it difficult for employee representatives to formulate an informed opinion and interpret the information being given. Access to experts could help in this respect, but where this was unavailable judgements could only be made from the information provided from a perceived employer bias.

B. Decision making powers of the EWC

“Many employee representatives are frustrated because the EWC lacks decision-making powers”.

Employee representative

“We should have a stronger remit. Employees voicing their concerns and putting their views across is a not a misuse of the rules”.

Employee representative

“We should be given greater financial and economic information. We should have a stronger remit at meetings; we should be able to negotiate”

Employee representative

“It is important that the roles and responsibilities of different levels of employee information and consultation remain clear. It would be unhelpful for the EWC to gain co-determination rights as it would be impossible to reach agreements on issues which eventually directly affect particular localities. It is difficult to see how agreements could be agreed at this level without national representatives adopting a much more “European” stance”

Employee representative

“Employee representatives should have the right to visit different sites”.

Employee representative

As will be discussed in more detail in the section on restructuring, an interesting dichotomy of views emerged between employee representatives regarding the scope of the EWC and its decision making powers. As mentioned above, many EWC members agree that EWCs can be beneficial in helping in restructuring situations even if they do not have any direct powers as they help to improve the flow of information and establish more direct relationships between employee representatives and central management. However, on the question whether the EWC should have greater consultation or indeed negotiating rights, the views of employee representatives are divided. While some strongly argue that the EWC should have greater decision making powers in cases of transnational restructuring, others acknowledge that this is and indeed cannot be the role of a European employee information and consultation body. Where this view is held it is largely because such a role would be seen to undermine the rights of employee representatives in the locations directly affected by restructuring decisions. The question was raised what would happen if the EWC did gain such rights and how this would affect the consultation and negotiating powers of trade unions and employee representatives at national and local level, which are closer to where solutions have to be developed which suit individual sites. There was also a concern that EWCs would not be able to reach such decisions as it was acknowledged that most of the representatives on these bodies were largely there to represent the interests of their own location.

“It is difficult to generate employee solidarity between different countries as everyone tends to only look after their own site”.

Employee representative

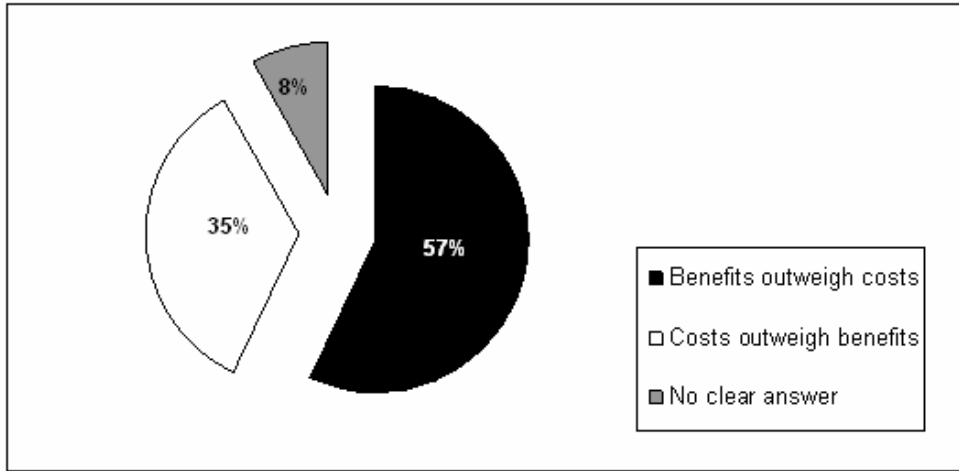
Indeed the difficulty experienced in generating transnational employee solidarity was seen to be a stumbling block by a significant number of employee representatives surveyed.

Finally, a significant number of EWC members also acknowledged that the lack of a common language posed a problem for communication.

4.3 Benefits vs Costs

Despite the financial and other non-quantifiable costs of operating an EWC, 57% of companies surveyed argued that the benefits of having such a body outweighed its costs *under the current regulatory regime*. All employees were of this opinion. The reasons for this can be found in the benefits of EWCs was perceived by companies, which are described above and largely relate to the ability of companies to communicate information regarding company strategy and the rationale for certain decisions to employees, particularly in times of change. A couple of the employers surveyed even went to far as to argued that even if the requirement to have an EWC no longer existed, they would continue with this body.

Figure 31: Views of employers on whether the benefits of operating an EWC outweigh costs



Source: Information based on responses from 49 companies

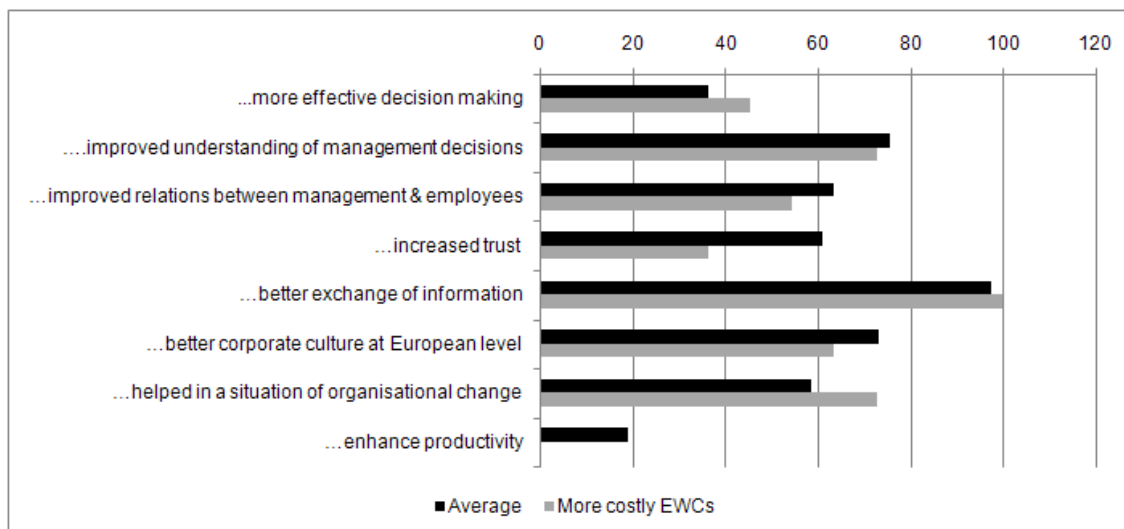
Most of the companies which argued that costs outweighed benefits did not elaborate further on this assertion. The few that did argued that the EWC had not fulfilled its potential in helping to create a greater corporate identity and in disseminating corporate information downwards. One company argued that having a Directive punished those companies which already had good industrial relations practices in the past but took away from the flexibility of voluntary information and consultation fora.

The majority of companies were keen to stress that their assessment in this regard would change if the regulatory environment changed. Any reduction in the flexibility of current arrangements would make it more likely for employers to view the costs to be significantly higher than the benefits of EWCs.

There is no evidence to support the argument that employees from companies with more costly EWCs (e.g. those that meet more often and have more working groups) would see their EWCs in a more positive light than employee delegates from companies with less EWC activity. In fact, when an analysis was done on the views of employee delegates of companies which spend significantly more than average on their EWC, the results suggest (see graph below) that fewer than average think the EWC has improved relations or trust between management and employees¹. At the same time, more employee delegates from such companies see a positive, direct link between EWC activity and more effective decision making. They are also more likely to see EWC playing a helpful role in a situation of organisational change.

Figure 32: Share of respondents (employees) who agree or strongly agree with some of the perceived positive impacts of EWCs

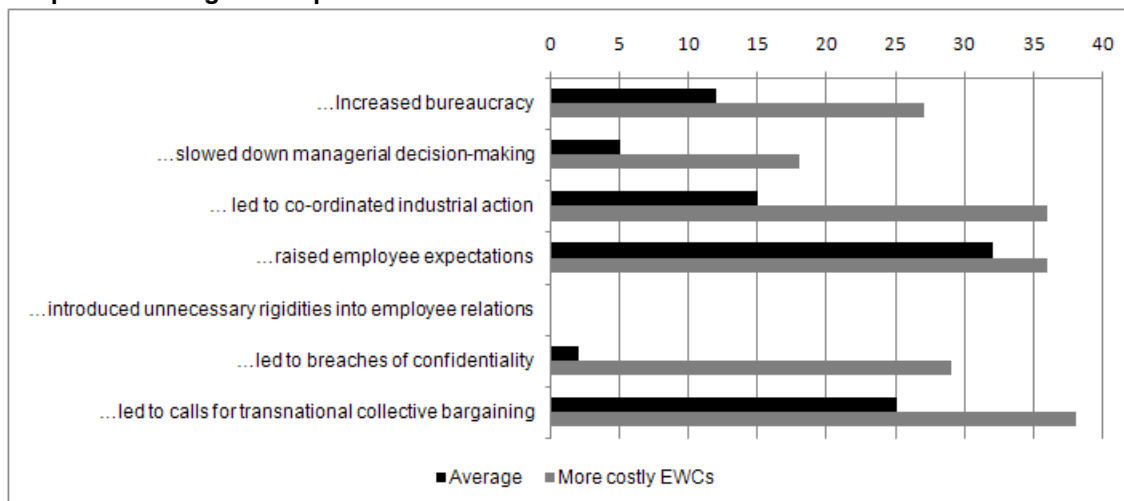
¹ These findings must be read with caution due to the small samples sizes in question.



Source: 'Average' figures based on survey responses from 41 EWC employee delegates and 'more costly EWCs' refer to survey responses from employee delegates from 11 companies which confirmed spending in excess of EUR 272,000 a year on their EWC. The findings have to be read with caution due to small sample sizes in question.

The views of employee delegates from 'costly EWCs' on perceived negative implications of EWCs were somewhat more critical than employee representatives on average¹. As the following graph shows a significantly higher share of them believe, for example, that EWC activity has led to breaches of confidentiality. One of the reasons for this somewhat critical view is that the companies in this sample with a considerably higher average annual EWC expenditure tend to be the ones which have a relatively long history of operating an EWC.

Figure 33: Share of respondents (employees) who agree or strongly agree with some of the perceived negative impacts of EWCs



Source: 'Average' figures based on survey responses from 41 EWC employee delegates and 'more costly EWCs' refer to survey responses from employee delegates from 11 companies which confirmed spending in excess of EUR 272,000 a year on their EWC. The findings have to be read with caution due to small sample sizes in question.

4.4 Enhancing the benefits and reducing the costs

When asked what could be done to enhance the benefits and reduce the costs of EWCs, the views of employers and employees diverged. It is worth noting that in the interviews carried out following the publication of the Commission second stage consultation document regarding the revision of the Directive, company responses in particular referred

¹ These findings must be read with caution due to the small samples sizes in question.

more and more to the specific proposals made in this document, highlighting in particular the changes which would be considered to be unwelcome.

4.4.1 *Employers*

As indicated above, the vast majority of employer representatives clearly indicated that they did not wish to see any changes to the current regulatory environment. They were keen to maintain the level of flexibility currently held within EWCs and explained that they have been able to operate EWCs in a way which suited their company structure and philosophy and which worked very well for them. In relation to a number of issues, greater guidance was not entirely unwelcome and many felt that the way forward was through the exchange of best practice, although not all had an interest in the latter as they felt their particular arrangements were specific to their requirements and there was therefore little they could learn from others.

Nonetheless, a number of potential changes which could lead to improvements were mentioned. These mainly related to the practical operation of the EWC, for example:

- The introduction of a common language (English) to reduce translation and interpretation costs and to make it easier to provide information at short notice;
- The greater use of video-conferencing to reduce travel costs;
- Greater clarity (through guidance rather than regulation) on the type of information which should be considered as confidential, the role of experts and the interpretation of “consultation” and “reasonable time”. This should largely be done in a way which makes it clear to employees what they cannot expect the EWC to deliver;
- More positive employee involvement in setting up and running meetings and disseminating information to the national level particularly through the greater involvement of the “Steering Committee”;
- Placing greater emphasis on practical working groups discussing for example ways to improve performance.

4.4.2 *Employees*

Just as company representatives were opposed to change, employee representatives were keen to see improvements in the functioning and role of EWCs, which many felt should be delivered through a revision of the Directive as well as additional guidance and better knowledge regarding the agreements and practices of other companies.

The main areas for improvement were the following:

- Increase the flow of information through more regular meetings and better preparation;
Indeed, on the basis of our survey, nearly a quarter of all employee representatives (10) stated that in their opinion the regulations regarding the number of plenary meetings should be modified to make two annual EWC meetings compulsory. Eight of these employee representatives came from companies in which only one annual plenary meeting is held and two from companies in which two or three plenary meetings are organised every year. Most said that an on-going dialogue would allow for a more meaningful dialogue and those representatives whose companies increased the number of meetings from one to two or three in recent years had detected a noticeable difference in the form of communication and were therefore of the opinion that all EWCs should arrange more than one meeting every year.
- Greater clarity of which and when information needs to be provided;

- Clarify the definition of “consultation” and “reasonable time” in a way which ensures appropriate information is given at a time which allows employees to be formally consulted and to provide their views;
- Improve the availability of training, particularly for new EWC members;
- Provide a right to EWC members to make site visits in different countries;
- EWCs should have their own transparent budget.

As already mentioned above, views were divided regarding the extension of greater negotiating powers to EWCs.

Less frequently mentioned requests for improvements were:

- The extension of the geographic scope of “E”WCs to cover non-EU countries to take account of the reality of more globalised company structures;
- Introduction of a requirement for the EWC Chair to have a seat on the company Board;
- Mandatory introduction of EWCs in all companies falling within current thresholds;
- A greater role for EWCs to establish employee consultation structures in some of the “new” Member States.

5 ROLE OF EWC IN RESTRUCTURING SITUATIONS

Restructuring within companies is an ongoing, natural and necessary process, allowing organisations to adapt to the changing needs of consumers and service users, technological changes and fluctuating market conditions. It is not a new phenomenon, but has attracted more and more attention in the context of an increasingly globalised environment for competition and production and efforts to liberalise markets to gain consumer benefits from increasing internal and cross-border competition.

In this context, the transnational aspect of the restructuring phenomenon is increasingly reflected in company reality and is attracting the attention of the news media.

One of the key motivations behind the drafters of the original Directive on EWCs was to provide an effective vehicle for workers to be informed and consulted on such developments which can and do affect decisions on employment and working conditions. It thus sought to bridge a “representation gap” between increasingly transnational corporate decision making and employees’ nationally defined information and consultation rights. The extent to which this has been achieved in reality is an important litmus test of whether EWCs have so far achieved their stated purpose “to improve the right to information and consultation of employees in Community-scale undertakings and Community-scale groups of undertakings” (Article 1.1 of the Directive). The report from UNICE (now BusinessEurope), UEAPME, ETUC and CEEP on *Lessons learned on European Works Councils*¹ argues that

“Practice shows that EWCs can help management and workers to build a corporate culture and adapt to change in fast-evolving transnational companies or groups, when changes concern the group’s strategy and affect sites in several countries. In a context of globalisation and on-going technological innovation, companies and workers in all European countries are confronted with continuous and rapid change in the organisation of work and production. The existence of a good social dialogue climate of confidence and constructive attitude to change are key factors which may contribute to ease the management of change in companies and to prevent or limit possible negative social consequences when more far reaching restructuring is necessary”.

A 2006 report by the European Foundation for the Improvement of Living and Working Conditions on *European Works Councils and Transnational Restructuring*², on the other hand, argues that

“there is enormous variation between EWCs in this area, but that relatively few can be said to have influenced transnational corporate restructuring in an appreciable way through the exercise of their information and consultation function.”

The report concludes that although most EWCs are, on paper, well equipped to deal with issues surrounding restructuring (e.g. in respect to the nature of the information they should regularly receive and through the possibility of holding extraordinary meetings), it is rare for agreements to state – and in reality for meetings to occur in time to allow for meaningful consultation or for the EWC’s position to be taken into account prior to restructuring decisions being taken. This is seen partly to be the result of the very narrow application of

¹ http://ec.europa.eu/employment_social/dsw/public/actRetrieveText.do?id=10561

² <http://www.eurofound.europa.eu/pubdocs/2006/83/en/1/ef0683en.pdf>

the definition of “consultation” as used in the current wording of the Directive (“the exchange of views and the establishment of dialogue” between employee representative and management). The interpretation applied to the concept of “decisions with a transnational impact” is also important. This is generally held to apply when a decision has an impact on employment and/or working conditions in more than one country. The report by the cross-sectoral social partner referred to above acknowledges that

“A complexity encountered by both management and worker representatives is to organise meaningful information and/or consultation without creating undue delays and uncertainties. The necessary respect of obligations arising from the legislative and contractual framework on worker information and consultation as well as confidentiality requirements influence the information and consultation process. Tensions can also arise from the fact that even if some decision on the strategy of the group are taken at European level, managing its social consequences remains local and governed by national rules”.

The views of some researchers and stakeholders, particularly on the trade union side therefore appear to reflect the dichotomy between the aspirational role that EWCs could potentially play in the context of transnational restructuring and the often minimalist interpretation of the existing rules of the Directive as transposed in national legislation. The fact that most existing agreements were signed prior to the transposition deadline as Article 13 agreements also contributes to the generally narrow interpretations of the possibilities of the Directive.

In addition, there appears to remain uncertainty regarding the articulation and national and transnational information and consultation rights, resulting from the multitude of relevant legislative measures (Directive on information and consultation [Directive 2002/14/EC], Directive on collective redundancies [Directive 98/59/EC consolidating Directives 75/129/EEC and 92/56/EEC, European Works Councils Directive [94/45/EC], Directive on transfers of Undertakings [Directive 2001/23/EC], European Company Statute [Directive 2001/86/EC], national information and consultation rights and rules as they affect the confidentiality of information, particularly in the context of stock market rules).

Having said that, as well as legal uncertainty, there are well documented instances of companies’ failure to inform and consult employees in instances of transnational restructuring when it was clear that they should have done so. Similarly, research such as that carried out by the European Foundation charts cases where EWCs have gone beyond the remit of their rights and responsibilities on paper and have had a positive impact on the implementation of transnational restructuring.

Our survey therefore also sought to gather information on the role of EWCs in restructuring situations, focussing on some of the key questions arising from the above discussion:

- Is there sufficient legal certainty regarding when information and consultation should take place and which level should be consulted first (and if not, would further guidance be welcomed)?
- How does such information and consultation take place in the context of transnational restructuring (e.g. who is consulted and when)?
- Are specific efforts made to consult as well as inform employees and does this provide the opportunity for employees to influence restructuring decisions (and what are the benefits and dis-benefits of providing such opportunities)?

5.1 Prevalence of restructuring experience in sample companies

Unsurprisingly, in the last three years, 74% of the sample companies (52 out of 70 companies) have undergone restructuring that has affected more than one European

country. Indeed, given the current pace of change, it may be a little surprising that this figure is not higher. Having said that, it must be borne in mind that not in all cases has it been possible to match an employee with an employer side interview and for some companies it only became clear that there had been restructuring when representatives of the EWC were interviewed, even when the company had argued that there had been no transnational restructuring. As will be shown below, much of this can be attributed to the different interpretations of the meaning of “transnational” restructuring events. It is also important to note that – in contrast with the definition applied by the EMCC - most companies did not consider an expansion of activities (and therefore the creation of additional employment opportunities) to constitute restructuring.

5.1.1 **Size and nature of restructuring events**

A broad spectrum of restructuring activities was represented in our sample, ranging from internal restructuring, over mergers/acquisitions and closures to outsourcing and relocations. Less than five of the companies in this sample mentioned off-shoring to countries outside the EU as part of their restructuring activities. The largest number of cases could be characterised as internal restructuring/reorganisation, followed by contracting out or the hiving off of part of the business’ operations into a new company. There were a roughly equal number of relocations, mergers/acquisitions and closures of part of a company’s operations. In a few cases, restructuring is considered to have affected most or all of the countries of operation (this is particularly true for instances of internal restructuring and the spin-off/outsourcing of parts of an operation). A significant number of companies reported restructuring to have affected two or three countries. Relocations were largely (but not exclusively) from Western to Central and Eastern Europe.

The most significant pre-occupation therefore appears to have been with internal reorganisation, the divestment of less profitable parts of businesses and the relocation of certain sites to regions offering lower production costs or closer proximity to emerging markets.

The size of the impact of restructuring on employment is more difficult to estimate as few companies provided any detailed data. However, the general impression is that in most companies, the number of jobs affected has been in the 10s and 100s, rather than the 1000s or more.

As previously mentioned, in some cases where it was possible to speak both to the employer and employee side in the same company, the view on *whether* there had been restructuring and *what had been the most important restructuring event* in the last 3 years often differed. There were therefore only 15 companies where it is possible to reasonably assume that the information obtained pertains to the same restructuring event. This in itself is an interesting finding as it demonstrates differences in views regarding what constitutes significant, *transnational* restructuring. In a few cases both employer and employee side respondents from the same company agreed that a closure or sell-off in one country was a transnational event as it was driven by decisions linked to global corporate strategy – even if it did not affect several countries *at the same time*. However, such cases were the exception with most of the cases where there was agreement on the key events affecting several countries. Company representatives were far more likely to consider restructuring to affect (and therefore concern) only individual countries than was the case among employee representatives. This in itself was not necessarily linked to the question of who many countries were affected, but on the interpretation by management that many were the result of decisions by individual subsidiaries rather than resulting from corporate strategy.

It is therefore questionable whether any amendments in the definition of transnationality alone will make any difference to the interpretation of the causality of restructuring events

and therefore whether they are considered as matters relevant for information and consultation with the EWC or otherwise.

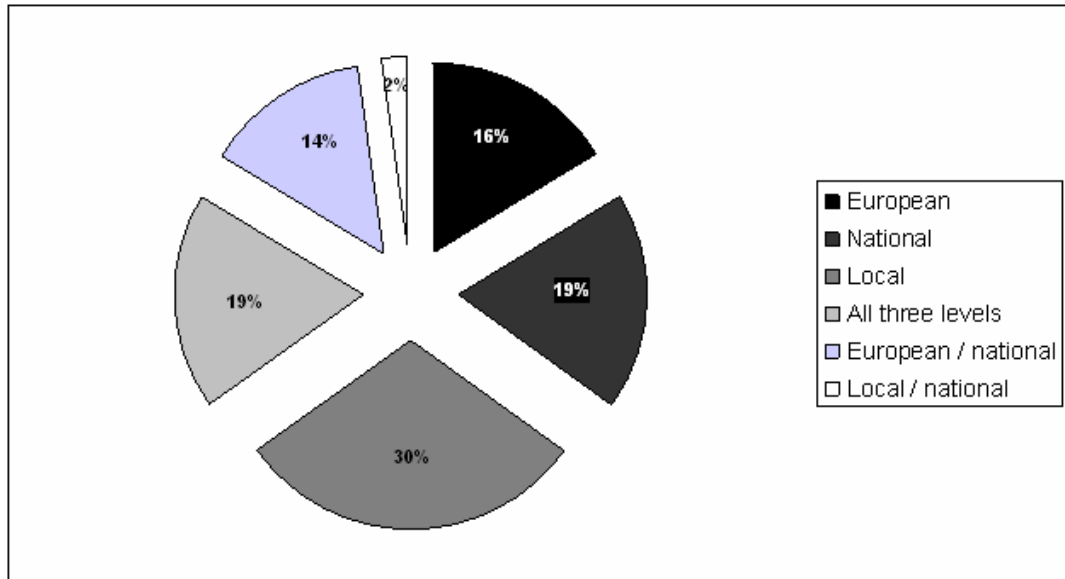
5.2 Articulation of different levels of information and consultation

The figure below demonstrates the answers from employer and employee representatives in the sample regarding the question at which level information and consultation was provided first in relation to the particular restructuring event discussed.

The widespread interpretation of restructuring and the management of its impact being a “local issue” on the part of employers and indeed many employee representatives is reflected in the fact that in 51% of cases information and consultation took place at national or local level (or both) first. This is clearly also a function of the interpretation of legal rules regarding the articulation of different levels of information and consultation.

In only 16% of cases, the EWC received the information first, in advance of the national or local level. In 19% of cases it was argued that all levels were informed at the same time and in a further 14% of cases, the EWC and the national level were informed simultaneously. This means that in just under half (49%) of the transnational restructuring events covered by our sample the EWC received details of plans early in the information and consultation chain.

Figure 34: The first level of information and consultation



Source: Survey based on responses on 43 restructuring events (for 6 companies information has been confirmed both by employees and the management, for others information only available from one party; 17 management only and 20 employees' answers only). This figure does not include the relatively small number of cases where employer and employee representatives in the same company spoke about the same restructuring event. In 60% of these cases, there were conflicting views over who was consulted first.

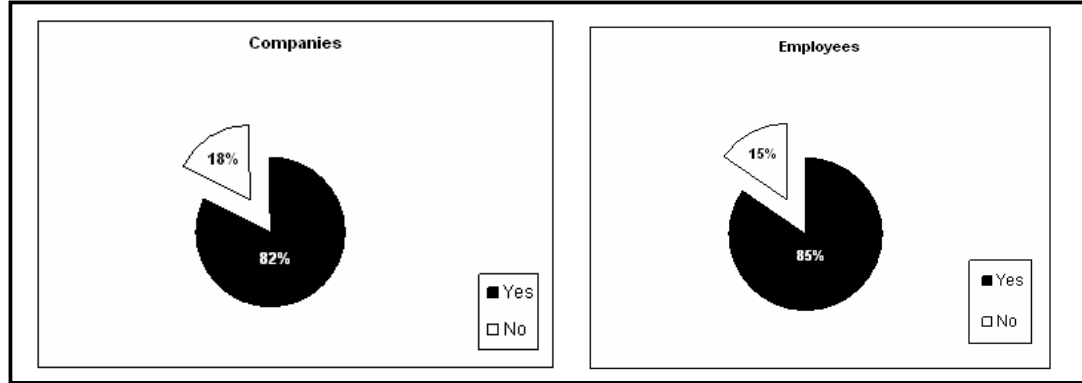
It is, however, interesting to note that in 60% of the cases where the research was able to assess the *same* restructuring event there were conflicting views by company and employer representatives on who had been consulted first. These cases are therefore not included in the figure above. This information is based on a small sample of only 15 companies and further research would be necessary to establish whether this is a significant trend. The information from the bulk of our sample gives no indication that employers or employees are more likely to assert that any particular level had been consulted first (e.g. EWC members are no more likely than companies to indicate that the national level had been

consulted first, which could be assumed as many of them are also employee representatives at this level).

5.2.1 Level of clarity of existing rules

In the overwhelming majority of cases, there was perceived to be clarity as to which level should be informed and consulted first. The figure below provides a breakdown of the perception of legal clarity on the part of employer and employee respondents. Interestingly, employee representatives were slightly more likely to consider that the legislation was clear than employer representatives (85% and 82% respectively).

Figure 35: Clarity of levels for information and consultation



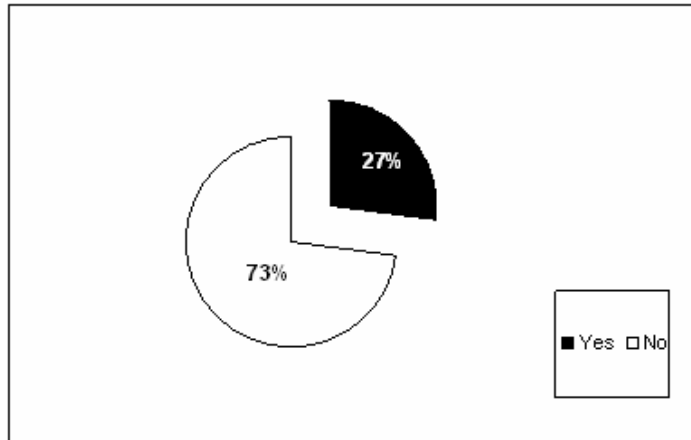
Source: GHK survey based on 67 responses (34 company and 33 employee representatives)

5.2.2 Need for legal advice

In a significant number of cases (27%), companies achieved such certainty after seeking legal advice, which would appear to indicate a degree of concern regarding the correct interpretation of the exact way different information and consultation provisions should be articulated. Such advice was mainly sought from relevant in-house legal teams.

Having said that, the majority of companies did not feel the need to seek legal guidance on this issue. This could be assisted by the fact that many human resource professionals in large transnational companies have legal training and/or prior experience of working with national and transnational information and consultation arrangements.

Figure 36: Need for companies to seek legal advice



Source: GHK survey based on responses from 34 company representatives

Among EWC members, just over 30% felt that the company had taken legal advice on these issues, however, many were not entirely certain on this point and this figure should therefore only be seen as indicative.

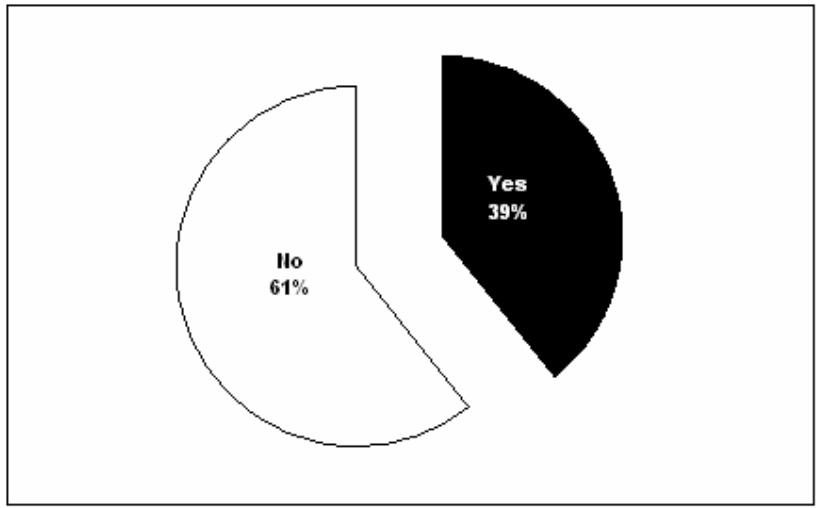
5.2.3 Disputes regarding articulation of information and consultation rights

Although in the majority of cases there has thus far been no conflict or challenge of management by employees over who should be informed and consulted first, the proportion of companies where there had been such a challenge – either formally or informally – is significant (39%). In one case, where the EWC had challenged the company less formally regarding its decision on who to inform first, employee representatives argued that the timing and level of information given has improved considerably since then and now EWC is always consulted first about restructuring that affects more than one European country.

In two additional cases, employee representatives stated that individuals members of the EWC had challenged the company regarding such decisions but that this had not been supported by the full EWC.

In the majority of cases, these challenges related to the articulation of levels of information and consultation (which level should be consulted first); followed by the level of information provided and the timing of consultation. In at least three cases, this had led to legal proceedings with the company subsequently being required by the courts to inform and consult the EWC. In one case, the cost to the company of failing to comply with its information and consultation requirements was considered to be rather limited. In addition to the national subsidiary of the country affected having to bear the cost of the court case, there was not additional monetary sanction and the company was simply required to call all representatives of the EWC to an extraordinary meeting at which it answered questions orally (but refused to do so in writing) and restructuring plans went ahead as planned. In the second case, the cost of the court case and the ensuring delay in the implementation of restructuring plans was considered to be significant. In another case, the court proceedings led to a significant delay in a planned merger which resulted in significant costs to the company.

Figure 37: Share of companies challenged by employees in relation information and consultation



Source: GHK survey findings for 46 companies (for 15 companies information has been confirmed both by employees and the management, for others information only available from one party; 15 management only and 16 employees' answers only)

These findings indicate that despite the presumed level of clarity regarding different levels of information and consultation, the extent to which such decisions are currently disputed is rather significant and is likely to difficulties in building up a co-operating, trusting relationship between employee and employer representatives, which everyone argued is critical to the success of an EWC.

5.3 Nature of information and consultation

One of the criticisms of many current EWC arrangements, also mentioned in the report by the European Foundation, is that not all are clear regarding the precise specification (within their agreement text) as to when extraordinary meetings should be held.

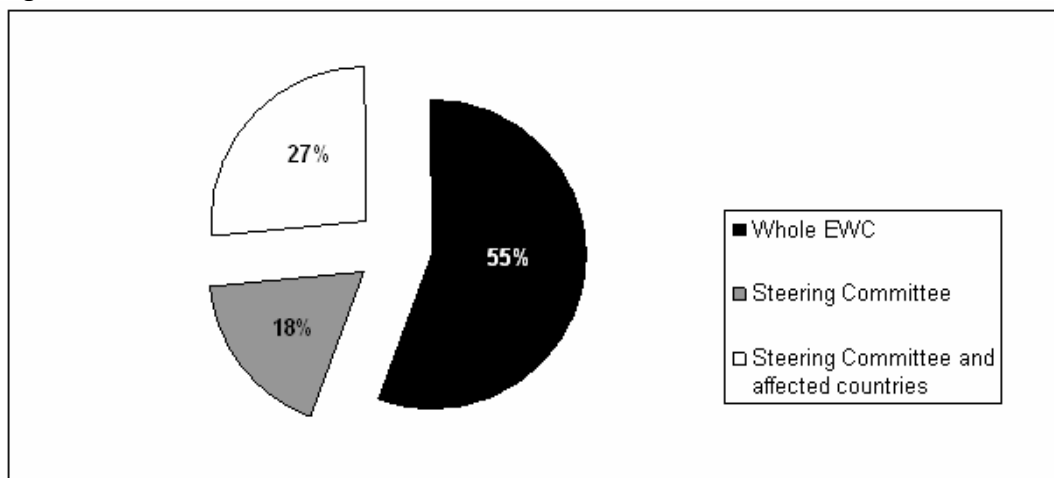
A further criticism is that even if such extra-ordinary meetings are stipulated in cases of restructuring affecting more than one country, the opportunities to inform and consult EWCs are not currently fully exploited. As indicated above, the EWC was among the information and consultation bodies to be consulted first in 49% of cases of transnational restructuring covered by our survey (although it was only the sole body consulted in 16% of cases). When asking the question how this information is provided to the EWC, our survey found that in 55% of cases, the whole EWC is informed. It must, however, be borne in mind that this statistic covers both the cases where a full EWC was called to an extra-ordinary meeting at the time of the restructuring events and those where the full plenary was only informed as part of their regular annual (or in some cases multi-annual) meetings. The latter was true in at least 7 of the 25 cases where it was stated that the full EWC had been informed.

In every fifth of the cases where information had been provided to the full EWC, it was stated that the Steering Committee or the Steering Committee and the affected countries had been informed slightly earlier, the process usually being that the Steering Committee is informed and a joint decision is then made whether or not a full EWC plenary meeting is required. This will very much depend on the scope of the restructuring event, its implications and the number countries affected. In 27% of cases the Steering Committee and the affected countries were consulted and in 18% of cases *only* the Steering Committee received early information (see figure below). The latter two events are then sometimes followed by written information to the full EWC. In other cases, the full EWC is only informed at subsequent plenary meetings. In just over half of cases, the steering group meets face to face, while in others communication is via telephone or videoconference.

In two cases, EWC members claimed not to have been informed at all and only found out about restructuring through the press. In one of these cases, the employer argued that information had been provided at the plenary meeting. In the second case the company did not respond.

It is important to note that many EWC representatives also sit on national company works councils or similar information and consultation bodies. In countries where information and consultation rights are well developed, they will often have obtained more detailed information at this level in advance of the EWC.

Figure 38: Who at the EWC was informed and consulted



Source: Survey based on responses on 45 restructuring events (for 13 events information was confirmed both by employees and the management, for others information only available from one party; 15 management only and 17 employees' answers only)

Our findings indicate that in just under half of restructuring cases, companies provide communication on restructuring first to the Select or Steering Committee and employee representatives in the country(ies) most affected. In many companies this is accompanied with written information to the whole EWC and in a few cases, this can then lead to the calling of an extraordinary meeting. In our survey a concern over the lack of clarity regarding the event in which to hold such an extra-ordinary meeting was only specifically mentioned by the employee representative in one company. This was considered to be something to be addressed in any revision of the company's existing EWC agreement. The employer representative from the same company indicated a willingness to clarify this issue.

However, only in a few cases was it clearly mentioned that the rules for calling an extraordinary meeting are fixed and clear, meaning that the calling of such a meeting is not essentially up to the discretion of the company or the company and the smaller steering committee. A number of companies argued that it is simply not possible to gather such a large group of individuals together at such notice and the steering group is therefore used as an intermediate forum, which is then responsible for communicating with other EWC representatives (and they in turn for their national constituencies).

This means that very often a meeting of the full EWC only takes place a significant period of time after restructuring decisions have been taken, thus negating any potential influence transnational information and consultation could have on these processes.

These findings show that the role of the Select or Steering Committee in these situations is a more important one than that of the full EWC, but that even for this forum, it is largely a case of receiving information, rather than being able to ask questions or indeed provide any alternative suggestions. In many cases, even this restricted group is only informed by telephone rather than calling special meetings and very often this information is communicated very late (see also below).

In many of the restructuring cases where information was only provided to the regular full plenary, the management side considered restructuring decisions to be long-term processes/projects on which EWCs are informed at regular meetings, thus making it unnecessary to hold specific extra-ordinary meetings of the whole forum. However, this view is not always shared by employee representatives in the same company.

5.4 Timing of information and consultation

The question of the timing of information and consultation is critical to the extent to which transnational information and consultation bodies can be effective in contributing their views and where possible providing relevant information to the national or local level to influence discussions at this level, thus effectively helping to deal with the challenges of restructuring. While the importance of such social dialogue is acknowledged by the cross-sectoral social partners in their document on the lessons from EWCs, the complexity of dealing with multiple levels of information and consultation arrangements and questions of confidentiality (particularly in relation to stock market rules) is also highlighted.

As was already pointed out in the section on the costs and benefits of EWCs and is to be discussed further in the next section, employers are largely in agreement that the EWC is mainly an information forum, which – at most – allows employee representatives to ask questions and discuss the company’s decisions, for example regarding restructuring events. The EWC is explicitly not seen to be body in which responses to restructuring (such as potential alternatives or social plans) are consulted on, negotiated or agreed. This is firmly considered to be the remit of the local level where jobs are affected. Companies generally argue that the legal position on this is clear, although some acknowledged that the articulation of different employee information and consultation rules can cause confusion. Employee representatives were found to be largely in agreement with the assessment that detailed discussions on shaping the impact of organisational change should take place at the level most affected, which is generally the local level. In fact, a number argued that it would not be possible or helpful to reach such agreements at the level of the EWC as it would not be clear who would be bound by such decisions and how this would relate to local decision making. These considerations have some impact on who is consulted first, as was shown above and when information is provided. The timing of information is also affected by what many companies referred to as “stock market rules”, indicating that early announcement of mergers, take-overs or large scale restructuring could affect share prices, thus putting such processes and share holder value in jeopardy.

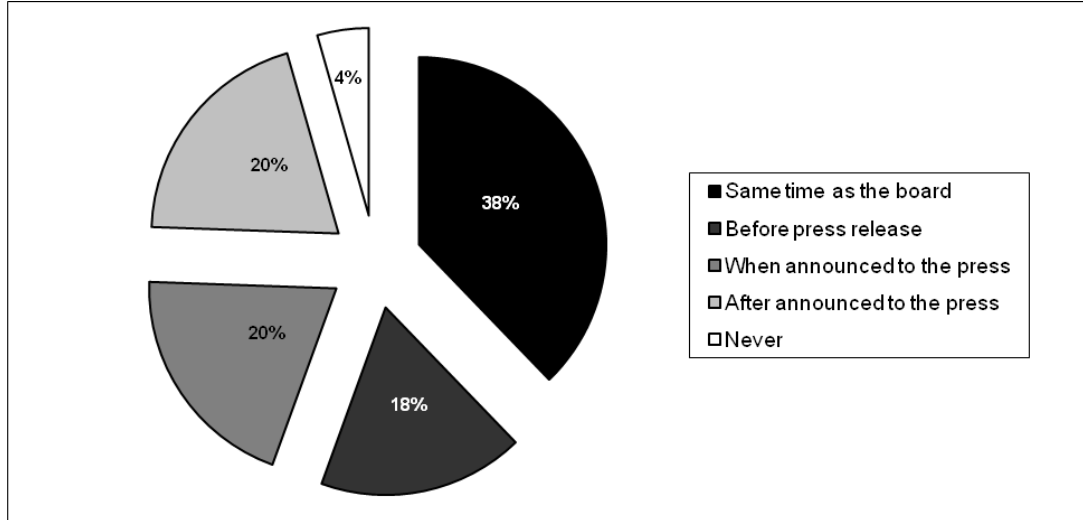
Three company representatives in our survey specifically referred to stock market regulations. One specified

“due to the stock market regulations employees cannot be informed before the press release to the stock market. It is not possible to inform the whole EWC at such a short notice. Information over telephone is not possible about such a sensitive topic, particular given the language differences. It is not possible to call an urgent EWC meeting because it is not possible to get such a large group together at a short notice. Most of the EWC members work in factories and do not even have an access to a computer. Therefore the steering committee is the more appropriate forum for this type of information and consultation process.”

Concerns were also expressed by some about the ability to maintain confidentiality of such information if it were to be provided to a larger forum.

The figure below illustrates replies in our survey as to when information was provided to the EWC.

Figure 39: When was the EWC informed/consulted about the restructuring event



Source: Based on a survey for 45 restructuring events (for 10 events information was confirmed both by employees and the management, for others information only available from one party; 16 management only and 19 employees' answers only). Not included here are the 14 restructuring events for which information was available from both sides. In 29% of these cases, there was a discrepancy of views between employers and employees on when information was provided.

In 38% of cases, the EWC was informed at the same time as the Board and in a further 18% of cases information was provided prior to restructuring being announced to the press (in most cases this appears to have been just hours before the press was informed). In 20% of cases, the EWC and the press were informed simultaneously, but in a further fifth of cases this information only reached them after the press release. In a small number of cases EWC members argued that they had never been informed and had to find out about changes from the press or Internet.

One company which indicated that the EWC was informed only after the press found out about it explained that information on a merger had been leaked to the press. After the leak "the EWC was brought together at the earliest possible opportunity with a meeting organised the next working day". Another company stated that the EWC was informed after the decision was presented to the press because "the EWC is an information and consultation, not a negotiating body. Negotiations took place at local level".

For 14 restructuring events information was received from both sides. The sample size is not statistically significant enough to undertake detailed analysis but in 4 out of 14 cases (29%) the employees and the management were divided in their views regarding when information was provided. In one of the four cases the difference in the opinion was caused by the fact that the employee delegate was not sure when she had heard of the restructuring event as she also sits on the board of management of the company.

In the two cases where employee representatives report that the EWC Steering Committee had been informed about internal restructuring several months before this was made public, they reported a certain unease about knowing this information, in one case even prior to their national management. Both argued that they welcomed the fact that their role was largely to receive information.

"We do not want to be involved in decision making, for example about job losses. We do not want to be responsible for deciding where jobs losses take place

and negotiate about who is affected. There need to be clearer rules about the role of the EWC in consultations”.

Employee representatives

Having said that, a significant number of employee representatives remarked that in order to influence and shape such decision, information would indeed need to be provided ahead of any board level decisions. This does not mean that even after a board level decision has been taken it is then not often possible to mitigate such decisions through local level consultation and negotiation, as will be shown below.

Where information was provided after board level decisions, it is often difficult to pinpoint whether employee representatives received information before or after the press as information is often leaked to the press, thus bringing about a situation where employees find out about developments through the media rather than from their employer. This is further complicated by the situation that in many countries local employee representatives are made aware of restructuring decisions before the EWC is informed. In 20% of cases in our sample, information was provided by the employer to the EWC only after the press had been informed. The distinction between this situation and one where employee are not informed at all is rather blurred, as once information has leaked out, local management usually provide further information out of necessity.

The picture is therefore a slightly mixed one, with information in the majority of cases only being provided after decisions have been taken by the board. At the same time, many companies do provide information to employees at the time, or in some cases in advance of board level decisions being taken. Again this picture is strongly influenced by the interpretation of which level should be informed first, highlighting the need for greater clarity regarding the questions of transnationality and the articulation of levels of information and consultation. It also raises questions regarding Directive provisions on the timeliness of information and consultation.

The often quoted requirement on the part of employers to keep information confidential because of stock market rules should be addressed by existing confidentiality provisions within the Directive, national legislation and EWC agreements. Nonetheless, there is clearly a remaining concern among companies that breaches of confidentiality are a possibility in a scenario of informing a comparatively large group of employee representatives.

5.5 Level of distinction between information and consultation

The various European Directives which include provisions regarding information and consultation contain different wordings regarding the definitions of the two concepts.

The EWC Directive itself does not contain a full definition of the “information” concept, beyond mentioning that it “shall relate in particular to transnational questions which particularly affect workers’ interests”. Consultation is defined as the “exchange of views and establishment of dialogue between employees’ representatives and central management or any more appropriate level of management”.

The Directive on Information and Consultation defines information as the “transmission by the employer to the employees’ representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it”. The definition of consultation is similar to that in the EWC Directive (“consultation means the exchange of views and establishment of dialogue between the employees’ representatives and the employer”).

The information and consultation requirements of the European Company Statute are considerably wider:

(i) "information" means the informing of the body representative of the employees and/or employees' representatives by the competent organ of the SE on questions which concern the SE itself and any of its subsidiaries or establishments situated in another Member State or which exceed the powers of the decision-making organs in a single Member State at a time, in a manner and with a content which allows the employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare consultations with the competent organ of the SE;

(j) "consultation" means the establishment of dialogue and exchange of views between the body representative of the employees and/or the employees' representatives and the competent organ of the SE, at a time, in a manner and with a content which allows the employees' representatives, on the basis of information provided, to express an opinion on measures envisaged by the competent organ which may be taken into account in the decision-making process within the SE.

The latter therefore specifically refers to the necessary timeliness of information and the ability by employee representatives to express opinions on evidence put forward by the company.

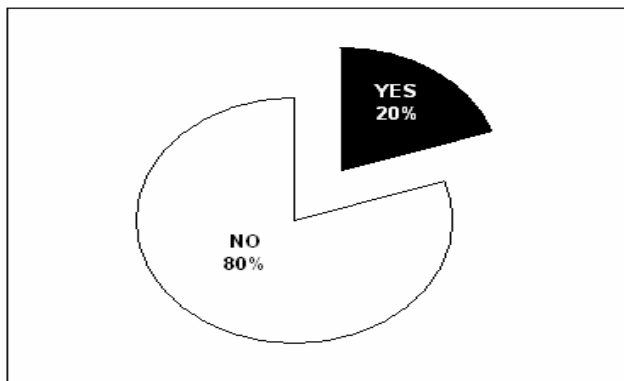
The overwhelming view expressed by respondents to our survey reflects the narrowest possible view of the concept of consultation, viewing EWCs as largely information and not consultation, let alone negotiation bodies (which indeed they are not currently set up to be). Most employers and indeed a majority of employee representatives argued that detailed discussions on the implementation of restructuring processes should be left to the local level and that this was indeed their understanding of the current legislation. As a result, the distinction usually drawn between the information and consultation phase, is that the EWC is informed with the possibility of some discussion and in many cases the ability to ask questions, but that detailed consultations and detailed discussions or negotiations subsequently take place at national or local level. It was emphasised by a number of respondents that providing information to the European level must not delay consultations with the national and local level. Employees stated that in most cases, by the time information is provided to the EWC, decisions are more or less fully formed and the consultation function is therefore limited.

The answers provided indicated that in less than half of the companies which replied to this question, companies provide EWC members with the opportunity to asked questions, have them answered and to express their views. But even in these cases, the companies explicitly do not grant EWCs the right to "negotiate" or make alternative suggestions. A number of employee representatives remarked that making decisions on restructuring and job losses was the management's task and they did not wish to be involved in processes of decision making on redundancies.

5.6 Impact of EWC information and consultation on restructuring outcomes

Reinforcing that view the EWCs are not considered to be fora for consultation, the figure above shows that 80% of respondents consider that the EWC consultation process had made no difference to the implementation of restructuring plans.

Figure 40: The impact of the EWC information/consultation on restructuring plans



Source: Survey based on information on 45 restructuring plans (for 8 events information was confirmed both by employees and the management, for others information only available from one party; 18 management only and 19 employees' answers only)

In the ten restructuring cases where views on this question were received from both sides employer and employee represented agreed on the contribution of the EWC in eight out of the ten cases. Only in one out of these eight cases both parties believed that the involvement of the EWC had made a difference to the restructuring plans. In this company the management side stated that while the involvement of the EWC did not change the key elements of the strategy, it did lead to some changes in deciding to locations where reorganisation should take place. The management accepted that the EWC representatives were right to put forward these suggestions, as they led to better decisions. For example, the management wanted to close one factory but did not do so at the suggestions of the EWC. A few years later the management representatives have recognised that it was the right decision to keep the factory open. Having said this, the employee side argued that while in this case of restructuring the EWC was able to contribute to the decisions but usually in four out of five restructuring cases EWC involvement did not have any influence on restructuring plans and the detailed discussions at national level are more important for employees than the involvement of the EWC.

On the whole, of the few employers who argued that the EWC consultation process had made a difference in relation to restructuring plans, one argued that it had extended the timescale for restructuring in order to allow management to consider alternative ways of cutting costs. This did actually result in a reducing in the number of layoffs eventually carried out.

While most employee respondents agree that the transnational consultation process had not made any difference to overall restructuring decisions, it was argued that in some cases the EWC was instrumental in assisting in allowing local discussions to reduce the number of planned layoffs and in providing information to the national and local level to assist in negotiating better severance, relocation or retraining packages. In one case it was argued that consultation in the EWC helped contribute to reversing a decision to outsource part of an operation and instead to keep it in-house.

This would appear to indicate that this additional level of consultation can contribute to strengthen other national and local information and consultation structures, but does not provide a genuinely transnational angle to information and consultation on restructuring decisions.

5.6.1 Benefits of EWC involvement in restructuring

From the employer side, responses to this question fell into two basic categories – one was to argue that the transnational information and consultation process made no difference,

either because relationships with employee representatives were already positive and there was a regular information flow, or because this was just a formal “hurdle” which had to be overcome before consultations could take place at local level.

The second type of response, more frequently given, was that the EWC process allowed management to explain the rationale behind the restructuring process and therefore served to reduce the risk of disputes and ensured employee engagement in the process. It was also considered to be a benefit that the EWC made procedures more transparent and ensured that legal requirements for information and consultation were respected. A few argued that presenting information in a structured format to the EWC compelled them to think more deeply about their strategy and to formulate clearer positions.

Employee representatives are more likely to focus on the benefits of this process as a means gaining structured information and enabling national and local negotiators to improve packages for workers affected by restructuring decisions. A few employee representatives also saw it as a way of slowing down restructuring decisions. The additional information provided was appreciated particularly by those employee representatives in countries with national and local information and consultation structures are weak.

5.6.2 *Disbenefits of EWC involvement in restructuring*

Few respondents provided detailed answers on this question, either because it was not considered to be relevant or because they found it difficult to answer. Of those responding, while a number of employer and employee representatives saw no disbenefits, there was a view among employers that the additional layer of transnational information and consultation had a number of disadvantages in relation to (in descending order of frequency mentioned):

- Slowing down decision making (5 company respondents)
- Added uncertainty regarding which level should be consulted first (2 company respondents)
- Raising expectations among employee representatives that the EWC can influence management decisions (2 company respondents)
- Logistical issues in calling extra-ordinary meetings at short notice (one company respondent)
- Cost of transnational and interpretation (one company respondent)

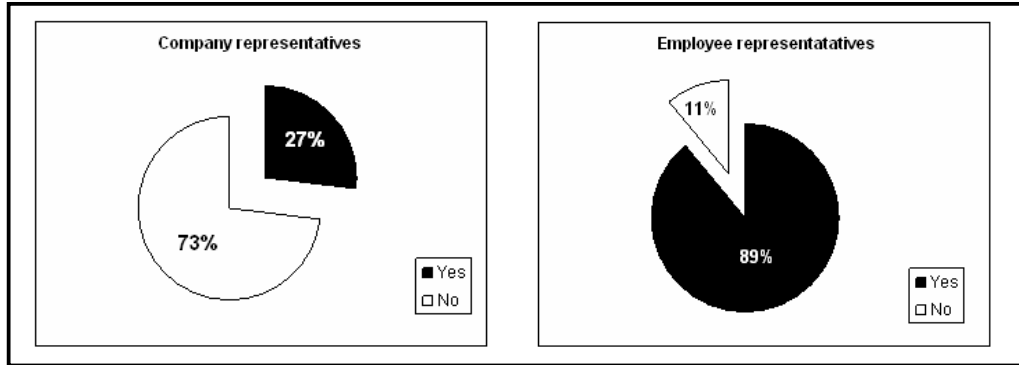
Although more employee representatives saw no disbenefits, it was remarked in one case that the EWC had not fulfilled its expectations as management did not provide full information. A few EWC representatives remarked that despite the benefit of getting to know representatives from other countries and being able to exchange information, it can be difficult to achieve transnational solidarity as most representatives are most concerned to safeguard their own national site and are therefore often scared to argue against restructuring in another country, in case their site could be affected instead.

5.7 *Need for further guidance*

It is interesting that over a quarter of employer representatives and 89% of employee representatives spoke out in favour of further guidance on the rules and regulations related to information and consultation in restructuring situations. While 80% of employer representatives preferred guidance to further legal regulations (note that the sample size of companies who responded to this question was very small), 56% of employee wanted to see either new legal rules or both legal clarification and guidance. One employer representative stressed that they would be in favour of additional legislation only if this

applied to all countries and could not serve to slow down local level consultations. One employee representative stressed the importance of new rules and guidance being clear and jargon free.

Figure 41: Views on the need for further guidance

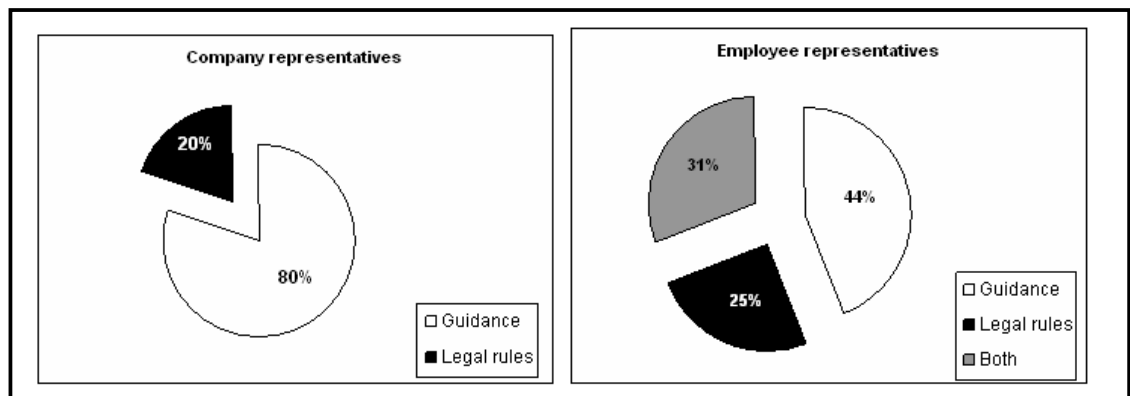


Source: GHK survey based on 79 responses (43 company and 36 employee representatives)

Of those companies who stated that further clarification is required, one company stated they would like further guidance only on the meaning of information as well as consultation. Two companies specified that they would like to see good practice guidance only, nothing else. One of the two companies which wanted to see new legal rules argued that these would have to provide common obligations at the national and European level and should not block consultation procedures.

One of the employee representatives added that he would prefer seeing stricter legal regulations because “having further legislation is the only way that something would be done”.

Figure 42: Views on whether further clarification should take the form of legal rules or guidance



Source: GHK survey based on 42 responses (10 company and 32 employee representatives)

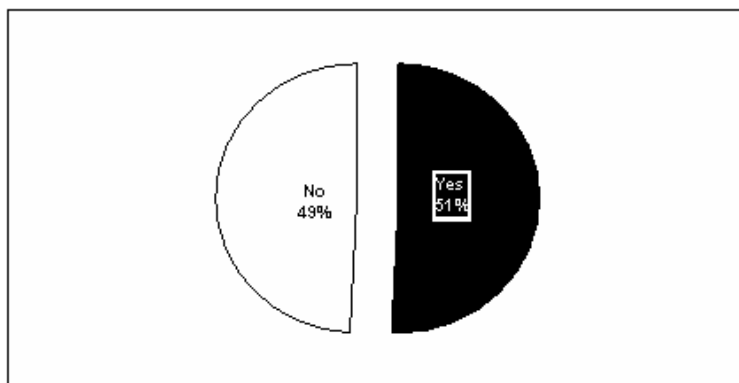
6 AWARENESS OF BEST PRACTICE PUBLICATIONS

As the work of the cross-sectoral European social partner organisations in organising seminars to gather the experience of EWCs and in preparing a document on the key lessons learnt was an important part of the process of reviewing the impact of the EWC Directive, it was of interest for the study to review the extent to which individuals in charge of managing European Works Councils on a day-to-day basis are aware of best practice publications concerning EWCs.

It was found that just over half (51%) of the companies operating an EWC are aware of best practice publications on the functioning of European works councils. Of those, 10 companies (30%) are familiar with the report of the cross-sectoral social partners (UNICE, UEAPME, CEEP, ETUC) on lessons learned from European Works councils (2005). This translates to every sixth/seventh company with an EWC being aware of the publication¹.

A few more companies, 12 (36%), considered European sectoral social partner organisations to be key sources of such information (e.g. EMCEF and UniEuropa), others mostly referred to material from social partners at national level. Fifteen companies (45%) mentioned such material. One company has been featured as a good practice case study in an article of a trade magazine.

Figure 43: Awareness of best practice publications on EWCs



Source: GHK survey based on information from 65 companies

Less frequently company representatives discussed 'other' documentation referring to best practices on the functioning of EWCs. Examples sharing information at a national level with other EWC companies, internal good practice documentation and publications from universities.

Notable differences between countries were found regarding the awareness of best practices documentation². None of the three Belgian companies were aware of any documentation prepared by social partners. In Finland, there was a fairly even awareness of best practices from companies. Four companies were unaware of documentation prepared by social partners, compared with three companies who were, although they had no knowledge of European level reports and could refer to national level documentation.

¹ According to the survey every 6.5 company is aware of the publication.

² Please note the limitations of the analysis due to the small sample sizes.

A similar pattern was observed in companies in France. Seven companies were conscious of best practices documentation, compared to six who were not. However, there was a much higher level of awareness of best practices at a European level. German companies also reported a high level of awareness of best practices on the functioning of EWCs. Seven out of ten German companies discussed best practices documentation; although, the majority were only aware of documentation from social partners at a national level.

In Italy, two out of four companies were aware of best practices documentation, with a good level of awareness of material at European level. A similar response was recorded for companies in Switzerland.

In the Netherlands, companies discussed a good level of awareness of social partners' best practices, although no specific European level material discussed. One company discussed academic studies a trade magazine. Again, a similar response was reported from company representatives in Sweden. Companies were aware of best practices prepared by social partners, although largely at a national level.

In the United Kingdom (UK), six out ten companies were unaware of best practices material at a national or European level. Four companies reported an awareness of such documentation, although only two companies were aware of material at a European level. Generally UK companies discussed the use of internally produced reports and good practice guides regarding communication with employees.

Neither of the Norwegian companies taking part in the not reported any awareness of best practices material, either at a national or European level. The same response was recorded for companies in Canada and South Africa.

Two companies in the United States reported an awareness of best practices material, although none of this was at European level. One company in Japan was aware of best practices material regarding the functioning of EWCs; again, this was only at national level.

7 COMPETENCY OF EWCS

The survey sought to identify what share of EWCs deal with environmental, health & safety and equal opportunity concerns as part of their agreed work programme. Previous sections have already illustrated that several EWC's in the study sample manage working groups dedicated to equal opportunities, H&S and/or environmental matters.

Companies were split relatively evenly between whether their EWCs did or did not deal with **equal opportunities** issues; 54% said yes, while only slightly less, 46%, said no. Many of the interviewees said that matters concerning equal opportunities are commonly discussed at both meetings and during training. One company stated that EWC members have been provided with presentations on company policies as well as being given written documents to review and comment on.

Equal opportunities often form part of wider company policies on working practices. Several companies explained that such documentation was presented to the EWC and feedback was requested. One company explained that the sector in which it operates is male dominated, and ways it could attract workers from non-traditional groups have been discussed. The company faces labour shortages in some countries; a representative from one location provided a presentation on the successful recruitment of women into the sector. EWC members could use this example, and help take the strategy forward in their respective countries.

Employee representatives described situations of their active involvement in equal opportunities discussion at EWC level. One employee representative explained that they had concerns over equal opportunities matters in a company wide policy. After discussing these concerns at a plenary meeting, the management agreed to take some comments on board and are planning to introduce some changes.

Another company had looked into equal opportunities policies at national levels and is exploring ways of combining them to introduce a transnational, company wide policy.

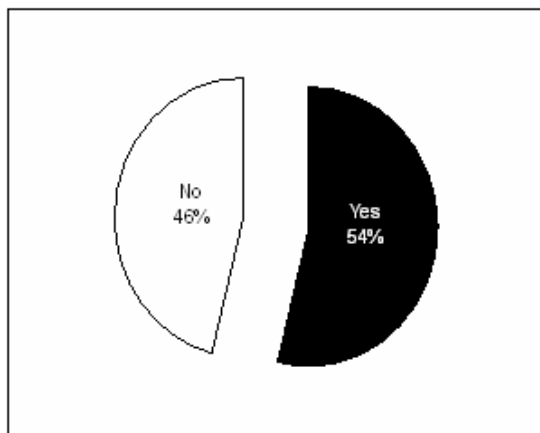
Some EWCs discussed equal opportunities on an ad hoc basis. They do not form part of the agenda and are dealt as and when necessary. Examples include the presentation of a new company wide policy and offering employee representatives the freedom to present ideas as appropriate.

"Equal opportunities are not specifically discussed. There are a number of internal policies on this issue. If a transnational issue on equal opportunities arises then the EWC can address it"

Company representative

Those companies who answered 'No' to this question often deal with equal opportunities at a national rather than at a transnational level. Generally, focus was placed on individual countries meeting national requirements on this issue. One company representative explained that they are looking at bringing all of the national agreements together to form a transnational agreement on equal opportunities. The EWC will be consulted in formulating this.

Figure 44: Share of EWCs dealing with equal opportunities



Source: Survey information from 65 companies

The figure below illustrates that two thirds of EWCs (67%) deal with **health and safety** as part of their work programme. This percentage could be due to the fact that the sample contains a large number of companies operating in industrial economic sectors and so are more likely to have particularly concerns over health and safety. Indeed, companies working in chemical and industrial sectors explained that health and safety were of considerable importance to them and were discussed at every meeting. Working groups for health and safety have been created in some companies to focus on this issue in more detail.

“Health and safety is one of the most important topics of the EWC. We share good practice on this issue”.

Company representative

Although health and safety did not always form part of EWC agreements, such issues were reported to be regularly raised at EWC meetings. Company and employee representatives alike explained that health and safety is placed onto the agenda as and when necessary.

“There have been a few health and safety issues at EWC level. It has been raised at a few meetings but it does not form part of the main EWC agreement”.

Company representative

Statistics on health and safety within individual companies, and company wide policies on health and safety issues have also been presented at EWC meetings. Company representatives explained that this was an effective method for informing employees about health and safety issues.

“Management presents the health and safety statistics for the previous year and the practical steps that the company is taking to improve health and safety in practice are discussed”

Company representative

One employee representative said that all new internal policies concerning health & safety had to be approved by the EWC before they could be implemented. A number of EWCs discuss health & safety matters at every meeting and several have formed working groups to address the issue.

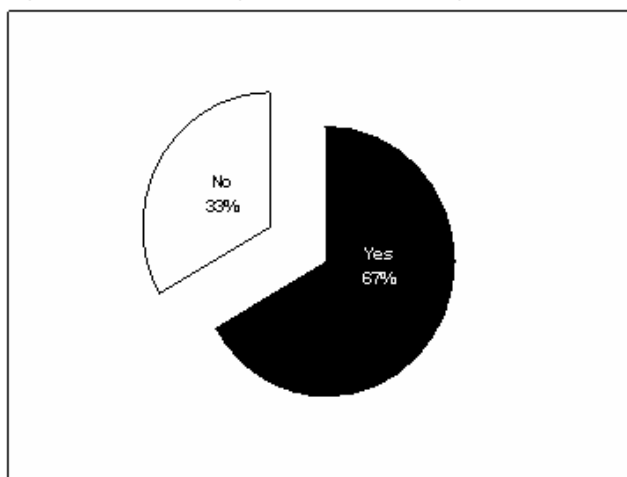
“Health and safety is written into the EWC agreement. If any new policies are introduced they have to be agreed at a transnational level”

Employee representative

Some other companies actively encourage employee representative’s ideas on health and safety issues. In one EWC, employee representatives brought health and safety to the meeting agenda as they questioned how health and safety was monitored within the company. Subsequently, this was discussed and company management are taking this forward. Health and safety will continue to be discussed at future meetings.

Of those EWCs who said no (33%), health and safety issues are generally dealt with at a national level.

Figure 45: Percentage of EWCs dealing with Health & Safety Issues



Source: Survey based on information from 65 companies

A greater number of EWCs deal with **environmental concerns** than do not – 57% (37 companies) answered ‘yes’ to this question versus 43% (28 companies) who answered ‘No’.

Company and employee representatives expressed that environmental issues are a critical element of the EWC meetings. One company ensures that environmental issues are on the agenda for every plenary meeting. Another company explained that obtaining forms of environmental certification is crucial to their business. They discuss methods for gaining environmental certification with EWC members. Rather than discussing the issue at every meeting, one company, will introduce the topic as a ‘Special Interest’ at the next EWC meeting.

In one company the EWC members asked the management what the company could do in order to operate in a more environmentally friendly manner. As a result the management has developed a project to look into the issue and are currently reviewing the environmental guidelines. Another has said that it is an important issue for them and takes up about a third of the time of the EWC; members frequently discuss how the company and its products can be made more environmentally friendly. However some companies have only informed their EWC members of their environmental policies, with no particular consultation between the management and EWC members about the matter.

Company representatives explained that they try to involve employee delegates as far as possible, although this was not always plausible. In one company, a report on environmental issues was disseminated to EWC members before it was finalised, giving them the

opportunity to comment and suggest proposals. However, employee representatives asked for the involvement of their respective unions. This was an in-depth process that took a considerable length of time; too long for the company in question. This resulted in the publication of the document, without the inclusion of comments and suggestions from employee representatives.

“Unfortunately the EWC members could not agree on anything on the meeting because they wanted to consult their unions and other employee representatives about it before they could provide their views. A company that operates in as competitive market place and we do not always have time for the process that it takes when EWC members are involved.”

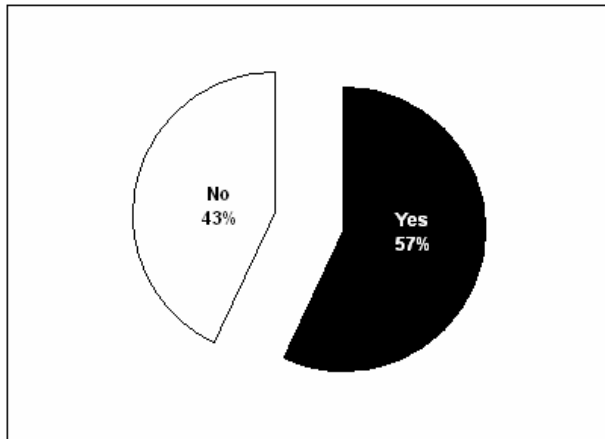
Company representative

As with equal opportunities and health and safety issues, environmental issues did not form part of the EWC agreements. However, related issues were discussed at EWC meetings as and when appropriate or when requested by employee representatives.

A number of companies deal with environmental issues as a part of discussions on Corporate Social Responsibility. Such discussions included sustainable development and creating more environmentally friendly products and packaging.

As with Equal Opportunities, many companies which said that their EWCs do not deal with environmental concerns did however state that the issue was very important to them but was dealt with at a national rather than a European level.

Figure 46: Percentage of EWCs dealing with Environmental Issues



Source: Survey based on information from 65 companies

8 REGISTRATION OF EWC AGREEMENTS

Currently, there is no requirement included in the Directive to register EWC agreements either with an EU level agency or at national level. As a result, largely only voluntary reporting takes place and key databases such as those operated by the ETUI or SDA are the best sources of information regarding how many EWCs are in operation (which could underestimate the actual number of EWCs). This makes it more difficult for policy makers to monitor progress in the establishment of such transnational information and consultation bodies and any relevant changes.

As a result, the possible establishment of a public registration body for EWC agreements has been part of discussions at European level. Therefore, this study sought to establish information on existing registration procedures, costs borne by companies from such registration and views of EWC employee delegates and management representatives on the establishment of a public registry of EWC agreements. We start by looking at existing registration instruments.

8.1 Current availability of registration instruments

At the moment the information on the availability of registration mechanisms is somewhat inconclusive. Companies with their HQ located in France tend to register their EWC agreements with labour market authorities (Direction Départementale du Travail and/or Conseil des prudhommes). One of the Italian and Belgian based companies also report their agreements with their respective ministries of labour but at the same time not all of the companies in the above mentioned countries register their agreements in a similar manner. A number of companies across Europe tend to send their agreements to their affiliated unions and/or employers organisations.

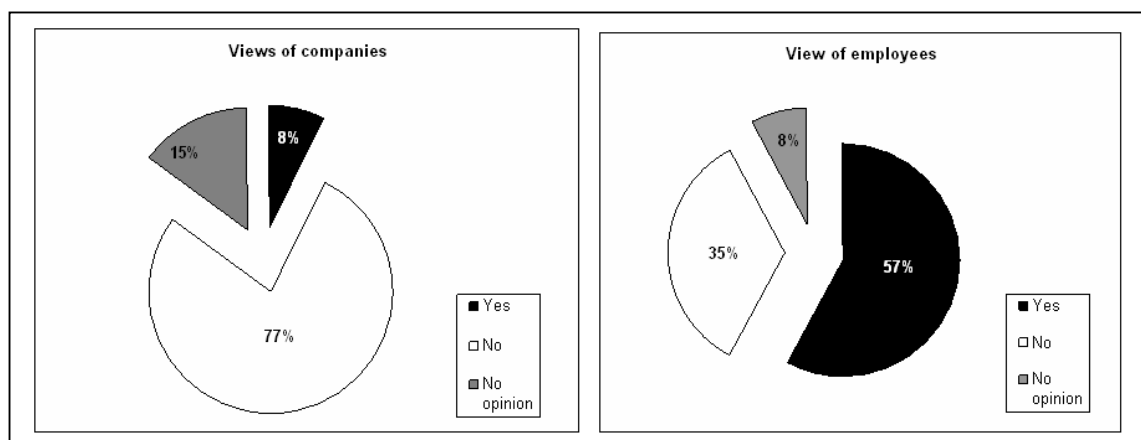
8.2 Views on the introduction of a public registry of EWC agreements

The introduction of a central registration mechanism for EWC agreements is generally not welcomed among company representatives. There is a slightly more positive view on this issue among employee representatives. Just over three quarters of company representatives (77%) were not supportive of a registration mechanism. Only 3 companies (8%) considered there would be benefits associated with such a mechanism and 15% had no opinion on the issue; they said:

“Creation of a databank of EWC agreements could be useful if companies can access agreements in a databank. It would allow us to benchmark our agreement against the agreements of others”

Company representative

Figure 47: Views of company representatives and EWC employee delegates on the introduction of a public registry for EWC agreements



Source: Survey responses from 39 company representatives and 26 EWC employee delegates

Those who were against the creation of such registration mechanism were concerned over increase in bureaucracy or expressed their concerns over confidentiality in a sense that such mechanism could make internal matters of the company public and in that way have a detrimental impact on the ‘buy-in’ of the Group management:

“The operation of our employee forum is our own internal matter and it should not be made public”

Company representative

A concern over loss of ownership, both for the company and for employee representatives, was expressed by company representatives. One company thought that the creation of a registration mechanism would externalise EWCs, resulting in the company no longer viewing the EWC as an internal matter. Consequently, employee representatives would be less likely to contribute.

“The EWC is the company’s internal matter and the management and employees take ownership for it. There is commitment from the management to this process”

Company representative

“It is essential to keep the EWC as an internal matter. If employees have any problems or concerns they currently have enough channels through which they can express their concerns”

Company representative

Company representatives also considered that a compulsory registration mechanism would make EWCs a ‘tick-box’ exercise for some companies. They explained that some companies may use an EWC as a self-promotion tool, to promote themselves, rather than allocating the resources necessary for effective employee communication. Losing the real and progressively gained benefits from EWCs was a concern associated with a registration mechanism.

“Companies would use the registration mechanism as a self-promotion tool. They would set up EWCs simply for legal reasons, rather than using them correctly”

Company representative

Employee representatives were more positive over the introduction of a registration mechanism. Over half (57%) supportive of the introduction of an EWC registration mechanism, although just over a third (37%) were not in favour of such a mechanism. A further 8% held no opinion on the issue.

Of those employee representatives who were positive about a registration mechanism general comments included the sharing of good practice and the ability to compare operations with other EWCs.

"It should be made accessible over internet. It could be useful to see what the agreements of other companies contain"

Employee representative

"Registration would be useful to see other companies EWC agreements; what they do and what they contain"

Employee representative

"A benefit would be to have more information about the content of other agreements. Learning from good practice would be more interesting"

Employee representative

One employee representative felt that the introduction of a registration mechanism would provide the opportunity to "name and shame" those companies which had not yet introduced EWCs.

Those employee representatives who were against it agreed with the idea that if companies were required to register their agreements, they would use it as a self-promotion tool and would set up EWCs simply for legal reasons, rather than using them correctly and giving them the time and resources they require.

"It would be an area of concern if the value of having an EWC is lost because of increasing legislation. If it becomes a legal requirement to register them it may become a tick box exercise for some companies and the value of having an EWC would be lost. Confidentiality, for example, may be problematic if registration were formalised. Registration does not always achieve what it intends to do and confidentiality may be lost."

Employee representative

Finally, it may be worth mentioning that anecdotal evidence from interviews suggests that very few companies are aware of the existence of the ETUI-REHS on EWC agreements, and indeed were surprised that people can currently access their agreements fairly easily.

8.3 Costs for companies from registration

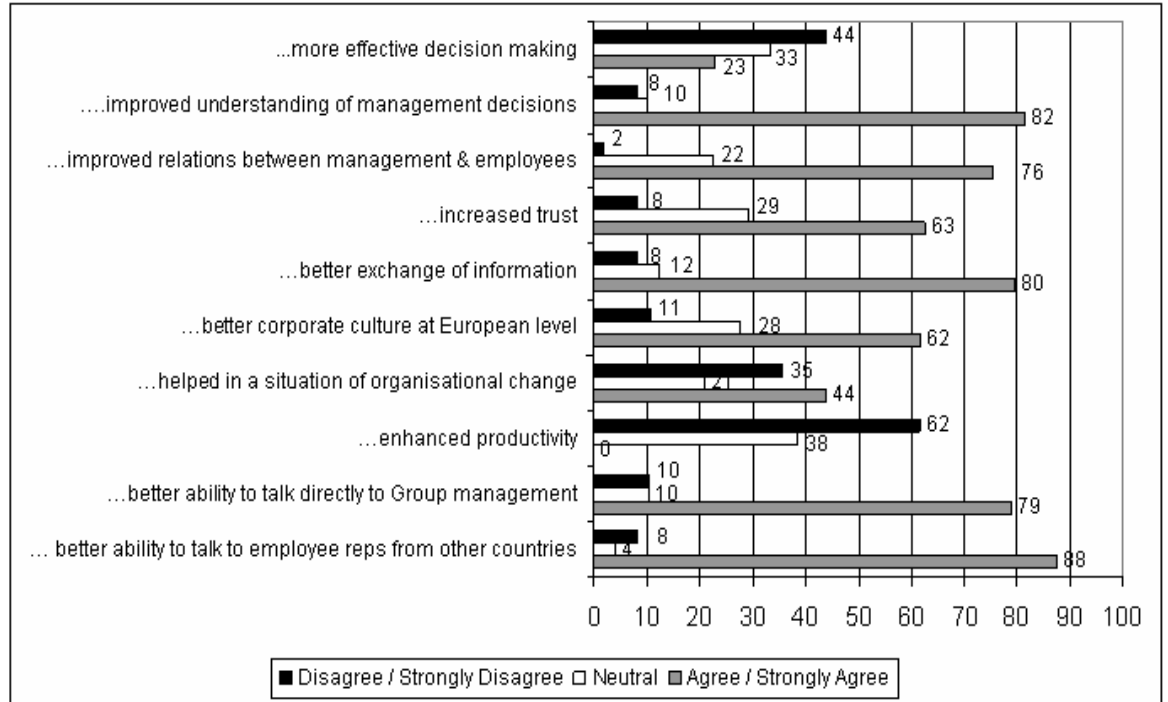
None of the companies report any costs associated with any of the above mentioned registrations. Regarding possible administrative costs arising from the registration of agreements in the future, these are seen as minimal within the definition of the impact assessment guide. We would therefore estimate that this would amount to no more than half a day of time for the personal assistant / secretary of the HR department - a cost amounting to approximately EUR 200-300 per company per annum.

Annex 1

Statistics concerning the benefits and non-quantifiable costs associated with the operation of EWCs – views of employees and employers

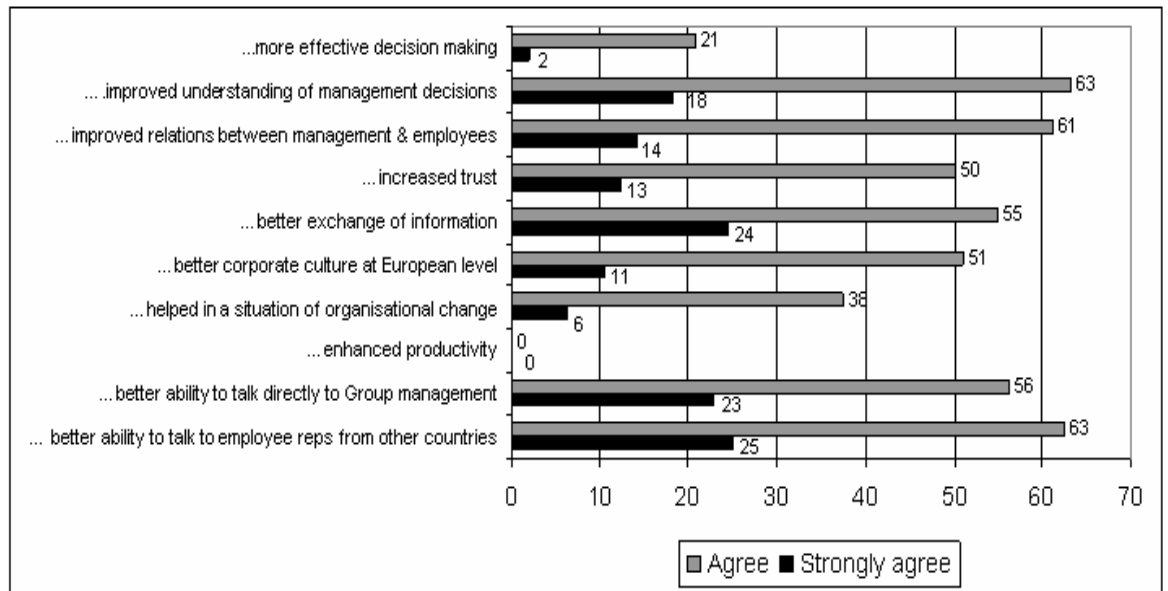
VIEWS OF COMPANIES ON BENEFITS

Figure 1: Overview of views of companies on benefits associated with operation of EWC (%)



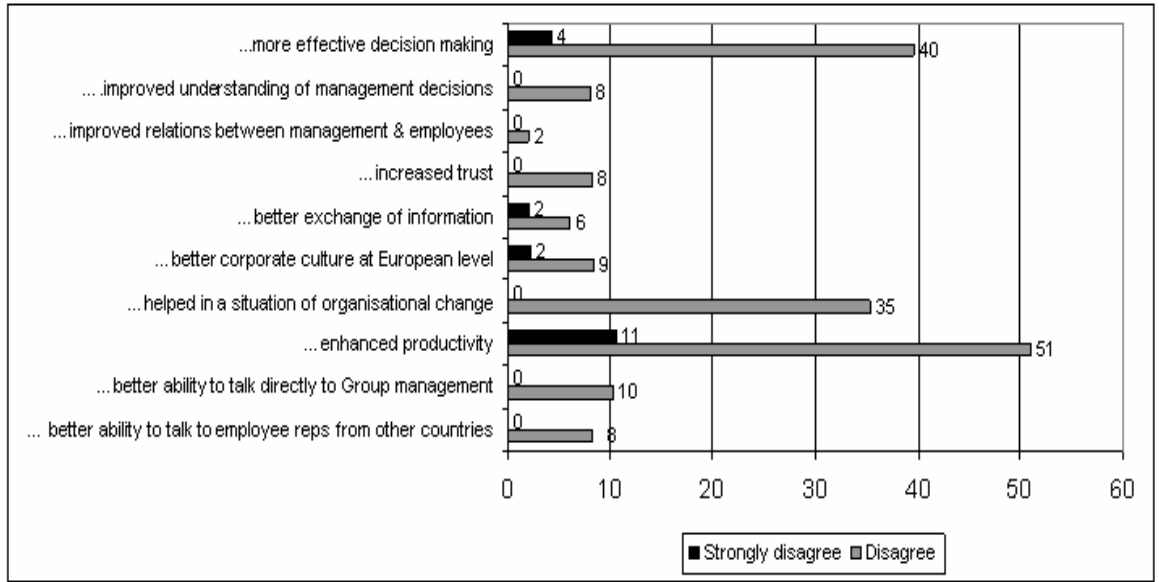
Source: GHK survey based on responses from 49 companies

Figure 2: Overview of views of companies on benefits associated with operation of EWC (%) – Agree / Strongly agree



Source: GHK survey based on responses from 49 companies

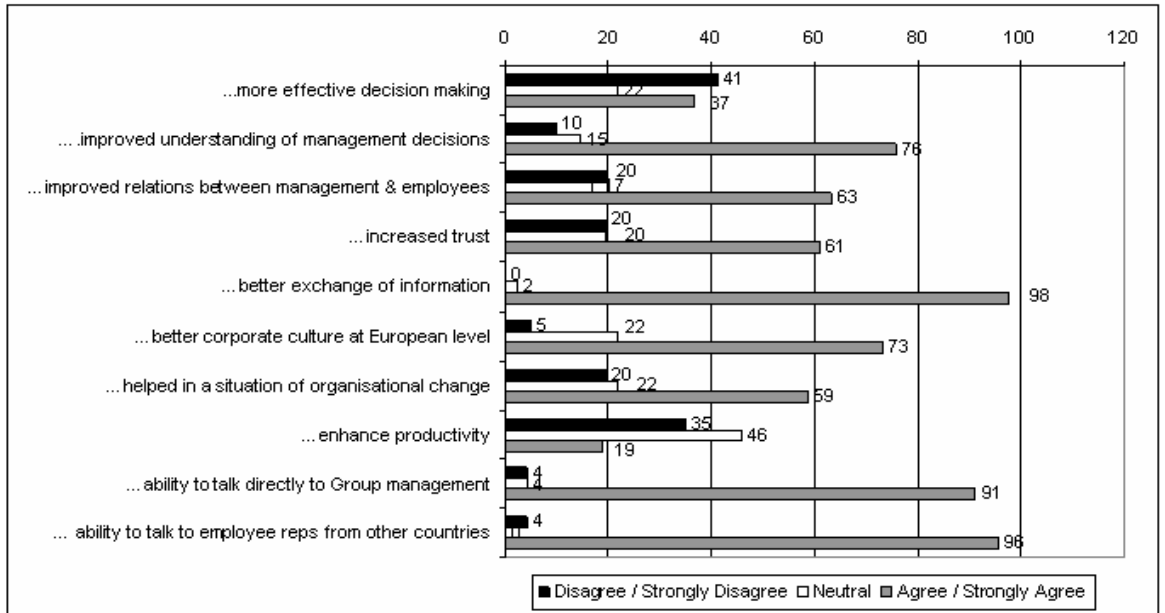
Figure 3: Overview of views of companies on benefits associated with operation of EWC (%) – Disagree / Strongly Disagree



Source: GHK survey based on responses from 49 companies

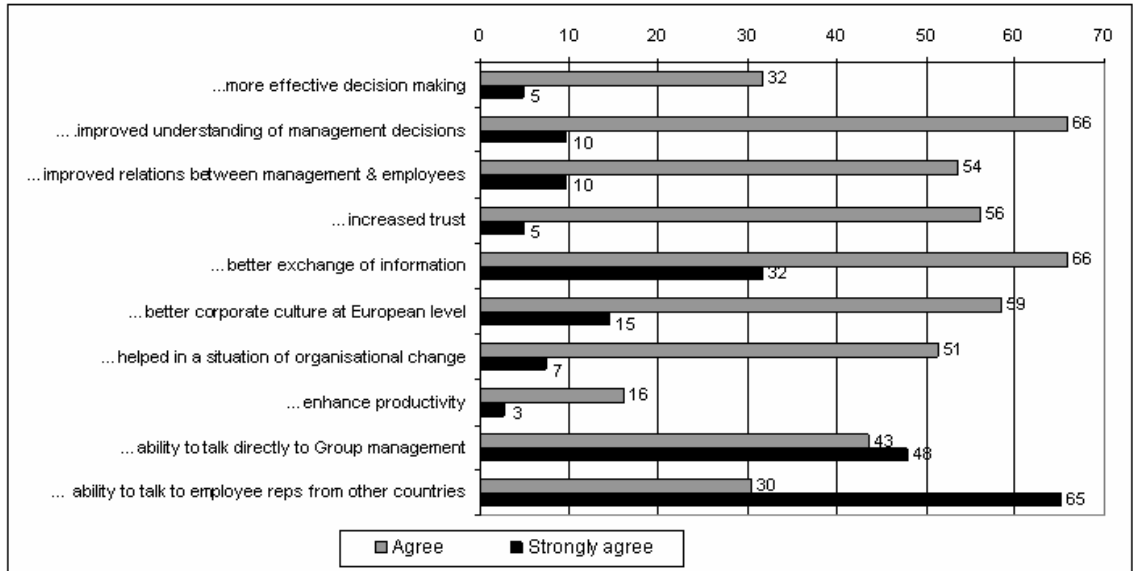
VIEWS OF EMPLOYEES ON BENEFITS

Figure 4: Overview of views of employees on benefits associated with operation of EWC (%)



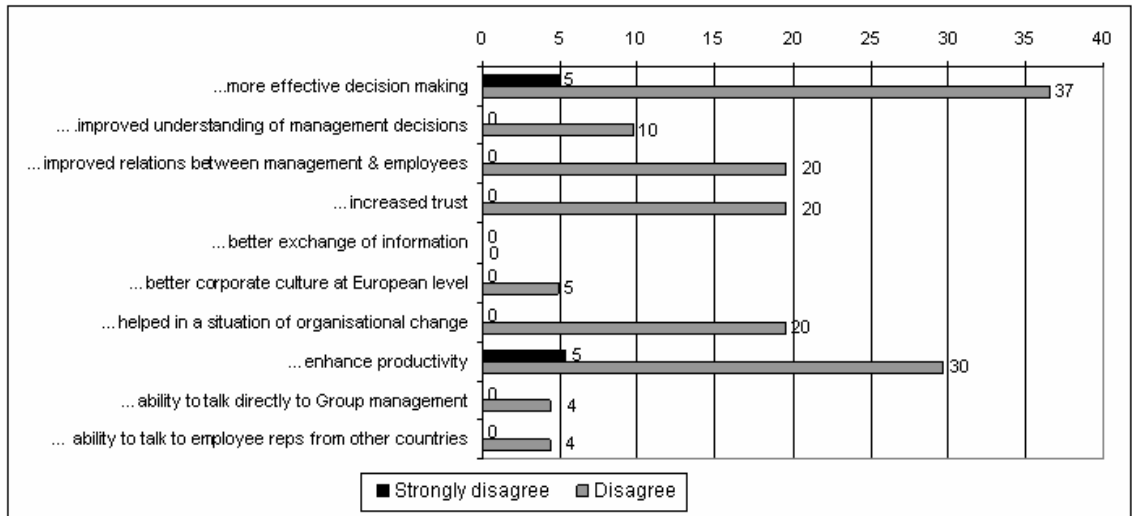
Source: GHK survey based on responses from 41 EWC employee delegates

Figure 5: Overview of views of employees on benefits associated with operation of EWC (%) – Agree / Strongly Agree



Source: GHK survey based on responses from 41 EWC employee delegates

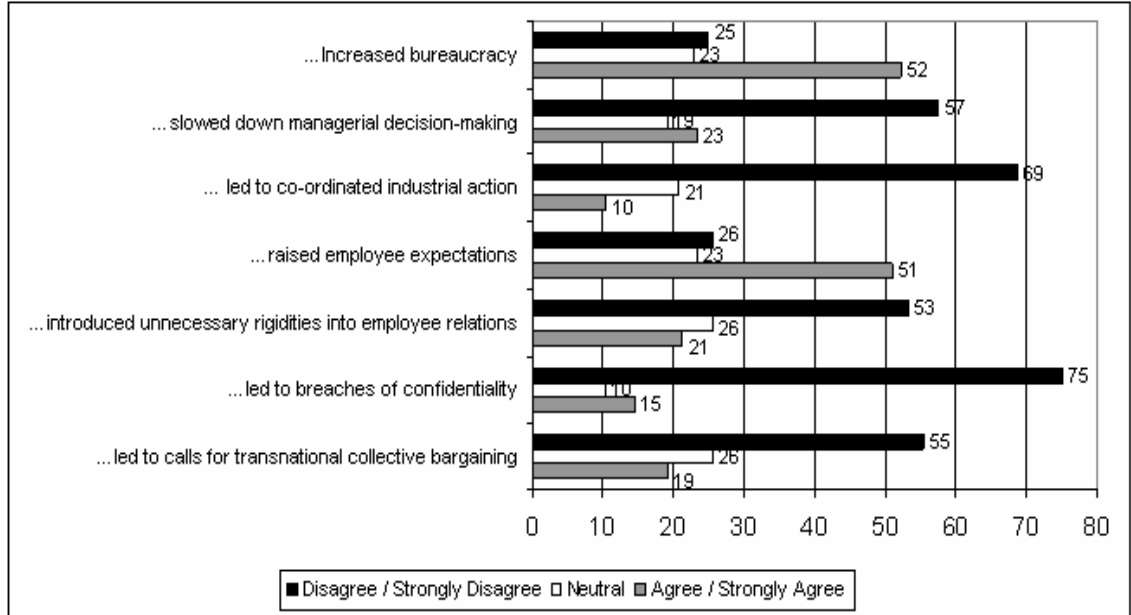
Figure 9: Overview of views of employees on benefits associated with operation of EWC (%) – Disagree / Strongly Disagree



Source: GHK survey based on responses from 41 EWC employee delegates

VIEWS OF COMPANIES ON NON-QUANTIFIABLE COSTS

Figure 7: Overview of views of companies on non-quantifiable costs associated with operation of EWC (%)



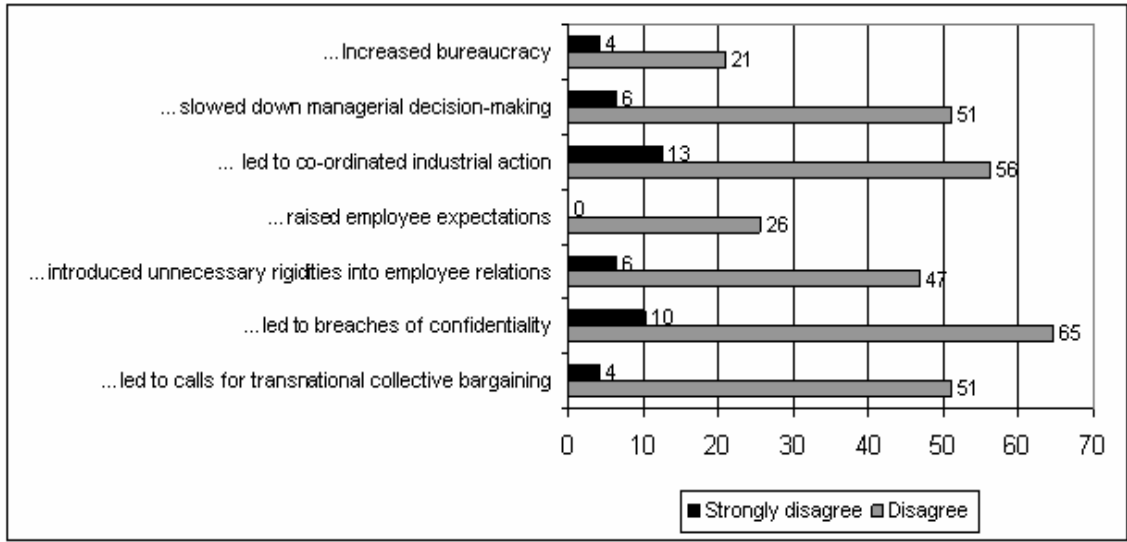
Source: GHK survey based on responses from 49 companies

Figure 8: Overview of views of companies on non-quantifiable costs associated with operation of EWC (%) – Agree / Strongly Agree



Source: GHK survey based on responses from 49 companies

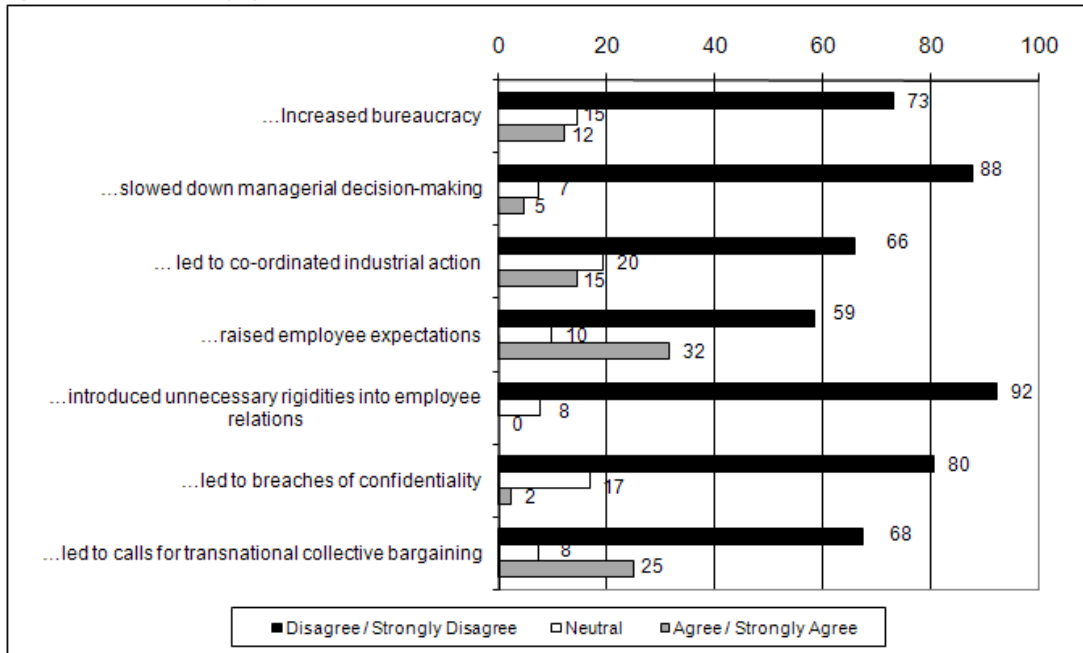
Figure 9: Overview of views of companies on non-quantifiable costs associated with operation of EWC (%) – Disagree / Strongly Disagree



Source: GHK survey based on responses from 49 companies

VIEWS OF EMPLOYEES ON NON-QUANTIFIABLE COSTS

Figure 10: Overview of views of employees on non-quantifiable costs associated with operation of EWC (%)



Source: GHK survey based on responses from 41 EWC employee delegates

Figure 11: Overview of views of employees on non-quantifiable costs associated with operation of EWC (%) – Agree / Strongly Agree



Source: GHK survey based on responses from 41 EWC employee delegates

Figure 12: Overview of views of employees on non-quantifiable costs associated with operation of EWC (%) – Disagree / Strongly Disagree



Source: GHK survey based on responses from 41 EWC employee delegates

Annex 2

Questionnaire

1 SECTION 1 - BACKGROUND INFORMATION

1.1 Company name

1.2 In how many EU/EEA countries is your company operating?

1.3 How many people were employed in 2006...?

In the company as a whole:
In EU/EEA countries:
In each EU/EEA country (please define each country):
• EU/EEA country 1 (headquarters) [.....]:
• EU/EEA country 2 [.....]:
• EU/EEA country 3 [.....]:
• EU/EEA country 4 [.....]:
Add rows if necessary:

1.4 Annual turnover of your company in 2006? Please define the currency in question.

1.5 The sector in which your company is operating?

1.6 The country in which your company is headquartered?

Global headquarter [.....]:
European headquarter [.....]:

2 SECTION 2 - BASIC INFORMATION ON THE EWC AGREEMENT

2.1 When was your first EWC agreement signed?

2.2 Has it been modified since?

Yes (if yes, go to Q2.3) No (if no, go to Q2.5)

2.3 If it has been modified, when (year)?

2.3.1 What type of body negotiated the amendment? (e.g. key members of the EWC, all the members of the EWC, was a special negotiating body formed to negotiate the new agreement?)

2.3.2 Why was the agreement modified? (e.g. was it modified as a result of restructuring or as a result of expansion/merger of your company? Was it modified to widen the competency of the EWC or the composition of the EWC to include representatives from the new Member States after EU enlargement, etc.)

View of the company representative:

View of the employee representative:

2.4 Was it difficult to agree changes to the original or previous agreement? If so, why

View of the company representative:

View of the employee representative:

2.5 If your agreement has not been modified, is there in your view a need to do so? If yes, why?

View of the company representative:

View of the employee representative:

2.5.1 *If you think changes are needed, is it difficult to convince one party (either the employee representatives or the management) to do so? If so, why?*

View of the company representative:

View of the employee representative:

2.6 **Is your current agreement based on Article 13 or Article 6?**

Article 13

Article 6

3 SECTION 3 – SETTING UP YOUR EWC

3.1 How did you negotiate your agreement?

- Special Negotiating Body (as defined in the Directive 94/45/EC)
- Other negotiating forum

3.2 Information on the negotiation period

3.2.1 How many members did the forum/SNB have?

3.2.2 Where were the members of the forum/SNB from (in terms of country)? If no exact figures are available, what percentage of the members were from the European HQ country)? Please note you may get this information from the EWC agreement.

- EU/EEA country 1 (EU headquarter) [.....]:
- EU/EEA country 2 [.....]:
- EU/EEA country 3 [.....]:
- EU/EEA country 4 [.....]:

Please add rows if/when necessary.

3.2.3 How many times did the forum/SNB meet?

3.2.4 Have there been preparatory meetings on either side (employees or the management)?

3.2.5 How long did the negotiation process take? (e.g. how many weeks/months)

3.2.6 Can you quantify the cost per **standard forum/SNB meeting**? Please provide an estimate if no exact figure is available. Please define the currency.

3.2.7 What does this figure include? Please tick (✓) which items of expenditure are included in the cost of each meeting.

ITEM OF EXPENDITURE	CLUDED IN THE COST PER MEETING (✓)
Venue	
Accommodation	
Travel costs for participants	

Subsistence costs	
Translation costs	
Interpretation costs	
Administrative support	
Cost of experts	
Dissemination costs	
Paid time off for SNB employee members to attend meetings	
Management time (Please define, e.g. preparation, meetings, follow-up)	
Cost of training	
Cost of cover for employees attending training or meetings	
Other costs (please specify)	

3.2.8 *Can you quantify the cost of the whole negotiation process? Please define the currency.*

--

3.2.9 *Please provide a breakdown of costs for the whole negotiation process?*

ITEM OF EXPENDITURE	OST (define the currency)
Venue	
Accommodation	
Travel costs for participants	
Subsistence costs	
Translation costs	
Interpretation costs	
Administrative support	
Cost of experts	
Dissemination costs	
Paid time off for SNB employee members to	

attend meetings	
Management time (Please define, e.g. preparation, meetings, follow-up)	
Cost of training	
Cost of cover for employees attending training or meetings	
Administration of ballot (election of employee representatives)	
Other costs (please specify)	

3.3 If you had to negotiate your EWC again, would you do it in the same way or are there elements which could be improved?

[View of the company representative:](#)

[View of the employee representative:](#)

4 SECTION 4 - FUNCTIONING OF YOUR EWC

4.1 How many active members does your EWC have?

4.2 Can you provide a breakdown of members by country?

Please define each country and write the number of members:

- EU/EEA country 1 (headquarters) [.....]:
- EU/EEA country 2 [.....]:
- EU/EEA country 3 [.....]:
- EU/EEA country 4 [.....]:
- EU/EEA country 5 [.....]:
- EU/EEA country 6 [.....]:
- EU/EEA country 6 [.....]:

Please add a row when necessary.

4.3 Has a steering committee / select committee established for your EWC?

- Yes No

4.3.1 If yes, how many times per year does it meet?

4.3.2 How many members does it have?

4.4 Is your EWC a bipartite body (has both employer and employee representatives) or employee only body?

- Bi-partite body Employee only body

4.5 How many annual plenary (main) EWC meetings do you hold per year?

4.6 Has the number of EWC members increased or decreased in the last 3 years?

- Increased Decreased Remained the same

4.7 In addition to plenary (ordinary) meetings, do you have additional working groups / sub-committees?

Yes No

4.8 If your EWC also includes sub-committees / working groups

4.8.1 *Please describe the activities of these subcommittees / working groups (e.g. working groups on equal opportunities, restructuring etc.)*

4.9 Is there a provision in your agreement to hold extra-ordinary meetings?

Yes No

4.9.1 *If yes, how many have you had in the last 3 years?*

4.10 Do you have additional preparatory meetings on either side (employees or the management) before a plenary meeting? (Info for interviewer: employee and management representatives may choose to get together separately before an actual EWC meeting)

Yes No

4.11 Is your company aware of best practices on the functioning of EWCs, as prepared by social partners?

Yes No

4.11.1 *If yes, what documents are you referring to?*

Report of cross-sectoral social partners (UNICE, UEAPME, CEEP, ETUC) summarising "lessons learned from European Works councils" (2005)

Other material from social partners from European level

Material from social partners in your country

Other (please define)

5 SECTION 5 - COST OF EWC MEETINGS

5.1 What is the total cost of organising one plenary (main) EWC meeting? Please define the currency.

--

5.2 Can you please provide a breakdown of costs for organising one plenary (ordinary) meeting? Please indicate which items of expenditure are included in the figure above by ticking appropriate boxes, and please specify the amount when possible.

ITEM OF EXPENDITURE	INCLUDED IN THE COST PER MEETING (✓)	EXPENDITURE PER MEETING (define currency)
Venue		
Accommodation		
Travel costs for participants		
Subsistence costs		
Translation costs		
Interpretation costs		
Administrative support		
Cost of experts		
Dissemination costs		
Paid time off for EWC employee members to attend meetings		
Management time (Please define, e.g. preparation, meetings, follow-up)		
Cost of training		
Cost of cover for employees attending training or meetings		
Other costs (please specify)		

5.3 Based on the elements above, can we attribute a value to the cost of the annual operation of the EWC (total and each element)?

ITEM OF EXPENDITURE	EXPENDITURE PER YEAR (define currency)
---------------------	--

TOTAL	
Administration of ballot (election of employee representatives)	
Operation of EWC steering/select committee	
Venue	
Accommodation	
Travel costs for participants	
Subsistence costs	
Translation costs	
Interpretation costs	
Administrative support	
Cost of experts	
Dissemination costs	
Paid time off for EWC employee members to attend meetings	
Management time (Please define, e.g. preparation, meetings, follow-up)	
Cost of training	
Cost of cover for employees attending training or meetings	
Other costs (please specify)	

5.4 Legal advice

5.4.1 *Have you paid for legal advice concerning the set-up or operation of your EWC?*

Yes

No

5.4.2 *Are you able to provide an estimate of these costs?*

5.5 Labour disputes

5.5.1 *Has your company faced any disputes with workers representatives over the functioning of the EWC?*

Yes

No

5.5.2 *What was the cause for this*

View of the company representative:

View of the employee representative:

5.5.3 *Are you able to provide an estimate on the costs for the company?*

6 SECTION 6 - INFORMATION ON TRAINING PROVISION FOR EWC MEMBERS AND ASSOCIATED COSTS

6.1 **How many days of training were provided for EWC members last year?** Please provide information on average number of training received per member, and a total number of training days if possible.

[View of the company representative:](#)

[View of the employee representative:](#)

6.2 **How many EWC members received training in the past 12 months?**

[View of the company representative:](#)

[View of the employee representative:](#)

6.3 **Please provide information on the average length of training received by individual members of EWC in the last 12 months?**

[View of the company representative:](#)

[View of the employee representative:](#)

6.4 **Does your company have a fixed budget for training of EWC members?**

Yes

No

If yes, how much is it?

6.5 **Do you have estimates on the cost of a training day?**

[View of the company representative:](#)

[View of the employee representative:](#)

6.6 Does your agreement provide a right for training for the EWC members? (Info for interviewer: a right to training means that an employer is obliged to provide – within limits – training for EWC members if they so wish)

Yes

No

6.7 If no, in your opinion, what percentage of the EWC members would take the opportunity to undertake training if it was available? This is a very important question for the survey.

View of the company representative:

View of the employee representative:

6.8 What have been the potential benefits associated to the provision of training for EWC members to date?

View of the company representative:

View of the employee representative:

7 NON-QUANTIFIABLE COSTS AND BENEFITS ASSOCIATED WITH THE OPERATION OF EWCS

7.1 Can you describe the main benefits related to the operation of EWC in your company?

View of the company representative:

View of the employee representative:

7.2 Can you please rate the perceived benefits of operating an EWC in your company? Please tick (✓) which is most appropriate.

View of the company representative:

Operation of EWC has led to...	Strongly disagree	Disagree	Neutral	Agree	Strong agree
...more effective decision making					
...improved employees' understanding of management decisions					
...improved relations between the management and employees					
...increased trust					
...better exchange of information					
...better corporate culture at European level					
...helped in a situation of organisational change					
...enhance productivity					
...ability to talk directly to company management					
... ability to talk to employee representatives from other					

countries					
Others (please specify)					

View of the employee representative:

Operation of EWC has led to...	Strongly disagree	Disagree	Neutral	Agree	Strong agree
...more effective decision making					
...improved employees' understanding of management decisions					
...improved relations between the management and employees					
...increased trust					
...better exchange of information					
...better corporate culture at European level					
...helped in a situation of organisational change					
...enhance productivity					
...ability to talk directly to company management					
... ability to talk to employee representatives from other countries					
Others (please specify)					

7.3 Can you describe us the main costs/inconveniences of the operation of EWC in your company?

Note for the interviewer: allow the respondent to mention the first few things that come into their mind on this question, before prompting them with the possible answers given in question 7.4

View of the company representative:

View of the employee representative:

7.4 Can you please rate non-quantifiable costs (financial or socio-economic) associated with the operation of your EWC?

View of the company representative:

Operation of EWC has...	Strongly disagree	Disagree	Neutral	Agree	Strong agree
...Increased bureaucracy					
...slowed down managerial decision-making					
... led to co-ordinated industrial action					
...raised employee expectations					
...introduced unnecessary rigidities into employee relations					
...led to breaches of confidentiality					
...led to calls for transnational collective bargaining					
Others (please specify)					

View of the employee representative:

Operation of EWC has...	Strongly disagree	Disagree	Neutral	Agree	Strong agree
...Increased bureaucracy					
...slowed down managerial decision-making					
... led to co-ordinated industrial action					
...raised employee expectations					
...introduced unnecessary rigidities into employee relations					
...led to breaches of confidentiality					

...led to calls for transnational collective bargaining					
Others (please specify)					

7.5 In your opinion do the benefits outweigh the cost of having your EWC?

<p>View of the company representative:</p> <p>View of the employee representative:</p>

7.6 What could enhance the benefits and reduce the costs of operating an EWC?

<p>View of the company representative:</p> <p>View of the employee representative:</p>

8 REGISTRATION REQUIREMENTS AND ADMINISTRATIVE COSTS

8.1 Is there a legal obligation to register EWC agreements in your country, or is this operated on a voluntary basis?

- Legal obligation to do so Voluntary registration
Neither

8.2 Does your company report to authorities in your country about the set-up or modification of your EWC agreement?

- Yes No

8.3 *If yes, please provide details on what do you report, when and to which authority?*

8.4 *Is there a cost associated to this registration?*

- Yes No

If so, how much?

8.5 **If there is no mechanism to register EWC agreements, would you perceive any benefits to such registration mechanism?**

View of the company representative:

View of the employee representative:

9 RESTRUCTURING IN YOUR COMPANY

9.1 Has your company undergone restructuring that has affected more than one EU/EEC country in the last 3 years?

- Yes (continue questions in this section) No (go to section 10)

9.2 How many EU countries did this event affect? What happened (e.g merger, expansion, internal re-organisation)?

Please provide the following details on the way in which employee representatives were informed and consulted about the restructuring activity.

9.3 At which level the employee representatives were informed and consulted about the restructuring process first?

[View of the company representative:](#)

- European National Local

[View of the employee representative:](#)

- European National Local

9.4 Was the employer clear which level needed to be informed and consulted first?

[View of the company representative:](#)

- Yes No

[View of the employee representative:](#)

- Yes No

9.5 Did they need to seek legal advice on this?

[View of the company representative:](#)

- Yes No

View of the employee representative:

Yes No

9.6 Has the management ever been challenged by the employee side on who to inform first?

View of the company representative:

Yes No

View of the employee representative:

Yes No

9.7 How was the EWC informed and consulted about the restructuring process? E.g by written communication, through extra-ordinary meeting, other (please specify).

View of the company representative:

View of the employee representative:

9.8 Who at the EWC was informed and consulted

View of the company representative:

The whole EWC Steering committee Steering committee and most affected countries

View of the employee representative:

The whole EWC Steering committee Steering Committee and most affected countries

9.9 When was the EWC informed and consulted?

View of the company representative:

When the decision was presented to the board?

When it was announced to the press?

After it was announced to the press?

Never

View of the employee representative:

- When the decision was presented to the board?
- When it was announced to the press?
- After it was announced to the press?
- Never

9.10 Was there a distinction between the information and consultation phase? E.g. was the EWC informed about restructuring well in-advance but consulted only after it was announced to the press?)

View of the company representative:

View of the employee representative:

9.11 Did the EWC consultation process make a difference to the plans / the restructuring process?

View of the company representative:

- Yes No

View of the employee representative:

- Yes No

9.11.1 *If yes, what difference did it make?*

View of the company representative:

View of the employee representative:

9.12 What were the benefits associated with the EWC's contribution?

View of the company representative:

View of the employee representative:

9.13 What were the dis-benefits associated with the EWC's contribution?

View of the company representative:

View of the employee representative:

9.14 Would it be helpful to have further guidance on rules and regulations related to information and consultation in restructuring situations?

View of the company representative:

Yes

No

View of the employee representative:

Yes

No

9.14.1 If yes, what kind of further information

View of the company representative:

Guidance

Legal rules

View of the employee representative:

Guidance

Legal rules

10 COMPETENCE OF THE EWC AGREEMENTS

10.1 Does your EWC deal with the following matters in its work programme?

10.1.1 Equal opportunities

Yes

No

If yes, in what way (e.g. transnational agreement on the topic, working group, incremental part of the main EWC agreement).

View of the company representative:

View of the employee representative:

10.1.2 *Health and safety issues*

Yes

No

If yes, in what way (e.g. transnational agreement on the topic, working group, part of the main EWC agreement).

View of the company representative:

View of the employee representative:

10.1.3 *Environmental issues*

Yes

No

If yes, in what way (e.g. transnational agreement on the topic, working group, incremental part of the main EWC agreement).

View of the company representative:

View of the employee representative:

11 IMPROVING EWC

11.1 **Do you have any additional comments / proposals to the improvement of the functioning of EWCs?**

View of the company representative:

View of the employee representative: