

Skorupińska, Katarzyna

## Article

# European Works Councils Experiences

Comparative Economic Research. Central and Eastern Europe

## Provided in Cooperation with:

Institute of Economics, University of Łódź

*Suggested Citation:* Skorupińska, Katarzyna (2011) : European Works Councils Experiences, Comparative Economic Research. Central and Eastern Europe, ISSN 2082-6737, Łódź University Press, Łódź, Vol. 14, Iss. 4, pp. 65-80,  
<https://doi.org/10.2478/v10103-011-0027-x>

This Version is available at:

<https://hdl.handle.net/10419/259089>

## Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

## Terms of use:

*Documents in EconStor may be saved and copied for your personal and scholarly purposes.*

*You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.*

*If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.*



<https://creativecommons.org/licenses/by-nc-nd/4.0>

---

KATARZYNA SKORUPIŃSKA\*

---

## European Works Councils Experiences

### Abstract

*In September, 2011 there was 15<sup>th</sup> anniversary of the implementation of the first EU directive creating European Works Councils (EWCs). This is also the year when the new version of the directive was put in force, i.e. Directive 2009/38/EC. EWCs are a form of indirect employee participation on European level which guarantees workers the right to information and consultation. The employees' representatives of all undertakings of transnational company were given the opportunity to voice their opinion about the decisions to be made by central management of the company. In this article three major topics are discussed: the role of European Works Councils in EU countries, the range of these institutions of employee participation on European level and changes in EWCs' functioning introduced by the new EWC directive. The main aim of the paper is to present diverse patterns of these institutions as well as to attempt the evaluation of EWCs effectiveness and their influence on the system of industrial relations in Europe.*

### 1. Introduction

EWCs meant as a base to build common European identity among employees are an object of heated discussion in academic and trade unions circles. There are two contrary views in this debate. According to the pessimistic one, EWCs are neither "European" nor "councils". In suggesting that they are

---

\* Ph.D., University of Łódź

not “European”, the opinion is underlined that EWCs are too heavily “coloured” by the national systems of industrial relations of the countries where the headquarters of transnational companies are located. Taking into consideration the second charge that EWCs are not works councils in fact, statutory weakness of these institutions is underlined. This is because the management have not real consultations with EWCs or do not ask EWCs’ opinion before taking important decisions (Marginson, Sisson 2004, pp. 229-230). According to the optimistic view, EWCs promote the international union of employee communication and cooperation and can gradually develop from weak and mostly symbolic information institutions towards creating the European collective identity (*European Works Councils Experience...* 2006, p. 4).

The adoption of the directive establishing EWCs by the Council of the European Community on 22 September, 1994 was then a kind of breakthrough in the field of the development of European industrial relations. It was a great success, now still under-used by some EWCs. Although EWCs have limited influence on the operation of transnational companies, they are definitely highly profitable for both employees and trade unions as well as for the plants of transnational companies. The main aim of the paper is to present diverse patterns of these institutions as well as to attempt the evaluation of EWCs effectiveness. Section 2 shows long and painful process of creating the EWC directive, lasting over 20 years. Basic objectives of the directive as well as its main regulations have been presented in section 3. Section 4 outlines the range of EWCs and pace of their establishing since the directive adoption. Four basic types of EWCs and their roles in transnational companies are discussed in section 5. Fundamental changes that the new directive introduced, concerning the scheme of EWCs creating and operating, were listed in section 6. Last section provides the summary and final remarks.

## **2. Difficult process of creating EWCs Directive**

The process of creating EWCs Directive was hard and long-lasting. It started in 1970s when the first version of the statute of the European Company was prepared. As early as then the necessity to include a social aspect in the integration of European economies was noticed. However, discrepancies concerning employee representation in supervisory bodies of such a company effected in restraint of the preparations for over 20 years.

The project of so called Vredeling directives dated 1983 was an important stage in the process of regulating standards of employee representation rights to information and consultation on European level. However, the document was

highly controversial due to the fact that it defined employers' duties in transnational companies very rigidly and precisely. There were two types of the duty to information: simple and detailed. The simple one was designed to be implemented in the form of detailed statements presented at least once a year by the management of the parent company to the management of the final company in such matters as financial condition of the company, its structure, employment and investments. The detailed duty was adopted each time the management of the parent company wanted to take decision having serious consequences to the staff of the final company. Such circumstances appeared particularly in the case of closure the workplaces, the change of production profile or the implementation of new technologies (Wratny 1994, p. 16). The project met a strong objection from both employers organizations and some governments of the European Community countries (especially the United Kingdom), which resulted in resigning from works on the directive.

The following step in creating EWCs was passing the Social Card of the European Community in 1989. One of its chapters concerning information, consultation and employee participation defined employees and employers right to free organization as well as the right to create structures acting on behalf of them. The European Commission worked on the document and finally, on 5 December, 1990, the project of directive establishing EWCs in transnational companies was presented. Jacques Delors, the then president of the European Commission, initiated the meetings between employers and unionists, setting backgrounds to social dialogue on European level, which indicates his significant contribution in the process of creating EWCs. Due to comments concerning the project of the directive, it was simplified and in this shape presented by the European Commission in September, 1991. The changes proposed included mainly trade unions interests, for example employment ratio limits in the plants in different countries were liberalized allowing establishing EWCs in some circumstances.

The wish to follow the ideas proposed in the Social Card was covered in Maastricht Treaty signed in February, 1992. The document obliged the European Commission to support partners in the social dialogue in matters like working conditions, information and consultation with employees. Due to the UK's objection, the procedure was accepted to exclude this country both from signing Maastricht Treaty and its arrangements, which set a precedent to employ similar solutions while enacting the EWCs directive. As a result, after 20 years of discussions, the European Commission accepted the directive establishing European Works Councils on 22 September, 1994.

### 3. Basic assumptions of the EWCs Directive

The main object of the directive was improvement of employee information and consultation in transnational companies<sup>1</sup> located within the EU as well as in Norway, Liechtenstein and Iceland, i.e. countries being members of so called European Economic Area. At the beginning the directive covered 17 countries – without the UK, excluded from Maastricht Treaty before<sup>2</sup>. The EU enlargement in May, 2004 caused that after that date the directive regulations operated in up to 28 countries. Since January, 2007, when Romania and Bulgaria entered the EU, the number of countries covered by the directive has increased to 30.

The central management is obliged to secure conditions and funds needed to set EWC or adopt the procedure of informing and consulting the employees<sup>3</sup>. The management is also responsible for initiating such negotiations on their own or on application written by at least 100 employees employed in no less than two companies located in at least two different member countries. Negotiations leading to creating EWC are run between the central management and a special negotiation body composed of employee representatives from different undertakings of one particular transnational company. The negotiations are followed by a written agreement which should particularly define:

- a list of undertakings being part of a group of companies of the EU range covered by the directive,
- the composition of EWCs, number of members and a term of office,
- EWC functions and its rights to information and consultation,
- place, frequency and duration of EWC meetings,
- funds and material resources granted to EWC,
- duration of validity of the agreement (EWC Directive No 94/45/WE, articles 5.1 and 5.3, article 6.2).

EWC consists of employees from EU companies who are chosen or appointed either by employee representatives from among them or, when the

---

<sup>1</sup> Transnational company is the one which employs at least 1,000 people in EU countries and, at the same time, employs 150 people in at least two of these countries (article 2 of the directive no 94/95).

<sup>2</sup> After UK accepted the directive in 1997, the number of countries covered by the directive increased to 18.

<sup>3</sup> Establishing EWCs is not obligatory and they may be created alternatively to other procedures designed for information and consultation the employees (article 1.2 of the directive no 94/95).

representative body does not exist, by the whole staff. The choice or appointment is conducted following the legislation or the practice accepted in the country. The EWC staff should have representatives from all the member countries. Moreover, EWC should have the opportunity to co-opt more representatives, proportionally to the number of employees in plants or companies. EWC framework is limited to information and consultation in the areas concerning EU companies or at least two of their undertakings located in different member countries.

EWC meetings with the central management of transnational company are held at least once a year as plenary sessions. Their subject matter is mainly a discussion over issues concerning the changes to be made in the company structure, its economic and financial condition, anticipated progress of activities, production and sale, merger, closure or transfer of the plants or mass layoffs. In special circumstances effecting on employees interests, EWC Committee<sup>4</sup> or, when there is no such a body, EWC has the right to call an extra meeting with the central management of transnational company (Koczur, Korus 2003, pp. 130-136).

Member countries define the rules of chairmanship during information and consultation sessions. EWC members before the meeting with the central management have right to call preparatory meetings without the management to fix the agenda and exchange information with employees representatives from different countries. Moreover, both EWC and EWC Committee may use the competence of their experts to help in performing their duties efficiently. The expenses of EWC operating are covered by the central management of transnational company. The costs particularly include meetings organization, interpreters service as well as accommodation and transport for EWC members (Appendix, no 4, 6 and 7).

EWCs Directive was an example of quite flexible approach to information and consultation procedures because it gave the opportunity to contract voluntary social partner agreements. According to article 13.1 of the directive, its provisions could not be adopted in EU companies or group of companies if on the date of Directive implementation<sup>5</sup> they had already had agreements covering all employees and guaranteeing them transnational right to information and consultation. Such defection of the directive provisions was aimed at giving privilege to these transnational companies which appointed representative bodies

---

<sup>4</sup> EWC in cases justified by the number of its staff can select Committee which is a body securing EWC operating in periods between the sessions. Committee has also coordinative duties, communicates with EWC members, prepares sessions etc.

<sup>5</sup> I.e. till 22 September, 1996 (it was so called two-year period of transition).

at transnational level although were not obliged to do so. On the other hand, the directive was profitable for employers because within two years they could contract agreements not compatible with the directive regulations. Managements of transnational companies broadly took advantage of this opportunity as this allowed them to avoid regulations that concerned calling special negotiating bodies or conducting negotiations (Skupien 2008, p. 129).

Member countries were obliged to prepare appropriate regulations and create administrative conditions necessary for Directive implementation within two years since its accepting. For 14 EU countries and 3 countries of the European Economic Area the deadline for adjusting the directive to their national legislation was on 22 September, 1996 whereas for the UK – on 15 December, 1999. Next 10 EU countries were obliged to implement the directive before joining the EU, i.e. before 1 May, 2004. For the other two entering countries, Romania and Bulgaria, this date was set for 1 January, 2007.

**Table 1. The implementation of EWC Directive to national legislation**

Country	Method of implementation	Date	Country	Metho of implementation	Date
Austria	Act	17.X.1996	Sweden	Act	9.V.1996
Belgium	Collective	6.II.1996	the UK	Act	15.I.2000
Denmark	Act	22.V.1996	Italy	Collective	6.XI.1996
Finland	Act	9.VIII.1996	Cyprus	Act	2002
France	Act	12.XI.1996	The Czech Republic	Act	2000
Greece	Decree	20.III.1997	Estonia	Act	12.I.2005
Spain	Act	24.IV.1997	Lithuania	Act	19.II.2004
Holland	Act	23.I.1997	Latvia	Act	1.VII.2001
Ireland	Act	10.VII.1996	Malta	Act	2002
Iceland	Act	22.III.1996	Poland	Act	5.IV.2002
Liechtenstein	Act	16.VI.2000	Slovakia	Act	1.IV.2002
Luxembourg	Act	28.VII.2000	Slovenia	Act	20.VI.2002
Germany	Act	28.IX.1996	Hungary	Act	2003
Norway	Collective	30.XI.1995	Romania	Act	19.VII.2005
Portugal	Act	24.IV.1997	Bulgaria	Act	2006

Source: Skorupinska 2009, pp. 171-172.

As far as the original 15 EU countries and 3 countries of the European Economic Area are concerned, the deadline for the directive implementation has only been kept in the following: Denmark, Finland, Ireland, Iceland, Norway, Sweden and Belgium. After 22 September, 1996 next countries adjusted the directive regulations to national legislations: France, Austria, Greece, Spain, Holland, Germany, Portugal, the United Kingdom and Italy. Luxembourg and Liechtenstein did so almost six years after the directive adoption<sup>6</sup>. Out of the ten following member countries, Estonia was the only one that did not keep the deadline for Directive implementation (see table 1). Poland passed EWCs bill on 5 April, 2002. All these ten countries decided to employ the implementation solutions applied before in most of the old EU members, i.e. based on parliamentary legislative instruments. The two newest EU members, Romania and Bulgaria, have kept their implementation deadlines (Skorupinska 2009, pp. 169-170).

#### **4. The range of European Works Councils**

In September, 1994, when Directive no 94/45/WE was adopted, there were 49 EWCs. Till the end of the next year the number increased up to 124. In 1996 as many as 397 new EWCs were established. That year was the last one when procedures allowed creating EWCs on the basis of voluntary agreements. Figure 1 shows this radical increase in EWCs number in that period. Contrary to year 1996, in 1997 only 51 EWCs were established. The slowdown in EWCs spreading was visible in years 1998-2000, when no more than 70-80 new institutions of employee participation appeared each year. The rate of increase was even slower in the period 2001-2008 (30-50 EWCs every year). In 2009 only 13 EWCs appeared. According to data of the European Trade Union Institute, 969 EWCs were operating at the end of September, 2010 (out of 1,175 originally established)<sup>7</sup>.

At first, in 1995, the directive regulations concerned 1,152 transnational companies. In 2000, when the UK accepted the directive and adopted it to the national legislation, the number of companies covered by the directive increased

---

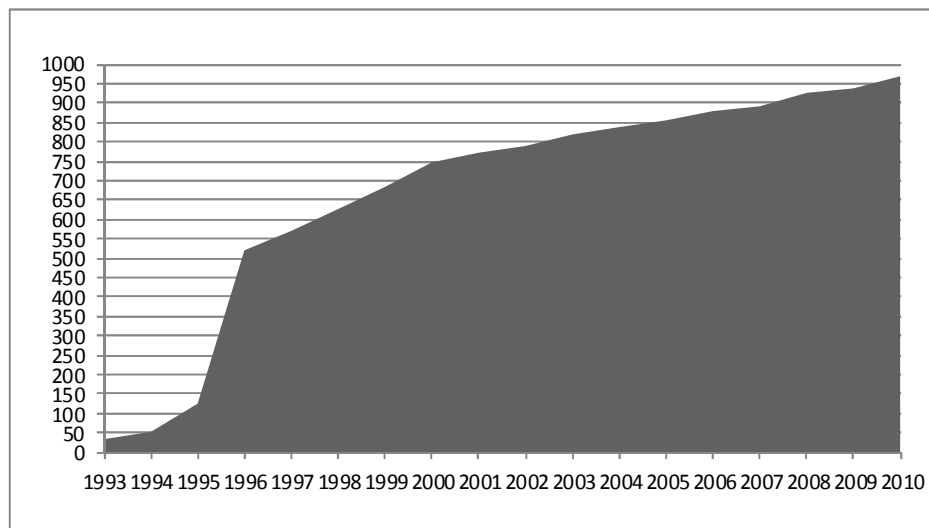
<sup>6</sup> The European Commission have prosecuted these two countries to the European Court of Justice for disobedience in implementing the EU regulations. The Court proceedings were remitted after passing by these countries suitable acts implementing the directive.

<sup>7</sup> The remaining EWCs stopped operating due to taking over or joining the transnational companies where they had existed. Years 1999-2001 were the time when the most EWCs were dissolved – over 20 each year.



to 1,835. The EU enlargement in May, 2004 resulted in further spread in the directive coverage – at the end of 2005 there were 2,204 such companies. This number means that EWCs operating at the time existed in only 35% of companies, where they should have been established according to the directive regulations (*European Works Councils – Facts ...* 2006, p. 28). Nowadays the scale of transnational companies covered by the directive where EWCs operate reaches 38%. On the other hand, operating EWCs now represent almost 18 million people employed within the EU, i.e. much over half of all employees of transnational companies potentially covered by the directive (Jagodzinski 2011, p. 7).

**Picture 1. The range of EWCs (the number of EWCs operating in a specific year)**



Source: [www.ewcdb.eu](http://www.ewcdb.eu) (the database on EWCs, ETUI).

What is noticeable, Polish EWC representatives appeared much earlier than the EU directive was implemented in Poland. As soon as in 1995 Polish employee representatives from Thomson and Benckiser were invited to EWC meetings as observers. In the following years Polish representation in EWC gradually enlarged and our representatives started working in EWCs not only as observers but also as full EWC members. Moreover, Polish unionists, especially from NSZZ “Solidarnosc”, were pioneers on the field of EWCs among trade unions from the Central and Eastern Europe. Even before the Polish access to the EU, they were very active in negotiations concerning establishing or renewing EWCs agreements (Thomson Multimedia, Electricite de France). First trainings regarding both the regulations of the EU directive and EWCs rules were conducted by “Solidarnosc” as soon as in 1995. They have also set up an

Internet website about EWCs ([www.erz.solidarnosc.org.pl](http://www.erz.solidarnosc.org.pl)). It is estimated that nowadays Polish representatives are members of 187 EWCs.

## 5. Role and effectiveness of EWCs

It is difficult to clearly assess the EWCs effectiveness. As institutions EWCs were result of restructuring so it may be assumed that the way they operate in such circumstances is a kind of an exam of their functions, i.e. if they actually improved the condition of employees right to information and consultation. The analysis of agreements establishing EWCs suggests that most EWCs seem to have quite good opportunities to obtain regular information and to consult matters regarding restructuring with central management.

While assessing the EWCs potential of influence, some other features should be taken into account. One of extremely important things is the note pointing that employee information and consultation should occur at the beginning of decision-making process to enable EWCs present their opinion. However, this note seldom appears in the agreements. The regulations of Directive no 94/45 are vague, particularly in the definition of consultation. This has two opposite effects: on one hand it allowed employers to accept the directive, but on the other, it became cause of numerous disagreements in everyday application of the directive. Furthermore, significant is fact that agreements usually restrict the EWCs activities to “transnational” matters, at the same time interdicting them from discussing national affairs. EWCs representatives also indicated that several issues could not be debated at their meetings because central management of transnational company claimed that the issues included secret data (Skorupinska 2009, pp. 208-209).

Employers also have reservations about EWCs. For them, the institutions are important component of the European integration process on one hand, but on the other, they restrict the economic effectiveness of transnational companies. Employers claim that competitive activities of the corporation may be reduced when it has a partner representing the staff supported by unionists on European level. In such cases the corporation may be forced to maintain production in less profitable plants (Gardawski 2007, pp. 33-34). Furthermore, management complains about the costs and time committed to preparations of documents and, generally, EWCs plenary meetings.

However, in most cases employers accepted EWCs although were not interested in expanding their role beyond information and consultation as framed in the directive no 94/45/WE. As the years went by, employers began to notice

advantages of existence these institutions of employee participation on European level. Management treats EWCs as an important instrument to discuss matters concerning corporation culture, to increase employee involvement and to communicate with them, especially about problems having negative consequences for them. Owing to EWCs, employees are better informed, which results in better understanding of management decisions and this, consequently, allows the management enjoy wider approval of their activities.

The view of EWCs is extremely diverse. According to Lecher's classification<sup>8</sup>, there are four types of EWCs: symbolic, service, project-oriented and participatory. They differ in abilities to operate effectively, which is a consequence of dynamic interaction in four areas, i.e. between EWC and central management, within EWC among its representatives, between EWC and national levels of information and consultation, and, finally, between EWC and trade unions. "Symbolic" EWCs are characterized by low level of information, lack of formal consultation as well as minimal communication between EWC, its representatives and central management meanwhile plenary sessions. As far as "service" EWCs are concerned, the representatives exchange information but they do not try to elaborate common policy. "Project-oriented" EWCs are institutions in which representatives concentrate on systematic development of their home structures and abilities independent of central management. "Participatory" EWCs are actually involved in the process of consultation and negotiation with the central management (Carley, Hall 2006, p. 37).

Surely, many EWCs are just symbolic institutions restricting their activities to annual sessions with central management when they get general knowledge on the condition of transnational company. Waddington's research (2006 p. 43) conducted in 2005 showed that only one in four EWCs was informed about the restructuring decisions before the management finally made them and only one in five EWCs was regularly consulted about such matters. This means that 75% of EWCs questioned representatives were not informed about restructuring decision of the management neither before it had been made nor after it had been accepted. In case of consultation, the rate exceeds 80%. Generally, EWCs operate mainly on the field of communication and consultation, as it is defined in the Directive 94/45. Carley and Hall in their survey (2006) suggest that very few EWCs had any effect on the restructuring process in transnational companies. Yet, there are EWCs or EWC Committees (for instance in LPGD, Draka, Unilever, Group4Falck) significantly involved in the restructuring process.

---

<sup>8</sup> See more in: Lecher, Platzer, Rüb, Weiner 2001.

This is because EWCs build their effectiveness through everyday activities allowing them to go beyond formal competence. Throughout the years some EWCs (better developed and older) extended their powers to negotiations. Together with the central management they concluded a kind of a written arrangement regarding the restructuring. EWCs were co-signatories of such agreements usually together with international and national trade unions. These joint agreements signed on European level can be regarded as a form of negotiations on transnational collective agreements, as they define the guarantee scope for employees stricken with restructuring.

## 6. The review of the Directive

Debate concerning the necessity to amend the EWCs directive have been held since late 1990s between the European Commission, European trade unions and European employers organizations. The debate was justified by the legal obligation that the European Commission had, which required the assessment of both directive operation and state of its transposition in member countries till September, 1999. The other reason for the debate on the directive amendment were bad practices in many transnational companies. Their managements often made restructuring decisions disregarding EWCs right – clearly stated in the directive provisions - to information and consultation. Such attitude presented by managements of transnational companies effected in numerous employee protests and led to critical opinions voiced by the European Parliament. There was another reason for the debate on the directive. The EU legislation regarding employee participation has developed so it became necessary to synchronize the employees rights included in several directives (Skupien 2008, pp. 293-295). Moreover, the EU enlargement caused that some directive regulations became a bit outdated as well as EWCs operation became more complicated<sup>9</sup>.

The European Trade Union Confederation (ETUC) proposed the first list of amendments to the directive in December, 1999, and launched a broad union campaign aimed at advancing its revisal. The unionists opted mainly for strengthening EWCs legal power through, for instance, specifying the definition of “information and consultation”. Furthermore, they demanded not only appreciating their contribution in establishing and coordination of EWCs

---

<sup>9</sup> After 1 May, 2004 the number of EU members increased to 25. The provisions of directive no 94/45 restricted the membership of special negotiation body to 17 at the same time guaranteeing at least one place to employees representatives from each country where the transnational company runs its business.

activities but also setting frames for wide training programs for EWCs employee representatives. Besides, ETUC suggested decreasing employment thresholds which permit to create EWCs in transnational companies employing up to 500 people within the EU, on condition that at least 100 of them were in two member countries. Other demands regarded, for instance, increasing the frequency of EWCs meetings with central managements, reduction of periods for negotiating agreements, opportunity to enlarge EWCs boards of experts, legal guarantees for EWCs in case of breaking the directive conditions. As opposed to unionists, representatives of European employer institutions, UNICE<sup>10</sup> and CEEP<sup>11</sup> were skeptical about the suggestions of directive amendment (Wratny 2010, p. 93).

Against the ETUC and European Parliament's position, the EU Commission decided to suspend the activities on the directive revision. The dialogue was continued after accepting next three directives concerning employee participation in the management<sup>12</sup>. The European Commission has also begun consultations with social partners, but, with their lack of cooperation, presented its own project of the directive revision in July, 2008. Finally, the directive was enacted on 6 May, 2009, and its major purpose is strengthening the employee right to information and achieving real social dialogue on supranational level.

According to Monacko from the Social Development Agency in Brussels (SDA), the amended directive appeared too late. Many transnational companies negotiated the limitations of the previous directive and began a successful dialogue with employee representation in EWCs. On the other hand, the new directive can facilitate such dialogue in other companies and improve the effectiveness of EWCs on European level. In fact, the expectations regarding the revised directive were higher. However, the changes made are positive (*Europeizacja stosunków...* 2009, p. 29). They are as follow:

- The introduction of the definition of information as well as precision and strengthening the right to consultation. The EC Directive dated 22 September, 1994, did not have the definition of "information" while consultation meant only "the exchange of opinions and starting the dialogue between employee representatives and central management". In the new

---

<sup>10</sup> UNICE - Union of Industrial and Employers' Confederations of Europe (BusinessEurope, since 2007).

<sup>11</sup> CEEP – European Centre of Employers and Enterprises providing Public services.

<sup>12</sup> I.e. Council Directive of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees; Directive of the European Parliament and the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community; Council Directive of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees.

directive the definition of consultation has been expanded by a note relating to the time, manner and matter, which allows employee representatives to voice their opinion to the management on the basis of the information given (article 2 g). Moreover, the directive appendix states that EWCs have the right to demand a response with reasons to any presented opinion from the management.

- Appreciation of the trade unions involvement in negotiating the EWCs agreements. According to article 5.4, “negotiation body can file a petition for calling their experts who can be representatives of recognized trade unions operating on the EU level”. Furthermore, trade unions gained the right to be informed about the membership of negotiation body and opening negotiations establishing the EWCs (article 5.2.c).
- EWCs gained the opportunity to decide the subject-matter of the plenary sessions in connection with transnational character of the matters discussed. Although the definition of transnational information did not change much when compared with the old directive provisions, it has been extended in section 16 of the new directive preamble. According to this note “transnational matters are the ones which, irrespectively of the number of member countries involved, are significant for all European employees in the meaning of potential effects”. It means that EWCs have information and consultation rights in questions having even possible consequences for employees, regardless of the country of their employment.
- Clear defining the central management duties to convey the information necessary to start the negotiations establishing EWCs, particularly the information regarding the structure of the company or group of companies and the number of their staff (article 4.4). It is highly probable that such note can be useful in making the negotiation process more efficient and, consequently, increase the number of EWCs in the future.
- Article 10.4 of the directive states that members of both the special negotiation body and the EWC gain the right to trainings, with no deductions from salary.
- The new directive also defines the relations between the EWCs and information and consultation institutions on the national level. This regulation was introduced in order to avoid ambiguities during conveying the information to different institutions of participation. Before the directive revision the managements often took advantage of these inconsistencies. Article 12 of the new directive states that the agreement establishing the EWC should include procedures of both exchanging the information and cooperation with national institutions of information and consultation.

## 7. Conclusion

European Works Councils are institutions deeply diversified in their functions and role in transnational companies. The thing is that they do not operate for all they are worth within the directive regulations. In most cases they neither play a significant role nor are particularly influential in making decisions by the central managements. They operate mainly as information or information-consultation institutions. However, there are EWCs which have not only “symbolic” or “service” functions and become deeply involved in the operation of transnational companies, especially in restructuring. These “participatory” EWCs even negotiate so called transnational collective agreements with central managements.

EWCs are an essential feature of the European companies view – about 18 million people employed in the EU have their representatives in 969 EWCs. They vitally influenced the shape of industrial relations in Europe, went towards the improvement of transnational information and consultation as well as the internationalization of trade unions cooperation. Directive of the Council 94/45 considerably accelerated the process of enacting next EU directives concerning the employee participation in the management. The researches show that EWCs are highly beneficial for not only employees, trade unions, particular plants but also for the management. These benefits are: access to information relating the situation and plans of the transnational company, exchange of experience between the EWC representatives, direct contacts with the central management representatives, increase of trade unions prestige with respect to their national managements, rise of status of the particular plant in the concern, improvement of communication between the management and employees and, finally, increase in employees commitment.

New directive 2009/38 brought in several improvements in EWCs regulations but failed to include all the propositions raised before. For instance, it does not guarantee the right to preparatory or summary meetings in addition to the plenary ones or it defines the note concerning supplying the EWCs representatives with essential agents too vaguely. However, the directive creates new opportunities which can potentially quicken and facilitate establishing new EWCs as well as strengthen the existing ones. The deadline for the implementation of the new directive to the legislation of member countries was on 5 June, 2011. Now, we need to wait for the effects of new regulations and evaluate if the main purpose of directive 2009/38 – strengthening the role and increase of EWCs effectiveness – was reached.

## References

- Carley M., Hall M. (2006), *European Works Councils and transnational restructuring*, European Foundation for the Improvement of Living and Working Conditions, Dublin
- Dyrektywa Rady 94/45/WE z dnia 22 września 1994 r. w sprawie ustanowienia Europejskiej Rady Zakładowej lub trybu informowania i konsultowania pracowników w przedsiębiorstwach lub w grupach przedsiębiorstw o zasięgu wspólnotowym*
- Dyrektywa 2009/38/WE Parlamentu Europejskiego i Rady z dnia 6 maja 2009 r. w sprawie ustanowienia europejskiej rady zakładowej lub trybu informowania pracowników i konsultowania się z nimi w przedsiębiorstwach lub w grupach przedsiębiorstw o zasięgu wspólnotowym*
- European Works Councils Experience in New EU Member States* (2006), Wilke, Maack and Partner Hamburg, ETUI-REHS, Brussels
- European Works Councils – Fact and Figures* (2006), ETUI-REHS, Brussels
- Europeizacja stosunków przemysłowych w funkcjonowaniu ERZ i rad pracowników – wymiana dobrych praktyk*, materiały z konferencji międzynarodowej, Warszawa, 16.04.2009
- Gardawski J. (2007), *Korporacje transnarodowe a Europejskie Rady Zakładowe w Polsce*, Szkoła Główna Handlowa w Warszawie
- Jagodziński R. (2011), *Europejskie Rady Zakładowe. Po piętnastu latach – sukces czy porażka*, 'Dialog', nr 2(29)
- Koczur S., Korus P. (2003), *Dialog społeczny – prawo pracowników do informacji i konsultacji*, Wyd. Universitas, Kraków
- Marginson P., Sisson K. (2004), *European Integration and Industrial Relations. Multi-level Governance in Making*, PalgraveMacMilan
- Skorupińska K. (2009), *Rola rad zakładowych w krajowych i transnarodowych przedsiębiorstwach europejskich*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź
- Skupień D. (2008), *Europejskie Rady Zakładowe*, Wyd. Dom Organizatora, Toruń
- Waddington J. (2006), *Revision of EWC Directive. How EWC members see it*, 'Mitbestimmung', 8/2006
- Wratny J. (2010), *Europejskie Rady Zakładowe oraz inne przedstawicielstwa pracownicze w organizacjach gospodarczych o zasięgu wspólnotowym* [in:] *Związki zawodowe a niezwiązkowe przedstawicielstwa pracownicze w gospodarce posttransformacyjnej*, J. Wratny, M. Bednarski (red.), IPiSS, Warszawa
- Wratny J. (1994), *Partycypacja pracownicza w prawie europejskim. Rozwój wśród przeciwnieństw*, Zeszyt 1(391), IPiSS, Warszawa
- [www.erz.solidarnosc.org.pl](http://www.erz.solidarnosc.org.pl)



## Streszczenie

### DOŚWIADCZENIA EUROPEJSKICH RAD ZAKŁADOWYCH

*We wrześniu 2011 r. minęła 15 rocznica wejścia w życie pierwszej unijnej dyrektywy powołującej Europejskie Rady Zakładowe (ERZ). W tym roku także zaczęła obowiązywać nowa wersja tej regulacji, tzn. dyrektywa 2009/38/EC. ERZ są formą reprezentacyjnej partycypacji pracowniczej na poziomie europejskim, która gwarantuje pracownikom prawo do informacji i konsultacji. Reprezentanci załogi otrzymali możliwość wyrażania swoich opinii o projektowanych decyzjach centralnego kierownictwa przedsiębiorstwa transnarodowego, które odnoszą się do pracowników we wszystkich zakładach tego przedsiębiorstwa. Niniejszy artykuł koncentruje się trzech głównych obszarach: roli Europejskich Rad Zakładowych w krajach UE, zasięgu tych instytucji partycypacji na poziomie europejskim i zmianach w funkcjonowaniu ERZ spowodowanych wprowadzeniem nowej dyrektywy. Głównym celem artykułu jest przedstawienie różnych rodzajów tych instytucji oraz próba oceny efektywności ERZ i ich wpływu na system stosunków przemysłowych w Europie.*