



REINVENT
the employee involvement
shaping the EWCs of the future

REPORT
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POLAND, SPAIN AND GERMANY
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**INFORMATION ON SHORTCOMINGS AND CHALLENGES FOR EUROPEAN
WORKS COUNCILS**

General questions:

- 1. Are there differences in the activities of EWCs according to the type of sector in which they operate? Are there differences between the service sector and trade that affect the activities and status of EWCs?**

Expert response:

There are fundamental differences in the activities of EWCs in the different sectors. There are visible differences between trade and services that affect EWC activity and status. The services sector is a broad term that encompasses all economic activities except agriculture, mining and manufacturing. It does not refer to the production of material goods. Still, it includes all services of a very diverse nature, such as commerce, banking, transport, insurance, tourism, public administration, health, education, arts, science and telecommunications. Jobs in the services sector require varying degrees of professional skills, from the most basic to the most complex, especially in communication, information and education. On the other hand, trade is

an economic process involving the exchange of goods and money at the wholesale or retail level. It is the activity of buying goods for resale. Among the many elements that differentiate services and commerce, the most prominent is the different employment status, which affects the size of the enterprise and its market position, as well as influencing labour relations. In commerce, there are large multinational companies that are easier to identify. In services, there is greater heterogeneity in the development of the activity, which affects the legal basis of employment used and the status of workers. On the other hand, the scope and size of enterprises are the main considerations for setting up EWCs. According to Directive 2009/38/EC, a "community-scale undertaking" is an entity that employs at least 1 000 employees in the Member States and at least 150 employees in each of at least two Member States.

In both sectors of the economy, regardless of the differences identified, which include, among other things, economic potential, type of ownership, generation of EU added value, nature and content of trade, sensitivity to the market environment, degree of use of modern technologies, there is a need to improve social dialogue and to develop collective agreements or other arrangements, of which there are too few. Employee participation is neither sufficient nor effective, especially in small and medium-sized enterprises. A characteristic feature of both services and commerce is the fragmentation of activities, although there are trends towards a concentration due to globalisation and increasing competition. Spaces for strengthening participation are emerging, but flexibility and the development of atypical forms of work, which impact the level of unionisation and the degree of representation of workers' interests, is becoming an issue that needs to be addressed.

It is difficult to expect that EWCs should operate in a standardised way. The needs, attitudes of each party, experiences and openness to social dialogue are different. However, it cannot be excluded that the main obstacles and challenges are similar because they derive from the nature of labour law.

2. What are the characteristics of a well-functioning and effective EWC?

List several (4-5) characteristics and describe each of them.

The experts' response:

Firstly, it should be noted that the functioning of EWCs has generally improved, especially after the transposition of Directive 2009/38/EC into national legislation. The

assessment of their role is the result not only of the introduction of new regulations but also of many years of the development of dialogue and the change of the social partners' approach towards employee involvement.

1) The first indicator of a well-functioning and effective EWC is the content of the agreement concluded between central management and employee representatives. According to the guidelines of the recast directive, the agreements governing the establishment and operation of the committees must include the conditions for their amendment, termination or renegotiation, especially in the event of a change in the layout or structure of the company. Furthermore, these agreements must lay down the arrangements for the articulation of the national and transnational levels of information and consultation of employees, adapted to the specific conditions of the undertaking or group of undertakings. These agreements must respect the reciprocal competences and the respective spheres of action of the employees' representatives, particularly concerning the anticipation and management of change. Under Article 6 of the recast Directive, central management and the special negotiating body must negotiate in a spirit of cooperation to conclude an agreement on the arrangements for informing and consulting employees.

2) An important aspect is the subsequent implementation of the provisions of the agreement, with particular emphasis on the attitude of management (central, local), respect for the principles of cooperation adopted, compliance with mutual obligations, understanding and acceptance of workers' positions, conciliatory decision-making on the part of the employer. Furthermore, the role of the special negotiating body, the level of protection of delegates, the confidentiality of information, the organisation and functioning of the EWC (number, punctuality, frequency of meetings, coverage of costs, provision of expertise and translation), as well as the relationship with other Community and national provisions on certain practices or procedures in the context of social dialogue on employment and working conditions should also be assessed.

3) Particular attention should be paid to the importance of the issues addressed and consulted. As set out in the recast Directive, the functioning of the internal market involves a process of mergers or takeovers, cross-border mergers, joint ventures and, consequently, their internationalisation. In order to ensure the harmonious development of economic activities, it is necessary for undertakings operating in two or more Member States to inform and consult the representatives of the employees who will be affected by their decisions. In practice, the

information and exchange of views in the framework of this dialogue covers questions relating to the structure of the company or group as a whole; the economic and financial situation and possible development of activities, including production, sales and investments; employment and growth; the introduction of substantial changes in organisation, new working methods, production processes, technology or the improvement of the environment; the transfer of undertakings or establishments, or a substantial part thereof, and the transfer of production to another entity; mergers and divisions; the reduction or cessation of activities; collective redundancies. The main focus is on issues related to relocation, restructuring, relocation of firms, reduction of employment, subcontracting and working conditions, as these are often linked to the increase in local unemployment. In addition, issues related to contemporary phenomena, such as digitalisation, globalisation and demographic changes, which change the world of work, are often raised. For example, a current issue affecting the functioning and activity of the company is the COVID-19 pandemic. Undoubtedly, consultations are easier when the economic situation is satisfactory. The company is growing and investing. On the other hand, a major challenge is to reach an agreement in a difficult situation for the company, when the employer plans to take decisions that are not acceptable to the workers.

4) It is important for the employer to have a responsible approach to cooperation with the EWC, which manifests itself in the transmission of information concerning the company's situation, which must be real and accurate. It sometimes happens that a false (symbolic) social dialogue takes place because the information transmitted is incomplete and late, burdened with a confidentiality clause that is not always justified. Moreover, there are no substantive and responsible talks, and the issues raised are already prejudged after the official announcement of the decision. The company management avoids confronting the problems, gives inaccurate (evasive) answers and attests to the one-sidedness of information and consultation. The effectiveness of EWCs is demonstrated by the different attitudes of the employer, who does not depreciate but strives for proper cooperation based on transparency, openness and equality.

5) One indicator that influences the good functioning of EWCs is the strength of employee representation. The presence of trade unions with experience in protecting workers' rights and interests is crucial. As a result, the flow of information and communication with workers is easier. Good relations with foreign trade union representations are also valuable, as they allow networking, exchange and broadening of knowledge and enable a better understanding of social and economic issues at the European level. Membership of European trade union structures and

an active common policy to promote and strengthen EWCs are useful. By supporting national organisations, it can be easier for them to influence the central leadership. It is important to have the will and the conviction to mutually benefit from solving problems that need to be known internationally. Companies with high organisational culture and maturity of the social partners are role models. EWCs are not an obstacle but a factor in the democratisation of industrial relations and dialogue within sustainable economic development.

- 3. What conclusions can be drawn from the European Commission's fitness check report on the implementation by the Member States of Directive 2009/38/EC 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 (recast)? The aim is to identify weaknesses and areas for improvement identified by the EC concerning the commerce and services sector.**

Expert response:

The identified weaknesses and room for improvement of the EWC apply to both services and trade. There are no specific deficits that differentiate these sectors after implementing Directive 2009/38/EC. Despite the heterogeneity of EWC performance, the problems are similar. They occur with a different intensity, depending on the situation of the company concerned. Their solution is influenced by the motivation, commitment, negotiation skills, substantive preparation of the workers' representatives, as well as by the attitude of the central management, which indicates the management strategy it follows. The evaluation of the implementation of the recast directive shows that it has had a positive effect and has boosted the creation of EWCs and the renegotiation of existing agreements, but has not stopped the downward trend in the number of EWCs. Although it has improved the clarity of the legal framework, increased awareness and understanding of transnationality, and ensured the appropriateness and flexibility of solutions, it has not been able to overcome the multiple and complex barriers often arising from employers' attitudes and approaches to regulation, the changing structure and size of companies, and establishment in countries with a weak tradition of social dialogue, which have prevented the creation or strengthening of existing EWCs. The recast Directive has improved information for workers in terms of quality and coverage but has been less effective in terms of consultation. Although EWC members have the right to express

their views, they have little real influence on decision-making, especially when restructuring takes place. However, there are isolated examples confirming the involvement of EWCs in the negotiation of transnational collective agreements, which is a great achievement considering their lack of formal competence in this area. The advantage of the recast Directive is that it gives the Member States the freedom to adapt its provisions to national industrial relations and legal systems, mainly concerning determining the forms of appointment or election of workers' representatives, their protection and the establishment of appropriate sanctions for infringements. From here, it only remains to disseminate the rules for setting up EWCs and point out their advantages, explaining the importance of information and consultation. Practice varies due to the weakness of the Social Dialogue in some countries, the different legal system (universality and uniformity of legislation), insufficient will and initiative of workers, the resistance of employers, fragmentation of companies in both sectors and their lack of unionisation, organisational difficulties. The problem is insufficient knowledge and inadequate preparation of members for their roles in the EWC. It is therefore important to provide training to increase the competence and professionalism of the cooperation.

CATALOGUE OF COMMON SHORTCOMINGS OF THE EWCs IN THE TRADE AND SERVICES SECTOR

When describing the shortcomings, they should be broken down separately for each sector: trade and services, if the experts have identified such differences. If similar problems are recognised, they should be presented together.

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FIRST TYPE OF SHORTCOMING
<p>Poor communication between EWC members at the international level and the company's staff and management.</p> <p>These shortcomings are present in both sectors but can be much more pronounced in services due to the greater complexity and diversity of activities and the dispersion of trade union representation. There are also differences between sectors in terms of the effectiveness of the impact and status of EWCs.</p>
REASONS FOR THE SHORTCOMING

The reasons for poor and incomplete communication can be diverse. They depend on the willingness and commitment of the employer to provide complete and up-to-date information to EWC members. It is important to understand the content provided and to interpret it correctly. A practical problem is the knowledge of foreign languages and translations. There are situations where central management makes a superficial transfer for fear of a negative reaction from the EWC or transfers complex documentation with a confidentiality reserve that is sometimes abused. Sometimes employee issues are deliberately overlooked as difficult and contentious issues that highlight the parties' differences in how they protect their own interests.

EFFECTS OF THE SHORTCOMING

It is important to communicate clearly, transparently and openly. Otherwise, worker dissatisfaction increases, misinformation arises, and genuine and thorough consultation is lacking, leading to conflict and collective worker discontent.

WAYS TO ELIMINATE/REDUCE THE SHORTCOMING RECOMMENDATIONS FOR ACTION

A homogeneous and formalised system of information exchange providing adequate preparation of EWCs to act at the international level can be useful. Information should be provided using modern communication channels (media). Thanks to new technologies, conditions are created to collect relevant data and provide knowledge at a distance. Training can be provided using a modern formula (e-learning). An efficient and widespread flow of messages ensures cooperation between EWC members and speaking with one voice to the company management. Appropriate cooperation tools should be provided, and virtual communication platforms (spaces) should be used. There are opportunities to improve (dynamise) cooperation, and they just need to be put into practice. Employers should strive to create adequate infrastructure and introduce appropriate provisions in contracts and agreements defining the principles of EWC functioning.

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SECOND TYPE OF SHORTCOMING

Inadequate representation of company management and related different attitudes. Participation in meetings of lower-level staff without decision-making power.

REASONS FOR THE SHORTCOMING

The problem is the negative attitude towards the role and competences of EWCs, particularly the inability to see the long-term benefits of social dialogue. It is important to be aware and convinced of the co-responsibility of workers, of their increasing involvement and not to look through the prism of costs or time-consuming cooperation.

EFFECTS OF THE SHORTCOMING

Treating EWCs as a costly obligation rather than a forum for cooperation with employees. Employers accept EWCs only because they are obliged to do so, which does not serve to build social dialogue, including the realisation of the right to information and consultation. Then the activity is reduced, EWCs do not function properly, there are no in-depth discussions.

WAYS TO ELIMINATE/REDUCE THE SHORTCOMING RECOMMENDATIONS FOR ACTION

Require the involvement of an entity entitled to act on behalf of the employer under national law. As defined in Article 2 of the recast Directive, "central management" means the central management of the community-scale undertaking or the controlling undertaking in the case of a group of such undertakings.

Awareness should be raised and encouraged because it is better to fulfil certain duties out of conviction and respect for others than by coercion and the threat of sanctions. Moreover, the responsible approach to cooperation is demonstrated by legally required company representation.

THIRD TYPE OF SHORTCOMING

Failure to exploit the potential of the digital economy. The phenomenon of digitalisation is becoming a permanent feature of the modern world, a challenge for the emerging information society. It should therefore be better used to strengthen EWCs in services but also trade. In addition, the distinction between the pace of digital development in public and private services deserves attention.

REASONS FOR THE SHORTCOMING

The digital economy is universal and affects all sectors and an increasing number of transactions. What distinguishes it by sector is the scale of the problems and the different demands for new technological solutions, including increasing access to the Internet and its resources and implementing electronic mechanisms in businesses. These include using

various types of applications and solutions for service and communication with customers or the management of internal company processes, work improvement, image creation, contact with the environment. Deficits and delays in development are visible and must be eliminated to increase the competitiveness of enterprises and the attractiveness of employment. They are also perceptible in trade union activity, which translates into weaknesses in the functioning of EWCs. Several factors influence digitalisation, mainly economic, infrastructural and social conditions.

EFFECTS OF THE SHORTCOMING

The digital economy creates a great asymmetry. Some areas, both thematically and spatially, lag far behind. Digital exclusion appears. Obsolete technology negatively affects the activities of companies and translates into the level of modernity of trade unions in the implementation and application of digital solutions. The type of work (specificity) and professional qualifications play an important role. The requirements are different for a specialist or a manager than for an employee performing simple physical tasks. The forms of employment and working conditions are different, as is the demand for digitalisation. If companies want to be competitive and care about maintaining their market advantage, they must undergo digital transformation.

WAYS TO ELIMINATE/REDUCE THE SHORTCOMING RECOMMENDATIONS FOR ACTION

Companies should implement digital strategies adapted to their activity and business model. Indeed, digitalisation is becoming a key tool to increase efficiency (including banking, e-commerce, telesales, e-commerce (the Amazon experience), e-consulting) and build a global brand. Traditional forms of activism are unattractive. Trade unions need to be involved in a continuous process of change, and improvement of IT skills, e-communication, knowledge of equipment handling because there must be a balance in the way content is communicated and assimilated.

Workers need to be prepared for innovation, typicality, flexibility and speed. This applies particularly to services and commerce as sectors sensitive to new phenomena in the economy (e.g. platform and remote working), based on atypical employment. Hence, a major challenge is harmonising working conditions at the international level and conducting social dialogue.

FOURTH TYPE OF SHORTCOMING

Insufficient unionisation. The too weak influence of trade union organisations in shaping industrial relations, due to the specificity of enterprises operating in the service and trade sectors.

REASONS FOR THE SHORTCOMING

Social rejection, not seeing the benefits, individualisation, lack of solidarity, focus on one's career development, generational changes, atypical employment, free movement of workers. A common phenomenon is the development of flexible forms of work, both in terms of legal basis and organisation. The move away from typical (classical) employment is particularly visible in trade and services. New conditions and opportunities for economic and civil development result in the spread of transnational corporations, the creation of interdependent economies, the penetration of societies, the expansion of mass services as a response to the population's needs regardless of their spatial location. Multidimensional globalisation (economic, technical, socio-cultural and political) is taking place. It is visible in the expansion of the world market, the concentration and integration of business activities, the liberalisation of trade and the free movement of capital (material and financial), the emergence of international financial, service and industrial corporations and the corresponding general competition, the lack of restrictions for undertaking business investments, the acceleration of the internationalisation of economic relations, the strengthening of their interdependence and the clear penetration and convergence of markets, especially between the EU Member States. Socially, universalism manifests itself mainly in general attitudes and orientations, in consumer lifestyles that favour the expansion of commercial and service offerings, both in terms of the service itself and how it is provided, in the mobility of people brought about mainly by economic migration, in the emergence of new institutions and forms of organisation, in the free flow of information, the expansion and intensification of networking, and the mixing of cultures, views and values. A contemporary phenomenon is the increased integration not only of countries but also of people, brought about by the enormous reduction in transport and telecommunications costs and the removal of artificial barriers to the flow of goods, services, capital, knowledge and people. The reason for this integration is economical, social and civil, including environmental protection, demographic changes, scientific and technological progress, security and health protection (the fight against epidemics).

Transnational corporations carry out highly complex activities involving, among other things, the transfer of capital, technology, legal solutions, cultural patterns, management methods, as well as the conclusion of global strategic alliances (mergers and acquisitions) to dominate the market. They contribute to the restructuring of sectors, activate local (regional) entrepreneurship, transmit new working and management patterns, and require constant upgrading of professional skills. They are not closed to the national level in search of scarce human resources. On the contrary, they check their availability in all possible parts of Europe and the world. Hence their determination to overcome barriers in the international flow of labour. All these changes are giving rise to a new perspective on employment. In both sectors, flexible and atypical ways of organising and performing work are popular, especially when direct customer contact is not required. This mainly concerns the back-office area (e.g. management of accounting, legal, consulting and controlling issues). Call centres and shared services centres are also developing. Homesourcing, which involves the transfer of complete business models from a company (office) to home workers with appropriate IT equipment, as a combination of outsourcing and teleworking, is gaining importance. Another form is using online platforms to match companies, institutions or individuals with contractors for specific jobs. Non-employment contracts under civil law accompany these types of activities. These are short-term temporary contracts, often established through agencies, business-to-business contracts, online work. Often the worker acts as a freelancer with business risks and labour costs. In the case of remote work, the problem is isolation and marginalisation, lack of integration into the workforce and lack of opportunities for privileges. This leads to excessive asymmetry in the relationship between the parties to the employment relationship. Working conditions and remuneration are largely unsatisfactory. Disparities regarding workers' rights are evident if the tasks to be performed are simple, physical, routine, do not require a specific professional qualification or are performed by foreigners. An additional problem is low awareness of the need for unionisation and an unfavourable employment situation. Temporary workers, off-line workers and external contractors are categories that are not interested in unionisation. As a result, there is no adequate representation to protect their collective interests, ensure compliance with regulations or participate in the participatory process. Therefore, there is a need to strengthen union activity.

EFFECTS OF THE SHORTCOMING



Weak dialogue, the insufficient role of trade unions, inability to provide adequate protection for workers, excessive freedom of employers in the company's management, low impact of transnational information and consultation mechanisms.

**WAYS TO ELIMINATE/REDUCE THE SHORTCOMING
RECOMMENDATIONS FOR ACTION**

Workers should be encouraged to join trade unions and convinced of their usefulness and subsidiarity. It is necessary to reach out to young people and show them the attractiveness of unionisation. In the context of the functioning of EWCs, there is a need to improve communication between national trade unions to increase the involvement of European (sectoral) organisations by creating a platform for cooperation, networking to ensure coherence, uniformity of protection. A strategy is needed to organise new structures appropriate to the situation in the different countries and sectors. A common element in most initiatives should be the creation of special commissions or committees for specific categories of workers distinguished by their social and professional characteristics, integrating and activating the environment, and including these groups' problems in trade union programmes and activities. It is useful to train, recruit, and prepare future leaders for specific roles and modernise the external image of trade unions, which is stereotypically associated with older people working in old-fashioned industries.

FIFTH TYPE OF SHORTCOMING

Insufficient competence and skills of EWC representatives.

REASONS FOR THE SHORTCOMING

EWC representatives lack substantive preparation to deal with issues related to social dialogue. Another obstacle is the lack of knowledge of foreign languages (mainly English), as well as the lack of understanding of the differences in legal systems, historical and constitutional conditions, organisational culture and mentality of the society of a certain country, which can be useful for establishing transnational relations and strengthening links between EWC members.

EFFECTS OF THE SHORTCOMING

Skills deficits have a negative impact on the effectiveness of the EWC's work, as the EWC has insufficient leverage. It is more difficult to ensure good cooperation, understand the employer's reasons, and achieve an effective exchange of information and consultation. There

is no adequate centralised management for dialogue and employee participation. There is an apparent superiority and dominant position on the part of the company, which often means that the role of the EWC is marginalised.

WAYS TO ELIMINATE/REDUCE THE SHORTCOMING RECOMMENDATIONS FOR ACTION

Thanks to professionalisation, EWCs are functioning better and better, which should be emphasised because the process of their improvement is a long-term one. Systematic training of EWC members is necessary to acquire or complete professional knowledge. Due to the compression of time and space, the need to adapt to changing conditions and the deepening of dependencies and economic links, the multifaceted unification of social life, continuous training is becoming more and more important to meet the challenges posed not only by the company but by the whole sector. Meetings at the international level are useful for exchanging experiences, best practices and looking for models for problem-solving. The effectiveness of members' activities depends largely on communication skills derived from knowledge of foreign languages and the possession of negotiation skills. Easier access to expertise and advice is desirable. An external coordinator with negotiation skills on behalf of the EWC could be a great support, as could the wider use of specialists who, by preparing analyses and explaining issues before meetings with central management, help board members to assimilate the economic, organisational and production issues of the company. This improves the flow of information and consultation. It is important to select EWC representatives who are willing to perform their duties and are able to act responsibly. Most of the time, they are representatives of the authorities of the company's trade union organisations. Their professionalism is demonstrated not only by their knowledge of substantive issues but also by their ability to solve various problems, their networking skills and their organisational preparedness. They can use the experience gained in their activities to protect workers' rights and interests.

Mastery of the subject matter makes discussions concrete, objective and of equal standing. As a result, it is easier to understand the complexities of different phenomena and the justification for implementing specific actions. As a result, agreements are upheld and implemented, as company management is open to cooperation and takes trade unions seriously as an ally in resolving difficult issues. This shows that dialogue is constructive, based on transparency and equality, and that a functioning EWC is real support for

employees, regardless of the country of origin of its members, which is a great advantage in the case of newly created structures.

SIXTH TYPE OF SHORTCOMING

Insufficient transparency and effectiveness of legislation.

REASONS FOR THE SHORTCOMING

The reasons for the shortcomings include the vagueness and generality of the provisions of the recast Directive 2009/38/EC, as the initial act creating the objectives, principles and functioning of EWCs. Moreover, there are interpretative doubts arising from national provisions that do not simplify the process of setting up and operating an EWC. An additional problem is the weak sanctioning function of the regulation, which does not enforce compliance with the rules. There is a lack of control and supervision over the implementation of the right to information and consultation. Employers interpret the law in their favour and avoid complying with their EWC obligations. Although the Directive has improved and clarified the provisions, abuses still occur, as management seeks more devious ways to fake dialogue. There are no legal tools to enable EWCs to demand information and consultation effectively.

EFFECTS OF THE SHORTCOMING

EWCs are not adequately fulfilling their tasks of information and consultation as an expression of workers' participation in transnational companies. There is no common platform for exchanging positions on economic and labour issues that determine the future of industrial relations in each country where the company operates. There is little or no synergy, sense of justice and solidarity among workers. Communication, exchange of good practices and experiences to shape, understand and implement solutions to multinational problems are limited.

WAYS TO ELIMINATE/REDUCE THE SHORTCOMING RECOMMENDATIONS FOR ACTION

A legislative initiative or a review of existing EWC agreements is needed to amend legislation to avoid irregularities. In addition, adequate monitoring of the functioning of EWCs, which operate inadequately, sometimes in a façade manner, should be considered. Monitoring tasks could be carried out by specially created internal bodies, composed of

representatives of the social partners and experts, to verify the organisation and activities of EWCs, check their ability to fulfil the competences assigned to them properly, carry out evaluations, draw up reports and exchange comments and proposals to harmonise the rules. In case of disagreements (disputes), these bodies would have mediation (conciliation) powers, allowing round tables to be held, if necessary, with external support (e.g. European trade union structures). In addition, they should have the appropriate tools to influence employers to convince and recommend them to cooperate with the EWC. It is important that these bodies have the necessary authority and weight because they will only be able to meet the challenges of monitoring and coordinating EWC activities.

Too weak a sanction for non-compliance with the EWC law by employers justifies the need to increase the regime of the Directive and national regulations. High financial restrictions can be effective. Solutions to clarify the procedures, timing and frequency of EWC meetings should be considered.

CATALOGUE OF COMMON CHALLENGES FOR THE EWCs IN THE TRADE AND SERVICES SECTOR

In describing the challenges, they should be broken down separately for each sector: trade and services, if the experts have identified such differences. If similar problems are recognised, they should be presented together.

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FIRST TYPE OF CHALLENGE CORRESPONDING TO THE IDENTIFIED SHORTCOMING
Improve communication between all parties involved in the information and consultation process, i.e. EWC members themselves, employees and their representatives, management (central, national) of the company.
DESCRIPTION OF HOW TO IMPLEMENT/ACHIEVE THE OBJECTIVE
The aim is to make better use of electronic means of communication, following increasing digitalisation and the development of new technologies, and to organise face-to-face meetings, making it easier to maintain interpersonal relations, as clearly confirmed by the COVID-19 pandemic. In the face of unforeseen events affecting working conditions, the role of EWCs cannot be overestimated. Workers expect to be informed and consulted to ensure their legal protection and know what is coming for the company. Direct contact is especially necessary when cooperation is remote, at a distance.

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SECOND TYPE OF CHALLENGE CORRESPONDING TO THE IDENTIFIED SHORTCOMING
Ensure that the company's management is properly represented and has a respectful attitude towards workers' participation in the form of EWCs.
DESCRIPTION OF HOW TO IMPLEMENT/ACHIEVE THE OBJECTIVE
Demand the involvement of central management in the exercise of workers' transnational information and consultation rights. Publicise the inappropriate attitudes of employers who avoid a real dialogue. Carry out awareness-raising actions, influencing the company's image, by referring to national rules or measures that should ensure compliance with the obligations of those involved in the establishment and functioning of the EWC. One point of reference is Article 11 of the Directive, which requires establishing an appropriate administrative or judicial procedure.

THIRD TYPE OF CHALLENGE CORRESPONDING TO THE IDENTIFIED SHORTCOMING
Exploiting the potential of the digital economy.
DESCRIPTION OF HOW TO IMPLEMENT/ACHIEVE THE OBJECTIVE
Digitalisation in social dialogue is becoming an urgent necessity, a major challenge, as evidenced by contemporary phenomena, especially the COVID-19 pandemic, which requires remote networking to stay safe from mass public morbidity. Companies are increasingly relying on modern information and communication technologies. This must be followed by employee representation so that they can match their substantive and organisational preparation to the employer's requirements and expectations in terms of the level of digital sophistication. Furthermore, developments in electronic communication affect the functioning of trade unions, which must not lose their relevance, despite the development of flexible forms of employment based on electronic systems.

FOURTH TYPE OF CHALLENGE CORRESPONDING TO THE IDENTIFIED SHORTCOMING
Strengthening the role of trade unions through membership growth, networking and the creation of national (regional), sectoral and international EWC support structures.
DESCRIPTION OF HOW TO IMPLEMENT/ACHIEVE THE OBJECTIVE
The power of national trade unions is translated into the activities of international organisations, which are more powerful vis-à-vis EU companies. Hence the need to strengthen relations within European structures. Another challenge is to ensure membership growth. The potential is created by young people, who can be reached through IT tools and channels (social networks) and the right people (bloggers, YouTubers). A new image and a reshaping of trade union organisations are needed to make them an attractive representation of workers. Fragmentation and politicisation of trade unions must be avoided. These characteristics, which are a legacy of the transition in Central and Eastern European countries, are perceived as weakness and dependence on the public authority. The challenge is good practice, as problems are not always due to the nature of the legislation. It makes sense to link trade unions more closely to the EWC, so that there is a dual representation of workers to ensure fairness, credibility and effectiveness. If most workers belong to a trade union organisation with representatives in the EWC, the power of influence is greater. There is wider access to knowledge and a more efficient flow of information. In the case of independent (non-unionised) representation, it is much more difficult to get satisfaction with the functioning of the EWC, create a network of contacts and links, ensure good cooperation, and influence prepared positions (opinions). Therefore, the position of trade unions is crucial.

FIFTH TYPE OF CHALLENGE CORRESPONDING TO THE IDENTIFIED SHORTCOMING
Increasing the competences and skills of EWC representatives.
DESCRIPTION OF HOW TO IMPLEMENT/ACHIEVE THE OBJECTIVE
Training and various forms of (certified) further training are important, as well as the dissemination of knowledge through the development of manuals, commentaries and reports in areas useful for implementing the information and consultation process. In this context,

Article 10 of the Directive, which stipulates that EWC members shall have access to training without loss of remuneration insofar as it is deemed necessary to exercise representative functions in an international environment, is useful. In addition, the social partners need to be provided with technical, organisational, financial and technological means to involve better and support the EWC.

SIXTH TYPE OF CHALLENGE CORRESPONDING TO THE IDENTIFIED SHORTCOMING
Transparency and effectiveness of legislation.
DESCRIPTION OF HOW TO IMPLEMENT/ACHIEVE THE OBJECTIVE
The most far-reaching demand is to change existing legislation. A review of national practice is warranted. A different interpretation, a clearer understanding of undefined terms in the Directive (e.g. confidential information, adequate means to enforce obligations, cooperative work) can also improve the functionality of the EWC. Mutual obligations between management and EWC members need to be reviewed to eliminate unfair practices, develop a stronger basis for cooperation, and protect common interests.

OTHER TYPES OF CHALLENGES
<ol style="list-style-type: none"> 1. Sensitisation of the social partners to assimilate the differences between societies in the Member States and seek the best (constructive) solutions for industrial relations and collective bargaining at a transnational level that affect the functioning of EWCs. 2. EWC involvement in employment conditions issues, despite its limited capacity to influence the employer, but with competence for dialogue. 3. Preparation of reports to analyse company management's inappropriate actions and formulate strategies to prevent irregularities and unfair competition. 4. Organisational improvement of EWCs (planning, regularity). 5. Introduction of other forms of dialogue (alternatives) to EWC meetings, which do not work well with many members. 6. Breadth and cohesion of activities, openness to innovation, popularisation of EWCs.

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COMMON INDICATORS FOR THE EVALUATION OF EWCs IN THE TRADE AND SERVICES SECTOR

Depending on the reporting period adopted, i.e. a short-term perspective (covering several months) or a long-term perspective (covering the next 2-3 years), selected indicators can be used to assess the EWC situation. It is important to establish a baseline to subsequently check whether there have been improvements in specific areas of implementing the right to information and consultation of workers in the services and trade sectors at the EU level. Due to the diversity of issues, measurements (quantitative, qualitative) should be chosen accordingly.

FIRST TYPE OF INDICATOR
Increasing the number of EWCs and the agreements that determine their functioning. Review of existing agreements and evaluation of the provisions contained therein.
SECOND TYPE OF INDICATOR
Increased level of trade union membership in commerce and services. By strengthening worker representation, the activity and effectiveness of EWCs, which are closely linked to trade union structures, will increase.
THIRD TYPE OF INDICATOR
The sustainability of distance communication solutions intensified with the outbreak of the COVID-19 pandemic and the extent to which the digital economy is used to improve the functioning of EWCs and their impact on collective bargaining. Therefore, it is useful to elaborate analyses at the national level on the development of industrial relations with ICT means, which circulated widely in connection with the pandemic, and on their subsequent use as a permanent phenomenon in the stream of socio-economic changes and as a manifestation of the technological progress that distinguishes the knowledge-based information society (remote employment, via Internet platforms, e-work). Remote communication is an important challenge in employee information and consultation, as it is increasingly used in innovative services and commerce.
FOURTH TYPE OF INDICATOR
Increased competence of EWC members. Training adapted to their needs is needed, taking into account the specificities of the sector and the market. Further training should cover, among other things, digitalisation, new forms of employment and dialogue, entrepreneurship

and management. In addition, it is essential to improve foreign language skills. It is important to learn about trade union mechanisms and participation systems in different countries in seminars and meetings. This has implications for the coordination of trade union activities and the position of EWCs at the EU level. The number and types of training can demonstrate the improvement of EWC members' competence and the evaluation of the knowledge transferred.

FIFTH TYPE OF INDICATOR

Scale and quality of solutions (techniques, tools) to improve communication between EWC members, employees and company management. Examination of the frequency and speed of transmission of specific information, the issuing of positions (opinions, questions, reports), the degree of involvement of experts to clarify issues, if necessary.

SIXTH TYPE OF INDICATOR

Types of organisational reinforcement of the EWC by checking the identified deficits, e.g. number of meetings, day-to-day activities of the office (secretariat) serving the social partners, catalogue of expenses covered by the employer.

SEVENTH TYPE OF INDICATOR

Verification of employer representation to determine whether the central management of an EU company is adequately represented.

EIGHTH TYPE OF INDICATOR

Recognition of changes in social partners' attitudes and approaches to common challenges, acceptance of new phenomena, and other methods to influence industrial relations.

NINTH TYPE OF INDICATOR

Identification of amended legislation or the practice of its implementation with an assessment of the impact of the new legislation.

TENTH TYPE OF INDICATOR

Analysis of the level of improvement of the effectiveness of EWCs as a tool to support the improvement of social standards across the EU.

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TIMETABLE OF ACTIVITIES PLANNED FOR THE PROJECT

- Steering Committee meeting (*kick-off meeting*), 23 June 2021
- ↓
- Online expert working session, 28-29 July 2021; participation of experts from Poland, Spain, Germany; the outcome of the work: drafting of a paper on EWC deficits and challenges for the trade and services sector
- ↓
- Research seminar (*focus group + in-depth interviews*), Italy: participation of 2 persons from each partner organisation - September/October 2022
- ↓
- Preparation of an online course to be made available on a professional online platform: responsible expert from Poland; November/December 2021
- ↓
- Conducting an online training in each country for EWC members and negotiating agents who have the potential to manage the process of setting up a new EWC; participation in a two-day training of a group of 10 persons - February/March 2022
- ↓
- Two-day foresight workshop, organisation of an event in Poland; the workshop should result in a draft document containing the key assumptions of the final document, which will eventually be elaborated by an expert from Poland, May 2022
- ↓
- Preparation of a follow-up strategy document, responsible expert from Poland: July 2022

- end of the project -

Prepared by:

Expert leading the meeting

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Federacja Przedsiębiorców Polskich

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