



Workers' information, consultation and participation

This briefing note was originally produced on 30 March and has been updated on 16 April, on 7 May, on 15 May and on 5 June to take account of further information on and developments at European level and in Croatia, France, Germany, Poland and Spain.

Introduction

Due to the Covid-19 outbreak, a range of measures are being taken at EU, national, sectoral and workplace levels. In a spirit of solidarity, the ETUC aims at supporting its affiliates by providing information on the different experiences in dealing with the management of the Covid-19 crisis.

This briefing provides inputs on the role of workers' information, consultation and participation rights in dealing with the Covid-19 crisis. Such a briefing, regularly updated, is only possible with the large and much supportive contribution and coordination of ETUC affiliates, in particular the European Trade Union Federations, and the ETUI. Thank you for your solidarity!

Further information can be found on the [ETUC dedicated webpage](#) that contains ETUC statements, European social partner statements, and most importantly national bi-partite and tri-partite agreements on dealing with the impacts of the coronavirus emergency.

One note of caution, this briefing note captures a dynamic situation which is subject to ongoing change. We therefore kindly ask affiliates to provide us with further information on COVID 19-related measures that have been introduced in their country so that we can update this briefing note.

Workers' information, consultation and participation rights

In crisis, workers' information, consultation and participation rights at the workplace play a key role, as intrinsic parts of corporate governance. It is essential that the interests of the workforce are also included in a company's response to the crisis. European Works Councils and SE Works Councils, as well as workers representatives, including H&S representatives, and national works councils are key actors to protect and promote collective and individual workers' rights and working conditions.

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As is clearly laid out in EU and national legislation, workers' rights to information and consultation covers *inter alia* the undertaking's or the establishment's activities, the economic and employment situation and forecasts, and any anticipatory measures envisaged, in particular where there is a threat to employment, as well as decisions likely to lead to substantial changes in work organisation, working environment and contractual relations.

According to EU legislation, the timing and quality of the information provided must allow workers' representatives to undertake an in-depth assessment of the possible impact of the measures and prepare for consultation. Consultation includes the establishment of dialogue and exchanges of views between the management and the workers representatives with a view to reaching an agreement on issues under discussion, before decisions are taken, including the possibility to meet with management and to obtain a reasoned reply to any opinion of workers' representatives.

EWCs and SE Works Councils play a key role for information and consultation of workers in undertakings and bodies and group of undertakings operating at European level.

Workers' information and consultation rights are essential in the areas of health and safety. Workers' representatives must be informed and consulted about the measures taken to protect occupational safety and health and to ensure that workers are protected from dangerous or risky working conditions. This applies also to measures relating to work equipment, protective clothing and teleworking arrangements.

Obviously, the Covid-19 pandemic has a huge impact on health and safety, work organisation, companies' economic and financial conditions and other issues. Whether it is due to complying with social distancing measures, or because the supply of parts from a directly impacted site is interrupted, or the reduction of demands on the market, companies may be obliged to temporarily shut down or to radically change the way they work. The management of the crisis and its different aspects must be subject of information and consultation at the local, national and transnational level, in particular with regard to any developments or changes. The consequences and management of the Covid-19 crisis are transnational issues to be dealt with also by EWCs. Since the Covid-19 pandemic crisis is sweeping across Europe, it is clearly impacting multinationals in complicated ways. This is where EWCs have a crucial role to play. For example, if a company operating across the EU cuts working hours or shuts down in response to the crisis, the EWC needs to be informed and consulted on those developments and the way in which workers are protected. The European Trade Union Federations have

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issued concrete recommendations to support EWC/SE-WCs in playing their part in the management of the COVID-19 (please find them attached).

Workers' participation rights are equally a cornerstone of sustainable corporate governance. In 19 out of 31 EEA Member States board-level representation is a right including the right to elect or appoint a number of members of the company's supervisory board / board of directors. In those Member States, workers' board level representatives play a relevant role in managing the current crisis.

In particular, the unprecedented Covid-19 crisis requires management and labour to work hand in hand to protect workers, and

- 1) provide necessary and sufficient sanitary and security measures and equipment at plant level to workers who cannot work remotely,
- 2) focus efforts on prevention including social distancing at the workplace, adapting working time to prevent workers from commuting during rush hours, ensuring the continuity of employment and maintaining decent working conditions,
- 3) rapidly adapt to rash development in the crisis and provide for relevant steps and decisions in close coordination with trade unions and workers representatives to protect workers such as the organisation of telework, and income support schemes for workers whose income and jobs are affected and support impacted companies,
- 4) fully respect national and EU legislation, and in particular of information, consultation and participation rights, including in the area of health and safety.

Inter alia, it is necessary to underline that emergency situations and measures cannot suspend and need to be fully in line with:

- 1) the provisions of (the relevant national legislation transposing) Directives 2002/14/EC establishing a general framework for informing and consulting employees, 98/59/EC on collective redundancies, and 2001/23/EC on transfers of undertakings, the Takeover Bid Directive of 2004/25/EC and the recent Directive 2019/2121 on cross-border conversions, mergers and divisions, as well as other European and national legal instruments regulating workers' information and consultation rights.

Workers' information and consultation rights are particularly key when it comes to health and safety matters. It is necessary to ensure that the provisions of (the relevant national legislation transposing) EU Directives on health and safety which include provisions on workers' information and consultation are fully respected; European Framework Agreements also play an important role in this area;

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- 2) the provisions of EWC or SE-WC agreements and of (the national legislation transposing) Directive 2009/39/EC on European Works Councils, Council Directive 2001/86/EC on involvement of employees in SEs, and Directive 2003/72/EC on European cooperative society. A key role for those transnational bodies of worker representation to play is to urge central management to take concrete actions towards protection of workers' health, maintain workers' jobs, employment, and income, maintain decent and safe working conditions in terms of working time, work organisation and working environment; and
- 3) the provisions of national and European legislation regulating workers' participation rights, including board-level representation rights.

On 20 May 2020, the ETUC and the European Trade Union Federations sent a letter to Commissioner Schmit on *Anticipating and managing the COVID-19 crisis impact on jobs and workplaces: Swift action needed to enforce rights to worker involvement*.

The letter states *inter alia* that “at one of the most critical times for European workers, their workplace representatives must – both at the national and the European level, and before any decision is taken – have:

- timely access to meaningful and comprehensive up-to-date information about the likely impact of the COVID-19 crisis on the company economic performance, on the jobs and working conditions;
- enough time and resources to run in-depth assessment of the information provided with the support of economic/financial experts to work on alternatives to redundancies, closures, and any other measures which would negatively impact workers' interests;
- the genuine opportunity to discuss those alternatives with real decision-makers, including top management and board members (if any), who must provide a motivated response to the proposed alternatives and justification for the final decision which will be made;
- the guarantee that non-compliance with information, consultation and participation obligations warrant deterrent sanctions, i.e. the suspension of the management decision until workers' rights are properly respected”.

The letter calls on the European Commission “to deliver concrete and rapid actions to guarantee the effective enforcement of EU workers' rights to be informed, consulted and to participate in decision-making before any decision is adopted”, including a confirmation that

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Covid-19 is a transnational matter, on which the EWCs should be properly informed and consulted.

Examples and specific situations with regard to workers' information, consultation and participation rights and the management of the COVID-19 crisis

- In **Austria**, one of the circumstances which make the application of the short time work scheme (*Kurzarbeiterhilfe*) possible is that companies must consult workers' representatives (involving the works council) with the aim of identifying potential alternatives to short time work [for further information on this scheme and on Short Time Work Measures across Europe, please consult the relevant [COVID-19 Watch Short Time Work briefing note](#)].
- In **Belgium**, the national social election (4-yearly elections for staff representatives in works councils and health and safety committees) was to take place between 18 and 31st march. The social partners decided to postpone the elections to the fall. This means the (strict) procedures and steps that have to be taken by the companies are suspended and the current workers' representatives will continue to exercise their functions.
- In **Croatia**, the Ministry of Labour and Pension System was, without informing let alone consulting the trade unions, drafting an Act on regulating labour relations in the circumstances of the COVID-19 epidemic, which would have brought some important changes to fundamental social rights as they are currently enshrined in the Croatian Labour Code.
The law would have "temporarily" – amongst others – abolished the obligation of the employers to consult works councils prior to adopting decisions on key employment and working conditions.
Following immediate and strong reactions of ETUC affiliates, SSSH/UATUC and NHS, and with the full support of ETUC (as well as EPSU and ITUC), however, the Croatian government announced those reform plans will be abandoned.
- **The French emergency law** to deal with the Covid-19 epidemic was passed by Parliament on Sunday March 22, 2020.
The law provides for modifying the information and consultation procedures for employee representative bodies, in particular the Social and economic committees (CSE), to enable them to issue the required opinions within the time limits set. It envisages to systematize the use of videoconferencing for the consultation of the

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CSE, beyond the limitation to 3 meetings per year which exists today. It is certainly useful to adapt the information and consultation procedures for staff representatives so that they can effectively exercise their powers during this health crisis. However, such measures should remain exceptional and vigilance is required.

Consultation with staff representatives involves an exchange of information, a dialogue, which necessarily precedes the decision of the business manager, otherwise it is useless.

With Ordinance 2020-323 of March 25, however the government allows companies to take measures that deviate from collective agreements and enterprise agreements on the taking of paid leave and even public policy rules regarding the maximum daily and weekly working hours (up to 12 hours per day and 60 hours per week) for companies "in sectors of activity that are particularly necessary for the security of the nation and the continuity of life, economic and social development."

Consultation with staff representatives becomes a simple advance information. It's a paradigm shift, a regression at a time when social dialogue has a prominent place in the organisational choices of the company in order to ensure the best economic and social life of the nation.

In this unprecedented and staggering period, the French government puts in brackets the role of staff representatives in the company. Normally, and probably even more so in times of crisis, the social and economic committee must be consulted by the head of the company on all matters affecting the economic and financial situation of the company but also the social policy, health, safety and working conditions of employees.

Since the beginning of the state of health emergency, staff representatives have been carrying out their role with increased awareness of their skills and responsibilities. More than ever, they are the bridge between isolated and worried employees and their management, in search of the right balance between the protection of health and the "necessities of service" as they say in the public service. To involve social partners in serious decisions that affect the health of employees, their safety in the life of companies today, refers to what underpins our social dialogue: hearing the voice of workers. Trade unions and workers representatives are mobilized, and meetings follow with the use of video conferencing, conference calls and instant messaging authorized by the April 2 order (Article 6); social partners are at work.

Further changes were then adopted on the 15th of May (with the approval of the *loi portant diverses dispositions liées à la crise sanitaire*). Amongst the controversial

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developments: the Social and Economic Committee (CSE) – which has gradually replaced the works council – may use part of its operating budget (not more than half) "to finance social activities and cultural activities" offered to employees. This capacity for initiative, which results from an amendment brought by Cendra Motin (LRM, Isère), is given "on an exceptional basis (...), until the expiration of six months from the date termination of the state of health emergency". The aim is "to provide additional material support" to workers. The measure has been widely criticized, in particular by several unions, which *inter alia* have stressed the risk that CSEs will be deprived of resources to order expert reports on "employment" and "occupational health" and have deplored that such a decision be taken "without prior consultation with the trade union organizations".

- In **Germany**, the government has intervened to clarify that it considers decisions made via videoconference by works councils valid in the current emergency situation.

According to German law and jurisprudence, decisions taken by a works council are only legally valid if they are taken in a face-to-face meeting. The works councils have the right to be informed, consulted and to negotiate about measures proposed by the company, such as arrangements for short term working, leave, telework, reallocating work, health and safety protection, and dismissals.

The German Minister for employment and social affairs announced in a "ministerial declaration" that since current crisis exceptionally prevents works councils from meeting in person, it is the view of the government's legal experts that works council decisions made via videoconference should be considered legally valid.

Using the Covid crisis emergency situation, this is an attempt (announced on 30 April March 2020) of the Federal Ministry of Interior (BMI), in charge of staff councils in the German federal public service sector (contrary to the currently planned legislation of the Federal Labour Ministry in charge of works council in the private sectors), to modify existing legislation regulating staff council organisation and proceedings, within a very short period of time with a parliamentary adoption of the law foreseen on 8 April 2020 with retroactive effect to 1 March 2020.

These changes would allow 1) meetings and decisions to be taken via video and audio conference, as well as by a written procedure, 2) the use of audio and visual conference technologies can be used for consultations hours of the staff council and for staff assemblies, 3) regular invitation to staff council meetings are changed

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from a 'must do' clause to a 'should do' clause, 4) changes will not be limited to the Covid-19 emergency situations, but made permanent as a provisions for "modernizing" German employee representation law (Federal Personnel Representation Act, BPersVG). Because both the Federal Personnel Representation Act (BPersVG) and the Federal Law on Works Councils (BetrVG) currently have nearly identical clauses on these points, the changes proposed by the Federal Ministry of Interior, if adopted, might well lead to similar changes in the Law on Works Councils.

The DGB and its affiliates have strongly opposed such developments, not only due to the abuse of this emergency situations under COVID-19 to modify existing law into a permanent manner and thus independently of clear case law. In addition, in most cases, it is expressly not necessary at present to hold staff council meetings by video or audio conferencing or to take decisions by means of written procedure. These are no alternatives to face-to-face meetings, because they undermine collective decision-making by depriving members of crucial means of communication, such as non-verbal communication, informal communication, and full transparency. At present, staff councils are in most cases still able to take decisions also under the conditions of the Covid-19 pandemic while complying with protective measures. Therefore, the BPersVG does not require any changes.

On April 8, 2020, the changes to the Federal Personnel Representation Act will be discussed for decision-making in the Federal Cabinet. As a result of the DGB work, key modification to the initial drafts have been introduced to avoid amongst other 1) a permanent regulation, 2) changing the decision-making of staff representative bodies, 3) modifying office hours of the staff council and for staff meetings, 4) limitation of the regulation for video and telephone resolutions. The Federal Government should decide that the consultation of the staff council through audio-visual facilities is only optional and this exception rule, as well as the implementation of resolutions of the staff council by means of video or audio conferencing, will now be shorter until March 31, 2021 and not 2024 as previously planned. Such changes might well impact the (national) Works Constitution Act, the European Works Council Act and other European employee representation laws of the Federal Ministry of Labour, in respect of the possible use of audiovisual facilities for meetings for decision-making due to the "Covid 19 epidemic" until December 31, 2020.

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The changes passed on April 8th, 2020 by the Federal Cabinet regarding the Federal Personnel Representation Act (BPersVG) and the Works Constitution Act (BetrVG), European Works Councils Act (EBRG) and other European employee representation laws were already adopted on April 24th and 25th, 2020 (with regard to the BetrVG) and on May 7th 2020 (with regard to the BPersVG) in 2nd and 3rd reading by the Bundestag (parliament). These COVID-19 amendment laws will come into force after confirmation by the Federal Council (Land Chamber), whose meeting is scheduled for May 15, 2020. The changes relate in particular to the permission to hold video and audio conferences for decision-making by these bodies; this also applies to the special negotiating body (BVG) for the establishment of an EWC. As part of the amendment to the BetrVG, the use of audio-visual facilities for company meetings is also planned. The DGB's critical comments and suggestions on the cabinet decision of April 8, 2020 in its statement of April 15, 2020, for example on the lack of video conferencing requirements for the BVG, the negotiation of which is legally possible up to three years, were in no way taken into account.

[for further information, please consult:
<https://www.dgb.de/themen/++co++e06af944-6c41-11ea-b9de-52540088cada>].

Mid of April 2020, IG Metall has presented standards for health and safety protection in the workplace to fight the Covid-19, where works councils play a key role in implementing the standards. Measures are only effective if the workers are fully involved. This initiative includes technical measures (such as partitions or distance markings), organizational measures (such as staggered working and break times), as well as personal measures (such as personal protective equipment). Whereas occupational health and safety issues are under the responsibility of employers, the works council plays a crucial role in this area. It has the right of initiative and can demand protective measures and develop solutions with the employees.

The Hans Böckler Foundation has put in place a website (<https://www.imu-boeckler.de/de/betriebsvereinbarungen-zur-corona-krise-17057.htm>) to show how co-determination actors deal with the challenges posed by the Covid-19 crisis. The website intends to support works councils in dealing with Covid-19 consequences at the workplace. It presents solutions included in works councils' agreements and provides examples of agreements. For example, it shows how in the chemical

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industry a works council managed to maintain the production and internal cooperation in the current crisis situation or how in the mechanical engineering sector the works council agreed with management rules to both maintain operations and ensure the protection of the workers at the same time. In another example the organization of the personal situations of workers (e.g. childcare, etc.) and the company's economic situation have been discussed to find a compromise. The agreement is currently reviewed and supplemented and adjusted as necessary.

Recently, an important decision was reached by the Wesel employment tribunal in a case in which a logistics company used video surveillance techniques to check the respect by the workers of the rules in force due to the Covid-19 pandemic (e.g. to stay at a distance of least two metres from each other). The images recorded were sent to a server in another country and then anonymised. The tribunal ruled that 1) transferring data abroad did not respect the company agreement relating to the use of surveillance cameras, 2) it constituted a breach of the law on company formation, which stipulates that the works council is entitled to be part of the decision-making process where equipment is introduced and used to monitor the behaviour or performance of workers.

- In **Greece**, the temporary lay-off scheme introduced in 2010 foresees *inter alia* that the relevant workers representatives must be consulted [for further information on the scheme, please consult the Short Time Work briefing note].
- In **Italy**, on 14 March 2020, trade unions and employers adopted a joint protocol supported by the Government, which defines procedures and operational guidelines to combat and contain the spread of the coronavirus and to protect workers at the workplace. It stresses *inter alia* the need to ensure the full involvement of trade union and workers' representatives, including health and safety representatives, in implementing the Protocol at company level. Point 13 of the Protocol provides for the establishment of a Committee at company level for the implementation and monitoring of the measures included in the Protocol, with the participation of company union representatives and workers' health and safety representatives. Sectoral social partners have also signed and are developing

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specific protocols which include measures relating to workers' information and consultation.¹

- In **Norway**, the crisis package presented to the *Stortinget* does not change the Basic Agreement rules on notice of intention to lay off. The employer may not decide to lay off workers without prior notice. Before implementing any lay-off, the employer must *inter alia* consult workers' representatives (minutes of the meeting must be taken) [for further information on National measures to avoid collective/individual lay-offs (incl. granting (additional/special) leaves), please consult the relevant [COVID-19 Watch Lay-Off Arrangements briefing note](#)].
- In **Poland**, social partners at national level have criticised the rush in which the special measures to combat the pandemic were approved, without effective consultation of social partners. Moreover, also the content of the specific measures taken is raising controversy. Amongst others, trade unions have criticised the possibility of modifying working conditions, including changes to working hours that are less favourable for workers than those provided for by the Employment Code. Before such changes are introduced, the employer must obtain the agreement of the workers' representation body. However, if there is no trade union, a workers' representative "chosen" by the employer has to give the agreement.
- In **Portugal**, the scheme for the temporary reduction of working time / suspension of employment contracts (*Redução dos períodos normais de trabalho/suspensão dos contratos de trabalho*) includes the obligation for the companies to notify the workers' representatives, and the written notice period is 5 days. The measure can last up to six months. The initial six months may be extended for an additional six months as long as the employer notifies, in writing and in a substantiated manner, the worker representatives, and they do not oppose. On 16 March, a simplified short time work scheme (*lay off simplificado*) was introduced [for further information on the scheme, please consult the Short Time Work briefing note].
- In **Spain**, the following measures have been adopted in relation to the cases of suspension or reduction of employment:
Royal Decree-Law 8/2020 of March 17th on the urgent extraordinary measures to face the economic and social impact of COVID-19 has determined that:

¹ In-depth information on the application of the joint protocol in the different sectors can be provided by the Italian affiliates.

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1. for the exceptional measures in relation to the procedures for suspension and reduction of working hours for economic, technical, organizational and productive reasons, the consultation and negotiation rights will remain intact, although the terms have been shortened, establishing a maximum consultation period of 7 days, instead of the 15 days. Along with this, measures are adopted that facilitate the presence of a representative of the workers in the negotiation;
2. with regards to the procedures for suspension of contracts and reduction of working hours due to force majeure related to COVID-19, the regulatory framework (RD 1483/12) establishes the obligation to communicate the beginning of the procedure to the representatives of the workers. Contract suspensions and reductions in working hours that have their direct cause in loss of activity as a result of COVID-19 will be considered as coming from a situation of force majeure. The procedure will begin at the request of the company, which will also need to provide a report connecting the loss of activity with the consequences of COVID-19 and, if appropriate, the supporting documentation. The start of the procedure shall be communicated to the workers and the report and the supporting information – if any – transferred to the worker's representatives.

Order SND / 307/2020, of March 30th, establishes the interpretative criteria for the application of Royal Decree-Law 10/2020, of March 29th. It establishes that the activities of union and employer representation are not affected by the mobility restrictions, in order to guarantee the assistance and advice to workers and employers.

Royal Decree Law 10/2020 established a recoverable paid leave, through which between March 30 and April 9, the workers affected by them should not go to work, despite which said period was paid. The aforementioned permit affected workers who did not belong to sectors classified as essential, did not affect companies with suspension measures due to some type of ERTE, nor affected workers in an temporary disability (IT) situation and, lastly, no procedure applied to workers who had to follow carrying out their work through non-contact modalities. The recovery of the hours experienced by said permits from the end of the state of alarm until December 31, having to negotiate in a period of consultations between the company and the legal representation of the workers, for a maximum period of 7 days. In the event that there is no legal representation of the workers, the representative commission for the negotiation of the consultation period will be composed of the most representative trade unions in the sector to which the company belongs and with legitimacy to form part of the negotiating commission of

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the collective agreement of application. The commission will be made up of one person for each of the trade unions that meet these requirements, making decisions by the corresponding representative majorities.

- **Situations in EWCs and SE-WCs in the framework of the Covid-19 crisis:** The COVID-19 crisis is also impacting the operation of EWCs and SE-WCs. The following examples taken out of the practices reflect the possible attempts to adapt but also to change existing processes of information, consultation and should be taken with caution and possibly seen as potential risks.

They deal with adaption to social distancing measures and travel bans, that make it impossible to hold face-to-face meetings. Several face-to-face meetings and international travels for EWCs have been cancelled. Recourse to videoconferencing and conference calls, excluding interpreting services in many cases are imposed unilaterally by management, even for negotiations. Restructuring and jobs cuts are taking place without EWCs information and consultation.

EWCs have been looking for ways to maintain their own continuity, while preserving their rights to proper information and consultation. Some EWCs have requested companies to postpone (not to cancel) ordinary information and consultation procedures until the process can take place in a proper way, ensuring the full involvement of workers' representatives. Other EWCs are gathering information on the actions undertaken in the different countries and business units with regard to Covid-19, in order to discuss with the management, the situation and the necessary initiatives. In certain companies, following discussions with EWCs and trade unions, reorganisations or restructuring processes have been suspended in light of the Covid-19 crisis.

Joint recommendations to EWC and SE-WC members and Coordinators on COVID-19 have been developed by the European Trade Union Federations. Please find them attached.

In this respect the newly adopted recommendation of the ETUFs are much welcome to support EWC and SE-WCs members.

They advise to:

- Postpone annual, regular and negotiation meetings after the Covid-19 crisis,

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- Request an online extraordinary meeting on COVID-19,
- Request regular updates from management on COVID-19 in writing,
- Share information about the situation in each country between yourselves,
- Urge management to deal with the crisis on the basis of social dialogue,
- Request a physical extraordinary meeting to take place as soon as the COVID-19 crisis is over.

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Anticipating and managing the impact in multinational companies

Joint European Trade Union Federations' Recommendations to EWC/SE Coordinators and worker representatives in SNBs, EWCs and SEs

March 2020

The impact of the COVID-19 outbreak on our lives, societies and economies is unprecedented. Trade unions from all over Europe act united in defending workers' health and safety and speak with one voice: the COVID-19 crisis must not put jobs and incomes in jeopardy!

The consequences on work differ very much from one company and from one sector to another. Your European trade union federations are carefully analysing sector-specific developments to report on.

Worker involvement through information, consultation and participation in company decision-making is more important than ever to anticipate and deal with the social and economic consequences which may arise from this crisis. Considering the high-level of connection between the supply value chains of the sectors we represent, the European trade union federations have decided to issue very practical joint recommendations to worker representatives in European Works Councils (EWC) and in companies under the European Company statute (*Societas Europaea* - SE).

Our aim with these recommendations is twofold: advising members in EWC/SE-WC on how they can and should play a role in dealing with the COVID-19 crisis in their company; and requesting members in EWC/SE-WC to support national and European trade Unions to put pressure on management to make sure that the most effective measures are taken in each company site to protect workers' health, safeguard jobs and support workers' income, for all workers be them on standard, temporary or atypical contracts.

These recommendations may be revised as the situation develops.

Recommendation #1

Postpone annual/ordinary and negotiation meetings

Should your management wish to cancel the meeting of your Special Negotiation Body (SNB), of your European Works Council (EWC) or of the Works Council of your European Company (SE-WC); or should management propose to hold the meeting remotely via videoconferencing

=>Call instead for the meeting to be postponed and take place physically as soon as possible after the COVID-19 crisis is over

This recommendation applies equally to your ordinary plenary EWC/SE-WC meeting(s), to meetings of EWC/SE-WC working groups/committees, to EWC/SE-WC training seminars and to any meeting aimed at (re-) negotiating your EWC/SE agreement. This recommendation aims to ensure that videoconferencing does not substitute for genuine face-to-face meeting, and that management does not use the COVID-19 crisis as an excuse to call off your ordinary meetings during 2020.

HOW? Here is a concrete example

At [Generali](#), the EWC Select Committee meeting planned for early March was cancelled. The Committee asked the Management to share electronic copies of the planned presentations, which they received.

At [Coca-Cola European Partners](#), the first EWC meeting had to take place at the end of March. The meeting has been postponed and not cancelled.

At [Korian](#), a group active in elderly care services, negotiation for the setting up of an EWC concluded end of 2019. The very first EWC meeting was planned in March 2020. It has been decided there too not to cancel but to postpone the meeting at a later date.

Recommendation #2

Request an online extraordinary meeting on COVID-19

Workers' rights to information, consultation and participation do not stop because of the COVID-19 crisis, neither are the provisions of your EWC/SE-WC agreements suspended. As multinational companies may intend to adapt their operations to cope with the COVID-19 crisis, information and consultation procedures in such extraordinary circumstances must be respected. There cannot be any decision on restructuring, downsizing or job cuts without prior information, consultation and participation of worker and trade union representatives at both the European and the national level.

Although the ordinary meeting of your EWC/SE-WC can be postponed, the COVID-19 crisis is such that it can be considered an exceptional circumstance of a *de facto* transnational nature which justify calling for extraordinary meetings to inform and consult on the potential impact of the crisis on workers' interests.

The European trade union federations have always advocated for EWC/SE-WC meetings to take place face-to-face. However, physical meetings must be banned under the current circumstances to protect each other's health and stop the spread of the virus. Therefore, the European trade union federations exceptionally recommend the use of online meetings, under specific conditions to be agreed by both parties.

=>Request an extraordinary meeting on the COVID-19 crisis, to be held via videoconference, AFTER having set the rules for the exceptional use of online meetings

Please find in appendix a template of rules for the exceptional use of online meetings we recommend you agree with management in advance. It must be made clear that holding meetings via videoconference is limited to the COVID-19 crisis period. Adapt these rules to the specific situation of your EWC/SE-WC, especially as your EWC/SE agreement may already contain provisions governing the use of online meetings and videoconferencing.

HOW? Here is a concrete example

At **Alstom**, the EWC first requested an emergency update on the COVID-19 situation via a conference call with the Management, during which simultaneous interpretation in all languages was provided. Based on the information received, the EWC submitted a formal request for an extraordinary meeting.

At **Kraft Heinz**, the EWC requested an extraordinary meeting and received a presentation translated in all EWC languages about the measures taken in each country to protect workers' health. A conference call took place between the EWC Select Committee and the European management leadership team including management representatives responsible for supply chains, manufacturing, health and safety and human resources.

Recommendation #3

Request regular updates from management on COVID-19 in writing

To be able to anticipate as early as possible the likely consequences of the COVID-19 crisis on jobs

=>Request a regular (e.g. daily) update on the situation, by asking management to send the following information in writing and per country:

- Measures taken by management or negotiated with trade unions in the company and all along its supply and subcontracting chains to protect workers' health and safety, as well as the health and safety of patients (e.g. in private health and elderly care facilities) and customers (in the service, energy, hospitality, utilities, and transport sectors, etc.)
- Measures taken in the company in case workers or their family members have a COVID-19 related illness (e.g. complement to state paid sick leave).
- Measures taken in the company and all along its supply and subcontracting chain to mitigate the potential consequences on jobs (e.g. contingency plans, short-time working schemes, extended overtime, and compensatory measures to secure workers' income)
- Measures taken by management to mitigate the consequences on business operations (e.g. shift patterns changes in production, logistic or administration; temporary plant shutdown; and alternative to supply chain disruption)
- Trends regarding employment levels
- Evolution of the economic and financial (e.g. on loans and credit) situation

HOW? Here are concrete examples

At **Lafarge Holcim**, the EWC drafted a list of questions to management, and has requested a weekly information update.

At **UniCredit**, the Management created a dedicated intranet page for all employees to keep them up-to-date on COVID-19 developments.

At **Compass**, the Management is sharing in writing regular updates with the EWC members concerning governmental restrictions (schools and restaurants closures by country) and number of workers infected and in quarantine in each country. Management also provides a clear overview of governmental measures and complementary company measures adopted with respect to sick pay arrangements, temporary cessation of work, and care of dependents, etc.

In these circumstances, the Select Committee should ensure a permanent dialogue with central management always in coordination with the EWC/SE-WC. At the same time, management must allow the Select Committee members to carry out videoconferences amongst themselves and with other EWC/SE-WC members.

Recommendation #4

Share information about the situation in each country between yourselves

In addition to information provided by management, communication within the EWC/SE-WC and exchange of information amongst EWC/SE members is more important than ever

=>Ensure that every EWC/SE delegate regularly reports back on the situation in their country, including on:

- Government measures (especially full or partial lockdown, adoption of emergency legislation, bolstering temporary unemployment schemes, and state-wage compensation in case of dismissals)
- Measures taken by the social partners and/or government via bi- or tri-partite agreements at the national or sectoral level (especially agreement on working time arrangements; protocols to safeguard workers' health, and definition of the scope and nature of "crucial and essential activities")
- Measures taken at the company level either via company agreements or unilateral management decisions (e.g. protective measures for workers, social distancing measures, cleaning and disinfecting measures, temporary shutdown, topping up legal allowance to secure 100% of net salary, exceptional paid leave, extension of telework, application of measures to workers including on non-standard employment contracts, and measures applying to blue-collar/white-collar workers)
- How the trade unions and worker representatives are involved in managing the COVID-19 crisis.

HOW? Here are concrete examples

At BASF, a questionnaire has been drafted for each EWC delegate to answer (e.g. are worker representatives / trade unions in your country informed about cases of infected workers?). Answers are collected by the EWC Secretariat and feedback provided to all EWC delegates.

At Volkswagen, a regular update is sent by e-mail to members of the European and Global Works Councils. The update includes a report on the situation in all affected countries, China included.

At KBC, the EWC Select Committee is in constant communication to keep each other updated on the developing situation in each country concerned.

At Mondelez, the EWC Chair took the initiative to create an Excel document with information about the situation in each country and site. This document is regularly updated and disseminated thanks to the contributions of all EWC members.

Recommendation #5

Urge management to deal with the crisis on the basis of social dialogue

Social dialogue and collective bargaining have an essential role to play in managing this unprecedented health crisis. Invite management to engage with trade unions at the national and the local level to adopt effective measures to protect workers' health and to negotiate agreements putting in place effective measures to safeguard the employment and income of all workers. In particular, social partners must work together to reach agreements at all levels on short-time work arrangements that provide a high level of wage compensation for workers.

=>Remind management to engage negotiation at company level to deal with the crisis on the basis of emergency law and national/sectoral agreements

HOW? Here are concrete examples

At Safran, due to a persistent lack of social dialogue in the UK, the EWC sent a letter to the Management calling "for the immediate establishment of a specific national COVID-19 negotiating group for the UK with local trade unions and their representatives in order to find very quickly the best solutions to manage in a coordinated way the consequences at all levels".

Recommendation #6
Request a physical extraordinary meeting to take place
as soon as the COVID-19 crisis is over

As soon as the outbreak is over, to ensure a socially responsible management of the consequences of the COVID-19 crisis

=>Request an extraordinary meeting at the earliest convenience to inquire about the impact of the crisis on the company operation, sites and jobs in every country

Recommendation #7
Contact your European trade union federation

If dialogue with management fails and in the event that:

- the measures adopted by your company in each country to protect workers' health, safeguard jobs and income are not sufficient,
- workers are not treated equally either because of their status (e.g. measures do not apply to temporary workers, or blue-collar workers) or their location (e.g. rules differ from one site to another, or from one country to another),
- management take advantage of the crisis to carry out collective dismissals,
- worker representatives and trade unions are excluded from decisions which may affect workers' interests.

=>Please contact your European trade union federation

We commit to do our utmost to support you and ensure a coordinated approach in all countries where the company operates.

We would also like to hear about good initiatives which can help colleagues in other EWCs/SEs.

=>Please inform your European trade union federation about any creative, inspiring good practice which your EWC/SE-WC has developed

Your contact persons in each European trade union federation are listed below:



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Appendix

Joint rules for the exceptional use of online meetings due to the COVID-19 crisis

Securing [name of the company] workers' health and safety and ensuring quality social dialogue to mitigate the impact of the current COVID-19 crisis on the company operations and employment are priorities jointly shared by [name of the company] management and the EWC [or SE-WC].

While both parties recognise that face-to-face meetings are one of the essential factors in ensuring good dialogue, they also appreciate the need to make temporary arrangements to secure both the continued involvement of the EWC [or SE-WC] in the company decision-making process, and the health and safety of EWC [or SE-WC] delegates.

As long as physical meetings continue to be banned due to the COVID-19 crisis, management and the EWC [or SE-WC] decide to temporarily resort to online meetings, along the following principles:

1. Ordinary EWC [or SE-WC] meetings as well as meetings aimed at renegotiating the EWC [or the SE] agreements (if applicable) will not be held online. These meetings will be postponed and reconvened as soon as the containment measures are lifted, and the situation once more allows face-to-face gatherings.
2. If extraordinary meetings for information and consultation purposes are requested, they will be held online. Although videoconferences do not have the level of flexibility and interactivity which face-to-face meetings allow, the parties will do their utmost to conduct these in the best possible way.

In particular:

- Management will facilitate these meetings by giving the delegates as much information as possible in writing, in their own language, ahead of the meetings;
- Interpretation will be provided by professional interpreters;
- Good quality IT equipment (and technical support) will be made available to each meeting participant during joint meetings as well as preparatory and follow-up meetings;
- Preparatory and follow-up meetings will continue to be organised for workers' representatives. The confidentiality of these online pre- and post- meetings will be guaranteed;
- Experts assisting the EWC [or SE-WC], including representatives of European trade union federations, will continue to attend all meetings;
- A list of participants at online meetings will be circulated. Minutes of meetings will be drafted and adopted in accordance with the EWC [or SE-WC] agreement and sent to all EWC [or SE-WC] members as soon as possible after the meeting.

The EWC [or SE-WC] may decide, on a case-by-case basis who should participate in these online meetings. Extraordinary meeting participants could either be:

- All EWC [or SE-WC] members;
- The Select Committee, on a mandate from the EWC [or SE-WC];
- The Select Committee enlarged to include EWC [or SE-WC] member(s) not represented in it, on a mandate from the EWC [or SE-WC].

3. Select Committee meetings with the company will go ahead online. Management must allow the Select Committee members to carry out videoconferences among themselves and with other EWC [or SE-WC] members.

These rules govern the operation of the EWC [SE-WC] during the COVID-19 crisis only. They are therefore temporary and will automatically be repealed as soon as face-to-face meetings are permitted again.

Made on (date)

Signatures

For the company

For the employee representative (The EWC/SE-WC members, or the Select Committee/EWC/SE-WC Chairperson on a mandate from the EWC/SE-WC)