

## Chapter 6

### Do trade unions make a difference?

Historically, the relationship between trade unions and works councils within Member States has been far from straightforward (Bernaciak et al. 2014). In post-1945 Germany, for example, trade unions were initially disappointed that works councils would not be trade union bodies (Markovits 1986: 61–92), but, over time, campaigned to ensure that trade unionists formed a majority of works councillors within a system regarded as a ‘contradictory unity’ (Streeck 1979: 217). In contrast, Dutch works councils are viewed as too close to management by trade unionists (Visser 1995), and Hungarian legislation allowed works councils to be set up in competition with trade unions (Tóth 2001). Trade unionists are concerned that works councils may promote micro-corporatism where the focus is on company bargaining rather than industrial arrangements. This fear has also been expressed in the context of EWCs (Hancké 2000; Kotthoff and Whittall 2014: 249–253), in particular regarding the conclusion of transnational company agreements (Telljohann 2009; Haipeter et al. 2019: 225). It is thus clear that relationships between trade unions and works councils are often complex and may be competitive (Garibaldo and Telljohann 2010; Jevtić 2012; Watling and Snook 2003). Furthermore, in countries with single channel systems of industrial relations, works councils or their equivalent are generally absent, as a result of which the relationship between trade unions and works councils or workplace labour representation within Member States varies widely. A purpose of this chapter is to establish how the relationship between trade unions and EWCs operates in practice in the light of these variations.

Chapter 2 showed that trade union organisations throughout Europe engaged in a long-term campaign in support of legislation on EWCs. While trade unions welcomed the adoption of the Directive, there was widespread disappointment with its content among trade unionists (Danis and Hoffmann 1995; Meissner 1994). In particular, and with regard to the topic of this chapter, there was no mention of the term ‘trade union’ in the Directive. This omission facilitated managerial resistance to trade union involvement in EWCs (Lecher et al. 2002; Telljohann 2005b) and underpinned the subsequent resistance to any trade union involvement in EWCs by BusinessEurope (2008). Trade union involvement in EWCs is thus contested. The omission of any reference to ‘trade union’ in the Directive also required trade union organisations to define the form of their engagement with EWCs. In practice, trade union engagement centred on assisting SNBs in the negotiation of EWC founding agreements, the appointment of EWC coordinators, the promotion of trade unionists to serve as EWC representatives, the identification of best practice and policy, the provision of training for EWC representatives, and the establishment of internal procedures whereby EWC founding agreements and transnational company agreements can be ratified with the intention of maintaining or

improving standards. This chapter examines the impact of some of these interventions on the relationship between trade unions and EWCs.

European policy-makers acknowledged the limitations of the Directive arising from the exclusion of any reference to trade unions in specifying aspects of trade union engagement with EWCs in the Recast. In particular, the Recast highlights four aspects of the trade union role: trade union experts may assist the SNB (Article 5(4)); at the request of the SNB, trade unionists may participate in the negotiation of EWC founding agreements (Article 5(4)); the competent trade union must be informed of the composition of the SNB and of the start of negotiations (Article 5(2c)); and management are responsible for providing the trade unions with the information required to conduct the negotiations (Article 4(4)). In addition, the Recast clarified and strengthened the right to training for EWC representatives (recital 33) and specified the terms of conduct for in-depth assessments (Article 2(f) and 2(g)). While both of these issues do not necessitate trade union engagement, in many cases training and in-depth assessments are provided by trade unions. It should be noted, however, that, in some national transpositions of the Recast, trade unions are explicitly allowed a role in the selection of EWC representatives (Jagodziński and Hoffmann 2021).

The meagre content of the legislation on trade union engagement with EWCs contrasts sharply with the role that the European Commission acknowledges trade union organisations undertake. As early as 2004, for example, the Commission stated that:

The part played by European level trade unions, especially the European sectoral federations, should be mentioned in particular. Their involvement has brought a coherence to the practical process of establishing EWCs, a fact acknowledged also by employers and evidenced by the involvement of European level federations as joint signatories in so many agreements. (2004: 3)

The Commission recognises the centrality of trade union organisations to EWC practice and development. European policy-makers, however, have not enacted this recognition in the form of legislative support. Trade union engagement with EWCs thus remains contentious and explains point 3 of the ETUC reform agenda for the Recast (see Appendix B) on the participation of union experts in EWC plenary and select committee meetings.

Chapter 1 identified trade unions as comprising a key element of the debate between the critics of the Directive (Keller 1995; Streeck 1997) and those who saw potential in the measure (Martinez Lucio and Weston 2000; Tully 2004). In short, aspects of the debate between those who viewed the Directive as a measure with potential and its critics revolved around the capacity of trade unions. In the light of the amendments made to the Directive by the Recast enhancing the engagement of trade unions, the potential for overcoming the limitations of the legislation through trade union activity should be improved. This chapter assesses the viability of these competing positions almost 25 years after the Directive was adopted by reference to two key elements of the trade union policy agenda intended to overcome the limitations of the legislation: attempting to ensure high rates of unionisation among EWC representatives and the presence of a coordinator appointed by an ETUF at every EWC.

To examine these issues, the chapter comprises two sections. The first examines the impact of the unionisation of EWC representatives, and the presence of coordinators appointed by the ETUFs on elements of EWC practice. This section thus assesses the extent to which trade unions act as a resource for EWCs. The second section examines whether EWCs facilitate the achievement of trade union objectives. The detailed impact of training provision is examined in Chapter 7. In general terms, this chapter argues that higher rates of unionisation among EWC representatives and the presence of coordinators are associated with improvements in EWC infrastructure and practice from a trade union perspective. These improvements, however, are insufficient to overcome the shortcomings of EWC legislation and to enable trade unions to reach their objectives.

## **Trade unions as a resource for European Works Councils**

Chapter 3 showed that 84.5 per cent of survey respondents were trade unionists and that they thought that on average 81.6 per cent of representatives at their EWC were unionised, an increase from the 66.4 per cent reported by EWC representatives in 2007. While the relationship was not direct, in general terms, in 2018, the higher the unionisation rate in a country, the greater the likelihood that EWC representatives are union members. Chapter 3 also reported that 58.9 per cent of EWC representatives worked in conjunction with an EWC coordinator who represents an ETUF, an increase from 32.9 per cent in 2007. Chapter 4, however, demonstrated that the presence of an EWC coordinator is related to a slightly improved quality of information exchange and consultation, but not with an improvement in the timing of information and consultation procedures. The purpose here is to extend this analysis of the support provided by trade unions to EWCs in four stages, which examine the training and knowledge of EWC representatives, trade unions and articulation, trade unions and the assertiveness of EWCs, and trade unions and internal EWC politics. At each of these stages, the impact of the unionisation of EWC representatives and the presence of an EWC coordinator will be assessed.

### Training and knowledge of EWC representatives

An element of trade union engagement with EWCs is directed towards increasing the knowledge of EWC members. As a result of trade union engagement, unionised EWC representatives or representatives in an EWC with an EWC coordinator might be better trained. The impact of this involvement of trade unions is recognised (Stirling and Tully 2004; Miller 2002) and influenced the Commission to include the right of trade unions to send an expert to the SNB in the Recast (European Commission 2016a, 2016b).

Table 6.1 compares unionised EWC representatives with their non-unionised counterparts on the number of training days received in the past three years. Table 6.1 shows that trade unionists are slightly more likely to have received training and also usually attend training sessions more frequently. A similar situation is observed between those serving on an EWC that has a coordinator compared with those with no coordinator: only

Table 6.1 Trade unions and EWC training

	No training %	One day or less %	2–3 days %	4–5 days %	More than 5 days %	Don't know %	N
All	39.3	12.8	24.3	9.0	12.3	2.3	1,412
Trade unionists	38.1	12.6	23.6	10.1	13.2	2.3	1,206
Non-members	45.4	13.9	28.4	3.0	6.9	2.4	203
EWC coordinator present	32.7	14.1	25.2	10.1	16.3	1.6	838
No EWC coordinator	37.7	12.5	27.5	10.7	9.3	2.2	291

9.3 per cent of the EWC representatives without a coordinator report having received more than five days of training compared to 16.3 per cent of those with a coordinator. While the unionisation of EWC representatives and the presence of coordinators are positively related to attendance at training events by EWC representatives, it is noteworthy that 39.3 per cent of EWC representatives had received no training in the three years prior to the distribution of the survey, a proportion that only falls to 38.1 per cent among unionised EWC representatives and to 32.7 per cent when a coordinator is present. In short, trade unions have a positive effect on training attendance, but have not yet achieved an adequate coverage among EWC representatives of a training provision.<sup>1</sup> The extent of this shortcoming is mitigated: Chapter 7 shows that the short tenure of many EWC representatives contributes to the limited attendance at training events, while Chapter 8 demonstrates that management may also restrict training opportunities.

The support provided by trade union organisations in terms of training is evident in the degree to which the EWC representatives feel that they have knowledge of their EWC agreement, the national law on EWCs and the Directive or Recast, the foundations of a training programme. Table 6.2, for example, demonstrates that unionised EWC representatives and EWC representatives with an EWC coordinator are more likely to either 'strongly agree' or 'agree' with the statement that they have a good knowledge of the EWC Directive compared to non-unionised EWC representatives and those without a coordinator: 43.4 per cent compared to 29.9 per cent; and 49.7 per cent compared to 39.5 per cent. Compared to non-unionised EWC representatives, unionised EWC representatives are also more likely to state that they have a good knowledge of national EWC law, 38.8 per cent compared to 26.3 per cent, and of their own EWC agreement, 65.2 per cent compared to 49.5 per cent. For knowledge on national law and the EWC agreement, the presence of a coordinator has a similar effect.

1. The high proportion of unionised EWC representatives and representatives working in conjunction with an EWC coordinator who have not attended a training event in the three years prior to the distribution of the survey may be the result of their attendance at courses before the three-year window. Chapter 7 examines the situation with regard to training in greater detail.

Table 6.2 Trade unions and the knowledge of EWC representatives

	Strongly agree %	Agree %	Neutral %	Disagree %	Strongly disagree %	Don't know/not applicable %	N
<b>I have a very good knowledge of the content of the EWC Directive</b>							
All	8.2	33.2	28.2	22.6	4.1	3.8	1,340
Trade unionists	8.7	34.7	27.8	21.0	3.9	3.9	1,150
Non-members	5.6	24.3	30.4	31.4	5.0	3.3	1,868
EWC coordinator present	10.7	39.0	27.0	19.0	2.4	2.0	810
No EWC coordinator	6.0	33.5	32.2	23.2	3.5	1.7	276
<b>I have a very good knowledge of the content of the national law on EWC</b>							
All	7.2	29.8	29.3	25.1	4.6	4.0	1,331
Trade unionists	7.8	31.0	29.7	23.6	4.0	3.9	1,149
Non-members	3.4	22.9	27.4	33.7	8.0	4.7	186
EWC coordinator present	19.7	52.0	16.1	7.8	2.2	2.2	807
No EWC coordinator/	18.5	49.2	18.2	10.6	2.5	1.0	275
<b>I have a very good knowledge of the content of our EWC agreement</b>							
All	16.2	46.6	17.8	12.4	3.3	3.7	1,336
Trade unionists	17.1	48.1	17.1	10.9	3.1	3.8	1,140
Non-members	11.4	38.1	21.7	20.3	4.8	3.7	186
EWC coordinator present	19.7	52.0	16.1	7.8	2.2	2.2	806
No EWC coordinator	18.5	49.2	18.2	10.6	2.5	1.0	273

A trade union presence is thus positively related to a better knowledge of EWC representatives. Unionised EWC representatives and representatives with an EWC coordinator are more likely to have received training and to have attended more training events, and they consider their knowledge levels to be higher. This training may be beneficial for EWC work. Such training also responds to managerial criticisms that the inadequate quality of the exchanges at EWCs is due to shortcomings in the knowledge and preparation of EWC representatives (Pulignano and Turk 2016). Being a trade union member is more strongly related to attendance at training events and knowledge than the presence of an EWC coordinator. The coverage of the training provision from a trade union perspective, however, leaves much to be desired, as around 35.0 per cent of unionised EWC representatives and EWC representatives operating with a coordinator have attended no training associated with their EWC role in the three years prior to the survey.

## Trade unions and articulation

In addition to the provision of coordination and training, those who saw potential in the Directive envisaged that trade union engagement with EWCs would promote networking and articulation,<sup>2</sup> which, in turn, would contribute to overcoming some of the shortcomings of the legislation (Martinez Lucio and Weston 2000; Whittall et al. 2008). Chapter 5 showed that there is a marked variation among EWC representatives in the extent of their horizontal and vertical articulation, in part resulting from the adverse impact of managerial interventions. The purpose of this stage of the analysis is to establish whether trade union engagement promotes articulation and networking in the manner proposed by those who saw potential in the Directive.

Four introductory remarks are apposite. First, articulation may be jeopardised by a lack of resources (Köhler and González Begega 2010). All other things being equal, better articulation would be anticipated among unionised EWC representatives than their non-unionised counterparts, as the former can draw on the resources of the trade union. Second, case study evidence demonstrates that coordinators improve the intensity of communication between the EWC and the national level in both the top-down and bottom-up directions (Lecher et al. 2002; Weiler 2004), and the strategic content of communication (Pulignano 2007). Third, case study evidence also shows that trade union networks facilitate contact between EWC representatives that is independent of the functioning of the EWC, which intensifies communication and articulation (Telljohann 2005a). A purpose here is to establish whether large-scale survey evidence confirms findings drawn from case studies. Fourth, Chapter 5 showed that, in single channel systems, non-unionised EWC representatives have limited opportunities to articulate their EWC activities with institutions of labour representation within the Member State, while, in dual channel systems, non-unionised and unionised EWC representatives have similar opportunities to articulate with national works councils, but differences are likely to occur regarding engagement with trade unions.

Tables 5.1 and 5.3 illustrated the frequency of communication among EWC representatives from different countries between meetings. Table 6.3 extends this analysis by reference to trade union involvement. Respondents were asked whether they have frequent contact between meetings and whether the EWC helps in relating to representatives from other countries. When comparing unionised EWC representatives with their non-unionised counterparts, there is no difference in the intensity of the contact between meetings, suggesting that unionisation and non-unionisation among EWC representatives is not a source of discrimination within EWCs regarding the frequency of contact. The presence of an EWC coordinator, however, is related to the intensity of contact between meetings. EWC representatives operating in conjunction with a coordinator disagree less with the statement that they have frequent contact between meetings. The same EWC representatives also think that the EWC is more helpful in relating to other employee representatives in Europe than representatives

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2. No reference is made here to the impact of trade union alliances on articulation, as questions on this topic were not included in the questionnaire. It should be noted, however, that an intention of a trade union alliance is to intensify contact between EWC representatives and trade unions with representative responsibilities within the MNC (Waddington 2016).

Table 6.3 Trade unions and transnational communication

	Strongly agree %	Agree %	Neutral %	Disagree %	Strongly disagree %	Don't know/not applicable %	N
<b>Between EWC meetings, I have frequent contact with EWC representatives from other countries</b>							
All	10.5	34.5	22.5	23.1	7.2	2.2	1,433
Trade unionists	11.1	34.1	23.2	22.3	7.0	2.3	1,226
Non-members	7.6	36.7	18.2	28.0	7.8	1.7	204
EWC coordinator present	11.9	37.9	23.6	20.1	5.4	1.2	849
No EWC coordinator	9.5	35.5	19.2	25.3	9.8	0.7	278
<b>My EWC helps me in relating to other employee representatives in Europe</b>							
All	29.1	56.6	9.1	1.7	0.7	2.8	1,329
Trade unionists	29.7	57.3	7.8	1.6	0.7	2.9	1,134
Non-members	25.8	52.7	16.0	2.4	0.8	2.3	192
EWC coordinator present	34.0	56.2	6.7	1.1	0.2	1.9	797
No EWC coordinator	23.9	59.8	10.1	2.8	2.0	1.4	251

without a coordinator: 90.2 per cent compared to 82.7 per cent. In short, where a coordinator is present, horizontal articulation is somewhat more intense.

To examine the relationship between the EWC and the national level, respondents were asked to comment on the frequency at which they ask for input from the national level during the course of their EWC work, and whether EWC representatives know what employees expect from them. These questions are thus concerned with vertical articulation. Table 6.4 presents the results. Regarding the frequency at which input is asked from the national level, unionised EWC representatives are more likely to agree ('strongly agree' plus 'agree') that they often ask for input from the national level than non-unionised representatives: 42.5 per cent compared to 34.6 per cent. Similarly, unionised EWC representatives are more likely to think that they know what the employees expect from them. This is most evident on the extent of disagreement ('disagree' plus 'strongly disagree') with the statement: no fewer than 23.3 per cent of non-unionised EWC representatives report that they do not know what employees expect from them, a proportion that falls to 15.7 per cent among unionised EWC representatives. Table 6.4 illustrates similar differences regarding the presence of an EWC coordinator. Representatives based in EWCs where a coordinator is present are more likely to report that they ask for more input from the national level and that they claim to know better what employees expect from them.

Based on the questions examined here, the unionisation of EWC representatives and the presence of EWC coordinators confirm much of the case study evidence mentioned

Table 6.4 Trade unions and vertical articulation

	Strongly agree %	Agree %	Neutral %	Disagree %	Strongly disagree %	Don't know/not applicable %	N
<b>I often ask for input from the local works council, the trade union or the workforce on my work in the EWC</b>							
All	6.7	34.6	28.1	19.6	5.9	5.2	1,415
Trade unionists	5.9	36.6	28.2	19.6	5.6	4.1	1,211
Non-members	11.3	23.3	27.6	19.5	7.3	11.1	201
EWC coordinator present	7.9	38.0	28.5	16.7	4.8	4.0	843
No EWC coordinator	4.7	34.6	26.5	26.4	6.6	1.2	294
<b>I always know what the employees I represent expect from me</b>							
All	6.6	42.4	30.9	14.4	2.4	3.4	1,416
Trade unionists	6.3	43.2	31.7	13.3	2.4	3.2	1,212
Non-members	8.1	37.8	26.4	20.9	2.4	4.4	201
EWC coordinator present	8.4	45.1	30.8	11.2	1.9	2.7	841
No EWC coordinator	3.7	39.0	30.4	21.5	3.6	1.9	297

above. In particular, unionised EWC representatives and representatives with a coordinator were more likely to engage in more intense vertical articulation in the form of acquiring input from the national level, suggesting that union resources facilitated such acquisition. Similarly, the presence of a coordinator encouraged EWC representatives to establish what workers whom they represent want from their EWC engagement. While the unionisation of EWC representatives had little impact on horizontal articulation in the form of contact between meetings, the presence of a coordinator had a marked impact in assisting EWC representatives to relate to each other.

### Are EWCs more assertive with a trade union presence?

Unionised EWC representatives and the presence of a coordinator are viewed as important factors in promoting more assertive EWCs, in particular encouraging their development beyond mere information receivers to become active institutions of employee participation (industriAll 2012; UNI Europa 2011). Trade unions are viewed as promoting competences, skills and attitudes that enable EWCs to challenge management (Kotthoff and Whittall 2014: 240–243), no doubt explaining why BusinessEurope is keen to minimise trade union involvement in EWCs (2008). The survey asked EWC representatives whether they often challenged management over the information that is to be considered as confidential and whether they often refer to the EWC founding agreement to enforce their rights. While far from perfect, these two questions provide an insight into how assertive the EWC is in implementing its rights.

Table 6.5 Trade unions and assertive EWCs

	Strongly agree %	Agree %	Neutral %	Disagree %	Strongly disagree %	Don't know/not applicable %	N
<b>The employee representatives often challenge management over what information is confidential</b>							
All	13.0	33.8	26.8	17.4	4.6	4.5	1,424
Trade unionists	14.4	34.1	25.1	17.6	4.3	4.5	1,219
Non-members	5.3	32.1	36.0	16.0	6.1	4.5	203
EWC coordinator present	14.2	35.1	24.2	17.4	4.8	4.3	864
No EWC coordinator	10.7	30.9	27.6	21.0	5.6	4.1	293
<b>Employee representatives at my EWC often refer to the EWC agreement to enforce our rights</b>							
All	4.7	31.3	31.3	19.2	3.3	10.2	1,295
Trade unionists	5.1	31.9	31.7	18.4	3.5	9.3	1,114
Non-members	2.7	28.3	28.3	23.3	2.1	15.3	177
EWC coordinator present	5.9	37.2	31.4	16.1	2.5	6.9	796
No EWC coordinator	2.4	25.0	30.9	28.0	4.5	9.2	269

Table 6.5 compares unionised EWC representatives with their non-unionised counterparts and shows that unionised representatives are more likely to say that they often challenge management over confidentiality, 48.5 per cent compared to 37.4 per cent. Unionised EWC representatives also refer to the EWC agreement to enforce their rights more often: 37.0 per cent compared to 31.0 per cent. Furthermore, EWC representatives at an EWC with a coordinator are more likely to challenge managerial definitions of confidentiality than representatives with no coordinator present, 49.3 per cent compared to 41.6 per cent, and refer to the agreement to enforce rights, 43.1 per cent compared to 27.4 per cent.

On the basis of these two measures, unionisation and the presence of a coordinator is related to an EWC being more assertive in challenging management. It should be noted, however, that unionisation or the presence of a coordinator is no guarantee that an EWC will challenge management, as contextual factors, prominent among which are industrial relations traditions and trade union strategies, influence the relationship (Pulignano 2005). Similarly, the skills and competence of both EWC representatives and managers influence the relationship between unionism and the capacity of the EWC to challenge management (Snook and Whittall 2013).

### Trade unions and internal EWC politics

Although EWC coordinators are generally mandated and appointed by an ETUF, they are often national trade union officers employed by the largest union in the country

where the company has most employees and/or its headquarters (Haipeter et al. 2019; Telljohann 2005b). The brief of every coordinator is to generate a consensus among EWC representatives involving common understandings and positions, often portrayed as a ‘European approach’ (EPSU 2001; UNI Europa 2011). Whether a consensus among EWC representatives constitutes a European approach is open to question. Although the presence of a coordinator could contribute to such developments, contextual factors are shown to intervene in the relationship between the presence of a coordinator and a consensus (Pulignano 2007). Similarly, the absence of unionised EWC representatives was a serious obstacle to the development of a European identity in Spanish case studies (Köhler and González Begega 2010). Undue influence on the EWC of representatives from particular nationalities, particularly those from the home country of the MNC, was highlighted as a likely outcome of EWCs by critics of the Directive (Streeck 1997) and is noted in several case studies (Kotthoff and Whittall 2014: 188–201).<sup>3</sup> Furthermore, several studies highlight the tension in the position of coordinators, most of whom are also national trade union representatives. For many coordinators, the national level appears to take the priority, which could impede their role of creating a European approach within the EWC (Haipeter et al. 2019: 234; Waddington 2011: 215).

The intention here is to establish whether the unionisation of EWC representatives or the presence of coordinators affects the generation of a consensus within the EWC. Table 6.6 shows the answers of EWC representatives regarding whether or not they always try to generate a common position and whether they have the feeling that some countries try to dominate the EWC. Comparing unionised and non-unionised EWC representatives reveals very limited differences, suggesting that unionisation of the representatives has, at best, only a limited influence on the activity of the EWC regarding reaching a consensus. Somewhat more pronounced differences are observed regarding the presence or absence of a coordinator: 73.5 per cent of EWC representatives with a coordinator report that they try to some extent to come to common positions compared to 63.8 per cent of those without a coordinator. Regarding the perception that EWC representatives try to impose their views on the entire EWC, there is very little difference between unionised and non-unionised EWC representatives and between representatives with and without an EWC coordinator, suggesting that, in many circumstances, the efforts of coordinators to achieve a consensus succeed, confirming the expectations of the ETUFs, but bringing into question case study evidence that particular national groups within EWCs may dominate proceedings (Kotthoff and Whittall 2014: 188–201).

To summarise, compared to their non-unionised counterparts, unionised EWC representatives are more likely to attend training events, to acquire more input from national institutions of labour representation in undertaking EWC duties, to try to reach a common position with other representatives at the EWC, and to be more knowledgeable about what employees of the MNC want from EWC involvement. Similarly, the presence of coordinators appointed by the ETUFs promotes improved horizontal articulation in the form of better relations between EWC representatives, a greater likelihood of reference to EWC agreements in pursuit of rights, and more

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3. For this reason, several EWC founding agreements stipulate the distribution of seats on the select committee in a manner that avoids undue influence from representatives of a particular nationality.

Table 6.6 Trade unions and consensus building

	Strongly agree %	Agree %	Neutral %	Disagree %	Strongly disagree %	Don't know/not applicable %	N
<b>In the EWC, employee representatives always try to come to a common position with the representatives from all countries</b>							
All	11.9	56.2	19.9	7.6	1.8	2.6	1,332
Trade unionists	11.7	57.7	19.4	7.3	2.0	2.0	1,142
Non-members	13.2	48.8	22.0	9.3	0.7	6.0	187
EWC coordinator present	12.7	60.8	16.1	7.0	2.2	1.3	815
No EWC coordinator	11.2	52.6	25.0	8.9	0.8	1.6	279
<b>In the EWC, employee representatives from one or more countries try to impose their views on the other representatives</b>							
All	4.1	17.4	26.1	34.8	15.4	2.3	1,331
Trade unionists	4.6	16.5	25.9	36.4	14.6	2.0	1,140
Non-members	1.2	22.3	27.0	25.9	19.8	3.9	188
EWC coordinator present	5.1	17.5	24.7	36.2	15.6	1.0	813
No EWC coordinator	2.6	17.1	24.1	37.6	16.9	1.8	279

Note: These responses are only from those EWC representatives who had attended at least one meeting.

attempts to generate common positions among EWC representatives. A trade union presence in the form of unionised EWC representatives and coordinators appointed by the ETUFs thus seems to enhance aspects of EWC practice and supports the policies advanced by trade union organisations favouring unionised EWC representation and the appointment of an EWC coordinator for every EWC.

## Does involvement confer advantages to trade unions?

While relations between EWCs and trade unions are often portrayed in terms of the influence trade unions may exert over EWC practice and policy, EWCs could be expected to provide opportunities for unionists to secure trade union objectives. Most frequently cited in this regard are cases of corporate restructuring that have generated a transnational trade union response incorporating the EWC as an active partner (Haipeter 2006; Erne 2008). In more general terms, research has highlighted differences in trade union strategy and organisation (Kotthoff and Whittall 2014: 233–236; Steiert 2001), complications arising from the remit of EWCs to negotiate agreements (Pulignano 2005; Telljohann et al. 2009a), attempts by management to ‘capture and isolate’ EWCs (Royle 1999; Martinez Lucio and Weston 2000), and the limited legislative support for trade union involvement (Danis and Hoffmann 1995) as restricting the benefits that might accrue to trade unions from involvement in EWCs.

Notwithstanding the difficulties inherent in identifying universal trade union objectives that might be implemented with regard to EWCs, three broad policy areas are highlighted as benefits that may accrue to trade unions from EWC involvement: information; coordination and action; and recruitment and organising. Regarding information, the argument is that information released to the EWC may assist trade unions in developing a transnational perspective on the MNC (Hancké 2000; Lecher et al. 1999; Telljohann 2005a). It is far from clear that information available to employee representatives from sources other than EWCs, national works councils for example, is shared with the EWC, let alone trade unionists from other countries (Whittall et al. 2015). Furthermore, the absence of quality, timeliness and utility of the information made available at EWCs coupled with the impact of managerial restrictions on disseminating information beyond the EWC (Jagodziński and Stoop 2021) necessarily restricts the benefits that might accrue to trade unions on this count (see Chapter 4). For these reasons, the issue of information will not be examined further in this chapter.

EWCs can constitute added value to trade unions in forming an element of transnational networks through which representation and union action can be coordinated (Meardi 2004; Telljohann 2005b). The objectives of such transnational networks are defined by recent developments in industrial relations. In particular, the decentralisation of collective bargaining coupled with globalisation and the internationalisation of supply chains; the use of coercive comparisons between sites by managers of MNCs; and the development of European companies, which has been marked since the establishment of the European single market (Williams 2000; Greer and Hauptmeier 2016; Marginson 2000), all constitute significant challenges to trade unions that remain largely embedded within the nation state. Among the characteristics of EWCs that may be utilised by trade unions in this regard are the funding arrangements, which bring together EWC representatives at the expense of the MNC; the breadth of representation on the EWC; and the potential links between EWC representatives and national institutions of labour representation.<sup>4</sup>

Extant research, however, is far from positive. Case studies highlight differences in strategy between trade unions from different countries as weakening, if not undermining, transnational trade union networks involving EWCs; the absence of trade union involvement in many EWCs; and the fragility of such networks when confronted with events that have a disproportionately adverse impact on one or a limited number of countries represented in the network (Lecher et al. 1999; Kotthoff and Whittall 2014; Mählmeyer et al. 2017). Similarly, survey results suggested that, in 2007, EWCs were not a very effective means of promoting trade union coordination (Waddington 2011: 176). Company-based exceptions to this general trajectory, however, have been documented, particularly in the context of corporate restructuring. Transnational coordinated trade union activity involving EWCs when confronted by proposed or actual corporate restructuring took place at Vilvoorde in 1997 (Rehfeldt 1997), General Motors in 2000 and 2006 (Haipeter 2006), ABB in 2000 (Erne 2008: 128–156), Marks

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4. While it is beyond the scope of this book, it should be acknowledged that, for many companies, a point of reference of 'Europe' rather than 'global' is a limit. Furthermore, the number and influence of MNCs with a scope broader than Europe appears to be increasing (Van Appeldoorn 2000).

and Spencer in 2001 (EWCB 2001), Fiat in 2002 (EWCB 2003), Caterpillar in 2016 (Van den Bossche 2016) and SNCF in 2017 (Barnes 2017). These positive examples contrast with other case studies showing that coordinated action involving EWCs and trade unions failed to materialise during corporate restructuring, although discussions took place with the intention of instigating such action (Aranea et al. 2018; Pernicka et al. 2014). Case study evidence on General Motors and ABB also questions the positive conclusions mentioned above (Jagodziński et al. 2006; Jagodziński and Voss 2006). The objective here is to establish whether the positive company cases are indicative of a broader development towards trade union coordinated action or remain isolated cases.

Recruitment and organising is a more under-researched issue involving EWCs in trade union activity. The initial points of departure are clear: trade union density in Europe is now lower than at any other point since 1950 (Visser 2019), and many organising campaigns are directed towards MNCs on the grounds that the concerns of the workforce are likely to have a degree of uniformity (Pernicka and Aust 2007). One of the objectives of the trade union alliances established by UNI Europa to work in conjunction with EWCs, for example, is to promote organising (Waddington 2016). Evidence indicating the involvement of EWCs in trade union organising campaigns, however, is in short supply. In the majority of organising campaigns, the EWC is not involved. Furthermore, the 2007 survey reported that unionised EWC representatives did not think that the EWC was an effective means to promote recruitment and organising. Among the barriers to the engagement of EWC representatives and domestic works councillors in trade union organising campaigns are the presence of non-unionised EWC representatives, the perceived 'distance' between the EWC and potential members, issues of access to the sites where potential members work, and the absence of organising skills (Knudsen 2004; Connolly et al. 2017). In this context, the objective is to establish whether the views of EWC representatives have changed since 2007 and, if so, how?

## Transnational trade union coordination and action

Transnational trade union coordination and action are necessary prerequisites of a response from labour to the challenges of decentralised collective bargaining coupled with globalisation. As, by definition, EWCs cannot be global in scope, the focus here is on their role within Europe.<sup>5</sup> Table 6.7 focuses on the contribution EWC representatives think that the EWC can make to the organisation of trade union activities in Europe. Table 6.7 shows that 27.1 per cent of all EWC representatives agree to some extent that the EWC helps them in organising trade union activities, a lower proportion than those who disagree to a degree with the statement. The proportion of unionised EWC representatives who agree with the statement rises to 30.9 per cent, although more unionised EWC representatives disagree that work in the EWC helps to organise union activities. The presence of a coordinator also encourages EWC representatives to think that the EWC assists in the organising of union activities, with 30.4 per cent agreeing compared to 20.7 per cent who agree with the statement when there is no EWC

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5. It is acknowledged that several EWCs have led to the creation of world works councils (WWC), world company councils (WCC) or global works councils (GWC) as a response to this perceived limitation in many MNCs.

Table 6.7 EWCs and trade union activities

My work in the EWC helps me to organise union activities

	Strongly agree %	Agree %	Neutral %	Disagree %	Strongly disagree %	Don't know/not applicable %	N
All	3.9	23.2	32.5	24.8	6.5	9.2	1,294
Trade unionists	4.5	26.4	32.7	26.0	5.7	4.7	1,111
Non-members	0.2	4.3	31.9	18.1	11.1	34.5	180
EWC coordinator present	4.2	26.2	33.3	23.6	4.8	7.8	790
No EWC coordinator	3.6	17.1	27.3	31.2	11.3	9.5	271

Note: These responses are only from those EWC representatives who had attended at least one meeting.

coordinator. The tail of disagreement with the statement remains, as 28.4 per cent of EWC representatives with a coordinator do not think that the EWC helps in organising union activities. In short, fewer than one third of EWC representatives think that the EWC is helpful in organising union activities.

The 2007 survey asked whether the EWC was 'effective in coordinating', rather than 'helpful in organising', union activities. Comparisons between the two surveys should thus be treated with some caution. In 2007, however, 33.4 per cent of unionised EWC representatives thought that the EWC was effective ('very effective' plus 'effective') in coordinating union action across Europe.<sup>6</sup> This proportion is similar to that recorded for unionised EWC representatives in 2018 (30.9 per cent), and suggests that there has been no improvement in satisfaction with EWCs in 2018 regarding their role in union activities. It thus appears that, throughout the period 2007 to 2018, unionised EWC representatives are, at best, equivocal about the relationship between EWCs and union activities.

The case study evidence reviewed above suggests that it is during corporate restructuring that EWC and trade union coordination is most likely. As was noted in Chapter 4, more than 90.0 per cent of EWC representatives had experienced corporate restructuring in the three years prior to the distribution of the survey. Fewer than half of these EWC representatives (46.9 per cent) had successfully called for an extraordinary meeting to be held, or agreed with management that such a meeting be convened, in order to address issues arising from the restructuring. It is at these extraordinary meetings that action plans, including transnational strike action, may be devised that involve both the EWC and the relevant trade unions (for the example of General Motors, see Banyuls et al. 2008). The survey thus asked whether the extraordinary meeting was useful as a means of organising union action.

6. The range of responses among the 881 unionised respondents were: 'very effective', 5.0 per cent; 'effective', 28.4 per cent; 'neutral', 46.6 per cent; 'ineffective', 12.0 per cent; and 'very ineffective', 8.1 per cent. In 2007, there was no 'don't know' option.

Table 6.8 Extraordinary meeting as a means of organising union action

The extraordinary meeting was useful as a means of organising union action

	Very effective %	Effective %	Neutral %	Ineffective %	Very ineffective %	Meeting was not used for that purpose %	N
All	7.4	27.3	36.9	11.9	5.3	11.3	559
Trade unionists	7.6	28.5	36.2	11.4	5.6	10.6	490
Non-members	6.0	18.6	40.8	15.0	4.0	15.7	67
EWC coordinator present	9.3	26.7	36.7	10.9	4.6	11.9	378
No EWC coordinator	3.6	21.6	36.2	17.5	7.4	13.8	110

Note: These responses are only from those EWC representatives who had attended at least one meeting.

Table 6.8 presents the results from those EWC representatives who had been involved in an extraordinary meeting during a restructuring event, hence the lower values of N. Among these EWC representatives, 34.7 per cent thought that the extraordinary meeting was effective to some extent as a means of organising union action. Among unionised EWC representatives, this proportion rose to 36.1 per cent. In both of these instances, the proportion of EWC representatives expressing a positive view of the extraordinary meeting was higher than the proportion of those who thought that 'my work in the EWC helps me to organise union activities' (see Table 6.7). If an extraordinary meeting is convened when the MNC is undergoing restructuring, it would appear to be more useful than the plenary meeting as a means of organising union action, thus lending some support to the case study evidence that shows restructuring as prompting a coordinated EWC-trade union response. Two points, however, require further explanation. First, only a minority of unionised EWC representatives regard the extraordinary meeting positively as a means of organising union action. Given that 10.6 per cent of unionised EWC representatives state that the extraordinary meeting was not used for the purpose of organising union action, around half of the unionised EWC representatives were not satisfied with the extraordinary meeting as a means of organising union action. These data, of course, exclude those who were unable to, or did not, call an extraordinary meeting. Second, a significant minority of non-unionised EWC representatives (24.6 per cent) also regard the extraordinary meeting positively in the context of organising union action. While it is not possible to confirm any explanation of this finding, it would appear that non-unionised EWC representatives may observe the organisation of union action and view the extraordinary meeting as being effective in this regard. No question was included in the survey to examine this proposition further.

EWC representatives working in conjunction with an EWC coordinator are more likely to think that the extraordinary meeting was effective for organising union action than those without a coordinator: 36.0 per cent compared to 25.2 per cent. The impact of the presence of a coordinator is thus somewhat greater than the impact of the unionisation

of EWC representatives. The absence of a coordinator is associated with a stronger belief that the extraordinary meeting was ineffective. It would thus appear that EWC coordinators, who are, by definition, unionised, are likely to promote the organisation of union action through the extraordinary meeting.

The 2007 survey asked EWC representatives whether the extraordinary meeting was effective as a means of organising union action during corporate restructuring. Again, the questions in the 2007 and 2018 surveys are not directly comparable because, in 2018, but not in 2007, the option ‘meeting was not used for that purpose’ was included. In 2007, 29.7 per cent of all EWC representatives found the extraordinary meeting to be effective (‘very effective’ plus ‘effective’) for organising union action, 31.6 per cent found the meeting to be ineffective (‘very ineffective’ plus ‘ineffective’) and 38.7 per cent remained ‘neutral’. If those who responded ‘meeting was not used for that purpose’ are excluded from the 2018 data, comparable proportions for 2018 are 39.1 per cent found the extraordinary meeting to be effective, 19.6 per cent found the meeting to be ineffective and 41.3 per cent remained ‘neutral’.<sup>7</sup> On this basis, it would appear that there has been an improvement between 2007 and 2018 in the effectiveness of extraordinary meetings as a means of organising union action. The point remains, however, that only a minority of EWC representatives think that the extraordinary meeting is effective. Furthermore, more than half of the EWC representatives in 2018 were excluded from this analysis, as they did not convene a meeting or were prevented by management from calling such a meeting.

## Trade union recruitment and organising

While trade union membership is at a low ebb in the majority of Member States, there are wide-ranging reasons to suggest that EWCs will not be effective in promoting recruitment and organising. In particular, such reasons include that EWCs are not trade union bodies; that, formally, EWCs have no negotiating role through which terms and conditions of employment may be influenced; that they are often regarded by workers of MNCs as ‘distant’; that only a minority of workers are well informed about the EWC; that EWC representatives have limited access to the places where potential members are employed; and that information and consultation skills are not the same as organising skills. In several countries, particularly those where a dual channel system is in place, domestic works councils have been engaged in organising campaigns designed to increase density at already unionised sites (Behrens 2008; Wetzels et al. 2008), promoting interest in using EWCs to the same effect (Waddington 2016).

For this reason, the survey enquired whether EWC representatives thought that ‘my work in the EWC helps me in recruiting members for the trade union’. The results are tabulated in Table 6.9 and are strongly negative. Only 9.3 per cent of EWC representatives

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7. To calculate these figures, the 11.3 per cent of respondents who reported that the ‘meeting was not used for that purpose’ were excluded from the calculation, with the result that the value of N changed from 559 to 496. The number of respondents to each of the remaining categories ‘very effective’, ‘effective’, ‘neutral’, ‘ineffective’ and ‘very ineffective’ was thus expressed as a proportion of the recalculated value of N.

Table 6.9 EWCs and trade union recruitment

My work in the EWC helps me in recruiting members for the trade union

	Strongly agree %	Agree %	Neutral %	Disagree %	Strongly disagree %	Don't know/not applicable %	N
All	1.9	7.4	30.6	33.0	15.6	11.6	1,324
Trade unionists	2.2	8.5	32.2	35.1	15.7	6.2	1,138
Non-members	0.2	1.1	20.7	21.3	15.0	41.8	183
EWC coordinator present	2.7	8.1	30.9	32.3	15.2	10.8	779
No EWC coordinator	1.4	6.2	26.7	36.6	21.3	7.8	275

view the EWC as being helpful in recruiting trade union members to some degree, while almost half (48.6 per cent) disagree. A further 30.6 per cent are 'neutral' on this issue. Even among unionised EWC representatives, the number who disagree with the statement outnumber those who agree by five to one. There is also no marked change in this situation compared to 2007. In 2007, 10.4 per cent of EWC representatives thought that the EWC was effective for trade union recruitment, whereas 27.4 per cent took the opposite view: those holding a negative view thus outnumbered their positive counterparts by almost three to one.<sup>8</sup> The impact of EWC coordinators does not change the overall situation: only 10.8 per cent of EWC representatives working with a coordinator think that the EWC helps them in recruiting members for the trade union. In short, those involved in EWCs do not think that the institution is appropriate as a means of furthering trade union recruitment and organising.

## Conclusions

This chapter focused on the impact of two trade union policy preferences, the unionisation of EWC representatives and the presence of coordinators, as well as on aspects on EWC infrastructure and practice. Both the unionisation of EWC representatives and the presence of coordinators promoted attendance at training events, encouraged vertical articulation, particularly in the form of asking for input from the national level, and influenced the capacity of EWCs to challenge managerial interpretations of confidentiality and of the EWC founding agreement. In addition, the unionisation of EWC representatives is associated with greater knowledge of the national transpositions of the legislation and the content of the EWC founding agreement, qualities reportedly sought by managers responsible for EWCs within MNCs, while the presence of an EWC

8. In 2018, the question included a 'don't know' option, and respondents were asked whether they agreed or disagreed with the statement. In 2007, there was no 'don't know' option, and respondents were asked whether they thought that the EWC was effective or ineffective for trade union recruitment purposes. These differences necessitate that this comparison should be treated with some caution.

coordinator stimulates attempts to generate a common position within the EWC and leads to more intense communications among EWC representatives between meetings. On these counts, the two trade union policy preferences have a positive impact on EWC infrastructure and practice.

These positive impacts are qualified by data presented in this chapter demonstrating that more than a third of EWC representatives and a third of those working with a coordinator had not attended any training in the three years prior to the survey. Furthermore, around 20.0 per cent of unionised EWC representatives and those with a coordinator report that representatives from one or more countries dominated the EWC. If these qualifications are considered alongside the incomplete coverage of EWC coordinators (see Chapter 3) and the weak effects that the unionisation of EWC representatives and the presence of a coordinator have on the quality, timing and utility of information and consultation procedures at EWCs (see Chapter 4), it is apparent that trade union involvement in EWCs enhances EWC infrastructure and practice, but not to the extent of overcoming the limitations of the legislation.

The failure of the trade union policy preferences examined here in overcoming the shortcomings of the legislation supports the position of the critics of the Directive. The critics argued that the limitations of the legislation were so pronounced that trade union activity would be insufficient to remedy them (Keller 1995; Streeck 1997). Furthermore, as the 2018 survey data apply to post-Recast circumstances, it is apparent that the arguments advanced by the critics of the Directive also apply to the Recast: that is, the Recast is equally flawed and trade union activity is an insufficient remedy. The argument that EWCs may become extensions of national systems of industrial relations dominated by representatives from the home country of the MNC (Streeck 1997) also receives partial support from the data insofar as around 20.0 per cent of EWC representatives regard the EWC on which they serve as dominated by representatives from one or more countries. Those who saw potential in the EWC legislation argued that this potential could be realised through trade union activity. Advocates of this position will no doubt cite the improvements in EWC infrastructure and practice that arise from trade union involvement in EWCs. They must also acknowledge, however, that these improvements are inadequate in the context of ensuring that EWCs function as intended by European-level policy-makers as institutions engaged in information exchange and consultation.

The findings presented in this chapter allow for comment on the policy debate concerning EWCs. The data support the ETUC position on the revision of the Recast to the extent that trade union experts should participate in all EWC and select committee meetings (Appendix B, point 3). Even if it is assumed that coordinators can be found for all EWCs, which is far from certain, the adoption of this measure within the legislation would improve EWC infrastructure and practice but would not circumvent the fundamental flaws in the legislation.

For BusinessEurope, the findings are problematic. BusinessEurope believes that the Recast 'is biased in favour of trade unions, giving them undue legal recognition and a major role [in EWCs] that corresponds neither to their influence in Europe nor to the interests of workers themselves' (2008). This chapter has shown that trade unions do

have a role in EWCs, but, at present, this role is not a 'major' one. Indeed, the role of trade unions would necessarily have to be 'major' if trade union activity is to contribute to overcoming the limitations of the Recast. This chapter has also shown that the interests of workers are served by trade union involvement, again contradicting the statement of BusinessEurope. The marked contrast between the position of BusinessEurope and the findings of the survey are, of course, indicative of the contestation inherent in the development of EWCs reflected in the different strategic options pursued by BusinessEurope and trade union organisations. The statement of BusinessEurope is also at odds with the views of managers responsible for EWCs who wish to promote the acquisition of skills and knowledge among EWC representatives (Pulignano and Turk 2016).

The Recast acknowledged and legislatively endorsed the role of trade unions in the establishment of EWCs but formalised no role for trade union organisations in the functioning of EWCs. Subsequent evaluations by European policy-makers of the Recast failed to examine the roles undertaken by trade unions in the operation of EWCs (European Commission 2016a, 2018b). These reviews, however, identified limitations in the functioning of EWCs with regard to the links between European and national levels of information exchange and consultation, communication between the EWC and those it represents, and the training of some EWC representatives. On each of these counts, this chapter has shown that trade union involvement improves EWC practice. This situation presents European policy-makers with a dilemma. To legislate to broaden formally the role of trade unions in the operation of EWCs would improve the functioning of the institution but would mark a step away from the neoliberal policy agenda that has informed their approach to legislation. How this dilemma is addressed will have a marked influence on the future trajectory of the EWC institution. Adding to the nuance of this dilemma is the situation of trade union organisations. Although the contribution to EWCs made by trade unions is clear, the contribution that EWCs make to the achievement of trade union objectives is not. In short, trade union involvement improves EWC performance, but the return on trade union investment in EWCs in terms of recruitment and organising is minimal, unlike, for example, in Germany (Behrens 2008). How trade unionists address this dilemma will also influence the future trajectory of the EWC institution.