

# Friends in high places

Relations between European works councils and board-level employee representatives

Sara Lafuente,  
Stan De Spiegelaere and  
Romuald Jagodziński

## Policy implications

European Works Councils (EWC) face many limitations in terms of timing and quality of information and consultation. One way of addressing this is through communication with board-level employee representatives. The mere presence of a board-level employee representative is not related to better EWC functioning, but EWC members that communicate with such representatives report more effective EWC functioning. Improving EWC functioning through enhanced cooperation with board-level employee representatives would require (i) strong board-level employee representation (BLER) legislation at national and European Union (EU) level; (ii) specialised training and resources to build communication networks, with the commitment of trade unions; and (iii) provisions securing stable articulation in EWC agreements.

---

### **Sara Lafuente**

is a researcher at the European Trade Union Institute (ETUI) in Brussels.

### **Stan De Spiegelaere**

is a guest professor at Ghent University.

### **Romuald Jagodziński**

is a senior researcher at the European Trade Union Institute (ETUI) in Brussels.

## Introduction

European Works Councils (EWCs) are a transnational form of worker representation that partially democratise multinational corporations in Europe. ‘Partially’ because EWCs’ rights are limited to information and consultation, and even this is often not respected in practice (Pulignano and Turk 2016; De Spiegelaere and Jagodziński 2019). Faced with this reality, EWCs might do well to seek support from ‘friends in high places’, such as board-level employee representatives, to secure more and better information. Our analysis shows that EWC representatives might benefit from such a liaison: worker representatives holding mandates in a board of directors or supervisory board are usually more closely involved in corporate decision-making, have co-decision rights and have access to more and better-quality information.

This Policy Brief explores the relationships between employee representatives in EWCs or *Societas Europaea* Works Councils (SEWC)<sup>1</sup> and those on company boards. The focal question is whether and how far can board-level employee representation (BLER) be considered an asset for EWC representatives. We argue that such representation can strengthen other forms of workers’ representation. Our data also show that EWCs are underusing this potential asset, even though it could alleviate constraints in terms of timing and quality of information and consultation. Having friends in high places – namely, well-informed allies within the heart of corporate decision-making – might be an invaluable resource for EWCs, as efficient cooperation between different levels of worker representation has been identified as a key lever for workers’ power (Haipeter *et al.* 2019; Waddington and Conchon 2016; Hassel and Helmerich 2017).

To examine this issue, we draw on an analysis of data from the 2018 survey of the European Trade Union Institute (ETUI), which gathered answers from over 1,600 EWC representatives from more than 350 different EWCs (De Spiegelaere and Jagodziński 2019). Using this dataset has two main implications. First, the level of analysis is the individual EWC representative, not the EWC as a whole. Responses thus represent views of employee representatives and not dynamics at company or EWC levels. For this Policy Brief, only those respondents were selected who had already attended at least one EWC meeting.

Second, the dataset presents the BLER–EWC relationship from the perspective of EWC members, a different optic from the central focus given to board-level employee representatives in other studies (Waddington and Conchon 2016). EWCs are usually considered the central actor for employee representation at transnational level, while company boards are not the most evident arena for labour politics (Gumbrell-McCormick and Hyman 2018).

To discuss the issue of EWC–BLER relations, this Policy Brief addresses three main questions: (i) how many EWC representatives have access to BLER members; (ii) is there communication between these levels of representation;

---

<sup>1</sup> SEWC are works councils established in European Companies (*Societas Europaea*) based on Directive 2001/86/EC. SEWCs were modelled after EWCs and share most of their characteristics. In what follows, all references to EWCs will include respondents of both EWCs and SEWCs, unless otherwise stated.

and (iii) how does this communication relate to the functioning of an EWC? It concludes with recommendations on how to strengthen the EWC-BLER relationship for more efficient transnational workers' representation at company level.

## How many EWCs liaise with board-level employee representatives?

The starting point for the analysis is the presence of board-level employee representatives in companies with an EWC. The 2018 EWC survey did not specify the level at which board-level employee representatives operated in the companies of respondents. Consequently, it is unknown whether the respondents reported about board-level employee representatives existing at the same level as the EWC (that is, the level of European headquarters or European Company (SE) or at the level of subsidiaries of the multinational group). The level at which board-level employee representatives are present could significantly affect their access to information and decision-making (Haipeter *et al.* 2019: 199). While no large-scale quantitative research supports this hypothesis yet – which calls for future research – the liaison between institutions of worker representation at any level can have mutually reinforcing effects (Hassel and Helmerich 2017).

In the survey, 41.9 per cent of the EWC representatives (total N=1,456) reported that there was a board-level employee representative in their company. The reported proportions are weighted to reflect the (estimated) population distribution over country and sector. Some 36.5 per cent said there was none, while the remaining 21.6 per cent did not know. SEWC members (n=97) were more likely to report the presence of a board-level employee representative in their company (56.0 per cent) than members of EWCs (40.4 per cent). A clear national pattern of EWC-BLER coexistence occurred, with a majority of EWC and SEWC representatives from countries such as Sweden, Austria, Denmark, Germany, and France reporting a BLER presence in their company (see Figure 1). This pattern is an accurate reflection of national industrial relations systems that feature widespread structures of board-level codetermination (Waddington and Conchon, 2016).

At the same time, a considerable proportion of EWC and SEWC representatives from countries without institutionalised BLER traditions (such as Italy, the United States, Belgium, and the United Kingdom) also reported a BLER presence in their company. At least three reasons could explain this. First, these representatives could be employees of companies in which a BLER system exists because of a cross-border merger or SE merger. Second, they could be representatives in a company headquartered in a country without BLER rights, having a foreign subsidiary with board-level employee representatives. Third, because of the diversity of representations and national frameworks of participation in corporate structures, there might be a degree of error or misunderstanding concerning what the EWC/SEWC representatives understood by board-level employee representatives in their answers to the

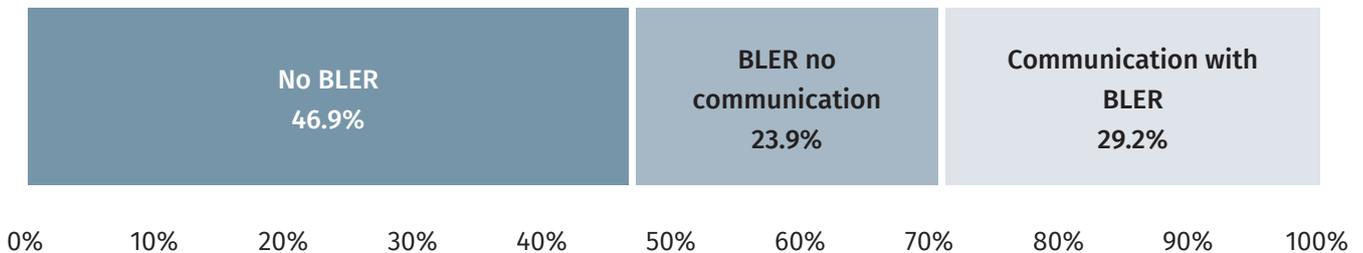
survey. For example, representatives from Romania reporting a BLER presence most likely referred to their right to a consultative voice on the board, without a right to vote (Conchon 2011:9). In any case, more than three in four EWC representatives reporting a BLER presence (76 per cent) are concentrated in EWCs from companies headquartered in only five countries (Sweden, Austria, Denmark, Germany and France).

The EWC survey of 2018 used two indicators to explore relations with board-level employee representatives: BLER presence and communication between board-level employee representatives and EWCs. Communication was selected as a proxy indicator for measuring the intensity of the relationship between EWC members and board-level employee representatives.

EWC respondents reporting that board-level employee representatives were present in their company were asked whether they agreed or not with the following statement: *‘My EWC communicates with employee representatives who sit on the board of the company.’* Of the 592 that replied, 19.1 per cent strongly agreed, while 37.2 per cent agreed, 17.2 per cent took a neutral position, while 12.9 per cent disagreed and another 3.8 per cent strongly disagreed. The remaining 9.8 per cent did not know the answer.

Taking together the presence of a board-level employee representative and EWC communication with them, Figure 1 shows that slightly less than half of EWC and SEWC respondents to the survey could not report any communication with board-level employee representatives, because there were none in their company. The most interesting cohort – 23.9 per cent – said there was a board-level employee representative in their company, but thought that the EWC did not communicate with them, while 29.2 per cent reported both BLER and EWC communication.

Figure 1 EWCs and their reported relations with BLER (N= 1,113)



Note: Respondents that did not know whether there was a board-level employee representative in their company or who did not answer the question are not included in this data.  
Source: ETUI’s EWC 2018 survey results.

## Are EWCs better off with board-level employee representatives?

The pivotal question of the analysis is whether the presence of board-level employee representatives could be an asset for EWCs, improve EWC operations and thus be an additional labour resource at company level. To answer this question, we explored the following: (1) the effectiveness of the EWC in obtaining information, (2) the timing of information and consultation received by the EWC, and (3) the quality of its relations with the management.

Concerning the two first aspects, it could be expected that the presence of board-level employee representatives in a company positively affects the quality and timing of information provided to the EWC. Often, board-level employee representatives are also EWC members;<sup>2</sup> thus they may, while respecting confidentiality obligations, use the information obtained in the board to inform their EWC work. Also, the management might be more incentivised to share (early) information with the EWC, knowing that such ‘dual-hatted’ EWC–board-level employee representatives are already privy to it. Alternatively, if the board-level employee representatives are not EWC members, they can still contact the latter to share the information or guide them on which questions to ask, resulting in comparatively higher quality information for the EWC (Franca and Doherty 2020).

Tables 1 and 2 confirm these expectations: EWC representatives communicating with board-level employee representatives in their company are more likely to assess their EWC as an effective source of information and, generally, more frequently report being informed and consulted before final managerial decisions are made affecting employment, investments, substantial changes in the organisation, working methods, production processes or transfers, restructuring, closures or collective redundancies, compared with their counterparts without BLER or not communicating with such a structure in their company. At the same time, it is observed that the mere presence of a board-level employee representative does not automatically result in timelier information and consultation at EWC level. Even where there is communication with the EWC, a majority of EWC members still feel they are informed and consulted only after the management has already taken the final decision. This suggests that other factors are necessary to ensure that workers’ representative institutions are mutually reinforcing, and also that communication between them is insufficient to ensure that management respects basic obligations to share information.

Table 1 BLER and EWC effectiveness

How effective are the ordinary EWC meetings as a source of information?				
	(Very) Effective	Neutral	(Very) Ineffective	N
Total	77.8%	16.7%	5.5%	1,100
No BLER	74.0%	19.6%	6.5%	513
BLER, no communication	71.8%	20.0%	8.3%	249
Communicating with board-level employee representatives	84.0%	13.3%	2.7%	338

Note: Chi-square value 19.59, df 4, p-value: < 0.01.  
Source: ETUI’s EWC 2018 survey results.

<sup>2</sup> Only in France is there a legal rule prohibiting the accumulation of representative mandates in the same company.

Table 2 BLER and timing of EWC information and consultation

In general, when does information exchange or consultation take place?						
	Before the final decision	After the decision, before implementation	During implementation	After implementation	Don't know	N
Total	20.9%	43.2%	19.3%	9.5%	7.1%	1,103
No BLER	17.5%	50.1%	19.1%	9.2%	4.1%	513
BLER, no communication	17.6%	40.5%	21.3%	10.7%	9.9%	253
Communicating with board-level employee representatives	28.8%	39.4%	22.4%	7.7%	1.7%	337

Note: Chi-square value 43.95, df 8, p-value: < 0.01.  
Source: ETUI's EWC 2018 survey results.

Indeed, a key precondition might be managerial attitude. BLER might be expected to affect the management's approach to the EWC. Research has shown that the more significant the workers' clout on the board, the more consensual and cooperative dynamics are infused in the culture of industrial relations (Hopt 2016: 9). If an influential BLER is present, workers' issues are more likely to be discussed in the board, and the management will more often depend on the board-level employee representatives' support and cooperation, and thus seek compromise and accept concessions to workers elsewhere. A multi-party board composition involving management, shareholders and a 'critical mass' of worker representatives makes coalition-building possible in the board and beyond (Pistor 1999: 177) and can give additional leverage to worker representatives, especially if board-level employee representation is well coordinated with other levels (Conchon and Waddington 2016: 4).

Looking at how EWC members perceive managerial attitudes according to the survey, these hypotheses are confirmed. As Table 3 shows, EWC members in companies with board-level employee representation, and where the two communicate, are much more likely to agree with the statement that '*management makes efforts to find agreed solutions with the EWC employee representatives*' (49.4 per cent) than EWC members in companies without board-level employee representation (36.4 per cent), or with board-level employee representation, but without communication (31.2 per cent). Obviously, other reasons unrelated to board-level employee representation might explain positive management attitudes towards EWCs, such as using the latter to promote company goals (Pulignano and Turk 2016). An active BLER presence is not sufficient to get the management to seek agreed solutions. Our data show, however, that EWC members perceiving a positive management attitude also communicate with a board-level employee representative in most cases.

Table 3 EWCs, board-level employee representation and managerial cooperation

Management makes efforts to find agreed solutions with the EWC employee representatives					
	(Strongly) Agree	Neutral	(Strongly) Disagree	Don't know	
Total	38.5%	38.1%	19.4%	4.1%	1,101
No board-level employee representation	36.4%	36.4%	24.4%	2.8%	515
Board-level employee representation, no communication	31.2%	47.9%	15.7%	5.2%	248
Communicating with board-level employee representatives	49.5%	32.8%	17.3%	0.4%	338

Note: Chi-square value 50.02, df 6, p-value: < 0.01.  
Source: ETUI's EWC 2018 survey results.

Tables 1, 2 and 3 show the bivariate relationship between the EWC and board-level employee representation and the three outcome variables. Obviously, this relationship could be the result of a composition effect in which EWCs with board-level employee representation are more likely to be concentrated in some sectors or countries. For this reason, a multivariate multilevel regression analysis was performed using various control variables, such as sector, country location of company headquarters, country of origin of the EWC representative, the presence of a trade union coordinator, company size and number of EWC plenary meetings. For all three outcome variables, the EWC-board-level employee representation variable was significantly related to the outcome.

Survey data allow us to draw two conclusions. First, it confirms that EWCs' communication with BLER is related to management's timely provision of information to EWCs and more effective EWC meetings as a source of information (Tables 1 and 2). Second, it also confirms that in companies with board-level employee representation, managerial attitudes towards company-level social dialogue tend to be more cooperative than in companies without it.

## Conclusions: board-level employee representation can help, but it is not enough

Our analysis has focused on the relations between EWC and board-level employee representation. We can draw at least four conclusions. First, the existence of board-level employee representation in more than half of companies with EWCs indicates significant potential for effective communication between the different forms of workers' representation. This could be used to address some information shortages reported by EWCs.

Second, almost half of EWC representatives in companies with board-level employee representation reported that they did not communicate with it. Such a lack of communication could represent potential lost opportunities for EWCs struggling to obtain timely and quality information.

Third, in companies where respondents reported communication with board-level employee representatives, EWC members were more likely to report better outcomes of their EWC work, in terms of: (i) access to effective information; (ii) involvement in the decision-making process at an earlier stage; and (iii) managerial inclination to seek agreed solutions.

Fourth, despite a board-level employee representation presence and communication between it and the EWC, the majority of EWC representatives still thought they were not informed and consulted in a timely fashion. This means that, while active communication between EWC members and board-level employee representatives might be an asset, it is far from sufficient for a well-functioning EWC. While communication is key, the observation that many EWCs do not communicate with the board-level employee representatives in their company raises questions. Based on previous studies, important factors include a lack of resources, awareness, interest, rights and access, and managerial resistance (for example, Voss 2016).

Still, recommendations for action can include: (i) boosting the potential for EWC/board-level employee representation cooperation by increasing the presence of such representatives in companies, and (ii) setting conditions that lower obstacles for communication and cooperation between the EWC members and the board-level employee representatives.

At the policy level, legislation could be developed to establish widespread (strong) board-level employee representation rights at the national and EU level, to make board-level employee representation more present, but also to promote its proper functioning. For years now, the European Trade Union Confederation has been calling for a coherent and holistic approach to workers' rights to information, consultation and board-level participation (ETUC 2016). Legislative action should use both labour law instruments and corporate and tax law to prevent corporate escape routes.

Running a communication network by and around an EWC requires specific resources for workers' representatives that go beyond mere attendance at meetings. These need to be addressed by legislation that provides, for example: (i) explicit provisions for joint preparatory meetings between EWC and board-level employee representatives, both for EWC and board meetings, (ii) exclusion of confidentiality limitations between EWC members and board-level employee representatives, (iii) involving the EWC in the appointment of board-level employee representatives, or (iv) providing for observer seats for board-level employee representatives in the EWC.

Trade unions could include joint and strategic training addressed to both EWC and BLER representatives and directed towards more efficient coordination and transformative political action. Additionally, they can help to raise awareness about the existence of board-level employee representatives in multinational companies, support EWCs in (re-)negotiating articulation clauses in their agreements, and in establishing contacts and channels of cooperation with board-level employee representatives (especially given that 21 per cent of EWC members did not know whether board-level employee representation existed in their company).

## References

- Conchon A. (2011) Board-level employee representation rights in Europe. Facts and trends, Report 121, Brussels, ETUI.
- De Spiegelaere S. and Jagodziński R. (2019) Can anybody hear us? An overview of the 2018 survey of EWC and SEWC representatives, Brussels, ETUI.
- ETUC (2016) Orientation for a new EU Framework on information, consultation and board-level representation rights, Position Paper. <https://www.etuc.org/sites/default/files/document/files/en-position-wblr.pdf>
- Franca V. and Doherty M. (2020) Careless whispers: confidentiality and board-level worker representatives, *Employee Relations*, 42 (3), 681-697. <https://doi.org/10.1108/ER-03-2019-0146>
- Gumbrell-McCormick R. and Hyman R. (2018) Democracy in trade unions, democracy through trade unions?, *Economic and Industrial Democracy*, 40 (1), 91-110. <https://doi.org/10.1177%2F0143831X18780327>
- Haipeter T., Hertwig M. and Rosenbohm S. (2019) Employee representation in multinational companies – the articulation of interests in multilevel action fields, Basingstoke, Palgrave Macmillan.
- Hassel A. and Helmerich N. (2017) Workers' voice in the 100 largest European companies, MBF-Report 31, Düsseldorf, Hans-Böckler-Stiftung.
- Hopt K.J. (2016) The German law of and experience with the supervisory board, Law Working Paper 305/2016, Brussels, European Corporate Governance Institute.
- Pistor K. (1999) Codetermination: a sociopolitical model with governance externalities, in Blair M.M. and Roe M.J. (eds.) *Employees and corporate governance*, Washington D.C., Brookings Institution Press, 163-193.
- Pulignano V. and Turk J. (2016) European works councils on the move: management perspectives on the development of a transnational institution for social dialogue, Leuven, Centre for Sociological Research.
- Voss E. (2016) European works councils: Assessments and requirements. Report to the ETUC, Brussels, ETUC. [https://www.etuc.org/sites/default/files/publication/files/europeanworks\\_councils\\_ces\\_01.pdf](https://www.etuc.org/sites/default/files/publication/files/europeanworks_councils_ces_01.pdf)
- Waddington J. and Conchon A. (2016) Board-level employee representation in Europe: priorities, power and articulation, Abingdon, Routledge.

All links were checked on 10/01/2022.

ETUI publications are published to elicit comment and to encourage debate. The views expressed are those of the author(s) alone and do not necessarily represent the views of the ETUI nor those of the members of its general assembly.

The ETUI Policy Brief series is edited jointly by Nicola Countouris, Jan Drahekoupil, Philippe Pochet, Aída Ponce Del Castillo, Kurt Vandaele and Sigurt Vitols. The editor responsible for this issue is Kurt Vandaele, [kvandaele@etui.org](mailto:kvandaele@etui.org)

This electronic publication, as well as previous issues of the *ETUI Policy Briefs*, is available at [www.etui.org/publications](http://www.etui.org/publications). You may find further information on the ETUI at [www.etui.org](http://www.etui.org).

© ETUI aisbl, Brussels, January 2022  
All rights reserved. ISSN 2031-8782



The ETUI is financially supported by the European Union. The European Union is not responsible for any use made of the information contained in this publication.