

2012

The Brits also speak European: Results of the EWC conference in London



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The international conference held at the historic Bloomsbury House in the heart of



London met with great interest. At the end of October 2012, 50 employee representatives from Germany, the United Kingdom, Denmark, Norway, Sweden, France, Italy, Spain and the Netherlands met for an exchange of experience on the British system of labour relations, the work in European works councils (EWC) under British jurisdiction and on current developments. This included presentations from academics, experts and experienced representatives of their findings and provided a fascinating

insight into their work.

British peculiarities

An introduction to the British system of employee representation was given by Dr Ray Cunningham, visiting professor at the Anglia Ruskin University, Cambridge. He outlined an up-to-date picture of trade unions in the United Kingdom and gave an overview of the historical roots and their influence on the present system of labour relations. Similarly as in other western industrial nations, the number of union members has decreased over recent decades, even more so however, than in comparable countries during the Thatcher government of the late 70's and 80's. Interestingly

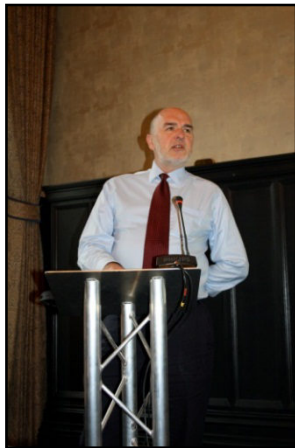


enough, Cunningham nevertheless sees the great rupture not only as a consequence of the introduction of neo-liberal policies, but is of the opinion that the opportunity to develop improved conditions for the trade union movement was already missed after



the Second World War. Today there are slight signs of recovery within the movement, since it is now trying to open itself up towards women, immigrants and the youth.

One particularity of British labour relations is a nationally financed conciliation and arbitration board for employers, employees and trade unions. The



work of the tripartite ACAS council (Advisory, Conciliation and Arbitration Service) was presented by Peter Harwood (photo), the chief-mediator from the ACAS centre in London. From an analysis of the figures it appears that a very large part of their work consists primarily of advice to individuals. Well over four million people visited their website in 2011 and one million called their helpline. This is to be compared with the small pro-

portion, a mere 1,000 cases, dealing with collective contractual disputes. Such conflicts are mainly concerned with wages and salary. Good results are usually obtained for both sides by using the concept of shuffle diplomacy. An agreement is reached 80 to 90% of the time with subsequent strikes in the remaining cases. Generally Harwood considers that British employee representatives' rights, such as time-off work and training rights are guaranteed by the respective British legislation from 1975. Any influence from EU-legislation, in particular for the establishment of committees under the Information and Consultation Directive, in force since 2005, is not as clearly pronounced. In eight years, since its introduction, a mere 17 cases have come before the council for arbitration.

Whereas conciliation boards are well known, at least in Germany, the presentation of the election process in the United Kingdom met with some irritation. Sian Roberts and Simon Hearn (photo), two representatives from the consulting firm, Electoral Reform Services, introduced the regulations for balloting for trade union recognition and for the establishment of Information and Consultation committees. The role of the Electoral Reform Services is aimed at organizing a fair election process. It extends from the nomination of candidates right through to the counting of votes. Overall they observe a decrease in the number of elections and a decrease in the turnout can be noted whenever there is an election. The partially low election turnout of 10 to 40 % raised the question whether it was normal. In the opinion of Electoral Reform Services, electoral participation differs greatly from one company to another. Electoral Reform Services do not carry out any voter-mobilization, since the consulting company



is only responsible for the technical and organizational aspects of elections. They do provide this type of service to political parties, trade unions, companies and municipalities. Contents have to be supplied by the participants themselves. The framework for elections is provided by European legislation such as the 2009 EWC Directive, the EU-Directive on National Information and Consultation Committees from 2002 and

by the British legislation on trade unions and

strike balloting. This includes the minimum figures for trade union recognition or derecognition.

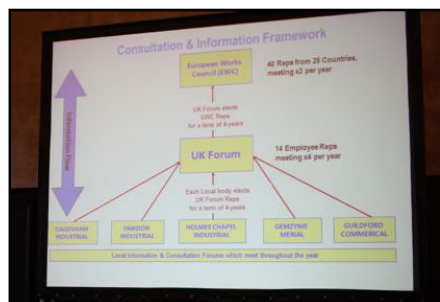


Marie Kihlberg-Nelving, secretary of Unionen, the white collar trade union from Stockholm: "For me the conference was very well organized, I found the possibility for informal discussions very useful. It would have been nice to learn a little more about British legislation."

European practical experience

Great patience

Pat Baron, a EWC member of the French pharmaceutical group, Sanofi, presented in a very vivid and practical manner the constitution and operation of their UK forum. A total of 2,200 employees of the Sanofi group work in five British sites. Employee representatives from all five sites are present in the UK forum. The forum meets four times yearly and changes venue every meeting so that all sites are involved in the work of the forum. Unusually for Great Britain, management supports the work of the forum. The role of trade unions is not perceptible on a national level, but in their opinion co-operation is good on the local level.



All production sites have their own forum, so that a real flow of information in both directions is possible. She is herself the USDAW trade union representative in the Holmes Chapel manufacturing plant in Cheshire and, as such, participates in the other committees. The

link between the British committees and the European works council works well. The work of the UK forums provided the foundation for similar committees which were later established in Spain, Italy and Portugal. The question of confidentiality, often brought up by management in Great Britain as a counter argument to any information rights for employee representatives, is in practice not a problem due to the rather cooperative approach between them.

Corporate culture shapes EWC work

Stefan Jünger (photo), EWC chairman of Imperial Tobacco, the British tobacco company



and works council member of the Reemtsma Cigarette manufacturing plant in Wallenhorst (Germany) demonstrated that not only corporate culture can be strongest. Imperial Tobacco bought a 90% stake in Reemtsma already in 2002 and the merger with Altadis was concluded in 2008. European works councils existed in both cases, Imperial Tobacco under British jurisdiction, and Altadis under Spanish. The negotiation of a new EWC agreement did not get off to a promising start, and was

dragging on partly due to ideological differences between the employee representatives. A more solution-oriented group of representatives in the Special Negotiating Body (SNB) took over the helm with a view to taking a more pragmatic approach, in particular to establish a new functioning EWC to cover all employees. Although German employees do not make up the majority of the workforce, Stefan Jünger was elected as the chairman of the new European works council, which started operating under British jurisdiction and under Article 13 of the old EWC Directive. There are more representatives than previously and they are elected according to an algorithm amongst the 20 countries concerned. At present the focus is on a balance of interest, since for example the Berlin plant is being closed, while at the same time the European headquarters' work has been transferred to Hamburg.

European observations

Dr Jeremy Waddington (photo), professor at Manchester Business School and project coordinator at the European Trade Union Institute in Brussels, gave a very entertaining presentation on the results of a survey on Information and Consultation practices in European works councils. Based on a very large survey of European works council members, namely 941, he was able to determine that the minimum requirements for Information and Consultation were only partially met. During restructuring, management informs in more than half of the cases. In others the EWC gets its information from the press and moreover, once the decision has already been taken. Even more serious is when consultation is completely abandoned, or insufficient preparation time is given, or when no consultation takes place at all, after the decision has already been taken. A third of all participants indicated that they were not at all informed about the restructuring process.



This is clearly is a management failure, but according to the very down-to-earth professor, EWC members obviously have also an obligation to stand up for their rights.

Rolf Dieter Dreyer, EWC member of RollsRoyce, the British engine manufacturer from the manufacturing plant in Oberursel, Germany: "I learned a lot of new information and details. The exchange with other EWC colleagues was good. There was a good balance between theory and practice."



The majority of EWC members have more than 10 years' experience as employee representatives at both local and national levels, before becoming also active on a European level. Waddington continued his critical analysis further by qualifying the communication of employee representatives within their own country and also

amongst themselves as worthy of improvement. Waddington concluded that EWC members need a body which operates both from the timing, as well as from a contents and an organizational viewpoint better than is presently the case. In order to strengthen the work of the European works councils he consequently sees a great need for seminars, coaching and for information. Apparently the new Directive provides at least a good starting point.

Dr Tina Weber (photo) from GHK Consulting had already carried out a survey in 2008



on behalf of the European Commission in Brussels. One of the goals of the survey was to estimate to what extent the revision of the EWC Directive would affect costs for the institution. At that time telephone interviews were carried out with one in every ten EWCs. The subsequent estimation for the revision of the EWC Directive made from the employer and employee viewpoints resulted in a few concrete figures which are worthwhile mentioning, particularly concerning the expense and resources of a

European works council: On the average a EWC meeting is valued at 101,000 Euros. The highest costs are for interpretation, but also for indirect costs such as the time-off allowances for EWC members followed by travel expenses. If there is a steering committee meeting, then usually 8,600 Euros per meeting has to be calculated. As far as the costs of training and consultation are concerned, there was most likely a methodological error, since the majority affirmed the possibility to participate in training; the research workers presume that there was confusion with national events. When it comes to experts, the French have the highest costs with 144,000 Euros per year for external advisors, while the average for non-French EWC bodies amounts to 3,500 Euros. Many of the demands which were expressed in the survey, e. g. a right to training, better information in the case of restructuring, are satisfied by the new EWC Directive and must now be made known and brought to life.

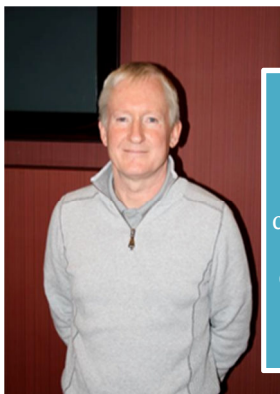
Current developments: Sanctions and legal proceedings

This is exactly the role of the EWC Academy as well, according to its managing director Dr Werner Altmeyer (photo). His wrap-up speech made the connection between the various presentations and above all emphasized the criteria for a correct Information and Consultation procedure in the European works council according to the new EU-standards. He strongly insisted how important it is, when interpreting the Directive, to really read and understood it word for word. This begins already with the word “meeting”, where a physical meeting between people is clearly meant and not a video or



teleconference. Likewise the term, “at such time and in such fashion”, is important in describing the way to be informed so that a motivated opinion can be expressed. In this respect, Dr Altmeyer presented a few examples of how differently the applicable national legislations sanction management violations. Whereas in Germany there is a maximum fine of 15,000 Euros for insufficient information, but no fine whatsoever in the case of unsatisfactory consultation, the United Kingdom provides for a fine of 100,000 Pounds in both cases. The situation is completely different in France. If the consultation is not correctly concluded the entire restructuring process can be stopped.

Dr Altmeyer also presented the current status of legal proceedings in EWC matters. The most prominent case is that of Visteon, the US automobile supplier. The new German EWC legislation was hereby having its first court case, already in June 2011, a few weeks after its entry into force. In a second instance ruling on 8th September 2011, the Higher Labour Court in Cologne rejected an injunction order denying the European works council its legal participation rights in the context of a planned plant closure in Spain. Meanwhile management was claiming that its European headquarters and therefore the EWC were located in the United Kingdom. As a result any ongoing legal claims were not even filed by the employee representatives due to cost reasons. The Donata Holding SE, perfume manufacturer is possibly a model legal case for SE agreements. In the process of



Alan George, EWC member of the automobile supplier, ZF Friedrichshafen, from the British manufacturing plant in Wednesbury: "I have only been a member of the European works council for three months. For my work it is very important to understand how our EWC rights can be used. The conference has given me a lot of food for thought. The contents and the organization were good."

establishing a “Centre of Excellence” in

Geneva (Switzerland) employees were to be laid off in other sites. Legal proceedings are now in progress since the SE works council was informed but not consulted on

the subject. This is similar to what happened in the computer manufacturer, Hewlett-Packard, where the quality of the European works council consultation procedure is also being examined in court proceedings.

Dr Altmeyer concluded by stressing what an important role the results of such legal proceedings and the exchange of good EWC working practice play in the efficient operation of employee representatives.