



EUROPEAN
TRANSPORT
WORKERS'
FEDERATION

ETF Policy Guidelines on the coordination of European Works Councils



Introduction

Multinational companies with at least 1,000 employees across the 27 EU Member States, and a minimum of 150 employees in at least two of those states, are obliged by European legislation to set up a European Works Council (EWC) or a procedure for informing and consulting employees.

The transport and logistics sector are not the sector with the most EWCs yet a number of large multinational companies already have an EWC and there is potential for many more. For ETF, setting up an EWC is not an objective in itself. Rather, in a time when the transport sector faces unprecedented challenges, including globalisation, technological change, labour fragmentation and corporate consolidation, EWCs represent a critical instrument for defending workers' rights and promoting social dialogue at all levels. They should therefore only be created when they meet certain criteria and can ensure that the rights and interests of workers are integrated in the corporate decision-making processes. This is only possible with a strong trade union presence and will to take on an active role in this platform.

As outlined in its Constitution, the ETF aims to represent the social and economic interests of workers in transport, including logistics, fisheries, and tourism. With regard to EWCs, ETF will also always act according to the will and interests of its affiliates. Additionally, as European Trade Union Federation and member of the European Trade Union Confederation, ETF will leverage its experience and broad network to support EWC activities effectively.

These updated Policy Guidelines¹ provide guidance for affiliated organizations, trade union representatives, and EWC members to navigate the complex process of establishing and operating EWCs. As only effectively coordinated EWCs can truly empower and unify the voice of workers in multinational companies and strengthen solidarity across borders, these guidelines also aim to cover all aspects of coordination and clarify the essential roles and responsibilities of the different stakeholders involved.

¹ The previous guidelines were adopted by the Executive Committee in 2015.



Procedure for Establishing an EWC

Prerequisites

Any ETF affiliate or group of affiliates can express their interest in establishing an EWC for an eligible multinational company. To ensure that the EWC is truly a Europe-wide structure for employee representation, the following key criteria will first be evaluated:

- ▶ Position of trade unions in the company home country;
- ▶ Degree of unionisation in key countries, especially those with significant operations or where the company's European headquarters are located.
- ▶ Coordination capacity of ETF affiliates to collaborate at the national level, particularly in these key countries.

To assess these criteria, the ETF will first:

- ▶ **Conduct a company mapping** to gather information on its activities and structure.
- ▶ **Contact affiliates in the company's home country** to collect information on the company's practices, union structures, and levels of cooperation (affiliates in the home-country are more likely to have direct contacts with the central management and access to first-hand information).
- ▶ **Contact all ETF affiliates and relevant sections** to check the unions' presence and representativeness in the countries where the company is active.

Based on the information collected, ETF will assess the situation with relevant affiliates and recommend whether to proceed with establishing the EWC.

Setting-up an EWC

Formal Requests

According to the applicable legislation, to start the process, a formal written request from at least 100 employees or their representatives coming from company sites from at least two different Member States must be sent to central management.

- ▶ If initiated by affiliates, they must inform without unnecessary delay the ETF, which will share the request as well as company response with all affiliates and assess whether it can coordinate the process.
- ▶ If initiated independently from ETF affiliates, affiliates must inform the ETF and provide the request letters. The ETF will assess whether it can coordinate the process.
- ▶ If initiated by the ETF at the request of affiliates, ETF Secretariat will coordinate the process.
- ▶ If initiated by a company (very rare), affiliates in the home country should alert the ETF, which will share the request with all affiliates and assess whether it can coordinate the process.

Creation of the Special Negotiation Body

Within 6 months following the formal request, the company has the obligation to organise a



Special Negotiation Body (SNB) meeting. In order to do so, it must first provide all relevant information on the company, in particular concerning the structure, workforce and distribution across Europe, and organise the nomination/election of the SNB members according to national legislation.

- ▶ **If the request is coordinated by ETF**, the ETF Secretariat and affiliates will gather relevant information and follow the election/selection procedure to ensure that the appropriate persons are elected or designated to sit in the SNB. An ETF-nominated coordinator should already follow the SNB.
- ▶ **If not coordinated by ETF**, affiliates must provide the ETF with company data, election timelines, and key mandate distributions.
- ▶ **In both cases**, the ETF Secretariat will share information with relevant ETF sections.

Negotiation of the EWC agreement

- ▶ From the sending of the formal request, the company and the SNB have 3 years to reach an agreement establishing the EWC.
 - Affiliates must inform the ETF of the first SNB meeting date and the full negotiation timetable.
 - If the ETF coordinates the process, it will support the negotiations by:
 - Setting up contact lists of SNB members (identifying unionised members);
 - Ensuring that the EWC is as inclusive as possible, including representing non-standard workers and non-EU, non-EEA countries (such as the UK, Switzerland);
 - Providing SNB members with information and resources package about their roles and rights;
 - Supporting training sessions;
 - Ensuring that the SNB functions according to legal provisions (e.g. translation of documents, interpretation of meetings made available);
 - Ensuring that the SNB is assisted by an expert;
 - Advising on the negotiated text.

Based on the final draft agreement, ETF may issue recommendations on whether the agreement should be signed. In any case, no agreement below the subsidiary requirements, which represent the base minimum, should be signed.

Should the SNB and management not succeed to conclude an agreement, the EWC will automatically be established under the subsidiary requirements.

Copies of signed agreements are to be sent (by affiliates, EWC coordinators or experts) to the ETF Secretariat for updating and archiving purposes.



Renegotiation of an agreement:

ETF may assist and advise in this case. It is in fact strongly recommended to add a revision clause to every new agreement, foreseeing the possibility of renegotiation for when the new (revised) Directive will be adopted and if there are situations in which the agreement shall be renegotiated, including when the structure of the Company changes.



Functioning of the EWC

- ▶ Workers' participation, timely information and meaningful consultation are essential for a well-functioning EWC. Even after the creation of the EWC, ETF will remain available to provide advice or support as requested by the affiliates, including to help fill empty seats, organise trainings, provide mediation.
- ▶ ETF may also assist affiliates in case of disputes or to discuss national matters such as the representation and distribution of seats.
- ▶ If needed, ETF may contact and meet with management to solve issues.

Role of the ETF

ETF's role can be broad and will vary according to the individual cases and requests of affiliates. Several levels are involved:

- ▶ **The Executive Committee** is responsible for formulating and safeguarding the overall political framework for EWC coordination and regularly assessing ETF activities based on reports from the ETF Secretariat.
- ▶ **The Secretariat** manages the trade union coordination for EWC policy. A designated staff member oversees this task.² As explained above, coordination includes communication with affiliated organisations, ETF sections (with and between them when several are involved), the SNB, EWC members, the experts and the company management.
- ▶ **The EWC Coordination Group** facilitates direct communication and consultation between the ETF Secretariat and affiliated organizations regarding EWC matters. This group comprises trade union representatives interested in EWCs and EWC coordinators.

During its last congress, ETF has decided to reinforce its support to EWCs and its coordination role. The ETF Secretariat will therefore engage directly with EWCs and the respective Sections and Committees, as well as develop new ways to better coordinate mutual capacities, develop research and engage with expert on technical issues.³

In this sense, the ETF Secretariat will organize regular meetings of all members involved in companies where there are or should be EWCs. Coordinators will also receive necessary resources, including policy documents, and be invited to participate in trainings organized by the ETF or other organizations like ETUI.

Furthermore, as part of its work on the revision of the EWC Directive and (re)negotiation of agreements, ETF will continuously advocate for a clear recognition of the role of EU-level trade union/social partner organisations as representative organisations of workers' interests.

² In the current organigram there is a full-time Policy Officer dedicated to EWCs and Company Policy.

³ ETF Congress Main motion, May 2022.



Designation of trade union coordinators

Studies show that the presence of a trade union coordinator significantly enhances the effectiveness of an EWC: they have better internal organisation, meet more often, receive more training, communicate more and show higher levels of trust between representatives from different countries.⁴ Moreover, his/her presence is essential to give EWCs a trade union perspective. Each EWC should therefore have a trade union coordinator who can:

- ▶ Attend the meetings;
- ▶ Advise the EWC and ensure that procedures are respected;
- ▶ Act as the contact point for ETF: regularly inform ETF of the functioning of the EWC and report potential issues;
- ▶ Foster cohesion and communication between EWC members;
- ▶ Promote cooperation between trade unions that organise in the company, and ideally contribute to the unionisation of the SNB/EWC;
- ▶ Ensure that all seats are filled and if needed contact ETF;
- ▶ Ensure ETF policy guidelines are understood and accepted;
- ▶ Connect the EWC with ETF activities;
- ▶ Serve as a contact point for transnational issues in the company, facilitating a coordinated trade union response (e.g. in case of restructuration).

ETF therefore recommends to always have the role of a trade union coordinator recognized in the EWC agreement and his/her participation to meetings covered by management. This should be a priority in the negotiation of agreements.

Depending on the EWC, different scenarios are possible. A **trade union coordinator can be:**

- ▶ A trade union officer/representative;
- ▶ The Chair or a member of the EWC who is member of ETF;
- ▶ A member of the ETF Secretariat.

In EWCs where ETF is well represented, the coordinator should be endorsed by the EWC. In EWCs where the trade union presence is weak or the assistance of a coordinator has been formally rejected, a trade union coordinator should still be designated by ETF affiliates to influence and follow the EWC from the outside.

If other European Trade Union Federations (ETUFs) from other sectors are involved, the ETF will clarify how responsibilities are to be shared.

⁴ ETUI, Can anybody hear us? An overview of the 2018 Survey of EWC and SEWC representatives.



If the trade union coordinator is not from the ETF Secretariat, **he/she should:**

- ▶ Be affiliated to a trade union;
- ▶ Represent the EWC and not a particular union;
- ▶ Preferably be from the country where the company is headquartered or has major activities;
- ▶ Have a European profile with knowledge of various trade union cultures within the ETF;
- ▶ Be able to communicate effectively in English;
- ▶ Be familiar with EWC functioning and ETF policy guidelines;
- ▶ Preferably have experience with the specific company or sector;
- ▶ Not be responsible for too many EWCs to ensure effective coordination.

In any case, the trade union coordinator must always act in the best interests of EWC members, consulting them before making any decision and never acting on its own. He/she should receive appropriate training and support from the ETF Secretariat whenever necessary.



Role of Trade Unions and Affiliates

EWCs are a shared responsibility and effective coordination relies on strong communication between the ETF Secretariat and affiliated member organisations. Only a timely and thorough communication will effectively ensure that trade unions, and thus workers' interests, are adequately represented in SNBs and EWCs.

Moreover, the EWC is also an important tool for national trade unions, offering them another platform to receive information and an additional level for social dialogue.

Affiliated organizations should therefore:

- ▶ Collaborate with the ETF Secretariat;
- ▶ Ensure transparency and share relevant information with the ETF whenever information is available from local shop stewards, local works councils (e.g. on possible new EWC (re-) negotiation, or developments in existing EWCs which are of importance for other countries);
- ▶ Follow the election/designation procedure of the SNB/EWC members at national level, ensuring the legitimacy and appropriateness of SNB and EWC members;
- ▶ Ensure that EWC members and trade union coordinators have the right profile and adequate resources, including sufficient working time and training.



Expert Support

SNBs and EWCs have the right to be assisted by experts of their choice. Ideally these experts should be from the trade union movement. So far companies are obligated to cover costs for only one expert, so the person should be carefully chosen.

ETF has experience working with different consultancy firms and may recommend experts depending on the profile of the company and the legislation of the agreement. Recommendation will be made in consultation with the affiliates.

To be recognized as an ETF-supported expert, candidates must:

- ▶ Demonstrate a European culture and attitude;
- ▶ Possess relevant expertise, especially in industrial relations and legal provisions governing SNBs and EWCs;
- ▶ Be from the country of the company's headquarters or familiar with the national transposition law applicable to the EWC agreement;
- ▶ Be familiar with and adhere to ETF policies and principles;
- ▶ Be capable of drafting agreements or collaborating with the ETF and SNB/EWC members to align with trade union and EWC interests during (re)negotiations.

Responsibilities of the ETF-supported Expert:

- ▶ Attend all pre- and negotiation meetings;
- ▶ Advise and assist SNB members throughout the negotiation process, including on draft agreements;
- ▶ Keep the ETF Secretariat informed, share draft agreements and report any issue;
- ▶ Assist EWC members, including in preparing annual meetings (e.g. in reading and analysing management's reports);
- ▶ Support the redaction of opinions and provide advice whenever requested.

The roles of experts, trade union coordinators and of the ETF Secretariat are complementary. While the ETF Secretariat can advise and assist SNB/EWC, they do not serve as an expert. Regular communication between experts, trade unions coordinators and the ETF Secretariat is therefore essential.