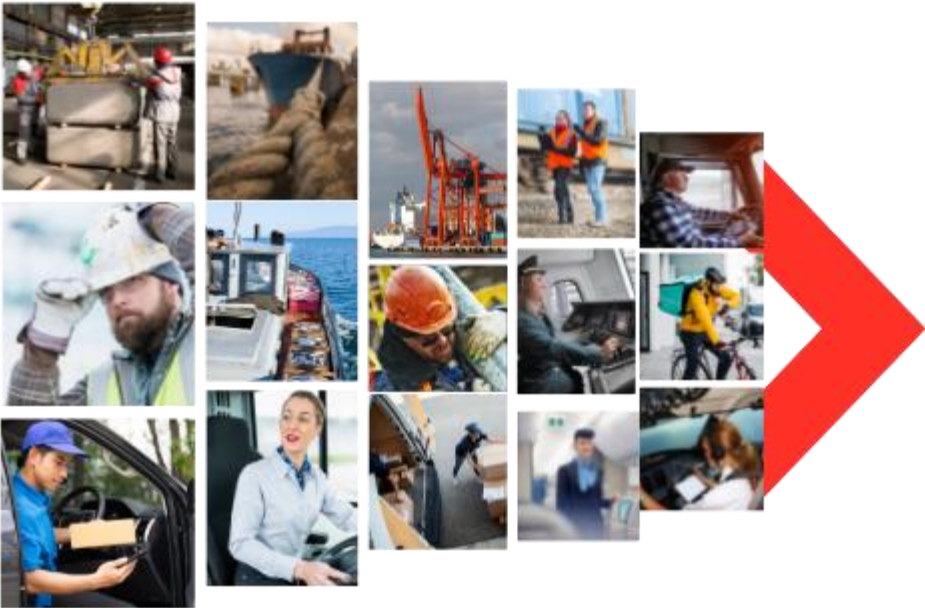




Self-training tool n°4 : Transnationality



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***Transnationality is
the basis of what
can be discussed at
EWC level***



What is transnationality? It is defined by the EWC Directive and your EWC agreement



Transnationality at an EWC means that decisions or actions taken at one European country have ramifications in at least one other European country

Key takeaways

- Transnationality is the basis for an EWC.
- It has a practical, legal definition set out in the Directive : « *Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States* » (Art 1 ; EU Directive 2009/38)
- Your EWC agreement will define what a transnational issue is. Working with your coordinator, it is important to ensure that the agreement does not contravene what is in the Directive.



Be aware that the recital of the EU Directives gives you a wider, more practical and more useful definition of transnationality

Recital 16, EU Directive 2009/38

- “The transnational character of a matter should be determined by taking account of both the **scope of its potential effects**, and the **level of management** and representation that it involves.
- For this purpose, matters which concern the entire undertaking or group or **at least two Member States** are considered to be transnational.
- These include matters which, regardless of the number of Member States involved, are of **importance for the European workforce in terms of the scope of their potential effects** or which involve transfers of activities between Member States”.

The recital stipulates that both the scope of its potential effects, and the level of management and representation that it involves, need to be taken into account when assessing if an issue is a transnational one.

The recital of the Directive states clearly that matters which concern the entire undertaking or group or at least two Member States are considered to be transnational, but it also matters which concern the entire undertaking or group



Transnational is broader than you think : here are two tips about transnationality !



Tip 1 : Instead of defining what transnationality is, think about what it is not : a decision which has no ramifications outside the country where the decision had been taken. Everything else is potentially transnational and may be discussed at the EWC !



Tip 2: It is important to ensure the your EWC agreement implements the Directive in full (including the part the one from the recital which includes “potential effects” on at least 2 countries).
→ If you are part of an EWC where transnationality is not defined in accordance with the Directive, raise the issue with your trade union coordinator.





Ensure your
trigger your
rights on
exceptionnal
circumstances !



Exceptional circumstances are defined as issues affecting employees interests to a considerable extent.

The directive stipulates that these issues may include « relocations, the closure of establishments or undertakings or collective redundancies » but **exceptional circumstances are not limited to these issues.**

“Where there are exceptional circumstances or decisions affecting the employees’ interests to a considerable extent, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council shall have the right to be informed.” Art. 3, Annexe 1, EU Directive 2009/38



Exceptional circumstances **give the right to be infomed and consulted on important transnational events outside of regular meetings.**



If a **transnational issues** arises within a timeframe where implementation will be complete before a regular EWC meeting arises, make sure you trigger your rights to exceptional circumstances. If in doubt, consult your trade union coordinator/experts.



For transnationality to work effectively, there needs to be a strong loop of confidentiality. This means that there needs to be **strong communication between EWC members outside** of EWC meetings, and strong communication between reps, local works councils and trade unions **to identify transnational issues.**

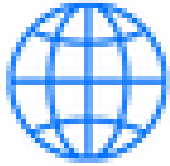
The definition of transnationality in the Directive is likely to change in the future, meaning a stronger and clearer understanding of transnationality will be added to the Directive. Ensure you consult your trade union coordinator.

By **working with technical experts, you will be able to get a clearer understanding of what transnationality entails.** Before any regular EWC meeting, **be vigilant to ensure that any issue which is transnational -as defined within the EWC Directive- is coming before the EWC for information and consultation.**



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