

## ***Internal EMF Procedure for negotiations at multinational company level***

### **1. INTRODUCTION**

Collective bargaining is a core competence of national trade unions and their local representatives, based on national legislation and varying practices in different countries. As mandates rest with the trade unions, the EWCs do not have a mandate for collective bargaining and they should not become counterparts for management in such issues. The area of collective bargaining is, however, not clear-cut. It is in the interest of the EMF and its affiliates to ensure the full involvement of trade unions in any possible bargaining processes also at the European level.

Cases could arise where an agreement between the company management and unions at the European level would appear to be the most practical solution. EMF affiliates involved in the company may in such cases decide to become involved under the coordination of the EMF. This situation differs from the one foreseen in the statutes, according to which the Executive Committee can decide, by a two-thirds majority, to give the EMF a mandate for negotiations on a European framework agreement.

In the case of European company agreements we are confronted with 3 main points of difficulty:

- No legal framework up to now for European company agreements, which means that any agreement has to be also negotiated and implemented at national level in accordance with national systems and traditions
- No guaranteed trade union role at European company level
- No internal procedures for mandates and evaluation of such agreements in the EMF.

But even if there is no legal framework as yet at European level for trade union involvement in negotiations at European company level, the EMF can promote and stimulate trade union involvement in practice. Therefore the EMF has to provide its own internal guidelines and procedures for those cases where the EMF is involved in the process. These guidelines have to provide information on how to organise such European company negotiations and should take into consideration the different national practices, the fact that no two companies are identical and the implementation problem. There will thus always be a case-by-case practice, but this should be based on a number of general elements. In any case it is important to note that an agreement on European Company level should include a non regression clause.

### **2. PROCEDURE FOR NEGOTIATIONS AT MULTINATIONAL COMPANY LEVEL**

The EMF establishes the following procedure only for those cases where the EMF is involved and where there is a clear intention and commitment of both parties to reach an

agreement. This does not apply to the existing consultation processes already taking place at EWC level.

This procedure in fact only indicates structures and procedures to follow and does not point out what topics or content those negotiations are dealing with. When a company indicates its intention to start negotiations, or the EWC or the trade unions involved in the company express such a wish, then the following procedure should be respected:

1. Preliminary information and consultation procedure

- a. A complete information and consultation round shall be organised involving the trade unions involved in the company, the EMF coordinator, EWC select committee and the EWC. The trade unions involved should agree to start the negotiations. They should do this preferably in a unanimous way. If unanimity cannot be reached then the decision should be taken by at least a two-thirds majority in each country involved. Nevertheless, a country that represents 5% or less of the total European workforce cannot block a decision to start negotiations. The decision shall be made following their own national practices and traditions (but the EMF asks affiliated trade unions to clarify the methods used in each country to reach such a decision and inform the EMF of this method).
  - b. Simultaneously the EMF coordinator shall inform the EMF Secretariat of the start of this process and the topics and elements involved.
2. The mandate for these negotiations will be decided on a case-by-case basis. The mandate shall be given by the trade unions involved, and should preferably be unanimous. If unanimity cannot be reached then the decision (following their own national practices and traditions) should be made by at least a two-thirds majority in each country involved. Nevertheless, a country that represents 5% or less of the total European workforce cannot block a decision to start negotiations. The mandate could include:
- a. The concrete topics, viewpoints, policies, i.e. the mandate position paper.
  - b. Details of how the negotiation process will take place and the composition of the complete negotiating/ monitoring group.

There must be a concrete proposal as to the negotiating team, which will meet with the management on behalf of the complete negotiating group. This negotiating team must include at least one representative from the EMF, and/or the EMF coordinator and/or a representative of the trade unions involved, one of whom will lead the negotiations. The negotiators can also include trade union members of the EWC and/or EWC select committee.

This mandate shall be sent to the EMF Secretariat to ensure that it is in compliance with existing EMF policies.

3. The EMF Secretariat shall keep the Executive Committee and the relevant Policy Committees informed about the negotiations during the procedure and the negotiation process.
4. The negotiating team will present the draft agreement to the complete negotiation group for evaluation. This draft agreement will be approved by the trade unions

involved and this shall require at least a two-thirds majority in each country involved. This decision-making process will again follow own national practices and traditions.

5. The EMF in the person of the General Secretary or Deputy General Secretary, or another person mandated by them, shall sign the agreement on behalf of the trade unions that are involved in the company at the time of signing.
6. All trade unions involved shall agree to implement the signed agreement. The agreement shall be implemented in accordance with the national practices of the countries involved. Implementation must respect the legal framework and the collective agreement system of these countries.
7. Full information on any signed agreement shall be given to the Executive Committee and all relevant Policy Committees.