



EMB Europäische Metallgewerkschaftsbund  
EMF European Metalworkers' Federation  
FEM Fédération Européenne des Métallurgistes

# COMPANY POLICY NEWSLETTER

June 2007  
N° 1

## Foreword

*Dear Colleagues,  
Dear Reader,*

This newsbrief is the first issue of an EMF newsletter exclusively dedicated to company policy matters.

This **Company Policy Newsletter** is a response to reiterated requests made at the first EMF Company Policy Conference organised in November 2006. This Conference brought together some 150 EWC members, chairpersons and EMF coordinators, allowing them to meet, exchange experiences and identify progress made in the exercise of their mandate. A number of obstacles and needs were also identified.

Among the latter was the need to develop an instrument which could provide useful information to EWC representatives and facilitate the exchange of good practices.

This Newsletter intends to respond to that need. Its purpose is, primarily, to create a European reflex and a true sense of belonging to Europe by providing transnational examples of how EWCs and coordinated action at European level can improve employees' overall situation at work.

This Newsletter will strive to provide EWC members, chairpersons and EMF coordinators with information about the developments in respect of European labour legislation and national labour legislation, to disseminate information about best EWC agreements and to disseminate good practices in cases of company restructuring, etc...

The newsletter is part of our effort to improve the EMF's contribution to the work of European Works Councils and European trade union coordination work.

We hope you will find the contents of this **Company Policy Newsletter** interesting, inspiring and above all helpful. Of course comments are always appreciated as well as suggestions about topics that could be addressed in future issues.

*Peter Scherrer*

## Works Councils Take Court Action to have their Rights Respected

Several court rulings have been made in recent months reasserting the obligation of companies to respect the established rights of European Works Councils and the prominent role played by EWCs in industrial restructuring cases.

Four court cases initiated by the EWCs of British, German and French multinationals have resulted in recognition of EWC competence in relation to industrial restructuring issues and recognition of their effective right to a meaningful information and consultation process.

These court cases share some common features. Firstly, they were all aimed at compelling company managements to recognise the EWC's right to a meaningful information and consultation procedure. Secondly, they were aimed at suspending restructuring plans in order to allow employees' voices that had been ignored to be heard by managements.

## Defending EWC right to information and consultation

- These court cases have each highlighted different aspects of the whole problem of EWC rights to information and to consultation.

For instance, at GDF (Gaz de France) and Alcatel-Lucent, the EWC members demanded access to meaningful and relevant information that could allow them to express their views "usefully", on the basis of clear and precise data.



Europäischer Metallgewerkschaftsbund  
European Metalworkers' Federation  
Fédération Européenne des Métallurgistes

# COMPANY POLICY NEWSLETTER

June 2007

Nº 1

## The role of the EWC in restructuring cases at national level -

The **GDF** EWC in fact demanded an expert report analysing the social consequences of the merger of its activities with Suez prior to the Board's decision on the merger of the two companies. The EWC justified its demand by the fact that in Italy, for instance, the overlap of activities resulting from the merger between GDF's subsidiary Cofatech and Suez's subsidiary Elto, could lead to the loss of more than 3,000 jobs. The EWC therefore demanded more detailed information on all the jobs under threat throughout Europe and that its right to prior consultation be respected.

The court ruled that the demands were legitimate, in first instance as well as in appeal. The judge issued an injunction ordering the company to postpone its Board meeting until the expert report had been communicated to the EWC and the latter had had sufficient time to study it and prepare its response.

Unlike their colleagues at GDF, the **Alcatel-Lucent** employees' representatives did in fact receive an expert's report prior to the meeting of the extraordinary EWC that followed the announcement of a planned 12,500 job cuts. However, the expert assisting the Alcatel-Lucent EWC explained that the information provided by the management was of no use to the EWC because it did not clearly set out the rationale behind the job cuts (see table below) and therefore did not permit a meaningful consultation of the EWC.

Consequently, the EWC requested the court to order Alcatel-Lucent management to provide all information necessary to the meaningful exercise of its right to be consulted. Although it did not decide to suspend the ongoing restructuring process the court found in favour of the EWC and ordered the company to provide required information in a timely manner,

The **British Airways** EWC also had to bring the company to court in order for it to comply with its legal obligation to consult the EWC. The initiative of this EWC is particularly interesting in so far as it aimed at being consulted on a series of national level restructuring measures. The closure at regular intervals of BA customer services units in different countries (Greece, Czech Republic, Germany, Sweden and Italy) had been carried out without consultation of the EWC. In most cases, the latter had been informed either after the completion of the restructuring or at best at the last minute, thus preventing the EWC from organising a collective response.

In November 2006, when British Airways decided to outsource its Vienna Airport customer services department, the EWC immediately appealed to the labour court in Belgium (where the original EWC agreement was registered). The EWC, considering itself accountable to the employees it represents at national level, demanded the suspension of the outsourcing procedure and that its right to prior consultation be fully respected.

At the court hearing, British Airways contested the fact that it had bypassed the rights of the EWC on the grounds that the restructuring process did not fall within the EWC remit since it was a decision affecting the operations of the company at local level and thus governed by Austrian national labour law, as had been the case in previous restructuring exercises. The company was therefore under no obligation to consult the EWC. The EWC argued that the series of restructuring measures undertaken in several countries over the past months indicated that a European-wide restructuring plan was underway and that, therefore, the restructuring of activities in Vienna did indeed come within

# COMPANY POLICY NEWSLETTER

June 2007

Nº 1

its remit, as well as the other restructuring cases.

In this case again, the court ruled in favour of the EWC. The court recognised that based on the evidence provided the restructuring of activities in Vienna was part of a European-wide restructuring exercise. It therefore compelled the company to suspend the outsourcing of its Vienna airport activities until the EWC had been duly informed and consulted on the restructuring process.

The Beiersdorf SARL case also highlights the interaction between the national and European level where restructuring cases are concerned. However, in this instance, the logic that prevailed in the British Airways EWC initiative is reversed. In this case it was the French (national) works council that compelled the company to recognise the supremacy of the EWC on any issue affecting the activities of the company at European level.

Beiersdorf SARL, the French subsidiary of the German multinational **Beiersdorf AG**, convened an extraordinary meeting of its works council in order to inform and consult employee representatives concerning the restructuring of its activities in France and relocation of these activities to other countries in Europe. The French works council informed the management that it would be unable to provide a meaningful opinion prior to the European Works Council having been consulted because of the European scope of the planned restructuring.

The company management agreed to hold an EWC meeting, but scheduled that meeting to take place after the second meeting of the French works council. Considering that its request to consult the EWC on the restructuring plan beforehand had been disregarded, the French works council decided on court action to compel Beiersdorf to consult the EWC first and then only the French works council.

In this case, the judge once again ruled in favour of the employees and recognised the authority of the EWC on any restructuring having a European scope. He ruled that, in spite of the national impact of the announced restructuring as regards employment, the latter had a clear European scope and the EWC had to give its opinion before the national works council could be meaningfully consulted on the proposed restructuring procedure.

## Conclusion

These examples show us that the prominent role of EWCs in cases of European corporate restructuring is more and more clearly recognised. They further show us that EWCs can use means at their disposal to play a pro-active role and thus put themselves in a position to impose terms that are more favourable to employees in negotiations on restructuring plans even when restructuring is taking place at national level.

These examples further highlight a number of problems that are recurrent in terms of information and consultation: the lack of expertise to assist EWCs, the lack of relevant and meaningful information, the lack of time to enable EWCs to organise a meaningful response to company decisions or even company denial of the right of EWCs to be consulted at all.

Such court cases initiated by EWCs show us that judges are capable of ratifying the fundamental rights of EWCs to information and consultation and of taking the action required to ensure recognition and respect of these rights, even going as far as blocking decisions by company boards and suspending restructuring processes.



EMB Europäische Metallgewerkschaftsbund  
EMF European Metalworkers' Federation  
FEM Fédération Européenne des Métallurgistes

# COMPANY POLICY NEWSLETTER

June 2007  
N° 1

## **Demands by Alcatel-Lucent EWC in terms of relevant and meaningful information**

Detailing the reasons for their appeal to the court against Alcatel-Lucent, the EWC members emphasized the "unsatisfactory" nature of the information provided by the expert report communicated to them prior to the extraordinary EWC meeting. The EWC considered in fact that it could not be meaningfully consulted without obtaining specific and clear information on the job cuts beforehand.

The industrial tribunal ruled in favour of the EWC that the latter should be provided with the required information it had required in its complaint, i.e.

- Clear and specific figures and rationale for the planned ceasing, transfer or reorganisation of operations
- Clear and specific figures and explanation in respect of the method and elements of calculation of the alleged surplus manpower
- Precise figures in respect of the planned job cuts broken down by division, country and category of workers
- Clear and specific figures and rationale justifying the allocation of these job cuts
- The planned timeframe for the envisaged job cuts.

**Sign** our petition for high-quality public services, accessible to all

[www.petitionpublicservice.eu](http://www.petitionpublicservice.eu)

 European Trade Union Confederation

Public services are essential for social, economic and regional cohesion in Europe. Such services must be of high quality and accessible to everyone. Until now, the only options put forward for developing public services have been privatisation or liberalisation (namely in sectors such as Energy, the Post and Telecommunications). It is time to find different solutions!

**SIGN THE ETUC PETITION AND MAKE IT SIGN!**

## **Contact**

*Editors:* Peter Scherrer & Gérald Audaz  
*EMF PR Unit:*

Caroline Jacobsson & Linda Rackham  
Rue Royale 45 (Bte 2)  
B – 1000 Brussels

Tel: +32/(0)2/227 10 10

Fax: +32/(0)2/217 59 63

[www.emf-fem.org](http://www.emf-fem.org) • [emf@emf-fem.org](mailto:emf@emf-fem.org)