

Table 1: (E)WC's – their legal/moral personality and related implications

Country/ <i>AUSTRIA</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Works council/Betriebsrat	In principle no, but it does have some personality in relation to the rights and duties conferred upon them by law	No collective agreements, but only “enterprise agreements” and only as defined in the law and collective agreements applicable to these “enterprise -sharing systems	Yes the works council fund	A “works council fund” can be established from employee contributions deducted from their pay with a maximum of 0.5% of gross pay. The fund can be used to cover administrative costs and to finance welfare schemes. An auditor and treasurer must be appointed.	Yes	They may also establish and manage social activities, such as welfare schemes for employees and their families
EWC	idem		No	Only foreseen that the employer must make all resources available	Yes	

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Country/ <i>BELGIUM</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other Implications
Works council/Conseil d'entreprise	No	No, only union delegation	In principle no	<ul style="list-style-type: none"> • No own budget; • Resources and premises must be made available by employer 		<ul style="list-style-type: none"> • Can monitor public aid received by company; • WC manages social-related matters and determines the standards for awarding the social benefits distributed;
EWC: same situation as national WC						

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Country/ <i>DENMARK</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Co-operation committee		No, only trade union representatives	No	<ul style="list-style-type: none"> • No own budget; • resources are made available by employer 		
EWC		No, only information and consultation rights	No	No own budget; Resources are made available by employer		

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Country/ <i>FINLAND</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Shop Stewards' Committee	No	No; only trade union representatives	No	<ul style="list-style-type: none"> • Can not manage own budget, • resources and/or premises must be made available by employer 	No	-
Same applies to EWC's						

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Country/ <i>FRANCE</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Works council/ Comité d'entreprise	Yes, moral responsibility (art. 431.6 and 439.14 Labour Code)	In principle no, only trade union delegations	<ul style="list-style-type: none"> • Yes for civil contracts; • No for commercial contracts which generate profit 	<ul style="list-style-type: none"> • Yes and they can manage the budget (composed of employee contributions) • employers contribution can be set by collective agreement and is intended for financing social and cultural activities); • they can also open bank accounts; • In addition resources such as premises must be made available by the employer 	yes	<ul style="list-style-type: none"> • Possibility to manage a “patrimonium” • “recevoir des dous • contracter et s’engager dans le cadre de sa mission légalement définie
EWC's: the same apply as for national WC's						

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Country/ <i>GERMANY</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/budget	Litigation Before court	Other implications
Works council/ Betriebsrat	Yes, but limited to those rights and duties conferred to them by the law	<ul style="list-style-type: none"> • Yes but only on certain issues which are not dealt with yet by an agreement signed with the TU unless this agreement provides otherwise 	Yes, they can sign civil and commercial contracts but only if they are directly related to their rights and duties under the law. As the law prescribe such right not in a general way, the individual members of the WC might be held individually liable.	<ul style="list-style-type: none"> • In theory they can have own budget furnished by the employer,; in practice this however seldom happens • Resources must be made available by employer 	Yes but only within the framework of their tasks set by law	
<p>In principle the EWC can have all the same rights as the WC again within the framework of the rights and duties set by law. However most EWC' are based on voluntary agreements and not on the law. If the agreement refers to the EWC-law there is no problem; if this is not the case the EWC will only have the rights as stipulated in the voluntary agreement!</p>						

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Country/ <i>GREECE</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/budget	Litigation Before court	Other implications
Works council		No, only trade union representatives unless there are no trade union representatives in the enterprise. But these agreements do not bind the trade unions which can negotiate more favourable provisions		<ul style="list-style-type: none"> • No own budget • Resources must be made available by the employer 		Can manage welfare and cultural activities
EWC		Only information and consultation rights		<ul style="list-style-type: none"> • 		

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Country/ <i>IRELAND</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/budget	Litigation Before court	Other implications
		Shop stewards as trade union delegates can negotiate on: pay, welfare provisions, redundancies and working conditions		Resources depend on the negotiated enterprise agreement		

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Country/ <i>ITALY</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
RSU		Yes, but limited to the fields and limitations set by national branch agreements		<ul style="list-style-type: none"> • Resources must be made available by employer • Any own budget depends on enterprise agreements 		Management of welfare and cultural activities

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Country/ <i>LUXEMBOURG</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Staff delegation or joint works committee (CM)	No	No, only trade union delegations	No	No own budget No right to open bank accounts Resources must be made available by the employer	No	CM can supervise the management of company welfare facilities
EWC: the same applies as for the national works councils.						

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Country/ <i>NETHERLANDS</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Works council/ Ondernemingsraad	No	No, except for an agreement in which the rights and competences of the WC would be extended.	No	In principle no own budget, unless the employer has granted such a budget and has accepted that the council manages it Can not open bank accounts Employer must make resources available	Yes	
EWC	No	No	No	Idem as for national WC	Yes	

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Country/ <i>PORTUGAL</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Works council/ Workers Commission	No	No	No	No own budget Resources must be made available by employer	yes	WC can take part in the management of company welfare schemes established by enterprise agreements
EWC	No	No	No	No	Yes?	

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Country/ <i>SPAIN</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Works council/ Comité de Empresa		Yes, amongst others on <ul style="list-style-type: none"> • Pay • Working hours • Job classifications • Working conditions • Number of training contracts • About fixed-term and part-time work 		No own budget Employer must make resources available	Yes	Right to call a strike WC can take part in the management of company welfare schemes
EWC		Only information and consultation rights		Idem	Yes (?)	

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Country/ <i>SWEDEN</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Union delegation	No	yes		No own budget Resources must be made available by employer		
<p>The Act on EWC's states explicitly that EWC's have legal personality and can thus have an own budget and manage it. They can open bank accounts. It is doubted whether they could sign collective agreements. Signing other civil or commercial agreements would not pose problems. They can also file complaints before court.</p>						

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Country/ <i>UNITED KINGDOM</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Shop steward and works councils	WC has moral personality	No, only Shop stewards can negotiate on pay, working hours, collective dismissals and working conditions However, other experts state that since the collective agreement has no legal status in the UK it could be party to a binding collective agreement which would however bind every signatory party individually rather than the WC as body.	No, unless it turns into the “unincorporated associations”	No, unless it turns into the “unincorporated associations	-	-
EWC	In principle yes	No	Would be possible if they take a certain commercial legal status	Would be possible if they take a certain commercial legal status	yes	-

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Country/ <i>ICELAND</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
works council	yes	No	Yes	They can manage an own budget and open bank accounts if they are registered and have a acquired personal identity number	Yes	
EWC: same situation						

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<i>BULGARIA</i>						
the concept of works councils is not yet regulated in the national labour legislation						
EWC: same situation						

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Country/ <i>CZECH REPUBLIC</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Works Council	No	No	No	No own budget Employer must provide the necessary resources Can not open bank accounts	No	
EWC : the same applies as for national WC's						

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Country/ <i>ESTONIA</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
No works council legislation yet, some de facto WC thanks to the employer's initiative	<p>Would not have it unless they register, adopt a constitution and a legal form as prescribed by law;</p> <p>De facto WC do not have legal personality</p>	No, only the trade union delegation unless there is no trade union delegation and the non-unionised workers mandate the WC	No	No	No	
EWC-legislation being drafted for the moment						

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Country/ <i>HUNGARY</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
Works council	No	No	No	No own budget All resources must be made available by employer	No, unless for works council matters based on a non- litigation procedure prescribed in the Civil Court	

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Country/ <i>LATVIA</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
National works councils are not prescribed by law						
EWC legislation is existing but not yet in force	No	No	No		No	

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Country/ <i>POLAND</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
workers committee	No	No	No	No own budget Resources must be made available by employer	No	
EWC (new law only in force as from accession to the EU!)	No, but the list of powers of the EWC as set in the law is non-exhaustive so via agreement via management and EWC it might be possible to provide legal personality.	No	No	No own budget Resources must be made available by employer	No, but can support complaints of its members when their protection against dismissal is violated	

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Country/ <i>ROMANIA</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
	Moral personality?	?	No	No own budget Can not open bank accounts	No	
EWC are not mentioned yet in the applicable labour code						

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Country/ <i>SLOVENIA</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
works council		No, unless agreements on participation rights which are more favourable than those set by law; they can not negotiate on pay and other working conditions		No own budget Resources must be made available by employer		
EWC ?						

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Country/ <i>SLOVAK REPUBLIC</i>	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
works council if no trade union delegation in enterprise	No	No	No	No own budget No right to open bank accounts Resources must be made available by employer	No	

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Country/ CROATIA	Legal/moral personality	Right to negotiate CA	Right to conclude other contracts	Resources/ budget	Litigation Before court	Other implications
works council	No	No, but they can sign agreements on issues which fall not under the scope of collective agreements (so not on wages, working time, etc.) unless the parties to the collective agreement empower the WC this right		No own budget They can not open bank accounts The employer must make available the necessary resources	Yes, but only on the basis of rights or obligations arising from the Labour Act or other statutory regulation or collective agreement.	Can not call a strike or any other industrial action

Sources:

1. European Commission (2001), "Employee representatives in Europe and their economic prerogatives", study conducted by Evelyne Pichot in 1999
2. Infopoint-ETUC/ETUCO (2002), "Worker representation systems in the European Union and the Accession Countries", Brussels
3. Replies by the ETUC Trade Union Legal Experts Network NETLEX to an own questionnaire
4. Replies by the ETUI Transnational Trade Union Rights Network to an own questionnaire