

ANALYSING EUROPEAN WORKS COUNCILS AS MULTIDIMENSIONAL CONTESTED TERRAINS: THE CASE OF ARCELORMITTAL

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INTRODUCTION

It is widely agreed in the literature that European works councils (EWCs) offer the most advanced experiences of workers' representation in the ongoing process of Europeanization of industrial relations. These bodies provide an institutional basis for information and consultation of workers at transnational level, enabling a channel for effective employee participation in corporate decision making. The present chapter approaches the academic debates on European works councils. It seeks to identify their principal problems and dynamics from an empirical perspective. The theoretical debate on the Europeanization of industrial relations is also revisited, as it provides support for the analysis of EWC practice. Also, an original *actorial* approach for research on transnational industrial relations is proposed. The paper argues that EWCs are specific intra-firm phenomena of industrial relations. Therefore, they should be analysed in the framework of the transnational corporation, conceived as a political complex with different interests struggling for increasing their influences and resources.

The argument is illustrated in a case study of a particularly interesting EWC. When the anglo-indian magnate Laksmi Mittal acquired the European Arcelor steel group, the implied firms and trade unions already counted with a rich and complex experience in transnational workers' representation and the Arcelor EWC agreement was considered as a best practice for several reasons. The completely new constellations under the direction of the Mittal family set the achieved representation structures under multiple pressures and illustrate the potentials and problems of transnational workers' representation bodies in global firm complexes.

The first section of the paper is devoted to the main problems and dynamics of the practice of EWCs, as well as the principal characteristics of the community regulation on which these structures for information and consultation of workers at transnational level are based. The second section introduces and discusses the main trends of research on this issue. The third section presents a proposal for the analysis of EWCs as political structures embedded in transnational firms conceived as dynamic transnational industrial complexes. This conceptual proposal is illustrated in the following forth part analysing the EWC of the ArcelorMittal steel group. To conclude, the final section offers some general remarks on the future of workers' interest representation at transnational level through European works councils.

EUROPEAN WORKS COUNCILS. PRINCIPAL DEVELOPMENTS

The Directives 94/45/EC of 22 September 1994 and 2009/38/EC of 6 May 2009 establish the right to information and consultation of employees in community-scale undertakings and groups of undertakings employing a total workforce of, at least, 1,000 employees within the European

Union and, at least, 150 employees in two different Member States. EWCs have to be considered as core elements of Europeanization of industrial relations. “European works councils represent the first genuinely Community institution of worker interest representation at enterprise level” (Patriarka and Welz, 2008: 1). They reflect the growing recognition of the need to respond to the Europeanization of business emerging from the Single European Market with the correspondent Europeanization of worker representation, by supplementing existing channels of information and consultation (Fitzgerald and Stirling, 2004).

The content of both directives, however, is far from the ambitions of the trade union movement. It excludes all sort of actual participation through bargaining rights for workers at transnational level. Also, it establishes a voluntaristic basis for the creation of EWCs in community-scale firms. And finally, it leaves the determination of the exact reach of information and consultation rights (i.e. the actual practice of the European works councils) to the actors of industrial relations at company level, following the principle of subsidiarity in European social policies. As a result of this *soft law* approach, a huge diversity of formal solutions and practices of information and consultation emerges among the 969 European works councils active in 2010 (ETUI, 2010).

The establishment of EWCs in transnational firms with operations in the European Union can be divided up into four periods. These correspond to the legal changes introduced by regulatory framework for information and consultation of workers at European level (see Table 1).

TABLE 1. MAIN PHASES OF EUROPEAN WORKS COUNCILS DEVELOPMENT

1983 – 1994	1994 - 1996	1997 - 2008	2009 -
<i>Actual voluntarism</i>	<i>Incentivated voluntarism</i>	<i>Regulated voluntarism</i>	<i>Re-regulated voluntarism</i>
Proto-European Works Councils in companies based on voluntary agreements among works councils/trade unions and the management before Directive 94/45/EC	European Works Councils voluntarily established following article 13 of Directive 94/45/EC	European Works Councils established following article 6 of Directive 94/45/EC	European Works Councils established under the revisited Directive 2009/38/EC

The considerable diversity in the formal and procedural setting up of EWCs holds even more for their effective functioning. As a result of the open and soft character of the directive, information and consultation practice strongly differs from one EWC to another. In the majority of examples, there are significant shortcomings in the exercise of information and consultation rights. In many others, competencies and resources available by workers’ representatives are scarce. However, in a few number of cases, the EWC has gained a bargaining position, representing workers in negotiations with the management (as in several automotive firms like Ford, Volkswagen or GM/Opel) or has been able to successfully mobilise the European workforce against already taken corporate decisions (as i.e. in ABB and Alstom) (Carney and Hall, 2006). Another area of participation of EWCs in transnational decision making is that of corporate social responsibility, with several framework agreements on this issue already signed.

Beside this internal diversity, the enlargement of the European Union in 2004 has added new challenges for the practice of EWCs. The cultural and ideological heterogeneity has increased as a result of the incorporation of workers’ representatives from the new Member States (Voss, 2006). The possibilities for the management to instrumentalise EWCs for their strategic aims have significantly grown. The coordination difficulties for the employee side are currently overwhelming, particularly when referring to workers’ representatives coming from countries with weak trade unions and underdeveloped industrial relations (Köhler and González Begega, 2007). In this

context, regime competition and inter-plant struggle for investment and production quotas reaches a new quality and becomes a major challenge for the consolidation of labour strategies (Patriarka and Welz, 2008). On the other hand, it is also true that the incorporation of new representatives from the Eastern member states may stimulate the activities of EWCs and re-orientate them on a genuine European basis (Bicknell, 2007: 117).

The current economic crisis adds another set of challenges to representation of workers through EWCs. Transnational firms are using the crisis for intense restructuring, downsizing, relocation and coercive competition among countries and plants. This set workers and trade unions (also public authorities) under constant pressure. On the one hand, EWCs that often work as a forum for information under managerial control have now to transmit and (even more important) to legitimate cost-cutting decisions with significant consequences over the workforce. On the other hand, those cases in which these bodies had effective participation in corporate decision making are now confronted to serious legitimization and cohesion difficulties.

The main trends and experiences of two decades of EWCs can be summarised in an ambiguous perspective. Some authors seem to be correct in highlighting the limited degree of effectiveness of the great majority of these bodies. Meetings are only once a year, agenda setting is dominated by the management, resources are scarce (no permanent secretary, no steering committee), language and cultural barriers impede communication, local self-interests undermine transnational solidarity, lack of bargaining competence degrades EWCs to mere symbolic bodies with no concrete means of representing workers' interests, etc. In fact, the list of deficiencies is long and has to be complemented by the fact that only a third of the firms covered by Community regulation have established a EWC.

Against these indicators of poor performance, another stream of literature highlights the importance of the number of European works councils and the learning process which has led to experiences of good practice. In a range of cases, workers' representatives have gained recognition as bargaining partners and participate in corporate decision making at transnational level. The information for employees and their representatives on their own firms has also significantly increased, a fact highlighted by most of the EWCs delegates. The possibilities for informal communication among workers' representatives and managers at transnational level constitute another important point in favour of EWCs.

A more or less common view held by researchers in this area is that of the slow and gradual development of firm level industrial relations in Europe through EWCs. There is also an insistence on the need for new dynamics and pushing forces for further progress. As argued by Jeremy Waddington (2006: 347) EWCs "are [still] institutions in process", but the energy shown by these bodies for enhancing worker information and consultation does not keep up with the pace of transnational restructuring and industrial and company integration.

RESEARCH APPROACHES TO EUROPEAN WORKS COUNCILS

After the publication of the seminal study by Gold and Hall (1992), recent research on EWCs has gone through different phases which partially correspond to the evolution of the process of creation of European works councils itself. It is structured within two main trends: (1) a quantitative trend, which is aimed at providing updated data and

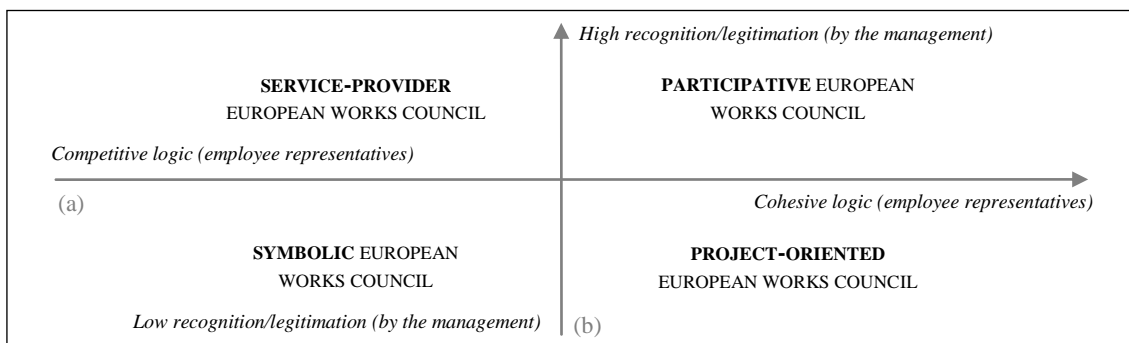
information on the dimensions of the general process of EWCs creation; and (2) a qualitative trend, which is aimed at analysing the actual practice of EWCs. Müller and Platzer (2003) insist on the dynamic character of the research on this issue and underscore the existing links between quantitative and qualitative studies.

The first published studies followed a quantitative approach, as the main concern of researchers and practitioners in the mid- and late- 1990s was to situate the dimensions of the process of establishment of EWCs. Within this approach, there should be mentioned the studies by Marginson *et al.* (1998) and Carley and Marginson (2000), as well as the statistical analysis carried out by the ETUI-REHS database. On the other hand, qualitative research on EWCs has produced a growing numbers of references in the literature. Qualitative research is based on the use of case study methodology, either on a single (individual) or on a multiple (comparative) basis. The application of these research strategies has resulted into very significant improvements in the identification of contextual factors which condition information and consultation practice.

Although some researchers have insisted on the singularity of individual cases of EWCs and therefore remain sceptical as to the feasibility of theoretical abstractions (Weiler, 2004), others have been less hesitant and have developed complex theoretical instruments to explain diversity in the practice of workers' representation through these bodies. Paul Marginson (2000), Steijn Stoop (2004) and Helen Bicknell (2007) have tried to connect diversity in the practice of information and consultation with the organizational characteristics of transnational firms, namely the level at which decision making takes place and the orientation and mechanisms of diffusion and implementation of corporate policies. Additionally, the typologies of EWCs by Lecher, Platzer and their collaborators (1999; 2001; 2002) and by Hermann Kotthoff (2006) constitute very interesting theoretical tools for research in this field.

The classificatory proposal by Lecher *et al.* focuses on the expectations and strategies of the actors as determining factors for the practice of information and consultation. The models in this typology aim at evaluating the potential capacities and feasible development of EWCs. The distinction made between *symbolic*, *service-provider*, *project-oriented* and *participative* models of EWCs is based on the analysis of the interactions among the different actors (i.e. including workers' representatives, management, trade unions and employers associations) and their available resources in terms of ability to influence one another (Figure 1).

FIGURE 1. MODELS OF EUROPEAN WORKS COUNCILS ACCORDING TO LECHER ET AL.



Source: adapted from Lecher, Platzer *et al.* (1999; 2001; 2002).

The classification by Kotthoff (2006) results from a different understanding of the practice of EWCs. The five models in his typology are grounded on the analysis of the interactions among the actors, but they also take into consideration the contextual

factors which condition corporate approaches to information and consultation. Kotthoff's models partly overlap with the typology proposed by Lecher *et al.* However, the attention paid to the context ensures a better correspondence between ideal models in the classification and the actual practice of EWCs, which is shaped by a range of further structure and agency factors (Table 2).

TABLE 2. MODELS OF EUROPEAN WORKS COUNCILS ACCORDING TO KOTTHOFF

CO-MANAGING WORKING BODY	The EWC becomes a recognised actor in the structure of industrial relations of the firm. It ensures workers' participation in corporate decision making and constitutes a vehicle for representing workers' interest at transnational level.
HEAD OF THE GERMAN WORKS COUNCIL AS ADVOCATE OF THE DIASPORA	The dominant national delegation in the EWC (i.e. that of the country of origin of the firm) determines the practice of information and consultation. It also represents the interests of other national delegations and mediates with corporate management.
ANALYST OF INFORMATION (<i>FOIL FENCE</i>)	The EWC becomes an informative body. The exchanges between workers' representatives and the management are based on an accepted ritual of attack and defence (i.e. questions and answers).
TOOTHLESS TIGER	The EWC is underdeveloped. The actors are (for different reasons) not ready to fulfil its potential. Information and consultation of workers is blocked as a result of the incapacity or disinterest of the actors.
MARGINALISED	The European works council does not achieve significance within the structure of industrial relations of the firm. It lacks of effectiveness and receives no attention by both workers' representatives and management.

Source: adapted from Kotthoff (2006).

Despite the interest of these instruments, qualitative research on EWCs is not only aimed at facilitating the examination of the factors which configure the practice of information and consultation in different corporate environments or to the elaboration of more or less complex classificatory tools. Data obtained from case studies has also been used to determine whether individual EWCs acquire (or not) importance and become (or not) relevant actors in corporate decision making. The answer to these questions is closely linked to the debate on the possibilities for ensuring democratic control of transnational firms. As has been already mentioned in the previous section, the normative process behind EWCs was aimed at solving the imbalance between the transnational nature of corporate decision making and the national nature of the structures for workers' representation. The articulation of institutional solutions enabling the participation of workers in the formulation of corporate policies is essential to guarantee the maintenance of industrial democracy in transnational firms.

In this respect the debate on EWCs confront two well-known positions. On the one hand, euro-optimist authors like Lecher *et al.* (2001: 120) argue that these represent "the most dynamic pole in the process of transnationalization of industrial relations (...) and they will constitute a central element of any future industrial relations system [to be constituted at European level]". In similar vein, Platzer (1998) underscores the significance of EWCs in the setting up of a European *proto-corporatism* between social partners and European institutions. These bodies for worker representation become the firm level foundation of a regulatory framework for industrial relations at European level, grounded in the dialogue between social partners and political authorities. Supporting this positive view, Vitols (2009) argues that EWCs do not only provide benefits for worker rights but a general social welfare benefit for the European Union,

as there are clear indicators of positive effects for employees and managers and no indicators of negative impacts for shareholders or creditors.

On the other hand, euro-pessimist authors consider EWCs as a complete failure. As argued by Wolfgang Streeck (1997), “They are neither councils, nor European”. The high degree of dissatisfaction expressed by workers’ representatives and trade unions in reference to the exercise of information and consultation rights supports this argumentation. For Streeck, EWCs lack enforceable rights to provide an equal and effective representation of workers’ interests across Europe. From this perspective, EWCs have turned into another managerial tool for the legitimation of rationalization and restructuring processes facilitating the redesign of corporate cultures. He suspects that EWCs, rather than providing for an upward harmonisation of participation rights in Europe, will set in motion a downwards spiral wherein national frameworks are eroded, at least in those countries with high standards of regulation.

TRANSNATIONAL FIRMS AS POLITICAL ARENAS

The research on EWCs has generated an important body of knowledge on the practice of interest representation in transnational corporations. The most significant advances are achieved by the adoption of cross-country case study approaches which give insight into more complex and multidimensional processes and problems (*inter alia*, Weiler, 2004; Beinaert, 2006; Kotthoff, 2006; Lecher *et al.*, 1999; 2001 and 2002; Waddington, 2003; Telljohann, 2005). However, the theoretical level of these studies remains unsatisfactory. Most of the results came from the application of an actor centred approach which focuses on the analysis of the exchanges among the interest represented. These studies often tend to ignore the contextual conditions, namely the societal and organizational effects, which influence on the strategies and resources available by the different actors.

In order to tackle this conceptual deficit we propose to analyse EWCs as institutions embedded in *transnational industrial complexes*. This perspective draws on classical Marxist and Weberian approaches which consider the firm as social order. More recently, Ruigrok and van Tulder (1995) have developed the concept of industrial complex for their analysis of the internationalization trajectory of transnational corporations. The concept of industrial complex is based on the identification of hierarchical networks in which the core firms, conceived as the spiders of an industrial web (*ibid*: 65), keep embedded in domestic bargaining arenas, even during their internationalization process. Each network (or industrial complex) includes six different types of actors with a particular stake in the core firm, namely: (1) the workers and their representatives; (2) the suppliers, at different degrees of vertical integration; (3) the distributors; (4) the governments and public authorities at different levels; (5) the financiers; (6) and the competitors, including other core companies embedded in their respective industrial complexes. In this respect, Ruigrok and van Tulder differ from those economic approaches which reduce corporate decision making to problem solving through rational criteria and conceive firms as monolithic blocks.

In this sense, a transnational industrial complex may be defined as a historically formed and consolidated set of relations between internal and external interest groups. A firm develops a specific field of action according to its activities, ownership structure, management practices and political relations with shareholders and stakeholders. This field of action, which is trajectory bounded, forms a corridor of not only possible but also likely decisions to be taken in certain contexts. The strategic formulation of the

firm is therefore not an individual form of interest persecution, but rather a temporary outcome of the existent political balance among the actors of the firm (Köhler, 2004).

Industrial relations in an industrial complex should be conceived as labour politics. They integrate the meso- and micro-levels of analysis of the firm into a field of collective action, characterised by power relations, previous trajectories, accumulated experiences and the production of contingent results. This labour politics approach argues against concepts of evolutionary best practices and universal solutions, which have been dominant in economic and business literature in the last decades.

Nevertheless, this meso-level view is not sufficient to analyse in depth the dynamics of transformation caused by internationalization. Here, it is necessary to take up a micro-political approach as a correspondent instrument to tackle labour policies as an intra- and inter- firm play of actors, strategies and power relations in a structured field of collective action. The term 'micropolitics', as coined by Burns (1961), has been further developed under the influence of Crozier and Friedberg (1979) and Günter Ortman (1995), among other authors (see Dörrenbacher and Geppert, 2006). It facilitates an analysis of the firm as a political organization, which is part of a complex institutional order and results from conflict and change. The behaviour of transnational firms reflects compromises taken by actors with important consequences on the distribution of socioeconomic benefits in the broader societal context. The actors of the firm, themselves, are positioned in political arenas and play the game over time from that position. The internationalization of firms puts consolidated political positions under pressure, increases the dynamics of political exchange and reorganises powers and available resources.

The significance of the societal context on the formulation of corporate strategies led us to take into account institutional traits, such as national industrial relations regimes, as well as local cultures and other ideological trends. These are all highly relevant factors in a continuous interplay, which impact on corporate decision making. Therefore, the exchanges between employer and employees can no longer be conceived as a simple play between trade unions and workers' representatives, on the one side, and management representatives, on the other. The internationalization of firms has resulted into the consolidation of multi-level and multi-strategic politics arenas, which have emerged and must be taken into account for the analysis of industrial relations in transnational firms.

This political approach helps us in fulfilling the conceptual criteria set up by Müller and Hoffman (2001: 134), when they demand to overcome the ontological divide between macro- and micro- analysis in research on EWCs. These bodies are composed by individual actors, who are historically, politically and economically conditioned by a structural context of opportunities and constraints. Their strategies and actions are mediated by this structural context. However, the resulting dynamics are open-ended and imply a potential for structural change.

The analysis of the practice of EWCs confirms the absence of any logic of linear or progressive development. On the contrary, the influence of conflict and political struggles is dominant at all levels. EWCs emerge within organizational contexts and corporate trajectories. These, together with the societal environment in which the firm is embedded, shape actors constellations within and around the EWC. The functioning of the EWC results from accumulated experiences at local and national levels. Participative EWCs emerge in companies with a consolidated practice of workers' representation. The actors involved from the labour side transmit part of their local and

national strength towards the transnational level, forcing the management to become involved into a new bargaining arena. Further development of the EWC depends on the ability of employee representatives to make effective use of this arena. But this is not only difficult given the existence of different cultures of industrial relations and diverging expectations. It is also fragile and vulnerable to setbacks when local self-interest impedes transnational coordination of workers' interest (Timming, 2006). How far a common labour identity is required for effectiveness or if EWCs as extended national bodies can be more effective, is still an open question (Whittall, 2007).

This game of interactions at transnational level through EWCs still implies a fundamental capital-labour conflict, which clearly appears in the hostile attitude of employers to all attempts to empower these bodies with actual bargaining rights. The case of EWCs shows that employers only move in "the shadow of hierarchy", when the European institutions set them under pressure with unilateral legislative measures (Schäfer and Streeck, 2008: 209).

EUROPEAN WORKS COUNCILS AS 'ARENAS' FOR POLITICAL ACTION: THE CASE OF ARCELOR.

The takeover of the second largest steel group Arcelor by the world leader of the sector Mittal steel in 2006 represents the culmination of a concentration process started in the mid 1990s with the mergers of Thyssen-Krupp (1997), Arbed-Aceralia (1998) and British Steel and Hoogovens into Corus (1999).

The creation of Arcelor, in 2001, shows the complex dynamics of industrial mergers and its impact on transnational worker representation. The merger brought about a change in the strategy of the three companies involved (French Usinor, Luxembourg Arbed and Spanish Aceralia) in order to put in common their assets and rationalise them (Vandewattyne, 2003).

The merger resulted into important economic and social changes for the new company:

(1) Profit seeking led to the decision of maintaining only those productive locations with a better performance. This meant an immediate focus on the maritime plants of the group, and the setting into motion of a plan to close the continental facilities of raw material processing (in Belgium, Cockerill Sambre; and Lorraine, Sollac Lorraine).

(2) Following the same profit seeking logic, Arcelor has sold some of the activities of the former companies (i.e. the pipes division was sold on mid 2003).

(3) The company, although being essentially European, started looking abroad the boundaries of the European Union (South America: Argentina and Brasil; South Asia: Thailand) with the double goal of getting closer to these markets and cutting costs in raw material processing.

(4) Linked to all these changes, restructuring was also affecting work organisation. With the advising of an external consultancy (McKinsey), new rationalising programs were implemented from 2001 to 2007 in the European plants of the company in order to lower costs and improve productive processes (*Plan 44/t in Ghent, Plan ARCO in Asturias, Plan FIT in Bremen, Plan ZUG in Eisenhüttenstadt*, see Köhler 2007).

On the other hand, social reaction to the merger itself and to its consequences has been quite different according to the country, because the industrial and economic impact has been not similar in each national operation and also because neither the EWCs of the

former companies, nor the Arcelor's one (in fact set up after the 'nitty-gritty' of the merger was already done) participated in the decision-making. They were only informed about how the operation of merger was developing and they were not able to be influential.

«(...) We didn't participate in the merger, not at all. They only gave us information when everything was already done (...) the EWC did not have any intervention (...) all the decisions were taken directly by them without consulting us» (AR03-JML01) (quote from an interview).

The social reaction to the merger and to the process of corporate restructuring it triggered has been nationally conditioned. In France, Spain, Luxembourg or Germany, the trade unions were neutral about the operation, expecting further developments in the process. On the contrary, in Belgium (especially in Wallonie), the plan to rationalise the productive capacity of Cockerill Sambre (*Plan Horizon 2000*) and the closure of the facilities in Liege (Belgium) (*Plan Apolo*) led the trade unions to adopt a more belligerent stance against the merger from the very beginning.

One of the most important challenges posed by any transnational merger is how to solve heterogeneity related problems. Both management and workers' representatives have to face the difficult task of harmonising different cultures and industrial relations traditions to handle internal human resources (in the case of the management) and to configure and set into motion a coherent system of communication with the management and also among workers' representatives (in the case of the labour). The EWC finds here its place, helping both parts to come closer to their goals, although obviously, the strategy and the expectations of the different actors (management, European labour organisations, national trade unions, worker representatives) towards this body are different. In any case, decisions on the competencies of this body depend on the political balance of power of the company and on the capacity of the different actors (internal and external) to make use of the EWC according to their interests.

Even considering the aforementioned heterogeneity of corporate cultures to be pooled in the merger, the three companies had some similarities in the way they handled industrial relations: (1) In Europe, the steel sector has been traditionally characterised by high density rates of trade union membership (in all the merged companies it was above 85%); (2) two of the signatory companies had been recently linked to the public sector (Usinor and Aceralia) and the third one was affected by a traditional culture of cooperation and partnership between the management and the workers directly inspired in the German co-determination system; (3) in all the three companies the management shared a corporate culture that paid special attention to the significance of workers involvement in decision-making (e.g. through their presence in the Management Board) and recognised the right of trade unions to participate in the configuration of the internal industrial relations of the firm.

«Relationship with the management was quite similar in Usinor's and Arbed's EWCs. There was mutual trust and for us it was quite easy to talk with the management. It's the same now in Arcelor. We don't have many problems. If I need to travel or to meet someone they don't raise objections. They respect and understand our right to be listened. But to pay true attention to us, well, that is a different thing» (AR03-LAC01) (quote from an interview).

These common characteristics reduced the gap and brought the different actors closer together. Nevertheless, conflicting interests appeared among the parts, first while the negotiation of the merger was in motion (February 2001-January 2002) mirroring the

debate held at corporative level by the managements and later, among the different national (and ideological) labour delegations participating in the EWC.

TABLE 3. TRADE UNION HETEROGENEITY IN THE NEGOTIATION OF ARCELOR'S EWC

COUNTRY	TRADE UNIONS	NUMBER OF SEATS
GERMANY	IG Metall	1
FRANCE	CFDT; CFE-CGC; CFTC; CGT; Force Ouvriere	5
BELGIUM	CNE; CSC-CCMB; FGTB-CMB; SETCO	4
SPAIN	Comisiones Obreras; UGT; ELA-STV	3
LUXEMBOURG	LCGB; OGBL	2
ITALY	FIM-CISL; FIOM-CGIL	2

Source: Arcelor.

The negotiations to establish a EWC for the merged company went on for almost a year (june 2001-may 2002) and were quite complex. First, because the whole process of negotiating the creation of the EWC went in parallel to the merger and therefore was affected by it. And second, because the new EWC was supposed to cast two different structures for information and consultation of workers at transnational level, one from Usinor (resulting from the fusion of the former structures for information and consultation of Usinor and Cockerill Sambre) and the other one from Arbed-Aceralia. These structures did not participate in the negotiation of the new EWC, although they were not dissolved until the EWC of Arcelor was created and were informed by the management of the advances in the operation of merger.

The negotiation of the EWC of Arcelor was quite peculiar. It was not a representation of the workforce from each one of the countries where the company had operations that dealt with the management (as article 5 of the Directive specifies). Here, the special negotiating body (SNB) was formed directly by trade union officials from the affected countries, under the coordination of the European Metalworkers Federation (EMF). In fact, the negotiation was carried out between the provisional corporate management of NEWCO (future Arcelor) and the EMF (although the major part of the EMF delegates representing EMF national affiliates were also workers of Usinor and Arbed-Aceralia and participated in the bodies for transnational information and consultation of the both groups). EMF's direct participation (in fact leading participation) in the negotiation of the EWC of Arcelor can be explained by two linked factors: the particular culture of the management and their intention to speed up the process by dealing with an experienced and external negotiator. They tried to isolate the EWC process from the general tensions of the merger and avoid possible quarrels and disputes stemming from a double-deal negotiation with representatives from the EWCs of Usinor and Arbed-Aceralia.

TABLE 4. COMPOSITION OF THE SPECIAL NEGOTIATION BODY (SNB)

MANAGEMENT	10 managers from Usinor and Arbed-Aceralia (NEWCO provisional General management)
EMPLOYEE'S REPRESENTATIVES	1 EMF Coordinator
	1 FEDEM (Fédération Européenne de l'Encadrement de la Métallurgie)
	17 national trade union representatives (see table 3).

Source : Arcelor.

Nevertheless, both the merger and the associated restructuring process conditioned negotiations to set up the EWC from the very beginning.

First, it was necessary to take a decision about the fitting of the EWC to the new functional corporate structure of the firm (in 4 sectors of activity). It was debated to set up a single EWC for all sectors or one body for each one with a Group EWC acting as umbrella, an alternative more appropriate to the portfolio of the new company. Finally, this latter 'articulated' structure, proposed by the Arbed-Aceralia representatives, was rejected and a single body for the information and consultation of the entire workforce of the company (as the Usinor representatives wanted) was created.

Second, the own internal structure of the EWC was another topic for the negotiation. There were two possible options: to set up a body with a joint structure ('French model') with management (*groupe patronel*) and workers (*groupe salarié*) represented or to establish a employee-only EWC ('German model').

As the bodies for information and consultation of the former groups were joint EWCs it was agreed to keep their internal structure for the new one. Again with regard to this point we notice how each singular company can take advantage of the flexibility of the directive and adapt its terms to its interests and needs. Although in the subsidiary requirements of the directive it is recommended the employee-only EWC structure, the actors in the Arcelor's corporative arena have finally agreed a composition according to their own background (i.e. sector, national systems of industrial relations involved, etc.).

«Arcelor's EWC mixes characteristics from the previous bodies although the main influence came from Usinor's EWC (...). There were misunderstandings and strained arguments among the different trade unions, specially between French and Belgium representatives. We have also problems with EMF, because they wanted to lead the process without take into consideration our opinion (...). Here in Spain we (UGT and CCOO) held many meetings to develop a common stance. Take this and now consider it at a transnational level. It was a very complex process» (AR05-LAC01) (quote from an interview).

Finally, the new Arcelor EWC was set up on 27 May 2002 only two months after the latest financial loose ends of the merger were made. In the agreement, the EWC is considered as a "basis for reinforcing the identity of the Group (...) in a spirit of continuity (to the previous bodies) to contribute to the development of European transnational social dialogue, enriching it with the manifestation of the different cultures that are expressed the staff representatives" (Arcelor EWC agreement: 3).

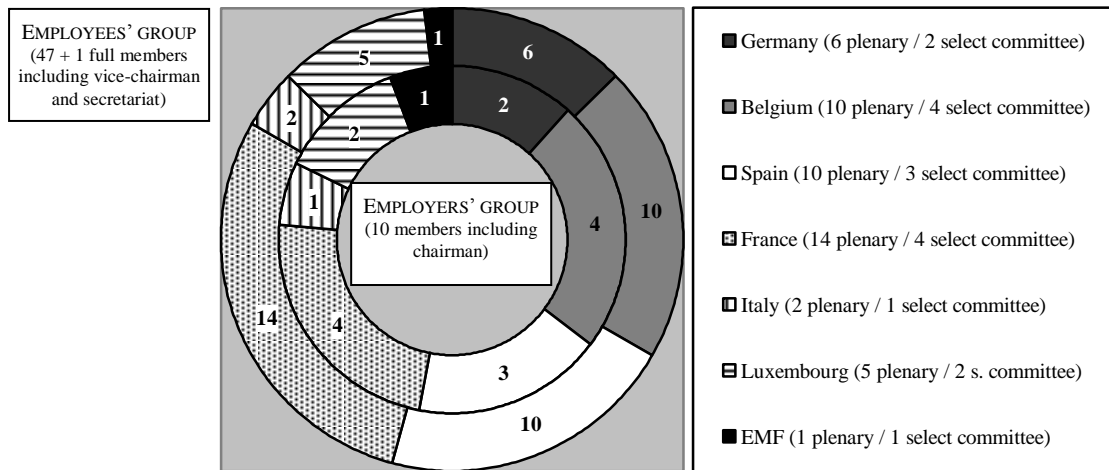
The EWC was conceived as corporative tool to overcome heterogeneity related problems (i.e. national interests) and "a key element in the success of the company in the context of the European construction" (*ibid*). The mission of the EWC "is information and consultation. It is intended to develop social dialogue between the General Management and the representatives of the workforce by means of representation, taking into account the interests of the European employees" (*ibid*: 4).

Arcelor's EWC was a joint body comprising representatives of the corporate management (employer's group) and representatives of the employees (employees' group) from those national operations in the European Union with more than 1200 workers. The agreement also ensures the participation of an EMF representative, with a consultative voice in all the activities developed by the EWC.

In order to facilitate the activity and the continuity of the EWC the agreement also created a Permanent Secretariat and a Select Committee (Steering Committee). This body participated in the definition of the agenda for the plenary meetings, had the right to call for extraordinary plenary meetings in special circumstances and could also be

enlarged (Enlarged Select Committee) with other members of the EWC to deal with particular corporate decisions affecting concrete national operations. It also opened the possibility to create working groups within the EWC for particular transnational issues (i.e. there had been created working groups for health and safety, environment, etc).

FIGURE 2. COMPOSITION OF ARCELOR'S EWC (EMPLOYERS AND EMPLOYEES' GROUP IN THE PLENARY AND IN THE SELECT COMMITTEE).



Source: Arcelor.

With respect to the competencies of the EWC, the terms of the agreement followed very closely the subsidiary requirements of the Directive. The EWC “has no competence to deal with subjects falling within the competence of the national bodies for workers representation” (*ibid*: 5), so there were excluded information and consultation on wage and working time issues. Also, the EWC had no competence on local processes.

«You can't pose questions or problems from your own plant (...). They don't consider this correct or acceptable because they say there are other means to solve these problems at local level. The EWC only deals with global issues. Our everyday problems are not to be raised at this level» (AR05-GU01) (quote from an interview).

TABLE 5. AGENDA AND COMPETENCIES OF THE EWC

AREAS	TOPICS
General Information	Economic, financial and social situation of the Group; Industrial structure; Changes in the shareholder structure of the Group; Investments; Probable trends in production, sales and employment.
Corporate Restructuring	Relations and transfers of production; Changes in the perimeter of the Group; Reductions in size or closures of operations; Mass redundancies; Changes on the organisation of work or introduction of new production processes.
Project Implementation	Health & safety; Training; Professional equality (gender); Environmental policy.

Doubtless, the favourable managerial attitude towards the development of the EWC as a mean to inform and communicate changes and policies to the workers (i.e. material resources, translation costs, language and economical training available for the representatives) has fostered the growth of this body. The major part of the national delegations and representatives interviewed consider positively the operation of the EWC and point out that they have had a better understanding of the situation of the

industrial group in general, and of the strategies of the corporate management in particular, through their participation in this body.

«The quantity of information we get in each meeting is incredible. I've got to pay an overload bonus each time I come back from Luxembourg. Fortunately now things are changing, they send you some of this information by e-mail, or you can make your consultations in the intra-net of the EWC» (AR05-LAC01) (quote from an interview).

The creation of special working groups on health and safety and on environmental policy (e.g. the impact of the Kyoto Protocol on the European operations of Arcelor) and the elaboration of a code of corporate social responsibility were both in management's and in worker representatives' view, the main practical results of three years of social dialogue at European company level.

However, the 'capacity to act' of the EWC has not gone beyond reception of information and participation in the implementation of 'soft' corporate policies¹. In fact, the first concern of the representatives in the employees' group of the EWC is the process of corporate restructuring the company is going through and its consequences on the level and on the quality of employment. With regard to these fundamental issues the EWC had only been informed.

The national and ideological heterogeneity in the employees' group hindered the development of common positions on the different ongoing processes of rationalisation of the European productive capacity and workforce of Arcelor. Furthermore, the corporate management has always tried to present restructuring programmes as several unconnected and isolated processes affecting plants or countries separately. The consequence was that the EWC did not participate in a process of decision-making that caused a major cut in the workforce and introduced many changes in work organization.

«When we were informed on the plan to close the blast furnace of Liege (Belgium) we backed mobilisations with a release of the employees' group of the EWC. We can't do much more because the EWC hasn't power to take decisions. We would like to, but for the moment this is impossible. Also we make use of our participation in the Management Board, at least to make them know what our opinion is» (AR03-JML01) (quote from an interview).

TABLE 6. ARCELOR'S EWC ACCORDING TO A NUMBER OF 'CAPACITY TO ACT' CATEGORIES

RESOURCES (1)	RELATIONSHIP BETWEEN MANAGEMENT AND REPRESENTATIVES (IS THERE A STEERING COMMITTEE?) (2)	MEETINGS (3)	AGENDA SETTING (4)
High	Face to face (Yes)	Regular (ordinary and extraordinary)	Joint
INFORMATION AND CONSULTATION SATISFIED? (5)	INFORMAL CONTACTS OUT OF THE FORMAL MEETINGS? (LABOUR COOPERATION) (6)	PERCEIVED ADDED-VALUE BY WORKERS' REPRESENTATIVES (7)	PERCEIVED ADDED-VALUE BY THE MANAGEMENT (8)
Yes	Yes	High	High
PERCEIVED ADDED-VALUE BY THE WORKFORCE AND THE NATIONAL/LOCAL BODIES FOR WORKERS' REPRESENTATION (9)	DOES THE EWC REPRESENT THE INTEREST OF THE WORKFORCE? (10)	COMPETENCIES (11)	DEFINITION (12)

Medium-Low	No	Non-binding dialogue (implementation)	Co-operative
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The lack of a European identity, alongside other problems identified by the literature on EWCs (i.e. language barriers, difficulties in understanding each others cultures of industrial relations, etc.) explains the weakness of Arcelor's EWC (González Begega, 2011). Some of the worker representatives interviewed had mentioned that although they were really concerned about closures in other countries, what they really had was a feeling of relief because this time, restructuring had not affected the operations they represent. To prevent the involution of the EWC into a competitive body, the goal of the employee's group of the EWC is to improve mutual confidence, understanding and cooperation (both in and out the regular operation of the EWC) as soon as possible.

«We have not a common identity for the moment. We can't say we're the EWC of Arcelor, we're national delegations in the EWC of Arcelor, and that is different. But it is also true that some of us are beginning to find some affinity. Not only with regard to our national origin, but also with regard to our ideas» (AR03-HR01) (quote from an interview).

Hence, the management never contributed to the creation of a counterweight actor with capacity to negotiate as an equal at transnational level. The strategy of the management was always founded in the isolation (at local or national level) of the decisions and in the utilisation of the EWC as a tool to communicate and to implement corporative policies developed and defined (in agenda and contents) by the management itself.

«(Smiling) Well, our relationship with the rest of representatives in shopfloor works councils is (...) you know, in general terms they don't have the same opinion about the usefulness of the EWC because it doesn't have the right to negotiate important things like wages or working time, or working conditions, or transfers of production (...). We can only negotiate at local level. But the problem is that the final decisions on these issues are not taken by local management. It is the corporate management who take these decisions. The local management only implements them and the problem is that I haven't the means to negotiate with the one who calls the shots» (AR03-AL01) (quote from an interview).

Nevertheless, Arcelor's EWC became one of the references for good practice in the European metalworker unionism. The clearly defined information and consultation rights, the training and material resources provisions and the recognition of the European Metalworkers Federation (EMF) as bargaining partner by the management were considered as exemplary. The EMF established a specific Arcelor committee which developed important coordination and negotiation activities in a company characterised by a huge variety of plants and trade unions. It was the EMF which represented the workforce in the process of constitution of a new EWC for Arcelor and later for ArcelorMittal. In Arcelor, information and consultation at transnational level has provided workers with a mean to get involved in corporate decision making. On the one hand, this involvement has turned out into a positive practice with interesting results both for management and employees in some areas, as in the negotiation of a social charter for the entire group that significantly exceeds the relevant international standards. On the other, the actual influence of the EWC on corporate restructuring has been much more limited despite effort from EMF in terms of coordination.

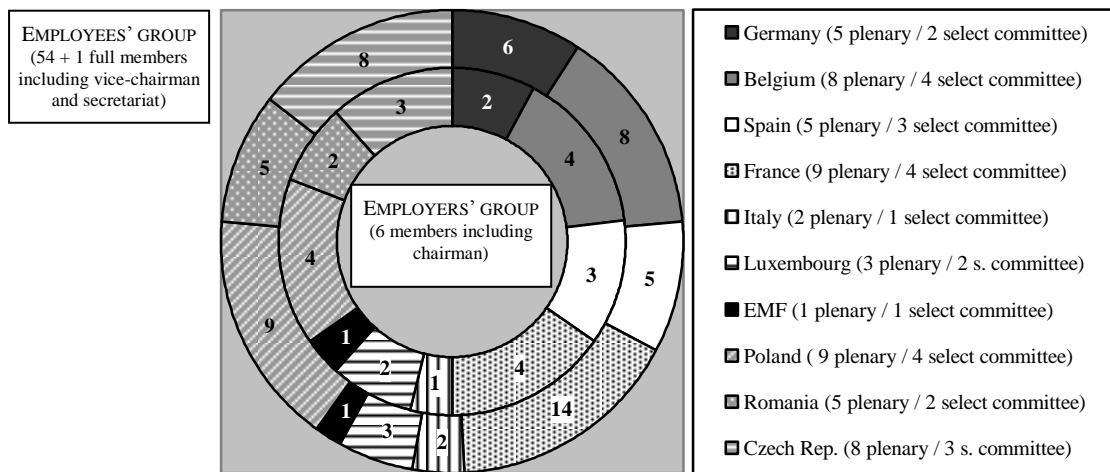
In 2006 a new period in the trajectory of Arcelor began. The anglo-indian firm Mittal Steel, first in the ranking of global steel producers, launched a very aggressive campaign

aimed to take over its immediate competitor. Arcelor's response to the hostile bid by Mittal was to put every hurdle in the way, although the operation came to a reality about the middle of the year, when shareholders' increasing pressure forced the management of the attacked firm to accept the merger. The EMF and EWC backed the anti-merger strategy of the former management although there were some plants with a more positive attitude towards Mittal. Finally they had to accept the new owner, a global family consortium without any tradition in European social dialogue and worker participation, and organise a new EWC including the former Mittal plants mainly located in central Europe.

The new agreement on the ArcelorMittal EWC was achieved within a few months in early 2007 and maintained the main contents of the former one. However, the new representation body operates in a far more difficult and complex environment, with new interest represented in the employees' side having a strong position both in the plenary and in the steering committee.

Delegates coming from Poland, Romania and the Czech Republic had become a powerful voice within the employees' group of ArcelorMittal EWC. Also, the allocation of seats in the new EWC has harmed the position of several national delegations coming from the old structure of Arcelor, namely Spain, France and Luxembourg, although these latter to a lower extent. The changes have affected the composition of the plenary, which is now formed by 54 delegates, while the steering committee has been extended to 25 members (from 16 in Arcelor) in order to avoid further tensions with regard to the distribution of seats in the governing body of the EWCs. As it is shown in Figure 3 below, the national delegations coming from Arcelor have retained their representation in the steering committee. The body, which is an essential piece for the functioning of the EWC, has been only enlarged in order to allow the incorporation of the representatives from Poland, Romania and the Czech Republic.

FIGURE 3. COMPOSITION OF THE NEW ARCELORMITTAL'S EWC (EMPLOYERS AND EMPLOYEES' GROUP IN THE PLENARY AND IN THE SELECT COMITEE).



Source: Arcelor

The incorporation of the delegates from Eastern Europe to the old structure of workers' representation of Arcelor has caused new areas for tension among national interests, which have altered the compromises attained in the past within the employees' group. Due to the lack of mutual confidence between old and new members and immediately after the constitution of the new structure of ArcelorMittal, the Polish representatives demanded a change on the provision of expert's assistance for the EWC. As a result of

this, the contract with the private agency Cabinet Secafi Alpha, which had cooperated with the former EWC already in times of Usinor, was finished.

The recent merger of Arcelor and MittalSteel and the subsequent creation of a new EWC have substantially altered the balances achieved in the past and has introduced very significant in the relations among workers' representatives. Additionally, it is also possible to detect some variation on the approach of the new corporate management of the company to information and consultation of workers at European level. Although the practice is deeply rooted in the corporative culture of the firm, there are indicators which suggest that it could be built on a different basis in the close future.

The ongoing restructuring process of the company has been affected by the economic downturn since 2008. In November 2009, EMF and ArcelorMittal signed an agreement to strengthen social dialogue and anticipate change in order to look for a social responsible way out of the crisis for the company's 115,000 workers in Europe. On the other hand, in May 2010 Mittal reduced the size of the company board and left the trade unions without representation in this body.

«Mittal (the new owner of the company) never wanted us in the company board and he has finally fired us out, despite the culture of industrial relations of the company. From IMF and EMF, we have asked him in several times to fulfil the compromises he acquired when he purchased Arcelor. As it is stated in the merger agreement, he committed to maintain employees' representation at corporate level to discuss on labour conditions and on the future of the firm. We waited for his answer at it has finally come. A strong tradition of workers' participation is going to be lost. And this sets a very dangerous precedent for industrial relations in Europe» (AR10-LC02) (quote from an interview).

Nevertheless, there have been important advances in other areas where the interest of the management and the employee representatives met. The Occupational Safety Committee of ArcelorMittal, participated by the EWC of the group, visited sites in South Africa, Brazil, Mexico, Romania and the Czech Republic between 2008 and 2010. The Committee was established in June 2008 to monitor health and safety programmes at transnational level and is competent in the adaptation of safety regulations by the company.

In the present context, the EWC of ArcelorMittal is faced with a very difficult task: to re-elaborate its internal and external compromises which were substantially altered after the merger. The example of this transnational company shows how fragile is the practice of a well developed EWC (i.e. as it the case with Arcelor) when it comes to tackle a process of corporate change.

DISCUSSION

The aim of the paper consisted in developing a conceptual approach for the analysis of EWCs and industrial relations in transnational corporations capable to integrate the dimensions of actor interaction at different levels with contextual, trajectory bounded factors that shape the conditions and strategies of the actors involved.

The main elements of our approach have been illustrated in the case of ArcelorMittal, a particularly interesting example for its complex firm context, transnational organization and cultural variety. The trajectory of the former Arcelor body for information and consultation of workers at European level already showed that EWCs are political

arenas with an imposed logic and ‘capacity to act’. They are constrained by normative and societal factors, because their competencies are not the result of a negotiation between the EWC actors. This particular characteristic benefits one of the actors. Management can always turn to the legal framework that supports these bodies to hinder those processes it is not interested in (i.e. towards negotiation). First in Arcelor and then in ArcelorMittal, the EWC had a significant experience in the co-definition of *soft* corporate policies, but its ability to be relevant in other *harder* issues such as company restructuring and employment policies has turned out to be very limited (Gold, 2007).

EWCs are permanently ‘under construction’. They can be regarded as open political battlefields, which are closely interconnected with other areas of corporate decision making and policy definition within transnational companies. The basis on which the practice of information and consultation of workers is based is fragile and can be altered by changes in the position, resources and interests and expectations of the actors. Furthermore, the current context, with the financial crisis, the intensification of social dumping and regime competition in the European Union, together with the consequences on employment of relocation, restructuring and downsizing, is posing many doubts on these essential pieces of the European system of industrial relations.

What future, then? The concept of transnational political arena used in this chapter to approach EWC practice shows that representation of workers at European level is based on a highly heterogeneous and fragmented constellation of actors and interests. To another extent and despite difficulties, EWCs provide a consistent and not only a rhetoric solution for representing workers’ interest at transnational level. They are not a hollow or symbolic attempt to regulate industrial relations at firm level, as it was argued by Streeck (1997) in a controversial article that has triggered an intense debate. As it is the case in ArcelorMittal, EWCs offer wide possibilities for labour participation at transnational level that can be explored. However, the utilization of these possibilities depends on the political resources available and on the actual interest of the actors, as the outcome of information and consultation practice in each individual example of EWC depends on their respective ability to access and influence their interlocutors in the political arena of the transnational firm.

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ⁱ Meaning by 'soft' those other topics that are not in the core of the national and plant level agenda for collective bargaining.