
EWC Research: A Review of the Literature

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Editor's foreword

The Warwick Papers in Industrial Relations series publishes the work of members of the Industrial Relations Research Unit and people associated with it. The papers may be work of a topical interest or require presentation outside the normal conventions of a journal article. A formal editorial process ensures that standards of quality and objectivity are maintained.

In this paper, Torsten Müller and Aline Hoffmann provide an analytical overview of the burgeoning literature on European Works Councils. Their insights go beyond an assessment of the current state of play to provide some much needed guidance for the future theoretical and empirical development of the field.

Jim Arrowsmith

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1. Introduction and Overview

Any review of research on EWCs has to come to terms with a great variety of contributions to a body of literature which has increased considerably in recent years. We have come from a few optimistic analyses of what seemed an obscure but promising novel institution into a fast-developing field with a growing number of parallel streams of inquiry. But how can we explain the variety of contributions and indeed the differentiation of the EWC research agenda over time? From this review of the literature on EWCs it emerges that the variety of contributions, both in terms of the issues addressed and the ways in which these issues were addressed, can be accounted for by the interplay of three factors: firstly, the dynamic development of EWC practice; secondly, the parallel developments within the various national IR systems; and thirdly, the specific national traditions of IR research which shape the development of EWC research as a sub-theme of IR research more generally.

1.1 EWCs as a research object: an evolving field

Hyman's (1989) observation that industrial relations forms a field of research with no coherent theoretical or disciplinary rationale, deriving instead from the practical concerns about the concrete problems confronted, certainly applies to the sub-theme of EWC research; three of the most stable features of EWC research over time are its empiricist, pragmatic and atheoretical character. Given that EWCs are the first genuinely European institution of workplace interest representation, the empiricist character of EWC research is hardly surprising. As a consequence of the novelty of EWCs, the main objective of EWC research was not to yield analytical or even theoretical sophistication but to provide a descriptive catalogue of 'what is out there' as a basis for the generation of solutions to the practical problems involved in the constitution and operation of EWCs. The issues addressed by EWC research were very much determined by the practical course of events.

Hence, the main concern of the pioneers of EWC research writing in the early 1990s was to describe the constitution process and the structural and operational principles of the first voluntarily established EWC-type arrangements; to investigate the reasons which led to the establishment of EWCs; and to assess the potential prospects and challenges for an improved transnational trade union cooperation within and through EWCs. Closely linked to the empiricist orientation of fact-finding is the pragmatic and normative character of early EWC research in particular; this is underlined by the fact that the majority of these authors show strong signs of ideological and in most cases even institutional proximity to the labour movement. Accordingly, much of the EWC research which was conducted

prior to the adoption of the EWC Directive (EWCD), when statutory transnational employee representation was little more than a gleam in some policymakers' and trade unionists' eyes, had a clear political objective in supporting the struggle for the adoption of 'good' EWC legislation. The aim of much of this research was thus to increase the political pressure on European policymakers to introduce European legislation on employee representation and to prove to reluctant employers that the establishment of EWCs would not necessarily lead companies into economic ruin. However, due to the limited number of EWCs that had been established by the end of the 1980s, the analyses that were possible in these highly individualistic case studies were shots in the dark, as prospects for actually legislated EWCs were dim at best until the late 1980s. Similarly, the conclusions reached in the literature on policymaking, for whom the decades-long battle over transnational employee representation remained a case in point of the difficulties of harmonising social policy, are thus equally speculative.

The adoption of the EWC Directive in 1994 represented a crucial watershed both for EWC practice and EWC research. For EWC practice, the concrete timetable and catalogue of rules and procedures set out by the EWC Directive for the negotiation of EWC agreements and its transposition into national law completely altered the strategic options available to the two sides of industry. For EWC research, the institutional changes resulting from the adoption of the EWC Directive and the hopes and fears attached to it represented an El Dorado of new and more specific research areas.

Triggered by the need for the EWC Directive to be implemented into national law by September 1996, the period directly following the adoption of the EWC Directive saw the emergence of a considerable body of literature in 'implementation research' involving a predominantly legal discussion about the compatibility of the EWC Directive with existing national structures of employee representation and the potential problems involved in the transposition of the Directive into national law. This period also saw the revival of 'europeanisation research' dealing with the potential impact of EWCs on the development of a European system of collective bargaining and on transnational cooperation among trade unions more generally. Since especially the debate on transnational trade union cooperation through transnational structures of employee interest representation at company level has a long-standing tradition going back to Levinson's visionary concepts in the early 1970s, it is not surprising that this debate was quickly resumed in the new context of the adoption of the EWC Directive.

An immediate practical consequence of the adoption of the EWC Directive was an explosion of negotiating activity, as companies sought to avoid the provisions placed upon them by the Directive, and trade unions finally had a means to get the employers to the negotiation table. As the number of voluntarily concluded EWC agreements increased almost exponentially until the September 1996

deadline for the conclusion of such agreements, so did the macro-level analysis of the structural and operational features of these agreements. Such macro-level analyses sought to ascertain bargaining trends, develop prospects for the European union movement and — if superficially — explore the implications for employers and their HRM policies. Reflecting the intimate relationship between EWC practice and EWC research, this stream of EWC research had another peak in 1999/2000 after the deadline for the conclusion of so-called ‘Article 6 agreements’ in September 1999. Meanwhile, as more empirical material and experience became available after 1996/97, there was a steep increase in micro-level single case study research on the actual practice of existing EWCs. Paradoxically, the greater the variety of EWC practice which came to light through such detailed snapshot analyses, the less it seemed we actually knew about the operation and potential consequences of EWCs on a more generalisable level. Over the course of time, the micro-level analyses of EWC practice became more differentiated, isolating specific factors which were assumed to influence the internal dynamics of EWCs, such as the impact of national representation structures and IR styles, management’s re-structuring initiatives, the organisational structure of companies more generally and the role of training and trade union support. Most of these micro-level analyses aimed to offer prescriptions designed to improve the EWCs’ effectiveness (whatever the various authors meant by ‘effectiveness’). Both the more recent analyses of Article 6 agreements and the micro-level analyses of the actual practice of EWCs were of political relevance too in light of the need to revise the EWC Directive by autumn 1999; this deadline also led to a resurgence of the legal debate about potential amendments to the Directive. The literature on EWCs and management strategies and on potential implications of EWCs for national IR systems remain late developers. Much of the literature produced until recently largely perceived EWCs as a tool for improved transnational trade union cooperation and neglected the potential utilisation of EWCs by managements for their purposes.

Thus far, we have seen that the development of the EWC research agenda closely mirrors the practical problems arising both from the timetable set out by the EWC Directive and from the actual operation of EWCs over time. However, not only did the dynamic development of EWC practice as such determine the EWC research agenda, but so did parallel developments within the different national IR systems and the various national IR research traditions, both of which affected the significance attributed to the phenomenon of EWCs by IR researchers. At the root of both factors influencing the EWC research agenda lies the diversity of national IR systems. First of all, in practical terms the diversity of national IR institutions and practices represented entirely different framework conditions for the implementation of the EWC Directive. Hence it follows that the establishment of EWCs posed different threats and opportunities for IR practice in different countries, which is accordingly reflected in the issues addressed (or not) by EWC research.

As Hyman (1995) points out, the diversity of national IR systems also led to the development of very different country-specific approaches to IR research; EWC research is marked by this diversity as well. Whereas in the UK the voluntarist and relatively autonomous character of IR practice encouraged the development of IR research as a self-contained field of academic study with a highly empiricist and pragmatic tradition, the approach to IR research in most continental European countries is characterised by its compartmentalisation; IR issues have normally been treated as sub-themes within well-established academic disciplines such as law, economics or sociology (Hyman, 1995). Whether consciously or not, the country-specific research tradition of the ‘home’ discipline strongly informs the scholars’ analytical frame of reference involving key choices about the selection of the problems to be studied; the theoretical perspective and conceptions used to formulate these problems, and the methods applied to investigate these problems. The combined effect of country-specific IR framework conditions for the establishment of EWCs and the twofold fragmented nature of IR research more generally — by country and by discipline — further encouraged the development of a differentiated EWC research agenda. The development of the EWC research agenda in the two countries — Germany and the UK — covered in this review represents a case in point.

In Germany, where there is a marked disciplinary fragmentation of IR research, the specific IR problems resulting from German re-unification have largely dominated the IR research agenda since the beginning of the 1990s, very much to the neglect of the study of wider European issues including EWCs (Keller, 1996). It is only recently that a growing body of empirical in-depth case study research, notably through the works by Lecher et al., has emerged within German EWC research. Early post-Directive EWC research in Germany was largely limited to the legal debate about the compatibility of the EWC Directive with the German IR system, and was complemented by a few contributions from a sociological and political science background which focussed on the implications of EWCs for the development of a European system of IR. Whereas the former stream of EWC research reflects the high degree of juridification of the German IR system and the resulting important role of labour law as an academic ‘home’ discipline of IR research, the latter stream of ‘europeanisation research’ reflects the widespread fear that EWCs might lead to the development of European micro-corporatist arrangements between central managements and ‘their’ EWCs; such arrangements could reinforce an already existing trend toward more decentralised forms of regulation, and in doing so not only expose the German dual system of IR regulation to massive further pressures of erosion but also threaten the central bargaining function of trade unions. The debate about the potential course of the europeanisation of IR which ensued from these practical concerns between ‘euro-pessimists’ and ‘euro-optimists’ was highly normative and heavily coloured by the authors’ underlying theoretical assumptions. The different normative and theoretical assumptions manifest

themselves in the tension between structure- and actor-centred approaches to EWC research in Germany. Whereas, reflecting the strong tradition of institutionalist and in particular neo-corporatist sociological and political theories within German IR research, the 'euro-pessimistic' assessments largely focus on the (insufficient) structural framework conditions created by the EWC Directive, the 'euro-optimistic' assessments of the impact of EWCs for the development of a European IR system predominantly follow a more actor-centred approach which emphasises the extended scope for political action and cross-border cooperation among employees and trade unions.

The important role played by implicit theorising within the German academic debate about the impact of EWCs on the development of a European IR system in determining the various assessments of whether the glass is half full or half empty is an exemplary case of the relativity of the atheoretical character of EWC research. Following Hyman's dictum that "any account of the 'facts' of industrial relations rests on principles of inclusion and exclusion linked to (explicit or implicit) criteria of significance" (1994: 167), no piece of research is theoretically innocent, because it is essentially guided by a distinctive set of ontological and epistemological beliefs. Hence, calls for the development of more solidly theoretically grounded analytical approaches to EWC research, such as those raised by Platzer and Weiner (1998) and Hyman (2000), for example, confirm on the one hand the need to go beyond empiricist fact-finding endeavours; they may at the same time be more appropriately interpreted as pleas for more explicit theorising in EWC research.

The UK provides another illustrative example of the country-specific development of EWC research. In line with the empiricist and pragmatic UK IR research tradition (Hyman, 1995), a dominant feature of EWC research in the UK was its preoccupation with fact-finding: UK-based scholars were at the forefront of the macro-level analysis of EWC agreements and, more recently, the micro-level analysis of EWC practice and operation through case study research. However, this preoccupation with fact-finding had its material basis in the profound differences between the statutorily based, rather centralised and collective mode of interest representation envisaged by the EWC Directive and the voluntarist and more individualised tradition of employee representation in the UK. As a consequence of these discrepancies, a debate about both the structural and strategic implications of EWCs for IR arrangements in the UK emerged at a relatively early stage. However, the often highly speculative nature of this debate also demonstrated the need to improve the empirical knowledge base about the actual structure and operation of this newly emerging structure of employee interest representation at European level. Whereas most empirical EWC research in the UK until 1997 concentrated on the analysis of EWC agreements, the more recent upsurge in case study research may be explained by the conjunction of two factors: firstly, the availability of EWCs with a sufficient span of experience to enable the researcher to come to meaningful conclusions; and secondly the end of the UK's 'opt-out'

to the Maastricht Social Protocol by the newly elected Labour government in 1997, which more than doubled the number of UK companies required to establish an EWC and in doing so considerably increased the need among practitioners to get to know more about the actual operation of EWCs and its potential implications for IR in the UK.

Since this review focuses almost exclusively on German and English literature, we are not in a position to follow up in more detail the argument about the influence of national IR framework conditions and research traditions on the development of the EWC research agenda in other countries. However, the analyses by Telljohann (1998) and Rehfeldt (1998) suggest that the same might be said for Italy and France respectively; both argue that EWC research in Italy and France has been largely dominated by legal contributions dealing with the implementation of the EWC Directive and its compatibility with each national IR system. This seems hardly surprising in the light of the substantive corpus of employment legislation which exists in both countries and the resulting prominence of legal scholarship within IR research more generally. The article by Cattero (1998) furthermore suggests that the limited extent of sociological EWC research in Italy may be explained by the marginal role played thus far by EWCs in domestic IR practice. He offers two explanations for this marginality: first of all, there were relatively few Italian-based companies which were obliged to set up an EWC in the first place; perhaps more significantly, however, the EWC Directive was implemented in Italy nearly simultaneously with the implementation of a fundamental reform of domestic IR, in which new national-level structures of company-level employee interest representation were introduced. The sheer scale of these domestic institutional IR reforms dwarfed the significance of the introduction of EWCs; accordingly, both IR practitioners and IR researchers were far more concerned with the implementation of the national reforms rather than the comparatively rare EWC.

The brief outline of the determinants of the development of the EWC research agenda over time in Germany and the UK reveals the interrelated issue-, country- and discipline-specific differentiation of EWC research, which still struggles to capture the open-ended and dynamic development of EWCs and the multitude of often highly case-specific factors that impinge on this process. In view of the variety of issues and actors involved, many researchers analysed specific 'niche' aspects of the EWCs' operation. These endeavours, without any doubt, considerably improved our understanding of the functioning of EWCs. However, in the long run such a fragmented approach to EWC research may not suffice to fully understand the complex dynamics involved in the operation and implications of EWCs. In order to do so it may be useful to develop an integrating approach which bridges the gaps between the different 'niche areas' of EWC research.

At the same time, the transnational character of EWCs prompted an increase in cross-border research collaboration at EU level notably through projects sponsored by the European Foundation for the Improvement of Living and Working Conditions, the German Hans Böckler Foundation, or the Centre D'Observation de la Directive Européenne (CODE); even in the absence of an integrated approach, such projects undoubtedly contributed to cross-pollination between national research trends. It is therefore all the more unfortunate that joint publication of the outcomes of such broad-scale collaborative research remains comparatively rare.

1.2 Objectives of this review

This work is intended first and foremost to be a stocktaking of EWC research published in English and German. In line with the empiricist character of much research on EWCs, our main objective is to provide a descriptive catalogue of what is 'out there' in the field of EWC research and, in so doing, to capture what we know, and identify what remains to be done. This work can therefore also be read as an annotated bibliography of over 170 sources. With a few exceptions, this review covers EWC literature published between 1992 and 2000. In this sense it can be understood as a sequel to the review of literature on EWCs provided by Hall, Marginson, and Sisson (1992). This review cannot claim completeness, however: there are several important limits to the scope of this bibliography.

Most broadly, this catalogue of EWC research is marked by our own academic background. In consequence, this work concentrates on contributions from the social sciences and only engages in passing with the large and highly specific body of legal literature on EWCs, for example. Further, this review is limited to work published in English and German. It is unfortunate that we are thus unable to cover the published EWC literature in Scandinavia, Spain, France, or Italy, for example.

For reasons of practicality and transparency, furthermore, this work as a rule only covers academic literature which is readily publicly available across Europe (i.e. no grey literature, such as working papers and research reports). We are, of course, aware that there is a large body of especially interesting large-scale cross-national comparative research or innovative, individual research projects whose results, however, have for various reasons not been published. Since we may only be aware of such research by chance, we chose instead to concentrate on published literature, since this enabled us to search systematically and thus to ensure with at least some certainty that we have been able to cover the wide range of research around EWCs. Some published pieces may nonetheless have eluded us: we apologise at this juncture for their absence in this review. The second reason for including only published literature is our aim at transparency. Any research field is driven by the exchange of ideas

arising out of the findings of researchers working in parallel: this is all the more true for such a novel, complex and international subject as the EWC indisputably is. In order that readers of this piece may be in a position to follow up on issues of their own particular interest, it therefore seemed appropriate to limit the coverage of literature to that which is already widely available.

The focus of this review lies on academic literature and the development of EWCs as a research field. With a few exceptions, therefore, we have excluded articles published in the European Works Councils Bulletin (EWCB) and the European Industrial Relations Review, for example, since such publications are aimed primarily at practitioners. Readers should note however, that both serials, notably the EWCB, has provided detailed ongoing coverage on EWCs. Through their consistent focus on developments in EWC practice and on legislation surrounding EWCs and European employee representation more generally, these publications represent a valuable source for academics and practitioners alike. Where appropriate, we have cited (but not discussed at length) a variety of sources which bundle practitioners' accounts in recognition of their important contribution towards filling some of the empirical gaps in the research field. Readers should also note that a number of EWC handbooks have been published by national and European trade union organisations; these are not covered in this review.

1.3 Overview

The structure of this review follows the broad categories of research areas which we have identified. Following a brief overview of the evolution of the research field of EWCs in this introductory chapter, the subsequent chapters explore the main research areas in more detail: the historical, legal, and political contexts of EWC legislation; empirical research on existing EWCs; management views and strategies on EWCs; the possible implications of EWCs for national IR systems; and finally, the treatment of EWCs in the debates about the europeanisation of IR. While some of these research areas can be considered mature, others are still markedly under-developed.

Chapter Two opens with an exploration of the policy history of the EWC Directive, focussing on various assessments of its origins, the wider political context and the strategies of legislators and political actors behind the scenes, and the specific role accorded to EWC legislation in the context of the Social Dialogue. It goes on to review selected legal analyses, concentrating on comprehensive commentaries of the Directive itself, the implications of its transposition into national legislation, and its forthcoming revision. The EWCD as a case study in policymaking and regulation in the European social policy field is discussed, as is its significance in the debate on industrial democracy.

As the number of EWCs in existence increased within a relatively short space of time, empirical research on EWCs has grown apace. Chapter Three attempts to put together the growing number of puzzle pieces documented in over 50 publications of empirical findings and analysis. The chapter treats the literature published before the passage of the EWC Directive in its opening section, arguing that the kinds of research conducted was qualitatively different from that conducted after the Directive had been passed in 1994. The next section, focussing on the period after 1994, explores and compares the findings of the analyses of EWC Agreements themselves; this macro-level analysis aimed to grasp the distribution of EWCs and the variation in the provisions of EWC Agreements themselves across time, sectors and countries. The chapter then goes on to try to consolidate the findings of the burgeoning research on the actual practice of EWCs; at this micro-level of research, the focus lies in seeking to understand the inner workings of EWCs, in particular from the point of view of the employee representatives and trade unionists involved in their operation.

Chapters Four and Five turn to two highly under-developed fields of EWC research. Chapter Four addresses the lack of research about management's handling of and responses to EWCs and highlights some areas in which EWCs can certainly be expected to impact managerial processes. Chapter Five explores the possible impact of EWCs on national systems of IR; while the influence of national IR systems on the form and practice of EWCs has been regularly addressed, very little research has apparently been conducted on whether or not EWCs can conversely be expected to carry any implications for national systems of IR. Some research about EWCs in the UK and Italy has, however, explicitly addressed this issue; these cases form the basis for the discussion in Chapter Five.

The sixth and final chapter explores the importance accorded to EWCs within the context of the debate on the emergence of a new European system of IR in general and European collective bargaining in particular. Overall, 'europeanisation' has increasingly emerged as a cross-cutting theme linking the other EWC research areas identified in this review.

In attempting to chart the progress of knowledge in the EWC research field, we have been obliged to group pieces together according to what we saw as their overall argument or particular contribution. Of course, many pieces overlapped, and there were several borderline cases, but in the interests of clarity we have usually opted to concentrate the discussion of such contributions within the one or other research area. We hope that the authors of the such pieces will nonetheless feel that we have done justice to their contributions.

2. Historical, Legal, and Political Aspects of the EWC Directive

2.1 The policy history of the EWC Directive

The road to the final adoption of the EWCD in late 1994 was a long and winding one. Taken strictly, the EWC Directive which was passed in September 1994 was only put forward in April of 1994, and was largely – but not entirely – identical to a draft from 1991. As is generally known, however, the passage of the EWCD was preceded by over two decades of controversy surrounding a range of legislative attempts to install one form or another of statutory employee participation in company decision-making procedures at the European level. At its simplest, the story can be told along the following milestones: The most elaborated precursor to the EWC as a statutorily elected, transnational body of employee representatives convened for the purposes of information and consultation was originally proposed in conjunction with the draft European Company Statute in the 1970s. That Directive was shelved in response to intransigent opposition from several sides: this stalemate found its clearest expression in both procedural debates about whether and how such issues might be subject to legislation, and substantive debates in the search for a solution acceptable to all. Nonetheless, the 1970s did see the passage of legislation which provided for the information and consultation of employees in certain restricted cases, rather than as a rule, in multinational companies. Employee participation re-emerged in the early 90s as a stand-alone provision to enhance the so-called social dimension of the single European market. Once the legislative logjam was broken by the new procedures adopted as part of the Maastricht Treaty on European Union, the issue was briefly taken up under the Social Dialogue approach; when this approach failed to breach the impasse, the earlier proposal from 1991 was pulled back into the legislative process, adapted slightly, and passed in September 1994.

2.1.1 The EWC lineage

That's the short version. The long version, however, is full of fascinating twists and turns, as several authors have shown. One of the most elaborated accounts of the stumble-up to the Directive is provided by Cressey (1993). This chapter in a book on European employment policy isolates the issue of worker participation in order to trace various legislative proposals. At the time of writing, what would become the EWCD was still on the table. Its policy history is traced back to the draft 'Fifth' company law Directive (1972 & 1983), the draft so-called Vredeling Directive (1980 & 1983) and the draft Directive for a European Company Statute, (1970 & 1975) – all of which were shelved. Looking

to the positive cases, the chapter then goes on to consider adopted legislation which included some form of provisions for employee information and consultation: the Directive on the transfer of undertakings of 1977, the collective redundancies Directive of 1975 (which was revised in 1992 in order to ensure its transnational applicability), and the health and safety ‘framework’ Directive of 1989. Cressey also considers then-current proposals for financial participation (PEPPER), the new draft for the European Company Statute, and the European Works Council Directive.

The debates are usefully divided into two periods: The period covering the 1970’s, when the focus was on ensuring basic rights in the course of internationalisation, includes the draft “Fifth” Directive, the Vredeling Directive, the early draft of the European Company Statute, the collective redundancies Directive and the Directive on the transfer of undertakings. The second period begins with the passage of the Maastricht Treaty on European Union and its accompanying legislative innovations.

After a decade of gridlock, the policy “break” came in 1983 with the introduction of choice to replace a single prescriptive set of provisions applicable to all; the draft “Fifth” Directive, the European Company Statute and the Vredeling Directive were expanded to include a menu of ostensibly functionally equivalent models. The second precedent-setting breakthrough came with the unique legal procedures established under the Social Protocol agreed in Maastricht. Over the course of time, through a process of optionalisation, restriction of ambition, and generalisation along functional equivalents rather than single-model harmonisation, the legislative strategy shifted away from uniform to more flexible modes of harmonisation. Cressey usefully underlines his argument by tracing the roots of national traditions in various parallel proposals and from one proposal to its successor. Generally, the argument runs that from being highly derivative of German and Dutch forms of employee participation, later “optionalised” proposals contained key recognisable characteristics from German, Dutch, French, Italian and Scandinavian models. It is the elaboration of a lineage of worker participation in terms of both national tradition and European legislative pragmatism which is particularly interesting in this chapter.

Rehfeldt (1993) also identifies various, ostensibly equivalent national models as the inspiration behind provisions in the draft European Company Statute in particular; he characterises the three models laid out in the revised draft European Company Statute as first, a German model of employee representation on the supervisory board; second, a French model of employee participation via a distinct body of employee representatives; and third, a Swedish or Italian model of employee participation system established via a collective agreement concluded at the company level. As do many others, notably Hall (1992), and Danis and Hoffmann (1995), Rehfeldt subscribes to the “Son of Vredeling” moniker (cited in Streeck and Vitols 1995:251), whereby despite the wide range of other

influences on the eventual EWC, the political parentage of the then draft EWCD is seen most clearly in the Vredeling Directive.

Cattero (1999) places the EWCD within an overarching analysis of EU legislation in the area of worker participation¹. Rather than tracing the lineage of the EWCD, he cleanly isolates four parallel regulatory tracks: legislation aiming to standardise information and consultation rights is addressed to the national level along the first track, and across borders with respect to certain defined issues along the second track. The last two tracks concern worker participation in company decision-making bodies: thus, the third track aims to harmonise company law and governance structures, while the fourth track aims to establish a universally recognised European form of incorporation. Legislation along the first track (addressed to the national level) is exemplified by the draft Vredeling Directive and the current (2001) draft proposal for a general framework of information and consultation at the workplace. The second track covering information and consultation under certain defined circumstances includes the Directives on collective redundancies, transfer of undertakings, and health and safety. The EWC Directive is the only piece of legislation to stretch across both of these tracks since its requirement for information and consultation is addressed to the national level for implementation but has transnational effect. The third track covers the draft Fifth Directive which aimed to harmonise company governance structures, while the fourth track includes the wide range of attempts to design a single form of European Company (SE: *Societas Europea*).

Streeck's (1997) comprehensive overview of the origins of the EWCD is in its detail comparable to that provided by Cressey (1993); the emphasis in his elaboration, however, is to embed it in a discussion of the appropriateness and effectiveness of the EWCD as a regulatory instrument. (See section 2.3, below.) Streeck and Vitols (1995) also provide an extensive historical discussion of the progress of various legislative initiatives and their relevance to the EU's capacity to regulate in the social policy field. The *International Labour Review* (1995) provides an overview of various pieces of draft legislation, taking the view that the EWC Directive is the outcome of the various prior initiatives in this field, notably the draft European Company Statute, the draft Fifth company law Directive, and the draft Vredeling proposal.

A number of authors have chosen to focus on a single piece of proposed legislation. Danis and Hoffmann (1995) focus on the evolution of the EWCD from the Vredeling Directive. In so doing they provide a detailed discussion of the provisions of the Vredeling draft not provided elsewhere in the

¹ Following Cattero's (1999) persuasive plea for a clear-cut and stringently followed set of definitions and terms, we should arguably have written "EU legislation in the area of involvement-information-consultation-participation" here. However here, as elsewhere in this text we have resorted to the simpler, if not necessarily clearer, general term "worker participation".

works reviewed here, rather than elaborating the provisions of the EWCD itself. Apart from concerted efforts on the part of employers, however, Danis and Hoffmann (1997) also cite the requirement of unanimity in the Council for adoption of legislation on worker participation, and the problems of accommodating very different IR systems as reasons for the failure of the Vredeling Directive. Knudsen (1995) includes a chapter on the history of the draft EWCD in his analysis of European employee participation systems.

Rehfeldt (1993) focuses in particular on the provisions of the draft European Company Statute. Barisi (1999) also lays out the development over time of the draft European Company Statute by way of introduction to his article on several French EWCs. The debate and eventual adoption of the EWC Directive, although it provides the basis for the voluntary cases he analyses later, is not dealt with in any great detail; instead, Barisi (1999) focuses on the development of successive drafts of the European Company Statute, traced via the initial draft, the draft Fifth Directive, the Vredeling Directive, the Social Charter and Social Action Programme, and the OECD's Code of Conduct.

In his book on European social policy, Keller (1997) places the history and provisions of the EWC Directive within a wide-ranging and readable overview of the development of a social dimension to European integration. In his policy history of the EWCD, he highlights the centralising tendencies of the EWCD compared to the draft Vredeling Directive in particular: where the EWCD casts top company management as the opposite number to the EWC, the Vredeling Directive would have committed local management to act according to a decentralised obligation to inform and consult their workforces.

2.1.2 The wider political context

Rehfeldt (1993) provides a historical view of the evolution of worker participation demands and the various legislative attempts to meet them. Whereas other commentators simply link the early milestones chronologically, Rehfeldt provides some explanation of their progression. Rehfeldt argues that the first attempts to legislate in the 1970s were a direct reaction to the divestments and relocations of multinationals in search of more favourable labour relations regimes, in particular with respect to information and consultation requirements. It was the ensuing public debate about these developments which also gave rise to the first codes of conducts issued by the OECD and the ILO. According to Rehfeldt, it was in response to this public debate, and inspired by the basic philosophy underlying the OECD and ILO codes of conduct that the Commission was prompted to redress the lack of sanctions behind such codes of conduct.

Weiss (1999) also emphasises the role of larger political processes in Europe. He sees the successful adoption of the EWCD as a direct result of a learning process arising out of the draft Vredeling Directive. It was given the critical political impulse in the early nineties, as social policy was brought back onto the Community agenda, chiefly thanks to Delors' initiative. For Weiss, the Social Charter of 1989 was more than symbolically declaratory; it provided the necessary legitimisation for further action. But it was learning out of the mistakes of the past which breached the impasse. Further discussion of the role of changing political climates over the course of attempts to legislate on worker participation is provided by Streeck and Vitols (1995), and Schulten (1995) opens his argument with an overview of globalisation processes and early union and workplace responses to them.

2.1.3 Behind the scenes

In addition to outlining key legal provisions, some authors explore the various influences or factors at work behind the failure or success of various initiatives. In an article assessing the Directive's chances of adoption immediately following the Maastricht summit, Hall (1992) provides an illuminating insider's view on the policymaking process by outlining the five key influences on the Commission's legislative strategy. The first was a growing recognition of the need to respond to the single European Market by extending existing channels of information and consultation at national level to the emerging "europeanisation" of European business, a goal which had found earlier expression in the Social Charter of 1989 and the accompanying Social Action Programme. Second, trade union pressure is attributed with strengthening the Commission's resolve. Third, the range of issues and solutions brought forward by the growing number of voluntary agreements set powerful precedents as counterarguments to the sustained criticisms from the employers' camp that such arrangements were impractical at best, and dangerous at worst. Accordingly, the Commission's revised proposal was informed by close reference to the arrangements in force in such pioneer cases. There are two exceptions: the Directive went beyond the information-only remit of most existing EWCs by providing explicitly for consultation, and in contrast to many voluntary EWCs, the Directive does not provide for a formal role for trade union representatives, since this would almost certainly have proved too controversial. The fourth influence on the Commission's strategy as outlined by Hall are the lessons from prior legislative initiatives. However, where Cressey (1993) outlines a content-based lineage of the EWC Directive, Hall highlights the effects of at times conflicting different legislative traditions followed by DG V and by DG XV, respectively. An examination of the different approaches and institutional interests followed by each of these two sources of legislation on employee participation within the European Commission helps to explain some of the inconsistencies between

the various legislative initiatives. This argument, and the placement of the EWCD as an outcome between these two approaches is an argument not found elsewhere.

Windolf (1993) offers another difference between the legislative approaches and their chances of adoption. Citing EU standards on equal opportunities or job security and legislation which defined measures for the protection for employees in cases of mass dismissals or company mergers as examples of substantive legislation, he argues that the consequences of such substantive regulations are roughly quantifiable and their outcomes to a certain extent predictable; the consequences of procedural regulations, on the other hand, are neither quantifiable nor predictable. "Procedures threaten greater risks than do established standards" (1993: 150) and are therefore not readily adopted at European level. Since even job security and equal opportunities are increasingly regulated by procedures, perhaps a more apt distinction is made by Cattero (1999), who differentiates between legislation which is broadly applicable and legislation which is only applicable in certain strictly defined circumstances. Windolf (1993) also points out that the reservations towards procedural company-law based legislation were shared by both sides of industry: Employers were unwilling to countenance an open-ended, procedurally-based threat to their managerial prerogative, while many trade unions were wary of finding themselves in a position of having to share responsibility for strategic decisions which may carry negative consequences for employment. Windolf argues further that the uncertainties arising out of the adoption of procedural rights are compounded when these are imported between fundamentally different IR systems.

The fifth key influence on the Commission's legislative strategy as outlined by Hall (1992) was the Commission's ambition to expand the strictly limited competence of the Community to legislate in the area of industrial relations. Hall describes the way in which subsidiarity came to replace "upward harmonisation" as a legislative strategy in light of growing liberalisation and the accession of new members, and the role of the Social Charter in that strategy. The relationship between the legal basis chosen for legislative initiatives and the content of such initiatives is also discussed. Of particular importance here is that the legal basis relied upon brings with it mechanisms of adoption, such as qualified majority voting vs. unanimity, or the extent of involvement of the European Parliament; provisions deemed acceptable clearly reflect the mechanisms whereby a proposal is to be adopted.

The International Labour Review (1995) analyses the provisions and negotiations of several relevant pieces of draft legislation in turn, and argues that the turning point which led to the adoption of the EWCD came as a result of three factors: firstly, as a result of progressive economic and to a lesser extent political integration in Europe; secondly, as a step forward in the rather halting but not simply declaratory advance of the "Social Dimension", from the Social Action Programme of the 1970s, to

the Social Charter signed in 1989, to the Social Protocol signed in Maastricht in 1992; and thirdly, as a result of the new forms of direct dialogue between the “social partners” at the European level, from the Val Duchesse talks launched in 1985 to the growing number of voluntary EWCs established without benefit of legal obligations. The ILR devotes particular attention to the 1975 Green Paper on “Employee Participation and Company Structure in the European Community”, which had sought to make progress on the stalled European Company Statute by spelling out the intended function of European-level information and consultation of employees.

Writing before the Maastricht Treaty had been ratified, Roberts (1993), an official of the Commission at the time of writing, outlines the future prospects in 1993 for European legislation on information and consultation. First, the Social Protocol was expected to pave the way for speedy adoption. The role and influence of those Member States which would hold the presidency in the subsequent few 6-month cycles is also highlighted as an important factor: Roberts assesses that this sequence would be “constructively disposed to promote the approval of the Directive perhaps on a relatively shorter time scale than hitherto” (1993:179). Political events in various Member States might hasten the course of events as well. With respect to the development of the Social Dialogue, Roberts is fairly circumspect, arguing that while the conclusion of voluntary arrangements suggest that employer’s objections were overstated, it is these very voluntary agreements which suggests that legal regulation may not be required.

2.1.4 The EWC Directive and the Social Dialogue

The EWCD is also discussed in the context of the much-vaunted Social Dialogue, a novel legislative process whereby employers and trade union federations at European level were to initiate social or labour legislation based on collective agreements. For Platzer (1998), the possibility that the social partners may conclude generalisable agreements via the Social Dialogue is an example of a new component in social policymaking at the European level: “the principle of horizontal subsidiarity” (1998: 110). He cautions against generalisations, however, since the degree of internal integration on the part of the social partners is not (yet) high enough to enable them to act as committed carriers of such horizontal policymaking processes.

According to the analysis by Ross (1995), the EWCD plays the role of a near-accident which came close to ruining the relaunch of the Social Dialogue after Maastricht. Because the idea of legislation via a collective agreement between the social partners at the European level enjoyed substantial support among the social partners (albeit for divergent reasons), it provided a possible release for

firmly entrenched social policy regulation. The Commission was waiting in the wings with a raft of issues to put to the Social Partners for consideration and negotiation as soon as the Maastricht Treaty was ratified. As the delay in ratifying the Maastricht Treaty wore on, however, the momentum behind the Social Dialogue lagged. According to Ross, had the ratification of Maastricht gone as scheduled, the Social Dialogue would very likely have led to a breakthrough towards European collective bargaining. As it was, however, the Commission tried to salvage what it could, and put forward what it considered its best case: the EWC Directive. Here, the Commission banked on the positive experiences in several companies which had set up voluntary agreements, and on the progress which had been made by unions at national and European level in growing into their new, transnational role. Furthermore, both parties were willing to approach the bargaining table; UNICE saw a negotiated settlement rather than legislation as being in their own best interests, while the ETUC had a keen interest in establishing a precedent for European collective bargaining. What muddled the negotiations, however, was the Commission's declaration that legislation was certain should negotiations fail. As Danis and Hoffmann (1995) point out, too, these attempts to launch or re-launch the social dialogue was made more difficult because the actors were negotiating with the very real prospect of legislation in the background—legislation whose provisions they knew, and whose adoption they could influence only marginally. In the end, accompanied by attempts to avoid the blame, the talks about talks broke down around fundamental disagreement about the inclusiveness and remit of a future EWC. As foreseen, the Directive was adopted by the Council under the provisions of the Social Chapter, but not before key provisions had been significantly watered down. According to Ross, the promise of the Social Dialogue has not been the same since. Keller and Sörries (1999) and Falkner (1996) also assess the Social Dialogue with respect to the EWCD.

The main focus of an article by Gold and Hall (1994) is on the final stage of negotiations which culminated in the adoption of the EWCD. Gold and Hall provide a play-by-play account of the initial talks that might have led to the initiation of the Social Dialogue as provided for by the Maastricht Treaty, and whose negotiated outcomes would thus have had precedence over law. While the ETUC's core interest lay in achieving statutory backing for their key demands, they were equally keen to be recognised as a collective bargaining agent; another strategic plus was the fact that, unlike under legislation enacted under the Social Protocol, the UK would be included in the Social Dialogue. UNICE, on the other hand, only contemplated talks as the lesser evil compared to legislation. Immediately after the social partners abandoned attempts to launch official negotiations on the subject, the Commission published a new draft Directive in April 1994. Gold and Hall go on to compare the provisions of this April 1994 draft to the earlier draft Directive and to comment on the implications of the new draft's provisions for management and union actors.

The angle in Schulten's (1995) introductory historical sketch is somewhat different. In his account, the Commission took the unusual step of putting forward a new draft for discussion in the initial talks held as a prelude for Social Dialogue rather than the compromise document which had already been agreed by the Council. The provisions of this new draft were further weakened compared to previous drafts. Other commentators, in particular Gold and Hall (1994) and Ross (1995) have pointed out that these talks were hampered by clear statements and signals from the Commission that there would be a law should the Social Dialogue fail to yield agreement; Schulten, however, presents a different picture by citing the Commission as having actively encouraged the talks by publicly stating that it would prefer not to legislate on this matter.

For Abbott (1998), the Social Dialogue marks the point at which the ETUC's influence had its greatest weight. The shift was, following Abbott's argument, less one of substance than one of appearance. The more the ETUC seemed to have stable and functioning access to legislators, the more willing were the employers to go along with EU-level legislation. (See sections 2.1.5 and 2.3, below.)

2.1.5 The social partners: key actors behind the EWC Directive?

In many sketches of the history of the EWC Directive, the most common presentation is a highly simplified one. The stock cast of characters has been: the Commission was always and entirely in favour of regulation, all the Member States save the UK (and occasionally Portugal) were in favour, European employers were both singly and as an entity implacably opposed, and the ETUC was always knocking loudest at the Commission's door. Variation and consistency in the positions of the Member States has not been a primary focus, and the developments behind the scenes at the European Commission has been discussed above; a closer look afforded by some commentators at the positions taken by the social partners, however, reveals that there was more differentiation within their positions than many accounts allow.

The sudden adoption of the EWCD took by surprise many commentators who had been observing the stalemate for years; Falkner's (1996) detailed account of the final phase of negotiations provides illuminating reading not only about the last bout of negotiations, but also provides a useful overview of the official negotiating stances of all actors involved. Although the EWCD was not in the end actually adopted via the Social Dialogue, the social partners did play a crucial role in working out the compromise which was passed into law. Falkner usefully highlights the roles played by the employers' bodies and trade unions, as well as those played by the Commission, the Council, and the European Parliament. She discusses the implications of certain voting procedures for policy outcomes, the

Commission's role as policy broker among Member States, social partners and the European Parliament, the aborted attempt at Social Dialogue, and the ambivalences present in both the employers and employees camps, as well as in the European Council. Writing more broadly about social policymaking and the Social Dialogue in particular, Platzer (1998) outlines the interests and options of the social partners at the European level, the Commission, and the Council of Ministers.

Streeck and Vitols (1995) highlight the internal divisions in the labour movement with respect to European policymaking. They argue that the diverse understandings of the roles of unions, employers, and the state in each national IR system hardened rather than softened as economic integration proceeded. This institutional nationalism of the 1980s and 1990s made the preservation of IR diversity a goal in itself, which in turn presented policymakers with additional roadblocks and enabled employers' groups to take some wind out of the sails of would-be legislators (Streeck, 1997). Barisi (1999) also discusses the opposition of some national union organisations to European legislation, arguing that the 1975 draft of the European Company Statute failed not just because of employer opposition, but also because of opposition by several unions. Similarly, the draft Vredeling Directive did not enjoy the support of the unions, since, according to Barisi, they had been generally driven to defensive positions at the national level in the 1980s across Europe. Windolf (1993) also points to concern among national union organisations that an EWC would develop into syndicalist enterprise-specific bargaining actors, thus undermining the central bargaining powers of national unions.

Abbott (1998) also points out that prior to the 1980s, there was no unified stance on worker participation within the ETUC; indeed, the issue had long been an important source of internal division. According to Abbott, however, opinions had merged by the 1990s as a result of a general weakening of the communist trade unions previously so sceptical of worker participation arrangements, the positive experience of national initiatives in this area, and the introduction of new legislative mechanisms (such as the social protocol agreed at Maastricht, and the Social Dialogue) which brightened the prospects of European legislation in the social policy area. The reliance of the European institutions on the ETUC as a key intermediary not only enhanced its ability to influence legislation also further supported internal convergence of opinion. The ETUC is, according to Abbott, less a trade union than a lobby organisation, whose influence, moreover, is not only determined by its own activities but by other institutions' need for an intermediary representing European labour.

While Schulten (1995) also points out that the trade union side was in the early phases not entirely supportive of the Commission's approach, he presents this more as a matter of its form than of its content. Rehfeldt (1993) provides some background to this argument by means of an excursion into the history of the draft European Company Statute: while the ETUC welcomed the revived and revised

proposal for the European Company Statute in 1988, and in particular its new tack of optionalisation rather than prescription, it criticised the lack of equivalence among the three models proposed. According to Rehfeldt, this criticism reflected a critical convergence in union attitudes towards worker participation. It was at the Stockholm ETUC conference in 1988 that this age-old hatchet had been buried: many national trade union organisations, notably the French and the Italians, had long harboured deep scepticism towards the German system of co-determination and towards the representation of employees on the supervisory boards of companies in particular. (This option is theoretically possible, but not explicitly provided for in what became the EWCD.) At Stockholm, this was accepted as an incontrovertible element in the German system of worker participation; in return, the German union representatives agreed to accept – in theory – the equivalence of different systems of participation and representation.

By contrast, Knutsen's (1997) account, though it devotes much space to the historical roots of international works councils, and includes detailed quotations from the ETUC and lengthy discussion of its perspectives on European legislation, ignores the heterogeneity of union opinions on the subject.

It should come as no surprise that the employers' camp was no less divided: UNICE and other relevant European employers' bodies (such as CEEP or the European Round Table) were no more free from internal divisions and conflicting preferences at the European level than was the ETUC. Overall, however, the employer side has received much less attention than has the trade union side. It seems likely that the differences among the employers were – if less great than among (politically differentiated) unions – at least equally coloured by national IR traditions. Blanpain and Windey (1994) provide detailed original quotations of both ETUC and UNICE negotiating stances, thus providing an important starting point for those interested in investigating this aspect further. Danis and Hoffmann (1995) point out that the inability of UNICE to overcome the intransigence of the British CBI called into question UNICE's status as a representative body when the attempt at Social Dialogue failed to reach agreement. According to Gold and Hall (1994), these 'talks about talks' conducted as a prelude to negotiations under the auspices of the Social Dialogue failed because the CBI considered that UNICE had already moved too far towards the ETUC. While the (apparent) stance of UNICE forms an important part of Abbott's (1998) argument, and Knutsen (1997) amply quotes UNICE positions, both only infer the rationales behind UNICE's adoption of a particular stance rather than investigate them at length.

2.2 Legal analyses: implementation and revision of the EWC Directive

The passage of the EWCD and its implementation into national law spawned a number of legal commentaries and “how to” guides. These last generally served to publicise what needed to be done, by whom, why, and according to what rules. Extensive comparative legal evaluation of the effectiveness of the EWCD can be found in the volume edited by Rigaux and Dorssemont (1999) which contains the contributions of academic lawyers from Belgium, France, Germany and the Netherlands. While the coverage of each country varies, as does the depth of the legal analysis provided therein, the authors highlight some of the gaps and problems of interpretation the Directive and its implementing legislation, and some problems of legislative ‘fit’ with national legal systems.

Blanpain and Windey (1994) provide one of the most extensive legal commentaries available in English. Since the Directive applies to all companies whose continental holdings meet the conditions set out in the Directive, such as, for example, those based in the UK, the USA, or Japan, Blanpain and Windey have provided a valuable reference work with broad applicability. By way of a preface, they briefly describe the various sources of regulation and provide a concise survey of the worker participation and collective bargaining systems in force across Europe. The work goes on to a detailed discussion of the intentions behind and implications of each of the provisions in the EWCD. Subtitled “Conclude a Pre-existing Agreement? Time Bomb or Bonanza?”, the piece argues that it will in most cases prove in companies’ best interests if they conclude a voluntary agreement, stressing, however, that negotiations must be conducted in good faith by both sides.

The highly detailed legal analysis and commentary by Bercusson (1996) focuses in particular on the provisions of the EWCD as they relate to the “Special Negotiating Body” (SNB) as the first step to establishing an EWC. Unlike Blanpain and Windey (1994), Bercusson analyses the Directive as it relates specifically to employees and their representatives in the UK. Special emphasis is placed on the process of nominating or electing SNB members, especially from the UK, since there may not be appropriate representative bodies already in place. Again from a UK perspective, alternative interpretations of the EWCD’s provisions are laid out, focussing in particular on the negotiation process, the need for trade unions to take the initiative, and the necessary financial and personnel resources. Some interesting ambiguities in the EWCD as a whole are explored, and the arguments are illustrated with hypothetical examples and court arguments from analogous cases. Presenting the subsidiary requirements as laid out in the Directive as the basis for negotiations, Bercusson succinctly concludes his position: “...the Directive does not lay down explicit formal minimum requirements for a EWC. Rather, it provides the framework for the negotiating strategy of the SNB” (Bercusson, 1996: 283).

In a lengthy piece written primarily for a North American readership, Bellace (1997) links the EWCD together with the collective redundancies Directive and the transfer of undertakings Directive. With specific reference to American IR and collective bargaining in particular, she argues that the principal aim of all three Directives is to promote the transparency of company decision-making processes. She sees parallels between these three Directives and the “American law on the employers’ duty to disclose information in a collective bargaining situation” (1997: 346). This contrasts with the stance taken in most European publications reviewed here, in which the overall legislative intention of the EWCD lies in closing a gap between existing (national) information and consultation rights at the European level. While Bellace thus stops short of placing the EWCD within the larger political frame of European social policy, she does provide a useful overview of EU institutions and legislative processes which may be of interest to readers not familiar with the overall context of European legislation.

Litigation is, according to Blanke (1999a) beginning to play an increasingly important role in the development of European law on workplace employee participation. He discusses the judgements in the cases of Renault and Panasonic in particular, concluding that while these judgements did take the interpretation and enforcement of the EWCD a bit further, many open questions remain. Discussions of the Vilvoorde case can also be found in Lecher et al. (1999), Rehfeldt (1998) and in particular in Lorber (1997).

2.2.1 Transposition of the EWC Directive: square pegs in round holes?

The Directive, of course, is addressed to the Member States, not society at large, and does not in itself suffice to set up EWCs; the provisions of the Directive first needed to be transposed into applicable national law. The European Works Councils Bulletin (EWCB) has provided ongoing coverage of progress made in implementing the Directive. In this process of transposition, either by (national level) collective agreement or by national law, the provisions of the Directive were once more subject to negotiation and legislative processes, usually involving the social partners; it is thus not a straightforward one-to-one process in which identical provisions are simply taken over into national law. In other words, the Directive is not simply translated, but must be adapted to suit national circumstances and prior labour law provisions. Did anything “get lost in the translation”? Perhaps most importantly, there are a range of difficult issues whose resolution was in effect relegated to the

national level; these include the ways in which members of the SNB and EWC are elected or selected, the role of trade unions, the provision of training, and confidentiality requirements.

As part of the review procedure provided for in the Directive itself, the Commission issued a report in 2000 which, according to the EIRR (2000), concentrates on analysing the implementing legislation and noting some of the perceived practical problems to date. The EIRR summary mentions some of the practical problems encountered in the process of transposition, and quotes the Commission's characterisation of that process as "clearly very positive" and overall "in the spirit of the Directive" (EIRR 2000:20).

A study published by the ETUC (1998) helps to fill the gap in the story between the adoption of the Directive and its transposition into national law. The booklet reports on the activities of a Working Party which was set up to accompany the process of transposing the Directive into national law. Setting up such a working party was unprecedented in the EU legislative process, and bears witness to the controversial history of the Directive. The Working Party was considered necessary since the national EWC laws would themselves have transnational effects; for example, provisions relating to the size and composition of an SNB would be regulated by the national law of that company's "home" country, rather than by the national law of each country in which employees are based. The role of the Working Party was not to make decisions, but rather to develop and issue recommendations. The Working Party was logistically and technically supported by the Commission and included representatives from both sides of industry as well as legislators from all countries to which the Directive was addressed; the UK Government was allowed to send an observer, but not representatives of union and employer organisations (see also Buschak, 1997).

The ETUC (1998) notes similarities and variations for nearly every key provision of the Directive as they were transposed into national law. Where applicable, the recommendations of the Working Party are also included. A useful summary of the various provisions transposing the EWCD into national law is provided in a 27-page survey in tabular form. While there are some inconsistencies, the ETUC has with this publication provided concise and readable coverage of the variations and similarities in the national transposition legislation. Comprehensive country-by-country coverage of transposition legislation is also provided by Blanpain and Hanami (1995).

Blanke (1999a) takes the ETUC's (1998) broad brush approach a step further; he examines in more detail some of the essential features in the transposition legislation in five countries, each of which represents a different model of employee participation: France, Ireland, Sweden, Spain and Germany. By comparing these to the essential features of each industrial relations systems, he is able to assess

not only which deviations from the Directive are apparent, but also what the reasons behind such adaptation might be.

Knudsen and Bruun (1998) describe some of the different ways in which the EWCD was implemented in the Nordic countries. The authors suggest a Nordic model of implementation, which includes a strong role for labour market actors and a minimalist if highly detailed approach which remains close to the Directive. This Nordic model is perhaps most clearly defined by the ability –in theory – of the labour market actors in all Nordic countries to go beyond the provisions of the EWCD in collective agreements. However, Knudsen and Bruun point out that the implementation of the EWCD in the Nordic countries progressed without much political attention; there were, for example, no demands by unions to go beyond the Directive's provisions, even though Nordic unions had been demanding strong participation rights within Nordic transnational groups since the 1980s.

Given the highly juridified character of German IR, several commentaries were published on the implementing legislation which had been adopted in October 1996 after substantial negotiations with the employers' federations and trade unions². Of the more extensive yet accessible to the non-lawyer is Bacher's and Nielebock's (1997) commentary of the German implementing legislation. Here, they highlight selected aspects of the implementing legislation, such as the definition of controlling undertaking, the role and rights of the SNB, provisions for training, and the scope of the EWC. Their commentary is illustrated with hypothetical examples, and they cover possible problem areas, in particular with regard to so-called voluntary i.e., Article 13 agreements. Their analysis, while also aimed at a trade union and labour law readership, is less strategic in its emphasis than is Bercusson's contribution; they focus largely on providing a detailed commentary and on interpreting and explicating the new law with specific reference to existing German works council legislation.

With regard to France, Béliet (1995) suggests that EWCs may call the role of French group works councils into question. In view of the foreseeable overlap in formal competences, he suggests combining the two institutions. Since important discrepancies exist between the EWCD and the legislation on group works councils, particularly in terms of defined rights and the representativeness of both institutions, he highlights the important role to be played by both legislators and company-level negotiators. In an article reporting the results of a survey of French-based EWCs, Barisi (1999) summarises the basic provisions of the French implementing legislation. In the absence of a collective agreement, the provisions of the law are close to those of the EWCD. There are some departures from the subsidiary requirements laid out in the Directive: most notably, as pointed out by Blanke (1999a),

the law provides for management to chair and convene meetings of the EWC. Reflecting the complexity of French workplace representation, the implementing legislation lays out in detail the ways in which seats on the SNB and the EWC are to be allocated among unions and sites. These provisions relate to both French-based MNCs as well as to subsidiaries of non-French MNCs with operations in France.

Lecher et al (1999) cite the cases of Italy and Belgium in order to illustrate the variation in the transposition of the Directive between collective agreement on the one hand and legislation on the other. The case of Italy is dealt with in more depth than is the Belgian case.

Overall, it is clear that the implementing legislation varies considerably. Does this matter? In future, it may prove important to systematically monitor the effects in practice of such variation, not only to assess the implications for “regime shopping”, but also, as will be seen below in Section 2.3, in order to better assess the overall context and practice of social policy development and legal regulation within the EU.

2.2.2 The Revision of the EWC Directive

Article 15 of the Directive states that the Commission will conduct a review of the Directive’s application and practicality in 2000. The EIRR (2000) summarises and discusses a report published by the Commission in 2000, which is based on the results of a conference held in April 1999 as part of its required/prescribed consultation with Member States and management and labour in Europe. Some of the problems identified but not further discussed by the Commission include low levels of rights, the effects of mergers on EWCs, the low numbers of agreements signed since the Directive took effect, problems in practice with the timing of information and consultation, the need for training for SNB and EWC members, and problems with the onward dissemination of information from the EWC throughout the company. The overlap between these conclusions and the general conclusions of the wide range of empirical research reviewed here indicates that this burgeoning research on the actual practice of EWCs has not gone unnoticed by the Commission. While the Commission stops short of making any recommendations, the EIRR report does point out that the revision of the EWCD is to take place with explicit reference to the debates in the council and the EP about related dossiers, such as the current draft of the European Company Statute (SE: Societas Europea) and a new draft Directive on

² See for instance the commentaries by Asshoff, Bachner and Kunz (1996), Blanke (1999b), Däubler, Kittner, and Klebe (2000), Müller (1997) For a specific treatment of the employers' point of view on the EWCD, see the commentary by Hornung-Draus (1994).

national information and consultation arrangements. According to the EIRR , it is clear that no step towards revision of the Directive will be taken until the outcome of the current debates on the SE and national level information and consultation are known.

In the meantime, some have made their desired amendments to the Directive clear. The most common call was for clarification of the notion of information and consultation “in good time”. Drawing on both the experiences of existing EWCs and the provisions of both national implementation legislation and the Directive itself, Blanke (1999a) and Buschak (1999) propose a number of specific amendments to the EWCD. Firstly, both argue that the threshold levels of employment need to be reduced in order to capture a number of smaller companies who are also active across borders and in order to take into account the increasing outsourcing and merger practices which give rise to small transnational companies acting as satellites to larger MNCs. Both authors argue that the role of trade unions in setting up and advising EWCs needs to be recognised and significantly strengthened in a revised Directive. Both authors point out that the SNB procedures need to be laid out more precisely, not least to render them consistent with the detailed procedures laid out for EWCs in the subsidiary requirements. Both Blanke and Buschak call attention to the need to ensure the orderly transition of an EWC from one agreement to a subsequent one, or to a newly constituted EWC as part of a merger of companies, an issue which was not addressed in the Directive. Other points emphasised include the need for an explicit right to training, to meet with local employee representatives, and the need for European-level sanctions should employers not meet their obligations, such as disqualification from public subsidy programmes (Buschak, 1999), outright cash fines or the reliance on summary judgements (Blanke, 1999a). Pointing out that the media and shipping sectors are rapidly internationalising and restructuring, both authors argue that the EWC exemptions allowed for merchant navies (Buschak, 1999) and for publishing companies or religious organisations (Blanke, 1999a; Buschak, 1999) should be deleted entirely.

Usefully, Blanke argues that the very applicability of the EWCD needs to be coordinated with other existing European legislation; referring to the amended transfer of undertakings Directive, for example, he argues that a more precise solution to the long-troublesome definition of “controlling undertaking” has already been found, and that the demand to include part time and temporary workers in the calculation of workforce numbers already has a precedent in that legislation.

Blanke further highlights a number of issues that need additional clarifying in light of rather uneven experience in practice. In particular, he stresses the need to prevent employers from benefiting from their refusal to cooperate. This relates in particular to the timing of the involvement of employees. A range of both procedural and conceptual clarifications should be made in order to strengthen the hand

of employees to act even in the face of employers' failure to meet their obligations. Based on an academic legal analysis, the volume edited by Rigaux and Dorssemont (1999) also contains general and specific recommendations for revision of the Directive.

The breakthrough on worker involvement provisions in the European Company Statute which was achieved at the Nice European Summit in December 2000 and a special employment and social policy Council meeting held shortly thereafter may provide some indications about the scope for amendment of the EWCD Directive. Indeed, it would seem that a number of issues discussed above have found their way into the latest draft (March 2001) of the European Company Statute (SE: *Societas Europea*). Chief among these are that trade union officials are to be considered representatives of the workforce for the purposes of negotiations, that the SNB negotiation time has been limited to six months with the option of extending it by another 12 months, and that there is to be a right to paid time off for training for employee representatives. In addition, the definitions of information and consultation have been laid out with a bit more precision, the bargaining position of employee representatives has been strengthened compared to the EWCD, and SNB members are to be allocated on the basis of a workforce key based on employment thresholds, rather than purely by country in which the company is active (EWCB, 2001). Interestingly, in his highly persuasive examination of the not only linguistic but more importantly lasting political confusion caused by the substitution of by no means interchangeable terms and definitions of information, consultation, involvement, participation, and codetermination, Cattero (1999) points out that the Davignon Group, a working group charged with breaking the deadlock on the SE Directive is considering following the legislative trail blazed by the EWCD: the option of a negotiated solution coupled with default provisions should negotiations fail.

2.3 The EWC Directive as a case study in policymaking and regulation

The convoluted story of the EWC Directive is as much a story of policymaking in the social field in the EU. It has been taken up as such by a number of scholars in the field. The approaches range from the idealistic to the pragmatic; the assessments range from optimistic to pessimistic. The discussion revolves around whether the Directive's flexibility is a sign of its innovative inclusion of various policymaking levels within a uniquely transnational legislative context, or whether it only worsens the already problematic fragmentation of social legislation in the EU.

Platzer (1998) argues that the workplace level of policymaking and regulation has gained new importance with the passage of the EWCD. He points out that the EWCD is an important innovation beyond merely implementing European framework rules on a case-by-case basis. For Platzer, the

EWCD is “EU-typical”, in that it meets the fundamental challenges of managing the diversity of systems by establishing “a well-balanced mixture of subsidiarity (...), proportionality (...), and flexibility” (1998: 109). McGlynn (1995) sees the principle of subsidiarity fully respected by the EWCD; flexibility and autonomy are safeguarded by the negotiated option. She warns, however, that the voluntarist UK system is in danger of regularly yielding results (or non-results) which breach EU law. On the other hand, Platzer (1998) argues that the universal inclusion of UK-based workforces despite the UK’s formal opt-out of the Maastricht social chapter (and with it, the EWCD) demonstrates policy diffusion across economically and politically interdependent Member States.

Illustrating the difficulty of naming just what sort of policymaking is exemplified by the EWCD, Platzer suggests that the EWCD can be characterised as “legally and politically enforced voluntarism” (1998: 114) [See also Krieger and Bonneton (1995: 190)]. Pointing to the growing development of transnational networks, the existence of some substantive outcomes, the early experience with the Social Dialogue, and other innovations provided for in the Amsterdam Treaty of 1997, Platzer argues that at the very least “proto-corporatist features” are identifiable within the social policy arena at the European level (1998: 114).

According to Falkner (1996), the EWCD may have launched a new “Euro-corporatist” policymaking style in the EU. While innovative, the latitude given in its implementation does nothing to even out the playing field; there may actually be no real solution to the conundrum of regulating within such diverse institutional, socio-political, and economic contexts. According to Falkner, the new regulatory style of the EWCD is perhaps even less than minimalist – indeed, the ability of companies to opt out of the Directive entirely via company level agreements is a completely new provision in EU social law. With reference in particular to this unprecedented ability of companies in theory at least to preempt EU regulation entirely, Falkner concurs with Streeck’s (1995) assessment of the EWCD as neo-voluntarist regulation; with respect to an emerging “Euro-corporatist” policymaking style, however, she argues that there are grounds for guarded optimism. As outlined above, the implementing legislation varies from country to country. More so than previous Directives, Falkner argues, the EWCD leaves significantly more room for national governments and social partners to adapt legislation; furthermore, by leaving it up to employees and employers to hammer out the precise terms on a company by company basis, more latitude has also been granted to the company level. This is the expression of multi-level governance, in that it strengthens not only the lowest level (company) but the top European level too, in making the social partners formal co-actors in the determination of policy. Falkner thus identifies “Euro-corporatism” as the new policy style emerging out of the Maastricht Agreement on Social Policy; the Social Dialogue is given priority over traditional policymaking in initiating and working out the terms of legislation. In this way, the stability and effectiveness of policy

'outcomes' in the social field may be increased by the institutionalised inclusion of all the main actors from the outset. Cressey (1993) also presents worker participation as a multi-level concept, from tripartite corporatist public policymaking procedures to IR at the enterprise level. The IR aspects of participation lie in their regulatory capacity at the enterprise level.

For Knutsen (1997), both the run-up to the passage of the EWCD as well as the Directive itself are clearly the result of a corporatist policymaking process. According to Knutsen, leading theorists such as Schmitter, Traxler, and Streeck argue that euro-corporatism remains a far-off prospect in as long as there is neither a fully fledged European state nor peak organisations capable of committing their member organisations. With varying degrees of plausibility, he sets out to refute or at least critically assess these positions by arguing that the passage of the EWCD does represent a particular form of corporatism at work within the EU. For Knutsen, the roles played by UNICE, the ETUC and not least the Commission define what he calls "legal-democratic corporatism", which stands in contrast to "bargained corporatism" (which broke down in the Social Dialogue) or "authoritarian corporatism" (despite UNICE's claims to the contrary).

While for Falkner (1996) and Streeck (1997) corporatism is understood as a policy approach with aims at stable outcomes through the institutional inclusion of all affected actors, for Knutsen corporatism takes on an explicitly political character: corporatism is not simply the means to an end but a reflection of a societal consensus that economic authority and power be equitably shared among all actors alike. Knutsen criticises prevalent theoretical approaches for basing their analysis on what he calls a "capital-logical" model, arguing instead that the EWCD reflects the social-democratic reform demands historically put forward by the labour movement (1997: 312).

Rhodes (1995) is less optimistic than is Falkner, let alone Knutsen (1997). Rather than seeing a clear field ahead for an industrial relations system embedded in social policy regulation at the European level now that the EWCD has broken through the impasse, Rhodes argues that "the reality will very likely be more complicated. Existing treaty provisions may have been clarified [at Maastricht], and the legal bases for regime construction thereby strengthened, but the new arrangements are full of loopholes, contradictions, and ambiguities" (Rhodes 1995:113). Despite the "policy entrepreneurship" demonstrated by the Commission in its attempt to involve the social partners in the search for consensus, first at company level by funding transnational meetings of employee representatives and later by reinvigorating the Social Dialogue between the European peak organisations, these attempts failed in the end. Furthermore, the acrimony which accompanied their failure cast a long shadow over future attempts. Finally, the steady dilution of the Directive's requirements, which was apparently necessary in order to make it acceptable, in the end undermine the Directive itself. Thus, the EWCD

essentially only replicates the existing fragmentation which will continue to plague European social policymaking.

Streeck (1997) argues that, the fanfare or consternation greeting its adoption notwithstanding, the EWCD in effect does very little. Streeck addresses whether the EWCD can be considered a regulatory instrument conferring rights of industrial citizenship. He traces shifts in the regulatory ambitions and means across the range of legislation on worker participation, arguing that it was in the course of these shifts that the universality of industrial citizenship via workplace participation became increasingly eroded as it was relegated from the realm of company law to labour law, and from public law to voluntarism. The provisions of the draft Fifth Directive and the European Company Statute are laid out to illustrate the first phase, that of attempted harmonisation; Streeck argues that it was their attempt to generalise industrial citizenship rights up to the highest common denominator which caused their eventual failure. Legislative initiatives in the second phase attempted to incorporate the diversity of national systems by assuming their equivalence. With initiatives now based primarily on labour law rather than on the company law of the first phase, the focus in this era was more on processes, rather than on models. Accordingly, proponents of the Vredeling Directive sought in vain to generalise the achievements of the collective redundancies Directive and the transfer of undertakings Directive, both of which contained minimal provisions regarding the process of information and consultation, but neither of which specified the form which this must take in any given Member State. Efforts to accommodate diversity continued with the introduction of a choice of models rather than a single prescribed one in two company law proposals: the revised draft Fifth Directive and the revised European Company Statute. As the debate about the equivalence of the models subject to choice grew, it became clear that these initiatives were neither uniform enough to qualify as company law, nor flexible enough to field the necessary agreement of Member States, employers, or national unions. The final phase, that of coordination, is marked by the passage of the EWC Directive. According to Streeck, the EWCD “not only avoids harmonisation, but also sidesteps any judgement on the equivalence or non-equivalence of participation rights in different countries; it merely co-ordinates these within a select number of firms” (Streeck, 1997:652). In Streeck’s overall argument, the story which culminates with the EWCD represents little more than an ignominious climbdown from early aims to achieve universal rights of industrial citizenship within at least the political economy of Europe, rights which are insulated from both market pressures and undermining influences from abroad. Furthermore, the aim of establishing a coherent system of company law has not been met either.

Weiss (1999) similarly refers to a paradigm shift from material prescription to proceduralisation. Compared to the Vredeling Directive, which had sought to prescribe the exact forms and workings of

a decentral information process, the EWCD leaves the outcome fully open, and only prescribes the procedure whereby it is to be set up. For Weiss, however, the inclusion of a fall-back model adds prescriptive rigour, but crucial room is left for negotiations at company level. Drawing on the accumulated experience of voluntary agreements, Schulten's (1995) final assessment of the EWCD also notes the heterogeneity of its regulative capacity and highlights the role which workplace employee representatives will have to play in order to make use of it.

Indeed, Bercusson (1996) presents this as the Directive's very intention: "the Directive's stratagem is to provide the framework for a negotiating strategy of the SNB, based on the procedures prescribed in the subsidiary requirements of the annex" (1996: 283.)

Abbott (1998) takes the ETUC as (an admittedly unique) case study of the role of a regional trade union organisation in policy formulation. He concludes that rather than looking for ways in which European-level policy making is neo-corporatist, it should more aptly be characterised as pluralist interest group politics, in which the locus of decision-making for any given issue determines the relative role and influence of the social partners. For Abbott, the ETUC played a crucial role in the adoption of the EWCD precisely because it was the EWCD which was under discussion. The precise role of the ETUC, however, is difficult to trace directly, but is apparent if one looks to the fringes of the EU policymaking process. Here, the main indicators are the influence which the ETUC was able to wield within the Economic and Social Committee, and the development of effective two-way channels of communication between the ETUC on the one hand and the Commission and the European Parliament on the other. Abbott also attributes a number of last minute changes to the Directive to the ETUC's influence. Thus, the ETUC was for its part not only able to influence the overall policy environment, but it was the European institutions which also actively elicited its input as the only institution available which was able to speak for European labour, however indirectly. Abbott sets out to argue against the conclusion that the ETUC, as a result of its internal divisions, will never be able to play any more than a peripheral role. Abbott's argument is somewhat weakened by the fact that no mention is made of the limited legislation on worker participation made thus far, nor of the positions of the Member States. Furthermore, UNICE's motives regarding legislation and negotiation are only inferred, not clearly demonstrated.

Savoini (1995) puts a positive regulatory spin on the EWCD's flexibility, arguing that the subsidiary requirements demonstrate not only flexible regulation, but the very effectiveness of the EWCD in setting out a feasible legislative process. Highlighting in particular the work of the unprecedented Working Group which was assembled to coordinate the EWCD's transposition into national law,

Savoini argues that the EWCD represents the beginning of a workable social democratic solution at the European level.

Martinez Lucio and Weston (2000) also engage in the policymaking debate, arguing that EWCs are one aspect of a new form of indirect or flexible regulation. Martinez Lucio and Weston set out to address two twin problems faced by EWCs. The first is the risk that EWCs as company-level forms of regulation will be isolated from wider sources of worker solidarity, such as unions and other supportive networks. With the second problem, the authors set out to address what they see as an assertion in the literature of the field that management will “capture” EWCs for their own uses as a matter of course. This is implied, but not specified, as a failure of regulation.

Unfortunately, their notion of “regulation” is not entirely clear; without differentiating between its implications at different levels, it is used interchangeably with “worker involvement”, as well as in the context of (supra-national) policymaking more generally. The obvious linkages brought about by the EWCD itself — i.e., between the EWC’s “regulation” at the company level and its origins at the supra-national level—are not discussed. The influence of the supranational European institutions, the governments of the Member States, and of European and national interest groups (in particular the ETUC and UNICE) in the evolution and implementation of the Directive is also ignored in this discussion.

Martinez Lucio and Weston argue that the logic behind the emergence of a “new discourse of state regulation” in the EU, presented as regulation from below, indirect regulation, or flexible regulation, is that EU activity bypasses national states and locks into other levels—in this case, multinational companies. Nearly all other commentators reviewed here have argued, however, that it is precisely characteristic of the EWCD that it does involve national levels as well, both in the original legislative process as well as in providing a necessary political and economic filter in its implementation. In the context of regulation, Falkner’s (1996) explication of a new multi-level governance process, whereby the roles of both the top (EU) and the bottom (company) levels are strengthened, while the middle level (i.e., national governments) retain some critical control, is thus more convincing.

In general, the authors seem to take a roundabout way to argue a case which is quite plausible in its own right. As a discussion of the ways in which employee representatives and unions can and do counteract management control structures and strategies, this is a very useful piece; as a case study in regulation which it sets out to be, however, its usefulness is hampered by omissions and inconsistencies.

In conclusion, all that can be said is that the jury is clearly still out. The EWCD is discussed in the context of a range of social policy legislation; whether this social policy is increasingly fragmenting or is evolving into a uniquely European endeavour is debatable. But the EWCD does not stand alone; it is situated within an ongoing process marked by both pragmatic concession and ideological opportunism. The approach taken via the EWCD undeniably represents a new form of regulation – whether this be called neo-voluntarism, neo-corporatism, euro-corporatism, micro-corporatism, policy entrepreneurship, the triumph of supranationalism over intergovernmentalism, subsidiarity in action, minimalist policymaking or flexible regulation. For the pessimists, the EWCD is, together with similar legislation, singularly overhyped, since on closer examination they effectively represent a step backwards; for the optimists, the EWCD represents an appreciable step forward in the development of a truly European social policy agenda and approach.

2.4 EWCs and industrial democracy

In Cressey's (1993) detailed coverage of the early debates surrounding worker participation, he argues that the long-running clash about various attempts to legislate worker participation is not simply about British intransigence against the rest of Europe's progressiveness, as it commonly came to be seen around 1993. A look back along the protracted history of the issue reveals that the debate is really about highly diverging conceptions of worker participation systems and their underlying social and political rationales.

Whereas most of the contributions reviewed in this chapter consider the political and legal process of legislating for European-level information and consultation rights, several authors have focused on the political, even ideological intention of such rights. Industrial democracy is a political concept which revolves around a democratic redistribution of authority. It is perhaps most neatly captured in the maxim that 'democracy does not end at the factory gates', in the conviction that workers have the right to participate in decisions about the use of their own labour. Industrial democracy is thus distinct from notions of worker participation which justify themselves by reference to the economic or social gains to be won at the workplace by involving the workforce or its representatives; analogous to social democratic ideas about the role of the "social partners" in the wider social, political and economic order, industrial democracy focuses on the enterprise level. The distinction is also the same as that commonly made between direct and indirect participation, or individual and collective participation, respectively (see Cattero (1999) in particular).

Ramsay (1997) begins with this fundamental distinction in his assessment of the potential force of EWCs for industrial democracy. Outlining this political assumption on the purpose of works councils, Ramsay argues that works councils are a paradigmatic form of attempts to exert equitable influence over matters affecting working life. Arguing that the significance of institutional rights is overvalued, his analysis considers potential sources of strength and weakness, rather than the form and procedure of national and European works councils. Overall, Ramsay concludes that it is too early to call the outcome, since the current strengths and weaknesses balance each other out. In the short run, he argues, management may very well be able to contain EWCs as instruments for their own purposes; currently observable exceptions, however, demonstrate the potential of EWCs to challenge MNCs in the long run.

Ramsay's analysis of possible EWC 'outcomes' concludes that while EWCs are by no means organically linked to the workplace, they are less removed from reality than some critics have suggested. In times of crises, at the very latest, they may prove their worth. In the meantime, he argues, a day-to-day indifference to the EWC is probably inevitable, just as many other centralised forms of interest representation are removed from the workplace in national systems. Their lack of formal rights may mean that EWCs remain marginal and passive. However, while EWCs alone may never be able to stop restructuring, for example, adequate responses through improved international intelligence and coordinated bargaining may very well develop through them. The explicit enterprise focus of EWC carries with it the risk that EWCs undermine solidarity between and within national workforces. Here, Ramsay identifies a potential counterbalance in the close involvement of FTOs in EWCs, an involvement which could conceivably even strengthen rather than weaken trade unions' ability to wield democratic influence both within and across companies. Similarly, while cost-based internal and external competition may weaken the employee side, the proactive development of alternatives and coordinated responses may prove invigorating. In sum—and, crucially—in the long run, EWCs may in effect serve to enhance rather than weaken bargaining power, as coordination develops alongside a recognition of the relevance of wider company developments, and as a result of management's need to proceed more carefully as networking among employee representatives both inside and outside the company develops. Ramsay also stresses the symbolic significance of EWCs for industrial democracy: they may only enjoy limited rights, but a visible, concerted assertion of their right to inclusion constitutes an important challenge to MNCs.

For Streeck, (1997) EWCs are famously neither European nor works councils because they do not satisfy the fundamental conditions of industrial democracy. Firstly, "works councils" are a misnomer for EWCs because they have no enforceable and inalienable rights to information and consultation. Rather than enjoying a common and independent basis from which to exert a democratising influence,

they are dependent on managerial goodwill, market conditions, the uncertainties of negotiated rights, and trade union support and coordination. Secondly, they are not “European” because they do not confer rights to “industrial citizenship” which are equal across Europe and effectively protected from erosion through regime competition. Since there is no prescription of a standard EWC, workforce access to representation in any given company will vary decisively with national legal and political conditions. The legal and political base for EWCs is weak and fragmented, both in European and national implementing legislation; the voluntarist legislative strategy on the one hand opens the door to discrimination against workforces with weaker national rights, and on the other hand exposes those with strong participation rights to eroding forces by pitting regimes against one another, rather than by integrating them. Streeck does not dispute that EWCs may shift the balance in favour of greater coordination on the part of employee representatives and trade unions, or that in future some firms might voluntarily set up European Works Councils worthy of the name. But he contends that neither the policymaking process which yielded the EWC Directive, nor the Directive itself have anything to do with his understanding of industrial democracy (see also the discussion of Streeck (1997a) in section 6.1).

Windolf (1993) takes the representation of employees on the supervisory boards of companies (codetermination) as his starting point for a discussion of the need for but failure of European legislation to secure the exercise of democratic rights at the workplace. The decreasing purchase of national-level rights of codetermination provides the impetus for European legislation in this area, since the ability of employees to effectively represent the interests of the workforce has been drastically reduced by supra-national company integration and in particular the associated new forms of ownership and control. His discussion focuses on the difficulties surrounding the draft European Company Statute (SE: *Societas Europea*). The core of his argument is that the early draft SE legislation isolated the issue of worker representation on supervisory boards from its complementary institutions such as works councils (national and European) and the collective (wage) bargaining conducted by trade unions, without which employee representation on supervisory boards cannot function. Highlighting in detail the institutional and political preconditions for effective supervisory board representation provided by these complementary bodies, he demonstrates the conundrum of legislating across different national systems, across which structural and political discrepancies are so great as to preclude the development of European model of codetermination. As Streeck would also argue with reference to the EWCD several years later, Windolf argues that even the then draft EWCD which only required information but not consultation would not serve to address the real problem of closing the gap between national-level and European-level industrial democracy.

Knutsen (1997) places the EWCD Directive within the long-running history of social-democratic reform demands since the 1960s. These demands concentrated not only on ensuring trade union rights to challenge capitalist and state power, but also on granting employees democratic rights at the workplace. As part of his argument that the EWC represents a crucial first step towards what he calls euro-corporatism, Knutsen's historical argument on the roots of such demands arches as far back as Levinson's writings on international trade union cooperation and world works councils, and draws heavily on Rehfeldt's (1993) similar argument about Levinson's strategies.

While Lansbury (1995) and McGlynn (1995) also address the issue of industrial democracy, the demarcation between direct and indirect participation, or the differentiation between economic and political rationales, is less clearly drawn. Lansbury (1995) examines forms of direct (e.g., quality circles) and indirect participation (e.g., works councils) in European workplaces. He highlights the important roles played by both legislative/institutional frameworks and economic factors (in particular globalisation) in shaping not only the actual practice of such participation, but their complementarity (or lack thereof) with one another as well. The result is the coexistence of highly variable patterns of indirect and direct forms of participation across Europe. In the various attempts to legislate for indirect participation rights at the European level, governments, unions, and employers have tended to support a replication or approximation of their own national patterns. Writing before the passage of the EWCD, he concludes that the inability to resolve these differences or unify these variations means that forms and patterns of participation – and hence industrial democracy outcomes – will continue to vary across Europe.

McGlynn (1995) sees the range of attempts to legislate for worker participation as a continuum of economic and social conflicts and compromises arising out of both economic and social debates on industrial democracy. As others, notably Cattero (1999), have pointed out, information and consultation legislation had proved acceptable in prior legislation as long as it was strictly limited to specific circumstances. For McGlynn, the EWCD represents as much a compromise as this prior legislation did, since the generalising ambitions behind the Vredeling Directive were still not realised. McGlynn highlights some of the economic and political arguments in favour of the EWCD, noting in particular the economic arguments of equal treatment of employees within undertakings, and the principle of autonomy granted to the national and company levels. The compromise reached in the EWCD means that although there may be more transnational information and consultation processes underway on a wider range of issues, these processes will most likely have an impact on the repercussions of decisions, rather than on the decisions themselves. But McGlynn suggests that “the EU is pursuing the policy of the Vredeling proposal by the back door” (1995:82). By systematically including the need to inform and consult the workforce in various issue-based legislation (such as

health and safety) the EU is in effect providing for the continuous operation of transnational information and consultation in MNCs across Europe. While employers may still try to shirk their duties to inform and consult, dialogue will nonetheless improve, thus laying the groundwork for the success of industrial democracy in the future.

3. Empirical Research on EWCs

3.1 Pre-directive body of literature

The literature on EWCs produced prior to the adoption of the EWC Directive in September 1994 comprises two main streams of analysis: the first deals with the EWC Directive as a case study in research on EU-level policy making. These contributions primarily provide a historical account of the emergence of the EWC Directive and the politics and interests that were involved in this process. This provides the background for a more general assessment of the European Commission's policy style and approach to the field of social policy. We devote a separate chapter to this stream of EWC research (see Chapter 2), which tracks the discussions both prior to the passage of the EWCD and with respect to the ongoing legislative activities in its wake. The second main stream of analysis is made up of several empirical studies on early initiatives, mainly undertaken in state-owned French companies, to establish a European-level procedure for information and consultation. These two early streams of analysis were complemented by contributions by practitioners from both sides of industry, employers and trade unions, focussing on the usefulness of EWCs and some first assessments of the actual practice of specific EWCs based on progress reports by management and employee representatives who were directly involved in setting up EWCs. The publications edited by Deppe (1992) and Steger (1993), for instance, provide a rich collection of first assessments of the draft EWC Directive by German and European trade union organisations and German employers' associations. These initial position papers are furthermore supplemented by both management and employee-side accounts of some first successful initiatives to establish EWCs in German MNCs. Reflecting the German bias of the practitioners' accounts in both volumes, their objective was to broaden the empirical knowledge base of the practice of EWCs in order to enable a more rational debate about the relationship between the German system of co-determination and the proposed EWC Directive as the prime example of EU regulatory initiatives in the area of employee participation.

The low number of existing EWCs at the beginning of the 1990s meant that only limited empirical research had been done at this stage. The uncertainty surrounding the political prospects for adoption of an EWC Directive was matched by uncertainty about the actual scope that voluntary arrangements might have already reached in response to increasing internationalisation or the impact that statutory EWCs might one day have. Since there is no central database comprising all „European-scale undertakings“ and since any voluntary arrangements might only reach the ears of trade unionists or policymakers by chance, it has always been difficult to say exactly how many companies have or

should have EWCs. The problem of inexact numbers remains with us today, despite the concerted efforts of well-connected and well-funded institutions such as the European Trade Union Institute in Brussels³ or the European Foundation for the Improvement of Living and Working Conditions in Dublin⁴.

The lack of empirical knowledge and the uncertain outcome of various European employee participation initiatives in the early 1990s (e.g., ‘Vredeling’ Directive, European Company Statute) were reflected in the research objectives of the studies conducted at that time. These studies were mainly concerned with finding answers to two basic questions. Firstly, which factors contributed to the emergence of voluntary European-level information and consultation arrangements in the late 1980s and early 1990s? Secondly, where such arrangements have been set up, what are their structural features and how do they operate in practice?

3.1.1 The decision to set up a voluntary EWC

Most of the pre-directive empirical analyses came to similar conclusions, despite having applied different methods in analysing the emergence and operation of EWCs. One of the most stable conclusions over time has been that there were both political and economic factors at work behind the establishment of voluntary EWCs. Following Streeck and Vitols (1995), the economic line argues that efficiency imperatives arising out of internationalisation and restructuring led to the establishment of voluntary EWCs in order to develop appropriate IR responses. The political line of explanation refers to the renewed attempt to regulate transnational workplace information and consultation by European law, which prompted employers to soften their strict opposition to any kind of voluntary arrangements.

As early as 1988, Northrup et al.’s analysis of the development of multinational union-management consultation arrangements in the 1980s found that the interplay of economic and political factors led to the establishment multinational consultation arrangements in French MNCs. Northrup et al. (1988) argue that these arrangements are on the one hand a structural response to newly emerging HR issues, whose resolution builds upon the exchange of information and ideas. However, the more detailed investigation of the multinational consultation initiatives which existed in 1988 in three French MNCs yielded that on the other hand the specific political situation in France in the early 1980s represented

³ See, for example, Kerckhofs (1999; 2000).

⁴ See the online database of EWC agreements on the European Foundation’s website: www.eurofound.eu.int/ewc/index.shtml

favourable framework conditions for the establishment of transnational consultation procedures. The authors emphasise in particular the positive impact of the nationalisation of major companies by the 1981-1986 Socialist government, the introduction of the *comités de groupes* through the Auroux Laws in 1982, and finally the fact that top level managers in those companies where transnational consultation arrangements had been established were more open to the concept of multinational union-management consultation due to their close links with the French Socialist Party. These early findings were confirmed by successive studies by Schulten (1992) and Rehfeldt (1994) which covered a wider range of (French) companies with multinational consultation arrangements. These two studies in particular provide further empirical evidence for the economic explanation of the emergence of voluntary EWCs. Schulten (1992), for example, argues that the emergence of EWC-type arrangements in the three French-based MNCs can, aside from their specific socio-economic context, be explained by the fact that all three companies underwent major changes in their European organisational structure and that management aimed to use the EWC as a tool to secure the acceptance of their European workforce for these measures. This analysis chimes with the findings of Rehfeldt's review of 15 EWC-type arrangements in French-based companies. Investigating the motivation of the actors involved, Rehfeldt (1994) suggests that in view of rapid technological and industrial changes, management intended to use the EWCs to create a European corporate identity among 'their' European workforce in order to facilitate the introduction of re-structuring initiatives.

Looking beyond the French cases in his more general discussion whether EWCs represent an appropriate mode of regulation to alleviate the structural discrepancies between nationally confined systems of employee interest representation and the increasing globalisation of MNCs' economic activities, Schulten (1992) stresses that all the EWCs which existed in 1992 were found in the three economic sectors most marked by cross-border mergers and re-structuring initiatives: metalworking, chemicals and food. According to Schulten, the emergence of EWCs in these three sectors can furthermore be explained by the more active co-ordinating role played by the European Industry Federations (EIFs) in the metalworking, chemicals and food sector in response to MNCs' transnational re-structuring initiatives in these particular sectors. Schulten thus alludes to the existence of sector-specific factors influencing the emergence of EWCs and in doing so, anticipates the findings of successive post-directive investigations of the factors that influence the establishment of voluntary EWCs.

At a more abstract level, the political and economic line of explanation was put to a statistical test by Streeck and Vitols (1995)⁵. Based on a questionnaire which was sent to management representatives

⁵ The 1995 study by Streeck and Vitols is included in the pre-directive body of literature because their data set comprises only EWCs which had been established by the end of 1992.

of the largest 100 European multinational corporations in manufacturing, Streeck and Vitols examined whether there was a significant relationship between the existence of an EWC and key variables of both the political and economic lines of explanation. They defined the strength of works councils in the MNCs' home country and the influence of the French socialist party as the key independent variables of the political line of argument. The two main variables of the economic explanation were defined as the degree to which the MNCs' production is concentrated and the internationalisation of employment. Based on their finding that "concentration of company production, a key variable for any economic model, was found not to contribute to the rise of European works councils" (1995: 274), Streeck and Vitols assert the superiority of the political over the economic explanation and put forward a "national theory of supranational works councils" (1995: 268). According to this theory, "the growth of voluntary European works councils is best accounted for, not by common European factors such as economic integration or the politics of the social dimension, but by national conditions in companies' home countries, especially with respect to the political, institutional and legal resources of labor" (Streeck and Vitols, 1995: 275). This influence of factors related to the MNCs' 'country-of-origin' established by Streeck and Vitols chimes with Schulten's (1992) and Rehfeldt's (1994) conclusions that specific national political conditions contributed to the emergence of EWCs in French MNCs.

Streeck's and Vitols' discount of an economic explanation for the spread of voluntary EWCs assumes a causal linear relationship between the concentration of production and the rise of voluntary EWCs. The fact that Streeck and Vitols did not find a significant relationship between these two variables prompted them to assert the superiority of the political over the economic explanation. However, the findings by Marginson (1992; 1994) suggest that this conclusion is too simplistic. Marginson's study suggests that it is the combined effect of a whole range of company-specific structural features (of which the MNC's degree of diversity is only one factor) which shapes management's decision to set up an EWC. He found that transnational management-union relations are more likely to emerge in companies which have a single ownership, have developed a European management structure and which produce similar products and services in different location or have an integrated production structure. Whereas, according to Streeck and Vitols' conceptualisation of the economic line of argument, EWCs are less likely to be set up in highly diversified MNCs, Marginson's findings give reason to assume that even in highly diversified companies the establishment of voluntary EWCs could be economically efficient if specific conditions *within* the different business streams/divisions are fulfilled – such as an integrated production structure coupled with a European management structure, for example. Since it is the interplay of a whole set of company-specific features which under an economic model influences the decision to set up an EWC, it is hardly surprising that Streeck

and Vitols did not find a significant relationship between the independent variable ‘concentration of production’ and the dependent variable ‘rise of EWCs’. The results of Marginson’s study therefore suggest that the non-existence of a significant relationship between these two variables more likely indicates the insufficient operationalisation of the independent variable in the analysis by Streeck and Vitols (1995), rather than the insufficient explanatory purchase of the economic model itself in attempting to explain the rise of EWCs.

3.1.2 Evaluations of practice

The early 1990s also saw first attempts to assess what was actually going on in practice. Several qualitative studies investigating the practice of early EWC initiatives found that national IR traditions and institutions not only influenced management’s decision to ‘go early’ and set up a voluntary EWC, but that they also shape the actual structure and operation of the resulting EWCs (Gold and Hall, 1992; Lecher, 1994; Rehfeldt, 1994; Stoop, 1994). Of particular significance is the first qualitative study by Gold and Hall (1992). Based on 35 semi-structured interviews with management and employee-side representatives in fifteen companies, of which nine had already established some kind of formalised European-level information and consultation procedure, the study by Gold and Hall provided the first systematic description and comparison of the composition, competence, and procedural characteristics of the mainly French-based EWCs existing at that time. On the basis of this comparison, Gold and Hall identify a ‘basic model’ of EWCs which reflects the influence of French domestic employee participation legislation, in particular with regard to its competences, which are limited to information and group-level issues only, and in its composition as a joint management-employee body (Gold and Hall, 1992). The close link between national IR institutions and the structure and operation of the EWCs in French companies was confirmed by Rehfeldt (1994), who argues that the French *comités de groupes* served as a kind of blueprint for the operation of the EWCs. According to Rehfeldt, the analogy between *comités de groupes* and EWCs is particularly apparent in the weak institutionalisation of the EWCs and in certain procedural aspects, such as the dominant position of management, the limitation of the EWCs’ competences to receive information, and the right of the employee representatives to consult external experts and trade union representatives.

3.1.2.1 Perceived benefits of early voluntary EWCs

Another focal point of the early empirical studies were the perceived benefits of voluntary EWCs. In the absence of any legal obligation to establish European level employee participation rights, any voluntary EWCs which were set up prior to the adoption of the EWC Directive were necessarily dependent upon management's decision to do so. We have seen that both economic and political factors prompted management in a small sub-set of European multinationals (i.e. mainly state-owned French companies) to take this step. Research on this relative small group of companies suggests that management did indeed see potential benefits (whether political or economic) in establishing voluntary EWCs (Gold and Hall, 1992; Rehfeldt, 1994). However, much of the research conducted prior to the adoption of the Directive was marked by *ex ante* hypothesising and some degree of advocacy about the impact of statutory EWCs on multinational companies in general. Given that this research covered only a small subset of companies, it is far from clear to what extent these motivations might be shared by other companies. Deppe's survey of the 100 largest companies in Germany suggests that prior to 1992 a majority of managements were not taking up any instruments for transnational employee participation. Deppe sent out a total of 200 questionnaires to management and employee representatives seeking the answers to three basic questions: how many of them had already established EWCs; how many were currently planning to do so; and where EWCs existed, what were their basic structural features? He found only five EWCs in operation, but found little else to go on at that scale with a survey instrument. Nevertheless, an interesting finding was that 34% of the management representatives who answered the questionnaire had not dealt with the issue of EWCs at all and a further 56% were aware of the issue but were not pursuing any concrete plans. This means that 90% of the management respondents (53 in absolute figures) operating in a German environment did not perceive any need to establish transnational IR structures. In successive surveys, however, management representatives have at least claimed to see some potential benefits in EWCs. Linking these claims to Deppe's findings, one could hypothesise that many of the managements' accounts about their rationales to establish a voluntary EWC are perhaps an economic ex-post rationalisation of their behaviour. By the year 2000, as will be seen in Chapter Four, these issues related to management's handling of EWCs had not been systematically investigated any further.

The perceived benefits for the employee side, on the other hand, have been largely borne out and further elaborated by later research. According to Gold and Hall (1992), the employee representatives value the EWCs as a tool to receive information directly from the company headquarters, which can be used in the first instance for national and local collective bargaining. Other main benefits were of a political nature: employee representatives hoped that the EWC could improve international contacts, which might eventually lead to the development of joint international initiatives. Furthermore, these

forerunners saw the opportunity to set an example for other multinational companies by creating precedents and, in so doing, increasing the political pressure on policy-makers and employers to support the adoption of statutory employee participation.

3.1.2.2 The challenge of cross-border employee cooperation

The studies by Schulten (1992), Lecher (1994) and Stoop (1994) represent a more explicitly normative approach. Based on the evaluation of the practice of early EWC initiatives, these authors investigate the potential impact of EWCs for the development of cross-border employee/trade union cooperation. Stoop for instance, whose study was commissioned by the Dutch trade union FNV, sets out to identify specific 'success factors' which contribute to the effectiveness of EWCs from an employee-side perspective. The effectiveness of an EWC is measured against its ability to prompt cross border employee cooperation in order to achieve 'defensive' objectives such as spotting misinformation from management or the prevention of social dumping; such cooperation might even achieve pro-active objectives such as the development of joint employee initiatives and/or the development of alternative proposals to a management decision. Based on interviews in 13 companies covering a broad range of sectors and countries, Stoop singles out a number of factors which make a positive contribution to the success of an EWC: firstly, the existence of a national tradition of cooperative labour relations; secondly, the existence of strong national works councils or trade unions, which could facilitate the employee representatives' ability to build up own networks of contacts independent of management; thirdly an integrated organisational company and production structure; and finally, a positive attitude of management towards information and consultation procedures, which facilitates the provision of facilities and resources to the employee representatives.

However, these factors merely represent favourable framework conditions for the development of successful cross-border employee cooperation within and through an EWC. As the studies by Schulten (1992) and Lecher (1994) demonstrate, it is even more important to overcome the EWC-internal obstacles which impede the development of transnational employee cooperation. Lecher's comparison of voluntary EWCs in French- and German-based companies in the metal and chemical sectors reveals that the major obstacles for the development of transnational contacts among the EWC representatives are language barriers, the lack of understanding of the different national IR cultures and systems, and in particular the lack of EU legislation, which means that the quantity and quality of information and the resources provided to the employee representatives largely depend on management goodwill. A similar point was made by Schulten (1992) in his in-depth account of the constitution and operation of

the EWC at Volkswagen, where the main impediments to the development of transnational cooperation in the initial stages of the EWC were found to be the limited understanding of one another's national IR traditions, the lack of language skills, which prevented spontaneous and direct communication among the EWC representatives, as well as the lack of stable institutional links between the European and the national level of employee interest representation. Schulten also raises the point that the highly integrated production structure at Volkswagen may be conducive to the development of transnational trade union cooperation in times of economic prosperity, but that this structure can backfire in a situation of crisis, because of the increased internal competition between the different production sites.

3.2 Macro-analysis of EWC agreements

One essential feature of the EWCD, as a consequence of the controversial history of previous initiatives of the European Commission to establish European information and consultation rights, is its reliance on the principle of subsidiarity and the attempt to allow for flexible solutions which can accommodate national IR traditions and practices. As a consequence, the EWCD not only accords a crucial role to national regulation in implementing its provisions, but it also gives solutions negotiated at the company level precedence over statutorily prescribed ways of establishing EWCs. This leaves ample scope for managements and employee representatives to negotiate tailor-made, enterprise-specific information and consultation arrangements. The EWCD envisages a three-staged process for the negotiation of EWCs between management and employee representatives; with each successive stage, negotiations become increasingly regulated by national regulation in terms of both the procedure which negotiations must follow and the contents they must cover. The first option, under the provisions of Article 13, is to conclude an agreement by 22 September 1996, the deadline for the implementation of the EWCD into national law. Such so-called 'Article 13 agreements' are exempted from the provisions of the EWCD for as long as they remain in force, which means that the decision on the negotiation procedure and the contents of the agreement is entirely up to the negotiating parties. The second option available to managements and employee representatives is to negotiate a so-called 'Article 6 agreement' within a three year period following the Special Negotiation Body (SNB) procedure specified by Article 6 of the EWCD. Although the negotiating procedure is prescribed by the national implementation of the EWCD, all constitutional and operational aspects of such 'Article 6 agreements' are still negotiable. However, if the negotiating parties fail to conclude an 'Article 6 agreement' within three years, the EWCD's subsidiary requirements apply. These minimum

requirements represent the third option of setting up an EWC, and it is the only avenue by which minimum provisions for the structure and scope of the EWC arrangement are stipulated.

Analyses of existing voluntary agreements demonstrate that the high degree of flexibility afforded by the EWCD for the negotiation of company-specific EWC agreements is reflected in the considerable variations in their provisions. At the same time, these voluntary agreements exhibit interesting commonalities with one another as well as with the provisions of the Directive.

The studies analysing voluntary EWC agreements can be broadly grouped into two categories: descriptive and explanatory analyses. Whereas the former primarily provide a numerical breakdown of the structural and operational features found in existing agreements, the latter also try to explore which factors led to the varying pattern of structural characteristics of voluntary agreements.

3.2.1 EWC agreements: descriptive analysis

The descriptive analyses can be further broken down into two sub-categories: the first category includes analyses which focus on the macro-level, looking at such aspects as the timing of the agreements, the home country and the sector of activity of the MNCs involved, while the second includes analyses which concentrate on a micro-level analysis of the specific provisions of the individual agreement.

3.2.1.1 EWCs across countries, sectors, and time

With regard to the overarching macro-level factors, both the analysis of 173 Article 13 agreements conducted by the EWCB (1996a) and Marginson et al.'s (1998) more comprehensive analysis of 386 voluntary agreements found that a national breakdown of EWC arrangements yields that four countries dominate; EWCs in MNCs based in Germany, France, the UK and the US account for approximately two thirds of all the voluntary agreements investigated. Concerning the sectoral breakdown, both studies discovered that most voluntary agreements have been concluded in the metalworking sector, the chemicals sector and in the food, tobacco and drink sector - these three sectors again account for around two thirds of all Article 13 agreements.

The two studies also yielded interesting results on the 'strike rate' of voluntary agreements by comparing the number of voluntary agreements with the total number of MNCs covered by the EWCD from each country and sector. The two studies found that in particular Belgium, the UK and the Nordic countries (Finland, Norway and Sweden) achieved the highest scores, whereas the 'strike rate'

for French, German and US-based companies was just about the same as the overall average. Regarding the EWC coverage by sector, the two studies discovered that the three sectors which dominate in absolute figures also achieved the highest ‘strike rate’, albeit in different order; the chemicals and food and drink sector achieved a somewhat higher score than did the metalworking sector.

Both analyses also investigated the timing of the Article 13 agreements. Their findings demonstrate that the adoption of the EWCD was a clear watershed: more than three quarters of the EWCs had been established since 22 September 1994. A closer look by Marginson et al. (1998) shows furthermore that approximately one third of all agreements were concluded in September 1996, demonstrating the rush to conclude an Article 13 agreement in order to pre-empt the provisions of the EWCD.

3.2.1.2 Procedural and substantive provisions of EWC agreements

The descriptive analyses by Krieger and Bonneton (1995), Carley and Hall (1996), Carley et al. (1996), EWCB (1996b) and EWCB (1997a)⁶ focus on both structural and operational aspects outlined by the agreements. Such structural factors included the EWCs’ composition, geographical scope and the business structure covered. The analysis of the operational aspects covered issues such as the role and competence of the EWC as stipulated in the agreement, the presence and responsibility of a select committee, the processes of agenda setting and reporting back, the issues the EWC is supposed to deal with, the availability of training, language interpretation and other facilities, confidentiality provisions, clauses which ensure the protection of EWC members from any sanctions imposed by management and, finally, the role of experts. According to the analyses, the following common structural features of Article 13 agreements can be identified: with respect to the composition of voluntary EWCs, the analyses found that around two thirds of MNCs opted for the ‘French model’ of a joint management-employee body — as opposed to the ‘German model’, in which the EWC is an employee-only body which regularly meets with management. The selection of EWC members in the majority of cases follows national custom and practice. However, where a specific method for the selection of members is laid out, the most common means is nomination by trade unions, followed by nomination by national works councils and direct election to the EWC by and from the workforce. Most agreements, however, provide for a mixture of selection methods. The analyses furthermore demonstrate that most of the agreements which specify a method for the allocation of seats provide for a distribution of seats according to relative workforce sizes, as opposed to a flat-rate allocation of representatives from all

⁶ The two EWCB analyses are based on the study by Carley et al. (1996).

operations in all countries. Another interesting finding regarding the structural features of Article 13 agreements is the fact that the vast majority of EWCs are located at the group-level. Only a small minority of EWCs have been established at divisional level and an even smaller minority of agreements provide for an integrated structure covering both group and divisional levels.

Concerning the operational aspects regulated in Article 13 agreements, the analyses discovered that the vast majority of agreements reflect the provisions of the EWCD on the definition of information and dialogue. More far-reaching provisions, for example on the timing and scope of information or the entitlement to make recommendations, remain extremely rare. The most common issues the EWC is supposed to deal with according to voluntary agreements are very much in line with those set out in the subsidiary requirements of the EWCD. These are: the economic and financial situation, the probable development of employment and investments, the probable development of business, production and sales, substantial changes in the organisational structure, and the introduction of new working methods. At the top of the list of explicitly excluded issues, according to the analyses, are those issues usually dealt with at lower levels of the information and consultation procedure and pay and conditions. The analyses furthermore reveal that most of the more recently established EWCs have a select committee which is mainly responsible for organisational matters such as agenda-setting, preparing and organising meetings, and general coordination and liaison. Where methods of providing feedback are specified in voluntary agreements, the most common means is the distribution of a joint management/employee communiqué. Far less common is the distribution of minutes of the full meeting to employee/ union representatives or the workforce as a whole. Another important factor from an operational point of view is the EWCs' access to external experts. The analyses indicate that the vast majority of voluntary agreements provide for access to external experts; in more than half the cases, however, the employee-side's access to external experts is subject to management agreement.

An interesting country-specific spin to the descriptive analysis of voluntary agreements is provided by the study published by Bargaining Report (1996), which examines the 49 Article 13 agreements which were concluded in UK-based MNCs by 22 September 1996. UK-based MNCs represent a special case, firstly because of the British opt-out (ended in 1997) from the social policy agreement on which the ECWD is based, and secondly because of the specific IR structure in the UK which has no tradition of statutory employee representation structures such as *Betriebsräte* in Germany or *comités d'entreprises* in France. The analysis by Bargaining Report (1996) revealed that all companies chose to include UK employees despite the lack of an obligation to do so. The study furthermore found that all the EWCs examined were joint management-employee bodies following the French model, and that the majority of EWCs were set up at the group level.

An interesting question in the context of the UK is how the EWC representatives were chosen. In the absence of statutory representation structures such as works councils or trade union committees, companies and workforces in the UK were obliged to rely on other methods to select the representatives, such as trade union nomination or direct elections. Bargaining Report (1996) discovered that trade unions secured the right to decide on the majority of seats in around one fifth of the cases. Only a minority of agreements (ca. 15%) mention direct elections as the sole method of selecting all UK representatives. The vast majority of agreements provide for a mixture of both methods. Another important operational issue examined in the study was the role of trade unions. Bargaining Report (1996) found that in over half of the agreements, full-time trade union officers were specifically mentioned; in a further 12% of cases, they were even admitted as full members of the EWCs. Since another 18% of agreements make reference to experts, it can be concluded that in most UK-based EWCs, trade unions are involved in the operation of the EWCs.

Notwithstanding the interesting and useful statistical findings of the descriptive analyses reviewed here, with the exception of the study by Marginson et al. (1998), such studies do not offer explanations for the variation they find. It is characteristic of the second type of analyses of voluntary agreements, to which we turn our attention in the following section, that these do try to account for the variety of different structural and operational micro features found in Article 13 agreements by tracing them back to overarching macro factors such as the MNCs' country of origin and sectoral affiliation and the timing of the agreement.

3.2.2 *EWC agreements: explanatory analysis*

This second type of analyses of voluntary EWC agreements largely concentrates on two sets of questions: firstly, they investigate the reasons for the quantitative variation of EWCs across countries and sectors over time; secondly, they try to identify systematic patterns in the qualitative variation in the structural and operational provisions of Article 13 agreements according to the country of origin and the industrial sector of the MNCs and, as a cross-cutting theme, according to the extent of trade union involvement and intervention.

3.2.2.1 The decision to set up a voluntary EWC revisited

The studies by Rivest (1996), Knudsen and Bruun (1998), Marginson et al. (1998) and Marginson (2000) revisit the findings of earlier studies by Northrup et al. (1988) and Streeck and Vitols (1995).

Whereas in particular Streeck and Vitols put forward a “national theory of supranational works councils“ (1995: 268) which emphasises the dominant role of favourable national political and institutional conditions for the emergence of voluntary EWC arrangements, the four later analyses provide evidence for a more differentiated picture. The comparative investigation of voluntary EWC agreements in the Nordic countries by Knudsen and Bruun (1998) supports Streeck and Vitols’ finding of a causal link between far-reaching national employee representation rights and the establishment of voluntary EWCs. Knudsen and Bruun (1998) found that the long tradition of cooperation between employers and employees at workplace and company level within the Nordic countries, and in particular the considerable spread of transnational group-level consultation arrangements covering the four Nordic countries, created favourable national conditions for the conclusion of voluntary EWC agreements. In the case of Norway, the authors furthermore found that the method of implementing the EWCD through a national agreement between the two main labour market parties, LO and NHO, seemed to have created an important spill-over effect by making the two sides of industry more committed to a successful implementation at company-level. Further empirical evidence for the importance of the influence of national IR features for the emergence of voluntary EWC arrangement is provided by Rivest’s (1996) time series analysis of the 59 voluntary agreements which existed by September 1995. She found that in the period between 1985 and 1992 almost all the companies which had established EWCs were headquartered in Germany and France – i.e., countries with a long-standing tradition of national information and consultation practices. However, for the period between 1993 and 1995, which Rivest calls “the adoption era“ (1996: 237), she found that EWC agreements increasingly extend to companies based in countries without any tradition of legally mandated works councils, such as the UK, the USA and Japan. She thus concludes that national influences can only partially explain the emergence of voluntary EWCs and their distribution over time. The adoption of the EWCD was a watershed in this process.

The fact that the studies by Rivest (1996) and Marginson et al. (1998) also revealed considerable variations according to the sector in which companies operate provides further empirical evidence that sector-specific influences are at play too. Whereas Northrup et al. (1988) did not include the sectoral distribution as a variable because there were only few EWC agreements in force at that time, Streeck and Vitols (1995) do touch upon the subject by mentioning the coincidence of EWC formation with cross-border European restructuring initiatives in the food processing and chemicals sector. Although Streeck and Vitols (1995) favour national political and institutional influences as the main determinants for the emergence of voluntary EWCs, the findings by Marginson et al. (1998) and Marginson (2000) support an economic argument which transcends national boundaries. In view of the different sectoral ‘strike rates’, Marginson (2000) suggests that the extent to which production is

internationally organised and integrated also plays an important role. This argument is based on the empirical finding that the 'strike rate' in the more internationalised manufacturing sectors is double that in the service sectors. According to Marginson (2000), the same factor explains why 'strike rates' differ considerably within manufacturing, from the highest scores in the oil and chemicals sector to the lowest scores in paper and printing and textiles.

Whereas Rivest (1996) acknowledges the impact of economic factors, she argues that the sectoral variations can predominantly be explained by the strategy and capacity of the different European trade union bodies (EICs) to negotiate the formation of an EWC. Her main indicators for this explanation are firstly the fact that in the majority of agreements (66%), either national or international trade union organisations (or both) are signatories; secondly, she identifies a clear pattern in the food and the construction sector, where there is a significant coincidence of the involvement of international trade union organisations with the establishment of EWCs.

However, in other sectors, such as metalworking and chemicals, the influence of the company's country of origin seems to outweigh sectoral influences through trade union involvement, which potentially reflects the high proportion of German companies in the metal and chemicals sector, in which agreements have almost exclusively been signed by central or group works councils. However, as Marginson et al. (1998) emphasise, the fact that there is often a close link between central or group works councils and trade unions in Germany suggests that trade union involvement should not be ruled out *a priori* in the agreements concluded by works council representatives only. The situation in the German chemicals sector is instructive here; although most of the EWC agreements in MNCs in the German chemicals sector were signed by the central or group works councils, these EWC agreements followed a sectoral framework agreement between the employer federation and the union federation in the German chemicals industry (Marginson et al., 1998: 17). One might argue that the influence of this national sectoral framework agreement in the German chemicals industry can still be classified as a country of origin effect in explaining the emergence of voluntary EWCs. However, as Platzer and Weiner (1998) demonstrate, this sector-specific 'social partnership approach' also boosted EWC initiatives in other European MNCs in the chemicals industry due to the strong position of both the employers' and the union federation of the German chemicals sector within their respective European organisations. This in turn suggests that apart from country-specific influences, sectoral influences which transcend national borders and which stem from activities of transnational actors, such as EICs and MNCs, are at work too. The example of the German chemicals sector demonstrates the complex links between national and sectoral influences, which is difficult to grasp solely by the analysis of EWC agreements. However, notwithstanding this methodological problem, the studies by Rivest (1996), Marginson et al. (1998) and Marginson (2000) make an important contribution by

casting light on previously largely neglected sectoral factors, such as the degree of the MNCs' internationalisation and in particular the influence of European and international trade union organisations on the establishment of voluntary EWCs.

Another contested issue is the relationship between the emergence of voluntary EWCs and the legislative proposals by the European Commission. Whereas Streeck and Vitols (1995) argue that the European Commission's policy shift from harmonisation to voluntarism did little to break up employer opposition toward the establishment of EWCs, other observers such as Platzer and Weiner (1998) emphasise that the Commission's role as a 'process agent' furthered the emergence of voluntary EWCs during the early 1990s. Rivest (1996) and Platzer and Weiner (1998) note in particular the impact of the announcement to relaunch the proposed EWCD under the Social Policy Protocol of the Maastricht Treaty and the funding made available to the European Industry Committees by the European Commission. This financial support enabled the EICs to organise transnational meetings of employee representatives from European MNCs with the intention to prepare for future negotiations for voluntary EWC arrangements. However, since the number of companies which actually set up voluntary EWCs between 1990 and 1993 remains very small, it is difficult to assess whether the European Commission's legislative proposals had any impact on the emergence of voluntary EWCs apart from national and sectoral factors.

A clearer picture of the role of EU legislative process emerges for the period 1993-1995, in which the establishment of voluntary EWCs significantly gathered pace, as the descriptive analyses discussed above demonstrate. Platzer and Weiner (1998), who set out to investigate the internal and external constitution process of EWCs, argue that it is the adoption of the EWCD in September 1994 and in particular the exemption clause of Article 13 of the EWCD which provided the major impetus for negotiations. The adoption of the EWCD set new framework conditions for the activities of both sides of industry. The studies by Marginson (1994) and Hall et al. (1995) offer a range of reasons why the conclusion of an Article 13 agreements might have been attractive to both parties and how therefore the adoption of the EWCD might have spurred the emergence of voluntary EWC arrangements. According to Marginson (1994) and Hall et al. (1995), the major incentive of the Article 13 procedure for both the management and employee-side, was the procedural flexibility which offered two distinct advantages for the negotiation of tailor-made European information and consultation arrangements. First, for companies which are headquartered outside the countries covered by the EWCD the Article 13 procedure gave central management the opportunity to conduct negotiations directly without having had to nominate a representative agent from within the countries covered by the EWCD. Second, from a trade union point of view the Article 13 route was attractive because it facilitated direct trade union involvement in the negotiation process. By contrast, the SNB negotiation procedure

as laid out in the EWCD provides for trade union involvement only as experts or observers. However, as the two studies emphasise, not only from a procedural point of view, but also from a substantive perspective the ‘negotiated option’ may offer benefits to both parties because both the Article 13 and the SNB procedure for the negotiation of an EWC agreement allows for maximum flexibility as regards the structural and operational features of the EWC. Hence, as Marginson argues, the main incentives for both parties to negotiate an EWC agreement rather than opt for the subsidiary requirements of the EWC Directive “stem from the opportunity to take account both of the management structures of companies and of existing approaches to, and structures of, industrial relations within companies“ (1998a: 232).

These explanatory analyses of voluntary EWC agreements demonstrate that their emergence and their distribution across different countries and sectors is influenced by a wide-ranging set of different national, sectoral, and legislative factors, which at different points of time seemed to have played a crucial role. Whether this applies to the structural and operational (micro) features of voluntary agreements will be investigated in the remainder of this section.

3.2.2.2 Country- and sector-specific influences on structural and operational features of EWC agreements

The studies by Rivest (1996), Knudsen and Bruun (1998) and Marginson et al (1998) reveal that both national and sectoral influences affect the composition of EWCs. They discovered that EWCs tend to replicate the national patterns of IR structures of the country of origin. The studies by Rivest (1996) and Marginson et al. (1998) demonstrate that employee-side only bodies are most common amongst MNCs based in what Marginson et al. call “traditional works council countries“ (1998: 20) such as Germany, Austria and the Netherlands. In contrast, joint management-employee EWCs, reflecting the practice of the French *comités d’entreprises*, are established by virtually all EWC agreements in MNCs based in Belgium, France and Luxembourg. However, as Rivest (1996) points out, the fact that more than 40% of ‘Germanic-Dutch’ MNCs established joint bodies requires a different explanation. As an alternative source of influence she suggests the extent of internationalisation of these MNCs. According to Rivest, companies are more likely to choose a representation model other than the one of the MNCs’ country of origin if the company operates in countries with different traditions of IR institutions, because “there is more scope for variation and thus choice by the actors involved in establishing the EWC“ (1996: 248). Another factor influencing the composition of EWCs put forward

by Rivest (1996) and Marginson et al. (1998) is the involvement of EICs. Both studies found convincing empirical evidence for such a sectoral influence in the construction sector and in the food and drink industry, where a strong involvement of the European Industry Committees in the negotiation process coincides with the establishment of joint management-employee bodies. Knudsen and Bruun (1998) added the time pressure exerted by the EWCD for the conclusion of Article 13 agreements as another factor which potentially influenced the composition of EWCs. In view of the Danish exception to the (Nordic) rule of replicating national IR structures, the authors explain the fact that half of the Danish agreements depart from the national tradition of joint cooperation committees by making provisions for an employee-only EWC with the fact that most of the Danish agreements were concluded close to the deadline of 22 September 1996. Given this time pressure, Knudsen and Bruun suggest that “the parties in a substantial number of cases have modelled the agreement on the Directive’s subsidiary requirements“ (1998: 138).

The EWCs’ remit

A similar picture of country- and sector-specific influences emerges from the analyses by Rivest (1996), Marginson et al. (1998) and Walters (2000) with respect to the operational features of voluntary EWC agreements. Marginson et al. (1998) for instance discovered that agreements in Anglo-Irish and non-European MNCs show stronger signs of management-dominated procedures than do agreements in continental European MNCs, reflecting perhaps the stronger tradition of works councils structures on the continent. In light of the less-questioned managerial prerogative in Anglo-Irish and non-European companies, their EWCs and procedures are less likely to be jointly run. The agreements are more likely to specify issues which are excluded from consideration by the EWC and to include formal provisions covering the chairing of meetings, the drawing up of minutes, and the dissemination of the outcome of the meetings. The fact that in particular Anglo-Irish agreements tend to spell out operational issues more explicitly than do agreements concluded in continental European companies is highlighted by Walters’ (2000) issue-specific analysis of the extent to which voluntary agreements provide for information and consultation on health and safety and environmental issues. In his study, Walters (2000) found that the ‘strike rate’ of coverage of health and safety issues in British agreements is far higher than in any other country group, particularly compared to agreements in Nordic companies. His explanation for the low rate of coverage of health and safety issues in agreements signed in Nordic companies is that there already exists a well established practice of social dialogue on health and safety, so that the signatories did not see the need to specify the issue in the EWC agreement. This explanation corresponds with Marginson’s (1999) explanation of why provisions for training are less widespread in agreements in German-based MNCs than in French-, UK- and US-based MNCs. Marginson points to the importance of deeply entrenched national practices

in German works councils, so that there might have been a mutual understanding that appropriate training would be forthcoming. As a consequence, the parties did not see the need to include specific provisions for training in the agreement. The analysis by Walters (2000) furthermore provides evidence for sectoral influences on the content of voluntary EWC agreements. He found that although health and safety issues were not likely to be an overall priority in the negotiations, agreements in sectors which are noted for high risk activities, such as the chemical industry, transport and construction and utilities, are more likely to make explicit mention of health and safety than do agreements in the service sector or even the metalworking sector, for example. According to Walters, the reason may be seen in the greater awareness of health and safety issues on both sides of industry in these sectors which traditionally involve high risk activities, and that management in particular may be inclined to use such a non-contentious issue for PR purposes.

Trade union involvement

Marginson's (1999) study, which explores the influence of national IR systems on key EWC provisions, furthermore reveals that agreements in UK-based MNCs are much more likely to make provision for trade union officials to attend EWC meetings by right than are agreements in MNCs based in Germany, France and the USA. According to Marginson (1999), this reflects the UK-specific role which trade union officers are accorded in company-based bargaining. The strong influence of national IR traditions on operational features of EWC agreements such as trade union involvement is confirmed by Knudsen and Bruun (1998). Their analysis demonstrates that following the tradition of Nordic trade unionism, which takes a decentralised approach to company-specific issues, the majority of Nordic agreements were negotiated by lay representatives, who, moreover in a considerable number of cases put severe constraints on the involvement of trade union officials in the EWCs' activities. According to Knudsen and Bruun, this reflects a rather widespread attitude among Nordic lay representatives, who "see themselves as both representative in the specific company and as union representatives" (1998: 142). However, the studies by Rivest (1996) and Marginson et al. (1998) also discovered a strong sectoral influence on trade union involvement in the operation of EWCs. Both analyses found that, not surprisingly, where international trade union organisations were already involved in the negotiation of the agreement such as in the food and drink, textiles and clothing, and the construction industry, trade union officials are more likely to participate in EWC meetings by right. By contrast, the majority of agreements in the chemicals sector provide for external participation, including trade union officials, by invitation only. This could well reflect the high concentration of German MNCs in the chemicals sector, where the national works councils are most likely to be the employee-side signatories. Yet, as Marginson (1999) points out, actual practice might

in fact be the same in view of the close link between works councils and trade unions in most German MNCs.

Selection of EWC representatives

The studies by Rivest (1996) and Marginson et al. (1998) found a strong national influence on the selection of the employee representatives. Whereas in German MNCs the home country's representatives tend to be delegated by national works councils, the French representatives in French-owned MNCs are generally nominated by trade unions. However, the mode of selecting the representatives from the other countries of operation varies and largely mirrors the different national laws and practices. Swedish companies are the exception; according to Rivest (1996), they favoured trade union involvement in the selection of all employee delegates. The food and drink industry once again represents an example for the sectoral influence through the EIC, since the strong involvement of the EIC for the food and drink industry goes hand in hand with the nomination of employee delegates by trade unions as the sole mode of selection.

3.2.2.3 The impact of the subsidiary requirements on structural and operational features

Apart from national and sectoral influences, another important determinant of structural and operational features of voluntary agreements is the pressure exerted by the provisions of the subsidiary requirement in the annexe to the EWCD; as Marginson et al. explain, "agreements which pre-date September 1994 can be expected to be less influenced by the statutory provisions specified in the Directive, as well as by the terms of other agreements, than those concluded after the Directive had been adopted" (1998: 3). In this respect, the studies by Marginson et al. (1998) and Carley and Marginson (2000) represent a very useful time series analysis. Whereas the former investigates the influence of the subsidiary requirements in the annexe to the EWCD on the provisions of Article 13 agreements which were concluded up until September 1996, the latter continues the analysis by looking at the impact of the EWCD on the Article 6 agreements which were concluded between September 1996 and November 1999. The two main findings of the analyses are firstly, that over time the provisions of the EWCD were increasingly used as a benchmark in the negotiations for EWC agreements, and secondly, that learning processes among the negotiators themselves influenced the shape of Article 6 agreements. With respect to the first finding, Marginson et al.'s (1998) comparison of those voluntary agreements which pre-date the adoption of the EWCD in September 1994 to those

signed after the EWCD had been adopted concludes that the existence of the Directive has promoted greater conformity among subsequent EWC agreements. The authors found that virtually all agreements signed after the adoption of the EWCD followed the intention of the EWCD and confined the role of the EWC to information and consultation only, whereas those agreements which provide for some kind of negotiating role almost all pre-date September 1994. They also discovered that the late Article 13 agreements are more likely to contain detailed formal provisions concerning the competence of the EWC, the selection of employee representatives, procedures surrounding meetings and confidentiality clauses than do agreements signed before September 1994.

As can be expected, the study by Carley and Marginson (2000) demonstrates that the impact of the EWCD on both the structural and operational provisions of Article 6 agreements i.e. those negotiated by SNBs under the Directive's provisions was even greater. Concerning the basic structural features of EWCs established under the Article 6 procedure, they found that although joint management-employee bodies are still more common, the number of employee-side only bodies increased significantly, reflecting the provisions of the subsidiary requirements of the EWCD and the respective national implementing legislation. According to Carley and Marginson (2000), the impact of the EWCD on the operational provisions of Article 6 agreements can be seen by the following findings: firstly, specific clauses dealing with access to experts, confidentiality, and the protection of employee representatives are more common among Article 6 agreements than among Article 13 agreements. Secondly, the issues stipulated in the subsidiary requirements for consideration by the EWC are cited with greater frequency in Article 6 agreements than in Article 13 agreements. Thirdly, no EWC established under the Article 6 procedure provides for more than 30 members, whereas a minority of Article 13 EWCs did. Fourthly, Article 6 agreements are even more likely than are even the 11th hour Article 13 agreements to spell out detailed procedural provisions, for instance for the setting of the agenda and the drawing up of minutes. Another marked change occurred in the way employee representatives on the EWC are selected. Reflecting the provisions of the EWCD, Article 6 agreements give more weight to geographical scope and less to workforce size as the guiding principle for the selection of delegates, which means that Article 6 EWCs tend to be flatter and wider in their composition than EWCs established under Article 13.

A striking finding by Carley and Marginson (2000) is their identification of a learning processes among the negotiators which also influenced the shape of Article 6 agreements. The authors found that innovative features of a minority of Article 13 agreements which are not directly addressed by the EWCD are spread more widely among Article 6 agreements. This particularly applies to provisions concerning follow-up meetings and training for employee representatives, both of which became common practice among Article 6 agreements. Concerning the role of international or national trade

unions, Carley and Marginson (2000) found that Article 6 agreements extend the practice of Article 13 agreements, which in a majority of cases provided for some kind of trade union officials' involvement, either as a full member of the EWC or as an external expert. This is surprising because, as Marginson (1999) points out, firstly the SNB procedure of the EWCD accords no formal negotiating role to trade unions and secondly one might have expected that MNCs which are more accommodating toward trade unions might have already concluded an Article 13 agreement, rather than wait for EWCD's provisions to apply.

3.2.3 Conclusions: strengths and weaknesses of macro-level analysis

The analyses of voluntary EWC agreements suggest that both the emergence of voluntary EWCs and the negotiation process which determines the structural and operational features of the underlying agreements are heavily influenced by the interplay of four different sets of factors: firstly, national influences through the existing political and institutional conditions within the home countries of the MNCs; secondly, sectoral influences through the extent of internationalisation of production as a response to the sector-specific nature of product and labour markets on the one hand and through the involvement of European and international trade union organisations on the other hand; thirdly, company-specific influences through the MNCs' specific organisational and production structure; and fourthly, legislative influences through the subsidiary requirements in the annexe to the EWCD. The analyses furthermore reveal that the influence of these factors varied over time. Whereas the emergence and the shape of the early voluntary agreements seemed to have been predominantly influenced by national factors, sectoral and legislative factors appear to have played a great role in shaping voluntary agreements concluded during the 'adoption era' between 1993 and 1995. Moreover, the analysis of Article 6 Agreements (i.e., those concluded after September 1996) suggests that the provisions of the subsidiary requirements in the annexe to the EWCD and the negotiators' own learning processes seem to have played an increasingly important role alongside national and sectoral influences. However, it should be emphasised that the analysis of voluntary agreements can only provide first clues as to what factors influenced the emergence and the shape of voluntary EWCs, because as Marginson puts it, "at best, the formal provisions of agreements are likely to constitute only an approximate guide to the actual practice evolved by the parties in functioning EWCs" (1999: 260). This limitation is confirmed by the findings of the growing body of empirical case study research, which demonstrate that the actual practice of EWCs tends to transcend (or in some cases fall short of) the formal provisions of both the EWCD and EWC agreements. This has important implications for the use of the results of the analyses of EWC agreements, because caution is required in reaching

conclusions about the actual practice of EWCs and the actors' roles and strategies by simply inferring these from formal provisions of EWC agreements.

These methodological problems notwithstanding, the analysis of voluntary agreements has considerably improved our understanding of the factors involved in the establishment and operation of EWCs. It is therefore highly relevant both for EWC practice and EWC research. From a practical perspective, as Marginson et al (1998) emphasise, it provides an important frame of reference for practitioners, who can use the analyses as a benchmark for their own negotiation of an EWC agreement and/or the development of policy proposals in view of the revision of the EWCD. From an analytical perspective, the analyses of voluntary agreements complement the more detailed in-depth case studies by providing a useful overview of evolving structures and patterns of EWCs: a bird's eye view of the emerging EWC landscape. The findings of the analyses of voluntary agreements furthermore represent an important starting point for the generation of hypotheses concerning the development of EWCs and in particular the role and strategies of the actors involved as specific norms and patterns of EWC practice and structures evolved over time; these can and should subsequently be investigated by more qualitative, in-depth case studies and surveys.

3.3 Micro-level analysis of the EWCs' practice and development

After the adoption of the EWC Directive in September 1994, the number of published empirical investigations of EWC practice grew at an increasing rate. The growing number and experience of EWCs led to an increased interest in the actual operation of this new institution at the European level. From 1998 onwards, there was a real proliferation of empirical case study research ranging from single case studies to large-scale comparative research projects. However, from 1995 to 1997, during the years directly following the adoption of the EWC Directive, only few case studies were published, perhaps because of the combined effect of the time-intensity of such research and the limited experience of the majority of EWCs which had been established shortly before the EWCD was adopted. Furthermore, in the wake of the adoption of the EWC Directive, most researchers were initially concerned with the analysis of EWC agreements, the more immediate legal and political consequences of the transposition of the EWC Directive into national law (i.e. implementation research) and the broader discussion about possible implications of EWCs for the development of a European IR system (i.e. europeanisation research).

3.3.1 *Practitioners' accounts*

The upsurge of case study research on EWCs was complemented by publications comprising practitioners' personal accounts from both sides of industry about their own experiences with their EWCs and assessments by European and national policy-makers. The book by Klinkhammer and Welslau (1995) provides a detailed documentation of the results of a workshop on the transposition of the EWC Directive into national German law. The objective of the workshop, which was attended by (German legal) academics and practitioners from both social partners and European and national policy-makers, was to identify the main 'sticking points' of the EWC Directive and to clarify and discuss the positions of the actors involved in the transposition of the EWC Directive into German law. With this objective in mind, the book documents presentations (and the subsequent plenary discussion) from representatives of the German Department of Employment and the DGV of the European Commission on the transposition of the EWC Directive into national law (Wirmer, 1995; Burger, 1995); presentations from representatives of the social partners on the position of employers' confederations and trade unions respectively (Hornung-Draus, 1995; Bobke, 1995); and finally assessments by academics of the Directive and of potential problems involved in the transposition of the EWC Directive (Welslau, 1995; Klinkhammer, 1995). In view of the adoption of the EWC Directive in September 1994, the intention of the book was to highlight some of the legal problems involved in the establishment of an EWC and to give some guidance as to what management and employee representatives can do in anticipation of the transposition of the Directive into national law.

The book by Blank, Geissler and Jaeger (1996) is similarly pragmatic; it was published just in time for the last phase of negotiations of voluntary Article 13 agreements before the deadline of September 1996. Accordingly, the main objective of the book is to provide a practitioners' guide for the negotiation of EWC agreements. Based on interviews with EWC members from eight case study companies from the metalworking and chemical industry and the analysis of the EWC agreements themselves, the authors identify problems that occurred during the negotiation of an agreement in the eight selected cases and describe the different ways in which these problems were resolved. The book thus provides extensive background information of successfully established EWCs for all those who are, or will be, involved in negotiations of an EWC agreement.

The special edition on EWCs of the German periodical *WSI-Mitteilungen* in August 1996 contains both practitioners' accounts of their experience with EWCs and several more analytical contributions

addressing issues such as the implications of EWCs for the europeanisation of IR (Keller, 1996; Lecher and Platzer, 1996), the development of transnational communication structures (Jaeger, 1996), the lessons to be learned from the German system of codetermination for the operation of EWCs (Nagel, 1996), the implementation of the EWC Directive into national law (Buschak, 1996), and the situation of EWCs in the UK (Fulton, 1996). The practitioners' accounts include a report by Gerstenberger-Sztana (1996) on the developments in the metal sector and the practical experiences of the EMF; a description of the IG Metall "European Works Councils" Project as a particularly innovative example of how the then largest German trade union responded to the organisational and strategic challenges posed by the adoption of the EWC Directive (Götz and Buchholz, 1996); and finally an assessment of potential practical consequences and problems for and of the operation of EWCs from an employers' point of view (Niedenhoff, 1996). Geissler and Krieger (1996) furthermore provide a report on EWC-related activities of the Foundation for the Improvement of Living and Working Conditions in Dublin/Ireland.

Following the tradition of the first monograph published by Deppe in 1992, the book by Deppe, Hoffmann and Stützel (1997) provides a rich collection of practitioners' assessments of EWCs. The book is divided into five parts, of which parts one to three are reserved for assessments by representatives of German and European social partners; five reports of experiences by management representatives and seven by employee representatives. This extensive compilation of practitioners' reports focusing on the EWCs establishment, their operation and problems arising is complemented by a report of the results of a survey (Stützel, 1997: see section 6.1) investigating the extent to which EWCs have been established in German MNCs, and the structural and operational characteristics of established EWCs. The book concludes with a documentation section comprising the text of the EWC Directive and of the German transposition legislation, and eight examples of voluntarily negotiated EWC agreements.

The main objective of these publications, which were primarily aimed at practitioners involved in dealing with EWCs, was to make first-hand information on the operation of EWCs more widely available. Similarly, reflecting the growing interest on the part of both practitioners and researchers into the actual practice of EWCs, the main objective of the academic research which was conducted after the adoption of the EWC Directive was to extend the empirical knowledge base about the operation of EWCs.

3.3.2 Academic Research

The development of a distinct role of EWCs in the IR of MNCs at European level has been the main focus of both survey- and interview-based empirical research into the practice of EWCs. Although the precise nature of this role is left largely open at this stage of research, a consensus has emerged that, regardless of the end goal from the employees' point of view, cooperation among the employee representatives provides the means to get there. Or, as others have put it, an autonomous 'European' identity which transcends national traditions by developing a new overarching set of values and practices (Miller, 1999) is necessary (albeit not sufficient) in order for the EWC to develop into "an authentically European actor" (Lecher and Rüb, 1999: 20). Based on a detailed description of the structural and operational development of EWCs, many studies have accordingly attempted to isolate those factors which foster and/or inhibit the development of a 'European' identity and cooperation among employee representatives on EWCs. These factors can further be divided into those which are largely *externally* given and therefore difficult for the employee-side to influence and those *internal* factors which the employee-side can itself conceivably influence.

3.3.2.1 External Factors

- The existence of strong national employee representation structures (Stoop, 1994; Nagel, 1996; Helbig, 1999; Lecher, 1998b; Lecher, 1998d; Lecher, 1999; Royle, 1999; Veersma, 1999; Whittall, 2000)
- The support of management interested in developing or maintaining social-partnership (Gohde, 1995; Cressey, 1998; Helbig, 1999⁷; Royle, 1999; Wilson, 1999)
- A homogeneous product structure coupled with an integrated organisational structure (Gohde, 1995; Weston and Martinez Lucio, 1997; Royle, 1999; Hancké, 2000),
- Re-structuring initiatives which trigger cross-national employee cooperation (Gohde, 1995; Weston and Martinez Lucio, 1997; Hancké, 2000).

National employee representation structures

⁷ The studies by Helbig (1999) and Wilson (1999) were both contributions to a larger comparative project organised by the Centre pour l'Observation de la Directive Européenne (CODE) covering the following countries and companies: Germany/VW; UK/NatWest; Sweden/SKN and France/Danone.

The in-depth case studies by Helbig (1999) and Whittall (2000) of the EWCs at VW and BMW respectively demonstrate that the existence of strong national employee representation structures influences the effectiveness of EWCs. Both authors particularly emphasise the role played by the German chairmen of each EWC; both EWC chairs are also chairmen of the German central works councils and members of the supervisory boards, which gives them access to important arenas of management decision making. In the case of Volkswagen, Helbig (1999) finds that the accumulation of strategic posts by the EWC's chairman not only led to synergetic effects which improved the efficiency of the transfer of information among the EWC delegates, but that his ongoing access to strategic information also facilitated the employees' strategic planning for the EWC meetings. In his study of the role played by the EWC at BMW in the Rover Longbridge crises, Whittall (2000) found that the EWC served as a platform for successful trade union cooperation in order to regulate the problems that came to engulf the Rover group. According to Whittall, the strong national position of the German EWC delegates, who used the general works council and the supervisory board to lobby on behalf of the British workforce, played an important mediating role in the process of overcoming barriers to trust between British and German employee representatives. The solidaristic behaviour of the German EWC delegates changed the British representatives' sceptical view of the German concept of social partnership and made them more inclined to use the contacts established through the EWC for effective bilateral trade union cooperation. On the one hand, the studies by Helbig and Whittall demonstrate that strong national IR structures in the parent company's country can be conducive to the development of an effectively functioning employee side networking structure within and through the EWC. However, their findings also highlight that the positive contribution of strong national IR structures heavily depends on the willingness of the 'home country's' delegates to utilise their legally underpinned position of power for the benefit of the EWC as a whole.

Lecher (1999) addresses the important role which strong national representation structures can play in the provision of resources necessary to the work of EWC. Based on the investigation of four cases in four sectors, Lecher argues that the better the EWC can equip itself in terms of time, money, information and power, "the greater its chance of developing a European identity and ability to act effectively" (1999: 281). Strong, legally underpinned national representation structures provide the EWC delegates with considerable resources. Investigating the experience of 17 and 19 Netherlands-based EWCs respectively, Lamers (1998) and Veersma (1999) came to similar conclusions about the impact of strong national representation structures on the availability of resources and the more general approach taken by the employee-side toward the information and consultation process. However, as Lecher (1999) points out, if the EWC delegates view the EWC primarily as an extension of the national representation system and merely as an additional source of information, their

willingness to generate resources for the European level might be limited. He mentions the example of Hoechst, where the German EWC chairman, who is also chairman of the German central works council, monopolises the link with group management and effectively takes on the role of a mediator controlling and co-ordinating the employee-side contacts and the contacts between the subsidiaries' representatives and central management. As Lecher states "he can act as a driving force, or he can block further developments" (1999: 284). This example shows that strong national rights can also be detrimental to the development of a European identity of the EWC, if the 'home country' delegation uses its national privileges to dominate the EWC and to stall any attempts to develop a genuinely European orientation. Nagel's (1996) game-theoretical investigation of the potential lessons to be learned from the German system of codetermination for the functioning of EWCs highlights another aspect of the power resources that strong national representation structures can provide for EWC members. Leaving more general reservations against the application of game-theoretical models to the complex social processes within EWCs aside, one of Nagel's main conclusions in a nutshell is that strong national information and consultation rights can provide EWC delegates with the potential to sanction 'defective' behaviour of management. According to Nagel (1996), an essential prerequisite for this, however, is the strengthening of the links between the work of EWCs with the main carriers of national interest representation, i.e. works councils and trade unions.

Lecher also argues that "one of the crucial, if not *the* crucial, precondition for a successfully functioning EWC is its integration into the various national systems of industrial relations" (1998b: 242)⁸. He points out, however, that EWCs in countries with a highly developed structure of employee representation at company level such as Germany or France, the EWC may "take a back seat to traditional national institutions" (Lecher 1998b: 236), because the EWC Directive fails to draw a clear dividing line between the competence for information and consultation of national institutions on the one hand and the EWC on the other. Therefore, Lecher concludes that "since national institutions are older and hence constitute more established instruments for information disclosure, and are also usually stronger because of the national statutory rights, it may well be difficult for the new priorities to assert themselves" (1998b: 236).

The impact of management's attitude

Although (as will be seen in Chapter Four) management views and strategies have not been investigated in depth, several studies on EWCs have of course included management attitudes and actions as a backdrop to EWCs' development. The study by Royle (1999) on the EWC at McDonalds demonstrates that the influence of national IR structures on the operational development of EWCs are

not only mediated by employee-side attitudes towards the EWC, but also by management's attitude towards the EWC. At McDonalds, management has been able to capture the whole process of setting up and running the EWC by pursuing a bluntly hostile approach to unions and by ensuring that the majority of employee delegates on the EWC are salaried managers who were more likely to have the organisation's goals in mind than the rights of the predominantly part-time and/or hourly-paid workforce of McDonalds. Management was also able to minimise trade union influence within the German national-level works council by outsourcing unionised parts of the company — with the result that these unionised employees were no longer entitled to be represented on the national-level works council or the EWC. As a consequence of management's successful strategy of side-lining trade unions, even theoretically strong, legally-underpinned national institutions such as the German national-level works council were unable to trigger employee-side coordination processes. At McDonalds, sector-specific factors such as the high proportion of traditionally weakly unionised part-time workers facilitated management's union hostile approach. The sector-specific employment structure with a workforce scattered across many different locations also made it more difficult for the EWC to develop close links with the workforce.

Volkswagen, long seen as an exceptional case both within Germany and in the context of EWC research, provides a positive example in which management's attitude in favour of social partnership enhances the role of the EWCs. Helbig (1999) states that the Volkswagen philosophy of 'cooperative conflict management', which is the basis for the interaction between management and employee representation structures in the German Volkswagen plants, also informs the relationship between management and the EWC. Volkswagen management provides the EWC with its own annual budget and the infrastructure needed to adequately perform its tasks. Additionally, the company finances issue-specific seminars for the EWC members. This active management support of the activities of the EWC enabled the EWC representatives to develop an efficient communication and working structure, which not only led to the formulation of solidaristic joint employee strategies but which also gained the EWC management's recognition as a body which can make a positive contribution to the success of the company. According to Helbig (1999), management appreciates the EWC's co-management role as a factor which helps to avoid costly conflicts in the run-up to transnational business decisions through the mediating role played by the EWC and through the direct contact between central management and employee representatives from all the countries in the course of consulting the EWC.

However, the example of the EWC at NatWest, studied by Cressey (1998) and Wilson (1999), demonstrates the danger that central management's cooperative approach toward the EWC may be

⁸ See also Lecher, 1998d.

(ab)used by the dominating home country employee delegation to pursue their own national interests at the expense of the interests of the representatives of the other countries. According to Wilson (1999), the concrete willingness of both sides to work together, manifested in the establishment of so-called focus groups involving both management and employee representatives in order to discuss specific issues such as brand mobilisation, ethics and dignity at work, helped to break down barriers between management and staff. The effect of the EWC in terms of its interaction with management was facilitated by the fact that management viewed the EWC as a tool to communicate corporate strategy, to allow discussion of change and to encourage a corporate identity among staff (Cressey, 1998). Against the background of this spirit of cooperation, management was prepared to take seriously the issues raised and debated at the EWC meetings. However, the impact of the EWC with respect to the relationships among employee representatives seems to be limited to the UK, where the EWC gave a strong boost to cooperation between the two formerly rival UK trade unions, which had not worked well together. The delegates from outside the UK however criticised that UK-related issues dominated the EWC at the expense of “European“ issues.

Management's re-structuring initiatives and the MNCs' organisation structure

Whereas Gohde (1995) suggests that re-structuring initiatives trigger transnational employee contacts, especially when these involved the relocation of production from one country to another, the empirical evidence of more recent case study research is more ambiguous. The studies by Weston and Martinez Lucio (1997) and Hancké (2000) investigate the relationship between management's re-structuring initiatives and the development of EWCs. Examining the factors which prompt employee representatives to initiate informal networking activities across national boundaries, which are used as a proxy for the likely interaction of employee delegates within an EWC, Weston and Martinez Lucio (1997) found that an integrated production structure coupled with management strategies of benchmarking or cross-referencing contribute to the development of transnational employee networking structures. According to the authors, this is because such management strategies inevitably put the different plants across Europe into a competitive relationship, which in turn raises the level of interest by employee representatives to engage into a cross-national exchange of information in order to fend off local management pressures.

Hancké's (2000) study of the role of the EWC in industrial restructuring at General Motors and Renault contradicts the findings by Weston and Martinez Lucio, however. According to Hancké, management's strategy of benchmarking and concession bargaining, which puts establishments in different countries into competition over labour costs and working conditions, did not lead to an increase in transnational employee and trade union cooperation despite the existence of ostensibly

favourable structural conditions in the automobile industry in terms of a highly integrated and internationalised production structure. On the contrary, Hancké (2000) argues that local trade unionists used the information obtained at European level through the EWC to further their national or even plant-centred interests. This led him to the rather provocative conclusion that instead of becoming a pan-European vehicle for employee and trade union cooperation in order to combat competition, the EWCs themselves become one of the major carriers of a new competition regime. It is unclear, however, whether employee representatives wittingly use the information obtained at European level at the national level in pursuit of national egoistic objectives, or whether the national arena is merely still the only place in which they can and do use such information since the EWC has yet to develop into a negotiating platform. This caveat aside, Hancké's findings cast some doubt on Weston's and Martinez Lucio's (1997) use of the existence of informal networking activities among employees as a proxy for the likely interaction of employee delegates within EWCs without considering the outcome of such networking activities — or as Streeck succinctly puts it: “a network of contacts ... is not the same as a works council“ (Streeck, 1997: 333). Even if limited networking activities among employee delegates occurred within an EWC in order to obtain information, the most interesting question is whether this exchange of information serves as the basis for the development of a ‘European’ identity of the EWC and the subsequent definition and articulation of common employee interests vis-à-vis management. Only in this case would networking activities indicate that the EWC is developing a distinct role in the IR of MNCs in Europe.

3.3.2.2 Internal Factors

Although the case studies provide a rather uneven and case-specific picture of the potential influence of external factors for the development of effective employee-side cooperation within and through the EWC, they suggest that the attitudes of the individual employee representatives toward the EWC mediate the influence of external factors. Or put differently: whether external factors have a positive or negative influence on the role of EWCs depends on the delegates' context-bound strategic choices within their internal interaction processes. The literature yields the following internal factors which are at least to some extent subject to the control or initiative of employee representatives:

- internal cohesion on the employee-side (Fulton, 1995; Lamers, 1998; Lecher et al., 1998; Miller, 1999; Veersma, 1999; Wills, 2000)

- training and trade union support (Gohde, 1995; Jaeger, 1996; Harazim, 1998; Lamers, 1998; Lecher et al., 1998; Miller and Stirling, 1998; Miller, 1999; Fitzgerald et al., 2000; Miller et al., 2000).

Internal cohesion

If EWCs are to progress from a mere information committee into a 'European' actor, a necessary prerequisite is the development of internal cohesion which enables the EWCs to aggregate differing interests and to formulate common positions vis-à-vis management. Based on their comparative investigation of eight EWCs in MNCs based in four different countries, Lecher et al. contend that "in building internal strength and cohesion ... three dimensions will play a crucial role: the communicative, the socio-cultural and the institutional" (1999: 81). Miller argues similarly by comparing the development of a European consciousness among EWC delegates with the change of an organisational culture, which "continuously evolves as the product of social interaction" (Miller 1999: 356). However, communication-based social interaction within a multi-lingual and multi-cultural context which EWCs represent is fraught with difficulties.

First of all there is the problem of differing national political and cultural backgrounds of the EWC delegates (Jaeger, 1996; Lamers, 1998; Miller and Stirling, 1998; Lecher et al., 1999; Miller, 1999), who in most cases have not been exposed to a situation in which they have had to perform their role as employee representative in a multi-cultural setting. Their understanding of their role as EWC delegate is heavily influenced by their national IR context and the interests they pursue therein as employee representatives and/or trade unionists. However, the development of internal cohesion is not only hampered by the different nationally pre-defined role perceptions and interests of the EWC representatives but also by the different ways in which they try to pursue these interests, because, as Lecher et al. point out, "different national IR systems are marked by differing styles of politics" (1999: 222). The insufficient knowledge of different national IR backgrounds and national frames of reference can lead to misunderstandings, conflicts and factionalism within the EWC (Lamers, 1998; Miller and Stirling, 1998; Lecher et al., 1999).

A second major obstacle to the development of internal cohesion identified by several authors (Fulton, 1995; Lamers, 1998; Lecher et al., 1999) are language barriers. Lecher et al. point out that not only do language barriers inhibit informal contacts and the development of mutual trust but that they also lead to the formation of sub-groupings. Further evidence for the problems posed by the existence of different national frames of reference and interests for the development of a collective European

identity is provided by the studies by Veersma (1999) and Wills (2000). Both authors found that next to language problems, cultural barriers and the diversity of national IR structures and legislation, parochialism and national egoisms of the EWC delegates acted as further impediments to the development of an effectively operating EWC. Jaeger (1996) points out that the pursuit of site-specific interests is a common feature in multi-site companies in national-level institutions, for example, among delegates of a German *Konzernbetriebsrat* or a French *comité de groupe*. He argues, furthermore, that within EWCs the problem of the pursuit of particularistic interests is aggravated by the communication problems among the EWC delegates due to language and cultural barriers.

Lecher et al. (1999) suggest that power inequalities within the EWC may represent a further obstacle to the development of internal cohesion if these lead to the dominance of one national delegation, which intimidates representatives from other countries. According to Lecher et al. (1999), this most likely happens in EWCs where the home workforce forms the single largest contingent on the EWC and where the home workforce can rely on strong national information and consultation rights, which give them a 'natural home advantage' in terms of access to information from group-level management. If the dominating national delegation is unable or unwilling to utilise its privileged power position for the success of the EWC as a whole, this can undermine the development of mutual trust, which Lecher et al. view as the crucial means "through which the EWC achieves consistency and stability" (1999: 223). According to Wills' (2000) longitudinal analysis of a single case, the weakness of the EWC, largely seen from the perspective of the UK representatives, was caused by the domination of the French delegates due to their greater experience and political acumen coupled with the inadequate competence, expert assistance and national-level structures on the part of the UK delegates. All these factors resulted in the British delegates feeling frustrated and isolated within a poorly organised and co-ordinated employee side.

Drawing on their comparative case study research, Lecher et al. argue that trust-building measures by those who dominate the EWC can have a considerable impact on the development of internal cohesion. These measures can include conceding dominant positions (Lecher et al., 1999) or the active support and mediation by the dominating country delegation in national conflicts (see also the study by Whittall (2000) of the EWC at BMW). Further institutional measures suggested by Lecher et al. which may help to redress power inequalities include the choice of a flat representation structure on the EWC, which means that countries with large workforces are under-represented and those with smaller workforces over-represented, the establishment of a steering committee, which effectively shares leadership of the EWC, or setting up issue-related working groups, which give more EWC members the opportunity to become actively involved in the work of the EWC.

Training and trade union support

Notwithstanding the potential positive impact of political and institutional trust-building measures, the most crucial step in developing internal cohesion is to overcome the two most often quoted obstacles to the effective functioning of EWCs: language barriers and the unfamiliarity with the diversity of national IR cultures of the EWC representatives. Several observers point to the crucial role of training for the development of internal cohesion and cooperation among employee representatives (Gohde, 1995; Jaeger, 1996; Harazim, 1998; Miller and Stirling, 1998; Miller, 1999; Fitzgerald et al., 2000). Based on the assumption that the development of EWC-internal cohesion is the product of communication-based interaction processes among EWC members who are aware of each other's different socio-cultural backgrounds (Lecher et al., 1998; Miller and Stirling, 1998; Miller, 1999) the various authors set out to develop a training agenda for EWC delegates. The main function of training in the EWCs' development of a distinct role is to prepare the EWC members for the challenges posed by the multicultural environment of an EWC and to enable them to develop a collective European identity. In order to achieve this aim, Miller even calls for a new "pedagogy of transnationality" (1999: 356) to shape the content, method and the organisation of delivery of training. Against this backdrop, different training components have been identified, which can be broadly grouped into two categories: issue-related qualifications and individual qualifications (Harazim, 1998). Whereas the former set of qualifications covers basic knowledge about the different national IR systems and collective bargaining arrangements, the legal background of the EWCD, and the broader economic context in which EWCs operate, the individual qualifications comprise communication and conflict resolution skills, which facilitate the aggregation of potentially differing interests within EWCs (Gohde, 1995; Harazim, 1998; Miller and Stirling, 1998).

Training in communication and language skills is singled out as essential to the development of successful employee cooperation (Gohde, 1995; Miller and Stirling, 1998). The importance of language training was underlined by Miller et al.'s (2000) analysis of the impact of interpreting and translation facilities and/or the choice of working languages on the EWCs' ability to develop effective communication structures. Whereas earlier studies viewed language skills primarily as the technical vehicle for communication, Miller et al. emphasise that control and power are inherent to the provision of language support. Although, as the authors point out, research on the significance of language support for social and power relations within EWCs is still in its infancy, the findings by Miller et al. (2000) suggest that an inflexible choice of working languages within EWCs may give certain individuals with relevant language skills the power to control communication processes by acting as informal gatekeepers. Thus, Miller et al. urge organised labour to adopt a more systematic and strategic approach to information and communication by making the flexibility of working language(s)

and the provision of adequate language training crucial bargaining issues in the (re-) negotiating of EWC agreements.

Moreover, Gohde (1995) and Miller (1999) argue that in addition to the transfer of new training contents, which take into consideration the multi-cultural and multi-lingual context of EWCs, new methods of delivering training can also support the development of internal cohesion and a common European identity among EWC delegates. Since, as we have seen, internal cohesion is viewed as the product of social interaction among the EWC representatives, the authors argue for more participatory and student-centred training methods which enable the delegates to identify and solve potential operational problems of the EWC collectively as a team. According to Miller (1999), EWCs should essentially be viewed as a learning organisations which should be closely involved in determining and delivering their own training.

A broad consensus emerges from the analyses that both European and national trade union organisations play a crucial role in the provision of training for EWCs. However, as Miller (1999) points out, the transfer of language and social skills needed by EWC representatives to perform their role successfully in the EWC's multi-cultural context poses manifold challenges to trade unions. First of all, the new training demands for EWC delegates represent a methodological challenge, because trade union training tended in the past to be individual and *ad hoc*, rather than systematically training entire groups of employee representatives. Consequently, according to Miller, "the dynamics of collective organisation, team-building and conflict resolution [have] tended to remain at the margins of trade union education in Europe" (Miller, 1999: 356). Accordingly, the approach taken by European trade unions toward EWC training was necessarily pragmatic (Miller and Stirling, 1998) and characterised by little cross-referencing between the various training activities at sectoral, national and European level (Gohde, 1995). Whereas issue-specific qualifications can still be delivered as part of national training programmes, the transfer of the necessary individual social qualifications, such as communication and team-building skills in particular, are highly EWC-specific and therefore need addressing at the European level (Miller and Stirling, 1998). This task, however, poses major infrastructural and financial challenges to trade unions as the main provider of EWC training, since European institutions like the EIFs, ETUCO or the ETUI lack the personnel resources to meet the new EWC training demands, as Miller (1999) points out. Furthermore, the EU-funding made available to trade unions for EWC training by the European Commission has been considerably scaled down since 1996 (Miller and Stirling, 1998).

Against this backdrop, several authors argue that the European trade union movement still lacks a coherent transnational EWC training approach which not only develops a new transnational concept of

training but also puts forward political initiatives to address the rising infrastructural and financial challenges (Gohde, 1995; Jaeger, 1996; Miller and Stirling, 1998; Miller, 1999). According to Miller and Stirling, this seems all the more important in view of the absence of an explicit reference to training in the EWC Directive; furthermore, the variety of national legislation on the right to (paid) time-off work to attend seminars and training courses has in the past led to the highly uneven provision of training across countries. The authors therefore urge that achieving training provisions (such as time off, funding, or the curriculum) should be one of the political priorities of trade unions, not only in the (re-) negotiation of EWC agreements but also in the process of revising the EWC Directive itself (Miller and Stirling, 1998; Miller, 1999). They also urge trade unions to intensify their lobbying activities vis-à-vis the European Commission and the European Parliament toward establishing a new budget line for transnational EWC training.

The development of a coherent approach to EWC training presupposes a more general shift in the political priorities of trade unions, however. As Lecher et al. (1999) emphasise, past trade union policy predominantly focused on negotiating additional EWCs rather than on providing ongoing substantive and strategic support for existing EWCs. Particularly in the more advanced developmental stages of an EWC, trade union support needs to assume a more explicitly political role in helping to shape EWC policies vis-à-vis management. However, the findings by Lecher et al. (1999) suggest that there are important discrepancies between trade unions' ability to provide technical and organisational assistance during the 'foundation period' of EWCs (e.g., through seminars, information material and legal advice) and their ability to sustain regular support at later stages of the EWCs' work. The sheer lack of resources only goes part of the way to explaining this shortfall; according to Lecher et al. (1999) and Jaeger (1996), unions have yet to clarify the status and role of EWCs within their overall strategies.

To illustrate concrete ways in which unions could provide further political support for EWCs, Lecher et al. (1999) cite examples of successful networking among EWC members in the food industry. Such sectoral cross-company EWC networks would in the short term enable the employee representatives involved to discuss sector- and/or sub-sector-specific problems and would create learning effects through the exchange of best practice examples; in the long run, joint positions and strategies could be formulated and implemented. For trade unions, such networking activities would offer the opportunity to stay better informed about developments within the EWCs and the companies in general and to identify further needs for trade union support after EWCs have been set up. Such EWC networks could thus both help to improve the practice of EWCs as such and might also facilitate linkages between trade unions' EWC policies and other relevant policy areas, such as the coordination of collective bargaining policies in particular. Since such cross-company networks could be largely self-

organised, they might also serve to relieve trade unions of some of the burden of organising ongoing political support for individual EWCs.

3.3.3 *Where do we go from here? The need for comparative case study analysis*

The studies reviewed thus far were mainly single case studies or based on questionnaire surveys. Both are important methods to broaden the empirical knowledge base about the operation of EWCs. However, the case study findings heavily reflect the embeddedness of each EWC into a particular pattern of company-, sector- and country-specific framework conditions coupled with different attitudes of the actors involved. Although the development of a European identity and internal cohesion among the EWC delegates seems to emerge from the case study findings as a crucial prerequisite for the development of a distinct role for the EWC, the widely varying combination of factors which are identified as having an impact on the development of EWCs makes it difficult to generalise the case study findings. The generalisation of such highly case-specific findings is further complicated by the use of different theoretical approaches. It is possible to distinguish between structural approaches focusing on the influence of structural framework conditions, such as company or production structures and national IR structures, and actor-centred approaches which concentrate on the impact of the individual characteristics of the actors involved. As we suggested at the outset, it is not entirely clear what EWCs are to develop into. One EWC may become the motor driving all IR at all levels within the company. Another EWC may simply serve as a clearing house, providing the necessary information and strategic impulses to lower levels of IR within the company.

Another common feature of the analyses reviewed thus far is that they predominantly focus on the improvement of employee cooperation as the means to develop and sustain a distinct role of the EWC. However, as the studies by Lecher et al. (1998; 1999) demonstrate, if the EWCs' capacity to influence management decisions is taken as the benchmark for the assessment of their effectiveness, the pattern of influential factors may vary. It is for instance obvious that without a positive management attitude toward the EWC the employee-side acts against the odds in trying to force management to take on board suggestions of the EWC in decision-making processes or to grant a negotiating role to the EWC. At the same time, other cases have shown that management intransigence does not rule out EWC activity either.

The case-specificity of the findings coupled with a diversity of potential methodological approaches highlight the need for a systematic categorisation of specific roles or even developmental stages of

EWCs and how these are linked with the interplay of external and internal factors. Next to broad scale quantitative surveys to retain an overview of broader developments, the most appropriate approach at this stage would be to conduct large-scale, interview-based, in-depth comparative research projects using a multiple case study design. The obvious advantage of the comparative case study method over single case studies is that it allows the researcher(s) to control for a specific set of variables and that the comparison of the individual cases can serve as the basis for the inductive development of what Hyman calls “classificatory instruments for the analysis of EWCs“ (Hyman 2000: 6).

The large-scale comparative studies conducted by Lecher, Nagel and Platzer (1998) and Lecher, Platzer, Rüb and Weiner (1999)⁹ provide a first step in this direction. Taken together, the two studies cover 23 cases in five different sectors (metalworking, chemicals, banking, insurance and the food sector). Whereas the underlying logic in the first (1998) volume was that of a cross-country comparison analysing the practice of EWCs in four different countries (France, Germany, Italy and the UK), the main focus of the second (1999) volume is on cross-sectoral analysis. The analytical approach chosen by Lecher et al. is explicitly actor-centred, but acknowledges the interdependent relationship between structure and agency, which shapes the constitution of EWCs. In doing so, Lecher et al. conceptualise and analyse the constitution of EWCs in terms of both their “inner life“ and their relevant external relations according to four different “fields of interaction“ (Lecher et al., 1998: 87-93): interaction between the EWC and management; interaction among EWC members; interaction between the EWC and national institutions of employee interest representation and the workforce; and interaction between the EWC and trade unions. The strength of this approach is that it forges a systematic link between the various ‘external’ and ‘internal’ factors influencing the development of EWCs, which single-case studies deal with in a largely isolated way.

In their second study in 1999, the authors take the analysis one step further by developing a typology of EWCs which is based on their ‘capacity to act’ as the result of the dynamic interplay of the four fields of interaction. On this basis, Lecher et al. identify four ideal types of EWCs (Lecher et al., 1999: 64-72): the symbolic EWC, the service-oriented EWC, the project-oriented EWC and the participation-oriented EWC. These ideal types represent different developmental stages ranging from a symbolic EWC which merely exists on paper to a participation-oriented EWC which shows the strongest signs of internal cohesion and is recognised by management as an autonomous actor. The defining difference between a symbolic EWC at the one extreme and a participation-oriented EWC at the other is the EWCs’ ability to overcome the domination of the home country delegation and to develop increasingly institutionalised communication and working structures. Such working structures

⁹ For a condensed report on the research and its findings see also Lecher 1998, Platzer and Weiner 1998, Lecher and Rüb, 1999; Platzer and Rüb, 1999.

enable a “participation-oriented” EWC to achieve ‘autonomy from management and to create ‘added value’ for the members of the EWC and the different national workforces they represent.

However, it should be noted that the different ideal types are presented as analytical tools in order to categorise the observed modes of operation of EWCs. As the authors themselves emphasise, these ideal types do not represent a strict linear sequence of developmental stages – for instance, an EWC may very well go in the direction of participation orientation without having first been a project-oriented EWC. The step from a symbolic to a service oriented EWC is marked by the readiness of the dominating country group – as a rule the home country delegation – to refrain from exploiting its privileged position and contribute to the development of mutual trust through the provision of services to the other EWC members. Such services can include the ongoing dissemination of information obtained at national group-level by the dominant group to the other EWC members or the performance of a mediating role in national conflicts. Since the provision of services in most cases happens on an informal ad hoc basis, the next step in the EWCs’ development into a project-oriented EWC is the establishment of formal EWC-internal working and communication structures, for instance by setting up their own systems of gathering and processing information and by initiating their own issue-specific projects. If these initiatives prompt management to recognise the EWC as an autonomous actor for the negotiation of agreements or the implementation of joint management-employee projects, the EWCs’ service- and/or project-orientation turns into participation-orientation, which is the peak of Lecher et al.’s typology-*cum*-developmental trajectory.

From this short outline of the four developmental stages it emerges that the underlying logic of the typology is twofold. On the one hand the ideal types are based on the process of the EWCs’ constitution and on the other hand they are based on the interests and the behaviour of the actors involved in the interaction processes of the EWCs. As the authors themselves admit, this leads to difficulties in assigning actual cases to the different categories because the ideal types are not necessarily mutual exclusive, which to a certain extent defies the logic of a ‘typology’. However, notwithstanding this methodological quibble, the ‘typology’ or developmental trajectory developed by Lecher et al. represents the first systematic framework for the analysis of the practice of EWCs which is able to take into account the complex and interdependent relationship between the development of EWCs and the variety of ‘external’ and ‘internal’ factors impinging on this process. Their studies in particular demonstrate that the constitution of EWCs is the result of the dynamic interplay of EWC-internal interaction process and the related actions of other actors (management, national representation structures and trade unions) which takes place in a specific set of – enabling or constraining – structural framework conditions. The analyses by Lecher et al. thus not only provide a strong empirical basis for other, still often highly speculative areas of EWC research, such as the

potential impact of EWCs on national IR systems and the EWCs' potential role within an emerging European system of IR, but they also provide an empirically grounded indication of what a distinct role of EWCs within the IR of MNCs might someday look like. In this respect, the findings by Lecher et al. (1999) demonstrate that there is no 'one best way'. On the contrary, given the variety of country-, sector- and company-specific framework conditions coupled with varying internal constellations of interests, each EWC has to find its own 'best way', whether that be a service-oriented or a participation-oriented, for example.

In closing, it should be noted that the debate about the role of EWCs for management is one aspect which remains underdeveloped by recent case study research. Even Lecher et al.'s comprehensive analytical framework fails to address this issue. Practical experience indicates, however, that at least some managements have discovered EWCs as a helpful tool for the pursuit of their business and HR objectives. However, little is yet known about any systematic use of EWCs by management in this respect (see Chapter Four). Although the intention of the EWC Directive was to strengthen the information and consultation rights for employees, IR research has to acknowledge that EWCs can potentially serve two masters, or put differently in more modern terms: EWC's can provide "added value" for both sides of industry. The analytical framework developed by Lecher et al. could present a useful starting point for a more in-depth analysis of this aspect of EWC practice.

4. EWCs and Management: views, strategies, and impacts

Much of the discussion on EWCs has focused on the implications for and challenges to the employee side generally, and trade unions in particular. But what of the costs and benefits to, or even threats and opportunities for employers? A survey of the literature reveals that these issues have yet to be actively researched and that what is known is contradictory and at best cursory and speculative.

4.1 Management's views on the potential benefits of EWCs:

Much of what is known or guessed about managerial approaches to EWCs has emerged from attempts to assess the potential benefits of EWCs for the management of MNCs.

The resulting patchy picture seems overly optimistic, and still rather speculative, since it focuses on the *potential* opportunities for management, rather than any real observed or proven benefits — let alone threats or challenges. A general catalogue of opportunities or benefits has been long established, and has remained largely unchallenged. These benefits largely focus on EWCs as an HRM instrument, useful perhaps in fostering more communication between employees and management, instilling a corporate culture, or facilitating organisational change. But little is known about any specific managerial strategies; since asking management views on the potential benefits of EWCs seems a poor proxy for managerial strategy, little can be surmised based on these findings about management's intentions, approaches, or strategies, let alone the impact of EWCs on managerial structures.

In 1992, prior to the adoption of the Directive, Gold and Hall found that the majority of employers who had dealt with voluntary EWCs were largely positive about their experiences. Based on their research into nine voluntary agreements, Gold and Hall (1992) laid out a basic catalogue of perceived potential benefits to management: EWCs were seen as opportunities to explain corporate strategy, facilitate company restructuring, foster international contact and the exchange of views, and create a sense of belonging to an international company. Successive investigations of management's views (Wills, 1999; Nakano, 1999 and Weber et al., 2000) have confirmed this basic catalogue of potential benefits to management of EWCs. The key feature here is that EWCs were and are still largely seen as opportunities; it has yet to be studied what happens when these opportunities are actually taken up.

Most of the initial studies, such as those conducted by Deppe (1992b), Welch (1994), Stützel (1997), Wills (1999), and Nakano (1999) have applied survey instruments to gain an overview of managerial views on and responses to EWCs. Most note that with the survey instrument in particular, the potential for window dressing or a potential bias towards desirability of responses must be taken into account, which may account for the largely uncritical and unreflective nature of the conclusions. There remains a need for the application of other methods, such as interviews or case studies to get at the whole story.

The basic catalogue of potential benefits as laid down by Gold and Hall (1992) has been consistently confirmed by later research. Wills (1999) and the EWCB (1998a) report and analyse the results of a questionnaire survey, designed in conjunction with the EWCB and carried out in late 1997, of the personnel/HR managers of 33 UK-owned companies, just over half of which reported that they have an EWC or an information and consultation procedure in place. The remainder, which had neither an EWC nor a procedure in place, had either not undertaken any steps towards establishing an EWC or believed themselves not to be covered. Wills separates and compares the responses of these two groups of companies where applicable. Respondents were asked to assess the advantages and disadvantages of the EWC or procedure, and the possible implications of EWCs for industrial relations in the UK. For these assessment questions, respondents were asked to identify as many advantages and disadvantages that applied from a list, and then to rank these in importance. The results of the analysis as reported in the EWCB (1998) include the effects of respondents' own ranking, while Wills (1999) does not. A survey conducted by Nakano (1999) in Japanese companies with EWCs also sought information about managerial strategy and tested for some of these perceived benefits. Nakano (1999) presents the analysis of results of a postal survey of fourteen of the some thirty-five Japanese-owned companies presumed covered by the EWC Directive. The questionnaire sought an overall assessment of their EWCs and included some thirty more detailed questions about perceived costs and benefits. Representatives from five companies also agreed to be interviewed in Europe and Japan. Nakano analyses the characteristics of the agreement using the criteria developed by the European Foundation for the Improvement of Living and Working Conditions for its Database of EWC Agreements (www.eurofound.ie) and usefully compares his results to those of the European Foundation (Marginson et al, 1998). The primary emphasis of another study, conducted on behalf of the UK Department of Trade and Industry, lay in calculating the total costs of setting up and running an EWC (Weber et al, 2000). This report, based on interviews conducted with HR managers on the costs and benefits of ten EWCs, concluded that costs varied significantly, but that the benefits were perceived as largely symbolic. Respondents were, however, also asked to assess the positive and negative consequences of EWCs in their companies, both currently and in the foreseeable future.

The attitudes of the responding management in the UK and Japan were generally positive towards the EWC, even if rather superficially so (Wills, 1999; Nakano, 1999; and Weber et al., 2000). For example, Weber et al. (2000) found that the EWC's primary benefit lay in its symbolic demonstration of management's commitment to its employees, but that overall, it was expected to have little or no positive impact on the company. On the whole, Nakano's respondents felt that EWCs were "good for the firm", even if they foresaw little actual use for it.

A general consensus thus emerges from the three studies of the potential benefits of EWCs for the company. Echoing Gold and Hall (1992), this catalogue of possible benefits reads as follows: EWCs can present a new opportunity to exchange information and views with employee representatives, to engage them in dialogue and thus promote a spirit of cooperation and to develop a corporate culture. In this context, it is important to note that both Wills (1999) and Nakano (1999) found indications of bias towards social desirability in the pattern of responses to their surveys. While all studies also cited EWCs as opportunities to enhance employees' understanding of management views and strategies and thereby increase their involvement in the business, views were divided on whether this might in fact aid organisational change and restructuring. Indeed, management was sceptical about the role that EWCs might play in mitigating conflicts in the case of restructuring (Weber et al, 2000; Nakano, 1999). Nakano states that his responses must be seen as largely speculative, however, as only few companies in the sample had recently undergone any significant organisational change. In general, his respondents were agreed that the outcome of EWC proceedings was uncertain and unpredictable and that it would always be marked by a to and fro between national and European levels of activity. Some management teams hoped to use the EWC to build new relations with established trade unions (Wills, 1999: 27), and to build trust (Weber et al., 2000).

Disadvantages cited by management included costs and increased bureaucracy (Wills, 1999; Weber et al., 2000; Nakano, 1999), although views were divided on these issues. All three studies found that although management saw no real threat to their right to manage, they were concerned that EWCs would create unrealistic expectations among employees about the ability of an EWC to influence management's decision-making processes, and that international trade unionism might be fostered. (Wills, 1999). In none of the three studies did management respondents see any scope that the EWC might have any appreciable effect on competitiveness or productivity.

The effect of previous experience with information and consultation structures receives special mention in both Nakano's study and the study conducted by Weber et al. on behalf of the DTI. Nakano (1999) notes that Japanese respondents were less enthusiastic than were their European counterparts, who all shared strongly or fairly positive opinions of the potential usefulness of EWCs.

Similarly, the DTI study (Weber et al, 2000) reveals that the expectations about the potential impact of EWCs tend to be higher in countries with prior experience with information and consultation structures than in countries without such experience. The DTI study also found that local management with prior experience provided important advice to British HQs in the process of negotiating and implementing EWCs. All companies in the DTI study also reported that they already had more or less formalised information structures in the UK. Interestingly, some companies in this study were considering adjusting the structure of their EWCs in order to better take account of issues and processes specific to divisions or business unit.

4.2 Systemic differences in management views and expectations?

It is striking that several surveys of management views on or responses to EWCs were conducted in the UK and Japan, countries in which there is no tradition of statutory information and consultation. In light of the suggestions that prior experience with systems of representative consultation have coloured management's expectations about EWCs (Nakano, 1999; Weber et al., 2000), it is useful to compare these to management views or expectations in other countries.

An interesting parallel is provided by two surveys of management and employees in German MNCs (Deppe, 1992b, and Stützel, 1997). In an early investigation about the spread of EWCs in the largest 100 German companies, Deppe asked which competences the few existing EWCs had in German MNCs, whether information rights, consultation rights, or codetermination rights (Deppe, 1992b). These questions were repeated in the 1997 survey (Stützel, 1997). Both surveys also asked which issues were subject to information in EWCs; in both surveys, the issues discussed ranged from company structure, economic and financial situation, future developments, investment plans, and their foreseeable effects on employment. Indeed, Stützel finds that the range of subjects discussed in EWCs went beyond that provided for in the EWCD.

In these surveys of German MNCs, there is no mention of the more HRM-related issues of communication, corporate culture, or organisational change so prevalent in canvasses of Japanese and British management. Thus there seems to be a fundamental difference in the sorts of questions being asked within different systems. When asked about the potential effects of EWCs, managers with little or no experience with statutory information and consultation seem to reach towards the classical HRM concepts of communication and organisational culture, rather than to assess EWCs in terms of their potential impact on the regulation of terms and conditions of work. By contrast, the line taken by managers in German MNCs has been to argue that the term "EWC" is a misnomer, that they are not

logical extensions of the co-decision-making rights of existing works councils structures, and that the focus must thus be on limiting the role of the EWC to information only.¹⁰ In contrast to the surveys of UK-based and Japanese MNCs, the surveys of German MNCs found costs not to be an issue at all, presumably because the costs of running employee participation have long been a part of company accounts. Some controversy did revolve around the need to finance external experts, however (Deppe, 1992b, Stützel, 1997).

In a survey of Dutch EWC members, Veersma (1999) also elicited employee-side opinions on management strategy. In effect, employee representatives' own expectations of what they might achieve serves as an interesting mirror for management strategies; their own expectations of potential influence is a reflection of how far management strategy might allow them to go. On the one hand, there is evidence of high trust towards their employers, as most EWCs in the sample find it inconceivable that management would ignore the EWC altogether. On the other hand, it can perhaps be taken as a sign that management remains in effect in control that employee representatives see the main scope of the EWC in information on company strategy and employment, but see no real priority or scope for activity in transnational collective bargaining, or even education and training, international HRM, or new technology and working methods.

The negotiation strategies of management, insofar as they have been captured by these surveys, also raises important aspects about the different ways in which actors in different systems approach EWCs. Almost all initiatives to set up EWCs in German MNCs came from the employee side (Deppe, 1992b; Stützel, 1997). While the British opt-out meant that British trade unions and workforces lacked the official means to request the establishment of an EWC, it is perhaps rather telling of their relative unfamiliarity with — if not scepticism of — works council-type structures that the great majority (13 of the 17 firms in the sample) reported that it was management which had initiated talks with the aim of setting up an EWC (Wills, 1999). In the Japanese firms surveyed by Nakano (1999), the picture was more varied; reasons for choosing one form of agreement or approach over others varied from a “passive acceptance” (Nakano, 1999:315) of trade union initiatives or a recognition of the need to comply with the EWCD to managerial initiatives where they saw a practical utility in an EWC.

Wills (1999) and Nakano (1999) provide important insights into companies for whom workplace representative participation is arguably a foreign concept; the findings of Deppe (1992) and Stützel (1997) highlight some of the key differences in the approaches and expectations of actors in a German environment. The diverging perceptions of what is important about EWCs from a manager's point of

¹⁰ For more on this point, see the practitioners' contributions in Deppe (1992) and Deppe et al (1997).

view seem to follow an implicit divide between concerns, assumptions and approaches associated with Human Resource Management (HRM) and Industrial Relations (IR) respectively.

This is not to suggest, however, that IR and HRM are entirely separate approaches. On the contrary, the stance of the Industrial Relations Research Unit at the University of Warwick has always been to approach HRM not as separate from, but as part of Industrial Relations, which is understood to refer to the regulation of the employment relationship broadly conceived to consist of economic, legal, social, and political relationships, be they individual or collective. There are however, key aspects of the approach which can help to distinguish the particular concerns followed by HRM scholars within the larger field of IR. For a start, HRM is still largely prescriptive (Bach and Sisson, 2000), indeed even intentionally aspirational at times (Sisson and Storey, 2000; Storey, 1992). In this sense, the gap between the rhetoric and reality of HRM (Legge, 1995; Bach and Sisson, 2000) is mirrored in the investigations of management's views on and responses to EWCs: the focus has been on what EWCs might contribute, not on what they actually do contribute.

Furthermore, central to most expositions of HRM is the idea that the personnel function needs a strategic orientation as well as an operational one; it is the stated goal of many HRM approaches to integrate the personnel function into strategic and operational management functions of the company, whether by meeting organisational goals by empowering and including employees ('soft HRM') or by deploying the labour resource by means of numbers and control systems ('hard HRM') (Legge, 1995); the suggestions behind many investigations from a managerial point of view on EWCs implies subscription to such HRM agendas. As we have seen, the implied focus of management's views on EWCs has been on its potential as an instrument both of control as well as of empowerment.

Following Storey's (1992) enunciation of points of difference between IR/Personnel Management and what was then the new HRM orthodoxy, HRM is about strategically managing the climate and culture of a range of employment relationships rather than negotiating temporary truces within rule-bound, procedure-based systems. HRM is, however, plagued by an unsettling ambiguity of policies or prescriptions aimed at both empowering employees within a 'partnership' and retaining the ability to dispense with or redeploy such human resources as any other, more objectively measurable resource (Bach and Sisson, 2000). As we will see below, while these are all issues conceivably brought to the fore by EWCs in practice, they have yet to be taken up in the HRM research field.

The work of Lamers (1998) goes some way towards filling the gaps unearthed by prior survey research. She has not only published by far the most comprehensive and detailed collection of qualitative data on employer perceptions and expectations of EWCs available to date, but her study covers companies for whom such forms of worker participation and interest representation are

embedded more deeply. As such, her study could yield insights into the ways in which, broadly speaking, “continental” employers might deal with EWCs in particular.

Commissioned by the Dutch general employers’ association AWWN, Lamers’ study covers twenty EWCs in companies based in the Netherlands, and employs a mix of methods: postal questionnaires were sent out to 17 of the 20 existing EWCs in the Netherlands; documents from the each company were analysed; the responses to these questionnaires were followed up by interviews with management representatives and Dutch EWC delegates in each company, and complemented by interviews at the employers’ and trade union peak organisations.

While one limitation of the study is that it is very much focused on Dutch views and experience, the result is an unprecedentedly rich trove of data. Illustrated with salient quotations, Lamers includes chapters with profiles of the sample companies, the relevance and distinctness of a “European” level within the companies; the negotiation process, including why Article 13 agreements were pursued and why non-European companies chose the Netherlands as their European headquarters for the purposes of the Directive; the various models of EWCs set up; the actual practice and efficacy of the EWCs under study; the relationship of the EWC to other actors and institutions; the possible future role of the EWCs; and her findings on the ways in which and extent to which potential “added value” is perceived by management and employees.

Lamers finds that while many Dutch companies resisted the creation of pan-European information and consultation, all except one company see that the EWC could have at least some ‘added value’ over time. Still, it should be noted that Lamers investigates the potential benefits of EWCs. This notion of “potential added value” was broken down into several elements, which somewhat expand upon the apparently stable catalogue of potential benefits to management (Gold and Hall, 1992; Wills, 1999; Nakano, 1999). Lamers confirms previous survey-based findings with her interview data on the potential usefulness of EWCs in providing a platform for uniform communication, the development of a European dimension of HRM, corporate identity, social cohesion, and the exchange of best practice within the company.

In researching an environment in which representative participation has a longer history and tradition, Lamers also finds several new perceived benefits, thereby perhaps also helping to close the gap between HRM’s prescriptions and its realities (Bach and Sisson 2000). EWCs are seen as providing a logical and useful counterpart to internationalisation of management within the company by enabling the complementary coordination of control structures and employee participation. They offer a vehicle for improving existing information and consultation by expanding the agenda beyond production

issues. EWCs can provide useful support for decision-making by increasing the transparency of decisions and the speed of their implementation, improving motivation and commitment, and serving as an important source of strategic information for central management about local situations. Beyond the European level and across entire groups, Lamers finds that the EWC is also seen as a catalyst for “social cohesion”; a better awareness of the group situation leads to behaviour of all actors in the interests of the whole. Acting as a mediator between local works councils and central and local management levels, the EWC has potential impacts on labour relations within the group. Further positive effects are seen in the establishment of national collective representation structures set up in response to the EWC (Lamers, 1998:175).

These points are also echoed by Helbig (1999) in his single case study of an EWC. Writing about Volkswagen, Helbig points out that VW management is committed both to cooperative IR, and to transferring this to other sites—which is, of course, more easily possible within the homogenous product and production structures of the automobile industry. As Helbig points out, the long-standing and highly institutionalised cooperative IR traditions at Volkswagen mark it as a special case, even within German IR.

These caveats aside, Helbig highlights several important points that can transcend the case of VW. The EWC Chair is valued by management as a sort of ‘clearing house’, because he bundles several different competences, from the chairmanships of the local and central works council to his position on the Supervisory Board. VW managers find that such company-level corporatism reduces transaction costs. Via the EWC, group management can get an “authentic” picture of developments by hearing reports and speaking directly with different national employee representatives. The EWC can offer the means to manage and even quell conflicts. The regular provision of centrally collated, standardised site-by-site information for the EWCs has its uses for management as well as for employee representatives, since national and local managers can more easily compare their sites to others with the standardised information regularly made available at EWC meetings. Indeed, this information is seen by managers as a crucial reference for the purposes of controlling, comparing, and innovating through the exchange of best practice. According to the managers themselves, these sources are regularly referred to when preparing for and conducting collective bargaining.

Extending his analysis beyond VW, Helbig points out that the EWC does not participate directly in company decision-making. Nonetheless, the EWC has defined new contexts for decision-making across a company: key factors here are more transparent information, increased convergence in IR across the company, and “more rational” internal collective bargaining at all levels. An improved

understanding of the company situation by both management and employee representatives has changed the framework for decision-making.

4.3 What use for management?

But all this is only part of the story. Aside from the possible influence of EWCs in company-wide industrial relations, what about EWCs' implications for management's internal processes? How has management responded to a new institution which can reach deep within existing organisational structures? Relying solely on the literature, one could surmise that the response has been either nonexistent, disorganised, or not deemed necessary.

Lecher et al. (1999) have looked at the levels of management attending EWCs in an attempt to identify their particular interest in or use of EWCs. Lecher et al. (1999) suggest that management relatively quickly develops its own interests in EWCs, widespread reservations notwithstanding. Lecher et al. (1999) use management attendance at EWC meetings as an indicator to differentiate between the different agendas which management might have or be developing. Still, they essentially treat management as a static entity. As Stoop (1998) points out, however, this list of different management's interests in EWCs in effect further differentiates between different kinds of agendas and the corresponding levels of management involved. Top level management may use the EWC in order to try to secure the acceptance of company-wide policy; the presence of group-level management may indicate an interest in using the EWC in a group-wide controlling function. Below the top managerial level, group-level HRM departments are most often the administrative anchor, at which the EWC is seen primarily as useful for developing corporate culture or for attempting to transfer positive IR experiences from one site to others via the European level. Finally, EWCs can feature as an instrument for coherent internal group management by bringing together national management from different subsidiaries—in many cases doing so systematically for the first time. It should be noted, however, that the variance in the levels of management attending different EWCs could also have an entirely different explanation. It may even be the product of chance, or at any rate, entirely unrelated aspects of the original negotiations to set up the EWC which led to the definition of the "management side" of EWC meetings. Thus, while the exposure of and to certain levels of management may yield different developments in EWCs, the simple identity of management does not necessarily reflect any strategic decision about what managerial interests might or might not be met by an EWC.

Some commentators are quite confident that management will learn to use EWCs as an additional regulatory instrument within companies given favourable circumstances. For example, Lecher et al. (1999) suggest that if common interests emerge between the EWCs and management with respect to certain issues, these might conceivably be regulated to the benefit of both sides.

It seems that companies, however, as yet see no obvious dedicated use for EWCs beyond enhancing existing HRM processes or keeping them subordinate to existing (national) IR structures. A few rare exceptions have come to light, however, in which management suggests that it at least plans to use the EWC in its own managerial processes. For example, one company hoped to make use of EWCs in order to make its sales operations in Europe “more European”, rather than nationally oriented (Nakano, 1999:315). Lamers finds that for management, the EWC can act as a catalyst in facilitating cross-departmental communication at managerial level (Lamers, 1999).

Beyond these potential uses, the literature yields instructive examples in which management has had to accommodate or at least respond to the EWC. Several analyses of EWCs have addressed what one might call the “capture” debate. This discussion revolves around whether management has co-opted EWCs for its own ends, and exhibits rather contradictory findings about management’s ability to do so; various authors suggest that EWCs will be or have been co-opted by management, while others argue that employees are well able to utilise EWCs for their own purposes if they develop an autonomous internal dynamic which can effectively concert employee activities at all levels. The assumption underlying much of this debate is that the EWC is primarily a body useful for employees, which management may or may not co-opt.

Wills (1999), Nakano (1999) and Hancké (2000) are more confident about managements’ assessments of their own ability to control and contain EWCs than are Weston and Martinez Lucio (1997) or Schulten (1995). Ferner and Edwards (1995) close an article about power and the diffusion of organisational change in MNCs with the words: “new supranational forums for participation, such as EWCs will provide an interesting new terrain for the playing out of power relations between multinational corporate actors, having the potential to be exploited by both workforce and management” (Ferner and Edwards, 1995: 253). Martinez Lucio and Weston take this point further, pointing out that “to argue that EWCs have no effect on management and that they will inevitably be incorporated into managerial agendas is to ignore the complex organisational processes within MNCs. Many commentators exaggerate the power resources and consistency of management strategy [...]; internal power systems within organisations are invariably incomplete and precarious” (2000: 210).

According to Weston and Martinez Lucio (1997), a central concern for management was the containment of their EWCs; strategies to maintain strict control of the agenda-setting process included limiting the time available for meetings, providing only very general information, providing own training in order to minimise external (i.e., trade union) influences, and consciously playing the nationalist card by building interest coalitions with specific sites in an effort to pre-empt independent cooperation on the employee side. Noting the nevertheless increasing autonomy and sophistication of employee-side cooperation and coordination, however, Weston and Martinez Lucio posit that in the long term, management would be unsuccessful in their attempts to control, for example, the agenda or the duration of meetings. On the success of employee representatives in raising issues and challenging limits on meeting duration in practice, see also Krieger and Bonneton (1995).

Hancké (2000) on the other hand finds that because trade unions in the automobile industry have failed to use the EWC for more than the furtherance of domestic aims, management has been left a free field in which to co-opt the EWC into an instrument of European human resource management, in particular by fostering internal competition among sites in the course of restructuring. Whittall's (2000) study of the EWC at Rover, whose grounds for optimism stand in sharp contrast to Hancké's conclusions, also highlights the potential of EWCs as a managerial tool: "It must be recognised that EWCs are not the sole domain of employees: they can as easily be utilised to accommodate new HRM practices and encourage internal competition" (Whittall, 2000: 62). Arguing from an economic perspective, Seitel (1995) warns of the dangers of such internal competition, however; he argues that increased competition between sites via the EWC may worsen the IR climate in companies and will thus result in efficiency losses for the company as decision-making is slowed down.

Weston and Martinez Lucio (1997) found that it was an internal company benchmarking process itself which led to employee-side networking in the EWC, if only to check the accuracy of the information about other sites abroad with which they were being put under pressure. Drawing on the experience at VW, Helbig (1999) points out that both management and employee representatives stress that while more information both increases transparency and reduces the ability of management to play sites off against one another, it has also brought with it obligations. Demands that were once made without reference to company information are now untenable. Thus, as both sides stress, the accessibility of information has shifted bargaining demands and outcomes in important qualitatively new ways. It has proven easier to win employee representatives round to more pragmatic solutions; at the same time, they are less easily fobbed off with economic arguments. Helbig (1999) also describes internal convergence in both material and procedural aspects across sites within the company, whereby many aspects of the specifically German, and more specifically VW industrial relations systems have been transferred to other countries. Indeed, according to Helbig, the respondents' own perceptions suggest a

very high degree of cross-national internal convergence: the different sites are more similar to each other than to other companies in their region or country.

An EWC is thus more than a body which may or may not be co-opted or controlled; as a new institution with its own information flows and reporting hierarchies, it also poses a possible threat or disruption to the company. Weston and Martinez Lucio (1997) also found that EWCs presented European, national, and local managements with new dilemmas; by bypassing and overtaking existing structures of information—and with it, control—the proceedings of an EWC could test and challenge existing structures.

Indeed, several cases have emerged in which EWCs were able to at least confound management strategies. As the case of benchmarking at GME (Eller Braatz and Klebe, 1998) shows, EWCs can disrupt management strategies to implement a standard project in parallel in different sites, i.e., without addressing it at a central level. As a result of the activities of the EWC, management at General Motors was obliged to discuss the issue at a central level, and furthermore to involve employee representatives in the process of conducting a benchmarking exercise which they had originally hoped to implement entirely site-by-site in keeping with varying IR systems and existing agreements. Besides, benchmarking or any transnational comparison of performance carries with it risks for national management as well as the workforce (Weston and Martinez Lucio, 1994); the potential temptation to form national interest coalitions in response to transnational projects should not be underestimated.

4.4 EWCs and HRM: A well-kept secret?

Surprisingly, while these issues would seem to fit neatly into the general catalogue of issues of concern to the whole range of management scholarship and its subdisciplines, in particular Human Resource Management, EWCs as an instrument have yet to receive much mention—let alone prominence—in the mainstream Management literature.

At the same time, an extensive discussion about the opportunities and threats of EWCs for European companies has been taking place in practitioners' journals. *People Management* has been at the forefront of publicising the issue and providing regular updates on the fits and starts of European legislation and its implications for companies, and EWCs have also been widely covered in publications such as *Personnel Management*, *International Management*, *Management Today*,

Manager Update, and even *Benefits and Compensation International*, *Benefits Quarterly* and *Professional Engineering*. Even US practitioners' journals such as *Workforce*, *Business Europe*, *Management Review*, and the *Journal of European Business* have covered the issue. Regular bulletins have publicised agreements signed in UK and other European companies, and there have been several "How to set up an EWC" articles. In 1995 there were discussions among practitioners and consultants as to whether it was better to set up an EWC voluntarily, or to wait until the Directive took effect. Companies were advised to negotiate sooner rather than later, or to postpone negotiations until any planned restructuring had been completed. In the light of the UK "opt out" of the Maastricht Social Protocol, it was also discussed whether or not companies which had to set up an EWC for their continental workforces should also include their British workforces. The results of consultants' surveys were disseminated, indicating, for example, trends and pitfalls of negotiating EWC-type arrangements. Several contributions highlighted the positive and negative aspects of working with EWCs. Extensive guides aimed at practitioners were published, such as that by Hall et al. (1995), which provided extensive background information on the applicability and requirements of the Directive, lessons to be learned from voluntary EWCs already in operation, and critical points—from the political to the procedural—to consider when negotiating and running an EWC. The IPA published a "Guide to Good Practice" (Sloan, 1998), which is based on a seminar series and interviews with management and employee representatives on EWCs in Britain.

All of the points made in these practitioners' journals have figured in the various literatures reviewed here, albeit at a relatively superficial level in the micro- and macro-level studies of voluntary EWCs, and as preliminary findings in the few surveys of management opinion thus far.

If media coverage can be taken as a reflection of practitioners' interest in an issue, and if the set of issues raised in this coverage are—together with the various signposts in the literature—an accurate indication of the potential impact of EWCs, one might have expected EWCs to be of at least equal interest to management scholars. But a systematic search for European Works Councils in mainstream management journals revealed little if any coverage.

Much of the literature on international human resource management or international industrial relations has focussed on whether MNCs are increasingly centralising, decentralising, or both, and what if any are the implications for IR: is IR converging or diverging along country-of-origin-lines, or can we see (differentiated) spillover effects? If management functions are indeed centralising (Mueller and Purcell, 1992; Marginson, 1999b), if not necessarily standardising, and more strategically important issues are being put forward by management at European or at least a more centralised level

(Hancké, 2000; Ortiz, 1999), then this carries with it not only implications for IR at national and local levels, but crucially at the European level as well

Marginson (1998a) argues that management structures in transnational companies have successfully europeanised, with new structures for control superimposed on previously largely autonomous national management structures. At the same time, decentralisation along divisional or business unit lines has also been taking place, bringing with it important implications for industrial relations practices, such as new needs as well as new opportunities to coordinate responses to social policy environments, and new means to compare performance across borders. Marginson suggests that EWCs can develop or evolve within an emerging type of “Eurocompany”, which is neither (multi-) domestic nor global, but, rather sub-global or regional; by pulling the level of regulation upwards, EWCs can underpin IR within such Eurocompanies (Marginson, 1999b). Marginson and Sisson (1994) suggest that over time, emerging “Eurocompanies” would be able to coordinate and control IR “outcomes” across borders, to develop and implement pan-European policies and IR instruments, and that company-based bargaining systems beginning at the European level could undermine or even replace multi-employer bargaining systems at the national/sectoral level.

However, Ferner and Edwards (1995) suggest that managerial responses may be highly disorganised as corporate power structures interact with national systems of power and authority (Weston and Martinez Lucio, 1997). Here, too, the EWC can conceivably play a role — even an exacerbating one — as it further disrupts and bypasses existing chains of information. As Lecher et al. (1999) point out, none of the cases in their study had provisions for European meetings of national management; thus, the EWC represents the only opportunity that national/local management might have to receive direct information on group strategy. Indeed, Lecher et. al found that some existing European meetings of personnel management are less-well informed on group-wide personnel issues than are members of the EWC. The existence of an EWC also raises issues of managerial autonomy, because through the upward communication enabled by an EWC, corporate management have better knowledge of the situation at decentralised levels than they have ever had before (Weston and Martinez Lucio, 1997). Thus, existing hierarchies may be bypassed. Moreover, top down approaches of benchmarking and policy centralisation may be challenged by bottom-up processes carried via the EWC. (Wills, 1999; Eller Braatz and Klebe, 1988). Several of Lamers’ (1998) respondents also confirm such concerns. As Weston and Martinez Lucio succinctly conclude, “What the EWCs are raising [...] is a whole new debate about communication and representation within multinational capital” (Weston and Martinez Lucio, 1997:778).

In summary, the literature on international HRM and IR has largely focussed on the implications of corporate internationalisation for labour; where EWCs have figured in the discussion, it has been as a vehicle for coordinating responses from trade unions and employee representatives. Where management itself has come into the picture, the discussion has mainly focussed on their ability to control the EWC in order to mitigate its effects on local, national, or European IR. Its potential utility in disseminating company culture, enhancing internal company integration, or fostering constructive dialogue has been speculated upon, but not tested. Little has been said about the implications of EWCs for management power structures and information hierarchies. However, the experience with EWCs to date suggests that at least two themes might have been taken up: firstly, the implications of EWC activity for internal management structures of power and communication; and secondly, the actual utility of information and consultation structures for such HRM policies as corporate identity, europeanisation/integration, employee empowerment, and social partnership.

An emerging orthodoxy within the field of HRM, the “new European social model”, combines flexibility, security, and skills training with direct and indirect forms of participation to yield “quality people, quality goods and services, competitiveness and good jobs” (Bach and Sisson, 2000: 35). The appeal of this model is not only its optimistic promise to reconcile previously mutually exclusive demands: employees demands for better working conditions and more meaningful work and involvement, and managerial or organisational goals to increase productivity through the better utilisation of its human resources. Perhaps more importantly, it merges the two dominant approaches to managing the employee relationship by infusing much of the (individualist) and unitarist strategic HRM agenda with the recognition of the need for (collective) regulation of the employment process by all concerned parties, i.e., the pluralism typical of the collective bargaining approach (Bach and Sisson, 2000). Furthermore, Bach and Sisson argue that for the British case in particular, things cannot go on as they are, with the piecemeal introduction of voice mechanisms, such as EWCs, in an environment whose systems of corporate governance is inimical to real investment in human capital: the British economy, they argue, is marked by the absence of any coherent implementation of HRM ideas in practice.

4.5 A call for research

What emerges from the existing literature on EWCs is a coherent if wide-ranging set of possible implications for management. This set conceivably covers the whole range of both opportunities and threats currently or potentially posed by EWCs. The possible strengths and opportunities for

organisational development, communication, HRM and strategic policy are captured neatly in Lamers' (1998) conclusions about the potential added value of EWCs. Some possible weaknesses and threats from the point of view of management are explicitly examined in the research conducted by Wills (1999) and Nakano (1999). Wills (1999) and Nakano (1999) both set out to test for the existence of a range of possible opinions; whether these hypothesised views are informed by intuition or suggested by prior research, the bulk of the data was obtained on the basis of the relatively static instrument of a postal survey. More to the point, however, both are attempts to find out what people think, but thus far no real attempt has been made as yet to explore what EWCs mean or might mean, both for organisations as a whole and for their constituent parts and functions. Perhaps it is too much to expect senior management to admit that their own control structures may be undermined by EWCs. Then again, they weren't asked, either. As far as we can tell, they have until now only been asked whether EWCs can be expected to have an impact on HR or business issues.

Furthermore, aside from considerations of time and expense, the risks posited by Wills (1999) and Nakano (1999) are generally confined to the immediate area of employee relations and HRM with respect to such issues as the prospects for transnational collective bargaining, raised employee expectations, and the loss of a hitherto highly useful ability to differentiate policies according to countries or even sites. But there are even further-reaching effects of EWCs which raise the prospect that EWCs will lead to the need to completely re-evaluate inter- and intra-management systems of communication, power, and control. Indeed, the discussion about rights of consultation as threats to managerial prerogative are perhaps beside the point, since even access to information changes industrial relations, as both Lecher et al. (1999) and Helbig (1999), to name a few, have made clear. Wills (1999) also points to the concerns voiced in her sample about the consequences of having to inform everyone at the same time: simultaneously communicating good news for one site and bad news for another could be untenable. Even if management's oft-cited "right to manage" is isolated from the EWC, and even if the outcomes of decision-making processes remain untouched or unchanged by the opinion of the EWC, indirect consequences for managerial prerogative can nonetheless arise. As Lecher et al. aptly point out, even if managerial prerogative remains untouched by consultation procedures, "the mere fact that employee representatives may not be confronted with management *faits accomplis* but must be informed beforehand implies a considerable enhancement of their capacity to influence policy and mount a defence if necessary" (1998b: 79).

The paucity of literature on EWCs in the HRM literature is especially striking. In particular, if one considers that one of the few uncontested aspects of EWCs has been their meaning as a new platform for communication, this silence is even more surprising in light of the fact that HRM as a field has given rise to an avid discussion of the urgent need to communicate—transparently, widely, and

strategically. EWCs might also be expected to figure prominently in the literature on empowerment, employee involvement, corporate identity, or organisational culture.

Perhaps it is a symptom of the managerialist bias in the HRM field criticised by Ferner (1994), through which non-managerial employees are — implicitly or explicitly — excluded. One recent striking example of this can be seen in Voynnet Fourboul and Bournois (1999). In an article entitled “Strategic Communication with Employees in Large European Companies” the introduction of EWCs are even mentioned in the opening sentence as having given rise to “new concerns over the ways in which strategic information is communicated to employees of all types” (Voynnet Fourboul and Bournois (1999:204). Although it quickly becomes clear that it is managerial employees who are the main subjects of concern, rather than the entire workforce, it is nonetheless disconcerting to find that European Works Councils are never mentioned again, nor are the potentially destabilising effects of EWCs on inter- and intra-management communications and structures, as outlined above, discussed.

Other telling examples abound in which explorations of HRM in MNCs merely mention EWCs in passing — if at all— but it is beyond the scope and the intention of this paper to list them. While earlier publications on international HRM might be forgiven for not paying particular attention to EWCs given the periodically dim prospects of adoption for the relevant European legislation, this cannot be said of works on international HRM which were published later. Generally, we have observed that where contributions even come within the vicinity of EWCs — and this occurs remarkably seldom — they veer away from any discussion of the possible implications of European-level, company based information and consultation structures, whether voluntary or statutory, even if issues such as communication, corporate culture, diffusion of IR practices, or the effects of internationalisation on company IR strategies are at the centre of the analyses.

Much if not most of the HRM research that does — even if in passing — deal explicitly with EWCs seem to share the same rationale in highlighting potential benefits to management with the studies mentioned above: to publicise the still potential benefits to managers. But as noted here, these ideas have yet to be tested. Furthermore, most if not all of the industrial relations literature has focused on the ways in which trade unions and/or works councils are able and willing to organise to react to profound changes in management aims, structures, policies, and instruments. For example, a recurring theme in the work of Martinez Lucio and Weston (1992; 1994; Weston and Martinez Lucio, 1997) has been on how unions in particular and employee representatives more generally respond to developments in HRM policies, especially at the European and international level: here, well-documented developments in and discussions of the internationalisation of HRM serve as the starting point, or the context, to analyse unions’ responses. Demonstrating that HRM is a catalyst, they warn

HRM managers and scholars not to assume uniformity and passivity, but the opposite: that HRM needs to adapt its strategies and methods to the varied situations it finds. The case study of an American automobile manufacturer (Martinez Lucio and Weston, 1994) convincingly makes this case. Its main argument, however, is an exploration of the means employed by trade unions to counteract management attempts to circumvent and/or appropriate worker participation structures to their own ends — i.e., to “capture” the EWC.

One is left with the impression that the potential of EWCs to disrupt or at least further destabilise already unstable HRM processes has been underestimated in research on managerial decision-making processes. Clearly, EWCs are at the very least reshuffling the deck of cards involved in who has access to which information at what point in time; this – as well as the other possible disruptions mentioned here — must surely have some effects on managerial decision-making processes. The implications of EWCs for employee representatives, trade unions and IR systems as a whole are the subject of the bulk of the literature reviewed here; what remains entirely unexplored is what its implications are for management’s own processes. Any takers?

5. EWCs and their implications for national systems of IR

Despite several pleas for more research into the interaction of EWCs with national IR systems (Hall et al., 1992; Lecher, 1996; Platzer, 1998), which imply that EWCs and national IR systems mutually influence each other, research into the relationship between these two institutional settings has thus far focused rather one-sidedly on the impact of national IR systems on the structure and functioning of EWCs. Even Lecher et al. (1999), who identify ‘compatibility research’ into the problems and probable consequences of the establishment of EWCs in different countries as one of the key EWC research areas, investigate the relationship between national IR systems and EWCs almost entirely in terms of the impact of the former on the effectiveness of the latter. A survey of the existing literature on EWCs reveals that so far little systematic research into the national implications of EWCs has been conducted. Little is yet known about the ways in which EWCs influence not only national IR structures and the interaction processes between national IR actors but also the structures and strategies of the national IR actors themselves. The paucity of analyses which explicitly address these issues could be due to the fact that national implications take a long time to develop, because of the inherent tendency of institutions to be ‘sticky’. This might be compounded by the fact that the majority of EWCs have had too short a lifespan to make an impact on national IR systems. Further, and qualitatively different, potential reasons have to do with a research agenda which very much followed the life cycle of the legal and practical implementation process over time. It was only recently that the emphasis of EWC research shifted from the investigation of EWC agreements, which were often taken as a proxy for the practice of EWCs, to the analysis of the *actual* practice of EWCs, which in turn is a necessary prerequisite for the analysis the EWCs’ national implications. One final possible reason for the neglect of this specific field of EWC research could be that for many observers the implications of EWCs for national IR systems were simply not an issue, because of the limited information and consultation rights provided for by the EWCD and the large scope offered by the EWCD in its implementation in accordance with national IR traditions. However, until there is a comprehensive body of mature and broad-based empirical data on the consequences for national IR actors, national implications of EWCs cannot and should not *a priori* be ruled out.

To be fair, some studies within other strands of EWC research speculate about possible consequences of EWCs for national IR systems. In the context of the ‘europeanisation debate’ Streeck (1997a), for instance, pointed to the danger that the EWCD might set in motion a downward spiral of eroding national regulations in countries with high standards of employee representation rights as a result of its limited participation rights and the voluntarist mode of regulation. Lecher (1998b) also argues that one of the main issues in Germany will be to protect the far-reaching employee representation rights from

being weakened by the less stringent provisions of the EWC Directive. Other observers indicate that EWCs could lead to the development of supranational micro-corporatist arrangements which reinforce the trend toward more decentralised and company-specific forms of regulation, thereby creating considerable pressures of erosion within dualistic IR systems (Keller, 1995b, 1996; Schulten, 1996; Eberwein, 1998). Addressing the situation in Germany, Keller (1996) and Eberwein (1998) emphasise that the potential reinforcement of syndicalist tendencies through EWCs could pose a considerable danger for trade unions, because EWCs would be detached from national representation structures. If company particularism furthermore leads to the conclusion of company-specific framework agreements, German trade unions could be affected in their main regulatory function, the conclusion of collective agreements at sectoral level (Eberwein, 1998). More optimistic observers, such as Lecher et al. (1998) in particular, suggest that these tendencies could be counteracted by the EWCs' potential to prompt intra-organisational structural and strategic changes within trade unions.

The cross-national comparative publications by Lecher (1998c) and Eberwein, Tholen and Schuster (1998) set out to explicitly address the effect of EWCs for national systems of IR. In both cases, however, only the contributions addressing the situation in Italy by Telljohann (1998) and Cattero (1998) actually provide an explanation for the (limited) impact of EWCs on the Italian IR system. The findings of both these studies are reviewed in more detail below. A useful if brief overview of the implications of EWCs for national systems of IR is provided by Pedersini (1998). He categorises the 16 countries where EWCs had been established in terms of the impact of EWCs on each national IR system. According to Pedersini, four categories can be distinguished: first, countries like Greece and Portugal where EWCs had virtually no impact because of delays in the transposition of the Directive and/or lack of experience of voluntary EWCs; second, countries where the EWCs' impact was extremely limited because of the tight fit between existing national representation structures and EWCs (Austria, Finland, France, Germany, Italy, Norway, and Sweden); third, countries where there is a relatively tight fit between national information and consultation arrangements and EWCs, "but the introduction of the latter at least potentially raised new issues for the former" (Pedersini, 1998: *iv*). This third category comprises Belgium, Spain and to a lesser extent the Netherlands. The fourth category includes countries like Ireland and the UK, where EWCs can be expected to have a strong impact on national representation arrangements.

The UK was the only country about which at a relatively early stage a more specific debate emerged about the potential knock on effects which EWCs might have for national IR. However, the UK represents a special case because it is the only EU country — together with Ireland — where information and consultation rights are neither guaranteed by legislation nor by binding collective

agreements. The absence of any regulatory framework of information and consultation rights¹¹ is not the only aspect which makes the UK a unique case within Europe with regard to potential national implications of EWCs. The monistic structure of the UK IR system based on single-channel representation through trade unions and the highly conflictual tradition of IR in the UK also stand in stark contrast to the underlying structural and ideological conception of the EWCD. Firstly, the structural conception of the EWCD is arguably biased towards dual systems of IR, since it contains no explicit provisions for a role for trade unions within EWCs – although it did leave Member States free to arrange this via their implementing legislation. Secondly, the introduction of a minimum floor of information and consultation rights through the EWCD is based on a rather centralised and collective mode of representation, which is at odds with British IR tradition; finally, the ideological underpinning of the EWCD is explicitly orientated towards consensus rather than conflict – this, too, is at odds with British IR.

However, what does the discrepancy or similarity between the conception of EWCD and the differing traditions within various national IR systems mean with regard to the EWCs' implications for national IR systems and practice? Does it mean that EWCs can more easily be accommodated by dualistic, traditionally more consensus-oriented IR systems with a long tradition of statutorily underpinned collective workplace representation structures such as in Germany, Austria and the Netherlands than by monistic and traditionally more conflictual IR systems without a strong tradition of statutorily prescribed workplace representation rights such as in Italy and the UK? Is it at all legitimate to argue at such an aggregated level in view of the diversity of national IR practices which often make theoretical categorisations such as monistic/dualistic and voluntarism/juridification irrelevant because of the existence of informal functional equivalents? What are actually the factors which determine the extent of the EWCs' implications for national IR systems and their actors? The fact that more than six years after the adoption of the EWCD the existing literature fails to offer conclusive answers to such questions strongly demonstrates the need for comparative, in-depth empirical investigations.

5.1 Implications for IR in the UK

Already in 1992, Hall (1992) noted the difference between the EU's regulatory approach towards information and consultation procedures based on the principle of collective representation and the

¹¹ The exception to this rule are the existing information and consultation rights concerning collective redundancies and transfers of undertakings, which are made applicable in the UK by European legislation.

voluntarist IR tradition in the UK, which, under the Conservative government during the 1980s and early 1990s, led to the development of more individualised forms of 'employee involvement'. This fundamental difference between the EWCD and the existing British IR tradition in the approach towards employee interest representation gave rise to a number of speculations about possible changes in the UK IR landscape. These can be divided into conjectures about structural/institutional changes of the IR system as a whole and conjectures about internal structural and strategic changes by the IR actors themselves — particularly within trade unions.

Various observers emphasise that the EWCD, along with the Commission's proposal on national information and consultation rules and the 1994 European Court of Justice ruling which criticised the inadequate UK implementation of the collective redundancies and transfer of undertakings Directives, called attention to the representation gap within the UK IR system (Hall, 1992; Hall et al., 1995; Fulton, 1998; Marginson, 1998b). The representation gap in the UK exists because of the absence of statutory employee representation rights; such rights are instead dependent upon the voluntary recognition of trade unions by the individual employer, which means that non-unionised workplaces are much less likely to enjoy any kind of employee representation rights (Wedderburn, 1997; Marginson, 1998b; Cully et al., 1999). The most frequently mentioned prognosis about potential structural implications of EWCs was that they may contribute to filling this representation gap. Different measures to achieve this have been suggested. Some observers reckoned for example that EWCs may trigger the introduction or the strengthening of already existing group-level employee representation structures, which are endowed with information and consultation rights (Marginson, 1998b; Fulton, 1998). Another EWC-induced gap-filling measure conjectured by Hall et al. (1995) was that the establishment of EWCs could lead to the development of a continuing social dialogue between management and employee/trade union representatives at UK company level which transcends the narrowly defined scope of existing collective bargaining structures. Since current management-union relations in the UK rarely go beyond the negotiation over short-term pay and conditions in the individual business unit, the development of company level social dialogue arrangements, which might cover more general, 'soft' issues such as training, quality, equal opportunities and the environment, could, according to the authors, offer benefits to both sides of industry. For employee representatives such arrangements would extend their scope to voice concerns over matters which go far beyond their immediate workplace and/or bargaining unit and employers might perceive benefits in discussing with their employees medium-term issues where there is scope for mutual gains.

Notwithstanding its potential impact in reversing the growing extent of decentralisation in British IR, it is important to note that the EWC-induced introduction of group-level employee representation

structures could create a difficult situation for trade unions, because these bodies could threaten the British system of single channel representation via trade unions. There are two main reasons why these group-level employee representation structures may prove to be a double-edged sword for trade unions in the UK: firstly, because these bodies would give non-union employees access to representation structures alongside their unionised colleagues, which in turn would threaten the trade unions' monopoly to represent the workforce (Wills, 1998); and secondly, because these group-level institutions would either exist alongside traditional negotiation structures, which might narrow the range of issues currently determined by trade unions via collective bargaining, or, even worse for trade unions, they might be established as a substitute for trade union recognition, as Fulton (1998) points out. Although the latest Workplace Employee Relations Survey conducted in 1998 does not indicate that the existence of joint consultative committees or other forms of indirect employee representation coincides with the absence of union recognition — on the contrary it rather confirms a positive correlation (Cully et al., 1999) — it may still be too early to assess the EWCs' role in this respect.

The introduction of group-level employee representation structures, at least in their voluntarist version without any legal underpinning thus leaving their introduction entirely up to management, involves the danger that these new bodies, which seemingly foster collective forms of interest representation, might turn out to further weaken trade unions as the main bearer of collective employee interest representation. At the same time, however, should unions grasp this new instrument, it could equally serve to strengthen their foothold within companies. Against this backdrop, it is not surprising that trade unions and employers take different views within the more general debate about the introduction of works-council type structures in the UK, as demonstrated by Esser (1996) in her review of the positions of trade unions and employers' federations toward the EWCD. Esser (1996) found that based on their experience with EWCs, British employers are not generally opposed to collective forms of workplace interest representation as long as they are established on a voluntary basis. According to Esser (1996), the majority of trade unions however, being well aware of the danger of further marginalisation, prefer a statutory solution. However, as Hall et al. (1995) point out, it remains debatable whether in companies without existing trade union representation statutory works council-type bodies would inhibit or pave the way for trade union recognition - it also very much depends on what the unions make of it.

Turning now to the structural and strategic implications for the national IR actors, the prognoses largely focused on the consequences for trade unions. Hall (1992) for example suggests that EWCs could influence unions' domestic bargaining strategies by virtue of the strategic information they receive from central management and due to their closer contact with employee representatives from other countries. However, it should be noted that the employee representatives' involvement in EWCs

may not only provide new strategic options within national bargaining situations but that it may also place new demands on trade union resources for the provision of training courses and assistance for the EWC delegates. In order to meet such demands and in order to realise the EWCs' potential, trade unions may find themselves needing to reallocate or generate new financial and personnel resources. Hall (1992) expected further problems for trade unions in multi-union situations when the different trade unions are forced to agree on the choice of a British delegate on the EWC or where they have to represent more than one establishment. In such a multi-union situation one could imagine two extreme scenarios: on the one hand, it could be possible that the EWC is merely used by trade unions as another arena to compete for members. In this case, EWCs would harden rather than soften the domestic competitive relationship between different trade unions. Conversely, the pressure to agree on a limited number of EWC delegates, who speak on behalf of the whole British workforce, could foster more cooperative relationships between the different British trade unions.

Apart from affecting the relationship between different trade unions in the UK, EWCs might also have implications for internal union decision-making processes and hierarchies — an aspect which has been largely neglected so far in the debate about potential effects of EWCs for IR in the UK. Through taking on the responsibility of running an EWC, more and more lay representatives will be exposed to contacts with senior managers and employee representatives from other sites within both the UK and other countries. The resulting shifts in their frames of reference might affect internal union decision-making and power structures.

However, all these conjectures about the potential implications of EWCs for the IR system in the UK and its main actors rely heavily on analytical deduction and are not based on empirical findings. We still do not know how employers and trade unions try to adapt their structures and strategies to the challenges posed by EWCs nor how they try to utilise this new institution for their own purposes. It is only recently that researchers have attempted to fill this empirical research gap into the concrete reaction of national actors to the challenges posed by EWCs (EWCB, 1998; Wills, 1998). These studies represent first empirical tests of the above conjectures about potential national implications in the UK. A survey conducted by the EWCB (1998) of the perception of human resource/personnel managers in 240 UK-owned multinationals thought to be covered by the EWCD revealed that the most frequently mentioned area in which managers believe that EWCs do have implications for IR in the UK is the stimulation of new employee representation systems, including new forms of non-union representation. Since 'undermining the importance of trade unions as channels of employee representation' was the least frequently mentioned implication, the EWCB-study tentatively - only 33 companies out of 240 replied to the questionnaire - confirms the prognosis that even though EWCs are likely to trigger the development of new employee representation structures, these will most likely not

be used as a substitute for trade union recognition and collective bargaining. However, the results of Wills' (1998) in-depth investigation of the expectations and perceptions of the actors in three UK-based EWCs suggest that the establishment of EWCs not only prompts management to forge new forms of relationships with workplace representatives — including the establishment of new systems for the representation of non-union employees — but it also forces management to rethink internal communication channels regarding European-level information. On this basis she hypothesises that “if the works council model becomes further implanted within corporate systems of communication and consultation, non-union representation is likely to grow“ (Wills, 1998: 28). She also found that in the three companies observed, trade unions have been very slow to respond to the new demands for training and assistance placed upon them by the establishment of EWCs. Consequently, the EWCs failed to go beyond what Lecher et al. (1998) called the symbolic developmental stage and remained “rather abstract affairs, unconnected to the process of employee relations at other scales of the business“ (Wills, 1998: 29). Thus Wills (1998) concluded that in the three cases observed EWCs had little impact on IR arrangements and remained “a European crust on top of British tradition“ (1998: 20).

The survey of the literature on the EWCs' potential implications for national IR in the UK demonstrates that it is still too early to observe any consequences. Due to the limited lifespan of EWCs, these new institutions seem to have not yet found their place within the British IR landscape. However, the variety of prognoses made about potential national implications also demonstrates that EWCs indeed provide “an opening to address some major weaknesses of the existing framework of industrial relations“ (Hall et al., 1995: 46). The adoption of the EWCD and the subsequent establishment of EWCs have at least triggered a debate about new forms of employee representation in the UK, which could lead to a fundamental re-evaluation of inherited IR traditions and cultures. This debate will most likely gain further momentum in view of the political agreement reached on the European Company Statute at the Nice summit in December 2000 and the renewed optimism concerning the adoption of the draft EU Directive on national-level information and consultation of workers (EIRR, 2001). However, to date, the outcomes of this re-evaluation process, and with this the national implications of EWCs, are still uncertain. Whether or not EWCs remain a ‘European crust on top of British tradition’ heavily depends on the strategies of employers and trade unions of how to use these new bodies in the national context. With regard to the EWC research agenda, the empirical investigation of how national IR actors structurally and strategically address the challenges and opportunities posed by the EWCs remains to be undertaken. If this is true for the much discussed outlier case of the UK, it is equally so for research into the implications of EWCs for other IR systems in Europe; rarely does any mention of consequences in countries besides the UK go beyond a cursory

comment in the context of other fields of EWC research. A notable exception, however, is Telljohann's (1998) and Cattero's (1998) analysis of the situation in Italy.

5.2 Implications for IR in Italy

The implications of EWCs for the Italian IR system are thus far rather limited. Three main reasons for this have been put forward: first, the limited number of EWCs that exist in Italian-based multinational companies in the first place (Cattero, 1998; Pedersini, 1998); second, the limited information and consultation provisions of the EWCD (Telljohann, 1998; Pedersini, 1998); and third the later adaptation of the EWCs' structural and operational principles to the monistic structure of the Italian IR system (Telljohann, 1998). The last two explanations are closely linked to the informal character of the Italian IR system and the recently introduced reforms — in particular the Accord on Labour Costs in July 1993 and the successive National Agreement on RSUs in December 1993.

The informal character of the Italian IR system manifests itself in the existence of two rather autonomous IR systems at the macro and micro level, a fact which Regalia and Regini refer to as “the dualism between the central, ‘overt’ level and the peripheral, almost ‘underground’ level“ of Italian IR and trade union activity (1998: 468). Whereas the approach to IR at the workplace level in the UK is still characterised by defensive reflexes on both sides, the Italian approach since the mid-1980s has been characterised by pragmatism and cooperation. As a consequence of the development of micro-corporatist arrangements and in particular the employers' acknowledgement that change can best be achieved through cooperation with trade unions, information, consultation and even co-determination was already being practised at the company level in Italy (Regalia and Regini, 1998). Thus, as Telljohann (1998) concludes, the provisions of the EWCD did not exceed the already existing Italian standards — neither in terms of the scope of the information and consultation rights nor in terms of the issues to be covered.

EWCs were introduced in Italy on the heels of major reforms of workplace IR and collective bargaining. Chief among these reforms was the introduction of the RSU, which fulfil the dual function of a general workplace representation structure and a trade union representation structure at the company level. Since the RSUs are also endowed with collective bargaining rights at the company level, they combine a form of works council representation with the principle of single channel trade union representation. According to Telljohann (1998), it was the extension of this particular construction to the EWCs which enabled the EWCs' adaptation to the monistic structure of the Italian IR system. It is important to note that this solution was supported by both sides of industry. As Cattero

(1998) emphasises, the main interest of Italian trade unions in the establishment of EWCs was to avoid any interference with the system of RSUs, which itself was still in a transitional period at the time the EWCD was adopted. However, the employers also had a manifest interest in adapting EWCs to the newly emerging structure of Italian IR in order to consolidate the relative degree of continuity, stability, and homogeneity which they had gained at the national level through the recent reforms (Telljohann, 1998; Cattero, 1998).

Since at the time the EWCD was adopted the Italian IR actors were still busy re-organising the system of workplace representation, these national developments clearly provided the frame of reference for the establishment of EWCs (Cattero, 1998). Against this backdrop, Telljohann (1998) concludes that EWCs are largely perceived and used by both sides of industry as a factor which contributes to the consolidation of recent developments toward more cooperative and more institutionalised IR. A further indicator pointing in this direction is Telljohann's suggestion that EWCs might encourage a cultural change within company-level IR in Italy, since he sees first signs that even within the traditionally more conflict-oriented unions of the metal sector a participative culture has become more widespread.

5.3 Outlook

What emerges from the literature is the identification of a series of potential structural and cultural national implications of EWCs for national IR arrangements and the IR actors themselves. None of these prognoses seem to have materialised yet — and if they have, we do not know because they have not been tested systematically. But then again, this does not come as a surprise, since as the review of the EWC case study research demonstrated, most of the EWCs are still in a process of consolidation. Arguably, the same can be said about national IR systems in their attempt to come to terms with the pressures exerted by an increasingly internationalised and rapidly changing economic and political environment. Clearly, as the chapter on the negotiation of EWCs closes, and EWCs begin to come into their own, the time is ripe to begin looking more closely into the possible implications for national IR systems which can be expected to arise out of the interaction of dynamic settings at local, national, and transnational levels.

6. EWCs and the development of a European IR system

Serving as the legal basis for the introduction of the first supposedly genuinely “European“ institution of company-level IR, the European Works Councils Directive provided new impetus to the debate about the development of a European system of IR. Regardless of their individual overall assessments, it is common ground among IR scholars that the establishment of a European system of employment regulation would involve different modes of regulation — statutory regulation primarily through Directives and negotiated regulation through agreements between the social partners (Hyman, 1997), which in turn can be concluded at different levels of regulation: these are the micro-level of multinational companies, the sectoral meso-level and the multi-sectoral macro-level. The articulation of different modes and levels of regulation both at national and European level combined with the involvement of a multitude of different actors creates a complex set of framework conditions for the assessment of the impact of EWCs on the europeanisation of IR. Against this background, Lecher et al (1999:12) identify at least three sets of factors which mitigate the impact of EWCs: firstly, the developmental process of EWCs themselves — or more specifically, their ability to progress from a information committee to a political actor; secondly, the development of European structures and policies of trade unions and employer federations both at the national and European sectoral and multi-sectoral levels; and thirdly, the structural and political developments within the area of European social policy and the Euro-polity more generally. As Marks and McAdam (1996) have explained, these create constraints and opportunities for actors with regard to their relative structural access to EU institutions and the general policy receptivity of EU institutions — particularly the European Commission.

The uncertainties surrounding the development of EWCs and their corresponding interaction processes with other national and European IR actors leave ample scope for diverging interpretations of their impact on the development of a European IR system. Following Dolvik (1997), the different interpretations offered can be broadly grouped into two ideal-type categories — Euro-optimistic and Euro-pessimistic — in accordance with their “different emphases as regards theoretical orientation, empirical interpretation and normative assessment of desirable/required forms of europeanisation of social policy and trade unions“ (1997: 16). The main differences between the two lines of thought lie in their divergent perceptions of the relative importance of structure- and actor-related factors in shaping the potential impact of EWCs and – closely related to this – their divergent normative understandings of the underlying developmental logic of the europeanisation process of IR. The key question here is whether the development of a European IR system follows the developmental logic of

IR systems within nation states or whether European processes develop their own, and often unpredictable, developmental dynamics. The normative choice of one or the other view of the underlying developmental logic of a European IR system has far-reaching implications for the analysis of the EWCs' impact, because it pre-defines the frame of reference of the analysis, such as the conceptualisation of the europeanisation process of IR and the corresponding definition of prerequisites for that europeanisation process. These varying conceptualisations and prerequisites are thus applied as differing benchmarks for the EWCs' contribution to the development of a European IR system.

6.1 Euro-pessimistic interpretations of the impact of EWCs on the europeanisation of IR

Euro-pessimistic interpretations of the europeanisation of IR tend to argue from a structural perspective, emphasising the institutional obstacles created by the diversity of national IR systems and the intergovernmentalist and neo-liberal character of the European political economy which, as Dolvik puts it, "structurally precluded the development of an effective supranational regime of social regulation" (Dolvik, 1997: 17). From a Euro-pessimistic point of view, the intergovernmentalist character and the "liberal bias" of the European integration process lead in particular to a wide gap between supra-national market-making on the one hand and market-correcting institutions on the other; in the absence of a European state capacity, market-correcting mechanisms remain confined within national borders (Streeck, 1998; Keller, 1995a). The pivotal task of an emerging system of European employment regulation is thus to bridge this gap by granting all workers in the EU universal rights of industrial citizenship in order to redress the asymmetric power relationship between capital and labour. According to Streeck, one of the main proponents of a Euro-pessimistic perspective, rights of industrial citizenship comprise rights of workers to collective bargaining and "collective participation of workforces at their place of employment through information, consultation and co-decision-making together with corresponding obligations of employers to respect such rights and enable their effective use" (Streeck, 1997a: 644). Since these rights of industrial citizenship are taken to be the institutional condition for negotiations between employers and workers, they are by definition supposed to be non-negotiable between the labour market participants. Streeck points out that in order to protect such rights against market pressures and the resulting differences in bargaining power, they are traditionally enshrined in statutory law in European welfare states (Streeck, 1997a). This notion of a harmonised European system of industrial citizenship, which seems to be heavily influenced by the German system of co-determination, provides the central frame of reference for Streeck's assessment of the potential impact of the EWC Directive on the europeanisation of IR.

Measured by these standards, the EWC Directive fails to contribute to the development of a European system of IR for two main reasons. The first concerns the extent of participation rights provided for by the EWC Directive. Since the provisions of the EWC Directive limit participation rights to information-giving on a yearly basis and in exceptional circumstances, but avoid any obligation for management to take employee views into consideration, the extent of participation rights provided for by the EWC Directive fall far short of Streeck's conceptualisation of universal industrial citizenship rights. The second aspect of the EWC Directive's failure relates to the mode of implementing (minimal) participation rights. In this respect, Streeck views the EWC Directive as a prime example of the general EU approach towards social regulation which is characterised by the abandonment of the objective to harmonise industrial citizenship arrangements by giving voluntary agreements precedence over statutory prescription and by restricting supranational intervention in national IR systems to their coordination (Streeck, 1995; 1998). As a consequence of the combined effect of the failure to harmonise employee representation rights across Europe and the preferred voluntarist mode of regulation, which leaves it to management and employee representatives to negotiate the terms of their own EWCs on a company by company basis (Streeck, 1997a), the EWC Directive does nothing to take participation rights out of competition. Regulation through contractual voluntarism fosters regime competition because it leaves national representation systems entirely unchanged; it merely grafts EWCs on to national systems of workplace representation (Streeck, 1997b). It thereby preserves the existence of differently strong national participation regimes, thus not only retaining the exit option for employers but also giving them the opportunity to extract concessions from workforces by means of threats of relocation to countries with weaker regimes (Streeck, 1997a).

Furthermore, the EWC Directive also provides companies based in countries which are not covered by the Directive with an option to choose between different national models of implementing the EWC Directive. Since the implementation of the EWC Directive is left to national legislation, the rights accorded to EWCs and the corresponding obligations of employers could be expected to vary from country to country, so that, for the purposes of the Directive employers, can choose the country with the least burdensome implementation law as their European headquarters (Streeck, 1997b). In view of the untrammelled forces of regime competition, Streeck thus suspects that the EWC Directive, instead of providing for an upward harmonisation of employee participation rights, will set in motion a downward spiral of eroding national regulations in countries with high standards (Streeck, 1997a).

According to Streeck (1997b), the inherent institutional deficiencies of the EWC Directive not only prevents the establishment of integrated European citizenship rights, but the seemingly endless range of possible institutional outcomes furthermore render it very unlikely that EWCs can make a positive contribution to the europeanisation of IR. Given that the exact structure and operation of the EWCs is

subject to negotiation between firms and their workforces, one can expect these voluntary participation arrangements to be heavily coloured by the national system of the company's country of origin owing to the likely dominance of the representatives of the company's home country workforce in these negotiations (Streeck, 1997b), as borne out in many of the case studies reviewed here. Therefore, it is Streeck's verdict that the EWCs "are in reality international extensions of national systems of workplace representation" (Streeck, 1997a: 654), which leave the extent and mode of the inclusion of non-national workforce representatives very much to the discretion of management and the dominating home country representatives (Streeck, 1997b). In doing so, the EWC Directive offers the home country delegates rich opportunities to protect their privileged access to central management and thereby contributes to the cementation of unequal access to participation of non-national and domestic workforces. Streeck even sees the danger that in an increasingly competitive economic environment, the EWC Directive could contribute to the formation of new coalitions between central management and domestic workforces which are no longer based on common class interests of labour to seek supranational protection against the competitive forces of free markets, but on national interests of labour to outcompete labour in other countries and to defend the integrity of national IR systems (Streeck, 1996). In this respect, the voluntarist bias of the EWC Directive presents the dominating home country representatives with the strong temptation to concede the rights of other workforces in return for continued privileged access to company headquarters in the home country. (Streeck, 1997a). Such a nationalistic re-definition of traditionally class-based labour interests would, of course, be completely at odds with any attempt to establish an integrated European IR system.

Whereas Streeck's argument is primarily based on the failure of the EWCD to prevent a competitive relationship between different national systems of regulation and between different national workforces, Keller (1996b; 1997) points to more practical problems impeding the effective functioning of EWCs, which is seen as a necessary albeit not sufficient prerequisite for the europeanisation of IR. He particularly emphasises the following problems: the limited resources available to trade unions to provide ongoing service to EWCs; the difficulty of aggregating employee representatives' and trade unions' different country- and even site-specific interests within the EWC, in particular on decisions concerning investments and/or the relocation of production; the lack of appropriate mechanisms for the resolution of conflicts between management and the employee-side, since the EWC Directive stipulates neither 'conflictual' resolution mechanisms such as the right to strike nor 'cooperative' reconciliation measures, such as the establishment of an arbitration procedure (1997: 50-53). Keller (1997) also foresees problems with regard to the precise demarcation of functions and competences between supranational and national institutions of interest representation

and, with reference to dualistic systems of interest representation, between EWCs and sectoral-level trade unions.

However, even if these practical problems were solved, EWCs would not necessarily contribute to the emergence of an integrated European IR system because EWCs could still foster the establishment of micro-corporatist arrangements as employers increasingly discover EWCs as a useful tool to realise their transnational HR and business objectives in the process of re-organising themselves on a European or even global footing (Schulten, 1996; Martin and Ross, 1999). These micro-corporatist arrangements between central management and 'their' EWCs would essentially be based on the generation of mutual benefits. In such a scenario, management could use the EWCs as a medium to spread best practice methods with the aim of achieving positive effects for both sides: better cost and productivity performance of the various subsidiaries and improved working conditions throughout the company for the employee-side (Schulten, 1996). However, as Schulten (1996) emphasises, even if best practice approaches can lead to better working conditions, this still would not exclude the possibility of social dumping, since employers can still take advantage of different national and local social standards. Whether or not social dumping can be avoided depends on the employee representatives' ability to form independent cooperation and communication structures in order to compensate for management's supremacy of information (Schulten, 1996).

Keller (1995b) takes the aspect of the development of micro-corporatist arrangements one step further by arguing that EWCs could even become the nucleus of autonomous company-centred negotiations between management and EWCs. According to Keller (1995b), potential reasons why management of MNCs would consider entering into negotiations with 'their' EWCs are the reduction of transaction costs, the standardisation of management strategies, the cartellisation of the company-internal labour market and the assumption that cooperative strategies are more conducive to the company's competitiveness and management's restructuring plans than are conflictual strategies. The outcome of such company-centred European bargaining arrangements could be the conclusion of framework agreements on non-monetary issues such as work organisation, working time, training or equal opportunities. However, the emergence of micro-corporatist arrangements between central management and 'their' EWCs would represent a new mode of IR regulation within MNCs, which potentially furthers the weakening of existing national — in particular dualistic — systems of IR regulation by reinforcing trends toward more decentralised and company-specific forms of regulation (Schulten, 1996). In dualistic systems of IR regulation, such micro-corporatist alliances at the level of the Euro-company would detach the national subsidiaries from their national or sectoral regulation systems and expose these systems to massive pressures of erosion (Keller, 1995b; Schulten, 1996; Streeck, 1996). One way to avert this danger, suggested by Martin and Ross (1999), is to integrate the different EWCs

into a broader (dualistic) European collective bargaining system at the supranational level or to coordinate cross-border negotiations with individual employers through the EIFs and their member unions. However, since Euro-pessimists view both scenarios as being highly unlikely at the present stage, they conclude that the result of such essentially management-driven company-centred European bargaining arrangements would not be the creation of an integrated transnational collective bargaining system, as assumed by many Euro-optimists, but the creation of an uncoordinated patchwork of different bargaining levels and issues with the involvement of a multitude of different actors.

Whereas Schulten and Keller stress the fact that European company-centred micro-corporatist forms of regulation, triggered by the establishment of EWCs, would be detached from traditional national regulation systems, less dismissive observers such as Marginson and Sisson (1998), albeit far from being Euro-optimistic, see the possibility of reconciling EWCs with existing national IR structures. In the scenario developed by Marginson and Sisson, EWCs represent the main institutional carrier for a process which the authors call 'virtual collective bargaining' (1998: 506) in two different ways. Firstly, EWCs further the development of 'virtual collective bargaining' by potentially providing the forum for joint opinions or framework agreements which establish parameters "within which the negotiators at subsidiary levels (national, sector and enterprise) are expected or required to operate" (Marginson and Sisson, 1998: 507). Secondly, EWCs represent a vehicle for 'virtual collective bargaining' by means of the new kinds of information made available to EWC members. Both information about future business plans as well as newly available cross-national comparisons of pay, conditions and working practices can be deployed by trade unions in subsequent collective negotiations at national and local levels within MNCs (Marginson and Sisson, 1996). In effect, EWCs generate a process of arms' length bargaining in which "employers and union representatives [may] not negotiate face-to-face at European level, but the outcomes of sector and enterprise bargaining are increasingly anticipated and co-ordinated across countries" (Marginson and Sisson, 1998: 507). Since the authors suggest that these emerging forms of European collective bargaining are very unlikely to lead to the conclusion of legally binding collective agreements in the near future, the existing sectoral and enterprise structures in individual countries will remain the main arenas for collective bargaining; however with the caveat that national bargaining processes will increasingly be influenced and coordinated by European-level developments (Marginson and Sisson, 1998).

Although the proponents of the Euro-pessimistic perspective acknowledge that, in the words of Streeck, "the emerging European-level institutions of industrial relations are not about to develop into a replica of a national industrial relations system on a larger scale" (Streeck, 1998: 435), an assessment which is also shared by the Euro-optimists, they tend to assess the implications of EWCs with reference to a narrow concept of the process of europeanisation of IR, which seems to be heavily

influenced by the developmental logic of the German system of IR. This narrow, German-biased conceptualisation identifies the europeanisation of IR with the establishment of statutorily prescribed employee participation rights and/or the establishment of an integrated multi-level system of collective bargaining as the dominant mechanisms of regulating the employment relationship at European level. Against the background of these narrow indicators against which the impact of EWCs is measured, it is not surprising that these authors come to 'Euro-pessimistic' conclusions.

6.2 Euro-optimistic interpretations of the impact of EWCs on the europeanisation of IR

In contrast to the Euro-pessimistic approach, the analysis of the proponents of a Euro-optimistic perspective is more actor-centred. This is not to say that Euro-optimistic observers do not acknowledge the structural obstacles to the europeanisation of IR emphasised by Euro-pessimists. However, the Euro-optimists' analysis is based on a different frame of reference. Rather than presupposing the existence of appropriate structural framework conditions, they, as Dolvik succinctly puts it, "tend to assess the EWCs with reference to the previously existing situation — one in which [...] no transnational rights of employee representation existed whatsoever" (Dolvik, 1997: 382). This Euro-optimistic frame of reference is mirrored in the broad conceptualisation of the europeanisation of IR proposed by Lecher and Platzer (1996): one which embraces "all forms of cross-border or supranational relationships between the social partners at various levels, together with the interplay of national and European institutions and the social partners in formulating and implementing European employment and social policies" (1996: 504)¹². In the absence of a supra-national European state capacity and the employers' apparently strategic lack of interest in any industrial relations regulation at European level, such a broad conceptualisation emphasises the importance of employee-side internal collective organisational processes (of trade unions in particular), for the europeanisation of IR. Against this background, from a Euro-optimistic perspective, the institutional reforms brought about by the promotion of the European social dimension, however incomplete they may be, are seen as important stepping stones for the development of a European multi-level system of IR because they considerably improve the prospects for transnational employee/trade union cooperation.

6.2.1 EWCs and cross-national trade union cooperation

¹² Translated from German by the authors.

Turner (1996) for example argues that institutional developments at European level such as the building of the ETUC, the 1989 Social Charter, the 1991 Social Protocol of the Maastricht Treaty and the adoption of the EWC Directive in 1994 put in place an institutional ‘superstructure’ for European cross-national labour movement collaboration. According to Turner, these institutional developments only represent one side of the coin, however, because any successful europeanisation of labour has to be based on both the establishment of formal structures *and* collective action. Unless the former contributes to the latter, “the European labour movement is likely to remain a rather formal construct, stunted by its distance from mass action [and] limited in its power and influence within the European Union“ (Turner, 1996: 328). Although Turner admits that the emerging European labour movement is currently characterised by the absence of collective action and is primarily based on networks of contacts and new structures of interest representation, he concludes that by encouraging a thickening web of cross-national union contacts at firm, sectoral, and macro levels, institutions such as EWCs, sectoral European Industry Federations (EIFs), and the ETUC create a ‘political opportunity structure’ which potentially paves the way for cross-national labour collaboration and collective action; this process facilitates the europeanisation of IR. This argument is supported by Dolvik (1997) and Lecher et al. (1999), who found that the adoption of the EWC Directive prompted both European and national trade unions to adapt their organisational structures to this newly established European-level arena. At the European level, an increasing number of EIFs set up ‘EWC Committees’ bringing together representatives of their affiliated national unions in order to facilitate the exchange of information and the coordination of strategies. As Dolvik (1997) points out, the adoption of the EWC Directive also prompted EIFs to organise training seminars, conferences and support for national unions in negotiating and setting up EWCs, which additionally intensified contacts between EIFs and national unions. Lecher et al. (1999) report that national trade unions simultaneously began to integrate European agendas into their day-to-day work. Besides strengthening their international/European departments, more and more trade unions have set up cross-departmental task forces to deal with European issues. In some cases these innovations took a clearly institutionalised character, as the EWC Project of the German IG Metall union demonstrates (Lecher et al., 1999; see also Lecher and Müller, 2000). However, the EWCs’ potential to strengthen cross-national trade union cooperation is not limited to structural processes. Perhaps even more important is their potential to ‘Europeanise’ the underlying mindset of trade union activists. Dolvik for example makes the point that the sheer number of national employee representatives who will be involved in EWCs and transnational union activities “contains a potential for learning and change which should not be underestimated“ (1997: 388). He even sees the possibility that EWCs may contribute to the emergence of a new “pioneer core of workforce representatives at the level of TNC headquarters“ who are more outward-looking and more familiar with the problem of coping with cross-national diversity, which in turn “can represent a

valuable potential for the development of trade union networks and structures within the context of company EWCs“ (Dolvik, 1997: 389).

This line of argument is exemplary for the Euro-optimistic way of reasoning, because, although these authors acknowledge the structural obstacles to a europeanisation of labour, they emphasise the scope for political action and social choice of labour organisations which was created by the institutional reforms in the wake of the attempts to strengthen the European social dimension. This line of argument is furthermore typical for a Euro-optimistic perspective in terms of the underlying developmental logic of a europeanisation of IR, because it implies that this process follows the logic of spill-over effects from market integration to social integration as national actors re-define their political strategies and increasingly turn their attention to the newly established institutions at the European level. Since, as Lecher et al. (1999) emphasise, the above-mentioned employee-side internal adaptation processes are mirrored by organisational adaptation processes on part of the employer federations¹³, these Europe-induced intra-organisational structural innovations were viewed by Euro-optimists as first steps towards the emergence of a European multi-level network structure comprising the macro-level of the respective umbrella organisations, the meso-level of the respective sectoral organisations, and the micro-level of EWCs within multinational companies. The idea of an emerging European multi-level system of IR involving manifold links between the various national and European levels of IR activity takes the analysis of the EWCs' impact on the europeanisation of IR one step further. From this perspective the analysis no longer concentrates on the direct impact of EWCs on the structural europeanisation of trade unions and on patterns of cross-national union cooperation. Its main focus is on the position and role of EWCs within a multi-level system of IR, which emerges as the consequence of the europeanisation of trade unions (and to a lesser extent of the employer federations).

6.2.2 EWCs within an emerging European multi-level system of IR

It is common ground among Euro-optimists that of the three levels of the emerging European IR structure, it is the European company-level (i.e., the EWCs) which represent the most dynamic element because it is expected that the establishment of EWCs will lead to company-based

¹³ Lecher et al (1999) note that, firstly at European level in 1993 UNICE established the 'European Employers Network' comprising around 60 European branch associations, in order to give more weight to the specific social-policy related interests of sectoral federations at European level; and that secondly at national level for instance the German umbrella organisation of the employers' associations (BDA) organised a European coordination committee comprising representatives of their affiliated organisations who are also members of their respective European branch associations.

negotiations between EWCs and ‘their’ managements (Platzer, 1998; Lecher et al., 1998). Analytical support for this hypothesis is provided by Keller (1995b) and Bobke and Müller (1995) who argue that negotiation relationships between employers and employees are more likely to develop at the European company-level than at the more centralised (multi-) sectoral level(s); firstly, the issues of negotiation are more specific, thus facilitating the process of interest aggregation; secondly, company-based agreements are easier to reconcile with the legislative principle of subsidiarity; and finally, company-based negotiations would fit well with the increasing decentralisation within national IR systems.

Indeed this has already been seen in practice in at least two cases. Klebe and Roth (2000) provide a detailed account of two pioneering EWCs at Ford and GM who successfully negotiated with ‘their’ European central management common terms and conditions for all European employees affected by out-sourcing and a joint-venture respectively.

Assuming that EWCs as an arena can provide the foundation for the emergence of a company-based system of European collective bargaining, Lecher et al. (1999) identify two possible scenarios for the europeanisation of IR in general: firstly, as suggested by Euro-pessimistic observers, EWCs would be company-centred “islands of European IR” in a sea of nationally fragmented IR systems (Lecher et al., 1999: 113). The second and more optimistic scenario casts the EWC in the long run as the most decentralised element within an integrated European IR system in which the various levels and areas are closely linked to one another. Against the backdrop of the conclusion of the first framework agreements between the social partners at the multi-sectoral and the European company level, Euro-optimistic observers favour the second scenario. Bobke and Müller (1995) for example regard the macro-level with its institutional focus in the ‘social dialogue’ and the transnational company-level of EWCs as the core elements of a future system of European IR. Based on the twofold assumption that firstly EWCs will serve as the basis for the development of a company-based system of European collective bargaining, and that secondly the multi-sectoral European social dialogue, after being considerably strengthened by the Maastricht Social Protocol, will yield further framework agreements, Bobke and Müller (1995) expect that the interaction between these two dynamic poles will increasingly influence national provisions, and eventually erode their importance. In view of the employers’ reluctance to engage in employment regulation at European (multi-) sectoral level, Lecher and Platzer (1996) caution against premature conclusions about the possibilities of replicating, for example, the multi-sectoral framework agreement between the European social partners on parental leave. For Lecher and Platzer, “EWCs will be the core element of European IR in the foreseeable future“ (1996: 511), but only if company-based European framework agreements eventually

negotiations through the multi-sectoral 'Social Dialogue' are integrated into a European network structure.

Although the assessments by Bobke and Müller (1995) and Lecher and Platzer (1996) are highly hypothetical and represent merely a first stab at an explanation of the potential role of EWCs within a future European IR system, they point to the necessity of establishing close links between the different national and European IR arenas as one crucial condition for such company-based negotiations to become the core element of a future multi-level system of European IR. However, Dolvik (1997) and Lecher et al. (1999) also emphasise that in order to prevent syndicalist tendencies, European and national trade unions have an important role to play in initiating and organising networks not only among different EWCs of the same sector, but also among the trade unions servicing the EWCs. According to Lecher (1998), this is an essential point, because only through the stable anchoring of EWCs within national systems of IR will they gain the legitimacy and support of the wider European workforce which is vital for their own development into a European actor and their ability to strengthen europeanisation processes within national trade unions. Thus from a Euro-optimistic perspective there are two crucial factors which determine the EWCs' role within a future multi-level system of European IR: firstly their own internal development from a mere information forum into a political actor, so that they are able to negotiate company-based framework agreements, and secondly the establishment of close links between EWCs and trade unions, which have to act as transmission belts in order to prevent EWCs from becoming detached from national and European (multi-) sectoral IR developments.

Lecher et al.'s empirical investigation of the needs, possibilities and perspectives of the development of network structures between and around EWCs showed that such networks are still in their infancy. However, from the perceptions and ideas mentioned by the EWC delegates and trade unionists interviewed, Lecher et al. (1999: 113/114) deduce that the simultaneous establishment of networks among EWCs and among trade unions of the same sector could contribute to the europeanisation of IR in several ways: firstly, the establishment of EWC networks would contribute to the internal EWC developments across the board through the improved exchange of experiences and best-practice examples among EWC representatives from different EWCs; secondly such networks would help to defuse the resource problem of trade unions in servicing EWCs, by virtue of improved trade union coordination of their servicing activities at sectoral level; thirdly, EWC networks could serve to identify issues which are suitable for negotiations between the social partners at the European sectoral level, if all the participating companies are affected by any given issue in broadly the same way; and fourthly, the creation of such networks could facilitate the coordination of national collective bargaining policies by providing trade unions with the necessary access to information about the

working conditions in different countries. The creation of mutually supporting and stabilising network structures among EWCs and among trade unions, runs the Euro-optimistic argument, would not only considerably facilitate the integration of European company-based negotiation systems into national IR systems, but would also provide new impetus to developments at the European (multi-) sectoral level. The optimistic view of the role of EWCs within the emerging European multi-level system of IR is summarised by Platzer: “EWCs would be a component and agent of a ‘New Deal’ in European industrial relations and, by forging new links and networks, would form the foundation for the subsequent emergence of collective bargaining at sectoral and supra-sectoral European-level, at least as far as the setting of framework conditions is concerned“ (1998: 85).

6.3 Conclusion: the long shadow of different frames of reference

The outline of the debate about the impact of EWCs on the europeanisation of IR demonstrates that the diametrically opposed conclusions drawn by Euro-pessimists and Euro-optimists can be traced back to the application of diverging normative frames of reference. These diverging frames of reference manifest themselves firstly in different perceptions of the relative importance of structure- and actor-related factors for the europeanisation of IR, secondly in different conceptualisations of a European IR system, and thirdly, as a consequence of the two previous factors, in the formulation of different prerequisites which must be met if EWCs are to foster the europeanisation of IR. Since Euro-pessimists tend to pursue a structural approach combined with a narrow conceptualisation of European IR, they consider the establishment of statutorily prescribed employee rights to be a necessary prerequisite for the development of an integrated European IR system. In contrast to this perspective, the Euro-optimistic frame of reference tends to be based on a more actor-centred approach and a broader conceptualisation of European IR, which leads advocates of this line of argument to assess the EWCs’ impact on the europeanisation of IR in terms of their potential to trigger cross-border relationships between the social partners at various levels. As a consequence of these different frames of reference, the analyses of the proponents of the two lines of interpretation focus on different consequences of the EWC Directive. Euro-pessimists primarily concentrate on the structural framework conditions created by the EWC Directive. From their perspective, the EWC Directive’s failure to harmonise employee participation rights across Europe is likely to reinforce regime competition and the emergence of micro-corporatist arrangements, which contribute to the erosion of national standards. Thus they conclude that rather than representing a tool for upward harmonisation of employee representation rights within an integrated European IR system, EWCs foster the emergence of a nationally fragmented and highly voluntarist European system of IR regulation. On the

other hand, although Euro-optimists are well aware of the institutional deficiencies of the EWC Directive and the danger of syndicalist tendencies associated with it, they emphasise that the widespread establishment of EWCs considerably extend the employee-side's scope for political action and cross-border cooperation. From a Euro-optimistic point of view, the institutional deficiencies of the EWC Directive will be more than offset by the actual practice of EWCs, which in many cases transcends the provisions of the Directive in terms of employee participation rights. Against this background, the Euro-optimistic assessment of the EWCs' impact on the europeanisation of IR therefore primarily focuses on the internal development of EWCs and the europeanisation of trade union structures and policies, which were found to be mutually reinforcing.

These different analytical foci are rooted in the diverging normative understandings of the developmental logic and the shape of a future European IR system. Whereas the Euro-pessimistic argument tends to imply that the development of a European IR system proceeds analogous to that of IR systems within nation states, Euro-optimistic observers emphasise the qualitatively different nature of an emerging European IR system. Based on the empirical evidence that firstly the actual practice of EWCs transcends the provisions of the EWC Directive and that secondly EWCs prompted national and European trade unions to adapt their structures to this new institution, proponents of a Euro-optimistic perspective assume that employee-side internal re-organisation and europeanisation processes will exert pressure on the employer-side to react accordingly and make them more inclined to enter into voluntary regulatory arrangements at various European levels. Rather than being the institutional prerequisite, as assumed by Euro-pessimists, Euro-optimistic observers consider industrial citizenship rights to be one potential outcome of these interaction processes between capital and labour. Furthermore, such outcomes could serve to prove the need for statutory regulation. The adoption of the EWC Directive itself is a case in point.

7. Conclusions: developing a research agenda

7.1 Prior research agendas: how far have we come?

Periodically, researchers have explicitly addressed the status quo of research on EWCs and the development of a research agenda identifying important gaps in the research on EWCs (Hall et al., 1992; Lecher, 1996; Platzer and Weiner, 1998). What emerges from these assessments of EWC research is a recurring call for more in-depth and comparative research into three main areas, which Lecher calls implementation research, compatibility research and europeanisation research (1996: 711).

Lecher's (1996) notion of implementation research covers the range of factors that influence the constitution and the effective functioning of EWCs. Implementation research should therefore address the formal criteria laid down in the various national transposition laws, since the different national definitions and interpretations of the key terms of the EWCD constitute important framework conditions for the structure and operation of EWCs. However, Lecher's notion of implementation research goes far beyond the comparative legal analyses of the EWCD's transposition into national law; it should also cover the investigation of the actual operation of EWCs, including issues such as training for EWC members, communication processes among EWC members and their ability to develop autonomous networks. Whereas Lecher's idea of implementation research is very much geared towards the investigation of factors that potentially influence the effectiveness of EWCs from an employee-side perspective, Hall et al.'s (1992) assessment of EWC research furthermore suggests that what Lecher calls implementation research should also include the investigation of how managements try to utilise EWCs for their own objectives.

In Lecher's terminology, compatibility research refers to the relationship between EWCs and national IR systems; more specifically, it should address how the former can be integrated into the latter. In this context, Lecher and Hall et al. identify the following aspects to be investigated by future research: the interaction between EWCs and existing nationally-based IR procedures; the trade unions' ability to cooperate in a multi-union environment (such as in the UK or France) and the potential influence of EWCs on the relationships between national employee representation structures and management.

Echoing Hall et al.'s call for more research on trade union strategies, Lecher (1996) raises the following points for future investigation under the heading europeanisation research: the possible role of EWCs in the development of a European system of company-level collective bargaining; the

question of whether or not EWCs foster a convergence of national IR systems; the implications of EWCs for national IR institutions (support or replacement); the nature of collective agreements concluded by EWCs; and the impact of EWCs on patterns of transnational trade union cooperation within MNCs and how such transnational cooperation processes impinge on trade union structures and agendas.

Whereas the assessments by Hall et al. and Lecher are mainly concerned with the identification of concrete question for future EWC research, Platzer and Weiner (1998) focus on methodological issues of EWC research. Platzer and Weiner note that the lack of in-depth case study research on EWCs coincides with the dominance of quantitative studies on structural features of EWCs. In particular, they criticise the lack of a theoretical and conceptual basis of the existing analyses. They propose that more qualitative research be conducted into the communication and interaction processes of EWCs, placing special emphasis on a systematic comparative analysis of the interests, motives, expectations and perceptions of the actors involved. Echoing Hall et al. (1992) and Lecher (1996), they argue that since national IR structures and traditions play a crucial role in determining the development of EWCs, more attention should be paid to these national framework conditions. Furthermore, Platzer and Weiner suggest linking the investigation of internal processes with the analysis of the influence of national IR structures on EWCs by embedding these two analyses into the broader context of the dynamics of economic integration and policymaking at the European level. In order to overcome the problems involved in the theoretical conceptualisation of such a complex research design, Platzer and Weiner propose an eclectic approach which links two hitherto largely independent areas of research: comparative IR research and European integration research.

Indeed, many of the issues suggested by the various authors were taken up by successive studies – more so in the fields of implementation research and europeanisation research, but to a lesser extent in the field of compatibility research. Due to the increasing differentiation of EWC research into different parallel streams of inquiry and often highly specific niche areas of analysis, however, it is difficult to keep track of which issues suggested by previous reviews of EWC research have been covered and which issues still need addressing. Nearly ten years after the first systematic review of the EWC research agenda was conducted by Hall et al., this stocktaking of the work that has been done has demonstrated that a lot of ground has been covered. The objective of the remainder of this chapter is thus to provide a consolidated overview of the findings of this review of EWC research both by summarising the main issues which have been addressed and by identifying the remaining research gaps within the five EWC research areas identified in this review.

7.2 Historical, legal, and regulatory aspects of the EWCD

The idea behind EWCs – to provide for worker participation or inclusion in management decision-making at the European level in order to close the gap between different national systems of worker participation – dates back to the early 1970s. The sheer number of attempts – most of which failed – to enshrine such participation in European law testifies to the difficulties of actually implementing this idea. The extent of borrowing and adapting from previous legislative attempts is striking, and vividly illustrates the complexities of EU integration more generally. The EWCD has received particular attention as one outcome of these perennial discussions; it is clear, however, that the story is not yet over. As arguably the most widespread instance of experimentation in this particular area of European social policy, the EWCD and its implementation is likely to remain a key reference point for researchers and practitioners alike.

The EWCD is a compromise policy instrument. Although a working group of experts was assembled to try to coordinate its implementation, a number of issues which had threatened to derail the project completely were effectively relegated to the national level for resolution. It is here that the discussions around the transposition of the Directive move from purely legal debate into policy-making more generally.

The effectiveness of the EWC Directive as a social policy instrument is debatable. But this is not particular to the EWCD alone; social policymaking in the EU is hampered by the lack of mature and legitimated executive and legislative authorities and interest groups. It is further hindered by the variation in policy styles and approaches in its Member States. In other words, EU social policy is not analogous to social policymaking in nation-states. Yet the impetus is present to regulate in the social field, not least as a corollary to the EU's regulatory activities in other fields. The flexibility afforded by the Directive on the one hand paved the way for it to be passed at all in light of the decades-long and largely fruitless debate on EWC-type arrangements, but at the same time, this flexibility undermines the very even-handedness which should define regulation. On the other hand, something is arguably better than nothing, as the experience of EWCs in practice has on the whole demonstrated. Furthermore, it does not seem as though the worst fears of opponents of the EWCD have been realised. This is either due to the very weakness of the EWCD or simply to the fact that its bark was worse than its bite.

As controversial as it was at the time, it will be interesting to see the extent to which the EWCD breakthrough sets a precedent for other legislation, notably the European Company Statute and the draft Directive on national information and consultation rules. The revision of the EWCD can also be

expected to provide a catalyst in the social policy field. It remains to be seen, however, just how much fragmentation and improvisation a social policy regime can withstand.

The discussion of whether the EWCD actually installs or protects industrial democracy is to a certain extent analogous to the discussion about the europeanisation (or not) of IR: it all depends on your point of view. On the one hand, the EWCD clearly does not confer the inalienable rights which are the prerequisite for an industrial democracy regime in MNCs across Europe. While recognising that the EWCD stops well short of installing industrial democracy, however, it should be noted that even the exercise of the limited powers it enjoys can enable the EWC to challenge managerial prerogative in important ways. Indeed, several isolated cases have demonstrated that skilful and committed negotiating backed up by stronger participation rights at the national level can enable an EWC to leverage a more substantial role than it is formally accorded. At the end of the day, however, dependence on management goodwill or one's own negotiation skills is about as democratic as dependence on a benevolent dictator.

Further research on the EWC Directive as a social policy instrument should include attention to the following themes:

- The EWCD is likely to occupy a pivotal place in the history of attempts to legislate for worker participation in the EU, since current draft legislation, such as the draft European Company Statute or the draft Directive on national information and consultation rules are expected to draw upon the EWCD. What is the significance of the policy approach exemplified by the EWCD in such policy lineages?
- Will the Social Dialogue develop further? If so, what role did the failed 'talks about talks' around the EWCD play in this process? Has the practical experience with EWCs had any effect on the approach of the European trade union organisations and employers confederations towards EU social policymaking more generally?
- The EWCD left a number of difficult issues to be resolved at the national level; accordingly, the respective national implementing legislation varies. Has anything been "lost in the translation"? What do these variations in structural conditions mean for the comparison of practice of EWCs?
- A number of important amendments, inspired by practice and comparative legal analysis, have been suggested for the revision of the Directive. Will a revised EWCD provide a more effective or consistent regulatory framework?
- What is the policy outcome of the EWCD? Will the EWCD mark a point from which EU social policy became more fragmented, haphazard, and pragmatically opportunistic? Or will it prove an important milestone in the development of a uniquely European approach to social policymaking capable of integrating national differences while regulating minima across them?
- How can we characterise the emerging social policy style of the EU? Will a strategy of 'enforced voluntarism' become the stock solution, spreading to other areas of social policy? Or will EU

policymakers and European level interest groups earn the legitimacy to develop and maintain consensus-oriented 'euro-corporatism' as the driving policymaking approach?

- Does the EWCD represent a step forward towards the exercise of industrial democracy within MNCs? What are the minimum conditions to be attained before we can speak of transnational industrial democracy? Will individual EWCs negotiate rights of true participation? Will forthcoming EU legislation, building upon the EWCD, provide a better platform?

7.3 Empirical research on EWCs

An appreciable body of empirical knowledge has been established. Macro-level analyses of the provisions of EWC agreements provided regular overviews of overall developments in the field. Descriptive analyses of the spread of EWCs across countries, sectors, and time, and of the diffusion of procedural and substantive provisions in EWC agreements revealed that while some developments were initially largely isolated, they increasingly converged over the course of time. Explanatory analyses of EWC agreements sought to identify country of origin and sector-specific factors to account for variation in the structural and operational features laid out in EWC agreements. The adoption of the EWC Directive, and with it, the subsidiary requirements, in effect consolidated, but did not unify the range of negotiated variation.

These broad-scale macro-level analyses of EWC agreements were complemented by micro-level analyses of EWCs in practice; single and comparative case-study research shed focussed light on the progress of EWCs into previously uncharted territory. There are interesting continuities of experience linking the few hardy pioneers of the pre-Directive phase to the crowd of EWCs established just before the September 1996 deadline. In particular, the challenges of organising and maintaining cross-border employee cooperation is an issue meriting ongoing concern. Indeed, this has emerged as the single most important issue in the growing body of case study analysis. Single and comparative examination of the effects of external factors (such as company restructuring and national employee representation traditions), and of internal factors (such as the training and trade union support) revealed that while a number of factors were found to have had an influence, it is not at this stage possible to generalise these findings. Firstly, the findings are highly case-specific, and secondly, methodological differences in research approaches mean that actor-centred approaches on the one hand, and structure-centred approaches on the other yield at times contradictory findings.

There is still much to be done. Given the large number of relatively young EWCs, it is all the more important to keep an eye on the development of EWCs as a new IR institution. In particular, the more empirical knowledge accumulates, the more important it is to build bridges between the macro-level

analysis of the distribution of certain forms of EWCs across countries and sectors, and the micro-level case study analysis of individual EWCs – in other words, to link the analysis of rules to the analysis of practice. Obviously, large-scale comparative research can enable us to better grasp the similarities and differences between EWCs, but ‘virtual collaboration’ through the public exchange of knowledge between smaller-scale individual research projects will continue to play an important role in expanding our knowledge base, filling in gaps, refining our research instruments, and identifying new areas of research.

We have seen very a wide range of experience thus far. Of course, the majority of EWCs are still finding their feet. At the same time, cases in which EWCs have developed distinct roles within company-level IR systems have already been identified. Some EWCs act as clearing houses for information, providing at most strategic impulses for IR at lower levels, while others have taken on the role as peak negotiator in company-level IR. Empirical research has also revealed that while the actual practice of some EWCs goes well beyond the formal provisions laid out in the actual agreements, other EWCs do not amount to much more than an annual sales briefing.

This brings us to the issue of the ‘effectiveness’ of EWCs. Most research on the actual practice of EWCs has implicitly or explicitly addressed whether or not EWCs are effective – in many cases without, however, defining what exactly makes for an ‘effective’ EWC. ‘Effectiveness’ can only be assessed and compared once we know what we are measuring it against: an interpretation of the intention of the Directive? Different national models? Different reform approaches to those national models? Various proposed models of European IR? In the absence of any agreed standard; the ‘effectiveness’ of an EWC is clearly in the eye of the beholder; it may only be slightly exaggerated to suggest that there are probably as many different conceptions of ‘effectiveness’ as there are EWC researchers. Furthermore, it must be recognised that among the key EWC actors – trade unions, workplace representatives and management – there are also widely varying understandings of what constitutes an ‘effective’ EWC.

It seems clear that there is no ‘one size fits all’ EWC; we should expect the role, character, and *modus operandi* of an EWC to continue to vary with each company, just as shop stewards committees, *Betriebsräte* and *comités d’entreprises* vary widely within national IR systems. To be sure, external factors such as trade unions, national IR systems, and sectoral developments can be expected to exert an influence, and even to lead to identifiable patterns of EWC practice. However, we may better be able to come to terms with the continued wide variation in EWC practice if we take a step back: it might prove useful to first identify what role the EWC can and is developing within the overall company context, rather than to pre-judge an EWC by applying an (unspecific) standard of

effectiveness. Empirical research has shown that the actual roles played by EWCs can and do vary widely, from playing no discernible role whatsoever, to being a source of useful information for lower levels of IR, to taking on bargaining responsibility for the entire European workforce. In other words, they may play a supporting role in company-level IR or they may actually drive company-level IR. Between these two poles a number of variations are conceivable. Only by understanding the distinct place of an EWC within the framework of other levels of employee representation and in the overall context of company and sectoral developments can we begin to judge whether it is effective or not in fulfilling that particular distinct role. In short, until we know what role a mature EWC occupies, it is moot to discuss whether it is effective or not.

While we can reasonably expect EWCs to remain highly individualistic, we can nonetheless expect patterns to emerge. Questions for further research in order to explain such patterns and variations include:

- Many EWCs are expected to come up for renegotiation. Here, it will be important to keep track of which issues come up in (re)negotiations and why. Will the provisions of EWC agreements continue to converge, or will there be important differentiations? To what can such process of convergence or divergence be attributed?
- How can we explain cases in which the actual practice of EWCs goes beyond formal provisions? Conversely, why do some EWCs fail to live up to their agreements? How can we explain these differences? Can we identify learning processes on the part of management, employee representatives, and trade unions? What is the influence of sector, country of origin, or structural factors? What role do trade unions, managerial approaches and company-specific issues play?
- How many different kinds of EWCs are there? What is the range of roles occupied by maturing EWCs? What factors shape the developmental process of accommodation and integration? What determines an EWC's ability to fulfil a distinct role within company-level IR? How does the intersection of internal and external factors affect this role? In particular, how important is the 'fit' of the EWC with existing decision-making structures and with existing employee representative structures in this process of development, accommodation, and actual practice?¹⁴
- How do EWCs deal with intra-company competition? What factors increase the likelihood of such competition? Even in cases where there is no active negotiating role, does the EWC see its ultimate purpose in eliminating competition between sites? If so, how do they go about developing and maintaining committed strategies to resist being played off against one another?

¹⁴ It is not without some sheepishness that we break our own rule of not including grey literature such as working papers here. But a paper (Hoffmann et al., 2001) presented at the IREC 2001 conference found that the fit of EWCs with existing decision making structures had important consequences for the implications of EWCs for national and local IR.

7.4 The role of management

So far, most studies have either focussed on the employee-side or on structural factors influencing the political and legal origins of the EWCD, the internal developmental paths of EWCs, or the europeanisation of IR. However, as Keller (1995b) for example, points out, pro-active managements of MNCs may equally trigger processes which could eventually lead to the development of decentralised company-specific European IR via negotiations with ‘their’ EWCs and by using EWCs as a European HRM tool. This assertion is exemplary for an overall tendency in EWC research: while several studies have mentioned management as an important potential actor, little or no research has actually focussed on examining how management responds to EWCs, let alone the extent to which management actually uses EWCs to its own ends. Instead, a catalogue of potential costs and benefits to management has been developed, or the possibility has been raised that management initiatives might shape EWCs’ development as much as the employee-side’s own initiatives. It is striking that the focus consistently lies on what might happen, not on what has actually happened.

In order to identify the significance of management initiatives (insofar as any exist) for the development of EWCs most generally, or for a European system of IR in particular, EWC research must move beyond treating management merely as an external factor which supports or constrains the development of EWCs from an employee-side perspective. Rather than viewing managements as a reactive force, EWC research should start to take more into account the fact that managements themselves can take the initiative to develop forms of European-level IR which suit their particular needs.

Furthermore, the existence of EWCs poses significant challenges to management’s own processes. By bringing together management from different levels, or by overtaking previously national-level forms of information and consultation, EWCs can be expected to impact internal managerial information and decision-making processes. This issue has not been addressed at all in the literature that we found.

In order to move beyond the current level of educated speculation we need more sound empirically-grounded answers to the following questions:

- Do managements try to use EWCs to europeanise their HR policies and practices? Are EWCs useful to management in the pursuit of wider business objectives than just Human Resource Management?

- What attitudinal and structural factors serve to facilitate or hamper management's use of EWCs for the europeanisation of their HR policies and practices or for the pursuit of wider business objectives?¹⁵
- What motivation lies behind management decisions to involve the EWC or to respond to employee-side initiatives? Why are some managements willing to concede a negotiating role to the EWC, while others actively resist doing anything beyond complying to the letter of the EWC agreement?
- How has management responded to the need to at least service EWCs? How do they deal with the need to sequence information and consultation procedures in order to comply with both national laws and their own EWC agreements? To what extent do EWCs disrupt existing channels of information, both between levels of management and between management and local or national employee representatives? Has the introduction of centralised information processes via the EWC had an impact on previously decentral or hierarchical information and decision-making processes?

7.5 EWCs, national IR systems, and the europeanisation of IR

The academic analysis of the EWCs' potential impact on the development of a European system of IR is characterised by the existence of two diametrically opposed lines of argument. As we demonstrated in Chapter Six, the differences between the euro-pessimistic and the euro-optimistic assessments can essentially be traced back to their different normative understanding both of the preferred developmental logic and of the corresponding shape of a future European IR system. In accordance with the different normative frames of reference, the analysis of the proponents of each line of argument is guided by different perceptions of the relative importance of structure- and actor-related factors for the development of a European IR system and by different conceptualisations of a European IR system, which naturally lead the authors not only to entirely different interpretations of the developments 'out there', but also to diametrically opposed projections about future developments.

The seemingly irreconcilable approaches and conclusions of euro-pessimistic and euro-optimistic assessments have led to an analytical deadlock in this specific area of EWC research. The easy way out would be to sit back and wait until 'real life' developments corroborate the one and falsify the other line of explanation. A more ambitious and fruitful way, however, to overcome the analytical deadlock and to provide new impetus to the debate about the EWCs' implications for the development of a European IR system would be to follow Platzer and Weiner's (1998) suggestion to look for a new analytical approach which bridges the different theoretical orientations of euro-pessimistic and euro-optimistic analyses and which forges links between the different areas of EWC research.

¹⁵ This set of issues was addressed in a most recent longitudinal research project of the Industrial Relations Research Unit at the University of Warwick: see Marginson et al., 2001.

A first step in this direction could be to put the often very abstract and highly speculative debate about the EWCs' impact on the europeanisation of IR on a stronger empirical footing by testing whether the projections made by euro-pessimists and Euro-optimists have been borne out in practice. Since the assessment of both lines of argument is intrinsically linked to the EWCs' implications for national IR systems – be they adverse in line with the Euro-pessimistic prediction that the EWCD will foster competitive parochialism, which in turn may even contribute to the erosion of national standards or be they beneficial as in the Euro-optimists' prediction that EWCs not only considerably extend the employee-side scope for political action and cross-border coordination but also prompt national IR actors to 'europeanise' their structures and strategies – research into the knock-on effects of EWCs at national level represents a useful empirical testing ground for the europeanisation debate. Put differently: empirical research into the 'national implications' of EWCs could provide important clues concerning the plausibility of the different assumptions about the developmental logic of a European IR system. It could thus enable EWC research to get to the very core of the analytical deadlock within europeanisation research by challenging the normative frames of reference.

However, as we showed in Chapter Five, there has thus far been no systematic in-depth empirical investigations of the EWCs' implications for national systems of IR. The few studies which address the relationship between EWCs and national IR systems are either highly speculative themselves¹⁶ or focus almost exclusively on a normative assessment of the potential contribution of national IR systems to making EWCs more effective. Hence, in order to provide new impetus to the debate about the EWCs' implications for the europeanisation of IR, the investigation of the knock-on effects of EWCs at the national level needs to be intensified. A reversal of the 'upward' analytical focus developed in Lecher et al.'s (1998) four fields of interaction could prove a useful heuristic tool: Lecher et al. focus on the normative analysis of what needs to be done within the each field of interaction in order to make EWCs more effective. An analysis with a 'downward' focus of these same four fields of interaction (between the EWC and national company-level representation structures, trade unions, and management, respectively), may enable us to understand the effects of EWCs on lower levels of IR.

Translated into the formulation of an EWC research agenda which links europeanisation research with that into the 'national-level implications' of EWCs, two key themes emerge for future in-depth comparative empirical analysis: the impact of EWCs on national regulation systems and national company-level representation structures and the impact of EWCs on national trade union structures and strategies. In the following, we set out to formulate concrete research questions which may serve

¹⁶ Notable exceptions are the studies by Telljohann (1998) and Cattero (1998) on the situation in Italy.

to revive the europeanisation debate through intensified empirical research into the effects of EWCs on national IR systems.

7.5.1 Direct impact of EWCs on national regulation systems and company-level representation structures

Important aspects to be investigated within this theme are the effect of EWCs on national regulation regimes and the relationship between EWCs and national company-level representation arrangements. Particular attention should be paid to the potential impact of EWCs on the strategic orientation of national representation structures and the key individuals within these structures; i.e. whether EWCs foster the emergence of a 'European' attitude among national workplace representatives or whether they on the contrary reinforce parochialism and the pursuit of national interests at the expense of other national interests or collective interests at the European level. Against this background, the following complex of questions needs addressing:

- Are there any indications that EWCs have set in motion a downward spiral eroding national regulations in countries with strong employee rights, as predicted by some euro-pessimistic observers? Can we see convergence and policy diffusion in action?
- Do EWCs foster intra-company competition between different sites in the various countries on the basis of newly acquired comparable information? Do EWCs lead to the emergence of new national coalitions between central management and domestic workforces and unions, rather than replicating the classical labour – management divide at the European level?
- Conversely, do EWCs serve as a tool to weaken competition between different sites? Do EWCs prompt an increase in transnational networking among employee representatives? If so, what is the purpose and the outcome of these networking activities?
- Do EWCs lead to the emergence of micro-corporatist or syndicalist arrangements within the company between management and 'their' EWCs to the exclusion of trade unions? While this may prove most problematic within dualistic IR systems, the implications for monistic systems must also be investigated. What is the status and role of European company-level framework agreements negotiated by EWCs and central management in a growing number of companies? Should they be seen as a first sign of an emerging multi-level system of European IR or are they the harbingers of a fragmentation of national regulation regimes?
- Has the need to service or embed the EWCs led to the emergence of new representation structures at company-, national-, or local level? If so, what are the rights and functions of these structures? What is the effect on already existing representation structures and on lower levels of industrial relations within the companies? Where EWCs are found to have strengthened or even weakened the role of existing structures, these same questions should be addressed to the whole complex of representative structures within the company, in order to identify possible shifts resulting from the EWC.

7.5.2 *The impact of EWCs on national trade unions*

Since the euro-optimistic argument is heavily based on the assumption that EWCs may foster transnational trade union cooperation, the impact of EWCs on national trade unions is another key area to be investigated in more detail. A central argument of various euro-optimistic authors is in particular that EWCs prompt national trade unions to adapt and ‘europeanise’ their structures and strategies. In this context, Lecher et al. (1999) and Lecher and Müller (2000) for instance refer to trade union internal structural changes such as the extension of international departments; the setting up of new European departments; the establishment of cross-departmental EWC task forces and/or projects; and the setting up of European liaison offices in Brussels. These developments can initially be taken as indicators for a general pro-European strategic re-orientation of national trade unions. However, the establishment of new institutional arrangements or the strengthening of already existing ones does not in itself suffice to speak of an emerging europeanisation of national trade union agendas. There is still the possibility that these measures are only piecemeal institutional innovations or are even mere window dressing. Thus, what we still need is the systematic comparative empirical investigation of the EWC-related activities of national trade unions which addresses the following themes:

- Have EWCs fostered the development of transnational trade union coordination and cooperation? If so, on what issues and to what effect? What are the links between national trade union organisations and the European Industry Federations in dealing with EWCs? Where European sectoral EWC task forces have been established, what is their function and practical effect?
- Do the various national trade unions have a strategy to utilise EWCs for their own objectives? Perhaps even more importantly: what are the objectives of such strategies? How do EWCs rank on the list of strategic priorities of national trade unions in relation to other ‘purely national’ issues?
- What EWC-related activities and initiatives are going on within national trade union organisations? Which departments are engaged in which activities and are there mechanisms of cross-departmental co-ordination in place? Where such arrangements exist, what are the practical results of these intra- and cross-departmental – and perhaps even cross-union – initiatives?
- What is the internal support base of such initiatives? How are these initiatives implemented and how are they received by rank-and-file members and workplace representatives?¹⁷ Are there any signs of the emergence of a more outward-looking generation of trade union officers and/or workplace representatives, which some observers view as important carriers of the development of a European system of IR?

¹⁷ As Waddington’s (2001) recent survey-based article on the perceptions and practical experiences of unionised EWC representatives from five countries demonstrates, first attempts have been made to address this particular question.

7.6 Conceptual Outlook and Concluding Remarks

The theme of europeanisation cuts across all of the research areas we have identified. Europeanisation is of course the pre-eminent idea behind the historical and legal analysis of the EWCD as social policymaking in the EU. The empirical research on EWCs is driven by EWCs' potential to europeanise IR at the company level by closing the gap between IR systems which end at national borders. Regardless of whether management decision-making structures are otherwise multi-local or global, the need to service and possibly respond to EWCs may serve to europeanise management in MNCs to at least some extent. Finally, there is a very close link between the discussions about the possible europeanisation of IR and the implications of EWCs for national-level IR systems; the latter is the prerequisite for the former, whether one adopts a euro-optimistic or a euro-pessimistic perspective.

The various questions suggested for future research as a result of this review of EWC research are here still embedded into the different parallel streams of EWC research which we identified. This exercise reveals not only the different degrees of maturity of the analyses within the different streams of EWC research but it also demonstrates the need for a more holistic perspective which might enable EWC research to overcome its differentiated character in order to make further progress in both 'mature' and 'immature' areas of EWC research. It is by now abundantly clear that for a genuine understanding of the dynamics involved in the development of EWCs and its multi-directional potential implications for different actors at different levels of local, national and European IR, EWC research has to refine its conceptual and analytical tools by bridging geographical and disciplinary academic divisions and by forging links between seemingly unrelated 'niche areas' of EWC research. The closest EWC research has so far come to developing such an integrating – one might say 'European' – approach is Platzer and Weiner's (1998) outline of the empirical and theoretical prerequisites which such an approach must fulfil. As noted above, they argue that an integrated approach to EWC research should be based on a perspective which links the qualitative and comparative investigation of social communication and interaction processes within EWCs with a cross-country comparative analysis of the 'objective' structural framework conditions into which the EWC-internal interaction processes are embedded – i.e., those set by national employee representation structures and transnational initiatives of trade unions, employers' federations and EU institutions. These structural framework conditions necessarily influence – but do not determine – the development of EWCs. Platzer and Weiner (1998) suggest a pragmatic-eclectic combination of middle range IR theories as the conceptual basis for such an integrating approach. Such theories serve to integrate institutionalist approaches with social action – and in particular negotiation-centred – approaches (Müller-Jentsch, 1996: 57).

Linking the suggestions made by Platzer and Weiner (1998) with the findings of this review of EWC research, it is possible to define certain conceptual criteria which such an integrating approach to EWC research should fulfil in order to overcome the atheoretical character of EWC research: first and foremost, as Hyman (2000) emphasises, such an approach must add explanatory purchase which captures the open-ended and highly case-specific dynamics of the EWCs' development. The intention cannot (and should not) be to provide an input-output model which tries to predict the behaviour of EWCs, but rather to develop what Hyman calls "classificatory instruments" (2000: 6), which explain variation in behaviour and implications of EWCs. Second, such an integrating approach should aim to combine the analytical strengths of different disciplinary and national research traditions, rather than viewing them as mutually exclusive. This means more specifically that this new approach to EWC research should try to overcome the ontological divide between macro- and micro analysis and, closely linked with this, between structure- and actor-centred analysis and furthermore the methodical divide between survey- and case study-based research. It should consequently embrace the view that the development of institutions such as EWCs is shaped by the social interaction processes of individual actors, who are historically, politically and economically situated in a specific structural context of constraints and opportunities through which both their objectives and actions are mediated. The resulting interaction processes, however, re-create and potentially change the structural context within which they take place. Such a perspective is incompatible with structural-deterministic approaches; it does not mean, however, that 'anything goes'. Since perceptions and structural contexts influence one another, the strength of such an approach would be that it takes into account the investigation of the case-specific perceptions and motivations of the individual actors involved and links this with research into their structural context. As a corollary of this, such an integrating approach would have the potential not only to explain variations in the development of EWCs as such but also variations in their implications for different local, national and European actors and institutions. In particular, such an approach – and this marks the third and final conceptual criterion – would also include cross-national comparative and/or longitudinal analysis in order to go beyond the level of a mere snapshot analysis by capturing the processual character of the development and potential implications of EWCs.

The realisation of such an integrating 'European' approach to EWC research seems very ambitious in light of the complex structural context into which EWCs are embedded and the multitude of actors involved. However, the complexity could also be seen as a chance for the generation of innovative findings through the iterative and mutually influential process between empirical and conceptual progress. We hope that this review of EWC research may serve to stimulate further progress in both areas.

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