

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|--|---|---|
| <p>AUSTRIA (Federal Act amending the Labour Constitution Act (Arbeitsverfassungsgesetz), the Federal Act on Employee Representation in the Post Office (Bundesgesetz über die Post-Betriebsverfassung) and the Labour and Social Security Courts Act (Arbeits- und Sozialgerichtsgesetz) 15 July 2004</p> | <p>Chosen from among works council members, although a trade union official or employee can be chosen instead of a works council member. (§217)</p> <p>The body making the choice is the works committee (Betriebsausschuss), if the decision is at workplace level. If there is no works committee then the decision is taken by the works council. If there are several works committees/works councils then the chair of the largest (in terms of employees) calls a meeting of all the works committees/works councils, which then takes the decision. In companies the choice is made by the central works council. If there is no central works council in a company then the rules for the workplace level apply. If there are several central works councils then the chair of the largest summons a meeting of all central works councils, who take the decision. If there is are some works committees/works councils who are not represented in the central works council, then the chairs and vice chairs of these bodies are invited to the meeting and count as members of the central works council. In groups of companies the choice is made by the group works council (Konzernvertretung). If there is no group works council then the rules for company or workplace level apply. If some companies or workplaces are not represented in the groups works council then the chairs and vice chairs of these bodies are invited to take part. (§218)</p> <p>In making the choice account should be taken that</p> | <p>Trade union official or employee can be chosen as part of SNB instead of a works council member. (§217)</p> <p>No specific reference to unions in choice of experts, only “experts of its choice” (§220 (2))</p> |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|--|---|--|
| | both manual and non-manual workers and men and women should be represented. (§217) | |
| <p>BELGIUM Royal Decree implementing Collective Labour Agreement No 84 of 6 October 2004 (Convention Collective de Travail No 84), concluded within the National Labour Council, concerning the involvement of employees in the European company 22 December 2004</p> | <p>In principle, SNB members are chosen by and from among members of the works councils (conseil d'entreprise). If they cannot reach agreement then the members of the SNB are determined by majority. If there is no works council then the members of the SNB are chosen by the health and safety committees in the companies concerned. If there is no works council or health and safety committee then the trade union delegations can choose the SNB members, provided the joint union management committee for the industry agrees. If there is no works council, no health and safety committee and no agreement by the joint committee, then the employees have the right to vote for their representatives (Annex Sub-section IV Article 9)</p> | <p>The SNB delegation may include "representative of the representative organisations of the employees" – unions – whether or not they are employed by the company (Annex Sub-section IV Article 9) SNB can also be assisted by experts of its choice, who may include representatives of EU level trade unions (Annex Sub-section VII Article 16)</p> |
| <p>CYPRUS Act supplementing the Statute for a European company with regard to the involvement of employees No 277(I)/2004 of 31 December 2004</p> | <p>Elected from the existing trade union organisations which represent employees or, "if such organisations do not exist" by direct election of employees (Section 7 (1)).</p> | <p>The legislation does not specifically limit membership to employees. No specific reference to trade unions as providing experts, only "experts of its choice", although there is a reference to "coherence and consistency" at EU level (Section 8 (2))</p> |
| <p>CZECH REPUBLIC</p> | <p>Chosen by employee representatives at a joint meeting. (Section 48 (2)) and Section 25e (4) of the</p> | <p>Employees can be represented by someone not employed by company</p> |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|---|---|---|
| (Act of 11 November 2004 on the European Company) | <p>Czech Labour Code). Employee representatives under Section 18 (1) of the Labour Code are the trade union organisation, the works council or health and safety representatives. But a works council can only be set up where there is no union and should be dissolved when a union starts to function. If there are no representatives the employees can elect representatives to participate in the joint meeting (Section 25e (4) of the Czech Labour Code).</p> <p>The votes held by each representative are allocated in proportion to the number of employees represented (Section 25e (4) of the Czech Labour Code).</p> | <p>involved if “authorised or designated by a trade union organisation of such employees”</p> <p>Experts specifically include “especially the representatives of trade union organisations at the level of the European Communities” (Section 49 (2))</p> |
| <p>DENMARK</p> <p>Act on the involvement of employees in European companies</p> <p>Act No 281 of 26 April 2004</p> | <p>Elected from among the employees by the employee’s representatives on the co-operation committees (samarbejdsudvalgene) of the participating companies. Where there is no co-operation committee the members are elected by the union representatives. Where there are no union representatives or where agreed by management and representatives, SNB members are elected by all employees. (§9 (1))</p> <p>If requested the co-operation committee or group of union representatives can be supplemented by representatives of groups who are otherwise not represented (§9 (2))</p> | <p>The legislation does not allow for SNB members who are not employees. However, it specifically states that representatives of European Trade Union organisations may attend as experts (one paid for). (§13 (1 &2))</p> |
| <p>ESTONIA</p> <p>Act on the Involvement of employees in the</p> | <p>Elected at general meeting of all employees (§54 and § 17). If there are several undertaking or enterprises involved then chosen by joint</p> | <p>The legislation does not specifically limit membership to employees. In relation to experts it also states that</p> |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|--|--|--|
| <p>affairs of a community –scale undertaking, a community scale group of undertakings, or a European Company, 12 January 2005</p> | <p>representation made up of groups of three delegates elected by each undertaking or enterprise</p> | <p>they may be representatives of trade unions of the “relevant level” of the EU (§58 (1))</p> |
| <p>FINLAND No 758 Act on the involvement of employees in European companies Helsinki, 13 August 2004</p> | <p>Staff choose SNB members by “agreements or elections”. Where the procedure cannot be agreed the health and safety officers representing the largest number of employees should arrange an election or some other procedure so that all members of staff can participate. (§8)</p> | <p>The legislation does not specifically say that SNB members must be employees but it also does not say that they may be external union officials. It does refer to EU level trade union officials participating as experts (§14)</p> |
| <p>FRANCE Loi du 26 Juillet 2005 pour la confiance et la modernisation de l'economie (The article numbers refer to Labour Code)</p> | <p>Chosen by the unions from among their elected representatives on works councils at either company or plant level (comités d'entreprise or comités d'établissement) or from their trade union representatives on the basis of the results of the most recent elections. The seats are divided between the electoral colleges on the basis of the number of employees represented and between the union within each college on the basis of the number of elected members they have within each college. (Article L 439-29) If there is no union SNB members are elected directly by the employees. (Article L 433-30)</p> | <p>The trade union representatives referred to in the legislation are likely to be the union delegates, who are company employees. No reference to experts being union officials. (Article L439-31)</p> |
| <p>GERMANY Law on the introduction of the European Company 22 December 2004</p> | <p>Chosen by an election body (Wahlgremium) with a maximum of 40 members in a secret ballot. Both employee and trade union representatives can, and in some cases must, be elected and the number of male and female members is to be in proportion</p> | <p>Both employees and trade union representatives can, and in some cases must, be chosen as members of the SNB. (Article 2 §6 (2)). If there are more than two German members</p> |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|-----------------------|---|--|
| | <p>to the number of male and female employees. (Article 2 §6 (2)) Where only one union representative is being elected the nomination should include at least twice as many candidates as seats (Article 2 §8 (1)).</p> <p>Where only one group of companies is involved, the election body is composed of the members of the group works council (Konzernbetriebsrat), or, if this does not exist, the members of the company works councils (Gesamtbetriebsräte), or where these do not exist the members of the works councils (Betriebsräte). Where there are workplaces and companies without a works council these are represented by the bodies that do exist (Article 2 §8 (2)).</p> <p>Where there is only one company or one workplace involved, similar rules apply with the company works council or the works council respectively taking the position of the group works council (Article 2 §8 (3&4)).</p> <p>Where there are several groups of companies or a mixture of groups of companies and independent companies or workplaces, the election body consists of the members of the group, company and works councils. If there are no employee representatives and several groups of companies, or groups of companies and individual companies/workplaces, the members of the election body are elected directly by the employees (Article 2 §8 (5)).</p> <p>If there are no employee representative bodies the</p> | <p>of the SNB then every third member must be a representative of a trade union that has members in the company (Article 2 §6 (3)). If there are more than six German members of the SNB then at least every seventh member must be a senior manager (leitender Angestellter). (Article 2 §6 (4)).</p> <p>The SNB can also use experts, including those from the relevant trade union bodies at European level (§14)</p> |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|--|---|---|
| | members of the SNB are chosen by the employees in a secret ballot (Article 2 §8 (7)). | |
| GREECE | Legislation not yet transposed | |
| HUNGARY Act XLV of 2004 on the European Company 24 May 2004 | Appointed by the works council, the central works council, if one exists, or the central works councils jointly where there are several (Article 21 (1)). If one of the companies or workplaces involved does not have a works council, the employees concerned should elect a representative to attend the meeting of the works council to make the choice (Article 22 (1&3)). More than half of the employees involved should vote for the election to be valid (more than one-third if the election is rerun) (Article 22 (5)). | Yes – Trade union members who are not employees of the companies involved “may also be appointed” to the SNB (Article 21 (4)). The SNB can also use experts, including appropriate EU-level union representatives (Article 27) |
| ICELAND Act on the involvement of employees in European Companies 27 April 2004 | Elected by union representatives with direct election by all employees if no union representatives have been appointed (Article 6) | SNB members are elected from among their own number and union representatives are employees (Article 6) However, legislation refers to appointing experts who may be representatives of the appropriate trade union organisations within the EEA (Article 7) |
| IRELAND | Legislation not yet transposed | |
| ITALY | Elected or appointed by and from the trade union representative body (RSU/RSA) in conjunction with | The legislation says that SNB members do not have to be |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|--|--|--|
| <p>Decreto Legislativo 19 August 2005, n. 188: "Attuazione della direttiva 2001/86/CE che completa lo statuto della società europea per quanto riguarda il coinvolgimento dei lavoratori"</p> <p>Published in the <i>Gazzetta Ufficiale</i> n. 220 21 September 2005</p> | <p>the union organisations which have signed the agreement covering the company. They do not have to be employees of the company involved (Article 3,3,b)</p> | <p>employees of the company involved (Article 3,3,b), but they are elected from the trade union representative body, which normally consists of company employees</p> <p>The SNB can also request experts of its choice such as representatives of EU level unions</p> |
| <p>MALTA</p> <p>Employee involvement (European Company) regulations 2004</p> <p>22 October 2004</p> | <p>Directly elected by employees (Article 5(1))</p> | <p>Trade unionists who are not employees may be members of the SNB if the management of company permits (Article 5 (2 dii))</p> <p>Unions are not specifically referred to in the section on experts (Article 6 (5))</p> |
| <p>LATVIA</p> <p>European Company Law</p> <p>24 March 2004</p> | <p>Employees may decide that they should be represented by existing employees' representatives. In practice these are the union representatives at the workplace. Where this is not the case new representatives are elected (Section 19) Where there are both union and non-union representatives, they should agree on members of SNB (Section 19)</p> | <p>Legislation does not specifically exclude union officials as members of the SNB.</p> <p>Unions are not specifically referred to in the section on experts (Section 23)</p> |
| <p>LIECHTENSTEIN</p> <p><i>Draft proposal</i></p> <p>15 February 2005</p> | <p><i>Chosen by existing employee representatives. Only if these do not exist are they directly elected (Art 9 2)</i></p> | <p><i>No – must be employees (Art 9 3. However, can choose union official as expert – other types of expert not referred to. (Art 13 1)</i></p> |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|--|--|---|
| <p>LITHUANIA Law on the involvement of employees in decision-making in European Companies</p> | <p>Appointed by employees or their representatives. If not appointed within 30 days or there are no employee representatives then appointed by a secret ballot at a general meeting of employees (Article 11)</p> | <p>Legislation does not specifically exclude union officials as members of the SNB. Unions are not specifically referred to in the section on experts (Article 18 (3))</p> |
| <p>LUXEMBOURG <i>Draft proposal</i> 21 January 2005</p> | <p><i>Chosen or elected by the employee delegates. If there are no employee delegates SNB members are elected by the employees (Article 5)</i></p> | <p><i>SNB members can either be chosen from among employees or from among trade union representatives (Article 5 (2))</i> <i>Union representatives at EU level may also be involved as experts.(Article 6(4))</i></p> |
| <p>NETHERLANDS Act of 17 March 2005 implementing Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees (Involvement of Employees (European Companies) Act) (<i>Wet rol werknemers bij de Europese vennootschap</i>)</p> | <p>Appointed by works councils in the companies, subsidiaries and workplaces involved (Article 2:5 (2)). Where there is one or more central works council (central ondernemingsraad), the appointment is made by it or them (Article 2:5 (3)). Where there is no central works council but one or more group works council (groepsondernemingsraad), the appointment is made by it or them (Article 2:5 (4)). Where not all works councils are represented in the group or central works council the appointment is made by the central or group works council(s) and the works councils that are not represented (Article 2:5 (5)). Where there is no works council the Dutch members</p> | <p>Legislation does not restrict SNB membership to employees. Unions are not specifically referred to in the section on experts (Article 2:10)</p> |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|---|---|--|
| | of the SNB are elected by all employees. Unions which have members in the companies involved may make nominations, as may employees who are not union members. | |
| <p>NORWAY Forskrift om arbeidstakernes rett til innflytelse i europeiske selskaper.</p> | Chosen by local trade union organisations if they represent at least two-thirds of employees. If they do not represent two-thirds then SNB members are directly elected by the workforce (§6) | Members of SNB are elected from among employees. But union representatives can be present as experts if requested (§7 (6)) |
| <p>POLAND Law of 4 March 2005 on the European Economic Interest Grouping and the European company</p> | <p>Appointed by a representative of the company's trade union organisation. If no organisation SNB members are elected through a staff meeting (Article 65 (1)).</p> <p>Where there is more than one union, the unions should jointly decide who is to be appointed (Article 65 (2)). Where they cannot agree the members are elected by a staff meeting on the basis of lists put forward by the unions. Where there are no lists they are elected by the staff meeting (Article 65 (3)).</p> <p>Where there are several employers in Poland, seats on the SNB are allocated in proportion to the number of employees involved so that as far as possible there is one member of the SNB from each company covered (Article 68 (1)).</p> | <p>SNB may include union representatives who are not employees of companies involved (Article 65 (7)). But employees should be in a majority in SNB (Article 65 (8))</p> <p>No specific reference to unions on section on experts (Article 71 (3))</p> |
| <p>PORTUGAL Decreto-Lei que transpõe para a ordem jurídica nacional a Directiva n.º 2001/86/CE, do Conselho, de 8 de Outubro, que completa o</p> | Chosen through agreement between the works council and the union organisations, or by the works council alone, where there is no union, or by the unions if they represent two-thirds of the employees, or if this cannot be verified, through the agreement | <p>SNB may include union representatives, irrespective of whether they are employees of the companies involved (Article 38 (3))</p> <p>No specific reference to union on</p> |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|--|--|---|
| estatuto da sociedade europeia no que respeita ao envolvimento dos trabalhadores | of local unions which each represent 5% of the employees. (Article 39 (1)) | section on experts (Article 12 (2)) |
| SLOVAKIA Act of 9 September 2004 on European companies and amendments to some acts | Appointed by employee representatives through joint negotiation (§37 (2) and §244 (4) of the Labour Code). Under the Labour Code employee representatives are “the competent trade union body, works council or works trustees” (§11a (1) of Labour Code) | Slovak employees may be represented on the SNB by an individual who is “not an employee” of the companies involved (§38 (9)) No specific reference to unions on section on unions (§39(2)) |
| SLOVENIA | Legislation not yet transposed – no text available | |
| SPAIN <i>Draft bill published 25 November 2005</i> | <i>Chosen by the unions which together have a majority on the works council or works councils, or the employee delegates (for smaller workplaces)(Article 29 (1))</i> | <i>Members of the SNB can either be employees or trade union representatives, who are not employees (Article 29 (1) & (5))</i> <i>Section on experts specifically refers to the appropriate European trade union organisations (Article 9 (5))</i> |
| SWEDEN Act on the involvement of employees in European companies Adopted on 10 June 2004. | Selected by the local union organisations that have collective agreements with the company. If there are several local union organisations and they cannot agree then the body representing the largest number of employees has the first choice. If there are several members to be chosen and the unions cannot agree then detailed rules apply (§16). These | The legislation does not specifically state that only employees must be chosen – but it would be very unusual if this were not the case. No specific reference to trade unions as providing experts, only “experts of its choice”, although there is a |

Employee involvement in European Companies: Special Negotiating Bodies (SNB)

Lionel Fulton, Labour Research Department

| Country (Legislation) | Arrangements for choosing SNB members | External trade union members |
|--|---|---|
| | <p>state for example that if one union it represents 80% of the employees it appoints all SNB but if no organisation represents more than 80% the seats are shared between the two unions, representing the largest number (Board Representation (Private sector employees) Act 1987:1245).</p> <p>If the company or plants involved do not have a collective agreement with a union, the local union organisation with the largest number of members will choose the Swedish members of the SNB, unless it agrees otherwise with other union organisations (§17)</p> <p>Where there is no local union organisation the SNB members are selected by the employees themselves (§18).</p> | <p>reference to experts being present “to promote coherence and consistency” at EU level (§23)</p> |
| <p>UK The European Public Limited-Liability Company Regulations 2004 SI 2004 No. 2326 Laid before Parliament 13 September 2004</p> | <p>Elected by employees unless there is an existing “consultative committee” (Sections 23 (1) & 25 (1)). If there is a consultative committee it can appoint the member or members of the SNB (Section 25 (2)). A consultative committee is one which represents all employees, whose normal functions include information and consultation, consists entirely of employees in the companies concerned and can carry out its functions without interference from management (Section 25 (3)).</p> | <p>An SNB member, whether elected or appointed by a consultative committee can be either a UK employee or, provided management agrees, a representative of a union who is not an employee (Section 23 (3d)).</p> <p>No specific reference to union in section on experts (Section 29 (5))</p> |