

# **TRANSNATIONAL REPRESENTATION BY EUROPEAN WORKS COUNCILS IN THE PASSENGER AIRLINE INDUSTRY**

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## **ABSTRACT**

Mergers and acquisitions have reduced the number of European Works Councils (EWCs) in the airline industry over the past two decades. In addition, start-up low-cost airlines have been reluctant to form EWCs. Only 5 of the 11 eligible transnational passenger airlines have established EWCs. This limited number of airline EWCs reduces airline employees' opportunity to be involved in strategic decision making in areas such as tourism. All of the available EWC agreements provide the opportunity for management and employee member consultation, the offering of opinions, and providing information related to European transnational operations. The Lufthansa Group and the International Airlines Group EWC agreements contain more subject areas for discussion than the Air France-KLM agreement. Only the Lufthansa Group EWC agreement includes the topic of environmental protection.

**KEYWORDS:** European, Works Councils, Airlines, Transnational, Corporate Decisions.

## 1. INTRODUCTION

It is timely to examine European works councils (EWCs) in transnational airlines on the 25th anniversary of the European Union (EU) Directive 94/45/EC legislating EWCs. The purpose of the EWC legislation was to improve operations and relations in large firms with European transnational operations through consultation and information sharing between management and employee representatives. "European Works Councils provide for a common platform for exchange on transnational issues between employees and employers' representatives across EU Member States and EEA [European Economic Area] countries. Through them, workers are informed and consulted by management on the business's progress and on any significant decision at the European level that could affect their employment and working conditions." (European Commission, 2018a: 3)

This study aims to provide an overview of the EWC legislation, review prior EWC studies relevant to the airline industry, and analyse active EWC agreements in the passenger airline sector. The European Trade Union Institute (ETUI) database was used to identify and provide EWC agreements for a qualitative analysis of agreement characteristics and scope. (ETUI, 2019a)

The timeframe for the development of EWCs can be seen in Table 1. Prior to Directive 94/45/EC being enacted in 1994 there were some voluntary EWCs, but none existed in the passenger airline industry. "The EWC legislation covers MNCs [multinational corporations] which employ at least 1,000 workers in the EU/EEA and, at the same time, at least 150 staff in two or more Member States." (ETUI, 2019b) The EWC agreements established under the Directive before October 1996 are known as Article 13 agreements, allowing firms to establish EWCs voluntarily. These Article 13 voluntary EWC agreements were exempt from specific requirements of the Directive. "...under Article 13 of the Directive agreements ... which cover the entire workforce with a system of information and consultation, are recognized as valid without having to fulfill the Directive's stipulations." (O'Hagan, 2005, pg. 398)

EWC agreements negotiated after September 1996 under Directive 94/45/EC are known as Article 6 agreements. The specific terms of Directive 94/45/EC are applied to EWC Article 6 agreements. Select Committees (SCs) within the EWC are encouraged by the Directive to help coordinate EWC meetings, improve communication, and to function as an executive committee. "Sixty-two percent of all agreements establish a select committee or bureau." (Marginson et al., 1998: 43)

**Table 1.** Establishment of Voluntary & Regulated European Works Councils

Actual EWC Volunteerism	1983 – 1994	Before Directive 94/45/EC
Incentive EWC Volunteerism	1994 – 1996	Article 13 of Directive 94/45/EC
Regulated EWCs	1997 – 2008	Article 6 of Directive 94/45/EC
Re-Regulated EWCs	2009+	Directive 2009/38/EC

source: Köhler & González Begega, 2010, pg. 593

An EWC Recast Directive (2009/38/EC) took effect on June 5, 2009. This new Directive was intended to overcome shortcomings of the original legislation by increasing the number of EWCs, requiring training for EWC representatives, and improving the sharing of information between management and the EWC. (European Commission, 2018b) This EWC Recast Directive continues to apply only to firms with 1,000 or more employees plus 150 or more employees in two or more EU & EEA countries. (European Commission, 2018a) However, the establishment of new EWCs under the Recast Directive has remained essentially voluntary as either the employer or at least 100 employees in two or more EU & EEA countries has to initiate the EWC establishment process. (European Commission, 2018a) It should be noted that "... the Recast Directive ('Adaption clause') lays down a requirement to renegotiate the EWC agreement if significant changes are made to the structure of the undertaking. The renegotiation is launched at the initiative of the employer or at the request of 100 employees in at least two Member States." (European Commission, 2018b: 13).

Unfortunately, research has shown that many EWCs have not had a meaningful impact on management decision-making (e.g., Skorupinska, 2011; Weber et al., 2015). According to Skorupinska, the EWCs generally share information, and their consultation has not influenced upper management (2011, pg. 78). The transport sector study in 2015 by Weber et al. found that EWC employee representatives only gave a rating of 2 on a 5 point scale for consultation with management (pg. 65), and almost half of the EWC agreements in this sector had been renegotiated or revised (pg. 48).

## **2. EUROPEAN WORKS COUNCIL PASSENGER AIRLINE AGREEMENTS**

As shown in Table 2, over half of the original passenger airline EWC agreements have been nullified. Four of these eleven EWC agreements were cancelled by mergers (Aer Lingus, Air France, British Airways, KLM). The Alitalia EWC agreement was nullified by an equity share purchase by Etihad Airways, and the Thomas Cook EWC agreement was eliminated by bankruptcy. This finding is consistent with the European Commission (2018b, pg. 22) report

that found that mergers and acquisitions have reduced the number of EWCs that would have otherwise existed in the transport sector.

**Table 2.** Status of Passenger Airline European Works Council Agreements.

<b>Airline EWC</b>	<b>Agreement Dates</b>	<b>Agreement Type</b>	<b>Agreement Status</b>	<b>MNC Base</b>
1. Aer Lingus plc	Sep. 11, 1996	Article 13	Nullified by Merger	Ireland
2. Air France KLM	Nov. 25, 1996 Aug. 5, 2002 rev.	Article 6	Nullified by Mergers	France
3. Air France KLM	April 28, 2010 June 12, 2014 rev.	Recast Directive	<b>Active</b> Renegotiated	France
4. Alitalia	Nov. 30, 2000	Article 6	Nullified by Sale	Italy
5. British Airways	Sep. 18, 1996 Nov. 14, 2012 rev.	Article 13 & Recast Directive	Nullified by Merger	United Kingdom
6. Deutsche Lufthansa	Aug. 29, 1996	Article 13	<b>Active</b> Merger Adoption	Germany
7. easyJet Airline Company Ltd	2011	Recast Directive	<b>Active</b>	United Kingdom
8. International Airlines Group	April 27, 2017	Recast Directive	<b>Active</b>	Spain
9. KLM	Sep. 12, 1996	Article 13	Nullified by Merger	Holland
10. Ryanair	Unknown but recent	Recast Directive	<b>Active</b>	Ireland
11. Thomas Cook	June 3, 2003 March 1, 2009 rev.	Article 6	Nullified by Bankruptcy	United Kingdom

source: ETUI, 2019a

As of November 2019, only 5 or 45% of the 11 passenger airlines eligible to establish an EWC have done so. The SAS Group, LOT Polish Airlines, Aeroflot, TAP Portugal, Air Berlin, and Aer Rianta may qualify for an EWC, but have not established one. (Weber et al., 2015, pg. 105-106)

The only original Article 13 voluntary EWC agreement still active among the passenger airlines is Deutsche Lufthansa where the merged airlines (Austrian, Brussels, Dolomiti, Eurowings, Edelweiss, Swiss Air & Sun Express) adopted the existing Article 13 agreement. Air France KLM which includes Martinair and Transavia airlines renegotiated their Article 6 EWC agreement under the Recast Directive in June of 2014. The International Airlines Group (IAG) was formed by the merger of British Airways, Iberian, and Vueling in 2014. IAG negotiated an initial EWC agreement under the Recast Directive after they purchased Aer Lingus in 2017.

Unfortunately, neither the EasyJet nor Ryanair EWC agreements were available through the ETUI EWC database nor via the internet. In 2011, U.K. based EasyJet negotiated an initial EWC agreement under the Recast Directive. "In the case of Ryanair, trade unions alleged that the company declared that staff are only employed in Ireland thus the company is not a 'transnational' company to qualify under the EWC Directive." (Weber et al., 2015, pg. 30) It is surprising that Ryanair, which was known for being anti-union and anti-EWC, recently negotiated an EWC agreement under the Recast Directive. The fact that Ryanair negotiated an EWC agreement provides some hope for better management and employee relations in these low-cost airlines.

### **3. ANALYSIS OF THE AIRLINES EWC AGREEMENTS**

The Deutsche Lufthansa group has a workforce of over 80,000 employees operating in 22 EU & EEA countries. Under the Lufthansa Article 13 EWC agreement, which is only 4 pages long, there is no set number of EWC meetings per year nor details in terms of EWC membership. (ETUI, 2019a) The Lufthansa EWC agreement says that "The information and consultation must occur early enough that the opinion of the responsible employees' representation bodies can still be included in DLH's decisions." (Lufthansa, 1996). According to Weber et al. (2015, pg. 10) the Lufthansa Group EWC is not active, but this could not be verified (ETUI, 2019b or elsewhere).

Air France KLM operates with over 80,000 employees in 16 EU & EEA countries and has an EWC with 33 representatives from 25 countries, with the majority from France and Holland. (ETUI, 2019a) Their EWC agreement says "...management and employee's representatives will seek to ensure the effectiveness of the Groups' enterprises while also taking their employees into account." (Air France KLM, 2014). Yet, their EWC agreement does not identify whether they have an "employee only" or "joint management & employee" EWC structure.

The International Airlines Group (IAG) headquarters is in Spain even though the majority of its over 50,000 employees are in the UK. IAG has operations in 24 EU & EEA countries. Their EWC has 37 members, three members from Ireland, five members from Spain, eight members from the UK, and one member from each of the other 21 European countries with IAG operations. Their EWC meets twice per year. "IAG and employee representatives recognise the value of information and consultation of its employees and the importance of working together in the spirit of co-operation to ensure the future success of the Group. To this end, both parties recognise the need to share information and have a constructive dialogue about the activities of the Group." (International Airlines Group, 2017)

The available active EWC agreements for Deutsche Lufthansa, Air France KLM, and the International Airlines group (see Table 3) were downloaded from the ETUI EWC database for qualitative analysis. (ETUI, 2019a) The EWCs for these three airline groups cover 17 European passenger airlines. The composition of the Lufthansa Group EWC is "employee only," whereas the International Airlines group EWC is a "joint management & employee" structure. The EWC composition type for Air France KLM is unknown.

All three of these passenger airline EWCs have Select Committees (SCs): Air France KLM (7 members); Deutsche Lufthansa Group (2 members); and International Airlines Group (7 members). Both the Air France KLM and International Airlines Group SCs serve as an executive committee for their EWC. These SCs meet separately with management ahead of their respective EWC meetings and between the regular EWC meetings. However, the Lufthansa Group SC has only two members, and its responsibility is limited to EWC meeting facilitation and communication.

As can be seen in Table 3, all three airline EWCs have transnational roles involving information sharing, consultation, providing opinions, and offering comments. The Lufthansa Group EWC, however, is not entitled to make recommendations. In terms of competencies, all three of the EWCs are involved with their airline groups' transnational activities related to financial matters, corporate strategy, work methods, employment situation, mergers, takeovers, acquisitions, company structure, transfers, and relocations. Air France KLM's EWC agreement scope is more limited than the Lufthansa and the International Airlines Group agreements whose EWCs also consult on business development, redundancies, closures, cutbacks, health & safety, and reorganizations related to productivity. However, while not included in the main body of their EWC agreement, the preamble of the Air France KLM EWC agreement states, "Particular attention will be paid to issues relating to employment, working conditions, health, safety, training, mobility, diversity, and equal opportunities" (Air France KLM, 2014).

This preamble statement by Air France KLM on the scope of their EWC is encouraging, but, surprisingly, these terms are not included in the main body of their EWC agreement. The Lufthansa Group was the only EWC agreement to include environmental protection in their mandate, and the International Airlines Group EWC agreement was the only one to include consultation on equal opportunities. Surprisingly, none of these passenger airline group EWCs are consulted on new technology policy, social responsibility, human resource management practices, or vocational training.

**Table 3.** Characteristics and Scope of Active Airline EWC Agreements\*.

(AF-KLM=Air France KLM; LG=Deutsche Lufthansa Group AG; IAG=International Airlines Group)

<b>Role of the EWC:</b>	<b>Airlines</b>
Giving opinion/comments	AF-KLM, LG, IAG
Information and consultation	AF-KLM, LG, IAG
Making recommendations	AF-KLM, IAG
<b>Competences of the EWC:</b>	
Economic and financial situation of the company	AF-KLM, LG, IAG
Corporate strategy and investment	AF-KLM, LG, IAG
Changes to working methods / organisation	AF-KLM, LG, IAG
Company structure	AF-KLM, LG, IAG
Employment situation and forecasts	AF-KLM, LG, IAG
Mergers, take-overs or acquisitions	AF-KLM, LG, IAG
Transfers / relocation	AF-KLM, LG, IAG
Probable development of the business, production & sales	LG, IAG
Collective redundancies	LG, IAG
Closures or cutbacks	LG, IAG
Health and safety	LG, IAG
Reorganisation of production	LG, IAG
Environmental protection	LG
Equal opportunities	IAG
New technology policy	- - -
Corporate social responsibility	- - -
Human resource management practices	- - -
Vocational training	- - -

(ETUI, 2019a; Havlovic, 2019)

\*EWC agreements analysed by ETUI except IAG which was analysed by the author.

#### **4. CONFLICTS IN THE AIRLINE INDUSTRY**

Despite EWC consultations within the major European airline groups, there has been considerable conflict between airline unions and management. "The airline industry has experienced arguably more than its fair share of industrial conflict ... due largely to the high volume of restructuring undertaken and continuing waves of change." (Eurofound, 2005, pg. 23) Factors contributing to airline union-management conflicts include privatization of the European national airlines, mergers and acquisitions of European airlines, increased competition from start-up discount airlines, and the entry of non-European airlines. Some "...low-fare airlines have developed anti-union strategies making any negotiation and worker participation ... at EU level in the form of an EWC impossible." (Weber et al., 2015: 28)

Discount airfares from low-cost airlines and pay inequities have contributed to labour strikes at traditional European airlines. For example, British Airways' cabin crews planned a strike over a two-tiered pay scale (Sumers, 2017), Aer Lingus Regional crew threatened to strike

over pay and working conditions (Percival, 2019), and strikes by Lufthansa employees over pay equity and employee representation (Seith, 2008). Pressure also comes from subsidiary low-cost airlines such as "...Eurowings 'the Lufthansa cheap fare airline, where the salaries are about 40 percent lower'." (Arens, 2016) Arens reported that Lufthansa pilots went on strike 14 times during 2015-16 for pay increases and better working conditions. There have also been conflicts between merged partners such as KLM and Air France. (Stothard, 2016)

## **5. CONCLUSIONS**

Some voluntary European works councils (EWCs) existed before October 1996 in the passenger airline industry (e.g., Aer Lingus, British Airways, Deutsche Lufthansa, KLM) under Article 13 of Directive 94/45/EC. After this date, EWC Directive regulations applied to larger transnational airlines operating in two or more European Union (EU) or European Economic Area (EEA) countries when initiated by either the employees or management. The privatisation of passenger airlines in the EU & EEA led to many mergers and acquisitions plus the emergence of low-cost airlines (e.g., Ryanair, easyJet). Airline consolidations and increased competition have contributed to EU airline employees' labour unrest, resulting in frequent strikes. Less than half of the airlines (currently 5 of 11) covered by the EWC Directive have established a council, and these EWCs have shown limited ability to improve organizational outcomes.

The fact that over 50 percent of the airlines covered by the Directive do not have an EWC has eliminated the opportunity in these non-EWC airlines for pilots, flight attendants, customer service representatives, and ground personnel to have a mechanism for strategic consultation with management on topics such as tourism and the quality of the tourist air travel experience. Where EWCs exist, they should be encouraged by management to make suggestions for improving tourism. Unfortunately, it is unlikely that airline EWCs will be able to enhance tourism in Europe or non-EU destinations.

Until there is a reduction in the conflict between management and employees in the European passenger airline industry, it is unlikely that the EWCs in this sector will effectively influence management decisions. This lack of EWC influence is not unique to the passenger airline sector. "All too often, workers' involvement is a mere formality and has limited impact as EWCs continue to be presented with a 'fait accompli', especially in the event of transnational company restructuring." (ETUC Executive Committee, 2017, pg. 1) While the framework has been built for consultation within the airline EWCs, it is difficult to see the EWCs making meaningful contributions to transnational airline decisions anytime soon.



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