
EUROPEAN WORKS COUNCILS: DEVELOPMENT, REFORM, AND IRELAND'S EMERGING ROLE

Tadhg Quill-Manley, Student at King's Inns, 'Glenwood,' Cork, Ireland

ABSTRACT

This article examines the development of European Works Councils (EWCs) from their creation under Directive 94/45/EC¹ through to current reform debates, situating Ireland at the centre of post-Brexit developments. It argues that while the European Union has progressively expanded employee-consultation rights, EWCs face profound structural challenges arising from digitalisation, platform work, and divergent national enforcement practices. Ireland's new role as host to many relocated EWCs exposes weaknesses in its domestic transposition of EU law, particularly the absence of judicial remedies. Drawing solely on EU legal instruments, academic commentary, and institutional documentation, the article contends that effective, enforceable transnational consultation is essential to preserving workplace democracy and the credibility of Europe's social model.

European Works Councils (EWCs) were established in 1994 under Directive 94/45/EC² to provide employees in multinational enterprises with a structured mechanism for participating in corporate decision-making across the European Economic Area. Designed to accompany the process of economic integration with social dialogue, EWCs were intended to bridge national labour frameworks and promote transnational employee representation. The framework was subsequently refined by the 2009 Recast Directive (2009/38/EC),³ which sought to enhance consultation rights, clarify obligations, and standardise procedures across member states. Despite these reforms, the EWC model faces mounting challenges in the context of contemporary economic realities. Rapid globalisation, technological innovation, and the expansion of digital work practices have accelerated decision-making processes and transformed organisational structures, demanding that EWCs adapt to remote work, complex transnational supply chains, and new forms of corporate governance.

¹ Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council.

² *ibid.*

³ Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council (Recast).

Ireland's strategic significance has increased considerably in the post-Brexit landscape, as numerous UK-based EWCs have relocated to the country to remain within the EU's legal framework. This development underscores both opportunity and strain: Ireland has emerged as a regulatory hub for EWC activity, yet questions persist regarding the effectiveness of legal remedies and enforcement mechanisms available to employees.

This article traces the historical and legal development of EWCs, critically evaluates current and proposed reforms, and examines Ireland's growing role within the transnational EWC system. It argues that the future viability of EWCs depends on their capacity for innovation, enhanced coordination, and the establishment of enforceable rights that transform consultation from a largely procedural exercise into a substantive and meaningful transnational dialogue, capable of influencing corporate decision-making in a rapidly changing European and global context.

Introduction and Framework of Worker Participation in the EU

The right of workers to information and consultation is embedded in EU primary law. Articles 151-153 TFEU⁴ commit the Union to promoting worker involvement and social dialogue. These provisions are reinforced by the Charter of Fundamental Rights of the European Union⁵ and the European Pillar of Social Rights (2017)⁶, which recognise the right of employees and their representatives to timely information and consultation, particularly in cases of restructuring or collective redundancies.

Within this legal structure, European Works Councils (EWCs) operate as transnational consultative bodies that allow employees to engage central management on decisions affecting employment across borders.⁷ EWCs are not collective-bargaining institutions but fora for the exchange of information and views - a model of regulated self-regulation that combines legal compulsion with negotiated flexibility.⁸

Scholars identify four broad EWC types - symbolic, service-provider, project-oriented, and participatory - reflecting the diversity of practice across Member States.⁹ Early hopes that EWCs would "Europeanise" industrial relations have only been partly realised: empirical

⁴ Treaty on the Functioning of the European Union (TFEU) arts 151-153.

⁵ Charter of Fundamental Rights of the European Union [2012] OJ C326/391.

⁶ European Commission, European Pillar of Social Rights (COM (2017) 250).

⁷ Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council.

⁸ A C L Davies, EU Labour Law (Edward Elgar 2013) 45.

⁹ Stan De Spiegelaere and Romuald Jagodzinski (eds), European Works Councils: Towards a Common Standard? (Social Europe 2015) 22.

evidence from the Nevin Economic Research Institute (NERI) suggests that effectiveness varies widely according to national legal cultures, union strength, and sectoral traditions.¹⁰

Historical Development of the EWC Framework

The adoption of Directive 94/45/EC¹¹ followed more than a decade of political negotiation. Earlier initiatives to legislate for transnational consultation had failed amid divergent national traditions and employer resistance. By invoking the Social Protocol of the Maastricht Treaty, the Commission was able to secure qualified-majority approval for a directive obliging multinational undertakings with at least 1,000 employees - and 150 in two or more Member States - to establish an EWC upon employee request.¹²

The Directive was grounded in the Agreement on Social Policy (1989), reflecting the EU's intent to complement market integration with social protection.¹³ However, enforcement rested with Member States under the principle of subsidiarity, producing significant variation in transposition. Subsequent measures broadened this framework: the Information and Consultation Directive 2002/14/EC created general minimum standards, while the Societas Europaea (SE) model under Regulation 2157/2001 and Directive 2001/86/EC integrated worker participation into European-company governance.¹⁴

Ambiguities in the 1994 text - especially over definitions of “information” and “consultation” - prompted the Recast Directive 2009/38/EC,¹⁵ which consolidated prior amendments and sought to clarify the sequencing of transnational and national processes. The recast improved access to training, recognised trade-union support, and introduced clearer feedback channels between EWCs and domestic works councils. Nevertheless, so-called “voluntary” EWCs established before September 1996 retained exemptions from these rights, entrenching disparities across Europe.¹⁶

EWCs in the Digital Age

The rapid digitalisation of work has fundamentally altered the environment in which EWCs

¹⁰ Nevin Economic Research Institute, 30 Years of European Works Councils (2024).

¹¹ Council Directive 94/45/EC of 22 September 1994 [1994] OJ L254/64.

¹² Leo Flynn, ‘EC Labour Law after Maastricht: A Critical Evaluation’ (1996) 5 Irish Journal of European Law 45.

¹³ Agreement on Social Policy annexed to the Social Charter (1989).

¹⁴ Directive 2002/14/EC [2002] OJ L80/29; Regulation (EC) No 2157/2001 and Directive 2001/86/EC [2001] OJ L294/22.

¹⁵ Directive 2009/38/EC [2009] OJ L122/28 (Recast EWC Directive).

¹⁶ Romuald Jagodzinski (ed), Variations on a Theme? The Implementation of the EWC Recast Directive (ETUI 2015) 35.

operate. Traditional consultation structures were designed for stable, location-based industries; today's labour market is dominated by remote, hybrid, and platform work models that transcend national boundaries and conventional employment status. Many "crowd workers" are legally classified as self-employed, excluding them from employment law protections and representative rights.¹⁷ Justin Nogarede observes that trade unions and EWCs often lack the technological expertise required to evaluate or influence the algorithmic management systems now shaping workplace decisions.¹⁸ Even in Member States with strong participation traditions - such as Germany - fewer than half of employees are covered by active works councils.¹⁹

The proposed Platform Work Directive introduces a presumption of employment where indicators of managerial control are met, but, as Silvia Rainone points out, it makes no provision for transnational information or consultation rights.²⁰ This omission is problematic because platform companies typically operate across multiple Member States, with centralised decision-making structures. A 2018 European Trade Union Confederation (ETUC) survey found that the majority of platform workers identified as employees and supported collective representation, including through EWCs.²¹ The creation of the Google European Works Council in 2023 - supported by UNI Global Union - marked a significant step in extending transnational consultation into the technology sector.²² Nevertheless, without explicit legislative inclusion, digital workers remain largely outside the scope of the EWC framework, highlighting the need for structural reform to ensure effective worker participation in the digital economy.

Reforming the EWC Directive: Goals, Tensions, and Shortcomings

The development of EWCs has been defined by tension between the goal of deeper worker participation and the practical limits of EU competence in labour relations. A C L Davies notes that the original Directive frequently overlapped with national frameworks, creating uncertainty about the sequencing of consultation procedures.²³ The 2009 Recast sought to clarify this through Article 12, requiring that national and transnational consultations operate

¹⁷ Justin Nogarede, 'The Digital Economy and Workers 'Rights '(2020) FEPS Policy Paper 4.

¹⁸ *ibid.*

¹⁹ European Foundation for the Improvement of Living and Working Conditions (Eurofound), *Industrial Relations in the Digital Age* (2021).

²⁰ Silvia Rainone, 'The Platform Work Directive and Collective Representation '(ETUI Working Paper 2023.02).

²¹ ETUC, *Digital Workers and Collective Rights Survey* (2018).

²² UNI Global Union, *First Google European Works Council Announcement* (2023)

²³ A C L Davies, *EU Labour Law* (Edward Elgar 2013) 201.

“in parallel” unless otherwise agreed.²⁴ Yet this arrangement has proved ambiguous, sometimes allowing management to exploit the dual structure rather than integrate it. Between 2014 and 2016, the European Commission conducted a “fitness check” of key information and consultation directives - including those on collective redundancies, business transfers, and EWCs.²⁵ Framed as a simplification initiative, it proposed aligning terminology but did not strengthen enforcement mechanisms. Unions feared this could weaken rights, while employer groups pressed for greater procedural flexibility.

By 2021, the European Parliament called for legislative revision to clarify confidentiality rules and improve sanction mechanisms.²⁶ Its 2023 resolution (2019/2183(INL)) urged the Commission to table a proposal to revise Directive 2009/38/EC by 31 January 2024.²⁷ Employers' organisation BusinessEurope opposed this, arguing that negotiations between social partners - not legislative imposition - should guide reform, warning that excessive regulation could hinder decision-making.²⁸ Conversely, the European Trade Union Confederation (ETUC) and Eurocadres contended that only binding law can guarantee consistent enforcement across Member States.²⁹ The Finnish Government, while supporting targeted reform, cautioned against burdensome litigation rights or mandatory timelines.³⁰ The resulting debate coalesced around three priorities:

- Expanding the definition of transnational matters to include national decisions with cross-border effects;
- Eliminating pre-1994 “Article 13” exemptions; and
- Establishing proportionate, dissuasive sanctions - including potential injunctions - for breaches of information and consultation duties.³¹

Although these proposals aim to modernise the framework, scholars such as Marcus Meyer

²⁴ Directive 2009/38/EC art 12.

²⁵ European Commission, Fitness Check of EU Information and Consultation Directives (SWD(2016) 52 final).

²⁶ European Parliament, Resolution on Industrial Democracy and Workers' Rights (2021/2005(INI)).

²⁷ European Parliament, Resolution on the Revision of the European Works Councils Directive (2019/2183(INL), 2 February 2023).

²⁸ BusinessEurope, Position Paper on the Revision of the EWC Directive (2023).

²⁹ ETUC, Reply to the First Phase of the Social Partner Consultation on a Possible Revision of the EWC Directive (2023).

³⁰ Finnish Government, Government Position on the EWC Directive Revision (2024).

³¹ European Commission, Revision of the European Works Councils Directive: Stronger Social Dialogue in a Multinational Context (COM(2024) 22 final).

and Paul Dillon warn that without credible enforcement and resource allocation, reforms risk remaining symbolic.³² The 2024 European elections postponed the adoption of any revised directive to the 2024-2029 legislative term, leaving its future uncertain.

European Works Councils in Ireland: Post-Brexit Realignment and Ongoing Challenges

Before 1994, statutory employee consultation was largely absent from Ireland's voluntarist industrial-relations tradition. The Transnational Information and Consultation of Employees Act 1996, later amended by S.I. No 380 of 2011, implemented the Directive domestically.³³ It provides for a Special Negotiating Body (SNB) and, where negotiations fail, the automatic establishment of an EWC under the Act's Second Schedule.³⁴

For many years, the number of Irish-based EWCs remained modest. Following Brexit, however, Ireland became the principal destination for UK-hosted EWCs seeking to remain within EU jurisdiction.³⁵ This development dramatically expanded Ireland's relevance but exposed weaknesses in its legislative framework. Ireland remains the only EU Member State where EWC disputes are subject to private arbitration rather than judicial or quasi-judicial resolution.³⁶ As Mariangela Zito notes, this denies Irish EWCs direct access to national courts and falls short of Article 11 of Directive 2009/38/EC.³⁷

In May 2022 the European Commission initiated infringement proceedings against Ireland under Article 258 TFEU, arguing that its legislation provides inadequate remedies.³⁸ In parallel, Kevin Duffy, former Chair of the Labour Court, proposed extending the jurisdiction of the Workplace Relations Commission (WRC) and Labour Court to cover EWC disputes - modelled on procedures under the Employees (Provision of Information and Consultation) Act 2006.³⁹ The proposal, supported by the Brussels European Employee Relations Group (BEERG), was considered by the Oireachtas Committee on Enterprise, Trade and Employment in 2023 but

³² Marcus Meyer, 'Strengthening Democracy at Work' (2023) Social Europe; Paul Dillon, 'European Works Councils: On a Road to Further Reform' (2024) Social Europe.

³³ Transnational Information and Consultation of Employees Act 1996 (Ireland), as amended by S.I. No 380 of 2011.

³⁴ Oisín Quinn, 'Existing Duties on Employers to Consult with Trade Unions' (1999) Bar Review 305.

³⁵ Ciaran O'Mara, 'Informing and Consulting with the Workforce - What the New Directive Means for Ireland's Voluntarist Tradition' (2003) Commercial Law Practitioner 15

³⁶ Kevin Duffy, Submission to the Oireachtas Committee on Enterprise, Trade and Employment on European Works Councils (2023).

³⁷ Mariangela Zito, 'Implementation of EWC Rights in Ireland' (2022) European Labour Law Journal 14 (3).

³⁸ European Commission, 'Infringement Decisions - Ireland: Failure to Ensure Judicial Remedies for EWCs' (May 2022).

³⁹ Employees (Provision of Information and Consultation) Act 2006 (Ireland).

has yet to be implemented.⁴⁰

The ETUC has filed several complaints regarding Ireland's non-compliance, including the ongoing Kingspan case.⁴¹ The Oireachtas Committee's 2024 review of the Commission's draft amendment to Directive 2009/38/EC accepted that stronger enforcement would enhance worker participation and confirmed the proposal's consistency with the principle of subsidiarity. Nonetheless, until Ireland introduces effective judicial redress for EWC rights, its framework will continue to fall short of EU standards.

The Future of European Works Councils

The challenges facing EWCs are symptomatic of a deeper structural weakness in the European labour-governance model. Romuald Jagodzinski argues that consultation rights - now recognised as fundamental social rights under EU law - should be enforced with the same vigour as environmental or financial standards.⁴² Yet persistent variation in national transposition and limited judicial remedies continue to undermine the system's credibility. The European Union's prospective accession to the European Convention on Human Rights, provided for under Article 6(2) TEU, offers an opportunity to strengthen judicial protection of participatory rights.⁴³ However, the absence of a coherent transnational enforcement mechanism means that EWCs' influence over corporate strategy remains limited.

Empirical evidence shows that the most effective EWCs exceed the Directive's minimum standards: they meet frequently, employ external experts, and coordinate closely with national works councils.⁴⁴ Nonetheless, Article 12(3) of the Recast Directive continues to cause friction, as Member States often transpose it without defining procedural timelines, resulting in formal compliance but limited practical effect.⁴⁵ To remain relevant in the twenty-first century, EWCs must develop in three core respects:

- Digital integration - using virtual platforms to facilitate timely, multilingual cross-border dialogue;

⁴⁰ Brussels European Employee Relations Group (BEERG), Evidence to the Oireachtas Committee on EWCs (2023).

⁴¹ ETUC, 'Complaint against Ireland under Directive 2009/38/EC - Kingspan Case' (2023).

⁴² Romuald Jagodzinski, Variations on a Theme? The Implementation of the EWC Recast Directive (ETUI 2015) 57.

⁴³ Treaty on European Union art 6(2).

⁴⁴ Stan De Spiegelaere and Romuald Jagodzinski (eds), European Works Councils: Towards a Common Standard? (Social Europe 2015) 48.

⁴⁵ Directive 2009/38/EC art 12(3).

- Enforceability - ensuring Member States provide effective judicial and administrative remedies, including interim relief; and
- Substantive influence - shifting from procedural consultation to genuine participation in strategic corporate decision-making.⁴⁶

Research consistently demonstrates that organisations with robust employee-engagement mechanisms are more resilient and innovative.⁴⁷ The cost of maintaining these structures is negligible compared with their contribution to industrial stability and democratic legitimacy. In this sense, EWCs are not merely labour-relations bodies but essential instruments of European democracy.

Conclusion

The development of European Works Councils (EWCs) mirrors the European Union's broader effort to balance economic integration with social cohesion. Since 1994, successive directives have expanded the scope of worker consultation, yet uneven transposition and weak enforcement have limited their transformative potential.⁴⁸ The digital economy, cross-border corporate structures, and the post-Brexit realignment all underscore the urgency of reform. A modernised EWC framework must be capable of addressing new forms of employment, algorithmic management, and global supply chains while safeguarding fundamental social rights. Without robust remedies, consultation risks degenerating into formality.⁴⁹

Ireland's experience epitomises this duality. Its emergence as a hub for EWCs demonstrates the continuing relevance of transnational representation, but deficiencies in its domestic legal architecture - particularly the reliance on private arbitration - undermine credibility.⁵⁰ The current infringement proceedings against Ireland highlight the limits of voluntary compliance and the necessity of judicially enforceable rights. Ultimately, the vitality of EWCs will depend on the European Union's willingness to recognise workplace democracy as a constitutional principle rather than an administrative courtesy. When effectively implemented, EWCs can

⁴⁶ European Trade Union Confederation (ETUC), *Towards Effective European Works Councils* (Policy Brief 2023).

⁴⁷ Eurofound, *Employee Involvement and Productivity* (2022).

⁴⁸ Leo Flynn, 'EC Labour Law after Maastricht: A Critical Evaluation' (1996) 5 *Irish Journal of European Law* 45.

⁴⁹ A C L Davies, *EU Labour Law* (Edward Elgar 2013) 215.

⁵⁰ European Commission, 'Infringement Decisions - Ireland: Failure to Ensure Judicial Remedies for EWCs' (May 2022).

serve not merely as consultation mechanisms but as foundations for a truly social Europe - one where economic governance and democratic participation are inseparable.⁵¹

⁵¹ European Parliament, Resolution on Industrial Democracy and Workers' Rights (2011/2005(INI)).

BIBLIOGRAPHY

Primary EU Law and Legislation

- Treaty on the Functioning of the European Union (TFEU) arts 151-153
- Treaty on European Union art 6(2)
- Charter of Fundamental Rights of the European Union [2012] OJ C326/391
- Agreement on Social Policy annexed to the Social Charter (1989)
- Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council [1994] OJ L254/64
- Directive 2002/14/EC [2002] OJ L80/29
- Directive 2001/86/EC [2001] OJ L294/22
- Directive 2009/38/EC (Recast) [2009] OJ L122/28
- Regulation (EC) No 2157/2001 on the Statute for a European Company (SE)
- European Commission, *European Pillar of Social Rights* (COM (2017) 250)
- Transnational Information and Consultation of Employees Act 1996 (Ireland), as amended by S.I. No 380 of 2011
- Employees (Provision of Information and Consultation) Act 2006 (Ireland)

Books and Academic Articles

- A C L Davies, *EU Labour Law* (Edward Elgar 2013)
- Stan De Spiegelaere and Romuald Jagodzinski (eds), *European Works Councils: Towards a Common Standard?* (Social Europe 2015)
- Romuald Jagodzinski (ed), *Variations on a Theme? The Implementation of the EWC Recast Directive* (ETUI 2015)

- Leo Flynn, 'EC Labour Law after Maastricht: A Critical Evaluation '(1996) 5 *Irish Journal of European Law* 45
- Oisín Quinn, 'Existing Duties on Employers to Consult with Trade Unions '(1999) *Bar Review* 305
- Ciaran O'Mara, 'Informing and Consulting with the Workforce - What the New Directive Means for Ireland's Voluntarist Tradition '(2003) *Commercial Law Practitioner* 15
- Mariangela Zito, 'Implementation of EWC Rights in Ireland '(2022) *European Labour Law Journal* 14 (3)
- Justin Nogarede, 'The Digital Economy and Workers 'Rights '(2020) *FEPS Policy Paper* 4
- Silvia Rainone, 'The Platform Work Directive and Collective Representation '(ETUI Working Paper 2023.02)
- Marcus Meyer, 'Strengthening Democracy at Work '(2023) *Social Europe*
- Paul Dillon, 'European Works Councils: On a Road to Further Reform '(2024) *Social Europe*

Institutional and Policy Sources

- European Commission, *Fitness Check of EU Information and Consultation Directives* (SWD(2016) 52 final)
- European Commission, *Revision of the European Works Councils Directive: Stronger Social Dialogue in a Multinational Context* (COM(2024) 22 final)
- European Commission, 'Infringement Decisions - Ireland: Failure to Ensure Judicial Remedies for EWCs '(May 2022)
- European Parliament, *Resolution on Industrial Democracy and Workers 'Rights* (2021/2005(INI))

- European Parliament, *Resolution on the Revision of the European Works Councils Directive* (2019/2183(INL), 2 February 2023)
- European Trade Union Confederation (ETUC), *Reply to the First Phase of the Social Partner Consultation on a Possible Revision of the EWC Directive* (2023)
- European Trade Union Confederation (ETUC), *Towards Effective European Works Councils* (Policy Brief 2023)
- BusinessEurope, *Position Paper on the Revision of the EWC Directive* (2023)
- Finnish Government, *Government Position on the EWC Directive Revision* (2024)
- UNI Global Union, *First Google European Works Council Announcement* (2023)
- Eurofound, *Industrial Relations in the Digital Age* (2021)
- Eurofound, *Employee Involvement and Productivity* (2022)
- Nevin Economic Research Institute, *30 Years of European Works Councils* (2024)
- Kevin Duffy, *Submission to the Oireachtas Committee on Enterprise, Trade and Employment on European Works Councils* (2023)
- Brussels European Employee Relations Group (BEERG), *Evidence to the Oireachtas Committee on EWCs* (2023)
- ETUC, 'Complaint against Ireland under Directive 2009/38/EC - Kingspan Case ' (2023)