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Groundbreaking European company agreement at Warema

The recent agreement to transform the German sunshade manufacturer Warema into a European company (*Societas Europaea*, SE) has been hailed as a major stepping stone in the development of European employee participation and as an important precedent for future SEs to follow. For example, its newly founded European Works Council will have access to all of the company's sites and be able to speak on behalf of employees without any other form of representation.

European company landscape

It is currently estimated that about 350 examples of a [European company](#) (*Societas Europaea*, SE) have been founded. Viewed quantitatively, this represents quite an achievement considering that the legal basis ([Council Regulation \(EC\) No. 2157/2001](#)) for establishing such a company only entered into force in October 2004. Governed by European rather than national law, the accompanying [Council Directive 2001/86/EC](#) supplementing the Statute for a European company with regard to the involvement of employees represents an important piece of European Union legislation in terms of worker participation. Along with [Council Directive 94/45/EC](#) on the establishment of a European Works Council, recast in [Directive 2009/38/EC \(822Kb PDF\)](#), and [Directive 2002/14/EC](#) establishing a general framework for informing and consulting employees in the European Community, the SE directive offers workers another means to [information and consultation](#) and to [participate](#) in the management of their company.

Nevertheless, although the SE directive offers the possibility of [employee representation](#) on company boards – a fact that caught the imagination of Europe's employee representatives – question marks surrounding the significance of such rights have existed since 2004. According to [Worker Participation](#), an information service provided by the European Trade Union Institute (ETUI), there is a danger that participation rights could be lost or diluted within newly founded SEs – what SE researchers refer to as the 'escape and erosion' factors. Fear of erosion has been a particular concern of German trade unions; Germany is not only home to the majority of active SEs but is also an EU Member State in which employees enjoy extensive [co-determination](#) rights.

Warema agreement

At a time when speculation continues to prevail about the motivation behind employers' decision to set up an SE, employee representatives have hailed the recent [Warema](#) agreement on employee information, consultation and participation as a major landmark in SE development. Based in Germany, Warema is a leading manufacturer of all types of sunshade technology in Europe.

Some commentators have viewed the decision to implement this piece of European legislation as a strategy on the part of Warema's management to circumvent the German works constitution act. The company has close to 2,000 employees in Germany, which is the threshold required to form a supervisory board providing German employees with 50% of the seats; thus, management was willing to agree to progressive concessions within an SE instead. Under the Warema agreement, employees do not have the right of parity on the supervisory board; however, they have been allocated two of the seats.

Employing 2,600 employees across Europe, the main concessions agreed to by Warema management involved:

- an extra employee on the supervisory board;
- in the case of expansion, a further seat on the supervisory board, allocated to a non-German representative;
- election of employee representatives to the supervisory board by the whole of the European workforce;
- special rights for the newly founded European Works Council (EWC).

According to one of the external experts representing Warema employees in the negotiations, Werner Altmeyer of Training and Consultancy Network 'euro-workscouncil.net' ([Trainings- und Beratungsnetz 'euro-betriebsrat.de'](http://euro-workscouncil.net)), the company management wanted to send out the following signal to the workforce: 'We [management] do not just want to avoid the parity issue; we want to offer you [employees] something in return.'

Important precedents

Once the agreement was concluded, the German Metalworkers' Union ([IG Metall](#)) announced that

the Warema agreement is one of the best that exists both in Germany and Europe...
After only two months of negotiations not only could existing participation rights be secured but they could be expanded in key areas.

Although the application of a one-third principle could be viewed critically, employee negotiators believe that the expansion of the supervisory board to guarantee the workforce two seats is an important achievement. The extra employee is viewed as a crucial step to increase the involvement of people from different sites and countries. With two employee representatives on the supervisory board and the option of a third person in the near future, employees on the [Special Negotiating Body](#) (SNB) from Austria, Germany, France and Spain are hopeful that this will lay the basis for transnational solidarity.

At the behest of the SNB, management also agreed that the newly established EWC would be empowered with rights not usually enjoyed by this European institution. The main concession concerns the right of the EWC not only to have access to all of Warema's sites but also to speak on behalf of employees currently without any form of representation. Prior to the agreement, about one sixth of Warema's European workforce had no means of having their views heard.

Commentary

At a time when the question of employee participation is a highly contentious issue in some quarters – particularly whether SEs are a tool for undermining co-determination in some Member States – the progressive nature of the Warema SE agreement should be acknowledged. In years to come, the agreement might be considered an important landmark in the development of SEs, helping to guide employee representatives in setting up such companies.

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