

Labour Relations of RWE AG's European Works Council



Responsible editor: Ildikó Krén
Authors: Dr. Gabriella Lovász, Ildikó Krén

Solution4.org

Andrássy út 76.
H-1062 Budapest
Tel./Fax.: ++ 36 1 301 9070
Mobil: + 36 20 330 5665
E-mail: info@solution4.org

Budapest, 2011.

Table of Contents

Table of Contents	1
Executive Summary	3
1. Introduction. The Research	4
2. Research Methodology	5
1. Presentation of the Company	6
1.1. Profile	6
1.2. Main economic indicators	7
1.3. Subsidiaries	9
1.4. Number of employees	11
1.5. Geographic distribution	11
2. Labour Relations	12
2.1. Legal background	12
2.1.1. Main rules	12
2.1.1.1. Amendment of the Directive	13
2.2. The RWE European Works Council	14
2.2.1. Background	14
2.2.2. Establishment of the new RWE-EWC	15
2.2.3. The RWE-EWC membership	17
2.2.3.1. Rights of the RWE-EWC members	18
2.2.4. Employer representatives in RWE EWC	19
2.2.5. RWE-EWC Committee	19
2.2.6. Meetings	20
2.2.6.1. Regular meeting	20
2.2.6.2. Committee meeting	21
2.2.6.3. Extraordinary meeting	21
2.2.7. Official and informal contact and communication	21
2.2.8. Agreements	21
2.2.8.1. The RWE Code of Conduct (Code of Conduct) - 2005.	22
2.2.8.2. Charter of Diversity - 2006	22
2.2.8.3. Application of minimum norms – 2007.	22
2.2.8.4. Social Charter – 2010	23
2.3.1. Austria	24
2.4.1.1. Labour relations at corporate level	24
2.3.1.2. Labour relations at sectoral level	25
2.3.1.3. Labour relations at national level	25
Trade Unions conclude blanket agreements at national level that may be supplemented by acts of law or by special agreements.	25
2.3.2. Czech Republic	25
2.3.2.1. Labour relations at corporate level	25
2.3.2.2. Labour relations at sectoral level	26
2.3.2.3. Labour relations at national level	26
2.3.3. Poland	26
2.3.3.1. Labour relations at corporate level	26
2.3.3.2. Labour relations at sectoral level	27
2.3.3.3. Labour relations at national level	27
2.3.4. Hungary	27

2.3.4.1. Labour relations at corporate level.....	27
2.3.4.2. Labour relations at sectoral level	28
2.3.4.3. Labour relations at national level	28
2.3.5. Germany	28
2.3.5.1. Labour relations at corporate level.....	29
2.3.5.2. Labour relations at sectoral level	29
2.3.5.3. Labour relations at national level	29
2.3.6. Slovakia.....	29
2.3.6.1. Labour relations at corporate level.....	29
2.3.6.2. Labour relations at sectoral level	30
2.3.6.3. Labour relations at national level	30
4. Consultant's remarks.....	31
List of references	34

Executive Summary

RWE AG is a German based corporation with numerous subsidiaries in and outside Europe. In our study we concentrated on the European Works Council (EWC) of RWE. With the consent or involvement of the EWC we examined the agreements made with the corporation. We paid special attention to the internal communication of the EWC. The objective was to decide if the RWE EWC can be used as "best practice" by others. The main conclusions of the study are: the internal communication of the EWC is largely formal, i.e. is mainly within the agreed framework. In this sense we can understand this as "best practice". However, there is room for improvement in the horizontal and bottom-up communication in order to make it a more useful tool of social partnership within the system of industrial relations.

1. Introduction. The Research

As a part of the ‘Electricity network in Europe. Reinforcement of the structure of EWCs in the electric energy sector by studying the institutions of voluntary dialogue established by employers and employees, focusing on the practice of RWE, E.ON and EDF.’ project, this study analyses the interest representation activities of employees at European level within the framework of the RWE AG group.

Paragraph 11 of the introduction of the 38/2009 EWC Directive states the following: ‘Procedures for informing and consulting employees as embodied in legislation or practice in the Member States are often not geared to the transnational structure of the entity which takes the decisions affecting those employees.’ This is why one of the main objectives of the study is to analyse to what extent the corporate structure and decision levels are in line with the procedures of the labour relations applied at the company. This analysis requires the presentation of the corporate structure, the legal environment and the practical procedures arising from voluntary agreement.

Another objective of the study is to make proposals for enhancing the European regulation based on the existing practice in order to achieve employee participation in the spirit specified in the EWC Directives at various levels of the companies.

During our research, we received valuable assistance from Ferenc Kunzer, Zsolt Medveczki, Rita Potápi, László Kozák, Rezső Gál, István Árkovics and Katalin Óvári, and here wish to thank for their valuable contribution. Valuable experience was also exchanged with the researches of the other two researches, László Neumann and József Szilágyi. We also thank them for their contribution!

2. Research Methodology

We had to select our research methodology taking into account that it was unlikely that we could use representative samples given the small number of the individuals forming the research base. Accordingly, a qualitative analysis took place.

The analysis of the available and collected background materials and documents was one of our research methods. Personal contact took place in the form of interviews by phone and informal discussions. The interviewees were selected with the snowball method and based on the proposal of the Hungarian EWC members. The questionnaires containing the same twenty eight questions and some sub-questions as the questionnaires prepared also for the interviewees of the other two companies within the framework of the 'Electrical network in Europe' project were completed during the interviews and discussions. The questionnaire contained mostly closed questions. However, during our interviews we received additional information not only based on open questions. In many places, the respondents added further explanation to the closed questions of the questionnaire or came up with different answers. For example, 'there was no training' and 'there is no demand' answers were not included among the answers to one question about training earlier. Several respondents used them as answers to the question.

1. Presentation of the Company

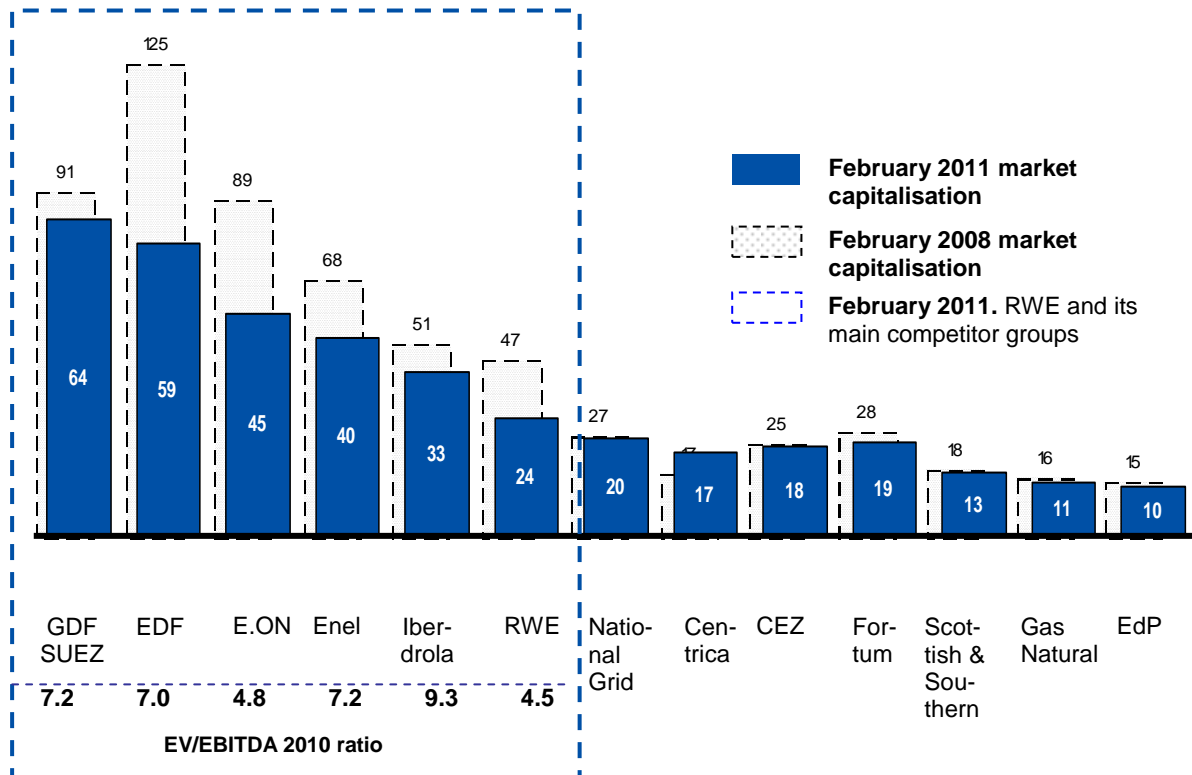
The history of the RWE group goes back more than a hundred years. RWE, founded in 1898 as a state-owned electricity company of Essen, soon grew into a national company. At the moment, the giant company is one of Europe's five leading electricity and gas suppliers and operates with more than 70,000 employees.

1.1. Profile

The activities of RWE AG range from electricity generation and trade through the sale of electricity and gas to transportation thereof. The organisation is one of Europe's six largest electricity and gas supply companies. In terms of stock exchange value, it lies in sixth place. According to electricity generation, it is the second largest company both in Europe and in Hungary. It is also at the top as a gas supplier, as Europe's third largest gas supply company. In Hungary it is the market leader. (Facts and Figures 2010. RWE, p.8.)

Capitalisation of the TOP electricity supply companies listed on the stock exchange (EUR bln)

Largest groups



Source: Reuters 08.02.2011.. In Dr. Jürgen Großman (17.03.2011.): Strategie der RWE Gruppe. Dortmund. Sitzung des Europäischen Betriebsrats, p. 3.

In terms of electricity generation, it is the impressive second largest company in Germany and in Holland, and lies in third place in Great Britain, while in gas supply it is the third, first and fourth largest company in the respective countries indicated above. An acquisition in the recent past has also contributed to its success. RWE acquired the nuclear power plant block of Borselle. This was the equivalent of the Essent in Holland.

Major acquisitions of the TOP electricity supply companies since 2007:

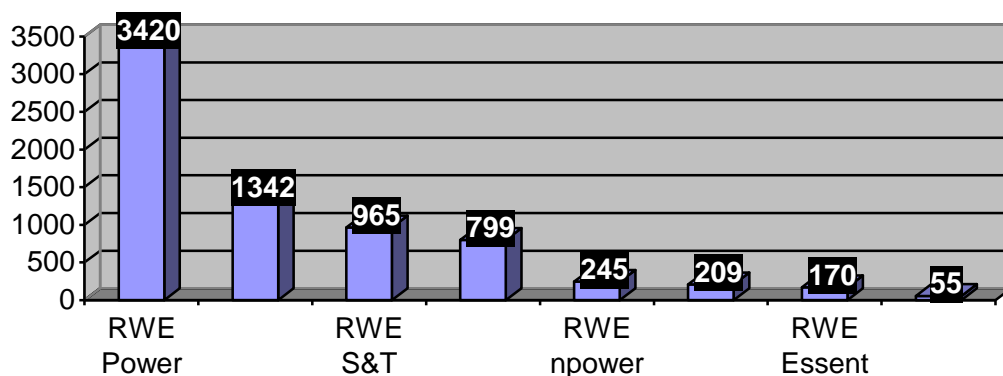


Source: Dr. Jürgen Großman (17.03.2011.):
Strategie der RWE Gruppe. Dortmund:
Sitzung des Europäischen Betriebsrats, p. 4.

1.2. Main economic indicators

RWE AG 16 million electricity consumers, 8 million gas consumers, and 15 million water consumers (potable water and sewage water together based on the population of Europe). The giant company earned EUR 47.7 bln revenues in 2009. The annual business profit by division is indicated below.

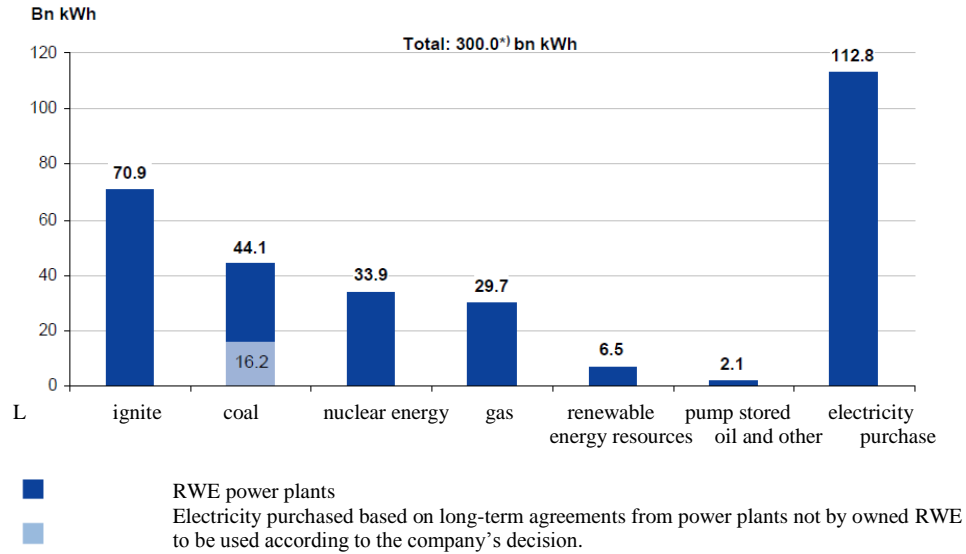
RWE 2009 operating profit (€ mln)



Source: Material RWE 2011

In the 2009 fiscal year, the group earned approximately EUR 48 bln revenues. The output of the giant company by energy source in 2009 is illustrated below (based on primary electricity and electricity purchases).

Electricity generation of the RWE group based on primary fuel and electricity purchases 2010



*) Difference between the 300.0 bn kWh generation and 282,2 kWh electricity sales is caused by network losses and internal consumption.

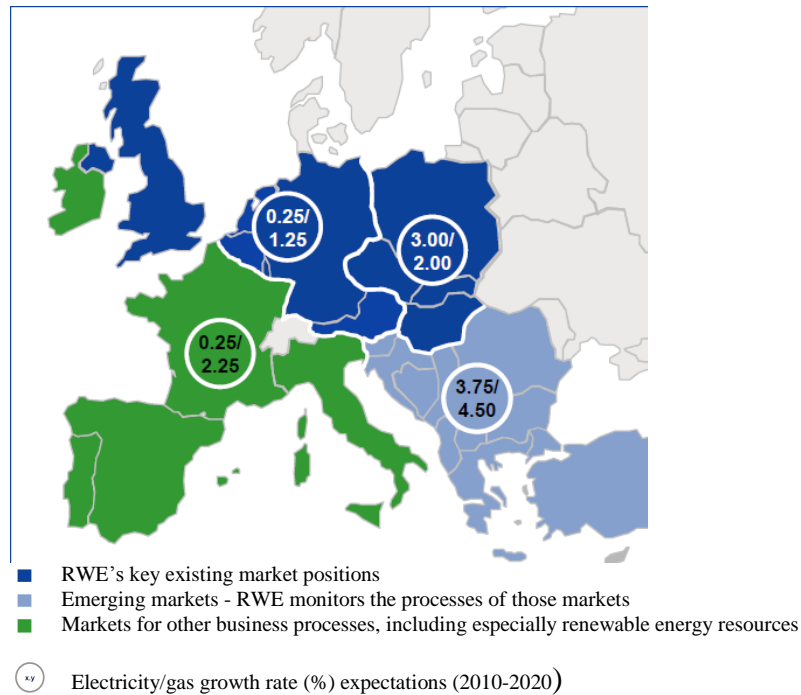
Source: Facts and Figures 2010. RWE. p.140

The German groups, including also RWE, depend heavily of coal power plants. In Germany, 50 per cent of the electricity is supplied by domestic brown coal-fired power plants. In relation to the carbon dioxide emission trade to be introduced in 2013, the company will have to purchase certificates. Consequently, 80 per cent of the German energy generation will be at risk. The groups must create also new supply networks in line with the EU objectives, wind energy must be transmitted from the north to the middle of the country, etc. (EVDSZ (Federation of Trade Unions in the Electric Energy Industry), 21-22.03.2011. p.5).

RWE plans to invest EUR 7 bln a year in power plants, the supply networks and open-cast mining in order to put in place new, environmentally friendly and flexible production capacities of which more than EUR 1 bln will be invested into renewable energy resources (e.g., wind energy and biomass). The group expects a decrease in revenues from trade and traditional production and an increase in revenues from network sales and the use of renewable energy resources. (Source: the same.)

There is increasing number of problems with the gas supply systems too. Partly owing to the new production methods (with which gas can be extracted from between coal layers) these days there is too much gas on the market, but most probably it is only a temporary situation. The gas supply structure is also changing, the market could be rearranged by the Northern Electricity Line in Northern Europe and by Nabucco and the Southern Electricity Line in Southern Europe. The German companies must follow a strategy of debt reduction, sale of minor companies and new investments. (Source: the same.)

RWE's market strategy



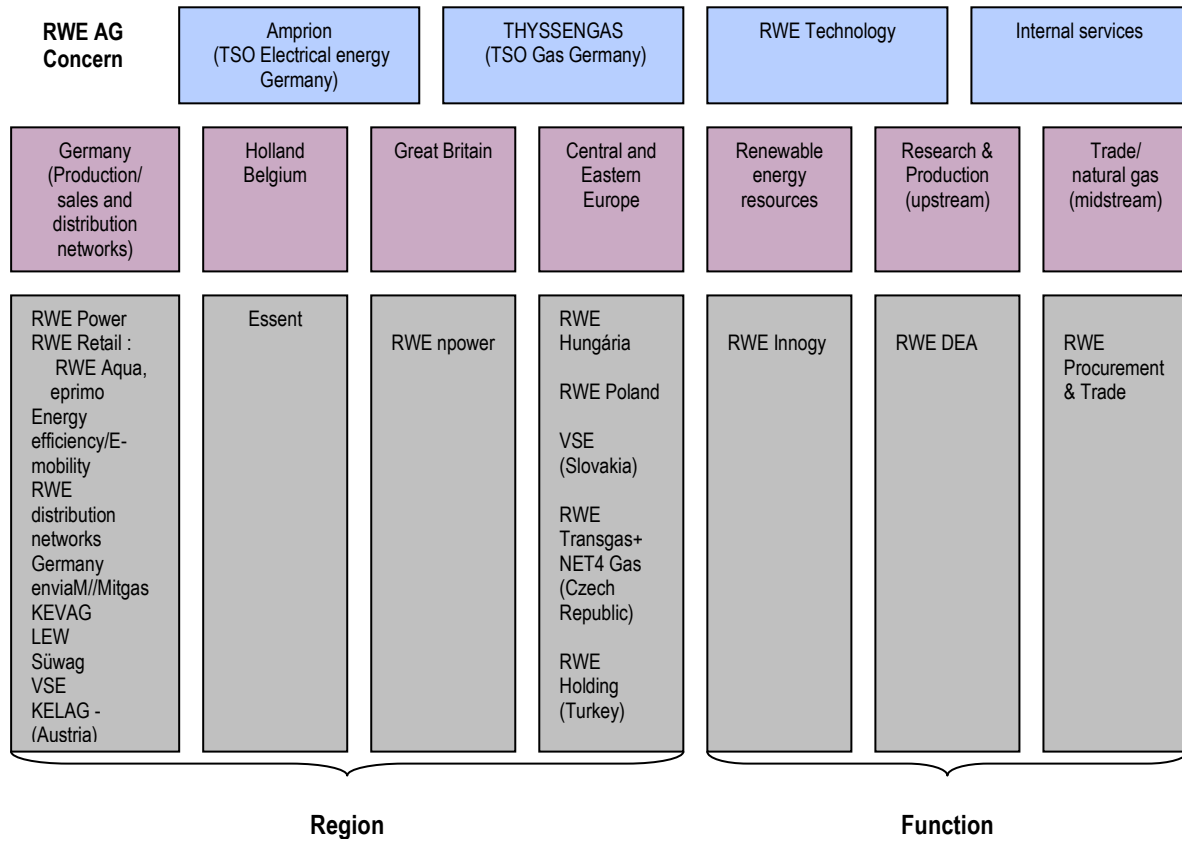
Source: Dr. Jürgen Großman: RWE group strategy (17 March 2011)
Facts and Figures 2010. RWE p. 103.

Based on its strategy, the group also monitors markets with higher than average growth (Turkey). South-Western Europe is important in terms of renewable energy resources. The areas specified above are indicators for employee interest groups showing where RWE plans to keep jobs in the long run and places where staff increases are projected for the near future. (Facts and Figures 2010)

1.3. Subsidiaries

According to its corporate structure, RWE is a holding organisation, representing a special type of it, called concern. The diversified group has subsidiaries in the parent company, i.e., Germany, in Holland, Austria, Poland, Slovakia, Czech Republic, Italy and also in Hungary. Other establishments are located in Spain, Switzerland, Turkey, Egypt and Libya.

RWE in 2009



Source: József Szilágyi (2011): RWE’s current organisational structure. Presentation. Budapest: Federation of Trade Unions in the Electric Energy Industry; RWE (17.11.2009): Participation on the European level in RWE group – history and experiences. Presentation. Budapest.

The group is divided both regionally and functionally. This is partly the result of restructuring. RWE Energy AG was terminated on 1 September 2009. At the same time, two companies were established (RWE Rheinland-Westfalen-Netz AG and RWE Vertrieb AG). The former employees were transferred to RWE AG and the new and other, already existing companies. As a result of this restructuring, the RWE concern is structured from national companies (e.g., RWE Magyarország Kft.). In addition, there are also organisations covering the national companies (e.g., RWE EAST: Poland, Czech Republic, Slovakia, Hungary and Turkey). On the other hand, the RWE activities were also consolidated separately (e.g., trade division: RWE Supply & Trading), which complies with functional distribution. (Protocol, Essen, 05-06.11.2009, p.4).

1.4. Number of employees

As a result of the Essent (Holland) integration, in 2009 the number of RWE AG staff increased by 5,000 employees, reaching a figure over 70,000.

RWE Report 2010			
Fulltime employees by region	2010	2009	2008
Germany	34.184	33.605	39.220
Great Britain	11.711	12.224	13.847
Holland/Belgium	3.899	4.695	429
Austria	1.054*	1.336	1.240
Central and Eastern Europe	11.163	11.289	12.083
Hungary	5.158	5.434	na.
Poland	1.427	1.442	na.
Czech Republic	4.928	5.091	na.
Slovakia	218	167	na.
Other	na.	432	329
RWE Group	70.856	70.726	65.908

*: estimated data

** : not only fulltime employees

Source: RWE (2009): CR Key figures CRB; RWE Personalbericht 2010. pp. 80 and 85.

1.5. Geographic distribution

RWE is one of the largest electricity generating companies in Germany, while it is in second place in Holland (strong market position in the BeNeLux states owing to the Essent acquisition), and in third place in Great Britain. It is gradually extending its position in Central and South-East Europe. The RWE EAST company, combining the subsidiaries in Central and Eastern Europe and Turkey is seated in Prague. RWE Magyarország Kft. was founded recently for the joint control of all Hungarian subsidiaries. RWE DEA performs the oil and gas related activities of the concern in 3 regions: Europe, North Africa and the Caspian Sea region. Last but not least, RWE Supply & Trading is one of Europe's largest energy trading companies.

2. Labour Relations

2.1. Legal background

The Directive on the establishment of the European Works Councils (EWC) (94/45/EC) approved by the EU on 22 September 1994 was an important milestone in the achievement and extension of employee participation at European level. As the existing national procedures for the information of employees and consultations with them are often not in line with the supranational structure of companies, demand developed for community-level action. Consequently, the Directive is dedicated to the procedures of companies/groups operating at the community level of the European Union for information to employees, consultations with employees and the ensurance thereof. The European Union approved the Directive to ensure that employees of community-level undertakings receive satisfactory information even if decisions concerning them are not made in the Member State in which they are employed. There is also a so-called special negotiation board, which consists of representatives elected according to rules and practices of the Member States and which negotiates with the central management on the establishment of a European Works Council and other procedures dedicated to information to employees and consultations with them. The topics of the discussions, e.g., the employment, economic and financial position of the company, introduction of new working methods and production procedures.

2.1.1. Main rules

Pursuant to the applicable Directive, a European Works Council must be established in community-scale undertakings and community-scale groups of undertakings:

- if the group of undertakings is a group of undertakings consisting of a controlling and controlled undertakings (subsidiaries), a community-scale group of undertakings is a group of undertakings, which has at least one thousand employees within the Member State, at least two group undertakings in different Member States and at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State.

Rules applicable to the European Works Council:

- It consists of at least three and more than thirty members, and each undertaking or site operating in each Member State may be represented by at least one employee.
- The council has a meeting at least once a year, when the central management must inform the council of the most important cross-border matters of the undertaking.
- The costs of operation of the council are covered by the central management, including also the costs of translation and interpreting and the central management must also arrange for the conditions of the meeting.
- Any member of the European Works Council is exempted from his obligation to work and is entitled to an absence fee for the period required for performing his tasks.
- A member of the European Works Council is also entitled to protection under the labour law, yet he is bound to confidentiality with regard to any information disclosed to him.

The rules applicable to the establishment of a European Works Council apply not only in the European Union, but also in the European Economic Area. In 2009, there were approximately **930 active** European Works Councils, the activities of which affected more than 15 million employees. The scope of the currently effective regulations **extend to 2200 companies**, employing in total 24 million people. The majority of these companies are seated in Germany, the United States of America, France and Great Britain, but their activities are performed in the whole of Europe. There are very few companies that have their registered seats in a new European Member State and have an EWC.

2.1.1.1. Amendment of the Directive

Article 15 of the Directive provides for the periodic review. The review took place in April 2004, focusing on two key rules of the Directive: maximum flexibility and the independent establishment of EWC delegation rules in each Member State. Although based on the former Directive (94/45/EC), the number of EWCs is growing rapidly in Europe, the transposition of their rights into practice was not very successful. The EWCs are informed in time and in detail and are involved in the decision-making of the management rarely. Usually the management thought that there was a need to consult with the works councils after decisions had already been made. Finally, a new amendment entered into force on 5 July 2009. This resulted in the new **2009/38/EC** Directive. The purpose of the review of the former Directive is to ensure the effective enforcement of the employees' cross-border rights to information and consultations and to increase the number of European works councils. The Directive intends to ensure that the works councils are better equipped with the tools required for enforcing the stronger rights related to information and consultations. The EU Member States have two years to transpose the EWC Directive into national legislation starting from the date indicated above. Until the Member States approve the new legislation, the currently effective regulations (based on the 1994 Directive) are effective. The new provisions enter into force only after they have been transposed into the national legislation. Accordingly, the corrections introduced with the EWC Directive will be applicable directly and automatically from 6 June 2011.

Main changes:

- The trade unions have an important role in the support and training of the EWC representatives of employees. The new Directive stresses that trade union representatives may support the activities of the special negotiation board or the EWC participating in the renegotiation process. It is important that the employee representatives negotiating or renegotiating the agreement clearly require the involvement of trade unions. The trade unions and employees must be informed of the start of the negotiations.
- The new Directive defines the principles of information, consultation and transnationality.
- In the case of special conditions or decisions affecting the interests of employees significantly, i.e., transfer or closure of undertakings or sites and group redundancies, the special committee or, if no such committee exists, then the European Works Council is entitled to receive information about the change.
- The new EWC Directive states the right of EWC members to training and any training participant has the right to be exempted from work for the period of training. The training and the related costs are covered by the central management.

- An agreement may be reached, e.g., on the establishment and operation of joint training and special committees, the involvement of a permanent external expert or the establishment of a controlling body.
- The various employee categories must be represented in the EWC evenly,
- An EWC may also be established without an agreement and such an EWC has right and may express its opinion and obtain information about the situation of the group of undertakings.
- A response must be provided for the EWC's opinion with attached reasoning.

Similarly to the other Member States, the Hungarian regulations (Act XXI of 2003 on the establishment of European Works Councils) are also in line with the provisions of the Directive in terms of establishment, operation and rights of the EWCs. With respect to the delegation of members into the special negotiation board and the EWC (the body deciding on delegation, the individual delegates, etc.) in Hungary the solutions available under the labour code are applied, which provide this right to the WCs. If there is no Works Council at a particular undertaking, then the employees can select their own representatives. Consequently, similarly to the other countries, the operation of the special negotiation board and the delegation process are both governed by the national legislation also in Hungary. (Csabai-Kisgyörgy 03.2010, pp. 7-9.)

2.2. The RWE European Works Council

RWE's new European Works Council was established in 2009 in compliance with the provisions of the 94/45/EC and the 2009/38/EC Directives.

2.2.1. Background

The first European Works Council (the European Concern Forum) was established at the RWE concern in 1995. RWE AG established a joint information and consultation employee representation forum for its national and international employee representation organisations and employees in the spirit of the 94/45/EC European framework directive.

The next forum, called European Concern Forum, was established on 16.11.2007. This is the most important forum for the purposes of our study. This organisation intended to achieve the objectives, similar to the objectives of the former forum, with a complex approach. The European Concern Forum consisted of the following RWE European sectoral fora EEF; European Energy Forum – year of foundation: 2005 and European Power Forum – year of foundation: 2006; currently active only in Germany. Earlier there was also a European Water Forum – 2002 but it was dissolved in 2006 prior to the establishment of the European Concern Forum, referred to above, due to the sale of Thames Water. The Concern Forum had eleven members from seven countries (Germany, Holland, Austria, Poland, Czech Republic, Slovakia and Hungary). The purpose of this forum was to establish a global dialogue between the employees' interest representation organisations and the concern management. The signatories included RWE AG, RWE Energie AG, and German, Hungarian, Austrian, Polish, Czech, Slovak and Dutch employee representation organisations.

One of the sectoral fora of the above concern forum aimed at intensive participation. The purpose of the European Energy Forum (01.05.2005) was to promote dialogue between the employee organisations and the management of the concern, divisions and undertakings within the European Union. The European Energy Forum was an information and consultation organisation which tried to serve the interests of the employee representatives of

the RWE Energy Group and the relevant undertakings within the European Union. The signatories accepted the fundamental labour norms of the International Labour Organisation (ILO) confirmed at the 86th International Labour Conference held in 1998, including especially the right to establish free trade unions and the right to negotiate collective agreements to sign collective agreements in the interest of employees.

In 2009 the European Concern Forum was replaced by the new RWE European Works Council. Simultaneously with the establishment of the new EWC, the European Power Forum and the European Energy Forum were both dissolved. The individual undertakings were members of the former European Concern Forum in a sectoral structure (e.g., the Hungarian power plants were represented in the Power Forum). However, later the corporate structure was rearranged in each member state. As a result of this change, the Hungarians could delegate representatives directly into the EWC. (EWC agreement, 14.09.2009.)

The next chapter presents the operation of the new EWC and moves on to the analysis of the current situation that is relevant to us.

2.2.2. Establishment of the new RWE-EWC

The new RWE European Works Council was established in compliance with the provisions of the 2009/38/EC Directive and the German law on the European Works Councils (Europäisches Betriebsräte-Gesetz - EBRG). The agreement on the establishment of the RWE European Works Council and on the rules of its activities was signed on 10 September 2009 by a member of the RWE board of directors, who is responsible for the labour law and the management of the IT services. On behalf of the employees, the signatories were Uwe Tigges, Günter Reppien, Dieter Faust and Manfred Holz on behalf of the German employees; Marek Zochowski representing the Polish employees, Šárka Vojíková on behalf of the Czech employees, Ferenc Kunzer and László Papis on behalf of the Hungarian employees. The Slovak employees were represented by Ladislav Perun, the Dutch works by Wim Kruyt, and the Austrian employees were represented by Gerald Loidl in the signature. Last but not least, Kevan Parker signed the agreement on behalf of the British employees.

In 2009, the concern did not plan to establish any further cross-border organisation functioning as the social dialogue institution.

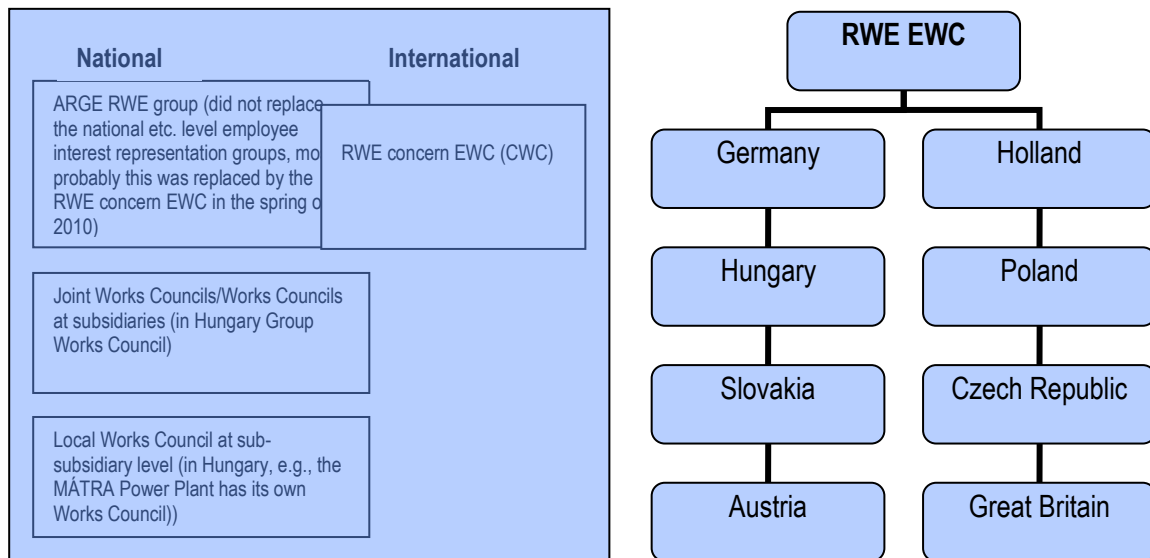
RWE AG, which had a regional approach and enabled the members of the undertakings to function also as group members, and the national and international employee representation organisations, established the Works Council indicated above for its employees employed in the Member States of the European Union. The Works Council currently consists of 30 members and almost the same number of deputy representatives (29). The RWE EWC consists of representatives of eight countries, because there RWE has more than 150 employees. A so-called 'EWC Committee' was also established with representatives delegated from the following countries: Austria, Czech Republic, Holland, Poland, Hungary, Great Britain, Germany and Slovakia.

Delegates of subsidiaries of strategic importance may also attend the meetings but only as observers, provided that RWE AG consents to it. Pursuant to the provisions of the applicable law, the EWC has the following executive officers: chairman, deputy chairman, committee member, personal substitute of committee member in the case of absence. The organisation is represented by its chairman in legal matters. The activities of the chairman are supported by two fulltime employees who are not members of the EWC. They perform the secretary tasks



as well (organisation of meetings, keeping of minutes, and management of internet websites)
(EWC agreement, 14.09.2009.) The costs of operation of this body are covered by RWE.

RWE AG Works Council system (30+29 persons)



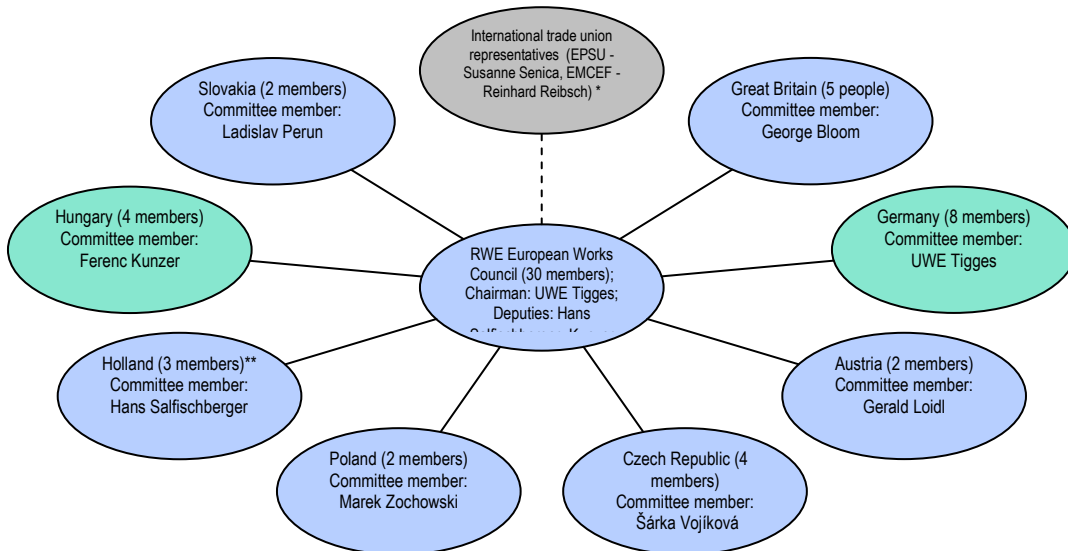
*The purpose of RWE Energy ARGE Europe (RWE Energy Works Councils working community) was to become an information and consultation forum of employee representatives where issues of the division concern management companies and subsidiaries) of the European Union, the accession countries and the European Economic Area were discussed. In compliance with the subsidiarity principle, ARGE Europe did not replace the Works Councils and employee representations (trade unions) of the individual companies and countries, as the responsibilities thereof continued to remain effective in compliance with the national legislation and agreements (ARGE Energy).

Source: EVDSZ (20-20.03.2011): Working group seminar. Operational model of multinational companies. Interest representation relations in multinational companies. Presentation. Berlin. pp. 16, 21.; József Szilágyi (2011): New structure of the European Works Council at RWE AG from November 2009. Presentation. Budapest: Federation of Trade Unions in the Electric Energy Industry.

2.2.3. The RWE-EWC membership

The number of the RWE EWC members was maximised in a higher number than the members of the previous Concern Forum, at 35 people. With regard to the eight countries, currently represented in it, including also Great Britain each country must delegate members staff proportionately, but no fewer than 2 individuals must be delegated. This principle cannot be applied to Germany, because at present only 8 individuals represent the country. This was agreed to counterweight the predominance of the German delegation within the EWC.

Staff proportionate composition of the 30-member RWE EWC



*not included in the members (they were only regular invitees even in the former Concern Forum) **including also the Essent integration

Consequently, each country where RWE AG employs at least 500 people by company, may delegate employee representatives to the European Works Council. If there are more than one undertakings concerned in a particular country, the relevant trade unions must agree on the undertaking(s) which will delegate members into the European Works Council.

The undertakings must review regularly (at least once a year) whether or not the participation in interest representation by country is proportionate to the continuously fluctuating number of employees. If the number of members has reached 35 people, immediate negotiations must be proposed (together with the management by company) for ensuring proportionate distribution.

Staff proportionate interest representation at the EWC

Number of employees in the country	Number of members in the EWC
more than 500 employees	1 member
more than 1 000 employees	2 members
more than 3 000 employees	3 members
more than 5 000 employees	4 members
more than 10 000 employees	5 members
after each additional (total) 10 000 employees	one more additional member

Source: Vereinbarung zur Bildung eines europäischen Betriebsrats für den RWE Concern. 10.09.2009, p. 4

Members are generally **elected** for four years (the detailed list of members is in Annex I). Any representative loses his EWC membership immediately who loses his elected mandate pursuant to the applicable national regulations.

2.2.3.1. Rights of the RWE-EWC members

Unless it is provided otherwise in the national legislation, the members of the European Works Council have information and consultation rights specified in the 2009/38/EC European Directive. In terms of protection of their activities, the EWC members have the same **rights** as the employee representatives, granted under the national legislation

and applicable agreements for their work as employee representatives. The European Works Council allows its members to freely express and discuss their views and opinions concerning all areas of their competence. The members of the European Works Council must have access to the information tools and telecommunication infrastructure used by the particular undertaking in order to assist them in their activities. This right is in line with the recommendation for the employer's information obligation specified in relation to the 2009/38/EC European Directive (SDA-ETUC 2009)

2.2.4. Employer representatives in RWE EWC

RWE AG is represented by the RWE AG Human Resources Directorate (e.g., Dr. Peter Gentges, HR Director of the Company, and Alwin Fitting, member of the HR Directorate of RWE AG). The head of the HR Directorate and RWE AG's labour law expert assist the European Works Council in its activities as a long-term relationship partner (employer representative). RWE AG informs the European Works Council on the status and business prospects of the group, and other topics similar and important for the European Concern, as it was the case in relation to the Concern Forum, which was active between 2007 and 2009 (topics 1-5 are fully identical):

1. organisational structure and economic and financial position of the concern,
2. business, production and sales projections,
3. employment status and related projections,
4. capital investments (capital investment programmes),
5. fundamental changes of the organisation,
6. introduction of new working methods and production procedures,
7. transfer of undertakings plants and important units and transfer of production,
8. merger or split of undertakings or plants,
9. limitation of production and closure of undertakings, plants or important units,
10. mass redundancies,
11. equal treatment in terms of employment,
12. vocational training and further training.

Following a discussion with the employer representatives, the chairman may invite also other representatives of the RWE AG management to the meetings of the European Works Council, depending on each specific agenda (RWE EWC 2009).

2.2.5. RWE-EWC Committee

This is a permanent committee. Composition of membership: 1-1 employee representative from each country represented in the EWC. The EWC chairman and deputy is also a member of the Committee (if., e.g., the chairman is German), representing his own country. No other German RWE employee is elected separately as a Committee member, the EWC chairman and deputy will also automatically become a Committee member. There is a so-called personal deputy (in Germany e.g., Dieter Faust), who substitutes the individual representing the particular country in his absence. The Committee manages the current issues and ensures co-operation between the members and RWE AG. The administrative support is provided by the same person who supports the EWC meetings. The costs of operation of this body are covered by RWE.

2.2.6. Meetings

Minutes are prepared at the meetings (prepared by the 2 individuals referred to above). The translation of the documents containing information into the relevant languages and interpretation are the responsibility of RWE AG and its subsidiaries. In the EWC agreement, the parties undertook an obligation, whereby the national undertakings of the RWE concern and their employee representatives agreed on a suitable information dissemination procedure (see the contact chapter). This is also in line with the recommendation for the employer's information obligation to the EWC members, specified in the 2009/38/EC European Directive, and another recommendation that proposes adequate contact between European and member state levels within the concern and timely information transfer and consultation (SDA-ETUC 2009). The agenda of each meeting and further information concerning the preparations for the meeting must be disseminated to each member and deputy member not later than 14 days prior to the ordinary meetings. The length of each meeting is decided by the chairman following a consultation with the employer representatives.

2.2.6.1. Regular meeting

The European Works Council has two plenary meetings each year. There are closed and plenary sessions at the meetings. The former ones attended only by the EWC members, while the plenary sessions are represented also by the employer (and invited guests). The topics of discussion of the closed meetings include, e.g., inter-cultural competence, development, discussion of further training opportunities, organisation of language courses for the EWC members, establishment of a joint strategy with the employer, exchange of experience in all topics concerning employees. The plenary sessions cover the following topics (partly overlapped with the topics already listed among the information obligations of the employer):

- description of capital investments and capital investment ideas (e.g., Essent integration),
- CO₂ emission problems (RWE is Europe' largest CO₂ emitter),
- financial standing of the undertaking,
- the TSO (transmission system operators) issue,
- extension of the operation of nuclear power plants,
- market outlook,
- economic indicators,
- professional meetings (e.g., Demographic Changes and Competences in the European Gas Sector conference),
- corporate responsibility,
- minimum requirements,
- Social Charter,
- occupational health,
- labour market in the individual countries,
- discussion of co-operation with the trade unions,
- demographic changes,
- labour protection.

A list of open issues is prepared after each meeting, containing the potential topics to be discussed at the subsequent EWC meeting (RWE EWC 2009).

All meetings are organised in Germany at various locations (e.g., Essen, Dortmund, Cologne). The employees also envisage to have meetings in other countries in the longer

term. However, no agreement has been reached with the employer about it (RWE EWC 2009).

2.2.6.2. Committee meeting

Between the regular meetings, RWE AG must inform the Committee and not the European Works Council, in due time, and present the necessary documents concerning any extraordinary conditions that have a significant impact on the interests of employees pursuant to Annex I point 3 of the 2009/38/EC European Directive and must consult with the Committee upon request. The Committee invites also members of the European Works Council to its meetings who were delegated by companies directly affected by the envisaged measures. The extraordinary conditions include, but are not limited to, the following:

- transfer of companies and important company parts,
- closure of companies and important company parts,
- mass redundancies,
- sale of companies.

2.2.6.3. Extraordinary meeting

In exceptional cases, an extraordinary meeting of the European Works Council may also be called instead of a Committee meeting with the joint consent of the chairman and the employer representative in relation to any event that is especially important for the RWE concern and if the information and consultations required for the next regular meeting of the European Works Council could not be conducted in time.

2.2.7. Official and informal contact and communication

The chairman is obliged to inform his personal deputy in advance. The members of the presidium send information to the members through the Team newspaper (printed newspapers) on various topics, including the results of the meetings. The intranet is another effective tool of official communication. Electronic mail is also supported via the internet. There is direct contact between the presidium and the members. They can mutually inform each other. Consequently, information is passed to the lower decision-making levels in compliance with the EWC agreement and the ETUC recommendations related to the Directive. However, after meetings there is generally little live communication between decision-making levels subordinated to each other, or there is no such communication at all.

The electronic mail also functions as an informal channel of communication. Contact may be maintained both formally and informally at meetings. (EWC agreement 2009; SDA - ETUC 2009)

2.2.8. Agreements

RWE is working on the establishment of a team and performance-oriented corporate culture. This process includes agreements such as the RWE Code of Conduct, the Social Charter, and co-operation with the employee interest representation groups (European Works Council, local Works Councils and trade unions).

2.2.8.1. The RWE Code of Conduct (Code of Conduct) - 2005.

‘Maintain the safety in your workplace and protect the environment!’ This slogan reflects one of the most important messages of the RWE Code of Conduct. The exemplary conduct of the managers is another important point of the Code. Managers must show examples in mutual respect, fairness, teamwork, professionalism and openness and they must function as adequate links especially if a conflict develops around them. The majority of the components of the unilateral agreement have been integrated into the Social Charter. (RWE 2005, pp. 22-23.)

2.2.8.2. Charter of Diversity - 2006¹

The Charter of Diversity is a corporate-level initiative in Germany, which has been raised to national level. The initiative is sponsored by Chancellor Angela Merkel. This initiative intends to promote the establishment and recognition of diversity, value preservation and the establishment of a prejudice-free² working environment in the German corporate culture. The Charter of Diversity was established by several German large companies in 2006 (including Deutsche Bank, Deutsche Telekom). More than 1,000 have joined it. RWE AG is one of the signatories of the Charter applicable to the German enterprises. Pursuant to the unilateral document, RWE AG undertook an obligation to comply with measures that are in line with the points of the Social Charter (including the establishment of a corporate culture in which everyone shows mutual respect and preserves values based on the examples shown by managers). These commitments were integrated into the subsequent bilateral agreements (e.g., Social Charter) and made them applicable to all companies of the RWE group in Europe. According to our information, the RWE undertakings in individual member states other than Germany could have strengthened the same concept in the same spirit with a special national regulation. This, however, has not yet happened. As far as we know, the social partners have not reached any bilateral agreement on this in the individual countries either.

2.2.8.3. Application of minimum norms – 2007.³

In relation to any reorganisation taking place at RWE Energy AG, the company undertook an obligation to apply the so-called minimum norms based on the principles existing and accepted in Europe (see below). RWE Energy AG signed an agreement with EEF in Dortmund on 14.03.2007 in order to avoid any negative effect on corporate reorganisations on employees. The parties declared that if any reorganisation affects at least two countries, then EEF has the participation rights defined in the list of information and hearing rights specified in Article 7 of the framework agreement on its establishment.

For the purpose of this agreement, reorganisation means the following in the RWE Energy group: closure and transfer of sites, fundamental changes in the working organisation (e.g., introduction of new technologies), outsourcing of important units, mass redundancies and plant closures, sale and separation of important units. The agreement applies also when the measures referred to above are introduced as a consequence of mergers and acquisitions and

¹ Charta der Vielfalt. <http://www.rwe.com/web/cms/de/577236/rwe/rwe-konzern/ueber-rwe/diversity-management/charta-der-vielfalt/>

² (in terms of world concept, religion, ethnic groups, nationality, gender, age, sexual orientation, identity and disability)

³ Agreement on the application of minimum norms in reorganisations at the RWE Energy group, concluded by the European Energy Forum represented by the chairman and his deputy and RWE Energy AG, represented by the board of directors and proceeding on behalf of the companies represented in the European Energy Forum, Dortmund. 01.03.2007.

the subsequent integration. European principles forming the basis of the measures to be adopted at RWE Energy AG:

- a) fundamental principles and rights related to work and any consequential measures in line with the International Labour Organisation (ILO) Declaration of 18.06.1998,
- b) ILO regulations related to the termination of employment, including especially the agreement on the termination of employment (Convention 158) and Recommendation 166 attached to it,
- c) European Union Directives on the termination of employment and transformation, including especially the 01/23 EC Directive (transformation), 98/59 EC Directive (mass redundancies), 91/383 EEC Directive (definite-term employment contract), 91/533/EEC Directive (information on employment conditions), 02/14 EC Directive (information and hearing of employees),

If there are applicable national implementation regulations, these will displace them eventually. Minimum norms to be applied by the currently effective corporate management in restructuring decisions:

- a) Consultations with employee representatives and trade unions must take place in time, covering all issues, prior to the finalisation of the documents and restructuring measures that are relevant for the decision.
- b) Based on the fully comprehensive consultations conducted in time, the employee representatives must be enabled to develop their own positions and to rely on their own positions in the decision-making process.
- c) This regulation does not affect the legal channels described in the currently effective national standards.

The signatories were signatories selected based on an assignment of the representatives of employees of seven countries (Germany, Holland, Austria, Poland, Czech Republic, Slovakia and Hungary).

2.2.8.4. Social Charter – 2010⁴

A main agreement is the Social Charter, which was signed finally by the parties on 16 September 2010 after a long time of controverse negotiation: Dr. Jürgen Großmann, chief executive officer of RWE AG and Alwin Fitting, a member of the HR Directorate on behalf of the employer, and the EWC presidium of 3 members on behalf of the EWC (Uwe Tigges, Ferenc Kunzer and Hans Salfishberger). Pursuant to the Charter, RWE sets a target of social responsibility towards its employees: it intends to achieve a balance between success and social responsibility towards the employees. In this context, it assumes responsibility in the following areas:

1. rejection of discrimination (based on gender family status, ethnic group, origin, religion, age or sexual orientation) and establishment of a prejudice-free working environment (e.g., Charter of Diversity);
2. recognition of the right of association as a fundamental right and the right to collective bargaining within the framework of national regulations and existing agreements;
3. co-operation with legitimate employee and trade union representatives;
4. undertaking of application of no discrimination or reference towards representatives of employees and trade unions due to their activities.
5. 'zero accident' target in the long term

⁴ Agreement on the Social Charter 2010 (Sozialcharta für den RWE Konzern. Essen 16.09.2011. pp. 1-3.); RWE (14.01.2009): Aspects of the Social Charter to be implemented at the RWE Concern. Presentation. Essen, pp. 5-14.

6. proactive health management – highest priority allocated to the health and safety of employees;
7. support of life-long learning with vocational training and further training measures;
8. involvement of employee and trade union representations in any changing process arising from monitoring required for RWE's successful positioning on the market and in competition with potential impacts on the corporate structure in compliance with the currently effective national regulations and agreements;
9. establishment of a remuneration system based on the performance and commitment of employees that guarantees a satisfactory lifestyle and takes also into account the economic aspects of the company;
10. guarantee assumed in relation to compliance with the national regulations applicable to the working hours and the regular paid holidays in order to make profession compatible with family
11. establishment of workplaces suitable also for disabled employees
12. support of international mobility of employees
13. compliance with the basic labour standards of the International Labour Organisation (ILO) and respect for the basic principles of the UN Global Compact
14. communication and enforcement of the Charter within the company

The agreement on the minimum norms and the Social Charter both must be complied with in the eight countries represented in the EWC. However, these agreements cannot substitute national regulations. The signature of the Social Charta has been a milestone in the labour relationship of RWE and even the workers representatives were not able to reach all their negotiation goals, this Charta is exemplary for a developed mutual trust but also a highly developed negotiation culture, which were able to compromise if necessary.

2.3. The general labour relation system of RWE-EWC Member States

2.3.1. Austria

Legislation: Labour Act of 1974.

2.4.1.1. Labour relations at corporate level

Works Council: at corporate level, the Works Council (Betriebsrat) is the primary body of interest representation. Its members are nominated and elected by the employees. A Central Works Council may operate at either company or company group level.

Establishment: Minimum 5 paid employees
 Its members are employees only
 The number of members corresponds to the number of employees
 The members enjoy protection
 The ratio of men and women in the Council is in line with the ratio of the sexes among employees

Election: Any employee who is 19 or older and has been employed by the company for at least 6 months can be an elector and can be elected
 Elections are secret
 Mandates are for 4 years

Operation: A chairman and a committee are elected
 Company management can only participate at sessions if invited
 Meetings at least every month

Rights: Right to information: *Social/welfare type information, e.g.:* employment of people with reduced capacity to work, promotions, labour safety, labour health, new technologies and working conditions to be launched. *Economic-type information, e.g.:* the economic and financial provision of the company, production figures and investments.

Right for consultation:

Social rights, e.g.: promotions, establishments of new organisational entities, introduction of new technology, labour safety, labour health. *Economic rights, e.g.:* proposals for future developments, investments, legislative changes, expansion.

Participation: it is implemented via negotiations.

Trade Union: Trade Unions can play a part in the interest representation of employees, but it depends on their ability to nominate candidates. The representation of the employees in company control is present both in the public and the private sector, but their influence cannot be regarded significant.

2.3.1.2. Labour relations at sectoral level

At that level, alliances have the most significant power in negotiations. Sectoral agreements are concluded at national level. The funds required for operation are primarily provided by law, but income from membership fees is also important.

2.3.1.3. Labour relations at national level

Trade Unions conclude blanket agreements at national level that may be supplemented by acts of law or by special agreements.

2.3.2. Czech Republic

Legislation: Labour Act.

2.3.2.1. Labour relations at corporate level

The primary organ of interest representation is the Trade Unions.

Works Council: Trade Unions have varying number of representatives in the Works Council; so Works Councils are the bodies for both the exchange of information and collaboration. No Central Works Council is operational.

Establishment: Over 25 employees
At least one-third of the employees request its establishment
Its members are employees only
The number of members is in line with the number of employees (3-15)
The members enjoy protection

Election: Every employee can be elected and can elect

Operation: It is not regulated in law

Trade Union: The representation of the employees in company control is present both in the public and the private sector, but their influence cannot be regarded significant.

Rights: Right to information: The Trade Unions only have a right to receive information related to salary/wage negotiations or salary/wage increases. Every body of interest representation has a right to receive information related to labour health and labour safety.

Right for consultation: The Trade Unions only have that right in terms of the following issues: economic position of employees, local regulations, changes in organisational structure, the evaluation of and rewards to employees, decisions affecting high number of employees, relocation (exceeding 22 workdays annually unless the employee has agreed), extraordinary termination of employment by the employer, the start and end of working hours. Every body of interest representation has the right in the following issues: change of employer, mass reduction of headcount, labour safety and labour health.

Participation: The Trade Unions only have that right. It relates to the termination of employment for a Trade Union member employee, the identification of economic reasons resulting in reduced salaries, establishment of rules related to labour safety and health.

2.3.2.2. Labour relations at sectoral level

At that level, alliances have the most significant power in negotiations. Sectoral agreements are concluded at national level. The funds required for operation are mainly tried to be provided by negotiations.

2.3.2.3. Labour relations at national level

Trade Unions conclude blanket agreements at national level that may be supplemented by acts of law or by special agreements.

2.3.3. Poland

Legislation: Act on Trade Unions

2.3.3.1. Labour relations at corporate level

In Poland, no other interest representation operates beside the Trade Unions.

Trade Union: The rights of Trade Unions are affected by several factors:

- the ratio of its members compared to the total number of the employees of the company,
- the size of the company,
- whether the company is state owned or privately owned,
- whether the capital is domestic or international.

Right to information: Requested by the Trade Union, employers provide information on issues affecting labour conditions, or the economic situation.

Right for consultation: In the event that an employee is to be dismissed in a questionable manner and the employee disagrees with the decision, the employer shall start consultations with the relevant Trade Union. Trade Unions are obliged to start consultations with the company before collective agreements are concluded.

Right to participation: If a Trade Union member is to be dismissed, the agreement of the Trade Union is required. Trade Unions are to be consulted also regarding issues of changes of internal regulations, disbursements, welfare benefits or holiday plans. Mass headcount reductions can only be carried out with the agreement of the relevant Trade Union.

2.3.3.2. Labour relations at sectoral level

At that level, alliances have the most significant power in negotiations. Sectoral agreements are concluded at national level. The funds required for operation are mainly tried to be provided by negotiations.

2.3.3.3. Labour relations at national level

Trade Unions conclude blanket agreements at national level that may be supplemented by acts of law or by special agreements.

2.3.4. Hungary

Legislation: Act XXII of 1992 on the Labour Code

2.3.4.1. Labour relations at corporate level

Works Council: In Hungary, the Works Council is a body of interest representation operating side-by-side with the Trade Unions having its own functions and rights. The Trade Unions, however, have an impact on the election of a Works Council due to their right to nominate candidates. Works Councils may operate mainly at corporate level but also at the level of company groups in certain cases.

Establishment: it shall be established if the number of employees is higher than 50
If the number of employees is higher than 15, but it fails to reach 51, a shop steward shall be elected

Members must be employees

The number of its members is in line with the number of employees

The members enjoy protection

Election: Any employee in employment can be an elector

Any employee of legal capacity who has been employed for at least 6 months can be elected

The Trade Union and 10% of the employees may nominate candidates

Elections are valid if more than half of those eligible have taken part in them

They are successful if at least as many candidates have received 30% support as the number of the council to be elected by law.

Mandates are for 3 years

Operation: It elects a chairman at its first session

It passes resolutions by simple majority; the vote of the chairman decides in the event of tie (except if the right of co-decision is exercised, when 2/3 majority of the members present is necessary)

Sessions are held as often as necessary and are convened by the chairman

Members may only participate at the sessions in person

Rights **Right to information:** If no Works Council operates, the

employer shall inform the Trade Unions of the following: the economic position of the employer, its sphere of activity, its investments, the evolution of wages and salaries, the use of working hours, the number and activity of employees employed in telework.

Right to consultation (providing an opinion): The Council has a right to provide opinion on among others, plans of measures affecting a large group of employees (reorganisation, restructuring, transforming an

organisational entity into an independent organisation, privatisation, modernisation), personnel records, using of support promoting training or employment, early retirement, rehabilitation of employees of reduced capacity to work, or annual holiday plans.

Participation (right of co-decision): The Council has the right regarding the use of welfare moneys identified in the collective agreement or regarding the use of institutions or properties.

The Group Works Council of RWE in Hungary (TÜT) consists of six companies. The Council has concluded a collaboration agreement with RWE jointly with two Trade Unions that belong to EDVSZ (one of them is the Trade Union of electricity workers and the other is Trade Union ÉMÁSZ). The Council copies practical ideas rather than wording from the RWE EWC and from other agreements. It is a frequent topic of discussion how to negotiate and to come to agreements. Earlier, MÁTRA had a special agreement with one of the companies of RWE, and ELMŰ-ÉMÁSZ had one with RWE-Energie, but those do not exist any longer; only the above joint agreement is valid. MÁTRA has its own Works Council as well as a Trade Union of Miners and of Electricity Workers.

Trade Union: The representation of the employees in company control is present both in the public and the private sector, but their influence cannot be regarded significant.

Rights:

Right to information: Trade Unions can request employers to provide information on any issue that is related to economic or social interests of the employees in terms of their employment. Employers may not refuse to provide information and justification for their measures.

Right for consultation: Trade Unions have the right to inform employers about their opinion on a measure (decision) of the employer, and to start consultation on it.

Further rights: Representation, legal representation (representing employees vis-à-vis either the employer or government agencies), conclusion of collective agreement (this is an exclusive right of the Trade Unions), objections (against illegal measures (or negligence)) of the employer directly affecting the employees or their bodies of interest representation, initiation of strikes, use of offices, membership fees.

2.3.4.2. Labour relations at sectoral level

At that level, alliances have the most significant power in negotiations. Sectoral agreements are concluded at national level. The funds required for operation are mainly provided by negotiations.

2.3.4.3. Labour relations at national level

Trade Unions conclude blanket agreements at national level that may be supplemented by acts of law or by special agreements.

2.3.5. Germany

Legislation: Works constitution (Betriebsverfassungsgesetz) 11/10/1952 (it has been amended several times since it took effect)

2.3.5.1. Labour relations at corporate level

Works Council: at corporate level, the Works Council (Betriebsrat) is the primary body of interest representation. Its members are nominated and elected by the employees. A Central Works Council may operate at either company or company group level.

Establishment: It shall be elected for minimum 5 employees

Members are employees only

The number of members corresponds to the number of employees

Members enjoy protection

Election: Any employee older than 18 may be an elector (3 months of employment is necessary if he/she works for the company in another legal relationship)

Any employee having a right to vote who has been employed for at least 6 months can be elected

Both the Trade Union and the employees may nominate candidates

Mandates are for 4 years

Operation: The Council elects a chairman and a vice chairman

Sessions are convened by the chairman (vice chairman)

Company management is informed about the sessions but it may only participate if invited

Rights: Right to information: Employers have an obligation to provide information on a wide range of issues, which is mandatory by the special act

(Betriebsverfassungsgesetz). If an Economic Committee operates, it must be informed, and then that body will forward the information (that is usually related to the economic or financial position or the change of shareholders) to the Works Council.

Right to consultation and information: On issues related to architectural changes, technological innovation, or the creation of jobs. The Works Council has a voting right in the event of a demerger, merger or downsizing with companies employing more than 20 employees.

Right to participation and negotiations: Welfare issues, eligibility rules, internal regulations, working hours, date of salary payments, holidays.

Trade Union: The Trade Unions may play a part in the interest representation of employees, but it depends on their ability to nominate candidates. The representation of the employees in company control is present in the public sector, but their influence cannot be regarded significant.

2.3.5.2. Labour relations at sectoral level

At that level, alliances have the most significant power in negotiations. Sectoral agreements are concluded at regional or national level. The funds required for operation are ensured by law and provided by membership fees.

2.3.5.3. Labour relations at national level

Trade Unions conclude blanket agreements at national level that may be supplemented by acts of law or by special agreements.

2.3.6. Slovakia

2.3.6.1. Labour relations at corporate level

The primary body of interest representation is the Trade Unions. If no Trade Union operates, a shop steward or the Works Council represents the interest of employees.

Works Council: The Works Council represents Trade Unions in such a way that Trade Unions have a varying number of representatives in the Works Council; so Works Council is the organ for the exchange of information and for collaboration. No Central Works Council is operational.

Establishment: can be elected beyond 20 employees

Members enjoy protection

Election: Any employee may be an elector that has been employed for over 3 months

The Council is elected by two-third majority

Mandates are for 4 years

Operation: There is no chairman

Trade Union: The representation of the employees in company control is present both in the public and the private sector, but their influence cannot be regarded significant.

Rights: Right to information: The Labour Code or collective agreement identifies the cases when it can be exercised, e.g.: the economic position of the employer, insolvency, change of ownership

Right for consultation: mass headcount reduction, extraordinary notice given by the employer, change in the number of employees, work to be performed on holidays, overtime (if it exceeds 150 hours a year).

Participation: That right is only applied to Trade Unions, while the shop steward or the Works Council have the right for consultation on the following issues: termination of employment of a Trade Union member, working hours, flexible working hours, overtime rules, company holidays, labour health and safety.

Negotiations: The Trade Unions only have a right for collective negotiations. That right has a higher impact in the private than in the public sector.

2.3.6.2. Labour relations at sectoral level

At that level, alliances have the most significant power in negotiations. Sectoral agreements are concluded at national level. The funds required for operation are mainly tried to be provided by negotiations.

2.3.6.3. Labour relations at national level

Trade Unions conclude blanket agreements at national level that may be supplemented by acts of law or by special agreements.

4. Consultant's remarks

In accordance with the survey it can be stated that RWE EWC performs well in terms of providing information to employees and regarding the conditions of consultations with them. It is based on an agreement concluded in 2009, which regulates the operation of the EWC, how its regular, extraordinary or irregular sessions can be convened, the agenda of the sessions, the rights of the EWC and the relevant procedures. In accordance with the documents received and the interviews made it can be stated that the EWC receives complete and detailed information from the central management of RWE, or from the relevant professional management regarding different topics on all issues listed in the agreement in detail. In addition, supplementary agreements have also been concluded partly originated by the EWC and partly in response to the proposals of the management. Most people interviewed have made the remark that they perceive that management decisions are made prior to the consultations in many cases.

Next there is a list of our findings related to the RWE EWC as drawn up in accordance with the results of the survey.

1. The RWE EWC can be said to be a forum of interest representation based on mutual trust. Obviously the representatives of both the management and the employees take care to maintain good connections. The employer's actions ensure that the interest representation of employees should be felt accepted.
2. In the course of our survey we have found that the management of the EWC has organised the operation of the council actively and has established good relations with the interest representation bodies of employees. Communication with the EWC (not in the least as a result of the activity of the coordinator) can be assessed to be exemplary both in terms of its content and techniques.
3. It is not a unique situation when a national company becomes multi-national, it will take import the original approach to labour relations to the international subsidiaries, which also appears in local and European labour relations. RWE AG reflects an approach typical of the system of German labour relations. It is typical of the EWC that it is highly German-centred and the connections and communication originating from there are vertical. The EWC is characterised by the approach of the German labour relations; no joint approach has been established yet. It is a positive factor that the German system is highly developed. Nevertheless, it should be considered for better company integration how the best features of labour relations in different countries could be reflected in the EWC. We propose that the idea should be critically discussed by employees within the EWC.
4. Initial integration is difficult in cases when the RWE acquires national-scale companies, but a lot is done to promote integration.
5. Local Trade Unions (where they exist) are sometimes at a little distance from Works Councils. This is even more typical in the case of industrial Trade Unions. Although, industrial Trade Unions should be suitable to provide a proper forum for dialogues for the Works Councils with the necessary frequency and getting rid of formalities. The relationship between the EWC and the European industrial Trade Unions (EMCEF, UNI-Europe) can be said to be relative formal. In principle they have a right of representatives' conferences, but they only deal directly with the issues of RWE infrequently. On the other hand, the German industrial Trade Union (Ver.di) provides

an important professional background for EWC both via its German delegates and using its direct industrial know-how. The situation is similar in Hungary, Austria and the Netherlands. We assume that it is typical everywhere where interest representation is strong. Since the present survey did not allow us to talk to the representatives of each and every country, we cannot say what the situation in other countries might be.

6. Communication between the EWC and local interest representation bodies is formalised. It has certain advantages (for instance, information is provided regularly), but also disadvantages because it is typically vertical and mostly directed top down. A little bottom up communication has partly taken over that of horizontal communication. The members of interest representation bodies in Member States turn to the supreme body with their questions or comments instead of negotiating with each other. They expect information arriving from the top. That is why two-way communication is less developed. Those features are further confirmed by the hindrances of language (for instance, the knowledge of the mediating language – English – is different with each member), although interpreters are usually provided for the sessions, documents are translated and members participate in English language courses. All that results in the fact that local Works Councils and employees feel to be ‘distant’ from the process of interest representation and its results. They do not necessarily regard the results to be their own, which may lead to tensions in terms of integration.
7. Several EWC members are uncertain whether they received information in time to be able to exert an influence on management. In that regard a proposal has been made, i.e., written information should be received before the sessions to prepare the sessions properly. (Questionnaires 2011)
8. The relationship and procedures between individual Works Council levels are formalised. This can be seen from the fact that the interviewed have all answered that information is only forwarded after the sessions of the EWC. Lively, organic communication independent of the sessions is not typical (on issues affecting Europe).
9. According to the responses received in the course of the survey, the chairman of the EWC has a strong negotiating position, which is thought to be the result of his informal networking capabilities. The chairman of the EWC has daily contact with the top members of the management. It can be assumed that any conflicts or conflicting interests potentially arising can be clarified in this way fairly simply. The relatively rigid and formalised operation of the RWE EWC becomes more flexible in that way.
10. The chairman of the EWC is a creditable person also for the members. This inevitably results, among others, in having communication between decision-making levels in the Member States less developed compared to vertical, top down communication.
11. Those interviewed have not reported about any proposals launched by individual Works Council members to the EWC. Probably, this has not happened. Nevertheless, as a by-product of international work, the EWC is somewhat separated from the corporate level. The distance in terms of knowledge and information is quite large between local Works Councils and the EWC. That can be easily improved by regular and less formal communication.
12. Those interviewed have evaluated quite poorly the positive impact of local decision-making levels on information and consultation processes. (SDA-ETUC 2009; Questionnaires 2011)
13. It is typical of the EWC that it has a major effect on the internal order of procedures, on daily issues, discussions and the agenda of the sessions, but the same cannot be stated regarding the operation of RWE. Based on the communication by the EWC directed outside the company, it seems they have an impact on the operation of RWE,

but we have no illusions as to whether this body would be able to exert a major influence over corporate decisions.

14. Although it is subject to local labour relations, it can be generally said that it is not typical that the Trade Unions of the member countries would be interested in the operation of the EWC and in the topic of its discussions. So far, one Dutch Trade Union has been the only one to contact the EWC in that regard. Another exception might be the Trade Union Ver.di and its relationship with the German Works Council members.
15. The agreement on establishing the EWC concluded in 2009 includes almost all the elements identified by ETUC as recommendations for the negotiations or any potential verbal agreements in the two-year transitional period following the publication of the directive in 2009. This means that the latter joint agreements concluded between RWE AG and the EWC (for instance, Social Charter 2010) take into account the provisions of the EWC agreement, while they include additional information only regarding one or two recommendations mentioned above (for instance, supporting life-long learning by vocational and extension training courses; providing pro-active health management – the health and safety of employees has the highest priority).
16. Almost all people responding believe the competence and sphere of authority of the EWC should be further expanded in addition to the provisions of the new directives, for instance:
 - closer relationship between EWC members and individual decision-making levels,
 - more regularity regarding sessions and meetings,
 - major participation rights in preparing decisions,
 - if they cannot participate in preparing certain decisions of the management, its reasons should be provided. (Questionnaires 2011)
17. The above feedback is slightly different from the approach according to which:
 - Hungarian employees may become familiar with the uniform European perspective and norms via the representatives of the organisation operating at company group level
 - Solidarity with each other provides results such as getting the shareholders acknowledge the necessity of a collective agreement even across the borders.(Ferenc Kunzer, 12.2009 Conference of the European Works Council. All results can only be reached with joint efforts.)

List of references

- RWE EWC (2009): Agreement on the establishment of the new RWE-EWC, 14.09.2009.
- Csabai Sándor - Kisgyörgy Sándor (03.2010): Possibilities of improving communication with the European Works Council of the MOL Group. Budapest. p. 7-9)
- Diversity Management of RWE (2006): Joining the principles of „Charta der Vielfalt der Unternehmen in Deutschland” on behalf of Charta of Diversity <http://www.rwe.com/web/cms/de/577236/rwe/rwe-konzern/ueber-rwe/diversity-management/charta-der-vielfalt/>
- Dr. Jürgen Großman (17.03.2011.): Strategie der RWE Gruppe. Dortmund. Sitzung des Europäischen Betriebsrats, p. 3-4
- Trade Union Alliance of Unified Electricity Workers (EVDSZ) (March 21-22, 2011): Report on the Berlin seminar of the project ‘Electricity Networks in Europe’; Berlin, p. 5
- EVDSZ (20-21.03.2011): Work team seminar. The operational model of multinational companies. Interest representation relations in multinational companies. Presentation Berlin. 16, p. 21.
- Facts and Figures 2010. RWE.103, p. 140
- Minutes of Session 1 of the RWE European Works Council. Essen, 05-06.11.2009, p. 4
- Material RWE 2011
- RWE (14.03.2007): Agreement on the enforcement of minimum norms in terms of reorganisation in the RWE Energy group concluded between the European Energy Forum represented by the chairman and his deputy and the RWE Energy AG represented by the Board of Directors acting on behalf of the companies represented in the European Energy Forum Dortmund, p. 2-3
- Solution 4.org (2011): RWE Questionnaires Table
- RWE (09.2005): RWE Code of conduct, Essen, p. 22-23
- RWE Personalbericht (2010). p. 80., 85
- RWE (2009): CR Key figures CRB
- RWE (14.01.2009): Points of the Social Charter to be implemented in the RWE concern. Presentation Essen, p. 5-14
- RWE (17.11.2009): Participation on the European level in RWE group – history and experiences. Presentation. Budapest. p. 3-4
- József Szilágyi (2011): The current organisational structure of RWE. Presentation Budapest: Trade Union Alliance of Unified Electricity Workers (EVDSZ).
- Social Development Agency (SDA) – European Trade Union Confederation (ETUC) (2009): The new directive. Recommendations on negotiating during the transposition period (5 June 2009 to 5 June 2011). Info point project 2008-2009. Supported by the European Commission.
- Sozialcharta für den RWE Konzern. Essen 16.09.2010, p. 1-3

Annex No. I

The members of RWE-EWC (30 people – 2011)

	Members	Country	Company	Substitute delegates	Country	Company
1.	Böhle, Reiner	Germany	RWE Rheinland Westfalen Netz	Büchel, Heinz	Germany	RWE Rheinland Westfalen Netz
2.	Faust, Dieter	Germany	RWE Power	Zubrowski, Leonhard	Germany	RWE Power
3.	Henning, Jasmin	Germany	RWE Innogy	Bossemeyer, Sandra	Germany	RWE AG
4.	Reppien, Günter	Germany	RWE Power	Holz, Manfred	Germany	RWE Power
5.	Schmeer, Dagmar	Germany	VSE	Frankemölle, Josef	Germany	Amprion
6.	Siprak, Thomas	Germany	LEW	Rauch, Monika	Germany	Süwag
7.	Tigges, Uwe	Germany	RWE Vertrieb	Schmale, Axel	Germany	RWE Service
8.	Weber, Manfred	Germany	RWE DEA	Johnen, Wilfried	Germany	RWE IT
1.	Allsopp, Steve	United Kingdom	RWE IT UK BRF and the npower Renewables BRF	Zedlewski, Stan	United Kingdom	RWE IT UK BRF and the npower Renewables BRF
2.	Bloom, George	United Kingdom	RWE npower Retail and Corporate BRF	Horberry, Ian	United Kingdom	RWE npower Retail and Corporate BRF
3.	McDonnell, Colin	United Kingdom	RWE npower Generation BRF	Brown, Michael	United Kingdom	RWE npower Generation BRF
4.	Pierce, Karen	United Kingdom	RWE npower Retail and Corporate BRF	Howell, Rebecca	United Kingdom	RWE npower Retail and Corporate BRF
5.	Tarelli, Gillian	United Kingdom	RWE npower Retail and Corporate BRF	Neilsen, Laura	United Kingdom	RWE npower Retail and Corporate BRF
1.	Hromek, Radek	Czech Republic	RWE Transgas Net	Svoboda, Karel	Czech Republic	RWE Transgas Net
2.	Kordik, Zdeněk	Czech Republic	VČP Net	Roller, Marek	Czech Republic	RWE Distribuční služby
3.	Severová, Hana	Czech Republic	RWE Distribuční služby	Dilhof, Martin	Czech Republic	JMP Net
4.	Vojtková, Šárka	Czech Republic	RWE Transgas	Kamberská, Jana	Czech Republic	RWE Transgas
1.	Kunzer, Ferenc	Hungary	ELMŰ	Király, Miklós	Hungary	ELMŰ
2.	Medveczki, Zsolt	Hungary	Mátra	Lőrinc, Mihály	Hungary	Mátra
3.	Pápis, László	Hungary	Mátra	Csató, László	Hungary	Mátra
4.	Takács, János	Hungary	EMASZ	Gembiczki, Tibor	Hungary	EMASZ
1.	Hendrickx, Eric	The Netherlands	Essent	van de Clundert, Rinus	The Netherlands	Essent
2.	Meindersma, Ernst	The Netherlands	Essent	van de Griendt, Willem	The Netherlands	Essent
3.	Salfischberger, Hans	The Netherlands	Essent	Rijks, Wim	The Netherlands	Essent



		Netherlands			Netherlands	
1.	Kircher, Herwig	Austria	Kelag	Waldner, Gerd	Austria	Kelag
2.	Loidl, Gerald	Austria	Kelag	Altersberger, Gerd	Austria	Kelag
1.	Biegaj, Krzysztof	Poland	RWE Polska	Żuczkowski, Wojciech	Poland	RWE Polska
2.	Zochowski, Marek	Poland	RWE Polska	Ostrowska, Anna	Poland	RWE Polska
1.	Holindakova, Melania	Slovakia	VSE	-		
2.	Perun, Ladislav	Slovakia	VSE	Sykora, Peter	Slovakia	VSE
<u>Number of members is approximately = 30</u>						
Permanent invitees						
Name	Trade Union:					
Senica, Susanne	EGÖD					
Reibsch, Reinhard	EMCEF					