



Workers' representatives in European Companies (SEs): proposed regulation for the (partial) transfer of supervisory board remuneration

**ETUC resolution (extract)
Adopted by the ETUC EXECUTIVE COMMITTEE ON 15-16/10/2008**

Resolution for (partial) transfer of the remuneration of workers' representatives on supervisory boards

- 1) Workers representatives on an SE Board must;
 - Transfer 10% of their remuneration if the remuneration is less than or equal to 3,500 euros;
 - In addition to the deduction described in the first bullet point above, transfer 90% of any remaining remuneration over and above 3,500 euros.
- 2) The basis for the amount of the transfer is the value after taxation according to national rules (see explanation on taxation in the annex).
- 3) Affiliates of the ETUC may decide at national level that the part to be transferred could be higher than 90 per cent.
- 4) The resources will be given to the corresponding member organisations of the ETUC (or their affiliates) or to trade union institutions (foundations, educational institutions, etc.). These, on the other hand, are obliged to pass on 50 percent of the resources to the European Workers Participation Fund (EWPF) set up by the ETUI. Affiliates may decide that the part transferred to the EWPF may be higher than 50 per cent.
- 5) The resources thus transferred to the ETUI will be used to support the work of workers' representatives in European Companies (SEs) (for more detail see annex).
- 6) A Board of Trustees will decide on how the resources are to be utilised.

The Board of Trustees made up of the General Secretary of the European Trade Union Confederation and General Secretaries of the European Industry Federations, as well as representatives of the national ETUC member organisations, should be limited to seven members. It can be increased as and when necessary. It should be made up of representatives

of organisations mainly concerned by the transfer of remuneration rule. The members of the Board of Trustees will be appointed by the Steering Committee of the ETUC.

- 7) The General Secretary of the ETUC will report once a year to the ETUC Executive Committee on activities.
- 8) The member organisations of the ETUC once again pledge to commit themselves to securing a high level of co-determination in negotiations on worker participation in the European Company (SE).
- 9) In nominating workers' representatives in supervisory or administrative boards, only those candidates should be supported who belong to an ETUC affiliated organisation. The nomination or appointment procedure for workers' representatives takes place within the framework of national transposed legislation. It is the responsibility of the trade unions to ensure a high level of transparency. In the event the rule is not respected, the trade unions will not support a renewal of the mandate.
- 10) When nominating workers' representatives to sit on the SE Board, only those candidates from ETUC member organisations will be put forward, i.e. supported, as have made a binding commitment to adhere to the following regulation on transfer.



1) Taxation treatment

For the establishment and the administration of the Fund, the taxation questions are of crucial importance. The objective is to transfer (part of) the remuneration of the members of the boards of European Companies (SE) to the ETUI under the most favourable tax conditions.

The proposed formula looks as follows:

European Company	Board Member	Trade Union or T.U. institution (Foundation, educational institution)	ETUI EWPF
xx Euro remuneration	- Minus income tax (if any)	- 10 % of remuneration less than or equal to 3500 euro/year - 90% of remuneration over 3500 euro	50 per cent of this total amount

The income-tax regulations for remunerations are different from country to country. Therefore it will be necessary to explore in each country concerned the tax rules which apply. The secretariat of the European Workers Participation Fund together with a tax expert and, if necessary, an international accounting expert, will assist the national trade union organisations concerned in clarifying the tax status of the remunerations. Main questions to be examined at national level:

1. Does the board member receive remuneration? What is the gross amount?
2. Is the board member paid as employee or as self employed?
3. Has the company to deduct "at source" an income tax (withholding tax) or is the remuneration not taxed at source or not taxed at all?
4. Is there a difference in tax-treatment between national- and foreign board members? Does a double taxation agreement in those cases exists (between Belgium and the country concerned)
5. Under which (cumulative) conditions (part of) the remuneration can be transferred by the board member to the national trade union or trade union institution without further taxation?

Examples:

- recognised as deductible professional costs;
- the transfer takes place to a non profit organisation or foundation of public interest;
- there is a legal basis or a ruling has been obtained from the national tax authorities in the residence country of the board member.

The transfer has to be proved in any case. In order to receive a tax exemption usually an ex-ante written commitment towards the national trade unions to transfer (part of) the remuneration is necessary. This must be given in advance of the nomination for the board.

The transfer of the remuneration from a national trade union to the ETUI should not raise any tax problem (according to the confirmation from the Belgium Minister of Justice to the ETUI from 16 September 2008). This transfer could be categorised as a membership fee or could be allocated on the basis of a research, training projects or joint activities.

2) ETUI activities in the field of board level representation (2004-2008)

INFORMATION	RESEARCH	ADVICE AND CONSULT	TU EDUCATION	BLR EDUCATION
<p>www.worker-participation.eu: - basic material on SE, FAQ</p> <p>- basic information on IR systems</p> <p>- SE register/fact sheets</p> <p>- SE case studies</p> <p>SE booklet (EN + GE)</p>	<p><u>SEEUROPE project</u>:</p> <p>- analysis of cases</p> <p>- observation of relevant issues in the national/EU debate</p> <p>Transfer 1/2008:</p> <p>Does good CG need worker participation? Several book and journal publications in several languages</p>	<p>Presentations on SE and related topics to:</p> <p>- EMF company policy com</p> <p>- EMCEF EWC com</p> <p>- UNIEurope.com</p> <p>National TUs in BE, DK, NL, UK, PL, MT, IT, GE, AU, SP</p> <p>ETUI/IRES sem with FR reps(12/07)</p> <p>Serving as expert appointed by SNB in BASF SE, GfK SE</p>	<p>- Pilot Seminar on TU education for BLR in different EU-MS (AU, DK, FI, FR, GE, NO, SE, SK), May 07</p> <p>seminar report on the web</p> <p>Follow up in Runo/SE, Feb 09</p>	<p>- <u>Exchange among board members</u> in SEs (AU, BE, DK, FR, GE, IT, UK), together with HBF, Frankfurt June 08</p> <p>Seminars with SE WC (Allianz, STRABAG, BASF)</p> <p>Allianz training report on the web</p>
	<p>SEEUROPE network</p>	<p>National experts prepared to be contacted</p>		
<p>EU Corporate Law Newsletter (4 times a year)</p>	<p>GOODCORP project: relevance of WP in EU corporate law</p>	<p>Support of trade union related involvement in EU Corp. Gov Forum</p>		<p>- <u>Pilot seminar</u>: : "Making companies social responsible and sustainable - The role of workers' board level representatives", Feb 08, BX seminar report on the web</p>

INFORMATION	RESEARCH	ADVICE AND CONSULT	TU EDUCATION	BLR EDUCATION
	Project European Sustainable Company	Presentation of the concept on several occasion, e.g. to a Portuguese audience in Noc 07, TUAC meeting Oct07		
	EU survey on BLRs			
	Legal aspects on I/C/P from different projects	Support to ETUC/ WPgroup (10 th dir, EPC statute, CG position 2006)		
		Company references: - RWE, DEXIA, E-ON, Volkswagen, TÜV/DEKRA, BASF, STRABAG, TK, Elcoteq, MAN Diesel, Fresenius, Allianz, tesa, Ndt Affinerie/Cumerio, Sasol, Ford, GMEurope, NORDEA		
EWC database: collection of EWC and SE agreements Provision of basic material and documentations of seminars	Evaluation of agreements and practices of EWCs and SE WCs; jurisprudence on EWC issues	Initial and continuous advice on several occassions		Seminars for numerous EWCs together with EIFs