

## Name of the country: Croatia

Transposition Act = consolidated Act nr. 739 available at <https://www.zakon.hr/z/739/Zakon-o-europskim-radnici%C4%8Dkim-vije%C4%87ima>

### 1. Presence of legally based administrative or judicial conflict solving procedures for:

		No	Yes	Unclear	brief explanation
A	SNB (including the pre-SNB phase, i.e. requesting the necessary information about the company, staff distribution, etc.)		Yes		
B	EWC based on Art. 6 agreements		Yes		
C	EWC based on art. 13 agreement		No mention/differentiation		
D	EWC based on subsidiary requirements		Yes		

### 2. Litigation on different sets of rights: presence of national provisions

		No	Yes	Which authority (e.g., court) is competent <sup>1</sup>
A	Breaches against the provision of information to the SNB as per art. 4 (4) of Directive 2009/38/EC (information on the number of employees)/Failure to establish a SNB		Yes, on the basis of Art. 33 all questions regulated by the EWC act are subject to enforcement/litigation <sup>2</sup>	Labour court.  Arbitration authority (if chosen by parties).  The Economic and Social Council if mediation is mandatory or chosen by the parties.
B	Operation of the EWC: breaches and compliance with the law (statutes), agreement or Subsidiary Requirements			

<sup>1</sup> Material and geographical competence.

<sup>2</sup> Administrative supervision over the application of this Act and regulations adopted on the basis thereof shall be performed by the central state administration body responsible for labor affairs (Art. 33). Inspection supervision over the implementation of this Act and regulations adopted on the basis thereof shall be performed by the central state administration body responsible for labor inspection affairs (Art. 34)



C	Challenging management on the use of confidentiality and secrecy/withholding information)			
E	Individual rights of the SNB/EWC members under national EWC legislation			
F	(Others to be filled in)			

If yes, please take those differences into account when answering the following questions.???

### 3. Capacity to act in court

		Brief explanation/ differences for 2A-2F above)
1	Who/which body can start a judicial procedure?	EWC or SNB (Art. 35 para 1)
2	What legal status (ius standi) is a requirement to start a judicial procedure? (legal personality, capacity to act in courts, other forms?)	EWCs don't have legal personality, ergo legal personality is not required to litigate in courts
3	What is the legal status of the EWC (legal personality or other capacity to act in court)?	Capacity to act in courts <sup>3</sup> based on the right of works councils to go to court.
4	In case of lacking capacity to act in court: how can it be circumvented (think of representation by trade unions)?	unclear
5	Who represents the EWC in law?	Not defined by the law, but presumably: EWC, Select Committee or SNB
6	What is the capacity to act in court of joint type ('forum' or French-type) EWCs composed of both management and employees' representatives and can it be an obstacle?	No differentiation / detail in legislation

### 4. Starting a procedure and timelines

		Brief explanation
1	Does the law set conditions as to how the EWC can take a valid decision on entering a judicial procedure? Think of voting, quorum, the necessity of a physical meeting to take a decision,...	No <sup>4</sup>
1.a	Does the law contain any requirements on the internal rules concerning question 1?	No
2	How does one file a case in court? (Who, format, steps)	
3	What is the deadline to start a judicial procedure?	

<sup>3</sup> Art 154 of the Labour Act (see also European Commission 2018: 57).

<sup>4</sup> However, the Labour Act defines requirements for starting collective bargaining, which may apply to EWC: Article 260(1) Persons representing the parties to a collective agreement must have a written power of attorney for collective bargaining and concluding a collective agreement.



4	Are there other relevant deadlines in the judicial procedure?	In case of mediation: 8 days to complete mediation. <sup>5</sup>
5	What is the role of out of court settlements once a case has been filed?	
6	How long does a judicial procedure typically take?	
7	Is an injunction or a summary procedure possible?	

## 5. Costs

		Brief explanation
1	What are the court fees for a judicial procedure?	
2	Is legal representation by a lawyer required in a judicial procedure?	
3	Who pays the costs for:	Employers are obliged to provide conditions and necessary funds for workers' participation in decision-making
	- Legal expert	The central management shall bear the expenses of one expert <sup>6</sup>
	- Court fees	
	- Other costs (travel/interpretation)	Employer
4	Does a EWC normally have an independent budget and/or an own bank account under a given national legislation?	Not required by law
5	Can the EWC be sentenced to pay the costs of the other party in the judicial procedure?	No (?). The works council and its members shall not have civil liability for its decisions (Art. 154, Labour Act)
6	Can the EWC <i>members</i> be sentenced to pay the costs of the other party in the judicial procedure?	No (?). The works council and its members shall not have civil liability for its decisions (Art. 154, Labour Act)

## 6. Sanctions

		Brief explanation
	How is a breach of law classified?	Misdemeanor (EWC Act, consolidated) or Major Violation (Labour Code <sup>7</sup> )

<sup>5</sup> the mediation provided by this Act must be completed within eight days following the submission of information about the 119 dispute to the Economic and Social Council, or to a county or the City of Zagreb office responsible for labour affairs

<sup>6</sup> Article 14 (consolidated EWC act)

<sup>7</sup> Art 293 para 1, point 34: for failing to provide at the request of an employees' representative information on the total number of employees and the number of employees in individual Member States of the European Union and with individual employers or on the structure of an employer (Article 170, paragraph 2),



1	What are the sanctions for breaches of EWC laws?	A fine of HRK 7,000.00 to HRK 15,000.00. <sup>8</sup>
2	Can the court rule to stop or reverse the companies' decision-making?	Not clear. In Croatia, where court declarations of nullity are explicitly available in the Labour Code with regard to national levels of information and consultation rights; Article 149 (Duty to consult before rendering a decision) stipulates that '(12) A decision rendered by the employer in violation of the provisions of this Act governing consultations with the works council is null and void'. However, this provision of the Labour Code does not seem to refer directly to EWCs, which are governed by a separate section (Articles 164 ff.), and it might be problematic to apply it by analogy  According to Prof. Mario Vinkovic: Violations decision can become invalidated: decision taken in the context of national I&C (2002/14/EC) becomes null and void if rules were violated by management in course of adopting them, but only with regard to national works councils and not EWCs.
3	Whom should fines be paid to?	
4	Can a member of management be held personally liable (personal vs. corporate liability)	Yes: employer as a legal person (Art.35) and natural persons <sup>9</sup>
5	Can individual EWC members be sentenced to pay fines or be subject to other sanctions?	No. The works council and its members shall not have civil liability for its decisions (Art. 154, Labour Act)
6	Can the EWC collectively be sentenced to pay fines or be subject to other sanctions?	No. The works council and its members shall not have civil liability for its decisions (Art. 154, Labour Act)

## 7. Out of court settlements

		Brief explanation
1.	In general, are alternative conflict resolutions available in a given country can out of court settlements be reached once a case has been filed? Does it happen in practice?	Possible / allowed by agreement among the parties <sup>10</sup> . Mediation: Not mandatory for EWCs, but mandatory otherwise for collective disputes between trade unions and employers'

<sup>8</sup> The respective laws punishing national labour law breaches are stronger than those applying to breaches of EWC provisions are (European Commission, 2018).

<sup>9</sup> A fine of HRK 2,000.00 for the misdemeanor referred to in paragraph 1 of this Article shall be imposed on the employer, a natural person and the responsible person of the legal person.

<sup>10</sup> European Commission 2018: 57



		organisations. (Art. 270 of the Labour Code). Mediation is conducted by The Economic and Social Council. Arbitration also available. <sup>11</sup>
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## 8. Resources for EWCs

		Brief explanation
1.	Can unions provide legal support or financing for litigation?	
2.	What other resources are available in terms of legal support to EWCs and/or EWC members in your country (e.g., Arbeiterkammer, legal support centres)	Labour Inspection

<sup>11</sup> Resolution of disputes by arbitration Article 274 (1) Parties to a dispute may agree to bring their collective labour dispute before an arbitration body. (2) The appointment of an individual arbitrator or an arbitration board and other issues related to arbitration procedure may be regulated by a collective agreement or by an agreement of the parties made after the dispute has arisen.

