

# Call for tenders for subcontracting an expert for the ETUC project on “Democracy at Work”

This is a call for a subcontractor to provide expertise as part of the implementation of the ETUC project on “Democracy at Work”.

The ETUC will publish the call on its website, on Friday 23 April 2021, and keep it online for 28 calendar days (deadline for submission of bids: Friday 21 May 2021).

## 1. Background information on the project

*More Democracy at Work* is part of a broader approach for a more Social Europe and workers’ involvement, including stronger information and consultation rights and board-level participation. The importance of workers’ rights of information, consultation and participation are laid down:

- in the TFEU’s article 153 points (e) and (f). These rights are reinforced with the explicit reference in the chapter on solidarity of the legally binding Charter of Fundamental Rights of the EU in its Articles 27 and 28.
- in Articles 6, 21, 22, 25, 28 and 29 of the European Social Charter of the Council of Europe.
- in the declaration of the European institutions on the European Pillar of Social Rights, where decision-makers stressed their moral commitment towards the enforcement of those rights.

At the political level, current legislation on workers’ involvement needs update and decision-makers have to put in place the necessary initiatives to strengthen social Europe, and to improve workers’ rights and their working and living conditions. However, the European Union (EU) is at a crossroads with regard to workers’ information, consultation and participation rights. After the activism at European level between 2001 and 2009, we witnessed a stand-still and no new legal initiatives in this field. The lack of activism is particularly visible in the following fields:

- after the 2013 “Fitness check” on European legislation in the area of information and consultation, no further initiatives have been taken to strengthen Directive 2002/14/EC, Directive 98/59/EC or Directive 2001/23/EC.
- after the 2009 recast of the EWC Directive and despite the 2018 Commission’s evaluation of the implementation of the recast, no legislative initiatives have been proposed.
- the recent company law package – and in particular Directive 2019/2121 and Directive 2016/0359 – have dealt extensively with workers’ rights to information, consultation and board level representation in companies’ restructuring processes. However, the company law package does not go far enough to protect workers’ rights and to avoid abuse and fraud. It needs substantial improvement in terms of a) linking the main place of business and the

registered office and b) transnational information, consultation and board-level representation rights.

In the recent past years, the development of transnational companies operating at European and global level has increased. This dynamic has been accompanied by the progressive digitalisation of the economy and various types of outsourcing (with long and complex supply and subcontracting chains) and restructuring processes (e.g. conversions, mergers and divisions). While the European Commission chose a unilateral approach delivering on conversions, mergers and divisions for the business side, we are still missing a high European standard for information, consultation and workers' board-level representation in cases where companies restructure across borders. Loopholes and inconsistencies in current legislation give the opportunity to reduce and even undermine workers' rights to information, consultation and participation through restructuring processes.

When company decisions are taken at a transnational level, the national systems of employee information and consultation no longer suffice. At the same time, European Works Councils are often poorly implemented, making it difficult for employees in multinationals to be informed and to defend their interests. Furthermore, the coordination between the two levels is not always easy to organise and workers representatives may face obstacles by the employers.

This is why the ETUC calls for legislative initiatives to ensure that workers' involvement keep pace with these developments and impact positively multinational companies' decision-making processes. Such initiatives need to be based on scientific evidence and the outcome of experienced practices.

The project aims at exploring in-depth how the different levels of workers' involvement and the different instruments at disposal of workers and their representatives work in conjunction with each other. Most of the scientific studies available have focused until now only on either the functioning of EWCs or national I&C rights and processes or board-level representation, without proposing an overview of the different rights and levels and their relationship.

The objectives of this project are to:

- present how the different rights and moments of information, consultation and participations are combined with each other;
- explore whether workers and their representatives are able to use these different instruments effectively to be informed in advance and to influence companies' decisions;
- highlight shortcomings and challenges with the current legal frameworks and areas which would need to be modified and improved, as well as any best practices and good interactions between different levels and different instruments for workers' involvements.

## 2. Tasks to be performed by the subcontractor

The subcontractor will be entrusted with a research project, which is part of the broader ETUC project *More Democracy at Work*. **The research will start in June 2021 and will be concluded by January 2022.**

The project's investigation concerns multinational companies. The subcontractor will assess the collaboration and coordination of different levels of workers' involvement. In particular, the aim is to throw a light on how the different levels and instruments of workers' involvement in large companies have come into play and have interacted with each other. Especially in the event of big decisions, such as for instance, the event of significant restructuring processes in those companies, such interaction is worth to be examined.

**The research should consist of case studies on specific companies from 8 countries with different systems of workers' involvement.** A categorization should be carried out on the basis of:

- companies with and without workers' board-level representation;
- companies with and without an EWC;
- Member States with different models of national information and consultation;
- Member States covering the different geographical areas in the EU.

The companies and Member States that are going to be the object of the assessment will be chosen in collaboration between the experts and the project's Steering Committee.

The subcontractor will focus on EWCs and national I&C rights and processes or board-level representation. Based on desk research, a questionnaire should be developed and qualitative interviews carried out with national and European trade unions, national workers' representatives, board-level workers' representatives, EWC and global works councils members, as well as with companies' representatives and public authorities (e.g. labour inspectorates).

The results shall be presented in a final report of about 120 pages containing:

- an executive summary;
- the results of the case studies;
- conclusions from the case studies;
- specific policy recommendations.

The final report shall lay down where workers and their representatives are able to use these different instruments effectively to be informed in advance and to influence companies' decisions. It shall explain which instruments in a country's legislation lead to an effective coordination and collaboration between the different levels of workers representation. Furthermore, the report shall illustrate to which degree companies are keen on implementing workers' rights on information, consultation and representation in the case of cross-border restructuring. Building on this, the policy recommendations shall highlight shortcomings and challenges with the current legal frameworks and areas which would need to be modified and improved.

The qualitative research would ideally complement recent ETUI findings on EWCs & BLERs (Stan de Spiegelaere et al.). In this context, the following assumptions should be tested:

- If BLER & EWCs exist and communicate with each other, both are more likely influence management decisions.
- In case of regular communication between EWC members & BLER interlocutor, they are more likely to think their meetings are effective for consultation.
- EWC members which have a BLER in their company are more likely to say that they receive timely information compared to those without.

- The positive 'effect' of WBLR is only present when the EWC members also communicate with the BLER.
- It should be enquired whether these findings are relevant for a possible EWC revision.

The final report will be published in English and in French. The findings and the recommendations will be summarised in a leaflet to be translated into English, French, German, Italian and Polish. The results of the study and especially the policy recommendations will feed into the strategy of the European trade union movement to strengthen information, consultation and participation rights. Furthermore, it will be part of any political discussions ongoing at European level on these issues as well as on any concrete legislative initiatives proposed by the European Commission in the meantime. In this context, preliminary findings of the research may be presented by the researchers and discussed during the EWC conference in September 2021. A special conference will be dedicated to the research at the end of the project cycle.

In summary the subcontractor will need to:

- Participate periodically in meetings of the steering committee of the project, to discuss the legal analysis and its content and to assess the developments and the ongoing work;
- Identify, together with the steering committee of the project, the companies and Members States whose practices will need to be assessed;
- Based on desk research, a questionnaire should be developed and qualitative interviews carried out with national and European trade unions, national workers' representatives, board-level workers' representatives, EWC members, as well as with companies' representatives.
- Produce a final report (approximately 120 pages);
- On the basis of discussions with the steering committee and also considering the case studies gathered in the first phase of the project, propose draft policy recommendations;
- Participate and present the project the report in two conferences.

### 3. Expertise, experience and skills required

Sound expertise is required on the following issues:

- Expert knowledge in the field of European Works Councils
- Expert knowledge of workers' information, consultation and participation rights;
- Good understanding of workers' involvement (both in national and European contexts);
- Experience in working on European level projects;
- Good understanding of the European trade union movement.

Sound experience is required in the following areas:

- Carrying out in-depth researches, including legal researches and overviews, preferably relating to workers' information, consultation and participation rights;
- Carrying out qualitative interviews;
- Writing research reports containing analysis of legal frameworks and meaningful policy recommendations;

- Successful track record of delivering in case studies for similar projects, with EU institutions and/or European stakeholders (social partners, NGOs, etc.).

Skills required:

- Proven research and presentation skills (in English);
- Proven skills in drafting case study reports;
- Ability to work within specified deadlines and to respect budgetary limits;
- Ability to work in a multicultural context and understanding of different industrial relations culture & traditions;
- Good administration and project management skills.

## 4. Time schedule and reporting

The subcontractor will be asked to perform the above-mentioned tasks by 31 January 2022.

The subcontractor will also be asked to participate in the Steering Committee meeting of the project and the final conference by the end of the year. The dates will be announced in the course of the project.

## 5. Payment

The total maximum budget available for the fees of the subcontractor is as follows:

<b>Contract with ETUC</b>	
<b>Main activities and Meetings</b>	
<ul style="list-style-type: none"> <li>• Select relevant cases covering 8 countries.</li> <li>• Develop a questionnaire for the interviewees and conduct the interviews.</li> <li>• Draft a case study report covering 8 countries.</li> <li>• Draft policy recommendations.</li> <li>• Participate in the Steering Committee meetings to discuss the evolution of the project.</li> <li>• Participate in a final conference to present the results of the case study report.</li> </ul>	
<b>Total budget for the Expertise</b>	<b>50 000 € (VAT and all taxes included)</b>

The subcontractor will be remunerated in various instalments (advance and final payment). This amount covers the fees but does not include the travel and subsistence costs incurred for attending project meetings (such as Steering Committee meetings and Conferences). These will be covered by ETUC on the basis of EU rules & thresholds (see the EC table of maximum amounts per EU member state).

## 6. Selection criteria

The selection criteria are:

- Verifiable expertise, experience and skills, as required and described in part 3 of this call;
- Quality of the methodology proposed in the offer;
- Proven track record of ensuring the quality of written materials produced, both in terms of content and format (i.e. previous publications), in the relevant subjects specified in this call for tenders;
- Price/Quality ratio;
- Previous research/work undertaken in the field of subcontracting and its impact on employment and labour.

## 7. Form, structure and content of the tender

Tenders must be written in English. They must be signed by the tenderer or his duly authorised representative and be perfectly legible so that there can be no doubt as to words and figures. Tenders must be clear and concise and assembled in a coherent fashion.

Since tenderers will be judged on the content of their written bids, they must make it clear that they are able to meet the requirements of the specifications.

All tenders must include at least two sections:

i) Technical proposal

The technical proposal must provide all the information needed for the purpose of awarding the contract, including:

- Specific information covering the technical and professional capacity, as required, in particular:
  - Description of relevant professional experience with emphasis on the specific fields covered by the invitation to tender;
  - Detailed curriculum vitae of key coordinator and of the other team members;
  - A selection of the main works and/or articles published by all the experts involved, in relation to the relevant subjects specified in this tender.
- Specific information concerning the proposed methodology for delivering the tasks listed in part 2 of this call.

ii) Financial proposal

Prices of the financial proposal must be quoted in euros, including if the subcontractor is based in a country which is not in the euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.

Prices must be fixed amounts and shall not include travel expenses and daily allowances for the attendance to the Steering Committee meetings and other project events which will be covered by ETUC on the basis of EU rules & thresholds.

The maximum amount available for this contract is EUR 50.000 (VAT and all taxes included).

Prices shall be fixed and not subject to revision during the performance of the contract.

## 8. Award Criteria

The contract will be awarded to the tender offering the best value for money, taking into account the specific objectives, requirements and selection criteria of the tender. The principles of transparency and equal treatment will be respected with a view to avoiding any conflicts of interest.

## 9. Content and selection of the bids

**This call for tenders will be published on the ETUC website on Friday 23 April 2021 and will be kept online for 28 calendar days. Offers must be sent at the latest on Friday 21 May 2021.** Offers must be sent to ETUC, in electronic format (by e-mail to [amartin@etuc.org](mailto:amartin@etuc.org)), and refer to our “Call for Tenders – Democracy at Work Project”.

A committee will be formed comprising of 3 representatives of the ETUC. One member of this committee will confirm the date and time of receipt of each bid. The committee members will sign the report on the bids received, which will list the admissible bids and provide reasons for rejecting bids owing to their failure to comply with the stipulations of the tendering process.

This committee will also evaluate the tenders that have been deemed admissible. An evaluation report and classification of participation requests will be drawn up, dated and signed by all the members of the evaluation committee and kept for future reference.

This report will include:

1. The name and address of the contracting authority, the purpose and value of the contract;
2. The names of any excluded candidates and the reasons for their rejection;
3. The names of candidates selected for consideration and the justification for their selection;
4. The names of candidates put forward and justification of their choice in terms of the selection or award criteria.