

# German board-level employee representation in multinational companies: Patterns of transnational articulation

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## Abstract

We investigate codetermination on German supervisory boards of multinational companies and pose two questions. First, under what conditions does board-level representation constitute a power resource for employee representatives? Second, how does board-level representation articulate with European Works Councils? We conclude that factors related to corporate structure – head office location, the level at which supervisory boards are established – play a decisive role in determining the power resources available to employee representatives. Articulation with European Works Councils depends on the adoption of a strategic approach whereby German employee representatives deploy the power resources derived from national codetermination rights at the transnational level, or use the mechanisms of transnational employee representation to compensate where such national power resources are lacking.

## Keywords

Board-level employee representation, European Works Councils, Germany, multinational companies

## Introduction

Employee representation on company boards provides opportunities for employee representatives to exercise oversight over important managerial decisions, as well as to participate in the appointment and dismissal of senior executives. Membership of supervisory

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and management boards also facilitates early access to information on significant developments and, at least in theory, involvement in strategic decisions. Germany has both the longest European tradition of codetermination and the strongest statutory provisions on board-level employee representation (BLER). Current arrangements originated in the struggle over recasting industrial relations in the wake of the Second World War. The *Montan Mitbestimmungsgesetz* of 1951 provided for equal representation of employee and shareholder representatives on supervisory boards in the coal, iron and steel industries; while the 1952 *Betriebsverfassungsgesetz* (Works Constitution Act, amended by the 2004 *Drittelbeteiligungsgesetz*) provided for employee representatives to occupy one-third of the seats on the supervisory boards of all companies with more than 500 employees. The most significant statutory regulation in terms of the number of employees covered is the 1976 *Mitbestimmungsgesetz*, which provides for equal representation of employee and shareholder members on the supervisory boards of corporations with more than 2000 employees. Unlike the *Montan* provisions, however, the chair, who is always appointed by the shareholder side, has a casting vote, ensuring that shareholder members can always outvote the employees.

Our article links German and transnational perspectives by focusing on codetermination in the German supervisory boards of multinational companies (MNCs). Such firms create a distinctive set of framework conditions for BLER, as supervisory boards are essentially national in origin and character but, in the case of MNCs, are embedded in transnational company structures. The scope of national board-level representation, in this case German, can vary considerably. For example, supervisory boards can oversee an entire multinational group or be installed at the level of a national subsidiary, and can also relate to either the home or host country (Kristensen and Zeitlin, 2005; Morgan, 2001). The extent to which board-level codetermination enhances the repertoire of German employee representatives is also likely to be affected by whether or not the company is headquartered in Germany. In order to explore these differences, we use a mixed sample of MNCs based in Germany and elsewhere, with BLER either at the parent company or subsidiary level in Germany.

The European aspect to this topic lies in the fact that employee representation on the supervisory boards of MNCs is necessarily articulated with European-level employee representation in firms that have European Works Councils (EWCs). Articulation here is understood as coordination and interaction between differing institutions and levels of employee representation (Haipeter et al., 2019; Waddington, 2011; Waddington and Conchon, 2016). It can take different forms, can be strong or weak and be viewed differently by employee representatives at different locations within an MNC. For instance, a strong form of board-level codetermination might lead German representatives to view EWCs as less significant, possibly attracting criticism of the power resources and information uniquely available to German representatives from their counterparts in non-German operations. Conversely, it is also conceivable that German employee representatives might deploy their national power resources at European level in support of European employee interests. Where board-level codetermination represents only a weak source of power and information, German representatives might have a greater interest in EWCs and be more active in integrating European interests.

We address both aspects of board-level representation, codetermination as a power resource and its articulation with EWCs. We investigate, first, how employee representatives (i.e. EWC members, German works councillors and trade union delegates) view BLER; how do they assess the scope for influencing or exercising power over corporate decision-making? In this regard, we analyse whether board-level representatives can change the substance of management decisions, either by preventing or modifying them, or can change the implementation of these decisions. Second, we analyse whether and how BLER is linked to other representative institutions and actors at European and national levels, and what significance these interconnections have for cross-border employee representation. We consider these aspects in relation to differences in corporate structures, such as the location of the company headquarters.

Our study is based on a research project that investigated the articulation practices – coordination and integration of employee interests – at and between the various levels of employee representation at local, national, European and global levels within MNCs. We begin by outlining the state of research and then set out our methodology and sources of data before presenting our findings.

## Research on BLER

Even in Germany, studies of BLER are vastly outnumbered by research on works councils, collective bargaining and trade unions. Those that exist can be classified into two broad categories. The first uses economic analysis to explore the impact of board-level codetermination on company performance and to investigate the effects on productivity, company valuation or innovation (FitzRoy and Kraft, 2005; Jirjahn, 2010). Although this research has yielded very divergent results (Conchon, 2011), there is no unambiguous evidence that BLER has discernible negative economic effects (Mitbestimmungskommission, 2006).

The second main strand of research, which had its peak after the implementation of the 1976 *Mitbestimmungsgesetz*, is dominated by a concern with the social practice of codetermination at board level, focusing on the scope for employee representatives to exercise power over and exert influence on corporate decision-making. One finding is that the formal existence of codetermination rights is not sufficient to ensure that employee representatives on supervisory boards can influence strategic decisions in practice. Quite the contrary: their actual influence on company decisions is meagre. Research indicates that employee representatives tend to raise the social aspects and consequences of management decisions but do not fundamentally question the decisions themselves (Bamberg et al., 1987). This leaves board-level codetermination with two main functions and benefits for employee representatives. The first is access to privileged information on business developments and strategy that would not reach employees by other routes, or at least not in this quantity and with this quality. The second is the promotion of informal contacts and relationships with the management board before and following supervisory board meetings, creating scope for informal influence.

Similarly, Waddington and Conchon (2016) conclude from a Europe-wide survey of employee representatives that the high level of formal codetermination rights in Germany

do not lead automatically to real power for employee representatives. Although a substantial proportion of representatives indicated that they exercised oversight over management or were involved in corporate decisions, a large minority considered that their involvement was confined to information and consultation. This assessment depended principally on whether the supervisory board was that of an independent company or a subsidiary. However, Jürgens et al. (2008) stressed that board-level representatives could improve their capacity to share information and expertise and to agree on common interests. One further characteristic emphasized by Carley (2005) and Gold (2011) was the existence of close articulation of works councillors on supervisory boards: first with the trade unions that were also represented on the board and second with the various levels of workplace-level representation.

Overall, previous research has indicated that the configuration of corporate structures and their articulation with other employee representative actors and institutions play a role in determining how far employee representatives can exercise influence on company decisions. These studies offer very few findings, however, on the actual interplay between BLER and other representative actors and institutions. Moreover, as yet, no research has been conducted specifically on the role of board-level representation in MNCs.

## Methodology and data sources

Our study is based on semi-structured interviews with employee representatives on supervisory boards, EWCs and works councils and with trade union representatives in 11 MNCs. In total, 67 interviews were conducted and analysed. The focus was on the articulation of the transnational, national and local levels of employee representation within companies, for which we interviewed German employee representatives and representatives at two non-German locations in each of the companies. For reasons of space, we do not set out the findings for all the sample companies in the same degree of detail, but highlight the key features of the analysis using the most illustrative examples. In order to protect anonymity, pseudonyms are used. The sample included five firms with their head office in Germany and six headquartered elsewhere (see Table 1). The intention was to explore any differences in the role and functioning of board-level representation between the two types of company.

All companies were subject to the 1976 *Mitbestimmungsgesetz*, with equal representation of employee and shareholder members, either at the level of the parent company or that of their German subsidiary. One exception is 'Bank', where board-level representation is based on the 2005 EU Cross Border Mergers Directive, in this case also providing equal representation of employee and shareholder representatives. In this respect, all the sample companies possessed the same formal level of codetermination. Of those companies headquartered outside Germany, only 'Rubber' and 'Steel' had a supervisory board with employee representation at the level of the parent undertaking; 'Bank', 'Chemicals', 'Power' and 'Wholesale' were all headquartered in countries without such statutory provisions. Overall, their boards are smaller than those of the companies with German headquarters. All companies had EWCs, two also had a World Works Council.

**Table 1.** Company sample.

Company	HQ	Employees worldwide <sup>a</sup>	Employees Germany
Cars	Germany	≥500,000	≈280,000
Postal Services	Germany	≥500,000	≈170,000
Synthetic	Germany	100,000–300,000	≈30,000
MedTech	Germany	≤100,000	≈6000
Transport	Germany	100,000–300,000	≈190,000
Wholesale	USA	100,000–300,000	≈3,000
Bank	Italy	100,000–300,000	≈20,000
Chemicals	Belgium	≤100,000	≈3000
Steel	Finland	≤100,000	≈3000
Power	USA	100,000–300,000	≈3000
Rubber	France	100,000–300,000	≈9000

<sup>a</sup>Figures are approximate to protect anonymity.

## Board-level representation in German MNCs

### *The supervisory board as a power resource*

Employee representatives at several MNCs headquartered in Germany mainly regarded BLER as very important. In particular, representatives at ‘Cars’, ‘Synthetic’, ‘Transport’ and ‘Postal Services’ assessed it as an important level of interest representation, facilitating early access to information on important developments and offering scope to influence strategic decisions. This was especially the case during major corporate restructuring or for investment planning, both of which are crucial for retaining operations and employment at their current locations.

The case of ‘Synthetic’ illustrates the central role that board-level representation can play in the context of corporate restructuring. An entire division with several thousand employees in Europe was to be divested, a step that required the agreement of the supervisory board. This proposal generated intense controversy and the employee representatives initially stated that they would not agree, in view of the expected impact on the workforce. After intensive discussions, a compromise was reached: the employee side acquiesced, but in return secured wide-ranging concessions from management on employment and investment guarantees, both at the unit being divested and in the company’s remaining operations in Germany. Although the shareholder side could have used the chair’s casting vote to defeat the employee representatives, neither the shareholders nor the management board wanted to endanger long-established traditions of trust and cooperation with employees, as explained by one employee representative.

You can’t question business decisions, and given the chair’s casting vote these would get through anyway. However, there’s a real will to come to an agreement with employee representatives on such strategic decisions. ... Of course, you then use this opportunity to say ‘okay, but only under certain conditions’. And you couldn’t stop it anyway.

Although the employee representatives stressed that membership of the supervisory board could not ultimately prevent decisions being made on business grounds, it did enable them to influence such decisions and raise employee concerns. In the case in question, this occurred through a threat to refuse consent to management's proposal. The context and precondition for this to be effective was that works councillors were deeply embedded in the generally harmonious social partnership that marked workplace industrial relations at the company and management did not want to put this at risk. This enabled agreement to be reached on a multi-year employment guarantee and additional investment into the German operations as a *quid pro quo* for consent to the divestment.

According to the employee representatives interviewed, the existence of BLER was the decisive factor in their ability to exert pressure, as management would have been much less willing to agree concessions had the consent of employee representatives not been required. At 'Synthetic', the power resources available through board-level representation thus played a key role in sustaining employment levels in the wake of corporate restructuring.

At 'Cars', employee representatives were successful in influencing investment planning. This was mainly due to the pattern of ownership and several unique requirements of the group's articles of association. First, ownership and voting rights are highly concentrated, with several long-term core investors each holding large portfolios of shares. This served to protect the company against hostile takeovers and allowed it to adopt a long-term strategic perspective. A substantial proportion of voting shares is also in public hands, facilitating the formation of board-level coalitions between employee representatives and those of the public shareholders, both of which have an interest in retaining operations and jobs in Germany. Second, under the company's unique articles of association, any proposal to construct or relocate a production facility requires the agreement of two-thirds of the members of the supervisory board, meaning that such decisions cannot be made without the consent of the employee members. This specific regulation extends the influence of the employee representatives beyond the level of the 1976 Act.

According to the employee representatives interviewed, one of the decisive factors determining the rhythm of supervisory board meetings is the investment planning cycle, which is intensively debated between management and the central and group works councils as soon as drafts become available. Closely related to this is the issue of relocation of production operations. Although the board formally decides both topics, no major discussion takes place within that forum. Rather, the formal decision and the real decision-making process are decoupled since the latter takes place prior to the supervisory board meeting where the decision is made, and represents a compromise reflecting the complex constellation of interests within the group, encompassing not only employee and company positions but also the interests of specific locations, regions and individual marques within the group.

In this company, the supervisory board has the function of *ultima ratio*: if no consensus is achieved beforehand, it would then become the setting for a conflict and, given the unique legal features of the company, employee representatives would be in a strong position. This bolstered their position in the negotiations conducted beforehand by the German group works council. Their hand was also strengthened by the fact that, as with 'Synthetic', the management board and shareholder representatives seemed to have an

elemental interest in avoiding a contested vote on the supervisory board. This consideration also applied at 'Transport', where the strong presence of a public owner on the capital side of the supervisory board offered favourable opportunities for building political alliances between shareholders and employee representatives.

At 'MedTech', by contrast, the supervisory board was not a power resource for German works councils, even though the headquarters were in Germany. The explanation lies in its unique structural feature as a *Kommanditgesellschaft auf Aktien* (KGaA), a hybrid corporate form with elements of both private and limited company. Employment in the part of the firm which operates as a limited company is below the threshold for board-level codetermination; this is restricted to the part which is constituted as a 'partnership based on shares'. As a consequence, BLER was only of minor significance for German works councillors, as reported in the interviews. Important decisions, such as appointing members of the management board, were made by the supervisory board of the general partner, beyond the reach of codetermination. As far the German chair of the EWC was concerned, the information emanating from the supervisory board offered little added value. First, it was no more current than that available to the Economic Committee (*Wirtschaftsausschuss*) of the works council; second, the information disclosed at the supervisory board was deemed confidential and therefore of little practical use. As a representative commented,

I sat on that for a good long time. And I have to admit, I found out very little during that time that I would have been permitted to use, or anything I didn't already know about from the Economic Committee.

For the German works council chair, who was also a member of the supervisory board, being on this forum did have the benefit of raising his status, allowing him to negotiate on equal terms with management and strengthening the position of employee representation more generally. Overall, however, the supervisory board at 'MedTech' did not serve as an additional power resource because of the company structure. The real power centre was the central works council at the company's headquarters, which was by far the largest operational centre in the undertaking. Aside from a few small-scale production facilities, most of the firm's other units were only engaged in distribution. The strong position enjoyed by the central works council also explains why the EWC had not, as yet, functioned as a significant element in coordinating employee interests within the group, as it is not needed by the German representatives to increase their power resources. Rather, it is regarded as a favour provided by the Germans for employee representatives from other countries. This raises the issue of the articulation of the supervisory board and EWCs, which we now explore in greater depth.

### *Articulation with the EWC*

While the significance of BLER as a power resource would appear to be significantly affected by structural aspects, such as whether a company is headquartered in Germany or the level at which the supervisory board is installed, these factors seem to play a much less important role in the articulation between supervisory boards and EWCs and for the

role of EWCs more generally. Practice in the three cases already discussed diverged considerably.

In the case of the divestment at 'Synthetic', although representation of the key actors on the supervisory board provided a bridge between workplace representation in Germany and board-level codetermination, employee representatives from operations outside Germany, who were also affected by the change, were neither informed nor involved when the decision was taken by the supervisory board. As a Belgian representative remarked, 'no, they didn't say anything about it ... I think some topics they keep quiet [about]. Not everything said there comes to the European Works Council ... Because I think it's all Germany'.

From a German perspective, the fact that non-German employee representatives were not party to supervisory board decisions had never been raised as an issue or questioned by EWC representatives from other countries, a circumstance they attributed to the absence of information about how board-level representation operated in Germany.

Of course, what's not always appreciated in other European countries is the role of the supervisory board in German codetermination. It's never happened that they'll say 'Hey, you've just decided that, you were involved in the decision'.

Nonetheless, the power resource emanating from BLER was extended to the company's other locations. The compromise reached on the supervisory board, which included investment commitments and no compulsory redundancies, initially applied only to the German operations, underlining that German board-level representatives acted mainly on behalf of the German employees who elected them. Pressure from the German EWC contingent, one of whom also chaired the EWC, enabled the EWC and group management to conclude a declaration extending the agreement on employment security and the retention of existing operations to other locations in Europe, albeit on terms weaker than those agreed for Germany (e.g. redundancies were to be invoked only as a 'last resort'). This episode supports, however, the view of German employee representatives at 'Synthetic', who felt that they also had responsibility for operations elsewhere and needed to keep these in mind in their own decision making, an outlook dubbed by Kothhoff (2006) as characteristic of an EWC acting as 'advocate for the diaspora'.

In the case of 'Cars', German employee representatives on the supervisory board took on responsibility for the oversight of non-German operations inasmuch they individually held board-level responsibilities that affected these. For instance, the head of the EWC in his role as a member of the supervisory board was responsible for the company's core brand and all its operations worldwide; other brands and operations were represented by other employee representatives on the supervisory board.

I represent the core brand and that involves a lot of locations. And I represent them on the supervisory board. Other brands have operations in Russia and all over the place. Another colleague on the board represents these. These are allocated to particular individuals.

In addition, and as a further indicator of the international perspective of the group supervisory board, one of the trade union seats on the employee side at 'Cars' had been ceded to a Swedish union representative.



More important for the articulation with the EWC, however, is that the German employee representatives at 'Cars' deployed the power resource derived from BLER to support transnational interests and the representation of employees at other locations. In this respect, the situation resembled that at 'Synthetic' and 'Transport', but took this further in terms of its own practice. The World Works Council at 'Cars' has a general secretariat attached to the German works council. The seven employees in the unit are specialists in developing representative structures, supporting other employee representatives in negotiations and strengthening their rights. This proactive stance towards transnational representation and the transposition of German power resources to the transnational level can be explained by the interpretation of the German representatives that strengthening the power resources of the others will increase their own power in the long run, as the growth of the company takes place mainly in the foreign locations. At the same time, this has meant that there has been no criticism of the considerable power resources enjoyed by German employee representatives, including that of board-level representation.

Finally, at 'MedTech', the EWC, as already noted, was relatively isolated in terms of the articulation of employee representation at the company. Employee representatives were engaged in and worked well together on the EWC, which is chaired by a German works councillor who does not chair a representative body within Germany but is a convinced European. Representatives are well integrated but have no influence over the company's strategic direction. The value of the EWC is to obtain information and open up contacts to top management for representatives from non-German operations. Against this, the EWC offers no value added for German employee representatives, who are dominant within the company given the central role of the headquarters as the centre for both development and production. Moreover, the head of the EWC did not have a powerful position in the German central works council. As a consequence, the central works council was rather hesitant to transfer power resources to the EWC.

## **BLER in German subsidiaries of MNCs**

### *The supervisory board as a power resource*

In general, employee representatives on the supervisory boards of German subsidiaries considered that they had only meagre scope for influencing corporate decisions when compared with firms based in Germany, since key decisions were taken by foreign management. This was evident, with one exception, in all German subsidiaries in our sample.

According to employee representatives at 'Chemicals', a company headquartered in Belgium, the codetermined supervisory board in the German subsidiary was only of minimal significance for representing employee interests since the company is structured into global business units, each of which is led by managers distributed across the world. Although the German supervisory board was formally involved in decisions, as required by law and the company's articles of association, the information accessible by this route was not seen as of particular value for employee representation.

They have to do enough to satisfy the law, and they inform us, but via this global business unit structure. You can see the German results but it doesn't tell you anything. I always say we're wonderfully informed about the past, but only minimally about the future.

A similar view was evident at 'Wholesale', a commercial undertaking belonging to a company group headquartered in USA. Although information was made available via the supervisory board of the German subsidiary, there was no opportunity to influence developments at an early stage as the key decisions were taken by the parent company. 'Of course, it comes through the codetermination process, and of course we're there. We know what's going on, but we can't convince the people there'.

This situation is made more difficult by the fact that, as far as the employee representatives at 'Wholesale' are concerned, company representatives from the parent undertaking without any legal regulations on board-level representation had no understanding of the requirements of German codetermination. This was especially evident with decisions about salaries for members of the management board. Even if they ultimately adhered to the legal requirements, these are quite often questioned by company representatives having a different cultural background.

If they don't discuss directors' salaries with us, they're in breach of company law. They don't understand that at all. Because they think so differently and say 'when we pay our CEO and other directors, then we discuss that with everyone, but not with employee representatives'.

There is a similar pattern with regard to the perceived scope of influencing corporate decisions at 'Steel'. Although interviewees emphasized that the information made available through the German supervisory board, in particular on business developments and planned investments, was more comprehensive and of a better quality than that provided to German works councils, several representatives stressed that representation on the supervisory board did not allow for any influence over strategic decisions at group level. 'We get information, yes. But whether we could say that we really have any influence, no not really'. Here too, the decisive factor was that corporate strategy was set by the head office outside Germany, over which the supervisory board of the German subsidiary had no influence. This not only affected employee representatives but also the influence of the German subsidiary more generally. 'We are well informed in the information cascade flowing down from above, but on decisions about corporate strategy, we have little influence as a single German firm'.

It was also relevant that the group management at 'Steel' was not directly represented on the German supervisory board, providing no opportunity for employee representatives to have a direct exchange with top management, who determined the strategy of the group as a whole. Instead, the shareholder side on the board consisted solely of German managers at the subsidiary. Unlike the case of 'Wholesale', where group managers have a negative stance towards board-level representation, for 'Steel', the lack of interaction by group management with the affairs of the supervisory board of the German subsidiary seems to be important to understand how board-level representation is assessed by employee representatives.

It was only at 'Bank', a financial services company headquartered in Italy, that BLER was seen as significantly more important. Although BLER applied only at the level of the German subsidiary, group management sat on the supervisory board as a shareholder representative. This provided an opportunity for the German employee members to build personal contacts to top management. Indeed, the German employee representatives felt they had a much better connection to top management than the Italian trade unions at the company's head office.

We can get very close to top management. For example, if I, say, have called X or Y [members of the management board], if I don't get straight through then I'll get a call back within a few hours. The Italians haven't got this. They'll ring up the HR guy, but he's only at level three or four, who'll negotiate with them.

These contacts created scope to raise the interests of the workforce at the German subsidiary directly with top management. Moreover, German representatives on the supervisory board received information directly from group management and were earlier and better informed about decisions affecting Germany than Italian representatives were about decisions concerning Italy. This led to German employee representatives seeing board-level representation as highly relevant, despite the fact that it was restricted to the German subsidiary.

### *Articulation with the EWC*

In all the instances in which core corporate decisions were taken outside Germany and the supervisory board did not constitute a privileged source of information and influence, German employee representatives judged the EWC a significant institution as it provided the only direct channel to group management and the sole vehicle through which management supplied current information on business developments and corporate strategy. Works councillors at 'Steel' highlighted this in the following terms:

You've got the possibility of communicating direct with head office, with representatives of group management and putting appropriate questions to them. You can also do this in the supervisory board. But at the EWC you're sitting down with group management.

Moreover, according to employee representatives at 'Chemicals', information on corporate strategies and pending decisions was provided at the EWC earlier and more comprehensively than at national level in the supervisory board. Although these representatives emphasized that the EWC did not have codetermination rights, the information disclosed was, nonetheless, very useful for employee representation at national and local level. 'This sort of advance information is now available at a very early stage via the EWC. There's no kind of codetermination on the EWC of course, but we get very detailed information at an early stage'.

At 'Chemicals' and 'Steel', the EWC appeared able to offset the 'information deficit' that resulted from the fact the group decisions were taken by higher levels of management located outside Germany. This was only possible, however, because in both cases,

group management typically informed and consulted the EWC comprehensively and at an early stage. In contrast (as also in the cases of 'Power' and 'Rubber'), the EWC at 'Wholesale' was not viewed as a significant forum able to offer additional information or provide scope for employee representatives to influence decisions. This followed from the fact that the EWC was marginalized, evident in particular in the fact that the management side of the EWC did not provide early and comprehensive information and did not recognize the EWC as a consultative forum.

While supervisory board codetermination in Germany at 'Chemicals', 'Wholesale' and 'Steel' did not play a role either in the EWC or at national/local level in the other countries, and was not an issue raised by employee representatives outside Germany, the situation was different at 'Bank' as a result of the close contact between German employee representatives and group management on the supervisory board of the German subsidiary. This intensive contact also had an impact on cooperation and levels of trust between German representatives and other employee representatives on the EWC. Italian representatives, in particular, were critical of the close relationship which German employee representatives had with group management. In their view, board-level representation blurred the fundamental conflict of interest between capital and labour. 'And, let me say, we don't trust in them, because we say, "Okay, they are also member of the supervisory board and they have a kind of conflict of interest." But the big problem is to trust each other'. In addition and in contrast to 'Chemicals' and 'Steel', board-level representation was also judged by the German representatives to be more important than the EWC, as this body was not able to offer any informational added value, given the existence of direct contacts to top management through the supervisory board.

## **Conclusion**

Our findings point to considerable differences between the practice of BLER in parent companies and in subsidiaries. While board-level representation is valued as a significant power resource where it is established at group headquarters level, this seems to be much less the case at subsidiary level. Employee representatives' scope to exert influence on company boards is not only a function of formal codetermination rights but also depends on corporate structures, especially in MNCs. Supervisory board codetermination, at least in Germany, can be a significant power resource for employee representatives. In addition to the location of a corporate headquarters and the level at which a board operates within a group, other structural features determine the scope of influence through board-level representation. These include company-specific provisions, such as the requirement for supervisory board consent for new production facilities at 'Cars' or the presence of group-level management on the supervisory board at 'Bank'. In both cases, these features were associated with greater scope for employee influence. Moreover, even if BLER is assessed as a significant power resource for employee representation, we have observed differences in the way board-level representatives are able to assert influence on strategic decisions, ranging from an active role in influencing investment planning decisions at 'Cars' to a position aiming at influencing the implementation process in order to minimize negative consequences for the workforce as in the case of 'Synthetic'.

Although the articulation of German supervisory boards and EWCs depends crucially on the power resources offered by the boards, the strategic perspectives of German employee representatives also play a significant role in how they respond to the existence (or non-existence) of these resources. This suggests that an initial distinction might be drawn between ‘active’ and ‘weak’ articulation, with two forms of active articulation. The first involves the transfer of national power resources, anchored in board-level representation, to transnational employee representation. In these instances, German representatives make use of their power position to assist their counterparts in other countries, either through Europeanizing national provisions (as at ‘Synthetic’) or through global support arrangements (as at ‘Cars’), linking transnational information and consultation with board-level representation. In both instances, the outcome depends on arriving at a strategic decision about the value of transnational interest representation.

Within the supervisory board, however, the German representatives seem to act mainly on behalf of the German employees who elected them, hereby confirming the results of Waddington and Conchon (2016). This became especially apparent in the case of ‘Synthetic’, where the employee representatives used the supervisory board as power resource to secure German operations whereas the interests of the non-German workforce were mainly represented through the EWC. A similar pattern can also be found for ‘Transport’ and ‘Postal Services’. One exception in this context is the case of ‘Cars’, where all employee representatives took responsibility for the oversight of non-German operations and where one of the trade union seats on the employee side is occupied by a Swedish trade union representative.

In the second type of active articulation, German works councillors respond to the weakness of board-level representation at subsidiary level by becoming engaged at the transnational level, using the EWC as a source of information. In these instances, direct contact with group-level management can be established through the EWC, enabling information on the strategic direction of the company to be generated that would otherwise not have been available to employee representatives.

The forms of weak articulation also involve strategic decisions by the employee representatives, as illustrated by those cases in which EWC activity was not strengthened, despite the fact that national power resources were weak. At ‘Bank’, articulation was even ‘negative’, as access to board-level representation meant that German works councillors placed a lower value on the EWC and other EWC members were critical of codetermination, so that the presence of codetermination militated against trust-building and the forging of common interests. These results indicate that a thorough-going assessment of the role of board-level representation in MNCs requires locating it in the context of the multi-level system of interest representation.

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