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Answer given by Mr Schmit
on behalf of the European Commission
(6.4.2021)

Following its exit from the European Union on 31 January 2020, the United Kingdom (UK) has become a ‘third country’ but continued to apply EU labour law, including Directive 2009/38/EC on European Works Councils¹, during a transition period that ended on 31 December 2020.

After the end of the transition period, the rules set out in Directive 2009/38/EC no longer apply to the UK and UK companies are treated like other third country companies. Since then, the legal consequences on European Works Councils described in the Commission’s note of 21 April 2020 have started to apply². That note remains valid. Directive 2009/38/EC applies to Community scale undertakings³ in EU/European Economic Area (EEA) Member States. Nonetheless, central management and the European Works Council⁴ may agree to conclude European Works Council agreements with a wider scope⁵.

¹ Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast). OJ L 122, 16.5.2009, p. 28–44.

² https://ec.europa.eu/info/sites/info/files/brexit_files/info_site/transnational_workers_council_en_0.pdf

³ As defined in Article 2 of Directive 2009/38/EC.

⁴ Or central management and the special negotiating body when in the process of establishing of the European Works Council (Articles 5-6 of Directive 2009/38/EC).

⁵ Article 1(6) of Directive 2009/38/EC.