

Brussels, 23 February 2021

**To the attention of**

Mr. Nicolas Schmit

European Commissioner for Jobs and Social Rights

Sent by email to CAB-SCHMIT-ARCHIVES@ec.europa.eu

**Re: Meeting request on Brexit consequences on European Works Councils  
and European Companies-SEs**

Dear Commissioner Schmit,

Since 1 January 2021, the United Kingdom is no longer a Member State of the European Union, nor part of the European Economic Area (EEA). The UK is thus no longer covered by the scope of the 2009/38/EC Directive on European works councils [EWCs], nor of the 2001/86/EC Directive on employee involvement in 'European Companies' [SE]. Consequences could be significant for a wide number of cases: more than 700 multinational companies which have established an EWC or adopted the SE statute have operations in the UK; at least 2,400 representatives of UK workers in EWCs and SEs are wondering about their future; and the legal situation of the ca. 140 EWCs and SEs based on the UK transposition laws of the EWC and SE directives will change.

Regrettably, misinterpretation about the future of UK representatives in EWCs and SEs, as well as of EWCs and SEs based under UK law continues to prevail in way too many cases. In several multinational companies (Safran, Linde, Adecco, Google, Philip Morris International, Verizon, Rexel, etc.), management disregards the possibility offered by the EWC Directive to welcome non-EEA country representatives, and misinterprets the [European Commission's notice to stakeholder on European works councils](#). In so doing, they wrongfully claim to be compelled to kick UK representatives out of transnational bodies of information, consultation and participation, and to unilaterally modify the national law governing the EWC agreement. Some other management argues that EWCs and SNBs which existed before Brexit should merely be dissolved for falling below the Directive's threshold as UK headcount is taken out of consideration. Also, some other management pretends that what happens in the UK is no longer to be considered when defining whether an information or a corporate project is of such a transnational nature that it would require EWC or SE- works council's involvement in the decision-making process.

All those situations demonstrate a lack of understanding of the non-regression clause set out in the [Trade and Cooperation Agreement](#) according to which Brexit cannot lead to workers' rights (to information and consultation, and in the event of restructuring) being cut down compared to the situation which was in force before 1 January 2021. Despite our best efforts at informing representatives in EWCs and SEs about their rights and liaising with management of multinational companies, we see disruption and a weakening of workers' rights taking place. Unfortunately, we expect the number of cases of misinterpretation to increase as management will decide about the

situation of UK as they start planning their annual EWC or SE-works council meeting in the coming weeks and months.

We believe that a swift action from the European Commission is needed to put an end at the conflictual interpretation of Brexit consequences on EWCs and in SEs that is made in some multinational companies. On the short term, a revision for the European Commission's notice to stakeholder would help a great deal. On the more medium term, support to provide legal clarity would be very welcomed. Against that background, we are happy to invite yourself and your services at a meeting at which we could discuss possible actions.

We look forward to hearing from you.

Yours sincerely,

Luca Visentini  
**ETUC**  
General Secretary

Luc Triangle  
**industriAll Europe**  
General Secretary

Oliver Röthig  
**UNI-Europa**  
Regional Secretary

Kristjan Bragason  
**EFFAT**  
General Secretary

Jan Willem  
Goudriaan  
**EPSU**  
General Secretary

Livia Spera  
**ETF**  
Acting General  
Secretary

Tom Deleu  
**EFBWW**  
General Secretary