

European Works Council

IBM European Works Council (EWC)

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THE NETHERLANDS

IBM European Works Council (EWC)

Tim Stevens | Chairman

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Madrid, SPAIN

October 3rd, 2011

Dear Mr Stevens,

With reference to the minutes of the EWC Select Committee Informative Meeting (August 3, 2011), the related presentation “HR Update EWC Informative Meeting August 2-3, 2011 Vienna” and previous (written) requests, questions and discussions in 2011 and before, as elected Secretary on behalf of the full EWC membership I wish to bring the following to your attention:

In YTD 2Q 2011 the total number of reported individual separations in Europe is 1.259 (FTR). Based on HC actions in 1Q 2011 and based on various (informal) signals, announcements and/or factual HC reductions in 2Q 2011, the EWC has repeatedly requested information and for their involvement – specifically in line with Article 6a and 6b and the criteria in Article 9 as well as the spirit of the EWC Agreement, i.e. the provision of information to employee representatives ‘at such time, in such fashion and with such content’ [...] ‘in order to enable them to acquaint themselves with the subject matter at hand, to examine and assess it and, where appropriate, to prepare for consultation’.

Despite these requests, unfortunately IBM management has failed to provide timely, detailed information to ‘allow employee representatives to express within reasonable time an opinion on the basis of the information provided which may be taken into account’. Instead IBM management’s assessment, interpretation and judgement is that there is no restructuring or restructuring program, only limited involuntary separations, which are presented as ‘business as usual’ workforce optimization and/or workforce balancing actions, mostly voluntary, on an individual basis, with no targeted groups etc.

The EWC deeply regrets this continued partisan assessment despite:

- the factual data YTD 2Q 2011 showing a significant number of separations that well exceeds the 500 criteria in Article 9
- IBM's corporate (financial) roadmap 2010-2015 containing various programs and actions, for example to further optimize internal productivity and efficiency
- this roadmap resulting in additional challenging times for IBM in Europe
- the impact on the so called "mature" markets – i.e. (Western) Europe is expected to be significant – both from an organisational point of view and from an employee (HC) standpoint.

For that reason, again in line with both Article 6a and 6b and the criteria in Article 9 as well as the spirit of the EWC Agreement, the EWC wishes to be informed at such time to enable them to follow the planned/proposed actions closely and to have an opportunity to influence and be consulted in a constructive way.

The EWC cannot agree any longer with IBM management's subjective interpretation of the EWC Agreement, this is neither correct nor acceptable. The EWC calls upon IBM management to provide all relevant and related information proactively as covered by the EWC Agreement as well as by applicable legislation to ensure the EWC is involved and consulted in time and is able to play its assigned role.

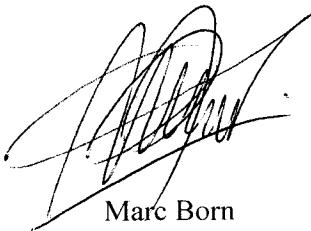
In case IBM management refuses to operate in such a manner, the EWC will have no alternative than to seek judicial protection at the competent German Labour Court pursuant to Article 23 of the EWC Agreement.

The EWC will then

- ask the Labour Court to confirm the rights of information and consultation pursuant Articles 6a and 6b of the EWC Agreement;
- ask the Labour Court to determine the scope of these rights;
- if required demand the Labour Court to order IBM to cooperate in line with Article 6a and 6b of the EWC Agreement.

The EWC trusts that IBM management will revisit and amend its current approach urgently and looks forward to constructive cooperation. We are open for additional clarification, if needed.

Kind regards on behalf of the IBM European Works Council,



Marc Born
Secretary