

Election Procedures

for European Works Council Members

According to the national transposition laws of Council Directive
94/45/EC

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Introduction

The following document contains the national rules and procedures for the election and appointment of employee representatives to a European Works Council by law. For the some countries the law makes reference to further national rules and procedures. These documents are normally only available in the contry language.

Details on the implementation of the procedures and the organisation of the election/appointment in the respective country should be mutually discussed and agreed by country management and the employee representatives.

In the right column of the following text you will find the relevant article of the law in the country language if available. In the left column you will find a translation into English.

Please note in case of any disputes on the interpretation of the law the version of the country language will be the binding one.

In areas with a blank field in the document texts are currently not available.

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Belgium

COLLECTIVE AGREEMENT N°62 OF 6 FEBRUARY 1996

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

DESIGNATION OF THE MEMBERS OF THE EUROPEAN WORKS COUNCIL EMPLOYED IN BELGIUM, AND ESTABLISHMENT OF A RESERVE LIST

ARTICLE 29

The members of the European works council employed in Belgium shall be appointed by and among the employee representatives employed in Belgium and members of works councils. In the absence of agreement among these representatives, the members of the European works council shall be appointed by the majority of their number.

In the absence of a works council, the members of the European works council shall be appointed by and among the employee representatives, members of committees for the safety, hygiene and embellishment of workplaces. In the absence of agreement among these representatives, the members of the European works council shall be appointed by the majority of their number.

In the absence of a works council and of a committee for the safety, hygiene and embellishment of workplaces, each joint committee may authorize the trade union delegations of the undertakings or establishments for which this committee has a sectoral competence, to designate the members of the European works council.

In the absence of a works council or of a committee for the safety, hygiene and

CONVENTION COLLECTIVE DE TRAVAIL N° 62 DU 6 FEVRIER 1996

concernant l'institution d'un comité d'entreprise européen ou d'une procédure dans les entreprises de dimension communautaire et les groupes d'entreprises de dimension communautaire en vue d'informer et de consulter les travailleurs

Désignation des membres occupés en Belgique du comité d'entreprise européen et constitution d'une liste de réserve

Article 29

Les membres du comité d'entreprise européen occupés en Belgique sont désignés par et parmi les représentants des travailleurs occupés en Belgique siégeant aux conseils d'entreprise. A défaut d'accord entre ces représentants, les membres du comité d'entreprise européen sont désignés par la majorité de ceux-ci.

A défaut de conseil d'entreprise, les membres du comité d'entreprise européen sont désignés par et parmi les représentants des travailleurs siégeant aux comités de sécurité, d'hygiène et d'embellissement des lieux de travail. A défaut d'accord entre ces représentants, les membres du comité d'entreprise européen sont désignés par la majorité de ceux-ci.

A défaut de conseil d'entreprise et de comité de sécurité, d'hygiène et d'embellissement des lieux de travail, chaque commission paritaire peut autoriser les délégations syndicales des entreprises ou des établissements relevant de sa compétence sectorielle à désigner les membres du comité d'entreprise européen.

A défaut de conseil d'entreprise ou de comité de sécurité, d'hygiène et d'embellissement des lieux de travail dans les entreprises ou les établissements situés en Belgique, et à défaut d'autorisation de la commission paritaire, les

embellishment of workplaces in the undertakings or establishments situated in Belgium, and in the absence of authorization by a joint committee, the employees of the undertaking or establishment shall be entitled to elect or appoint the members of the European works council.

travailleurs de l'entreprise ou de l'établissement ont le droit d'élire ou de désigner les membres du comité d'entreprise européen.

Czech Republic

Czech Labour Code

Article 25j

(5) Members of a European works council in the Czech Republic shall be appointed from among local employees at a joint meeting of employees' representatives. If employees' representatives are not appointed or they fail to function at the employer's enterprise (undertaking), the employees shall appoint a representative who will take part in the joint meeting on their behalf. The allocation of votes at such a joint meeting shall be proportionate to the number of employees represented.

Cyprus

Law 68(1)/2002 (*unofficial translation by the Industrial Relations Service*) -1-

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF A EUROPEAN WORKS COUNCIL FOR THE PURPOSE OF SAFEGUARDING EMPLOYEES' RIGHTS FOR INFORMATION AND CONSULTATION IN COMMUNITY-SCALE UNDERTAKINGS AND COMMUNITY-SCALE GROUPS OF UNDERTAKINGS

Article 8

(2) For the purposes of subsection (1) above, a special negotiating body shall be established.

(3) (a) The representatives participating in the

special negotiating body as well as their substitutes shall be elected in accordance with the following priority:

- (i) from the existing employees' Unions;
- (ii) where no Unions exist, directly from the employees with direct election.
- (b) Employees in undertakings and/or establishments, in which there are no workers' representatives through no fault of their own, have the right to elect or appoint members of the special negotiating body.

Article 12

(c) The European Works Council shall be composed of employees of the Community-scale undertaking or Community-scale group of undertakings elected or appointed as laid down by section 8(3) above.

Danmark

ACT N° 371 OF 22 MAY 1996
on European Works Council

LOV Nr. 371 AF 22 MAJ 1996
Om europæiske samarbejdsudvalg

§ 22

1. The European works council shall have a minimum of 3 members and a maximum of 30. Members shall be elected by and from among employees' representatives or, in the absence of such representatives, all employees.
2. Members appointed in Denmark shall be elected by the employees' representatives on the works councils. Where no works council has been set up, members shall be elected by the shop stewards or, if agreed between the management and the ordinary employees' representatives, by all employees.
3. If an appropriate request is made before

§ 22

1. Det europæiske samarbejdsudvalg skal bestå af mindst tre og højst 30 medlemmer. Medlemmerne vælges af lønmodtagerrepræsentanterne af deres midte eller i mangel heraf af alle lønmodtagerne.
2. Medlemmer, der vælges i Danmark, vælges af lønmodtagerrepræsentanterne i samarbejdsudvalgene. Hvor samarbejdsudvalg ikke er oprettet, vælges medlemmerne af tillidsrepræsentanterne. Hvis der ikke er valgt tillidsrepræsentanter, eller hvis det aftales mellem ledelsen og de ordinære repræsentanter for lønmodtagerne, vælges medlemmerne af samtlige lønmodtagere.
3. Såfremt der inden valget stilles krav herom, kan samarbejdsudvalget eller gruppen af tillidsrepræsentanter suppleres med repræsentanter for grupper, der ikke er

the election, the works council or union representatives may be supplemented by representatives of groups not represented through the ordinary works council members or union representatives.

repræsenteret gennem de ordinære samarbejdsudvalgsmedlemmer eller tillidsrepræsentanter.

Estonia

Involvement of Employees in Activities of Community-scale Undertakings, Community-scale Groups of Undertakings and European Companies Act¹

**Passed 12 January 2005
entered into force 11 February 2005.**

§ 25. Election of members of European Works Council who represent Estonian employees

The provisions of § 17 of this Act apply to the election of the members of the European Works Council who represent Estonian employees.

§ 17. Election of members of special negotiating body who represent Estonian employees

(1) A member or members of the special negotiating body representing employees of an undertaking or enterprise specified in subsection 16 (3) of this Act shall be elected by the general meeting of employees. The procedure for the election of a member or members of the special negotiating body shall be approved by the general meeting of employees. The election procedure shall ensure that all employees have the possibility to participate in the elections.

(2) If several undertakings or enterprises specified in subsection 16 (3) of this Act are located in Estonia, a joint representation formed of the employees' representatives shall elect a member or the members of the special negotiating body. Three employees' representatives elected from among the employees pursuant to the procedure for the election of a member or member of the special negotiating body provided for in subsection (1) of this section shall belong to the joint representation in each concerned undertaking or enterprise.

(3) The joint representation shall be convened by the eldest employees' representative of an undertaking or enterprise which employs the greatest number of employees. The number of votes of a member of the joint representation shall be determined in proportion to the number of employees in an undertaking or enterprise represented thereby. Employees' representatives of the same undertaking or enterprise shall each have the same number of votes.

Germany
ACT OF 26 OCTOBER 1996 **GESETZ ÜBER EUROPÄISCHE BETRIEBSRÄTE**

on European Works Council

(Europäische Betriebsräte-Gesetz - EBRG)

§ 23

§ 23

Appointment of employee representatives in Germany

Bestellung inländischer Arbeitnehmervertreter

(1) The members of the European Works Council appointed to represent employees in Germany under this Act or the law of another Member State shall be appointed in Community-scale undertakings by the central works council (§ 47 of the Works Constitution Act ⁽⁰⁶⁾). If there is only a works council, the latter shall appoint the members of the European Works Council.

(1) Die nach diesem Gesetz oder dem Gesetz eines anderen Mitgliedstaates auf die im Inland beschäftigten Arbeitnehmer entfallenden Mitglieder des Europäischen Betriebsrats werden in gemeinschaftsweit tätigen Unternehmen vom Gesamtbetriebsrat (§ 47 des Betriebsverfassungsgesetzes) bestellt. Besteht nur ein Betriebsrat, so bestellt dieser die Mitglieder des Europäischen Betriebsrats.

(2) In Community-scale groups of undertakings, the European Works Council members referred to in paragraph 1 above, first sentence, shall be appointed by the combine works council (§ 54 of the Works Constitution Act). If, in addition to the combine works council, there is a central works council or works council not represented on it, the

(2) Die in Absatz 1 Satz 1 genannten Mitglieder des Europäischen Betriebsrats werden in gemeinschaftsweit tätigen Unternehmensgruppen vom Konzernbetriebsrat (§ 54 des Betriebsverfassungsgesetzes) bestellt. Besteht neben dem Konzernbetriebsrat noch ein in ihm nicht vertretener Gesamtbetriebsrat oder

combine works council shall be extended to include their chairpersons and deputies; these chairpersons and their deputies shall in this respect be deemed to be members of the combine works council.

(3) If there is no combine works council, the European Works Council members referred to in paragraph 1 above, first sentence, shall be appointed as follows:

a) If there is more than one central works council, the members of the European Works Council shall be appointed at a joint meeting of the central works councils convened by the chairperson of the central works council of the largest undertaking in Germany in terms of the number of employees entitled to vote. If there is at least one works council not represented on the central works councils, the chairperson of this works council and his or her deputy shall be invited to attend the meeting; in this respect, they shall be deemed to be members of the central works council.

b) If, in addition to a central works council, there is at least one works council not represented on the central works council, the latter shall be extended to include the chairperson of this works council and his or her deputy; the chairperson of the works council and his or her deputy shall, in this respect, be deemed to be members of the central works council. The central works council shall appoint the members of the European Works Council. If there is only one central works council, the latter shall appoint the members of the European Works Council.

c) If there is more than one works council, the members of the European Works Council shall be appointed at a joint meeting convened by the chairperson of the works council of the largest undertaking in Germany in terms of the number of employees entitled to vote. The chairpersons of the works councils and their deputies shall be entitled to attend this meeting; § 47 (7) of the Works Constitution Act shall apply *mutatis mutandis*.

Betriebsrat, ist der Konzernbetriebsrat um deren Vorsitzende und um deren Stellvertreter zu erweitern; die Vorsitzenden und ihre Stellvertreter gelten insoweit als Konzernbetriebsratsmitglieder.

(3) Besteht kein Konzernbetriebsrat, werden die in Absatz 1 Satz 1 genannten Mitglieder des Europäischen Betriebsrats wie folgt bestellt:

a) Bestehen mehrere Gesamtbetriebsräte, werden die Mitglieder des Europäischen Betriebsrats auf einer gemeinsamen Sitzung der Gesamtbetriebsräte bestellt, zu welcher der Gesamtbetriebsratsvorsitzende des nach der Zahl der wahlberechtigten Arbeitnehmer größten inländischen Unternehmens einzuladen hat. Besteht daneben noch mindestens ein in den Gesamtbetriebsräten nicht vertretener Betriebsrat, sind der Betriebsratsvorsitzende und dessen Stellvertreter zu dieser Sitzung einzuladen; sie gelten insoweit als Gesamtbetriebsratsmitglieder.

b) Besteht neben einem Gesamtbetriebsrat noch mindestens ein in ihm nicht vertretener Betriebsrat, ist der Gesamtbetriebsrat um den Vorsitzenden des Betriebsrats und dessen Stellvertreter zu erweitern; der Betriebsratsvorsitzende und sein Stellvertreter gelten insoweit als Gesamtbetriebsratsmitglieder. Der Gesamtbetriebsrat bestellt die Mitglieder des Europäischen Betriebsrats. Besteht nur ein Gesamtbetriebsrat, so hat dieser die Mitglieder des Europäischen Betriebsrats zu bestellen.

c) Bestehen mehrere Betriebsräte, werden die Mitglieder des Europäischen Betriebsrats auf einer gemeinsamen Sitzung bestellt, zu welcher der Betriebsratsvorsitzende des nach der Zahl der wahlberechtigten Arbeitnehmer größten inländischen Betriebs einzuladen hat. Zur Teilnahme an dieser Sitzung sind die Betriebsratsvorsitzenden und deren Stellvertreter berechtigt; § 47 Abs. 7 des Betriebsverfassungsgesetzes gilt entsprechend.

d) Besteht nur ein Betriebsrat, so hat dieser die Mitglieder des Europäischen

d) If there is only one works council, the latter shall appoint the members of the European Works Council.

Paragraphs 1 to 3 shall apply *mutatis mutandis* to the recall of members.

(5) Men and women shall be appointed in proportion to their respective numbers.

(6) The competent executives' committee of a Community-scale undertaking or Community-scale group of undertakings which has its central management in Germany may designate one of the employees referred to in § 5 (3) of the Works Constitution Act ⁽⁰⁸⁾ who shall have the right to attend and address meetings for the consultation and information of the European Works Council, provided at least five representatives from Germany have been delegated to attend in accordance with § 22 (2) to (4). § 30 and 39 (2) shall apply *mutatis mutandis*.

Betriebsrats zu bestellen.

(4) Die Absätze 1 bis 3 gelten entsprechend für die Abberufung.

(5) Frauen und Männer sollen entsprechend ihrem zahlenmäßigen Verhältnis bestellt werden.

(6) Das zuständige Sprecherausschußgremium eines gemeinschaftsweit tätigen Unternehmens oder einer gemeinschaftsweit tätigen Unternehmensgruppe mit Sitz der zentralen Leitung im Inland kann einen der in § 5 Abs. 3 des Betriebsverfassungsgesetzes genannten Angestellten bestimmen, der mit Rederecht an den Sitzungen zur Unterrichtung und Anhörung des Europäischen Betriebsrats teilnimmt, sofern nach § 22 Abs. 2 bis 4 mindestens fünf inländische Vertreter entsandt werden. Die §§ 30 und 39 Abs. 2 gelten entsprechend.

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Greece

PRESIDENTIAL DECREE

on employees' rights to information and consultation in Community-scale undertakings and Community-scale groups of undertakings in compliance with Directive 94/45/EC of 22 September 1994

Article 15

....

2. Article 7 of this Presidential Decree shall apply to the election or appointment of members of the European Works Council.

Article 7 does not include any rules on the election process but only on the distribution of seats per country.

Hungary

Act XXI of 2003 on the establishment of the European Works Council and on the establishment of the procedure of informing and consulting employees

Article 11

(1) If by any domestic undertaking or branch of the community-scale undertaking or group there is no works council, the representative of the employees of this undertaking or branch shall be invited to the appointing meeting of the works council, that of the central works council, or that of the central works councils. On the appointing meeting said employee representative shall be deemed as a member of the works council, or that of the central works council. If there are more than one central works councils, then the invited employee representative shall be deemed as a member of the central works council of that undertaking or undertaking group that is identical with his/her own.

(2) The leader of the branch or undertaking as defined in paragraph (1) shall inform the employees on the intention to establish a European Works Council, and, furthermore, that their representative shall be invited to the appointing meeting of the central works council(s).

(3) It is the election committee's task to manage the election of the employee representative. The election committee shall consist of three members elected directly by the employees. The election committee shall determine the time and order of the election, arranges it, and determines the rules of counting votes.

(4) Each employee employed by the employer has the right to vote on the employee representative. Any capable employees having at least 6 months employment by the employer may be elected as employee representative. The list of those having the right to elect and those having the right to be elected shall be determined and published by the election committee, based on the data received from the employer. Such data shall be forwarded by the employer within five days upon such request of the election committee. The provisions set forth in Article 51/A (1) of Act XXII of 1992

on the Labour Code¹ shall be applied on the validity of the election. If the election is invalid, it shall be repeated within 30 days. The repeated election is valid if more than 1/3 of the employees who are entitled to vote took part thereon.

(5) The employee receiving most of the votes shall be the employee representative.

Poland

THE LAW ON EUROPEAN WORKS COUNCILS dated April 5, 2002

Art. 8.1. Where employees are employed in Poland, in one establishment being a part of the Community-scale undertaking or group of undertakings, members of the special negotiating body representing Polish employees shall be appointed by a representative local trade union organization and in the absence of any such trade union organization, shall be elected by the employees. The number of such members shall be identified herein or in the legislation of another Member State.

2. The local trade union organization shall be presumed representative when it meets conditions specified in art.241^{25a} §1 of the Labour Code. Provisions of art.241^{25a} § 3-5 of the Labour Code shall apply accordingly.

3. Where there are more than one representative trade union organizations at the establishment, such organizations shall jointly appoint members of the special negotiating body. Should the representative trade union organizations fail to reach an agreement, employees shall elect members of the special negotiating body from the number of candidates proposed by such organizations.

4. The central management shall organize elections of members of the special negotiating body by employees, notifying the employees of the election date and procedures

according to the practice accepted in a given establishment. The employees should be notified thereof no later than 14 days prior to the election date.

5. The central management shall notify of the elections, within the time limits referred to in paragraph 4, trade union organizations deemed representative under the Law on the Tripartite Committee on Social and Economic Affairs and Regional Committees for Social Dialogue, dated July 6, 2001 (Journals of Law: No. 100, Item 1080 and No. 154, Items 1793 and 1800 and Journal of Law No. 10, Item 89 of 2002).

6. The organizations referred to in paragraph 5, shall have the right to delegate their representatives to participate in activities related to the elections.

7. Elections shall be direct and by secret ballot.

8. Elections shall be deemed valid when at least 50% of employees participated.

9. Where less than 50% of employees participated in the elections, subsequent elections shall be held after 3 months and shall be valid irrespective of a number of participating employees.

10. The special negotiating body shall be composed of candidates who subsequently obtained the largest numbers of votes. Art. 9.1. Where the employees are employed in Poland, in more than one establishment being a part of the Community-scale undertaking or group of undertakings, three representatives shall be appointed or elected from each establishment in accordance with art.8 in order to identify the members of the special negotiating body.

Article 23

1. Members of the European Works Council representing workforce employed in Poland, and the number of such members is specified herein or in the legislation of another Member State, shall be appointed or elected in accordance with articles 8 or 9. Any measures necessary to appoint or elect

members of the European Works Council shall be taken within the period of three months from the date of the decision referred to in art.20 item 1 or from the day on which periods referred to in art.20 items 2 and 3, expire.

2. The term of office of members of the European Works Council shall be four years.

3. Membership in the European Works Council expires as prescribed in art.12 and art.22 par.3.

Art. 24. The representative trade union organizations shall promptly inform the central management of the appointed members of the European Works Council. The central management shall transmit such information to the appropriate management of undertakings and establishments, and their employees.

Slovenia

2836. European Works Councils Act (ZESD)

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Article 20

(Election of Members of a European Works Council from the Republic of Slovenia)

(1) An assembly of employees shall elect members of a European Works Council from the Republic of Slovenia by secret ballot.

(2) Employees' councils, representative trade unions within the undertaking or affiliate and groups of at least 50 employees within the undertaking or affiliate shall have the right to propose candidates for membership of a European Works Council.

Spain

LAW OF 10 APRIL 1997

on the right of employees in community scale undertakings and groups of undertakings to information and

LEY DE 10 DE ABRIL 1997

sobre derechos de información y consulta de los trabajadores en las empresas y grupos de empresas de dimensión comunitaria

consultation

Article 17

Composition of the European Works Council

1. The European Works Council shall be composed of employees of the undertaking or group elected or appointed from their number by the employees' representatives or, in the absence thereof, by the entire body of employees, in accordance with national legislation or practice.

ARTÍCULO 17

Composición del comité de empresa europeo

1. El comité de empresa europeo estará compuesto por trabajadores de la empresa o grupo, elegidos o designados por y entre los representantes de los trabajadores o, en su defecto, por el conjunto de los trabajadores, de conformidad con las legislaciones y prácticas nacionales.

France

LAW N° 96 -985 OF 12 NOVEMBER 1996

on the information and consultation of employees in Community-scale undertakings and Community-scale groups of undertakings and on development of collective bargaining

"Section 5

"Common provisions

"Art. L 439-19.:

"The members of the special negotiating body and the representatives of the employees on the European works council of the employees in the establishments or undertakings located in France, shall be appointed by the employees' trade union organisations from among their members elected to the works council of the undertaking or establishment, or among their trade union representatives in the undertaking or group, on the basis of the results of the most recent elections. The same applies with respect to the representatives of the employees in establishments or undertakings located in France belonging to a Community-scale undertaking or group having set up a special negotiating body or a European works council in a Member State other than France.

"In the case of establishments or undertakings located in France, the seats shall be distributed among electoral bodies in proportion to the

LOI N° 96-985 DU 12 NOVEMBRE 1996

relative à l'information et à la consultation des salariés dans les entreprises et les groupes d'entreprises de dimension communautaire, ainsi qu'au développement de la négociation collective

" Section 5

" Dispositions communes

" Art. L. 439-19. :

" Les membres du groupe spécial de négociation et les représentants au comité d'entreprise européen des salariés des établissements ou des entreprises implantés en France sont désignés par les organisations syndicales de salariés parmi leurs élus aux comités d'entreprise ou d'établissement ou leurs représentants syndicaux dans l'entreprise ou le groupe, sur la base des résultats des dernières élections. Il en va de même des représentants des salariés des établissements ou entreprises situés en France appartenant à une entreprise ou un groupe de dimension communautaire pour la constitution d'un groupe spécial de négociation ou d'un comité d'entreprise européen dans un Etat autre que la France.

" Pour les établissements ou entreprises implantés en France, les sièges sont répartis entre les collèges proportionnellement à l'importance numérique de chacun d'entre eux. Les sièges

numerical size of each. The seats allocated to each electoral body shall be shared between the trade union organisations in proportion to the number of elected members they have obtained in such bodies. The list system of proportional representation shall be applied, using the greatest remainder method.

"The members of the special negotiating body and the representatives of the employees on the European works council set up under Article L 439-12 who have to be selected by the establishments and undertakings located in the Member States referred to in Article L 439-6, second paragraph, other than France, shall be elected or appointed in accordance with the national rules or practice in force in those Member States.

"Art. L 439-20.:

"Where there is no trade union organisation in the Community-scale undertaking or group of undertakings whose registered office or that of its dominant undertaking within the meaning of Article L 439-1 is located in France, the staff representatives on the special negotiating body or European works council shall be elected directly in accordance with the rules laid down in Articles L 433-2 to L 433-11. The same applies where there is no trade union organisation in the establishment or undertaking located in France belonging to a Community-scale undertaking or group of undertakings required to set up a European works council or a procedure for the provision of information, exchange of views and dialogue in one of the Member States other than France referred to in Article L 439-6, second paragraph, and where the said establishment or undertaking has at least 50 employees."

affectés à chaque collège sont répartis entre les organisations syndicales proportionnellement au nombre d'élus qu'elles ont obtenu dans ces collèges. Il est fait application du système de la représentation proportionnelle au plus fort reste.

" Les membres du groupe spécial de négociation et les représentants des salariés au comité d'entreprise européen mis en place en application de l'article L. 439-12, désignés par les établissements ou les entreprises implantés dans un des Etats mentionnés au deuxième alinéa de l'article L. 439-6, autre que la France, sont élus ou désignés selon les règles ou usages en vigueur dans ces Etats.

" Art. L. 439-20. :

" Dans le cas où il n'existe pas d'organisation syndicale dans l'entreprise ou le groupe d'entreprises de dimension communautaire dont le siège social ou celui de l'entreprise dominante, au sens de l'article L. 439-1 est implanté en France, les représentants du personnel au groupe spécial de négociation ou au comité d'entreprise européen sont élus directement selon les règles fixées par les articles L. 433-2 à L. 433-11 Il en va de même dans le cas où il n'existe pas d'organisation syndicale dans l'établissement ou l'entreprise implanté en France, appartenant à une entreprise ou un groupe d'entreprises de dimension communautaire assujetti à l'obligation de mettre en place un comité d'entreprise européen ou une procédure d'information, d'échange de vues et de dialogue dans un des Etats autres que la France mentionnés au deuxième alinéa de l'article L. 439-6, et où cet établissement ou cette entreprise comprend au moins cinquante salariés.

Ireland

**TRANSNATIONAL INFORMATION
AND CONSULTATION**

OF EMPLOYEES BILL OF 10 JULY 1996

SECOND SCHEDULE

2. (1) The Council shall be composed of employees' representatives who shall be employees of the Community-scale undertaking or Community-scale group of undertakings.

(2) The representatives of employees based in the State shall be elected in accordance with the First Schedule.

(3) In the absence of elections, the representatives shall be appointed.

FIRST SCHEDULE

ELECTION OF EMPLOYEES' REPRESENTATIVES

1. An employee who is employed in the State by the relevant undertaking or group of undertakings (wherever located) on the day or days of the election for employees' representatives, shall be entitled to vote in such an election.

2. An employee who has been employed in the State by the undertaking or group of undertakings in a full-time or regular part-time capacity for a continuous period of not less than one year on the nomination day, or, in relation to a Special Negotiating Body, a trade union official or official of an excepted body, whether or not he or she is an employee, shall be eligible to stand as a candidate for election as an employees' representative provided that he or she is nominated :

(a) by a trade union or an excepted body which is already recognised by the business units of the undertaking or group of undertakings located in the State for collective bargaining or information and consultation purposes, or

(b) by at least two employees.

3. Where the number of candidates on the nomination day exceeds the number of employees' representatives to be elected to the Special

Negotiating Body or a European Works Council, or in connection with an arrangement for the information and consultation of employees, a poll shall be taken by the returning officer and voting in the poll shall take place by secret ballot on a day or days to be decided by the returning officer and according to the principle of proportional representation.

4. The central management in consultation with existing employee representatives shall appoint a returning officer whose duties shall include the organisation and conduct of nominations and elections and that officer may authorise other persons to assist in the performance of the duties of returning officer.

5. The returning officer shall perform his or her duties in a fair and reasonable manner and in the interests of an orderly and proper conduct of nomination and election procedures.

6. The cost of the nomination and election procedure shall be borne by the central management.

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Italy

**NATIONAL MULTI-INDUSTRY
AGREEMENT OF 6 NOVEMBER 1996
ON THE TRANSPOSAL OF DIRECTIVE
94/45/EC**

**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**

Article 9

...

6. One-third of the Italian members of the European Works Council and/or those involved in the information and consultation procedure shall be appointed by the trade union organisations referred to in Article 5(1)*, and two-thirds shall be appointed by the representatives of the confederations of trade unions in the undertaking and/or group of undertakings, taking into account

**ACCORDO INTERCONFEDERALE
DEL 6 NOVEMBRE 1996
PER IL RECEPIMENTO DELLA
DIRETTIVA 94/45/CE**

**riguardante l'istituzione di un comitato
aziendale europeo o di una procedura
per l'informazione e la consultazione dei
lavoratori nelle imprese e nei gruppi di
imprese di dimensioni comunitarie**

ARTICOLO 9

...

6. I componenti italiani del comitato aziendale europeo e/o i titolari della procedura di informazione e consultazione sono designati per un terzo dalle Organizzazioni sindacali di cui all'art. 5,

the need for a balanced representation of the different categories of employees (management, white-collar workers, manual workers).

7. In establishments, undertakings and groups of undertakings covered by Directive 94/45/EC where there are no trade union representatives, the management or parties concluding national collective labour agreements applied in those undertakings or establishments shall meet to define the procedures and criteria for establishing the special negotiating body and the European Works Councils and/or appointing those responsible for the information and consultation procedure, in compliance with the provisions laid down in Article 6(2) and Article 9(6) of this national multi-industry agreement.

** Article 5 (1) quotes: “the trade union organisations which concluded the national collective labour agreement applied in the undertaking or group of undertakings concerned.”*

comma 1*, e per due terzi dalle rappresentanze sindacali unitarie dell’impresa e/o del gruppo di imprese nell’ambito delle medesime rappresentanze, tenendo conto della composizione categoriale (quadri, impiegati, operai).

7. Negli stabilimenti, nelle imprese e nei gruppi di imprese destinatari della Direttiva 94/45/CE, nei quali non siano costituite rappresentanze sindacali unitarie, la direzione o le Parti stipulanti i c.c.n.l. applicati agli stessi si incontreranno per definire procedure, criteri e modalità di costituzione della delegazione speciale di negoziazione e dei comitati aziendali europei e/o dei titolari della procedura di informazione e consultazione, che siano coerenti con quelli definiti rispettivamente dagli artt. 6, comma 2 e 9, comma 6, del presente accordo interconfederale.

** Articolo 5 (1) dice: “Organizzazioni sindacali che abbiano stipulato il contratto collettivo nazionale di lavoro applicato nell’impresa o nel gruppo di imprese interessate.”*

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Latvia

The Saeima has adopted and the President has proclaimed the following

Law:

On Informing Employees of European Community-scale Commercial Companies and European Community-scale Groups of Commercial Companies and Consulting Such Employees

This Law has been adopted by the *Saeima* on 29 March 2001.

President V. Vike-Freiberga
Riga, 18 April 2001

Section 24. Election of Representatives of Employees to a European Works Council
Members of the European Works Council in European Community-scale commercial companies or European Community-scale groups of commercial companies which represent employees in Latvia shall be elected as representatives of employees in accordance with procedures prescribed by law.

(Please compare the national labour law for local representatives)

Lithuania

(Document only available in Lithuanian language)

Luxembourg

LAW

on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale

LOI

concernant l'institution d'un comité d'entreprise européen ou d'une procédure dans les entreprises de dimension

groups of undertakings for the purposes of informing and consulting employees

communautaire et les groupes d'entreprises de dimension communautaire en vue d'informer et de consulter les travailleurs

SECTION 1: APPOINTMENT OF REPRESENTATIVES OF WORKERS EMPLOYED IN LUXEMBOURG

SECTION 1 : DESIGNATION DES REPRESENTANTS DES TRAVAILLEURS OCCUPES AU LUXEMBOURG

ARTICLE 51

ARTICLE 51

(1) Representatives of workers employed in Luxembourg by a Community-scale undertaking or one or more of its establishments or by one or more undertakings forming part of a Community-scale group of undertakings shall be appointed to the European Works Council, established under Articles 33 to 50 hereof, in accordance with the rules laid down in the following Articles.

(1) La désignation des représentants, au comité d'entreprise européen institué conformément aux articles 33 à 50 de la présente loi, des travailleurs occupés au Luxembourg par une entreprise de dimension communautaire ou un ou plusieurs de ses établissements ainsi que par une ou plusieurs entreprises faisant partie d'un groupe d'entreprises de dimension communautaire, se fait selon les règles fixées aux articles qui suivent.

(2) These rules shall apply to the appointment of representatives of workers employed in Luxembourg to sit on the above-mentioned Works Councils established in accordance with Directive 94/45/EC in Luxembourg and in other countries referred to in Article 2 hereof.

(2) Ces règles s'appliquent à la désignation des représentants des travailleurs occupés au Luxembourg dans les comités d'entreprise précités institués en application de la directive CEE 94/45 tant au Luxembourg que dans les autres des Etats visés à l'article 2 de la présente loi.

ARTICLE 52

ARTICLE 52

(1) The representatives of workers employed in Luxembourg who sit on the European Works Council shall be elected or appointed by and from among the members of staff delegations in accordance with the amended law of 18 May 1979 on the reform of staff delegations.

(1) Les représentants des travailleurs occupés au Luxembourg dans le comité d'entreprise européen sont désignés ou élus parmi les membres des délégations du personnel mises en place conformément à la loi modifiée du 18 mai 1979 portant réforme des délégations du personnel.

(2) In undertakings which have central delegations as provided for in Article 3 of the amended law of 18 May 1979 on the reform of staff delegations, the representative(s) of workers employed in Luxembourg shall be appointed or elected by the central delegations.

(2) Dans les entreprises dans lesquelles existent des délégations centrales conformément à l'article 3 de la loi modifiée du 18 mai 1979 portant réforme des délégations du personnel¹, le ou les représentants des travailleurs occupés au Luxembourg sont désignés ou élus par les délégations centrales.

In undertakings which have central delegations for blue-collar workers and for privately employed persons exist, the active representative shall be appointed or elected by and from among the

Dans les entreprises dans lesquelles existent

¹ Lorsque plusieurs établissements au sens de l'article 1er forment une entreprise unique, il est institué une délégation centrale. La délégation centrale représente les intérêts de l'ensemble des ouvriers ou des employés occupés dans les divers établissements d'une seule et même entreprise. Elle se compose de 3 délégués suppléants pour chacun des établissements séparés. Les membres de la délégation centrale sont élus par les délégations principales d'établissement au scrutin secret de liste, selon les règles de la représentation proportionnelle, parmi les membres qui les composent. Lorsque les différents établissements séparés de l'entreprise ont chacun tant une délégation d'ouvriers qu'une délégation d'employés, il y a une délégation centrale des ouvriers et une délégation centrale des employés.

members of the central delegation representing the majority of the undertaking's employees, with the alternate member being appointed or elected by and from among the members of the other central delegation.

The active and alternate representatives shall keep each other regularly informed of their activities.

(3) In undertakings in which there is no central delegation, the active and alternate representative(s) of workers employed in Luxembourg shall be appointed or elected by and from among the members of the principal delegations established in accordance with Article 1 of the amended law of 18 May 1979 on the reform of staff delegations.

(4) In undertakings with delegations for blue-collar workers and for privately employed persons, the active representative shall be appointed or elected by and from among the members of the delegation representing the majority of the undertaking's employees, with the alternate member being appointed or elected by and from among the members of the other delegation.

The active and alternate representatives shall keep each other regularly informed of their activities.

une délégation centrale des ouvriers et une délégation centrale des employés privés, le représentant effectif est désigné ou élu par et parmi les membres de la délégation centrale représentant la majorité des travailleurs de l'entreprise, le représentant suppléant étant désigné ou élu par et parmi les membres de l'autre délégation centrale.

Les représentants effectif et suppléant s'informeront mutuellement et régulièrement du déroulement des travaux.

(3) Dans les entreprises dans lesquelles il n'existe pas de délégations centrale, le ou les représentants effectif et suppléant des travailleurs occupés au Luxembourg sont désignés ou élus par et parmi les membres des délégations principales instituées conformément à l'article 1er de la loi modifiée du 18 mai 1979 portant réforme des délégations du personnel².

(4) Dans les entreprises disposant de délégations des ouvriers et de délégations des employés privés, le représentant effectif est désigné ou élu par et parmi les membres de la délégation représentant la majorité des travailleurs de l'entreprise, le représentant suppléant étant désigné ou élu par et parmi les membres de l'autre délégation.

ARTICLE 53

The active and alternate representatives of workers employed in Luxembourg shall be elected by a simple majority of the members of the relevant staff delegations in accordance with Article 52 above. The elections shall take place under the supervision of the Labour and Mines Inspectorate (*Inspection du travail et des mines*). If necessary, the election procedure may be laid

Les représentants effectif et suppléant s'informent mutuellement et régulièrement du déroulement des travaux.

ARTICLE 53

Les représentants effectif et suppléant des travailleurs occupés au Luxembourg sont élus à la majorité simple par les membres des délégations du personnel compétentes conformément à

² « (1) Tout employeur du secteur privé est tenu de faire désigner les délégués du personnel dans les établissements occupant régulièrement au moins 15 travailleurs liés par contrat de louage de services quelles que soient la nature de ses activités et sa forme juridique. Il en est de même pour tout employeur du secteur public occupant régulièrement au moins 15 ouvriers liés par contrat de louage de services.

(2) Dans les établissements dont le personnel salarié n'excède pas 100 travailleurs, il est institué une délégation du personnel pour l'ensemble du personnel salarié par la voie d'un scrutin unique. Dans la mesure où les ouvriers ou les employés représentent 10 % au moins de l'effectif salarié de l'établissement, ils sont obligatoirement représentés au sein de cette délégation par un délégué au moins, sans préjudice de la composition numérique de la délégation résultant de l'article 5. Les dispositions du présent alinéa ne sont pas applicables aux délégations se composant d'un seul délégué.

(3) Dans les établissements dont le personnel salarié excède 100 travailleurs, il est institué :

1. une délégation des ouvriers, lorsque l'établissement occupe régulièrement 15 ouvriers au moins;

2. une délégation des employés, lorsque l'établissement occupe régulièrement 15 employés au moins.

Toutefois, dans les établissements visés au présent paragraphe qui occupent régulièrement moins de 15 ouvriers ou employés privés, il est institué une délégation du personnel pour l'ensemble du personnel salarié conformément aux dispositions du paragraphe (2) qui précède. La délégation des ouvriers et la délégation des employés peuvent, chacune à la majorité absolue des membres qui la composent, décider de se constituer en délégation du personnel pour l'ensemble du personnel salarié (...) ».

down in a Grand-Ducal regulation.

l'article 52 qui précède. Les élections auront lieu sous le contrôle de l'Inspection du travail et des mines. Le cas échéant un règlement grand-ducal pourra fixer les modalités des élections.

Malta

**L.N. 224 of 2003
EMPLOYMENT AND INDUSTRIAL
RELATIONS ACT, 2002
(ACT NO.XXII OF 2002)
European Works Council (Information
and Consultation)
Regulations, 2003**

2.1.

“employees’ representative” means either the recognised union representative or, in case of non-unionised employees, the representative or representatives duly elected from amongst the employees.

Regulation 8 (7)

The Maltese members of the European Works Council shall be Maltese employees and shall be elected or appointed according to the procedure outlined in regulation 6.

Regulation 6

...

(4) The method of selection of the Maltese members to sit on the Special Negotiating Body shall be by means of an election from amongst eligible candidates who satisfy the criteria laid down in regulation 2(3)(a) and who are not in their probationary period on the date of nomination, and the central management shall appoint a responsible person to act as ballot supervisor to oversee the whole process of nominations and election, and any expenses related to the process of appointing or electing the Special Negotiating Body shall be borne by the central management.

(5) The date for nomination of candidates, which shall be established by the ballot supervisor, shall be within two months from the date when the request to commence negotiations on an agreement to establish a European Works Council was made or when the decision was taken by central management to commence negotiations on its own initiatives, whichever was the earlier.

(6) Where the number of candidates on the day of nomination equals the number of representatives to be elected to the Special Negotiating Body, these shall be considered to have been automatically appointed to the Special Negotiating Body.

(7) Where the number of candidates on the day of nomination exceeds the number of representatives to be elected to the Special Negotiating Body, arrangements shall be made by management to hold a secret ballot to elect the required number of representatives.

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(8) Arrangements for the holding of such a ballot shall be finalised by the central management within one month from the expiry of the period referred to in subregulation (5) and the central management shall ensure that the process of nominations and the ballot itself shall be overseen by the ballot supervisor. The ballot itself, if necessary, shall be held within two months from the date of expiry of the period referred to in subregulation (5).

(9) Any employee who is in employment on the day or days of the election and satisfies the criteria referred to in regulation 2(3)(a) shall be entitled to vote in such an election.

(10) Any person may make a written complaint in relation to any aspect relating to the election of the representatives to the Special Negotiating Body including the eligibility to stand for election, eligibility to vote or the organisation of such a ballot, to the Director responsible for Industrial and Employment Relations, who shall investigate whether such a complaint is well-founded and who may direct that appropriate measures be taken by any person involved to eliminate any grounds for well-founded complaints, and any decision taken by the Director on any matter relating to the organisation of the ballot shall be final.

(11) It shall be the duty of the ballot supervisor to give the formal results of the process of nomination or ballot held to appoint the Special Negotiating Body, as the case may be, to the central management and local management as soon as practicable, and in any case within one month after the date of the election or appointment of its members.

Sweden

ACT N° 359 OF 9 MAY 1996

on European Works Councils

LAG DEN 9 MAJ 1996

om europeiska företagsråd

MANNER OF APPOINTMENT OF SWEDISH MEMBERS

HUR DE SVENSKA LEDAMÖTERNA UTSES

26 §

SECTION 26

The Swedish members of the European Works Council shall be appointed from amongst the employees in Sweden of the Community-scale undertaking or Community-scale group of undertakings.

The members of the European Works Council shall be appointed by the local employees' organization or organizations in Sweden which is or are bound by collective bargaining agreements in relation to the Community-scale undertaking or one or more undertakings in a Community-scale group of undertakings. Where several local employees' organizations are bound by collective bargaining agreements, the following order for the appointment of members shall apply, unless otherwise agreed upon by such local employees' organizations.

In respect of the appointment of one member, such shall be appointed by the local employees' organization which represents the largest number of the employees in Sweden bound by collective bargaining agreements with the Community-scale undertaking or Community-scale group of undertakings. In respect of the appointment of several members, the order for the appointment of employees' representatives set forth in section 8, second and third paragraphs of the Private Sector Employees Act (SFS 1987 :1245) shall apply ⁽⁰³⁾.

Where the employer is not bound by a collective bargaining agreement with any employees' organization, the Swedish members shall be appointed by the local employees' organization in Sweden which represents the greatest number of employees in relation to the Community-scale undertaking or the Community-scale group of undertakings. The aforementioned shall apply unless otherwise agreed upon by the local employees' organizations.

Local employees' organizations which belong to the same central organization shall be deemed to be one organization.

De svenska ledamöterna i det europeiska företagsrådet utses bland de anställda i Sverige vid gemenskapsföretaget eller företagsgruppen.

Ledamöterna i företagsrådet utses av den eller de lokala arbetstagarorganisationer i Sverige som är bundna av kollektivavtal i förhållande till gemenskapsföretaget eller ett eller flera företag i en företagsgrupp. Om det finns flera kollektivavtalsbundna lokala arbetstagarorganisationer och dessa inte kommer överens om annat gäller följande ordning för att utse ledamöterna.

Om det är fråga om att utse en ledamot skall denna utses av den lokala arbetstagarorganisation som företräder det största antalet av de kollektivavtalsbundna arbetstagarna i Sverige vid gemenskapsföretaget eller företagsgruppen. Om det är fråga om att utse flera ledamöter skall den ordning gälla för hur arbetstagarrepresentanter utses som finns angiven i 8 § andra och tredje styckena lagen (1987:1245) om styrelsrepresentation för de privatanställda.

Om arbetsgivaren inte är bunden av kollektivavtal i förhållande till någon arbetstagarorganisation, skall de svenska ledamöterna utses av den lokala arbetstagarorganisation i Sverige som företräder flest arbetstagare vid gemenskapsföretaget eller företagsgruppen. Detta gäller om de lokala arbetstagarorganisationerna inte kommer överens om annat.

Lokala arbetstagarorganisationer som tillhör samma huvudorganisation skall anses som en organisation.

The Netherlands

ACT OF 23 JANUARY 1997

**for the implementation of Council
Directive 94/45/EC of 22 September 1994
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
(European Works Councils Act)**

SECTION 17

1. Members of European Works Councils of Dutch establishments and undertakings shall be appointed or elected, or their appointment terminated, in accordance with section 10, with the proviso that a member's term of office shall last four years.
2. Only employees of the Community-scale undertaking or group may be appointed or elected as members. Membership shall automatically end when a member ceases to be an employee. Persons who are seafarers in the merchant navy shall not be appointed or elected as members.

SECTION 10

1. With regard to Dutch establishments and undertakings, the members of the special negotiating body shall be appointed, or their appointment terminated, by the works councils set up at such establishments or undertakings.
2. If, in respect of works councils as referred to in subsection 1, one or more central works councils have been established, the said appointment or termination shall be effected by the latter council or councils.
3. If no central works council has been set up, but there are one or more group works councils, the said appointment or termination shall be effected by the latter council or councils.

4. If not all works councils or group works councils are represented in a central works council or group works council, the said appointment or termination shall be effected jointly by the central or group works council or councils and the non-represented works councils.

5. If no works council has been set up, the members of the special negotiating body shall be elected by the entire body of employees working in the Netherlands for the Community-scale undertaking or group. The election shall be by secret written ballot, each employee having one vote. An association of employees having aforementioned employees as its members, with a constitution defining its aim as promoting the interests of its members as employees, active in this manner within the undertaking or group involved and also enjoying full legal capacity, may present a list of candidates for the aforementioned election, provided that it has consulted its members within the undertaking or group on the composition of the list of candidates.

6. For the purposes of subsections 1 to 4, employees of Dutch establishments or undertakings who are not represented in a works council, group works council or central works council will be given the opportunity to express an opinion about the persons to be appointed as members of the special negotiating body.

7. Persons who are seafarers in the merchant navy shall not be appointed or elected as members of a special negotiating body.

Norway

§ 6

The EWC's practical work

The members of the EWC shall be elected or appointed by and from among the employees in accordance with § 4c, unless otherwise agreed.

5 c) The members of the special negotiating body shall be appointed or elected by and from among the employees of the Community-scale

undertaking and its establishments or employees of the group, on the basis of the following rules :

Employees in Norway shall elect their representative(s) either by secret ballot, the rules for which are laid down in § 12-3 of the Basic Agreement, or, in establishments in which this method is inappropriate, on the basis of the election rules for workers' representatives set out in the Join Stock Companies Act. Disagreement on the election method or complaints concerning elections shall be settled by the Industrial Democracy Board (*Bedriftsdemokratienmnda*).

Austria

**FEDERAL LAW N° 601 OF 17
OCTOBER 1996**

**amending the Labour Constitution Act
(*Arbeitsverfassungsgesetz*), the Labour and
Social Courts Act and the Federal Law on
Employee Representation in the Post Office**

Appointment of the members

§ 193.

"Austrian members of the European Works Council shall be appointed in accordance with § 179 and § 180, subject to the proviso that the appointment of representatives of the competent voluntary professional association or statutory body representing the workers' interests is only admissible if these are works council members as referred to in § 53 subpara. (4)

Appointment of members

§ 179.

"(1) The Austrian members to be appointed to the special negotiating body shall be selected by a resolution of the body representing the workforce which is entitled to appoint them pursuant to § 180 from among the members of the works

**BUNDESGESETZ Nr. 601 VOM 17
OKTOBER 1996**

**Bundesgesetz, mit dem das
Arbeitsverfassungsgesetz, das Arbeits- und
Sozialgerichtsgesetz und das Bundesgesetz
über die Post-Betriebsverfassung geändert
werden**

Entsendung der Mitglieder

§ 193.

Die Entsendung der österreichischen Mitglieder des Europäischen Betriebsrates erfolgt gemäß den §§ 179 und 180; dies jedoch mit der Maßgabe, daß die Entsendung von Vertretern der zuständigen freiwilligen Berufsvereinigung oder gesetzlichen Interessenvertretung nur zulässig ist, sofern diese Betriebsratsmitglieder gemäß § 53 Abs. 4 sind.

Entsendung der Mitglieder

§ 179.

(1) Die in das besondere Verhandlungsgremium zu entsendenden österreichischen Mitglieder werden durch Beschluß des gemäß § 180 zur

council. Instead of a member of the works council, an official or employee of the competent voluntary professional association or statutory body representing the interests of the employees may also be appointed.

"(2) The adoption of resolutions shall require the presence of at least half the members. Resolutions shall be adopted by simple majority.

"(3) Due consideration shall be given to appropriate representation of the following groups : wage-earning and salaried employees, the individual establishments and undertakings, and female and male workers.

§ 180.

"(1) Within establishments, appointment shall be by resolution of the works committee. If no works committee exists, this function shall be undertaken by the works council. If two or more works committees (works councils) exist which do not belong to the same undertaking in Austria, a meeting of the members of the works committees (works councils) appointed in the establishment shall be convened by the chairman of the works committee (works council) of the Austrian establishment which is largest in terms of the number of employees entitled to vote; this meeting shall be responsible for adopting the resolution as to the appointment.

"(2) In undertakings, the members to be appointed to the special negotiating body shall be appointed by resolution of the central works council. If a central works council has not been set up within an undertaking, subpara. (1) shall apply *mutatis mutandis*. If there are two or more central works councils, a meeting of the members of the central works councils appointed in the undertaking shall be convened by the chairman of the central works council of the Austrian undertaking which is largest in terms of the number of employees entitled to vote, and shall be responsible for adopting the resolution regarding the appointment. If, in addition to one or more central works councils, there also exists at least one works committee (works council) which is not represented on any central works council, the chairmen of the works councils and their deputies shall be invited to this meeting, in which case they shall be regarded as members of central works councils.

"(3) In groups, the members to be appointed to the

Entsendung berechtigten Organs der Arbeitnehmerschaft aus dem Kreis der Betriebsratsmitglieder ernannt. Anstelle eines Betriebsratsmitgliedes kann auch ein Funktionär oder Arbeitnehmer der zuständigen freiwilligen Berufsvereinigung oder gesetzlichen Interessenvertretung der Arbeitnehmer ernannt werden.

(2) Zur Beschlußfassung ist die Anwesenheit von mindestens der Hälfte der Mitglieder erforderlich. Die Beschlüsse werden mit einfacher Mehrheit gefaßt.

(3) Auf eine angemessene Vertretung der Gruppen der Arbeiter und der Angestellten, der einzelnen Betriebe und Unternehmen sowie der Arbeitnehmerinnen und der Arbeitnehmer soll Bedacht genommen werden.

§ 180.

(1) In Betrieben erfolgt die Entsendung durch Beschluß des Betriebsausschusses. Besteht kein Betriebsausschuß, so nimmt diese Aufgabe der Betriebsrat wahr. Bestehen mehrere Betriebsausschüsse (Betriebsräte), die nicht zum selben Unternehmen im Inland gehören, so ist vom Vorsitzenden des Betriebsausschusses (Betriebsrates) des nach der Zahl der wahlberechtigten Arbeitnehmer größten inländischen Betriebes eine Versammlung der Mitglieder der in den Betrieben bestellten Betriebsausschüsse (Betriebsräte) einzuberufen, der die Beschlußfassung über die Entsendung obliegt.

(2) In Unternehmen sind die in das besondere Verhandlungsgremium zu entsendenden Mitglieder durch Beschluß des Zentralbetriebsrates zu benennen. Ist in einem Unternehmen ein Zentralbetriebsrat nicht errichtet, so ist Abs. 1 sinngemäß anzuwenden. Bestehen mehrere Zentralbetriebsräte, so ist vom Vorsitzenden des Zentralbetriebsrates des nach der Zahl der wahlberechtigten Arbeitnehmer größten inländischen Unternehmens eine Versammlung der Mitglieder der in den Unternehmen bestellten Zentralbetriebsräte einzuberufen, der die Beschlußfassung über die Entsendung obliegt. Besteht neben einem oder mehreren Zentralbetriebsräten noch mindestens ein in keinem Zentralbetriebsrat vertretener Betriebsausschuß (Betriebsrat), sind die Betriebsratsvorsitzenden und ihre Stellvertreter zu dieser Sitzung einzuladen; sie gelten insoweit als

special negotiating body shall be appointed by a resolution of the group representative body. If no group representative body has been set up, subpara. (2) shall apply *mutatis mutandis*. If no central works council is to be set up either, then subpara. (1) shall apply *mutatis mutandis*. If, in addition to the group representative body, a central works council (works committee, works council) also exists which is not represented by that representative body, the chairmen of the central works councils (works councils) and their deputies shall be invited to this meeting, in which case they shall be regarded as members of the group representative body.

"(4) The names of the appointed members of the special negotiating body shall be notified without delay to the central management and the local management of undertakings.

Zentralbetriebsratsmitglieder.

(3) In Unternehmensgruppen sind die in das besondere Verhandlungsgremium zu entsendenden Mitglieder durch Beschluß der Konzernvertretung zu ernennen. Ist eine Konzernvertretung nicht errichtet, so ist Abs. 2 anzuwenden. Ist auch kein Zentralbetriebsrat zu errichten, so ist Abs. 1 anzuwenden. Besteht neben der Konzernvertretung noch ein von ihr nicht vertretener Zentralbetriebsrat (Betriebsausschuß, Betriebsrat), sind die Zentralbetriebsrats-(Betriebsrats-)vorsitzenden und ihre Stellvertreter zu dieser Sitzung einzuladen; diese gelten insoweit als Mitglieder der Konzernvertretung.

(4) Die Bekanntgabe der benannten Mitglieder des besonderen Verhandlungsgremiums an die zentrale Leitung und die örtlichen Unternehmensleitungen hat unverzüglich zu erfolgen.

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Portugal

European Works Councils in Community-scale undertakings and groups of undertakings
ARTICLE 31

Appointment of members of the special negotiating body and the European Works Council

1. Employees' representatives in establishments or undertakings situated in national territory shall be appointed by agreement between the employees' committee and the trade union associations representing at least 5% of employees, within a period of two months after the initiative referred to in Article 7(1) or one of the circumstances referred to in Article 16 determining the establishment of the Council.

2. For the purposes of the previous paragraph, the trade union associations which jointly represent at least 5% of employees may delegate one of their number to participate in the agreement.

Censelho de empresa europeu em empresas ou grupos de empresas de dimensão comunitaria

ARTIGO 31º

Designação dos membros do grupo especial de negociação e do conselho de empresa europeu

1. Os representantes dos trabalhadores dos estabelecimentos ou empresas situados em território nacional serão designados por acordo entre a comissão de trabalhadores e as associações sindicais que representem, pelo menos, 5% dos trabalhadores, no prazo de dois meses após, respectivamente, a iniciativa referida no nº 1 do artigo 7º, ou o facto previsto no artigo 16º que determina a instituição do conselho.

2. Para efeitos do número anterior, as associações sindicais que, em conjunto, representem pelo menos 5% dos

3. Where there is no agreement, the employees' representatives shall be elected by a direct, secret ballot from among the proposed candidates by at least a hundred or 10% of the employees.

4. The notice of the elections, the proposal of candidates, the ballot tables, the voting procedures, verification of the results and contestation of the elections shall be governed by the relevant provisions of Law N° 46/79 of 12 September 1979

5. The announcement of the result of the elections is governed by Article 7(1), part one, of Law N° 46/79 of 12 September 1979

6. The Ministry for Skills and Employment may regulate by decree the election procedures provided for in paragraph 3.

trabalhadores podem mandar uma delas para participar no acordo.

3. Na falta de acordo, os representantes dos trabalhadores serão eleitos por voto directo e secreto, de entre candidaturas apresentadas por, pelo menos, cem ou 10% dos trabalhadores.

4. A convocação do acto eleitoral, a apresentação de candidaturas, as mesas de voto, a votação, o apuramento de resultados e a impugnação das eleições são regulados pelas disposições correspondentes da Lei n° 46/79, de 12 de Setembro.

5. À publicidade do resultado das eleições é aplicável a primeira parte do n° 1 do artigo 7° da Lei n° 46/79, de 12 de Setembro.

6. O Ministro para a Qualificação e o Emprego pode, por portaria, regulamentar os procedimentos do acto eleitoral previsto no n° 3.

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Finland

ACT OF 9 AUGUST 1996

on the amendement of the Act on cooperation in undertakings

LAKI

**yhteistoiminnasta yrityksissä
annetun lain muuttamisesta
Annettu Naantalissa 9 päivänä
elokuuta 1996**

Section 11e

Employees' representatives in group cooperation

"Unless otherwise agreed upon in accordance with Section 11 c regarding national group cooperation, the employees of a Finnish undertaking belonging to a group, have the right to elect at least one representative from among themselves for group cooperation. The employees' representatives shall be elected so that all the different employee groups of the group are represented. If an undertaking has several places of business, it is sufficient that an employee represents the

11 e §

Henkilöstön edustajat konserniyhteistyössä

Jollei kansallisen konserniyhteistyön osalta muusta ole sovittu 11 c §:n mukaisesti, kunkin konserniin kuuluvan suomalaisen yrityksen henkilöstöllä on oikeus valita konserniyhteistyötä varten keskuudestaan vähintään yksi edustaja. Henkilöstön edustajat on valittava siten, että kaikki konsernin henkilöstöryhmät tulevat edustetuiksi. Jos yrityksellä on useita toimipaikkoja, on riittävää, että henkilö edustaa tiettyyn alueelliseen taikka toiminnalliseen

employees of the places of business of a certain regional or operational entity.

"In transnational group cooperation, the employees of the group in Finland shall have the right to elect their representatives to a special negotiating body, a co-operational body based on an agreement, or to a works council either by agreement or by an election. Unless the employees can agree on the manner to be observed, the industrial safety delegates representing the largest groups of workers and employees shall together arrange an election or other method of selection so that all group's employees are entitled to participate therein. The employees' representatives from other Member States of the European Economic Area shall be selected in accordance with the national legislation of the place of business. The provisions of this paragraph on the right of Finnish employees to select their representative shall also be applied when the obligation to arrange group cooperation is based on the legislation of another Member State of the European Economic Area than Finland.

"In accordance with paragraph 2 above, the provisions of Section 53, paragraph 2 of the Employment Contract Act on the giving of notice on an employment contract of a representative ⁽⁰⁴⁾ shall correspondingly apply to the protection against unilateral giving of notice to an employees' representative and his deputy elected for transnational group cooperation.

kokonaisuuteen kuuluvien toimipaikkojen henkilöstöä.

Kansainvälisessä konserniyhteistyössä konsernin Suomessa olevalla henkilöstöllä on oikeus valita edustajansa erityiseen neuvotteluryhmään, sopimukseen perustuvaan yhteistyöelimeen tai yritysneuvostoon sopimalla tai vaalilla. Jollei henkilöstö voi sopia noudatettavasta menettelytavasta, on työntekijöiden ja toimihenkilöiden suurinta määrää edustavien työsuojeluvaltuutettujen järjestettävä yhdessä vaali tai muu valintamenettely siten, että kaikilla henkilöstöön kuuluvilla on oikeus osallistua siihen. Muista Euroopan talousalueen jäsenvaltioista henkilöstön edustajat valitaan kunkin toimipaikan kansallisen lainsäädännön mukaisesti. Tämän momentin säännöksiä Suomessa olevan henkilöstön oikeudesta valita edustajansa sovelletaan myös silloin, kun konserniyhteistyön järjestämisvelvollisuus perustuu jonkin muun Euroopan talousalueen jäsenvaltion kuin Suomen lainsäädäntöön.

Edellä 2 momentin mukaisesti kansainväliseen konserniyhteistyöhön valitun henkilöstön edustajan ja varaedustajan irtisanomissuojasta on vastaavasti voimassa, mitä työsopimuslain 53 §:n 2 momentissa säädetään luottamusmiehen työsopimuksen irtisanomisesta.

Slovakia

Slovakian Labour Code

§ 247

(1) The European Works Council shall be elected by representatives of Employees from employer's employees in joint discussion. Members of European Works Council for employees employed in the Slovak Republic shall be appointed by representatives of employer's employees on joint negotiations.

United Kingdom

Statutory Instrument 1999 No. 3323

The Transnational Information and Consultation of Employees Regulations 1999

Appointment or election of UK members of the European Works Council

3. - (1) The UK members of the European Works Council must be UK employees and -

(a) in a case where all of those employees are represented by UK employees' representatives, shall be elected or appointed by such employees' representatives;

(b) in a case where not all of those employees are represented by UK employees' representatives, shall be elected by ballot.

(2) For the purposes of this paragraph all of the UK employees are represented by UK employees' representatives if each of the employees referred to in sub-paragraph (1) is a UK employee -

(a) in respect of which an independent trade union is recognised by his employer for the purpose of collective bargaining; or

(b) who has elected or appointed an employees' representative for the purpose of receiving, on the employee's behalf, information -

(i) which is relevant to the employee's terms and conditions of employment; or

(ii) about the activities of the undertaking which may significantly affect the employee's interests

but excluding representatives who are expected to receive information relevant only to a specific aspect of the terms and conditions or interests of the employee, such as health and safety or collective redundancies.

(3) Where sub-paragraph (1)(a) above applies, the election or appointment of members of the European Works Council shall be carried out by whatever method the UK employees' representatives decide.

(4) Where sub-paragraph (1)(b) applies, the UK members of the European Works Council are to be elected by a ballot of the UK employees in accordance with paragraphs 4 and 5.

Ballot arrangements

4. - (1) The UK management must arrange for the holding of a ballot of employees referred to in paragraph 3(4), which satisfies the requirements specified in sub-paragraph (2).

(2) The requirements referred to in sub-paragraph (1) are that -

(a) the ballot of the UK employees must comprise a single ballot, but may instead, if the UK management so decides, comprise separate ballots of employees in such constituencies as the UK management may determine where -

(i) the number of UK members of the European Works Council to be elected is more than one, and

(ii) the UK management considers that if separate ballots were held for those constituencies, the UK members of the European Works Council to be elected would better reflect the interests of the UK employees as a whole than if a single ballot were held;

(b) a UK employee who is an employee of the Community-scale undertaking or the Community-scale group of undertakings on the day on which votes may be cast in the ballot or, if the votes may be cast on more than one day, on the first day of those days is entitled to vote in a ballot of the UK employees;

(c) any UK employee who is an employee of the Community-scale undertaking or Community-scale group of undertakings immediately before the latest time at which a person may become a candidate in the ballot, is entitled to stand in the ballot of the UK employees as a candidate for election as a UK member of the European Works Council;

(d) the UK management must, in accordance with sub-paragraph (6), appoint an independent ballot supervisor to supervise the conduct of the ballot of the UK employees but may instead, where there are to be separate ballots, appoint more than one independent ballot supervisor in accordance with that sub-paragraph, each of whom is to supervise such of the separate ballots as the UK management may determine, provided that each separate ballot is supervised by a supervisor;

(e) after the UK management has formulated proposals as to the arrangements for the ballot of the UK employees and before it has published the final arrangements under paragraph (f) it must, so far as reasonably practicable, consult with the UK employees' representatives on the proposed arrangements for the ballot of the UK employees;

(f) the UK management must publish the final arrangements for the ballot of the UK employees in such manner as to bring them to the attention of, so far as reasonably practicable, the UK employees and the UK employees' representatives.

(3) Any UK employee or UK employees' representative who believes that the arrangements for the ballot of the UK employees are defective may, within a period of 21 days beginning on the date the UK management published the final arrangements under paragraph (f), present a complaint to the CAC.

(4) Where the CAC finds the complaint well-founded it shall make a declaration to that effect and may make an order requiring the UK management to modify the arrangements it has made for the ballot of the UK employees or to

satisfy the requirements in paragraph (e) or (f) of sub-paragraph (2).

(5) An order under sub-paragraph (4) shall specify the modifications to the arrangements which the UK management is required to make and the requirements which it must satisfy.

(6) A person is an independent ballot supervisor for the purposes of sub-paragraph (2)(d) if the UK management reasonably believes that he will carry out any functions conferred on him in relation to the ballot competently and has no reasonable grounds for believing that his independence in relation to the ballot might reasonably be called into question.

(7) For the purposes of sub-paragraph (3), the arrangements for the ballot of the UK employees are defective if -

(a) any of the requirements specified in paragraphs (b) to (f) of sub-paragraph (2) is not satisfied; or

(b) in a case where the ballot is to comprise separate ballots, the constituencies determined by the UK management do not reflect adequately the interests of the UK employees as a whole.

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Conduct of ballot

5. - (1) The UK management must -

(a) ensure that a ballot supervisor appointed under paragraph 4(2)(d) carries out his functions under this paragraph and that there is no interference with his carrying out of those functions from the UK management, or the central management (where it is not also the UK management); and

(b) comply with all reasonable requests made by a ballot supervisor for the purposes of, or in connection with, the carrying out of those functions.

(2) A ballot supervisor's appointment shall require that he -

(a) supervises the conduct of the ballot, or the separate ballots he is being appointed to supervise, in accordance with the arrangements for the ballot of the UK employees published by the UK

management under paragraph 4(2)(f) or, where appropriate, in accordance with the arrangements as required to be modified by an order made as a result of a complaint presented under paragraph 4(3);

(b) does not conduct the ballot or any of the separate ballots before the UK management has satisfied the requirement specified in paragraph 4(2)(e) and -

(i) where no complaint has been presented under paragraph 4(3), before the expiry of a period of 21 days beginning on the date on which the UK management published its arrangements under paragraph 4(2)(f); or

(ii) where a complaint has been presented under paragraph 4(3), before the complaint has been determined and, where appropriate, the arrangements have been modified as required by an order made as a result of the complaint;

(c) conducts the ballot, or each separate ballot, so as to secure that -

(i) so far as reasonably practicable, those entitled to vote are given the opportunity to vote,

(ii) so far as reasonably practicable, those entitled to stand as candidates are given the opportunity to stand,

(iii) so far as is reasonably practicable, those voting are able to do so in secret, and

(iv) the votes given in the ballot are fairly and accurately counted.

(3) As soon as reasonably practicable after the holding of the ballot, or each separate ballot, the ballot supervisor must publish the results of the ballot in such manner as to make them available to the UK management and, so far as reasonably practicable, the UK employees entitled to vote in the ballot or who stood as candidates in the ballot.

(4) A ballot supervisor shall publish an ineffective ballot report where he considers (whether or not on the basis of representations made to him by another person) that -

(a) any of the requirements referred to in sub-paragraph (2) was not satisfied with the result that the outcome of the ballot would have been different; or

(b) there was interference with the carrying out of his functions or a failure by management to comply with all reasonable requests made by him with the result that he was unable to form a proper judgment as to whether each of the requirements referred to in sub-paragraph (2) was satisfied in relation to the ballot.

(5) Where a ballot supervisor publishes an ineffective ballot report the report must be published within a period of one month commencing on the date on which the ballot supervisor publishes the results of the ballot under sub-paragraph (3).

(6) A ballot supervisor shall publish an ineffective ballot report in such manner as to make it available to the UK management and, so far as reasonably practicable, the UK employees entitled to vote in the ballot or who stood as candidates in the ballot.

(7) Where a ballot supervisor publishes an ineffective ballot report then -

(a) if there has been a single ballot or an ineffective ballot report has been published in respect of every separate ballot, the outcome of the ballot or ballots shall have no effect and the UK management shall again be under the obligation in paragraph 4(1);

(b) if there have been separate ballots and paragraph (a) does not apply -

(i) the UK management shall arrange for the separate ballot or ballots in respect of which an ineffective ballot report was issued to be reheld in accordance with paragraph 4 and this paragraph, and

(ii) no such ballot shall have

effect until it has been so reheld
and no ineffective ballot report
has been published in respect of
it.

(8) All costs relating to the holding of a ballot,
including payments made to a ballot supervisor
for supervising the conduct of the ballot, shall be
borne by the central management (whether or not
an ineffective ballot report has been made).

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