

The *Saeima*¹ 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

Chapter I General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

- 1) **central management** – an executive body of a European Community-scale commercial company or of the controlling commercial company of a European Community-scale group of commercial companies;
- 2) **Member State** - a Member State of the European Union, Republic of Iceland, Kingdom of Norway, Principality of Liechtenstein, as well as the candidate states of the European Union;
- 3) **European Community-scale commercial company** – a commercial company with at least 1000 employees within the Member States and at least 150 employees in each of at least two Member States;
- 4) **European Community-scale group of commercial companies** – an aggregate of a controlling commercial company and one or several controlled companies, which corresponds to the following characteristics:
 - a) the group includes a commercial company with at least 1000 employees employed within the Member States,
 - b) at least two group commercial companies are in different Member States; and
 - c) at least one group commercial company with at least 150 employees in one Member State and at least one other group commercial company with at least 150 employees in another Member State;
- 5) **consultation** – the exchange of views and establishment of dialogue between representatives of employees and central management or any other executive body of the relevant level.

Section 2. Purpose of this Law

The purpose of this Law is to ensure the right to information and to consultation of employees in European Community-scale commercial companies or European Community-scale groups of commercial companies.

Section 3. Scope of this Law

- (1) This Law shall apply to European Community-scale commercial companies and European Community-scale groups of commercial companies, if the controlling commercial company carries out commercial activities in Latvia.
- (2) If a central management is not situated in a Member State, but an executive body of a commercial company controlled by the central management is situated in a Member State, the provisions of this Law shall apply in cases where the executive body of the controlled commercial company is situated in Latvia.
- (3) The provisions of this Law shall not apply to crews employed on ships carrying out commercial activities.

Section 4. Controlling Commercial Company

- (1) A controlling commercial company is a commercial company of a European Community-scale group of commercial companies that exercises a dominant influence over one or more commercial companies of the European Community-scale group of commercial companies (controlled company)

¹ The Parliament of the Republic of Latvia

and that may not, either directly or indirectly, be decisively influenced by another commercial company.

(2) The ability to exercise a decisive influence exists when a controlling commercial company, directly or indirectly, in relation to another commercial company:

1) holds a majority of the subscribed capital of this other commercial company;

2) controls the majority of the votes attached to stocks (capital shares) of this other commercial company; and

3) may elect or recall the majority of members of the executive body or the supervisory body of this other commercial company.

(3) If several commercial companies of a European Community-scale group of commercial companies concurrently meet one or more of the criteria referred to in Paragraph two of this Section, the commercial company meeting the criteria referred to in Paragraph two, Clause 3 of this Section shall be considered to be the controlling commercial company. If no commercial company of the group meets the criteria referred to in Paragraph two, Clause 3 of this Section, the commercial company meeting the criteria referred to in Paragraph two, Clause 2 of this Section shall be considered to be the controlling commercial company, without prejudice to proof that another commercial company is able to exercise a decisive influence.

(4) Rights of a controlling commercial company with respect to voting and election of an executive body in compliance with Paragraph two of this Section shall include the rights of any other controlled commercial company and the rights of any such person or authority which acts in its own name but on behalf of the controlling commercial company or of any controlled commercial company.

(5) Irrespective of the provisions of Paragraph one and two of this Section, the following shall not be considered to be a controlling commercial company:

1) a credit institution, another financial company or insurance company the commercial activities of which include transactions in and action with securities in the interests of the company itself or other persons;

2) a holder of such securities which has acquired these securities in a commercial company for a definite period of time in order to resell them thereafter, providing it does not exercise voting rights with respect to these securities in order to determine the competition activity of the relevant commercial company, or it exercises voting rights for the sole purpose of preparing the relevant commercial company or its part, its assets or the said securities for sale – on condition that any sale takes place within one year from the date of acquiring the said securities;

3) a financial investment commercial company, the sole object of which is to acquire stocks (capital shares) in other commercial companies and to act with such stocks (capital shares) in order to make profit without direct or indirect participation of this commercial company in the management of other commercial companies, without restrictions on the rights of such commercial companies which they have as stockholders (holders of capital shares), as well as providing for the exercise of voting rights in a group of commercial companies with respect to the appointment of members of a supervisory body and an executive body in the commercial companies in which it has stocks (capital shares), retaining full value of investments and without determining, directly or indirectly, the competitive activity in such commercial companies.

(6) A decisive influence shall not be presumed to be exercised where a liquidator or an administrator exercises his or her functions only in accordance with the regulatory enactments of the Member State regulating liquidation, insolvency, cessation of payments, settlements with creditors or analogue proceedings.

(7) In order to determine whether a commercial company is to be acknowledged to be a controlling company, the regulatory enactments of the State in which the relevant commercial company carries out commercial activities shall be applicable. If a commercial company carries out commercial activities outside the territory of Member States, the regulatory enactments of the Member State in which a representative of the commercial company is situated or, in the absence of such representative, the commercial company of the European Community-scale group of commercial companies which employs the greatest number of employees shall be applicable.

Chapter II

Establishing European Works Council or Determining Other Procedures for Informing and Consulting Employees

Section 5. Responsibility of Central Management

(1) Central management shall ensure the establishment of a European Works Council or determine other procedures for informing and consulting employees in European Community-scale commercial companies and European Community-scale groups of commercial companies.

(2) In cases where a European Community-scale group of commercial companies includes one or more European Community-scale commercial companies, the European Works Council shall be established only for the controlling commercial company unless another agreement has been reached.

(3) If the central management is not situated in a Member State, the responsibility referred to in Paragraph one of this Section shall be performed by its designated representative in Latvia. In the absence of such representative, the responsibility specified in Paragraph one of this Section shall be carried out by the executive body of the European Community-scale commercial company or the group of European Community-scale commercial companies which employs the greatest number of employees.

Section 6. Provision of Information

(1) The central management, at the request of employees or their representatives, shall provide information concerning the number of employees in European Community-scale commercial companies or European Community-scale groups of commercial companies and their location in Member States.

(2) The number of employees shall be calculated on the average number of employees within the last two calendar years.

Section 7. Establishing a Special Negotiating Body

(1) In order to organise negotiations with the central management regarding the establishment of a European Works Council or regarding the establishment of other information and consultation procedures, on the initiative of the central management or at a written request submitted by employees or their representatives to the central management, a special negotiating body shall be established. At least 100 employees or their representatives in at least two European Community-scale commercial companies situated in different Member States shall sign the request. If several requests have been made, the signatures shall be added together.

(2) If such request has been submitted to an executive body of a European Community-scale commercial company situated in Latvia, it shall without delay transfer the relevant request to the central management and notify employees or their representatives thereof.

(3) Central management shall inform employees or their representatives, as well as the executive body of the European Community-scale commercial company situated in any Member State of the establishment of the special negotiating body.

Section 8. Composition of a Special Negotiating Body

(1) A special negotiating body shall have a minimum of three and a maximum of 17 members.

(2) The special negotiating body shall include at least one representative from the Member State in which the European Community-scale commercial company has one or more commercial companies or in which the European Community-scale group of commercial companies has the controlling commercial company or one or more controlled commercial companies, as well as in addition:

1) one representative from each Member State which employs 25 per cent of the employees of the European Community-scale commercial company or the European Community-scale group of commercial companies;

2) two representatives from each Member State which employs at least 50 per cent of the employees of the European Community-scale commercial company or the European Community-scale group of commercial companies; and

3) three representatives from each Member State which employs at least 75 per cent of the employees of the European Community-scale commercial company or the European Community-scale group of commercial companies.

(3) Under individual agreement between the special negotiating body and the central management, the special negotiating body shall include also representatives of other States, determining their number and status.

Section 9. Election of Representatives of Employees to Special Negotiating Body

Members of the special negotiating body of 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.

Section 10. Information Regarding Participants in Special Negotiating Body

The special negotiating body shall without delay inform the central management of the members of this body and indicate their given name, surname, address, as well as the commercial company represented by the relevant person. The central management shall forward such information to the executive body of the European Community-scale commercial company and representatives of employees in the commercial company in Latvia.

Section 11. Entering into an Agreement between Special Negotiating Body and Central Management

(1) The special negotiating body and central management shall enter into a written agreement regarding the establishment of a European Works Council or regarding measures which are to be performed in order to establish procedures by which employees are informed and consulted.

(2) Central management shall, in good time, provide the special negotiating body with the information and documents required for the completion of its tasks.

(3) In order to enter into the agreement referred to in Paragraph one of this Section, the central management shall organise negotiations with the special negotiating body and notify executive bodies of the European Community-scale commercial companies thereof. The special negotiating body is entitled, where necessary, to invite experts to negotiations.

(4) The special negotiating body is entitled to decide, by at least two-thirds of the votes of all members, not to open negotiations in accordance with Paragraph three of this Section or to terminate the negotiations already opened. Such decision shall suspend the entering into of the agreement referred to in Paragraph one of this Section. The central management or the special negotiating body may make a new request that negotiations with the special negotiating body be organised not earlier than two years after the taking of the relevant decision unless the interested parties agree on shorter periods.

(5) The special negotiating body and the central management shall mutually agree on detailed negotiation rules. If such agreement has not been entered into, the special negotiating body and the central management shall, in the first minutes of the meeting, determine procedures according to which further negotiations are to be organised. Authorised representatives of both parties shall sign the minutes of the meetings of the special negotiating body and the central management.

Section 12. Activities of Special Negotiating Body and Related Costs

(1) The special negotiating body shall take decisions by a simple majority, with the exception of the case referred to in Section 11, Paragraph four of this Law.

(2) The special negotiating body shall elect a chairperson of the special negotiating body from among its members.

(3) The special negotiating body, prior to a meeting with the central management, has the right to hold a separate meeting in which representatives of the central management do not participate.

(4) Costs related to the establishment and operation of the special negotiating body, also, to election of its members, organising of negotiations (premises, materials, staff required, interpretation facilities), as well as to the insurance and official travel of members of the special negotiating body, and the inviting of one expert for ensuring the completion of the tasks of the special negotiating body shall be covered by the central management.

Section 13. Content of Agreement

An agreement entered into on a voluntary basis between the special negotiating body and the central management shall set out:

1) the European Community-scale commercial company or European Community-scale group of commercial companies, as well as the commercial companies included in them which are covered by this agreement;

2) the composition of the European Works Council, the allocation of seats, the number of members and the term of office;

3) the functions of the European Works Council and the procedures according to which the European Works Council shall be informed and consulted;

4) the venue of meetings of the European Works Council, the frequency and duration of meetings;

5) the financial and material resources to be allocated to the European Works Council; and

6) the term of validity of the agreement and the procedure according to which the term of agreement shall be extended, as well as amendments to its provisions made.

Section 14. Other Information and Consultation Procedures

The special negotiating body and the central management may establish one or more other information and consultation mechanisms for the resolution of such transnational questions which significantly affect the interests of employees. In such case, when preparing the agreement referred to in Section 11, Paragraph one of this Law, the method to be employed by representatives of employees in order to hold meetings and examine the information obtained shall be determined.

Section 15. Application of Provisions of Agreement

An agreement entered into between the central management and the special negotiating body shall be binding on all the European Community-scale commercial companies and the European-scale group of commercial companies.

Section 16. Other Provisions with respect to Application, Extension, and Termination of Agreements and Entering into a New Agreement

Where the agreement referred to in Section 11 of this Law does not include provisions regarding its application, extension, termination and entering into a new agreement, the following provisions shall apply:

1) it shall be presumed that the agreement entered into shall apply for an unlimited period;

2) the central management and the European Works Council, or representatives of employees who act in accordance with other procedures for information and consultation of employees, may terminate the operation of the agreement at least six months before the expiration of its term of validity, notifying the other party accordingly;

3) if this agreement is applied for an unlimited period or it does not include a provision regarding the operation of this agreement for a definite term, the central management and the European Works Council, or representatives of employees who act in accordance with other procedures for information and consultation of employees, may terminate it at least six months before each period of four years, which shall be counted from the date of the entry into effect of the agreement;

4) if the term of the agreement has terminated and no party has proposed entering into a new agreement, the term shall be considered to be extended for the same period of time for which the agreement was entered into;

5) if the term of the agreement has expired or the agreement has been terminated, its provisions shall apply until the entering into a new agreement or up to the time when the provisions of Section 17 of this Law apply; and

6) the European Works Council has the right to, in place of the special negotiating body, enter anew into an agreement, the term of which has expired or which has been terminated, as well as to take the decisions referred to in Section 11, Paragraph four of this Law. If it is intended to enter into a new agreement in order to establish other information and consultation procedures, a new special negotiating group shall be established in accordance with Section 7 of this Law.

Chapter III

Special Provisions Regarding Establishment and Operation of European Works Council

Section 17. Application of Special Provisions

Special provisions regarding establishment of a European Works Council shall apply if:

1) the special negotiating body and the central management agree on the application of such provisions;

2) the central management within a six-month period from the date of submission of the request referred to in Section 7, Paragraph one of this Law refuses to open negotiations; and

3) the parties within a three-year period from submission of the relevant request have not entered into the agreement referred to in Section 11 of this Law.

Section 18. Composition of European Works Council

(1) The European Works Council shall be composed of employees of the European Community-scale commercial company or the European Community-scale group of commercial companies which shall be elected by employees or their authorised representatives from among their number.

(2) The European Works Council shall have a minimum of three and a maximum of 30 members.

(3) The European Works Council shall be established in compliance with the provisions of Section 8, Paragraphs two and three of this Law.

Section 19. Foundation Meeting of European Works Council

(1) The central management, after election of the members of the European Works Council, shall immediately organise a foundation meeting at which the regulations for the operation of the European Works Council shall be adopted, as well as a chairperson and a deputy chairperson of the Council shall be elected from among the members of the European Works Council.

(2) The European Works Council shall be represented by the chairperson, but during his or her absence, by the deputy chairperson of the Council.

(3) The European Works Council shall take its decisions by a simple majority.

Section 20. Opening Negotiations

Four years after the foundation meeting, the European Works Council shall by a simple majority decide whether to open negotiations with the central management regarding the entering into the agreement referred to in Section 11, Paragraph 11 of this Law, or, also, to continue to apply the special provisions of Section 17 of this Law thereafter. If the European Works Council decides to open negotiations on the entering into of an agreement, it has the same rights and obligations as the special negotiating body.

Section 21. Term of Office of European Works Council Members

(1) The term of office of European Works Council members shall be four years unless it is discontinued prior to the end of such term on the initiative of some member of the Council or due to other reasons (in connection with the loss of capacity to act, refusal to perform one's duties, a protracted disease, violation of the provisions of this Law and in other cases).

(2) Once every two years, as from the foundation meeting of the European Works Council, the central management shall check whether the number of employees in any Member State has substantially changed and whether any alterations to the composition of the European Works Council be made, complying with the provisions of Section 18, Paragraph three of this Law. The central management shall inform the European Works Council of the information obtained.

Section 22. Meetings of European Works Council with Central Management

The European Works Council shall at least once a year hold meetings with the central management in order to obtain information and consult on the basis of a report drawn up by the central management on the progress and prospects of commercial activities of the European Community-scale commercial company or the group of European Community-scale commercial companies. The place and time of the meeting shall be co-ordinated with the central management. The European Works Council shall organise an additional meeting if the central management agrees to it. Meetings of the European Works Council and the central management shall be closed.

Section 23. Information Regarding European Works Council Members

The European Works Council or the special negotiating body shall without delay inform the central management concerning members of the European Works Council (given name, surname, address) and the commercial companies represented by the relevant persons. The central management shall forward such information to the executive body of the European Community-scale commercial company and representatives of employees in the commercial company in Latvia.

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.

Section 25. Information and Consultations Provided by a European Works Council

A European Works Council shall within the scope of its competence provide information and consultations in matters related to the European Community-scale commercial company or European Community-scale group of commercial companies as a whole or to at least two commercial companies which are situated in different Member States. If the central management is not situated in any Member State, the provisions of Section 5, Paragraph three of this Section shall apply.

Section 26. Competence of Central Management

(1) The central management shall meet with the European Works Council to provide information and consult on the commercial activities of the European Community-scale commercial company and European Community-scale group of commercial companies.

(2) The informing and consulting referred to in Paragraph one of this Section shall apply to:

- 1) the structure, economic and financial position of the European Community-scale undertaking or European Community-scale group of undertakings;
- 2) the probable development of commercial activities, production and sales;
- 3) the situation in the area of employment and its probable development;
- 4) investments (investment programmes);
- 5) substantial organisational changes;
- 6) the introduction of new working methods or production processes;
- 7) the transfer of property or important parts thereof (also units) of the capital company to another location;
- 8) the re-organisation of capital companies (merger or division);
- 9) the liquidation of capital companies or closure of units; and
- 10) collective redundancies.

Section 27. Committee of European Works Council

(1) If the European Works Council consists of nine or more members, it shall establish a Committee of the European Works Council (hereinafter – Committee) The Committee shall include the Chairperson of the European Works Council, as well as two elected members who shall represent commercial companies of different States.

(2) The Committee or, in the absence thereof, the European Works Council shall hold meetings with the central management or with another executive body of the European Community-scale commercial company or the group of European Community-scale commercial companies of the relevant level in order to obtain information and consult on the circumstances referred to in Section 28, Paragraph five of this Law. Those members of the European Works Council who have been elected or appointed by the commercial companies to which the aforementioned measures apply, are entitled, together with the Committee, to take part in the meetings. They shall be organised as soon as possible on the basis of a report drawn up by the central management or another executive body of the European Community-scale commercial company or group of European Community-scale commercial companies of the relevant level and regarding which, at the end of the meetings, members of the Committee shall provide an opinion, but not later than within a seven-day period.

(3) The provisions of Section 11, Paragraph five of this Law shall apply to the meetings referred to in Paragraph two of this Section.

Section 28. Operation of European Works Council and Committee

(1) The European Works Council that consists of less than nine members shall delegate its chairperson or some other member of the European Works Council to perform its daily work.

- (2) Prior to any meeting with the central management, the European Works Council and the Committee are entitled to meet each other without the participation of this management.
- (3) Costs related to the European Works Council and the Committee, also, to election or appointment of members of these institutions, organising of meetings (premises, materials, staff required, interpretation facilities), as well as to the insurance and official travel of members of the European Works Council and the Committee, the inviting of one expert shall be covered by the central management, providing with material and financial resources.
- (4) The central management shall inform executive bodies of the European Community-scale commercial companies of the holding of meetings of the central management and the European Works Council.
- (5) If particular circumstances arise (transfer of property or important parts thereof (also units) of the capital company to another location, the liquidation of the capital company or closure of its units, collective redundancies, etc.) which significantly affect the interests of employees, the central management shall inform the Committee or, in the absence thereof, the European Works Council of such circumstances and shall provide it with the necessary information and consultations.
- (6) The Committee or, in the absence thereof, the European Works Council shall inform representatives of employees of commercial companies of the European Community-scale group of commercial companies or, in the absence thereof, all employees regarding the course of informing and consulting.
- (7) The Committee or the European Works Council shall utilise the assistance of experts selected at its discretion, if this is necessary for the completion of its tasks.

Chapter IV

Final Provisions

Section 29. Confidential information

- (1) Within the limits of another information and consultation procedure, members of the European Works Council and the special negotiating body and representatives of employees, as well as experts and interpreters who provide services to them, may not disclose third person information obtained confidentially.
- (2) The prohibition referred to in Paragraph one of this Section with respect to the provision of confidential information to third persons shall apply irrespective of whether the relevant person performs or has completed the performance of his or her duties.
- (3) The central management may refuse to provide information, the disclosure or utilisation of which, having regard to its character and objective reasons, may cause substantial harm or losses to the European Community-scale commercial company or the group of European Community-scale commercial companies.
- (4) The rights prescribed by Paragraph three of this Section shall not apply to information concerning the number of employees in the commercial company.

Section 30. Protection of Representatives of Employees

- (1) Members of the special negotiating body, members of the European Works Council and representatives of employees who provide information and consultations in accordance with the provisions of this Law, when performing such duties, shall have the same protection and guarantees as representatives of employees at the national level in the State in which they act in accordance with national regulatory enactments or practice.
- (2) The representatives of employees referred to in Paragraph one of this Section shall be granted leave in order that they may attend meetings organised by the central management, as well as meetings organised to enter into the agreement referred to in Section 11 of this Law, retaining average remuneration for this period.
- (3) The parties may agree on more favourable conditions for the protection of representatives of employees than is prescribed by this Section.

Section 31. Liability for Failure to Comply with this Law

For violations of this Law, persons shall be subject to liability in accordance with the law.

This Law shall come into force at the same time as the Commercial Law.

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

President

V. Vīķe-Freiberga

Rīga, 18 April 2001