

The Law of 2011 on the Establishment of a European Works Council is hereby issued through publication in the Government Gazette of the Republic of Cyprus in accordance with Article 52 of the Constitution.

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THE LAW OF 2011 PROVIDING FOR THE ESTABLISHMENT OF A EUROPEAN WORKS COUNCIL FOR THE PURPOSE OF SAFEGUARDING EMPLOYEES' RIGHTS TO INFORMATION AND CONSULTATION IN COMMUNITY-SCALE UNDERTAKINGS AND COMMUNITY-SCALE GROUPS OF UNDERTAKINGS

Preamble.	For harmonisation with the European Community act entitled-
Official Journal of the E.U.: L 122, 16.5.2009 p. 6	'Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees',
	The House of Representatives hereby enacts as follows:
	SECTION I - INTRODUCTORY PROVISIONS
Short title.	1. This Law shall be referred to as the Law of 2011 on the Establishment of European Works Councils.
Interpretation.	2. Unless otherwise stated, the present Law shall take - 'consultation' to mean the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management and within a reasonable time, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings; 'information' to mean transmission of data by the employer to the employees' representatives in order to enable them to acquaint themselves with the subject matter and to examine

it; information shall be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings;

'special negotiating body' to mean the body established in accordance with Articles 8 and 9 of this Law to negotiate with the central management regarding the establishment of a European Works Council or a procedure for informing and consulting employees in accordance with Article 4(1) of this Law;

'employees' representatives' to mean the employees' representatives provided for by the national law in force and practice;

'Community-scale undertaking' to mean any undertaking with at least one thousand (1 000) employees within the Member States and at least one hundred and fifty (150) employees in each of at least two Member States;

'European Works Council' to mean a council established in accordance with Article 4(1) of this Law or the provisions of Articles 12 to 16 of this Law, with the purpose of informing and consulting employees;

'European Economic Area' to mean the Member States of the European Union, Iceland, Norway, Liechtenstein and Switzerland;

'central management' to mean the central management of the Community-scale undertaking, or, in the case of a Community-scale group of undertakings, of the controlling undertaking;

'Community-scale group of undertakings' to mean a group of undertakings with the following characteristics:

(a) at least one thousand (1000) employees within the Member States,

(b) at least two group undertakings in different Member States, and

(c) at least one group undertaking with at least one hundred and fifty (150) employees in one Member State and at least one other group undertaking with at least one

<p>Purpose and scope.</p>	<p>hundred and fifty (150) employees in another Member State;</p> <p>‘Member State’ to mean a Member State of the European Union including states that are contracting parties to the Agreement on the European Economic Area and Switzerland;</p> <p>‘group of undertakings’ to mean a controlling undertaking and its controlled undertakings.</p> <p style="text-align: center;">SECTION II - GENERAL PROVISIONS</p> <p>3. (1) The purpose of this Law is to guarantee and improve the right to information and to consultation of employees in Community-scale undertakings and Community-scale groups of undertakings.</p> <p>(2) The provisions of this Law shall apply to Community-scale undertakings established in the Republic of Cyprus and to Community-scale groups of undertakings whose holding or parent company is based in the Republic of Cyprus.</p> <p>(3) Information and consultation of employees must occur at the relevant level of management and representation, according to the subject under discussion. To achieve that, the competence of the European Works Council and the scope of the information and consultation procedure for employees governed by this Law shall be limited to transnational issues.</p> <p>(4) Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States.</p> <p>(5) Unless a wider scope is provided for in the agreements referred to in Article 11, the powers and competence of European Works Councils and the scope of information and consultation procedures established to achieve the purpose specified in paragraph (1) shall, in the case of a Community-scale undertaking, cover all the establishments located within the Member States and, in the case of a Community-scale group of undertakings, all group undertakings located within the Member States</p> <p>(6) The provisions of this Law shall not apply to merchant navy crews.</p>
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<p>Establishment of a European Works Council.</p>	<p>4.(1) For the purposes of this Law, a European Works Council or a procedure for informing and consulting employees shall be established in every Community-scale undertaking and every Community-scale group of undertakings, where requested in the manner laid down in Article 8(1), with the purpose of informing and consulting employees. The arrangements for informing and consulting employees shall be defined and implemented in such a way as to ensure their effectiveness and to enable the undertaking or group of undertakings to take decisions effectively.</p> <p>(2) Notwithstanding paragraph 2, where a Community-scale group of undertakings comprises one or more undertakings or groups of undertakings which are Community-scale undertakings or Community-scale groups of undertakings, a European Works Council shall be established at the level of the group unless the agreements referred to in Article 11 provide otherwise.</p>
<p>Controlling undertaking.</p>	<p>5. (1) For the purposes of this Law, ‘controlling undertaking’ means an undertaking which can exercise a dominant influence over another undertaking (‘controlled undertaking’), by virtue of ownership, financial participation or the rules which govern it.</p> <p>(2) The ability to exercise a dominant influence shall be presumed, without prejudice to proof to the contrary, when an undertaking, in relation to another undertaking, directly or indirectly:</p> <ul style="list-style-type: none"> (a) holds a majority of that undertaking’s subscribed capital; or (b) controls a majority of the votes attached to that undertaking’s issued share capital; or (c) can appoint more than half of the members of that undertaking’s administrative, management or supervisory body. <p>(3) For the purposes of paragraph (2), a controlling undertaking’s rights as regards voting and appointment shall include the rights of any other controlled undertaking and those of any person or body acting in his or its own name but on behalf of the controlling undertaking or of any other controlled undertaking.</p> <p>(4) Notwithstanding the provisions of paragraphs (1) and (2), an undertaking shall not be deemed to be a ‘controlling</p>

<p data-bbox="204 320 371 405">22(I) of 1999 107(I) of 1999 154(I) of 2000.</p> <p data-bbox="188 1368 379 1525">Minimum employee number determination method.</p>	<p data-bbox="411 197 1406 383">undertaking' with respect to another undertaking in which it has holdings where the former undertaking is a company referred to in Article 4(5)(a) or Article 4(5)(c) and (d) of the Law on the Control of Concentrations between Undertakings.</p> <p data-bbox="411 421 1406 607">(5) A dominant influence shall not be presumed to be exercised solely by virtue of the fact that an office holder is exercising his functions, according to the law of a Member State relating to liquidation, winding up, insolvency, cessation of payments, compositions or analogous proceedings.</p> <p data-bbox="411 645 1406 757">(6) The law applicable in order to determine whether an undertaking is a 'controlling undertaking' shall be the law of the Member State which governs that undertaking.</p> <p data-bbox="411 795 1406 1019">Where the law governing that undertaking is not that of a Member State, the law applicable shall be the law of the Member State within whose territory the representative of the undertaking or, in the absence of such a representative, the central management of the group undertaking which employs the greatest number of employees is situated.</p> <p data-bbox="411 1057 1406 1317">(7) In the case of a conflict of laws in the application of paragraph (2) of this Article, where two or more undertakings from a group satisfy one or more of the criteria laid down in paragraph (2), the undertaking which satisfies the criterion laid down in point (c) thereof shall be regarded as the controlling undertaking, without prejudice to proof that another undertaking exercises a dominant influence.</p> <p data-bbox="411 1355 1406 1579">6.(1) For the purposes of this Law, the minimum number of employees employed by the undertaking and/or the group of undertakings shall be established on the basis of the total number of employees, irrespective of the type of employment status, including part-time employees, who have been employed by the undertaking in the last two years.</p> <p data-bbox="411 1617 1406 1765">(2) Fixed-term employment contracts which have ended or part-time contracts shall be converted in terms of full annual employment as in force at the company or in the category of workers, in order to calculate the number of employees.</p> <p data-bbox="411 1803 1406 2024">(3) Undertakings located in the Republic of Cyprus and which fall within the provisions of this Law shall notify in writing the number of employees, in accordance with the provisions of paragraphs (1) and (2), to the competent department of the Ministry of Labour and Social Insurance and to employees' representatives within three months of the application thereof.</p>
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	<p>establishments in at least two different Member States.</p> <p>(2) For the purposes of paragraph (1) of the present Article, a special negotiating body shall be established.</p> <p>(3) Representatives participating in the special negotiating body shall be elected with their deputies, according to the following order of priority, as follows:</p> <p>(i) from existing trade unions - and</p> <p>(ii) in the absence of trade unions, directly by the employees, in a direct election.</p> <p>(b) Employees in undertakings and/or establishments in which there are no employees' representatives through no fault of their own shall have the right to elect or appoint members of the special negotiating body.</p>
<p>Establishment of a special negotiating body.</p>	<p>9.(1) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or Community-scale group of undertakings, by allocating in respect of each Member State one seat per portion of employees employed in that Member State amounting to 10%, or a fraction thereof, of the number of employees employed in all the Member States taken together;</p> <p>(2) Upon mutual agreement between the central management and the European Works Council, it may be possible for third country employees' representatives to participate as observers only.</p> <p>(3) The central management and local management and the competent European workers' and employers' organisations shall be informed of the composition of the special negotiating body and of the start of the negotiations.</p>
<p>Special negotiating body duties.</p>	<p>10.(1) The special negotiating body shall have the task of determining, with the central management, by written agreement, the scope, composition, functions, and term of office of the European Works Council(s) or the arrangements for implementing a procedure for the information and consultation of employees.</p> <p>(2) With a view to the conclusion of an agreement in accordance with Article 11, the central management shall convene a meeting with the special negotiating body. It shall inform the local managements accordingly.</p>

After any meeting with the central management, the special negotiating body shall be entitled to meet without representatives of the central management being present, using any necessary means for communication with its members.

(3) For the purpose of the negotiations, the special negotiating body may request assistance from experts of its choice which can include representatives of competent recognised trade union organisations from the European Union. Such experts and such trade union representatives may be present at negotiation meetings in an advisory capacity at the request of the special negotiating body.

(4)(a) The special negotiating body may decide, by at least two-thirds of the votes, not to open negotiations in accordance with paragraph (2) of this Article, or to terminate the negotiations already opened.

(b) Such a decision shall stop the procedure to conclude the agreement referred to in Article 11. Where such a decision has been taken, the provisions in Articles 12 to 16 shall not apply.

(c) A new request to convene the special negotiating body may be made at the earliest two years after the abovementioned decision unless the parties concerned lay down a shorter period.

(5) Any expenses relating to the negotiations referred to in paragraphs (1), (2) and (3) shall be borne by the central management so as to enable the special negotiating body to carry out its task in a more efficient manner. More specifically, the following expenses shall be borne by the central management:

a) expenses relating to the election or appointment of members of the special negotiating body;

(b) expenses relating to the organisation of meetings of the special negotiating body, including interpretation, accommodation, travel expenses, subsistence of members and expenses relating to the printing and notification of results, and

(c) the expenses incurred by one expert from the special negotiating body in order to assist it in its duties.

Content of the agreement.

11. (1) The central management and the special negotiating body must negotiate in a spirit of cooperation with a view to

reaching an agreement on the detailed arrangements for implementing the information and consultation of employees, provided for in Article 3(1).

(2) Without prejudice to the autonomy of the parties, the agreement referred to in paragraph (1) and effected in writing between the central management and the special negotiating body shall determine:

(a) the undertakings of the Community-scale group of undertakings or the establishments of the Community-scale undertaking which are covered by the agreement;

(b) the composition of the European Works Council, the number of members, the allocation of seats, taking into account where possible the need for balanced representation of employees with regard to their activities, category and gender, and the term of office;

(c) the functions and the procedure for information and consultation of the European Works Council and the arrangements for linking information and consultation of the European Works Council and national employee representation bodies, in accordance with the principles set out in Article 3(3);

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

(e) the composition, the appointment procedure, the functions and the procedural rules of the select committee set up within the European Works Council;

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

(g) the date of entry into force of the agreement and its duration, the arrangements for amending or terminating the agreement and the cases in which the agreement shall be renegotiated and the procedure for its renegotiation, including where the structure of the Community-scale undertaking or Community-scale group of undertakings changes.

(3)(a) The central management and the special negotiating body may decide, in writing, to establish one or more information and consultation procedures instead of a European Works Council.

(b) The agreement shall stipulate the method by which the

	<p>employees' representatives shall have the right to meet to discuss the information conveyed to them.</p> <p>(c) This information shall relate in particular to transnational questions which significantly affect workers' interests.</p> <p>(4) The agreements referred to in paragraphs (2) and (3) shall not, unless provision is made otherwise therein, be subject to the subsidiary requirements of Articles 12 to 16.</p> <p>(5) For the purposes of concluding the agreements referred to in paragraphs (2) and (3), the special negotiating body shall act by a majority of its members.</p>
<p>Implementation of subsidiary requirements.</p>	<p style="text-align: center;">SECTION IV - SUBSIDIARY REQUIREMENTS</p> <p>12.(1) With a view to the successful implementation of Article 3(1), the provisions laid down in Articles 13 to 16 shall be applied by the Member State in which the central management is situated, in the following cases:</p> <p>(a) where the central management and the special negotiating body so decide; or</p> <p>(b) where the central management refuses to commence negotiations within six months of the request referred to in Article 8(1); or</p> <p>(c) where, after three years from the date of this request, they are unable to conclude an agreement as laid down in Article 11 and the special negotiating body has not taken the decision provided for in Article 10(4).</p>
<p>Establishment of a European Works Council.</p>	<p>13. A European Works Council shall be established under Article 4. Its powers and composition shall be governed by the following rules:</p> <p>(a) The competence of the European Works Council shall be determined in accordance with Article 3(3).</p> <p>(b) The European Works Council shall be composed of employees of the Community-scale undertaking or the Community-scale group of undertakings elected or appointed in accordance with Article 8(3).</p>
<p>European Works Council composition.</p>	<p>14.(1) The members of the European Works Council shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale</p>

<p>European Works Council powers.</p>	<p>undertaking or group of undertakings, with the following breakdown for each Member State:</p> <p>(a) one seat per portion of employees employed in that Member State amounting to 10% of the number of employees employed in all the states taken together, or</p> <p>(b) a fraction thereof</p> <p>(2) To ensure that it can coordinate its activities, the European Works Council:</p> <p>(a) shall elect a select committee from among its members, comprising at most five members, which must benefit from conditions enabling it to exercise its activities on a regular basis,</p> <p>(b) shall adopt its own rules of procedure; and</p> <p>(3) The central management and any other more appropriate level of management shall be informed of the composition of the European Works Council.</p> <p>(4) Four years after the European Works Council is established, it shall examine whether to open negotiations for the conclusion of the agreement referred to in Article 11 or to continue to apply the provisions of Articles 12 to 16.</p> <p>(5) Articles 11 and 12 shall apply, mutatis mutandis, if a decision has been taken to negotiate an agreement according to Article 11, in which case 'special negotiating body' shall be replaced by 'European Works Council'.</p> <p>15.(1) The European Works Council shall have the right to meet with the central management once a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed of the results of the meeting.</p> <p>(2) The information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, investments, and substantial changes concerning organisation, introduction of new working methods</p>
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<p>European Works Council operations.</p>	<p>or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies. The consultation shall be conducted in such a way that employees' representatives can meet with the central management and obtain a response, and the reasons for that response, to any opinion they might express;</p> <p>(3) Where there are exceptional circumstances or decisions affecting the employees' interests to a considerable extent, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee, or, where no such committee exists, the European Works Council shall be informed. In that event it shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, so as to be informed and consulted. Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned by the circumstances or decisions in question shall also have the right to participate where a meeting is organised with the select committee.</p> <p>(4) This information and consultation meeting shall be convened as soon as possible on the basis of a report drawn up by the central management or any other appropriate level of management of the Community-scale undertaking or group of undertakings, on which the opinion of the members of the European Works Council may be delivered at the end of the meeting or within a reasonable time. This meeting shall not affect the prerogatives of the central management.</p> <p>(5) Before any meeting with the central management, the European Works Council or the select committee, and/or the committee enlarged in accordance with paragraph (3), shall be entitled to meet without the management concerned being present.</p> <p>16.(1) Without prejudice to Article 17, the members of the European Works Council shall inform the representatives of the employees of the establishments or of the undertakings of a Community-scale group undertaking or, in the absence of such representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure.</p> <p>(2) The European Works Council or the select committee may be assisted by experts of its choice, in so far as this is</p>
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<p>Confidential information.</p>	<p>necessary for it to carry out its tasks.</p> <p>(3) Their operating expenses shall be borne by the central management, in accordance with Article 10(5).</p> <p style="text-align: center;">SECTION V - GENERAL PROVISIONS</p> <p>17.(1)(a) Members of the special negotiating body, members of the European Works Council, any experts who assist them and employees' representatives in the framework of an information and consultation procedure are not authorised to reveal any information which has expressly been provided to them in confidence. .</p> <p>(b) The obligation of confidentiality shall continue to apply even after the expiry of the term of office of the above members, wherever they are.</p> <p>(c) The members of the European Works Council and the central management shall jointly decide on the issues covered by confidentiality and data information to be disclosed to third parties.</p> <p>(2)(a) The central management shall not be obliged to inform the European Works Council on issues:</p> <p>(i) of such a nature that, according to objective criteria, they may seriously affect or harm the operation of the undertakings in question;</p> <p>(ii) classified as confidential by the legislation in force.</p> <p>(b) By order of court, the central management shall be obliged to inform the European Works Council on matters which deemed confidential under paragraph (a) hereof.</p>
<p>Principles governing relations between the central management, the European Works Council and employees' representatives.</p>	<p>18.(1) The central management and the European Works Council shall work in a spirit of cooperation with due regard to their reciprocal rights and obligations.</p> <p>(2) The principles set out in paragraph (1) shall also apply to cooperation between the central management and employees' representatives in the framework an information and consultation procedure for workers.</p>
<p>Role and protection of</p>	<p>19.(1) Without prejudice to the competence of other bodies or organisations in this respect, the members of the European</p>

employees' representatives.

Works Council shall have the means required to apply the rights arising from this Law, to represent collectively the interests of the employees of the Community-scale undertaking or Community-scale group of undertakings.

(2) Members of special negotiating bodies, members of the European Works Council and employees' representatives exercising their functions under the procedure referred to in Article 11(3) shall, in the exercise of their functions, enjoy protection and guarantees similar to those provided for employees' representatives by the legislation in force and/or practice.

(3) The protection and guarantees referred to in paragraph (2) shall also apply to attendance at meetings of special negotiating bodies or European Works Councils or any other meetings within the framework of the agreement referred to in Article 11(3), and the payment of wages for members who are on the staff of the Community-scale undertaking or the Community-scale group of undertakings for the period of absence necessary for the performance of their duties.

(4) In so far as this is necessary for the exercise of their representative duties in an international environment, the members of the special negotiating body and of the European Works Council shall be provided with training without loss of wages.

Adaptation.

20.(1) Where the structure of the Community-scale undertaking or Community-scale group of undertakings changes significantly, and either in the absence of provisions established by the agreements in force or in the event of conflicts between the relevant provisions of two or more applicable agreements, the central management shall initiate the negotiations referred to in Articles 8, 9 and 10 on its own initiative or at the written request of at least one hundred (100) employees or their representatives in at least two different Member States.

(2) At least three members of the existing European Works Council or of each of the existing European Works Councils shall be members of the special negotiating body, in addition to the members elected or appointed pursuant to Article 9.

(3) During the negotiations, the existing European Works Council(s) shall continue to operate in accordance with any arrangements adapted by agreement between the members of the European Works Council(s) and the central management.

<p>Agreements in force.</p> <p>68(I) of 2002 143(I) of 2003 167(I) of 2007.</p>	<p>21.(1) Without prejudice to Article 20, the obligations arising from this Law shall not apply to Community-scale undertakings or Community-scale groups of undertakings in which an agreement concluded pursuant to Article 11 of the Law on the Establishment of European Works Councils has been signed or revised between 5 June 2009 and the date of entry into force of this Law.</p> <p>(2) The Law on the Establishment of European Works Councils applicable when the agreement is signed or revised shall continue to apply to the undertakings or groups of undertakings referred to in paragraph (1).</p> <p>(3) Upon expiry of the agreements concluded pursuant to paragraph (1), the parties to those agreements may decide jointly to renew or revise them. Where this is not the case, the provisions of this Law shall apply.</p> <p style="text-align: center;">SECTION VI - OFFENCES AND PENALTIES</p>
<p>Offences and penalties.</p>	<p>22. Anyone violating the provisions of this Law is guilty of an offence and may, upon conviction, face imprisonment for up to two years, or a fine of up to EUR thirty-four thousand (34 000), or both.</p> <p style="text-align: center;">SECTION VII – RESERVATIONS</p>
<p>Reservations.</p> <p>28 (I) of 2001. 104(I) of 2000 L.39 (I) of 2003.</p>	<p>23.(1) The provisions of this Law shall apply to the extent that they do not affect the provisions of the Law on Collective Redundancies and the Law on the Conservation and Safeguarding of the Rights of Employees during the Transfer of Undertakings, Establishments or Parts of Undertakings or Establishments.</p> <p>(2) This Law shall not affect the rights of employees with regard to information and consultation that they enjoy under current law and practice.</p>
<p>Repeal.</p> <p>68(I) of 2002 143(I) of 2003 167(I) of 2007.</p>	<p>24. From the date of entry into force of the present Law, the Laws of 2002 to 2007 on the Establishment of European Works Councils shall be repealed.</p>