

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

The Parliament passes the following Act with regard to European Works Council and to the procedure of informing and consulting employees in order that employees employed by community-scale undertakings and community-scale groups shall receive appropriate information on the decisions affecting them and passed in another state.

### **General provisions**

#### **Article 1**

(1) A European Works Council or a procedure of informing and consulting employees shall be established by all community-scale undertakings and community-scale groups, as laid down in Article 3 (1) to strengthen the right for information and consultation of employees of community-scale undertakings and community-scale groups. In case of an agreement thereon, or in case of lack of an agreement, the provisions of present Act shall be applied regarding the establishment of a European Works Council or regarding the procedure of informing and consulting employees.

(2) In the lack of a wider scope agreed in accordance with Article 7 (3) point a), the powers of the European Works Council and the procedure of informing and consulting employees shall include all branches of the community-scale undertaking in the European Union and in the countries of the European Economic Area (hereinafter: “Member States” ), and in case of community-scale groups each enterprises operating in Member States.

(3) The obligations regarding the establishment of a European Works Council and the establishment of procedure of informing and consulting employees are as followed:

- a) the central management is responsible for all of the followings if the seat of the community-scale undertaking or in case of a community-scale group the seat of the controlling undertaking is domestic: proposal on negotiations and information in

connection therewith (Article 3), presentation of information and initiation of negotiations following the establishment of the special negotiating body, assurance of the necessary and justified expenses related to the establishment and to the appropriate work of the special negotiating body and the expenses related to the negotiations (Article 6), measures regarding the number and composition of the members of the European Works Council and information in connection thereon (Articles 13-14), initiation of negotiations with the European Works Council, and presentation of information and negotiations regarding extraordinary conditions (Articles 16-17), further, assurance of the necessary and justified expenses of the activities of the European Works Council;

- b) according to the description in point a), the directed management is responsible for the application of the above if the seat of the community-scale undertaking or in case of a community-scale group the seat of the controlling undertaking is not in a Member State, but the management subordinated to the central management (directed management) of the branch or undertaking operating in a Member State is domestic;
- c) according to the description in point a), the representative is responsible for the application of the above if the seat of the community-scale undertaking or in case of a community-scale group the seat of the controlling undertaking is not in a Member State, but the community-scale undertaking or the community-scale group has a domestic representative;
- d) according to the description in point a), the branch of the community-scale undertaking, respectively the undertaking of the community-scale group employing most of its member state employees domestically is responsible for the application of the above, if no representative is designated, if the seat of the community-scale undertaking or in case of a community-scale group the seat of the controlling undertaking is not in a Member State.

(4) The provisions of this Act shall be applied if the central management, or if the seat of the community-scale undertaking or in case of a community-scale group the seat of the controlling undertaking is not in a Member State but the management subordinated to the

central management (directed management), the representative of the undertaking or group, or the branch of the community-scale undertaking, respectively the undertaking of the community-scale group employing most of its member state employees, if no representative is designated, is in another Member State, with respect to the following:

- a) the employers' obligations regarding to the statement of the number of domestic employees;
- b) the election of the representatives of domestic employees;
- c) the obligations of domestic employers regarding the establishment of the European Works Council and the establishment of the procedure of informing and consulting employees, and the legal consequences of the breach of these obligations;
- d) the protection of the representatives of domestic employees.

(5) The scope of this Act does not cover employees employed on seagoing commercial vessels of the undertakings referred to in paragraph (3) points a)-d).

## Article 2

### (1) Definitions:

- a) Community-scale undertaking: an undertaking operating in the member states with at least 1000 employees within the Member States, and at least 150 employees in each of at least two Member States;
- b) Group of undertakings: a group of undertakings consisting of controlling and controlled undertakings;
- c) Community-scale group of undertakings: a group of undertakings that has at least 1000 employees in the Member States, and it has at least two undertakings in different

Member States from which one — in one Member State — has at least 150 employees, and the other — in another Member State — also has at least 150 employees;

- d) Central management: management of the community-scale undertaking, or in the case of a group of undertakings, that of the controlling undertaking;
- e) Consultation: exchange of views and establishment of dialogue between the employee representatives and the central management, or the management at any appropriate level;
- f) Branch: the location of an economic activity that is carried out by combining personal and material resources;
- g) Special negotiating body: the body established in accordance with Articles 4-5 of this Act, negotiating with the central management to establish a European Works Council or to establish a procedure of informing and consulting employees;
- h) European Works Council: the council established to inform and consult employees, in accordance with Article 7 (2) and Articles 10-12 of present Act.

(2) “Controlling undertaking” shall mean an undertaking being part of a community-scale group that can exercise a dominant influence over another undertaking (the controlled undertaking) based on its ownership, financial share, or another provision on the operation of the group. When applying Article 1 (3) point a), the dominant shareholder as defined in the chapter on the Acquisition of an Influencing Interest of Act CXLIV of 1997 on Economic Associations shall also be deemed as controlling undertaking.

(3) The ability to exercise a dominant influence shall be presumed — until the proof to the contrary — when an undertaking, in relation to another undertaking, directly or indirectly disposes over the followings:

- a) it is authorised to designate more than half of the members to the managing, directing, or supervising body of the other undertaking;
- b) it holds the majority of the votes related to the other undertaking's share;
- c) it holds the majority of the other undertaking's subscribed capital.

(4) If two or more undertakings from one group of undertakings are suitable to the conditions in paragraph (2), until the proof to the contrary, the order described in paragraph (3) shall be taken into account when determining the controlling undertaking.

(5) A dominant influence shall not be presumed in case of bankruptcy proceedings, liquidation, and at final settlement based on the arrangements made by the liquidator and by the person executing the final settlement.

(6) The following institutions are not considered as controlling undertakings if they exercise temporary control or acquire share, when the purpose thereof is to prepare a resale and they do not exercise their controlling rights or they do so only at a necessary level: insurance company, credit institution, financial holding company, mixed activity holding company, investment company, and asset management organisation.

### **Establishment of a European Works Council, and the establishment of the procedure of informing and consulting employees**

#### **Article 3**

(1) The establishment of a European Works Council or the establishment of the procedure of informing and consulting employees can be proposed either by the central management or by at least 100 employees employed by at least two undertakings or branches in at least two Member States, or by the representative organisations of such employees.

(2) If the central management receives more than one proposal, then the number of employees described in paragraph (1) shall be added up. If the proposal is submitted to the management of a domestic undertaking or branch, it shall be forwarded immediately to the central management and simultaneously the proposer shall be notified thereon.

(3) The central management shall upon receipt immediately inform all undertakings and branches of the community-scale group or undertaking on the proposal(s).

#### Article 4

(1) In order to commence and to carry out negotiations, a special negotiating body shall be established, in accordance with that written below. The special negotiating body's task is to reach an agreement with the central management regarding the establishment of a European Works Council, or the establishment on the procedure of informing and consulting employees.

(2) The special negotiating body shall consist of at least three, but maximum 28 members. From each Member State in which an undertaking or branch of a community-scale undertaking or group is operating, one employee representative shall be sent to the special negotiating body. Simultaneously, an alternate member shall be appointed as well.

(3) Taking into account that written in paragraph (1), Member States can delegate further employee representatives to the special negotiating body, in accordance with that written below:

- a) if at least 25% of the employees of the community-scale undertaking or group are employed in one member state, one more,
- b) if at least 50% of said employees, two more,
- c) if at least 75% of said employees, three more representatives.

## Article 5

(1) The appointment of the member(s) of the special negotiating body being the representatives of the employees of domestic branches or undertakings of the community-scale undertaking or group, shall be made by

- a) the works council,
- b) if there is a central works council operating, by it,
- c) if there are more than one central works councils, jointly by all central works councils.

(2) 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. Article 11 (2)-(4) of present Act shall be applied accordingly to the election of the employee representative.

## Article 6

(1) After the establishment of the special negotiating body, the central management shall immediately inform the leaders of all undertakings or branches of the community-scale undertaking or group and the representative organisations of the employees on the names and addresses of the members of the special negotiating body.

(2) Simultaneously with the information referred to in paragraph (1), the central management shall invite the special negotiating body for a first negotiation, and shall inform the leaders of the undertakings and branches thereon.

(3) If the central management and the special negotiating body make such a decision in their agreement according to Article 7 (3), which influences the undertakings or branches of the community-scale undertaking or group not located in a Member State, the parties may agree upon the invitation of the employee representatives of these undertakings or branches, and may determine the number of these representatives.

(4) The special negotiating body may have a separate meeting before its negotiation with the central management, where they may have recourse to an expert.

(5) With at least 2/3 of the votes the special negotiating body may decide not to commence the negotiations referred to in paragraph (2), or to discontinue the already commenced negotiations. A written notification regarding this decision with the signature of the president and one member of the special negotiating body shall be sent immediately to the central management.

(6) A new proposal on the convoking of the special negotiating body can be made at least two years after the decision described in paragraph (5), unless the special negotiating body and the central management agreed upon a shorter deadline.

(7) The central management shall bear all expenses related to the establishment of the special negotiating body, to the negotiations, and the necessary and justified expenses related to the appropriate work of the special negotiating body.



**Agreement upon the establishment of a European Works Council, or upon the  
establishment of the procedure of informing and consulting employees**

Article 7

(1) In the course of exercising the rights and fulfilling the obligations described in this Act, the central management and the special negotiating body shall act in the manner required by good faith and fairness, and they shall be obliged to cooperate with one another.

(2) It is the special negotiating body's task to come to an agreement with the central management on the powers, the composition and the length of the mandate of the European Works Council, or on the establishment of the procedure of informing and consulting employees.

(3) If the central management and the special negotiating body agree upon the establishment of a European Works Council, the agreement shall be done in a written form. It shall include particularly the followings:

- a) the branches and undertakings of those community-scale undertakings or groups that are effected by the agreement, including those branches and undertakings that are located outside the territory of the Member States;
- b) the composition and the number of members, the number of alternate members, the distribution of functions, and the length of the mandate of the European Works Council;
- c) the powers of the European Works Council and the order of the procedure on information and consultation therewith;
- d) the place, frequency, and length of the meetings;

- e) the financial and other material resources at the disposal of the European Works Council;
- f) the time limits of the agreement and the procedure to be followed during renegotiation of the agreement, including temporary provisions, and the provisions on the follow-ups regarding changes in the structure of the community-scale undertaking or group.

## Article 8

(1) The central management and the special negotiating body may agree in writing that instead of the establishment of a European Works Council a different procedure of informing and consulting employees shall be established.

(2) The agreement on the procedure described in paragraph (1) shall include in particular a provision on the manner how the employee representatives may discuss the contents of the information delivered to them among each other, and on the procedure and manner of expressing their proposals and objections to the central management, or to other appropriate management level.

(3) Information shall include all trans-border issues having a significant effect on the employees' interest.

## **Provisions on the European Works Council**

### **Article 9**

(1) The provisions set forth in Articles 10-23 shall be applied for the establishment and operation of the European Works Council in case

- a) such decision is made by the central management and the special negotiating body;
- b) the central management rejects commencing negotiations within six months following the filing of the proposal described in Article 3 (1);
- c) the parties do not come to an agreement within three years following the proposals of the central management or the filing of the proposal of the employees or employee representatives (referred to in Article 3 (1)) on the issues raised in Article 7 (3), and the special negotiation body did not make a decision referred to in Article 6 (5).

### **Article 10**

(1) The European Works Council shall consist of the representatives of employees of the community-scale undertakings or groups.

(2) The European Works Council shall consist of at least three, but maximum 30 members. One employee representative shall be delegated to the European Works Council from each Member State where branches or undertakings of a community-scale undertaking or group operate. Simultaneously, an alternate member shall be appointed as well.

(3) Taking into account that written in paragraph (1), Member States can delegate further employee representatives to the European Works Council, in accordance with that written below:

- a) if at least 25% of the employees of the community-scale undertaking or group are employed in one member state, two more,
- b) if at least 50% of said employees, four more,
- c) if at least 75% of said employees, six more representatives.

(4) The representatives of employees of domestic branches or undertakings of community-scale undertakings or groups shall be appointed by

- a) the works council,
- b) if there is a central works council operating, by it,
- c) if there are more than one central works councils, jointly by all central works councils.

(5) The gender distribution of the appointees shall follow the gender distribution at the domestic undertakings or branches of the community-scale undertaking or group.

## 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 Code<sup>1</sup> 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.

---

<sup>1</sup> Article 51/A (1) An election shall be declared valid if more than half of those eligible to vote have participated. For such purposes an employee eligible to vote who, at the time of the election, was

- a) incapacitated to work due to illness,
- b) on maternity leave or on a leave of absence without pay for reasons specified in Articles 138-140,
- c) in regular or reserve army or civilian service, or
- d) on a duty assignment of more than one week

shall not be counted, if such employee did not participate in the election.

## Article 12

(1) The mandate of the member of the European Works Council is for three years. The mandate of the member of the European Works Council elected at the domestic undertakings or branches of the community-scale undertaking or group shall terminate in case

- a) he/she resigns;
- b) the mandate of the European Works Council expires;
- c) the member's mandate expires;
- d) he/she is recalled;
- e) he/she becomes the leader of any undertaking or branch of the community-scale undertaking or group;
- f) his/her employment is terminated;
- g) the branch or undertaking he/she belongs to is terminated, or is no more part of the community-scale undertaking or group.

(2) The member of the European Works Council elected at the domestic undertakings or branches of the community-scale undertaking or group may be recalled by the works council appointed him/her. With regard to the recall, a vote shall be held if at least 30 % of the members of the works council appointed the member require so. More than 50% of the valid votes are required to recall the member. A proposal for recall shall not be repeated within six months.

(3) If the mandate of a member of the European Works Council elected in domestic branches or undertakings of the community-scale undertaking or group terminates before the expiry of the mandate of the European Works Council, the alternate member elected domestically shall replace him/her.

### Article 13

(1) As from the date of the first meeting, upon request of the European Works Council, the central management shall examine annually whether the number of employees in the Member States has changed in an extent that, with regard to Article 10 (2), it would result to a change in the number of members or in the composition of the European Works Council. The central management informs the European Works Council on the results of such examination.

(2) If there is a need for a change in the member number or composition of the European Works Council, then the European Works Council initiates the necessary measures in order that the Member States effected elect the appropriate number of members to the European Works Council. The mandate of the representative of the employees from that Member State terminates by the new election.

### Article 14

The central management shall be informed immediately on the names and addresses of the members of the European Works Council, and on the undertaking or branch said members are employed at. The central management shall immediately inform the leaders of all undertakings or branches of the community-scale undertaking or group, the representative organisations of employees, and the representative organisations of employees of domestic undertakings or branches thereon.

## Article 15

(1) The European Works Council shall elect a president and a vice president.

(2) If the European Works Council consists of nine or more members, then it shall elect a managing committee with three members. The president of the European Works Council shall be a member of the managing committee. The president and the other two members shall be elected from different Member States. If the number of members in the European Works Council is less than nine, then in addition to the president, a manager shall be elected who is employed in a different Member State than the president.

## Article 16

(1) The central management shall, upon the election of the European Works Council, immediately invite the members of the European Works Council for a first meeting. The European Works Council has the right to have one meeting with the central management annually to be informed and to consult with them on the community-scale undertaking's or group's economic state and the expected changes in it, based on the report of the central management. The central management and the European Works Council shall make an agreement on the time and place of the meeting. Based on the agreement of the central management and the European Works Council, more than one meeting can be held annually. The meetings of the European Works Council are not open to the public.

(2) The central management and the European Works Council shall act in the manner required by good faith and fairness, and they shall be obliged to cooperate with one another and they both consider the mutual interest of the employees and the community-scale undertaking or group. This applies also to the procedure between the central management and the employee representatives on informing and consulting employees.

(3) The powers of the European Works Council shall include those issues mentioned in paragraph (5) below and in Article 17 (1), if such issues either effect the entire community-



scale undertaking or group, or at least two of its branches or undertakings in different Member States.

(4) In case of community-scale undertaking or group described in Article 1 (3) points b) – d), the powers of the European Works Council shall include those issues mentioned in paragraph (5) below and in Article 17 (1), if such issues either effect the entire community-scale undertaking or group, or to at least two of their branches or undertakings to be found in different Member States.

(5) The followings shall be in particular the subject of information and consultation regarding the community-scale undertaking's or group's economic state and the expected changes in it:

- a) structure, economic and financial state of the undertaking or group;
- b) probable development of the business activity, production (service), and sale;
- c) state of employment and its expected changes;
- d) investments and investment programs;
- e) essential changes regarding the organisation;
- f) introduction of new work methods and production procedures;
- g) relocation of undertakings, branches or functionally relevant parts of factories or shops or that of the production;
- h) merge or demerge of undertakings or branches;
- i) reduction or termination of activities of undertakings, branches, or functionally relevant parts of factories or shops;
- j) collective redundancy.

## Article 17

(1) The central management shall inform the European Works Council in good time on any extraordinary conditions that have a relevant influence on the interests of employees. Such extraordinary conditions are in particular the followings:

- a) relocation of undertakings, branches or functionally relevant parts of factories or shops;
- b) reduction or termination of activities of undertakings, branches, or functionally relevant parts of factories or shops;
- c) collective redundancy.

(2) The European Works Council or the managing committee is entitled to meet the central management or the relevant level of management of the community-scale undertaking or group in order to receive information and to consult regarding those extraordinary conditions influencing the employees' essential interests. If the managing committee participates on behalf of the European Works Council at the meeting, those members of the European Works Council who were elected by the undertakings or branches directly effected by the measures shall be invited to the meeting.

(3) Based on the report of the central management or that of the relevant level of management of the community-scale undertaking or group, the meeting referred to in paragraph (2) shall be held within the shortest time possible.

(4) The members of the European Works Council or those of the managing committee participating on the meeting shall inform the employee representatives of the community-scale undertaking's or group's undertakings or branches on the content and outcome of the information and consultation.

## Article 18

(1) The European Works Council shall determine its own agenda. The European Works Council's resolutions are passed by a simple majority.

(2) The European Works Council may have recourse to an expert if it is necessary for the completion of its tasks.

(3) The central management shall bear the European Works Council's justified expenses necessary for the completion of its tasks. The central management shall in particular place the followings at the European Works Council's disposal to arrange meetings and to manage ongoing issues: rooms, material resources, office staff, interpreters. Furthermore, the central management shall bear travel and per diem expenses.

(4) In order that he/she can perform his/her tasks, the member of the European Works Council is exempted from his/her work performance obligations for the time necessary to manage his/her tasks, and he/she shall receive absence fee for such time.

## **Joint provisions**

## Article 19

(1) The central management is only obliged to fulfil its obligation to provide information according to Article 7, Article 16 (5) and Article 17 (1) of present Act if it does not jeopardise the community-scale undertaking's or group's reasonable interest to business or shop secrets.

(2) The members and alternate members of the European Works Council cannot pass any information that they received on the basis of their membership at the European Works Council from the central management expressly as being business or shop secret to third persons, cannot publish them or otherwise utilise them for any other activity as those serving to reach the goals described in this Act. This obligation shall burden the members and

alternate members of the European Works Council even after the termination of their mandate.

(3) The obligation of confidentiality as described in paragraph (2) shall not burden the members and alternate members of the European Works Council

- a) towards other members and alternate members of the European Works Council,
- b) towards employee representatives of undertakings and branches,
- c) towards employee representatives of managing or controlling bodies of undertakings,
- d) towards the interpreter and the expert assisting with his/her tasks.

(4) The obligation of confidentiality as described in paragraph (2) shall burden

- a) the members and alternate members of the special negotiating body,
- b) the employee representative participating in the procedure of information and consultation described in Articles 7-8,
- c) the interpreter and the expert, and
- d) the employee representatives of the undertakings and branches.

(5) The exceptions from confidentiality described in paragraph (3) shall be applied in the following manner to those described in paragraph (4):

- a) the member and alternate member of the special negotiating body is not obliged to keep confidentiality towards the interpreter and the expert assisting with his/her tasks,
- b) the employee representative participating in the procedure of information and consultation as described in Articles 7-8 is not obliged to keep confidentiality towards

the interpreter and the expert assisting with his/her tasks, and towards the employee representatives of the undertakings and branches.

#### Article 20

With respect to the labour law protection of the European Works Council's and special negotiating body's members and alternate members employed domestically, the rules on the protection of works council members shall be applied accordingly.

#### Article 21

(1) It is prohibited to hinder, restrict or influence the establishment and the activity of the special negotiating body or the European Works Council, and furthermore the establishment and conduction of the procedure of informing and consulting employees.

(2) It is prohibited to influence by promising advantages or disadvantages, to hinder, or to restrict the activities of the members and alternate members of the special negotiating body, the European Works Council, and those of the participating employees in the procedure of informing and consulting employees.

#### Article 22

Those written in present Act shall not influence any measures made in connection with Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies and Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

## Article 23

(1) The court shall decide within fifteen days in an extra-judicial procedure with regard to any disputes in connection with the agreement on the establishment of the European Works Council or the procedure of informing and consulting employees, and, furthermore, in connection with the legal regulations on European Works Council incurred between those referred to in Article 1 (3) and the employees, the works council or the trade union.

(2) The labour court according to the seat of the central management or according to the controlled management, to the representation, or to the undertaking or branch as defined in Article 1 (3) point d) shall be competent to the proceedings defined in paragraph (1).

## Article 24

Within the framework of Article 3 of Act I of 1994 promulgating the Europe Agreement establishing an association between the Republic of Hungary and the European Communities and their member states, signed in Brussels on 16 December 1991, this Act contains regulations designed to approximate the following legal regulations of the European Communities: 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 and Council Directive 97/74/EC of 15 December 1997 extending, to the United Kingdom of Great Britain and Northern Ireland, 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.

## **Final Provisions**

### **Article 25**

(1) This Act comes into force simultaneously with the Act proclaiming the international treaty on joining of the Hungarian Republic the European Union.

(2) The dispositions of this Act shall not be applied in case of those community-scale undertakings or group undertakings, where there is an agreement in effect regarding the rights of all employees to be informed and consulted at the time this Act coming into force. If such an agreement comes out of force, the parties to such an agreement may make a decision on the extension thereof. In the lack of such an agreement the provisions of present Act shall be applied.

(3) In case the effect of the agreement does not cover all employees employed by the Member State branches and undertakings of the community-scale undertaking or group, the parties thereto may take the necessary measures to involve the missing employees within six month from the day present Act comes into force. Should the parties fail to take said necessary measures within said deadline, the provisions of present Act shall be applied.