

CHAPTER I. - General provision.

Article 1. This Act regulates a matter referred to in article 78 of the Constitution.

CHAPTER II. - Scope and definitions.

Art. 2.[This Act shall apply to European Works Councils and to processes for informing and consulting employees set up by virtue of Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees European Works Councils and the procedures for informing and consulting employees set up by 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, and on their establishment.]¹ -----

(1)<W 2012-01-26/23, art. 3, 003; Entry into force : 06-06-2011>.

Art. 3.For the application of this Act, the following definitions shall apply:

1° Community-scale undertaking: the undertaking with at least 1,000 employees in the Member States and, in at least two Member States, at least 150 employees each;

2° group of undertakings: a group consisting of a controlling undertaking and the undertakings over which control is exercised;

3° Community-scale group of undertakings: a group of undertakings that meets the following conditions : - consist of at least

two companies which belong to the group, in different Member States, and

- consist of at least one company which belongs to the group and which has at least 150 employees in a Member State and at least one other company which belongs to the group and which has at least 150 employees in another Member State;

4° controlling company : the company which can exercise a dominant influence on another company;

5° central management : the management of the Community-scale company or of the controlling company;

6° [¹ Member State : the States of the European Union and the other States of the European Economic Area referred to in Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009.]¹ -----

(1)<W 2012-01-26/23, art. 4, 003; Entry into force : 06-06-2011>.

CHAPTER III. - Applicable law.

Art. 4. The rules concerning the concept of a Community-scale group of undertakings and the rules concerning the determination of the controlling undertaking within a Community-scale group of undertakings are governed by the law of the Member State whose law governs that undertaking.

Where the law governing the controlling undertaking is not that of a Member State, the applicable law shall be that of the Member State in which the representative of the undertaking or, in the absence of such a representative, that of the Member State in which the management of the group undertaking employing the greatest number of employees is situated.

Art. 5. The rules governing the establishment and operation of a European Works Council or an employee information and consultation procedure in Community-scale undertakings and Community-scale groups of undertakings shall be governed by the law of the Member State in which the central management of the undertaking or group of undertakings or its representative is situated.

Art. 6. The rules concerning the calculation of the number of employees employed, the concept of employees and the designation of employees' representatives are subject to the law of the Member State in which the establishments or undertakings concerned are situated.

¹The law applicable to the rules governing the status of employees' representatives is the law of the Member State in which their employer is established; in the event of a conflict of laws, that law shall be determined in accordance with the Convention on the law applicable to contractual obligations, done at Rome on 19 June 1980, for contracts concluded on or before 17 December 2009. For contracts concluded after 17 December 2009, the law is determined in accordance with the Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I).]¹ -----

(1)<W 2012-01-26/23, art. 5, 003; Entry into force : 06-06-2011>

CHAPTER IV. - Confidential information.

Art. 8. The central management is authorised to inform members of the special negotiating body, the European Works Council or employees' representatives who receive information within the framework of an information and consultation procedure which replaces it, as well as any experts who may assist them

1° to report the confidential nature of certain information at the time it is communicated, the disclosure of which could seriously harm the company; the delegates are bound not to disclose it;

2° not to communicate certain information, the list of which is drawn up by the King, when it is of such a nature that, according to objective criteria, its disclosure could seriously harm the functioning of the company or could prejudice it.

CHAPTER V. - Protection against dismissal.

Art. 9. The employee representatives in the special negotiating groups and in the European Works Councils, as well as the employee representatives fulfilling their role within the framework of information and consultation procedures which may replace a European Works Council, and their substitutes shall benefit from the special rules on dismissal provided for by

the law of 19 March 1991 on special rules on dismissal for staff representatives in works councils and in committees on safety, health and improvement at work, and for candidate staff representatives. This special scheme applies to them for any dismissal that takes place during a period starting on the thirtieth day prior to their appointment and ending on the day their mandate ends.

CHAPTER VI. - Supervision and sanctions.

Art. 10. [¹ Violations of the provisions of this Law and of its implementing decrees shall be detected, established and punished in accordance with the Social Penal Code.

Social inspectors have the powers referred to in Articles 23 to 39 of the Social Penal Code when they act, ex officio or upon request, in the context of their duties to inform, mediate and monitor compliance with the provisions of this Law and its implementing decrees.]¹ -----

(1)<W 2010-06/06, art. 86, 002; Entry into force : 01-07-2011>.

Art. 11. Article 56 of the Act of 5 December 1968 on collective labour agreements and joint committees shall be supplemented with the following paragraph: "

As regards infringements of the provisions of the collective labour agreements which have been declared universally binding by Royal Decree on the establishment of a European Works Council or of a procedure in Community-scale undertakings or Community-scale groups of undertakings for the purposes of informing and consulting employees, the central management of the group or its representative, as referred to in the aforementioned collective labour agreements, shall be treated as the employer."

Art. 12. Article 1, 14°, of the Law of 30 June 1971 on the administrative fines applicable in the event of infringement of certain social laws, is supplemented as follows :

"in the case of infringements of the provisions of the collective labour agreements relating to the establishment of a European Works Council or a procedure in Community-scale undertakings or Community-scale groups of undertakings for the purposes of informing and consulting employees, which have been declared universally binding by Royal Decree, the central management of the group or its representative, as referred to in the abovementioned collective labour agreements, shall be treated as the employer;"

Art. 13. [¹ lifted]¹ -----

(1)<W 2010-06/06, art. 109, 45°, 002; Entry into force : 01-07-2011>

CHAPTER VII. - Entry into force.

Art. 14. This law enters into force on 22 September 1996, with the exception of Articles 11 to 13, which will enter into force on the day of publication in the Belgian Official Gazette.

Proclaim this law, order that it shall be stamped with the seal of the State and published in the Belgian Official Gazette.

Given at Brussels, 23 April 1998.

ALBERT

For the Government:

The Minister for Economic Affairs, E

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. DI RUPO

The Minister for Employment and Labour,

Mrs. M. SMET

The Minister for Justice, S

. DE CLERCK

With an official seal

The Minister for Justice, T

. VAN PARYS