

EWC in Romania

GIORGIO VERRECCHIA

Avv. Giorgio Verrecchia
avv.giorgioverrecchia@gmail.com

EWC Directive (also EWC Dir)

- The European Council of Ministers adopted the council Directive 94/45/EC on the establishment of European Works Councils on September 22nd 1994.
- The 95/45/EC directive now has been replaced/amended by the new European Works Councils 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

Establishing of the EWCs

- the European Works Councils can be created in Community-scale undertakings, and thus employing at least 1,000 workers in the Member States, including at least 150 employees in at least two or more Member States.
- European Works Council shall be appointed on a proposal that may make the central management or a group of workers with at least two Member States.

Objectives of the EWCs

- European Works Councils are primarily aimed to transfer information to European employees representatives (information about all relevant aspects of companies activity), and to consult with the companies' management multinational decisions on the situation of workers.
- These decisions often concern processes of organizational changes in the companies, relocation of production in the factories, protection workers against the negative effects of restructuring and many more.

Matters

- The Council has also the right to information and consultation in matters relating to:
 - the employment situation and possible developments in this area
 - introducing important/significant organizational changes in the companies
 - introducing new working methods or production processes.
 - Changing of the company location or a location of a substantial part of company or the transferring of production to another company or companies
 - mergers and divisions of companies
 - production reduction
 - redundancies

Aim

- Generally the aim of the EWC is that workers, through their representatives chosen from amongst them, are to be given information and are consulted on the company's future as well as any decision to be taken that would affect them.

Transposition/Source

- EU Directive [94/45/EC](#) on the establishment of a European Works Council (EWC) or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees was transposed into:
- **LAW No 186 of 24 October 2011**
- **Law n°217/2005 on the establishment , organisation and functioning of European Working Councils**
- **Government Ordinance no. 48/2006 on the modification of the Law no. 217/2005 on the establishment , organization and functioning of European Work Councils)**

The EWC Regulation

- The transnational character of an issue shall be determined by taking account, regardless of the number of Member States involved, of the level of management and representation that it involves, and the scope of potential effects on the European workforce or which involve transfers of activities between Member States.

The EWC Regulation

- The members of special negotiating bodies (SNBs) representing employees are **directly elected/ appointed** by and from among the employees concerned, with the Regulations laying down detailed balloting rules. The same selection method applies to the Maltese members of 'statutory' EWCs - ie those based on the Directive's subsidiary requirements, essentially where no agreement can be reached by management and SNB.

The EWC Regulation/ correlation

- ART 2 **LAW No 186 of 24 October 2011**

The information and consultation of the European Works Council shall be correlated with the information and consultation of the employees' national representation bodies by taking due account of the competences and scope of each of these bodies

Confidentiality

- members of SNBs and EWCs, or of any other body established under the Regulations in order to facilitate informing and consulting employees, as well as any persons who assist them, shall not reveal any information which has been provided to them in confidence.
- This prohibition applies even after the expiry of the term of office of the persons concerned.
- However they may, in accordance with their duties as an SNB/EWC member, expert or employees' representative in an alternative information and consultation procedure, disclose such information to the body or council of which they are a member, to another employees' representative in a procedure, or to the members, body or person they are employed to advise;

Confidentiality

- central management shall not be obliged to transmit certain information to the SNB or EWC, or in connection with an alternative information and consultation procedure, where it can show that such disclosure would adversely affect the position of the organisation, or where the information is of a kind that meets objective standards for determining that it should be withheld agreed between the central management and the SNB, EWC or the employees' representatives in an information and consultation procedure;