



*Project "Les CEE: le socle européen du dialogue social",
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Transposition of the Directive 2009/38 into the national legislation of Bulgaria



This project is funded by the European Union



Transposition of the Directive 2009/38 into the national legislation of Bulgaria



This Directive repeals and replaces Directive 94/45 / EC (OJ L 254, 30.9.1994, as amended by Directive 97/74 / EC (OJ L 10, 16.1.1998 and Directive 2006/109/ EC (OJ L 363, 12/20/2006



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The legislation regulates on what matters the general meeting (or its equivalent) may decide in the enterprise:

- Selection of different employees' representatives provided for in the Bulgarian legislation;
- Adoption of a draft collective agreement if there is more than one trade union in the enterprise and there is no agreement between them;
- How to spend money on social activities and how these social funds can be used for the benefit of families;
- Solutions for effective strike action and collective bargaining.





Transposition of the Directive 2009/38 into the national legislation of Bulgaria



Directive 2009/38 has been transposed in Bulgaria as follows:

1. Information and Consultation of Employees in Multinationals, Enterprise Groups and European Companies Act
2. Labour Code
3. Constitution of The Republic of Bulgaria





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AN ACT TO AMEND AND SUPPLEMENT THE INFORMATION AND CONSULTATION OF EMPLOYEES IN MULTINATIONALS, ENTERPRISE GROUPS AND EUROPEAN COMPANIES ACT:

In Bulgaria, the issues concerning information and consultation in multinational companies are mainly discussed in the *Law on information and consultation of employees in multinational enterprises, groups of enterprises and European companies. Information and consultation are carried out through the European Workers Councils or an Information and Consultation Procedure.*

The law was adopted by the 41st National Assembly on October 6, 2011.





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Information and Consultation Procedure in Multinationals, Enterprises Groups and European Companies:

The law does not set out a strict procedure for reaching an agreement.

However, it is clear from the provisions establishing the obligations of the parties that, once the employees' representatives have been chosen in accordance with the established order, they may invite the employer to a meeting to reach the agreement.





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The most important issues, which should be an object of information and consultation by the workers' representatives, are explicitly and exhaustively specified in the Labour Code, as follows:

- Economic and financial standing
- Structure of enterprises
- Expected development of activities
- Investments and changes
- New methods and processes
- Transformation of enterprises
- Upcoming mass redundancies and layoffs





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The sanctions:

In cases where the employer foresees measures that lead to structural changes in the company or to mass redundancies, the order and manner of information and consultation are specified by the employer, the representatives of the trade unions and the representatives of the employees. If the employer refuses to provide information, the representatives of the employees have the right to request it from him in writing form, and in case of refusal to give them the requested information - to signal the "General Labour Inspectorate" Executive Agency for violation of the labour legislation.





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The sanctions:

The penalties and sanctions provided from the Labour Code are not particularly dissuasive because the maximum sanction is between 2,500 and 5,000 levs/1,250 and 2,500 EUR/ However, provided in the Labor Code is the possibility for officials to be sanctioned with BGN 1,000 per each case, but there is another option - employees can turn to the Court to look for their rights in terms of information and consultation. The sanctions in the court are sufficiently deterrent.





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Information and Consultation Procedure in Multinationals, Enterprises Groups and European Companies:

The implementation of the information and consultation procedures is carried out through the European works councils, through the trade unions and the representatives of the employees under Article 7, paragraph 2 of the Labour Code and is settled by an agreement.





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LABOUR CODE

The establishment of a system for information and consultation in the Bulgarian enterprises is done through the election (with a simple majority) of the representatives of the employees of the General Meeting of Representatives.

According to the Labour Code, the right to convene the selection of representatives is the employer, the trade unions or 1/10 of the employees.





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LABOUR CODE

The General Meeting of the proxies decides whether to elect representatives of the staff, whether to grant the right of the trade union management to appoint these representatives or the elected representatives already under Art. 7 (2) of the Labour Code to perform the information and consultation functions.





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LABOUR CODE

The General Assembly of employees elects their representatives or assigns it to Trade Unions in the enterprise /Trade Union organizations in the Enterprises with 50+ employees and 20+ employees/.

The representatives for information and consultation:

- represent the workers;
- negotiate with the employer;
- require information;
- consult changes restructurings;
- provide opinions reorganizations;
- inform workers.





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CONSTITUTION OF THE REPUBLIC OF BULGARIA:

According Art. 41. (1) of Bulgarian Constitution, everyone has the right to seek, receive and disseminate information.

The implementation of this right cannot be directed against the rights and reputation of other citizens, as well as national security, public order, public health and morality.





Thank you for your attention!

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