

LAW

of 4 March 2005

on the European Economic Interest Grouping and the European company ¹

Title I

General Provisions

Article 1

The Law shall govern:

- 1) the registration and some organisational rules regarding the European Economic Interest Grouping, in so far as they are not governed by Regulation No 2137/85/EEC of 25 July 1985 on the European Economic Interest Grouping (EEIG) (OJ L 199 of 31.07.1985);
- 2) the formation, organisation and activity of a European company in so far as they are not governed by Regulation No 2157/2001/EC of 8 October 2001 on the Statute for a European company (OJ L 294 of 10.11.2001);
- 3) the rules on employee involvement in a European company.

Article 2

For the purposes of this Law, the following definitions shall apply:

- 1) “Financial Institution”: a financial institution as defined by Article 4.1(7) of the law of 15 September 2000, the Commercial Companies Code (Polish Journal of Laws No 94, item 1037, of 2001 No 102, item 1117, and of 2003 No 49, item 408 and No 229, item 2276), hereinafter referred to as the “Commercial Companies Code”;
- 2) “Member States”: Member States of the European Union or Member States of the European Free Trade Agreement (EFTA) – parties to the agreement of the European Economic Area;
- 3) “Register”: the register of undertakings in the National Court Register;
- 4) “Regulation 2137/85”: Regulation referred to in Article 1.1;
- 5) “Regulation 2157/2001”: Regulation referred to in Article 1.2;

¹ Provisions of the Law implement provisions of Regulation No 2137/85/EEC of 25 July 1985 on the European Economic Interest Grouping (EEIG) (OJ L 199 of 31.07.1985) and of Regulation No 2157/2001/EC of 8 October 2001 on the Statute for a European company (OJ L 294 of 10.11.2001) and are an implementation of Directive No 2001/86/CE of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees (OJ L 294 of 10.11.2001).

6) “European company”: a European public limited-liability company defined in Regulation 2157/2001;

7) “Public company”: a company as defined by Article 4.9 of the law of 21 August 1997 on public trading in securities (Polish Journal of Laws of 2002 No 49, item 447, as modified²), hereinafter referred to as the “Securities Law”;

8) “Participating company”: a company directly participating in the formation of a European company;

9) “Competent organ of a company”: the managing or administrative organ of a company, in accordance with the provisions of the law governing this company;

10) “Grouping”: the European Economic Interest Grouping as defined by Regulation 2137/85;

11) “Manager of a grouping”: a natural or legal person who manages the grouping.

Article 3

1. The Grouping shall be subject to registration on the terms stipulated for registered partnerships, unless the Law states otherwise.

2. The European company, hereinafter referred to as the SE, shall be subject to registration on the terms stipulated for joint stock companies, unless the Law states otherwise.

Article 4

1. The competent authority within the meaning of Articles 8, 55 and 64 of Regulation 2157/2001 shall be the registration court competent in respect of the registered office of the SE.

2. The competent authority within the meaning of Articles 25 and 26 of Regulation 2157/2001 shall be the registration court competent in respect of the registered office of the joint stock company involved in the formation of an SE by means of a merger.

Article 5

The Central Information Department of the National Court Register shall forward to the Office for Official Publications of the European Communities, within one month of publication in the Polish Court and Economic Journal, particulars which, in accordance with Article 11 of Regulation 2137/85 or Article 14 of Regulation 2157/2001 shall be published in the Official Journal of the European Communities.

Article 6

² The changes to the uniform text of the above-mentioned Law were published in the Polish Journal of Laws of 2002 No 240, item 2055, of 2003 No 50, item 424, No 84, item 774, No 124, item 1151, No 170, item 1651 and No 223, item 2216 and of 2004 No 64, item 594, No 91, item 871, No 96, item 959, No 116, item 1205, No 146, item 1546 and No 273, item 2703.

In the case of a transfer of the registered office of the grouping or of the registered office of the SE from the territory of another Member State to the territory of the Republic of Poland, or from the territory of the Republic of Poland to another Member State, Article 12, paragraphs 1 and 2 respectively of the Polish Law on Accounting of 29 September 1994 (Polish Journal of Laws of 2002 No 76, item 694, as modified³) shall apply.

Title II

European Economic Interest Grouping

Article 7

For matters not covered by Regulation 2137/85 or by this Law, the relevant provisions on registered partnerships shall apply.

Article 8

The particulars specified in Articles 5 and 7 of Regulation 2137/85 shall be filed at the registry.

Article 9

1. The filing of the grouping at the registry together with particulars which are subject to registration shall be done by the managers of a grouping or its liquidators, in accordance with the principles of representation defined in the contract for the formation of the grouping.

2. The resignation of a member from a grouping and the dissolution of a grouping by decision of its members may also be filed at the registry by each of its members.

3. A clause exempting a member who joined the grouping from responsibility for liabilities of the grouping which originated prior to his accession may be also filed at the registry by the acceding member.

4. Declarations of all managers of a grouping stating that there are no grounds which, under Article 19.1 of Regulation 2137/85 rule out their eligibility for this function, shall be attached to the application for the registration of a grouping. This declaration shall be also attached each time a new manager is filed at the registry.

5. If documents and particulars subject to be filed at the registry are prepared in a foreign language, a certified translation into Polish shall be attached.

Article 10

1. Announcements required by the law and provided by a grouping shall be published in the Polish Court and Economic Journal. The contract for the formation of the grouping may also prescribe a different manner of publication.

³ The changes to the uniform text of the above-mentioned Law were published in the Polish Journal of Laws of 2003 No 60, item 535, No 124, item 1152, No 139, item 1324 and No 229, item 2276, of 2004 No 96, item 959, No 145, item 1535, No 146, item 1546 and No 213, item 2155 and of 2005 No 10, item 66.

2. A notice on the filing at the registry of the documents and particulars specified in Article 7 (b) to (j) of Regulation 2137/85 shall also be published.

Article 11

1. Articles 201-211 and 293-300 of the Commercial Companies Code shall apply respectively to managers of a grouping.

2. A legal person may be the manager of a grouping if it appoints as its representative at least one natural person whose particulars are subject to disclosure in the registry in accordance with Article 7(d) of Regulation 2137/85. This representative shall be responsible on the conditions laid down in Articles 293-300 of the Commercial Companies Code. Article 9.4 of the Law shall apply to the representative.

Article 12.

In addition to the cases set forth in Article 28.1 of Regulation 2137/85, membership of a grouping shall cease when a member is declared insolvent. Article 65 shall apply respectively to settlements between the members of a grouping and the grouping.

Article 13

1. The creditor of a member of a grouping may terminate the contract of the grouping in accordance with the provisions set forth in Article 62(2) and (3) of the Commercial Companies Code.

2. As a result of this termination, the member concerned shall cease to be a member of the grouping.

Article 14

In the absence of a different provision in the contract for the formation of a grouping or in the decisions of its members, the managers of a grouping shall act as its liquidators. The decision shall require unanimity, unless the contract for the formation of a grouping states otherwise.

Title III

European company

SECTION 1

Formation of a European company

Article 15

In addition to the companies listed in Article 2 (2) to (4) of Regulation 2157/2001, a company which meets the requirements of Article 2(5) of Regulation 2157/2001 may also participate in the formation of an SE.

Article 16

1. If an SE formed by means of a merger has its registered office outside the territory of the Republic of Poland, the decision to merge shall be taken by means of a public and roll-call vote.

2. In the case referred to in paragraph 1 above each share shall give right to one vote.

Article 17

1. Shareholders who have voted against a decision to merge may demand the redemption of their shares.

2. Shareholders shall submit to the company, within ten days from the date on which the decision to merge was taken, a written redemption request, together with a document which authorises the exercise of the rights pertaining to these shares.

3. Together with the request referred to in paragraph 2 above, shareholders of a public limited-liability company shall submit a registered deposit certificate, issued in accordance with the Law on public trading in securities.

Article 18

1. The redemption of shares shall be done according to the price quoted on the regulated market; quotations from the three subsequent months preceding the decision to merge shall be taken into account to calculate the average price. In the case where shares are not quoted on the regulated market, their price shall be determined by an expert appointed by the registration court. The management board shall submit an application to nominate an expert within 14 days from the date on which the decision has been taken. Provisions of Article 312 (5) and (6) of the Commercial Companies Code shall apply accordingly. The management board shall publish the price which has been determined in a Polish national daily within 14 days from the date on which it was determined. Redemption shall be carried out through the company.

2. A company may also redeem shares. A company may purchase by the means of a redemption of its own shares whose total nominal value, together with shares purchased hitherto by this company, its subsidiary companies or cooperatives, or by persons acting on their account, may not exceed 25% of the company's share capital. A company purchasing its own shares pays the redemption price to shareholders within three weeks of the date of its publication by the company's management board.

3. No restrictions based on the statute in respect of the disposal of shares shall apply to the redemption of shares.

4. Persons who intend to redeem shares shall pay the equivalent of all shares purchased (redemption price) to the bank account of the company within three days of the publication of the redemption price by the company.

5. The principles governing the allocation of shares to purchasers shall be defined by a decision of the management board or of the administration board. If the redemption includes more than 10 % of the share capital and the company has a supervisory board, an agreement of the supervisory board shall be required.

6. Within 14 days from the expiry of the deadline determined in paragraph 4 above, a company shall pay the redemption price to the shareholders referred to in Article 17(2) and shall hand over to purchasers documents authorising them to exercise the rights pertaining to these shares, subject to paragraph 7 above.

7. In the case where the shares released for public trading in securities are the subject of redemption, the transfer of these shares shall take place on the basis of an agreement concluded between the shareholder requesting a redemption and the purchaser, when appropriate provisions have been made on the securities account of the purchaser in accordance with the Law on public trading in securities.

Article 19

1. If the company participating in a merger with a view of establishing an SE which is to have its registered office in another Member State, is a financial institution with a registered office on the territory of the Republic of Poland, a competent organ of this company shall notify a competent supervisory body of its intention to merge at the latest on the day of the announcement of the planned merger.

2. A competent supervisory authority may, within two days of the announcement of a merger plan, oppose the merger by the means of an administrative decision. A company has the right to lodge a complaint to the administrative court against a decision of the supervisory body to oppose the merger.

Article 20

1. An application for the issue of a certificate referred to in article 25(2) of Regulation 2157/2001 cannot be submitted before the expiry of a deadline for lodging a complaint against the decision to merge, as determined in Article 509(2) of the Commercial Companies Code.

2. The following documents shall be attached to the application for the issue of a certificate referred to in article 25(2) of Regulation 2157/2001:

- 1) evidence of the publication of particulars, in accordance with Article 21 of Regulation 2157/2001;
- 2) the decision to merge with a view to establishing an SE, taken in accordance with the provisions of the Commercial Companies Code and in accordance with Article 16 of this law;
- 3) evidence of the redemption of shares of the company's shareholders who voted against the merger and requested a redemption in accordance with Article 17 of the Law;
- 4) a declaration of the members of the management board of the company in respect of the lodgement of a complaint against the decision to merge;

- 5) a decision of the shareholders' general meeting of a participating company which approves arrangements for employees involvement, if the general meeting reserved the right of ratification under Article 23(2) of Regulation 2157/2001.

3. The registration court may issue the certificate referred to in Article 25(2) of Regulation 2157/2001, despite an injunction being sought with a view to waive the decision of merger or pronouncing it invalid, if it is proved probable that injunction sought is evidently unjustified. In the event where, after the certificate has been issued, the court issues a binding ruling stating that the merger decision was invalid, or if it revokes this decision, a shareholder who incurred a loss as a result of making entries to the registry on the basis of the decision which has been pronounced invalid or which has been revoked, may demand its compensation by the SE, irrespective of whether or not the members of its organs were at fault.

4. In respect of the issue of certificate referred to in Article 25(2) of Regulation 2157/2001, the registration court shall rule by means of a decision against which it shall be possible to lodge a complaint. Provisions in respect of registration procedures included in the Law of 17 November 1964 "Civil Proceedings Code" (Polish Journal of laws No 43, item 296, as modified⁴), hereinafter referred to as the "Civil Proceedings Code", shall apply to the above-mentioned procedures.

Article 21

1. In the case where a public limited liability company is converted into an SE, provisions of Articles 552-557, Articles 558(2), points 1 to 3, Articles 560, 561, Article 563 points (1) to (2) and (4) to (6), as well as Articles 567-570 and 578-580 of the Commercial Companies Code shall apply accordingly.

2. Provisions referred to in paragraph 1 above shall apply respectively in the event of a conversion of an SE into a joint stock company governed by the Polish law, in accordance with Article 66 of Regulation 2157/2001.

Article 22

⁴ The changes to the above-mentioned Law were published in the Polish Journal of Laws of 1965 No 15, item 113, of 1974 No 27, item 157 and No 39, item 231, of 1975 No 45, item 234, of 1982 No 11, item 82 and No 30, item 210, of 1983 No 5, item 33, of 1984 No 45, item 241 and 242, of 1985 No 20, item 86, of 1987 No 21, item 123, of 1988 No 41, item 324, of 1989 No 4, item 21 and No 33, item 175, of 1990 No 14, item 88, No 34, item 198, No 53, item 306, No 55, item 318 and No 79, item 464, of 1991 No 7, item 24, No 22, item 92 and No 115, item 496, of 1993 No 12, item 53, of 1994 No 105, item 509, of 1995 No 83, item 417, of 1996 No 24, item 110, No 43, item 189, No 73, item 350 and No 149, item 703, of 1997 No 43, item 270, No 54, item 348, No 75, item 471, No 102, item 643, No 117, item 752, No 121, item 769 and 770, No 133, item 882, No 139, item 934, No 140, item 940 and No 141, item 944, of 1998 No 106, item 668 and No 117, item 757, of 1999 r. No 52, item 532, of 2000 No 22, item 269 and 271, No 48, item 552 and 554, No 55, item 665, No 73, item 852, No 94, item 1037, No 114, item 1191 and 1193 and No 122, item 1314, 1319 and 1322, of 2001 No 4, item 27, No 49, item 508, No 63, item 635, No 98, item 1069, 1070 and 1071, No 123, item 1353, No 125, item 1368 and No 138, item 1546, of 2002 No 25, item 253, No 26, item 265, No 74, item 676, No 84, item 764, No 126, item 1069 and 1070, No 129, item 1102, No 153, item 1271, No 219, item 1849 and No 240, item 2058, of 2003 No 41, item 360, No 42, item 363, No 60, item 535, No 109, item 1035, No 119, item 1121, No 130, item 1188, No 139, item 1323, No 199, item 1939 and No 228, item 2255, of 2004 No 9, item 75, No 11, item 101, No 68, item 623, No 91, item 871, No 93, item 891, No 121, item 1264, No 162, item 1691, No 169, item 1783, No 172, item 1804, No 204, item 2091, No 210, item 2135, No 236, item 2356 and No 237, item 2384, and of 2005 No 13, item 98 and No 22, item 185.

SE: 1. The following documents shall be attached to the application for registration of an

- 1) regardless of the manner of formation of an SE: an agreement for employees' involvement, concluded in accordance with Title IV of this Law, or a decision of a special negotiating body not to enter into negotiations or to terminate the negotiations, taken under Article 81(1) of the Law; these documents shall not be required if the filing of an SE for registration takes place after the period referred to in Article 77(1) or (2);
- 2) in the case where SE is formed by means of a merger:
 - a) the certificate referred to in Article 25(2) of Regulation 2157/2001, issued for each participating company by a competent authority of the State by whose law each of the participating companies is governed,
 - b) a merger plan approved by a decision of the shareholders' general meeting of each participating company;
- 3) in the case of formation of a holding SE:
 - a) documents which enable to establish that the requirements set forth in Article 2(2) of Regulation 2157/2001 have been met,
 - b) a plan of formation of the SE and an opinion of an expert/opinions of experts established in accordance with Article 32 of Regulation 2157/2001,
 - c) a decision of the shareholders' general meeting or of a meeting of shareholders of each participating company approving the plan of formation of the SE,
 - d) declaration of the competent organs of the participating companies stating that, within the period specified in Article 33.1 of Regulation 2157/2001 a minimum percentage of shares of these companies has been contributed, as specified in the plan of formation of the SE,
 - e) declaration of the competent organs of the participating companies stating that no complaint has been lodged against the decision of approval of the plan of formation of the SE, requesting that the decision be either waived or declared invalid,
 - f) a decision of the shareholders' general meeting or of a shareholders meeting of a participating company which approves arrangements for employees involvement, if the meeting reserved the right of approval under Article 32(6) of Regulation 2157/2001.
- 4) in the case of formation of a subsidiary SE: documents which enable to establish that the requirements set forth in Article 2(3) of Regulation 2157/2001 have been met,
- 5) in the case of formation of SE by means of conversion of a joint stock company governed by Polish law:

- a) documents which enable to establish that the requirements set forth in Article 2(4) of Regulation 2157/2001 have been met,
- b) a plan of transformation of the company and a report prepared in accordance with Article 37(4) of Regulation 2157/2001,
- c) an opinion of experts prepared in accordance with Article 37(6) of Regulation 2157/2001,
- d) a decision on conversion taken in accordance with Article 37(7) of Regulation 2157/2001.

2. If the documents referred to in paragraph 1 above are prepared in a foreign language, a certified translation into Polish shall be attached.

SECTION 2

Organs of a European company

Chapter 1

Two-tier system

Article 23

If in the statute of the SE a two-tier system has been adopted in accordance with Article 38 of Regulation 2157/2001, the provisions of that Regulation as well as the provisions of the present Chapter shall apply.

Article 24

1. Regardless of the competences which the supervisory board exercises in this respect, a member of the management board may also be recalled from or suspended in its functions by the shareholders' general meeting.

2. The statute of the SE may stipulate that members of the management board be appointed or removed from their functions by the shareholders' general meeting.

Article 25

A member of the supervisory board delegated to perform, on a temporary basis, the functions of a member of the management board who has been removed, has resigned, or who for other reasons cannot perform his functions, may perform these functions for a period not exceeding three months.

Article 26

1. The supervisory board of the SE shall be composed of at least three members, and when the SE is a public limited-liability company – of at least five members.

2. If the statute does not provide otherwise, each member of the supervisory board may request from the members of the management board and the employees of an SE to submit to the supervisory board, at its next meeting, documents, reports or clarifications.

Chapter 2

The one-tier system

Article 27

If in the statute of the SE a one-tier system has been adopted in accordance with Article 38 of Regulation 2157/2001, the provisions of that Regulation as well as the provisions of the present Chapter shall apply. In such cases an administrative board shall be established in the SE.

Article 28

1. The administrative board shall be responsible for managing the SE, shall represent the SE and permanently supervise its activities.

2. Competences of the administrative board shall also include all matters not reserved by laws or by statute for the shareholders' general meeting.

Article 29

1. Save when otherwise provided by legislation, the provisions of the Commercial Companies Code and of other laws on the management board, the supervisory board and their members shall apply to the administrative board of the SE. In the event of doubts as to whether provisions applicable to the management board or provisions applicable to supervisory board shall apply to the administrative board or its members, provisions applicable to the management board and its members shall apply.

2. The provisions of Articles 378, 381-384, Article 385 (1) to (2), Articles 386-387, Article 388 (1) and (4) and Articles 389-391 of the Commercial Companies Code shall not apply.

Article 30

1. The administrative board may mandate the management of the SE to a executive director or executive directors (delegation of competences), unless otherwise stated in the law or the statute. The administrative board may at any time modify or withdraw the delegation of competences referred to in the previous sentence.

2. The delegation of competences, its modification or withdrawal shall require a decision of the administrative board.

Article 31

1. Exclusive competences of the administrative board in respect of the management of the SE shall include decision-taking on the following matters:

- 1) appointing and recalling of executive directors;
- 2) determining the remuneration of executive directors;
- 3) preparing annual and long-term business plans;
- 4) agreeing to pay advances to shareholders towards anticipated dividends at the end of the financial year;
- 5) receiving reports on the activities of the SE and financial statements for a given financial year to present them to the shareholders' general meeting for examination and approval;
- 6) determining issue prices of new shares in the case of an authorisation referred to in Article 432 (1), point 4 of the Commercial Companies Code;
- 7) carrying out activities reserved in Article 433 (5), second and third sentences of the Commercial Companies Code for the management board and the supervisory board;
- 8) carrying out activities determined in Article 436 (3) and (4) of the Commercial Companies Code;
- 9) carrying out activities reserved in Articles 444 to 447 of the Commercial Companies Code for the management board and the supervisory board;
- 10) concluding by a subsidiary SE a credit or loan agreement, a warranty agreement, or another similar agreement with a member of the management board, a member of the administrative board, a executive director, a proxy, or a liquidator of the parent company;
- 11) other activities reserved in the statute to the exclusive competences of an administrative board.

2. Competences of the administrative board shall also include:

- 1) taking decisions on the reduction of the share capital or on the redemption of own shares in cases where, on the basis of separate provisions, the shareholders' general meeting has no competence in this respect;
- 2) taking decisions on the convening of general meetings and on giving and withdrawing proxy rights, unless otherwise stated in the law or in the statute.

Article 32

1. The administrative board shall exercise its competences jointly, unless otherwise stated in the law or in the statute.

2. The administrative board may examine all documents regarding the SE, and request that the executive director or executive directors, as well as the employees, provide reports and clarifications, and perform audits of the SE assets. Each member of the administrative board may also request that documents, reports or clarifications be submitted to the administrative board at its next meeting.

3. If the statute so provides and subject to Article 31, the administrative board may delegate certain specific competences to a committee or committees composed of at least two of the board's members. A member of the administrative board who is a executive director may not participate in a committee which supervises the activities of the SE.

4. The committees of the administrative board shall be determined by the statute or by the rules of procedure of the administrative board. It shall not apply to committees whose members include executive directors who are not members of the administrative board. The tasks of these committees shall exclusively focus on the preparation or execution of the decisions of the administrative board.

Article 33

1. The administrative board shall include at least three, and in the public limited-liability company at least five members.

2. Members of the administrative board shall be appointed or removed from their functions by the shareholders' general meeting, unless otherwise stated in the law or in the statute.

Article 34

1. A member of the administrative board or a executive director may request that a meeting of the administrative board be convened, putting forward an agenda proposed. The Chairman of the administrative board shall convene a meeting within two weeks of receiving the request.

2. If the Chairman of the administrative board does not convene a meeting in accordance with paragraph 1 above, the applicant may convene it himself, indicating the date, the place and the proposed agenda.

3. Should the circumstances referred to in Article 397 of the Commercial Companies Code arise, the executive director competent for finances of the SE or the chairman of the administrative board, within the period referred to in paragraph 1, shall convene a meeting of the administrative board.

Article 35

1. The administrative board shall take the decisions if all its members have been properly notified about the meeting.

2. Taking decisions according to the procedures stipulated in Article 388 (2) and (3) of the Commercial Companies Code shall not apply to the election of the chairman and of the

deputy chairman of the administrative board and to the appointment and the recalling of the executive director.

Article 36

1. The organisation and the procedures governing the activities of the administrative board are determined in its organisational rules.

2. Subject to the statutes, the rules of procedure of the administrative board shall be adopted by the shareholders' general meeting.

Article 37

1. With regard to the SE, members of the administrative board shall be subject to the restrictions determined in the present Section, the statute, and the rules of procedure of the administrative board, as well as in the resolution passed by the shareholders' general meeting.

2. The shareholders' general meeting may not give binding instructions to the administrative board in respect of the management of the SE.

Article 38

In an agreement between the SE and a member of the administrative board, as well as in a dispute with such a member, the SE is represented by a proxy appointed by means of a decision of the shareholders' general meeting.

Article 39

A member of the administrative board may not be involved in rival businesses without the consent of the shareholders' general meeting. Neither may he be involved in a rival company as shareholder of a partnership or a private company, or as member of the management or supervisory body in such companies, as executive director of an incorporated company, or be involved in another rival legal entity as member of the management or supervisory organ in such companies. The same shall also apply to holding shares in a rival incorporated company, in the case where a member of the administrative board has at least 10% of shares or if he has the right to appoint at least one member of the management board or one member of the administrative board in such a company.

Article 40

1. The administrative board may appoint one or more executive director(s). Article 18 of the Commercial Companies Code shall apply to executive directors.

2. The number of executive directors and their competences shall be defined by a decision of the administrative board, unless stated otherwise in the statute.

3. The executive director may be a member of the administrative board or a person from outside its membership; however the administrative board must have at least half of the

members who are not executive directors. The statute may provide for stricter requirements in this respect.

4. If two or more executive directors have been appointed, the rules referred to in the first sentence of Article 42(1), may grant one of them specific competences in respect of managing the work of executive directors (General Manager), and also include a provision under which he will have a casting vote in the event of a tie.

5. The General Manager can not be a chairman of the administrative board, unless there are relevant provisions in the statute to the contrary. This restriction shall also apply when there is only one executive director in the SE.

Article 41

1. The executive director may at any time be recalled by the administrative board. This shall not deprive him of the right to make claims in respect of his employment or of another legal relationship which is at the basis of his acting as a executive director.

2. The recalling of a member acting as an executive director from the administrative board shall be equivalent to his recalling from the function of executive director, unless the decision to recall states otherwise.

3. Unless a decision to recall an executive director states to the contrary, a recalled executive director shall submit clarifications before the administrative board approves a joint report of the executive directors on the performance of their obligations, as well as clarifications in the course of the preparation by the administrative board of a report on the activities of the SE and of the financial statement for the current financial year, covering the period in which the recalled director acted as a executive director.

Article 42

1. The organisation of the activities carried out by executive directors and the manner in which they are carried out shall be determined in the organisational rules approved by the administrative board. Executive directors, within three months of the end of each financial year, shall submit to the administrative board a joint report on the performance of their obligations.

2. With regard to the SE, executive directors shall be subject to the restrictions determined in the present Section, the statute, the rules of procedure referred to in paragraph 1 and in the resolutions adopted by the administrative board.

3. The administrative board may give executive directors binding instructions in respect of the management of the SE. The shareholders' general meeting may not give binding instructions to executive directors in respect of the management of the SE.

Article 43

1. Competences of executive directors who are not members of the administrative board in respect of the representation of the SE shall include all court and out of court actions

within the scope of their managerial duties. The statute may restrict these competences with legal effects towards third persons.

2. Article 373 of the Commercial Companies Code shall apply to executive directors.

3. Executive directors who have the right to represent the SE shall be entered into the register and the character and scope of representation shall be specified.

Article 44

1. The remuneration of executive directors shall be determined by the administrative board in a decision taken exclusively by those members of the board who are not executive directors.

2. The shareholders' general meeting may authorise members of the administrative board who are not executive directors to determine the remuneration of executive directors. This shall also include the right to participate, at a specified level, in the annual profits of the SE, reserved to be shared between the shareholders under Article 347(1) of the Commercial Companies Code.

Article 45

In agreements between the SE and the executive directors, as well as during disputes with them, the company shall be represented by a member of the administrative board who is not himself a executive director.

Article 46

1. Article 377 of the Commercial Companies Code shall apply to executive directors.

2. Executive directors may not be involved in rival businesses without the consent of the SE. Neither may they be involved in a rival company as shareholders of a partnership, or of a private company, as members of the management or supervisory body in such companies, as executive directors of an incorporated company, or be involved in another rival legal entity as members of a management or supervisory body in such companies. It shall also apply to holding shares in rival incorporated companies, in the case where a executive director has at least 10% of shares or if he has the right to appoint at least one member of the management board or one member of the administrative board in such a company.

3. Except where otherwise provided in the statute, an authorisation referred to in paragraph 2 above shall be granted by the administrative board in a decision taken exclusively by those members who are not themselves executive directors.

Article 47

1. The provisions of articles 479-481 and 483-490 of the Commercial Companies Code shall apply respectively to the responsibilities of members of the administrative board arising under the civil law.

2. The provisions of articles 481 and 483-490 of the Commercial Companies Code shall apply respectively to the responsibilities of executive directors arising under the civil law.

SECTION 3

Transfer of a registered office of a European company

Article 48

Shareholders who voted against a decision to transfer the registered office of an SE from the territory of the Republic of Poland to another Member State may demand the redemption of their shares. The provisions of paragraphs 16-18 shall apply accordingly.

Article 49

An injunction with a view of waiving the decision referred to in Article 48 or pronouncing it invalid may be sought not later than within a month of the day of publication of the decision.

Article 50.

Creditors whose claims arose before the date of publication of the decision on the transfer of the registered office of the SE from the territory of the Republic of Poland to another Member State, who put in their claims within a month of the publication of the decision on the transfer of the registered office and who can prove the likelihood of their claim being satisfied to be under threat as a result of a transfer of the registered office, may demand that their claims be satisfied or secured.

Article 51

1. If the SE which intends to transfer its registered office from the territory of the Republic of Poland to another Member State is a financial institution, a competent organ of the SE shall notify a competent supervisory authority at the latest on the day of publication of the planned transfer of the registered office.

2. A competent supervisory body may, within two months of the announcement of the plan to transfer the registered office, oppose the transfer of the registered office by means of an administrative decision. An SE has the right to lodge a complaint to the administrative court against a decision of the supervisory body in order to block the decision.

Article 52

1. An application for the issuing of a certificate referred to in article 8(8) of Regulation 2157/2001 cannot be submitted before the deadline (determined in Article 49) has expired for lodging a complaint against the decision on the transfer of the registered office.

2. The following documents shall be attached to the application for the issuing of a certificate referred to in article 8(8) of Regulation 2157/2001:

- 1) a decision on the transfer of the registered office of the SE;
- 2) a plan of transfer of the registered office of the SE and a report prepared in accordance with Article 8(3) of Regulation 2157/2001,
- 3) evidence of the redemption of the shares of those shareholders who voted against the transfer of the registered office and who demanded that their shares be redeemed;
- 4) a declaration of the members of the management board or of the administrative board of the SE in respect of lodging a complaint against the decision on the transfer of the registered office;
- 5) evidence that the claims of creditors under Article 50 shall be satisfied or secured.

3. The registration court may issue the certificate referred to in Article 8(8) of Regulation 2157/2001, despite an injunction being sought with a view of waiving the decision on the transfer of the registered office or pronouncing it invalid, if it is proved probable that the injunction sought is evidently unjustified. In the event where, after the certificate has been issued, the court issues a binding ruling stating that the decision was invalid, or if it revokes this decision, a shareholder who incurred a loss as a result of making entries to the registry on the basis of the decision which has been pronounced invalid or which has been revoked, may demand its redress by the SE, irrespective of whether or not the members of its organs were at fault.

4. In respect of the issuing of certificates referred to in Article 8(8) of Regulation 2157/2001, the registration court rules by means of a decision against which it shall be possible to lodge a complaint. The provisions of the Civil Proceedings Code shall apply respectively to the above-mentioned proceedings.

Article 53

1. An application to register an SE which transfers its registered office to the territory of the Republic of Poland shall include particulars referred to in Article 318 (1) to (5), (7) and (8) and (10) to (12), as well as in Article 319(1) of the Commercial Companies Code. The following documents shall be attached to the application:

- 1) the statute of the SE in the form of a notary deed, in accordance with the regulations on the SE in force in the Republic of Poland;
- 2) the certificate referred to in Article 8(8) of Regulation 2157/2001, issued by a competent authority in the State whose law is applicable to the SE.

2. If the documents referred to in paragraph 1 above are prepared in a foreign language, a certified translation into Polish shall be attached.

Article 54

1. If the head office of an SE with a registered office located on the territory of the Republic of Poland is located in another Member State, the registration court, ex officio or at the

request of interested persons shall request the SE to restore, within a specified period of time, the compliance of the registered office and the headquarters location by the means of:

- 1) a transfer of its headquarters to the territory of the Republic of Poland, or
- 2) a transfer of its registered office to the Member State in which the headquarters are located, in accordance with Article 8 of Regulation 2157/2001.

2. If the SE does not comply with the request within the specified period of time, the registration court shall impose a fine provided for in the Civil Proceedings Code in respect of the execution of performance in kind. The provisions of the second sentence of Article 1052, and of Article 1053 of the Civil Proceedings Code shall not apply.

3. If despite having had a fine imposed twice the SE does not comply with the request, the registration court may appoint a curator for the SE for a period not exceeding three months. The curator is obliged to immediately undertake actions aiming at restoring the compliance of the location of the headquarters and the registered office of the SE. The registration court may, at the request of a competent organ of the SE or at the request of shareholders representing at least 10 % of the share capital of the SE, recall the curator before the expiry of the period for which he was appointed, if actions are undertaken aiming at the restoration of the compliance of the locations of the registered office and the headquarters. The provisions of Article 26 (2) and (3), Article 30 and Article 31(2), as well as those of Article 32 of the Law of 20 August 1997 on the National Court Register (Polish Journal of Laws of 2001, No 17, item 209, as modified⁵) shall apply to the curator appointed for the SE.

Article 55

1. After the period of time referred to in Article 54 (3) has expired with no effect, the registration court may extend the period for which the curator was appointed by a period not exceeding 3 months, if the actions carried out by the curator could not be completed before the expiry of the period for which he was appointed. The court may also appoint another curator.

2. If, despite having had a fine imposed twice or despite the appointment of a curator, the SE does not restore the compliance of the location of its registered office and its headquarters, the registration court shall pronounce ex officio the liquidation of the SE and appoint a liquidator.

Article 56

1. An objection may be submitted against the decisions of the registration court in respect of requests to restore the compliance of the location of the registered office and the headquarters, on the imposition of fines, appointment of a curator and his recalling, the refusal to recall a curator and the dissolution of an SE.

⁵ The changes to the uniform text of the above-mentioned Law were published in the Polish Journal of Laws of 2002 No 110, item 1189, of 2003 No 1, item 2, No 113, item 984, No 124, item 1151, No 170, item 1651 and No 223, item 2216 and of 2004 No 49, item 408, No 60, item 871, No 96, item 959, No 2276, item 173, No 146, item 1808 and No 273, item 2703.

2. The submission of an objection against the decisions in respect of requests to restore the compliance of the location of the registered office and the headquarters shall suspend the period of time designated to remove the inconsistencies.

Article 57. The provisions of the Civil Proceedings Code on out of court procedures shall apply accordingly to the proceedings referred to in Articles 54-56 which are not governed by the above-mentioned provisions.

Title IV

Employees' involvement in a European company

SECTION 1

General provisions

Article 58

For the purposes of Title IV, the following definitions shall apply:

- 1) "subsidiary of a company": an undertaking over which another company exercises a dominant influence defined in accordance with Article 4 of the Law of 5 April 2002 on European Works Councils (Polish Journal of Laws No 62, item 556, and of 2004, No 96, item 959), hereinafter referred to as the "Law on European works councils";
- 2) "establishment": an organisational entity which has no legal personality, and which carries out economic activity based on separate human resources and material assets;
- 3) "concerned subsidiary or establishment": a subsidiary or establishment of a participating company which is proposed to become a subsidiary or establishment of the SE upon its formation;
- 4) "employee": a person considered as an employee by the law of a given Member State which is applicable to employment relationships in the company or establishment which employs this person;
- 5) "employees' representatives": the employees' representatives provided for by national law and/or practice of a Member State;
- 6) "special negotiating body": a body set up in accordance with Section 2 of this Title to conclude an agreement with a competent organ of participating companies regarding the arrangement for the employees' involvement within the SE;
- 7) "representative body": a body representative of employees, set up by the agreement referred to in Section 3 of this Title, or in accordance with the provisions of section 4 of this Title;

- 8) “involvement of employees”: ensuring the right of employees to information, consultation and participation, through which employees may exercise an influence on decisions to be taken within the SE;
- 9) “informing”: informing a representative body or, in the case where such a body has not been appointed, employees’ representatives appointed in a different manner, on questions which concern the SE and its subsidiaries and establishments which have their registered offices in different Member States, as well as on questions which exceed the powers of the decision-making organs of subsidiaries or establishments in particular Member States, with a content, in a manner and at a time which allows the representative body or representatives of employees appointed in a different manner to undertake an assessment of the supplied information and to prepare themselves to consultations with the competent organ of the SE;
- 10) “consultations”: the establishment of exchange of views and dialogue between the representative body or employees’ representatives appointed in a different manner and the competent organ of the SE, with a content, in a manner and at a time which allows an opinion expressed at the end of such an exchange of views or dialogue to be taken into account in the decision-making process within the SE;
- 11) “participation”: the influence of the representative body or employees’ representatives appointed in a different manner on the affairs which concern the SE by way of the right to elect or appoint some members of the supervisory board or administrative board of the SE, or the right of their to recommend or to oppose the appointment of some or all of the members of these bodies;
- 12) “identification particulars”: the name or company name of a participating company, subsidiary or establishment and their registered office, and if they have an identification number or are registered in a register, also the identification number or the registration number.

SECTION 2

Special negotiating body

Chapter 1

Tasks of a special negotiating body

Article 59

1. The task of a special negotiating body shall be to conclude an agreement with the competent organs of participating companies on the principles of employees’ involvement in the SE.

2. A special negotiating body shall represent employees employed in participating companies and in concerned subsidiaries and establishments which are to become parts of an SE.

Chapter 2

Creation of a special negotiating body

Article 60

A special negotiating body shall be appointed immediately after the competent organs of participating companies publish the draft terms of merger, or creation of holding SE, or after they agree a plan to transform a joint stock company into an SE, or after agreeing on a plan to form a subsidiary SE, in accordance with Regulation 2157/2001.

Article 61

1. Participating companies shall determine the day of commencement of procedures aiming at the appointment of a special negotiating body. It should be the same day for all participating companies.

2. To commence the proceedings referred to in paragraph 1 above, the participating company shall provide information to the representatives of employees, and if these are not appointed, to the employees, in a manner accepted in this company:

- 1) about the identity of this company, concerned subsidiaries or establishments;
- 2) about the number of employees employed in each of the participating companies, concerned subsidiaries and establishments.

Article 62

1. To determine the principles governing the allocation of places on the special negotiating body assigned to employees from a particular Member State, the participating company shall determine the number of employees as on the day of commencement of the proceedings referred to in Article 61(1).

2. If, during the period between the determination of the number of employees referred to in paragraph 1 above and the day of appointment of the special negotiating body, the number of employees should change considerably, the allocation of seats on the special negotiating body shall also be modified, but the terms specified in Article 64 shall be kept.

3. When the number of employees is determined, both full-time and part-time employees shall be taken into account. Part-time employment shall be converted into full-time employment.

Article 63

Members of the special negotiating body shall be elected or appointed in each Member State in accordance with the law of that Member State.

Article 64

1. In respect of a particular Member State one seat on a special negotiating body shall be allocated per portion of employees employed in that Member State which equals 10 %, of the number of employees employed by the participating companies and concerned subsidiaries or establishments in all the Member States taken together.

2. Where the number of employees employed in a particular Member State is lower than 10% of the total number of employees, one seat on the special negotiating body shall be then allocated in respect of that State for a portion of employees which equals less than 10% of the total number of employees.

3. Where the number of employees employed in a particular Member State is higher than 10% of the total number of employees, one seat on the special negotiating body shall be then allocated per each subsequent portion of employees commencing to form the next portion of employees which equals 10% of the total number of employees.

4. In the case where an SE formed by way of merger of companies, where one or more participating company will cease to exist as a separate legal entity as a result of registration of the SE, employees of such a company shall have the right to elect or to appoint, in accordance with the law of that Member State, one extra member of a special negotiating body. However, this may not entail a double representation of employees of such company in a given negotiating team.

5. The number of extra members of the special negotiating body originating from a given Member State may not exceed 20% of all members of this body elected or appointed in accordance with paragraphs 1 to 3.

6. If the number of participating companies which cease to exist as separate legal entities as described in paragraph 4 exceeds the number of additional seats available, these additional seats shall be allocated to employees of these companies in decreasing order of employees employed by each of these companies.

Article 65

1. Where employees of a participating company, concerned subsidiary or establishment which are to become parts of an SE are employed in the Republic of Poland by one employer, members of a special negotiating body shall be appointed by a representative of the company's trade union organisation, within the meaning of Article 241^{25a} paragraph 1 of the Law of 26 June 1974, the Labour Code (Polish Journal of Laws of 1998 No 21, item 94, as modified⁶), hereinafter referred to as the "Labour Code". The provisions of Article 241^{25a} paragraph 1 of the Labour Code shall apply accordingly. In the event of an absence of such an organisation, members of the special negotiating body shall be elected through a staff meeting.

⁶ The changes to the uniform text of the above-mentioned Law were published in the Polish Journal of Laws of 1998 No 106, item 668 and No 113, item 717, of 1999 No 99, item 1152, of 2000 No 19, item 239, No 43, item 489, No 107, item 1127 and No 120, item 1268, of 2001 No 11, item 84, No 28, item 301, No 52, item 538, No 99, item 1075, No 111, item 1194, No 123, item 1354, No 128, item 1405 i No 154, item 1805, of 2002 No 74, item 676, No 135, item 1146, No 196, item 1660, No 199, item 1673 and No 200, item 1679, of 2003 No 166, item 1608 and No 213, item 2081, of 2004 No 96, item 959, No 99, item 1001, No 120, item 1252 and No 240, item 2407, and of 2005 No 10, item 71.

2. Where there is more than one representative company's trade union organisation at one employer, these organisations shall jointly appoint members of the special negotiating body.

3. A competent organ of a participating company and concerned subsidiary shall determine the deadline for the appointment of members of the special negotiating body, according to the procedures referred to in paragraphs 1 and 2 above.

4. If an agreement between representatives of company's trade union organisations referred to in paragraph 2 is not reached, members of the special negotiating body shall be elected through a staff meeting from the list of candidates presented by the representative company's trade union organisations. In the case where the representative company's trade union organisations do not put forward any candidates, members of a special negotiating body shall be elected through a staff meeting.

5. Members of the special negotiating body may include representatives of a representative company's trade union organisation which is representative within the meaning of Article 6(2) of the law of 6 July 2001 on the Tripartite Commission for Social and Economic Affairs and in regional commissions for social dialogue (Polish Journal of Laws No 100, item 1080, as modified⁷) who are not employees of a participating company, concerned subsidiary or establishment, but are recommended by this organisation.

6. Employees of the participating companies, concerned subsidiaries or establishments shall constitute a majority in the special negotiating bodies.

7. The trade union organisations referred to in paragraph 5 may delegate their representatives to participate in activities connected with the election of members of the special negotiating body.

Article 66

1. The elections of members of the special negotiating body shall be organised by a competent organ of a participating company, a subsidiary or by the management of an establishment. They shall notify the employees, the company's trade union organisations and the trade union organisations referred to in Article 65(5) about the date of the election and the manner in which it will be carried out, not later than 14 days before the date of the election, in the manner accepted by a particular employer.

2. Elections shall be direct and carried out by a secret ballot. Decisions on the election of members of the special negotiating body shall be taken by an absolute majority of votes.

3. Elections shall be valid if at least 50 % of employees have participated.

4. In the case where at least 50% of employees did not participate in the elections, new elections shall be held within a month of the date of the first elections. These second elections shall be valid regardless of the number of participating employees.

Article 67

⁷ The changes to the above-mentioned Law were published in the Polish Journal of Laws of 2001 No 154, items 1793 and 1800, of 2002 No 10, item 89 and No 240, item 2056, and of 2004 No 240, item 2407.

1. Candidates who obtained the largest number of votes shall become, in decreasing order, members of a special negotiating body.

2. In the case where candidates obtain an equal number of votes and the number of places to be filled is lower than the number of these candidates, another staff meeting shall decide on the selection of members of the negotiating body from among these candidates.

Article 68

1. In the case where employees of the companies and establishments referred to in Article 65(1) are employed by more than one employer, participating companies registered on the territory of the Republic of Poland, shall allocate seats on a special negotiating body assigned to employees employed on the territory of the Republic of Poland between different employers, proportionally to the number of employees in each entity, so that, to the greatest extent, at least one member of the special negotiating body is appointed or elected by each participating company.

2. The provisions of Articles 65-67 shall apply to the appointment of members of the special negotiating body at each employer.

3. Members of the special negotiating body shall represent all employees employed in companies and establishments referred to in Article 65(1).

Article 69

1. The mandate of the member of the special negotiating body who is an employee of a participating company, a subsidiary or an establishment which are to become parts of an SE shall expire either when his employment is terminated or when he waives the function.

2. The mandate of the member of the special negotiating body who is a representative of a representative trade union organisation, referred to in Article 65(5), shall expire in the event of his death, the waiver of his function, or a withdrawal of recommendation by this organisation.

3. In the case of expiry of the mandate of the member of the special negotiating body, the membership of this team is supplemented accordingly, under the procedures described in Articles 65 and 66.

Article 70

Participating companies registered in the Republic of Poland shall immediately make available to participating companies from other Member States a list of persons appointed or elected as members of the special negotiating body.

SECTION 3

Agreement on the involvement of employees in the European company

Article. 71

1. Within 14 days from the date of appointment of the special negotiating body, participating companies shall convene the first meeting of this body with a view to reaching an agreement on arrangement for the involvement of the employees within the SE, hereinafter referred to as the “agreement”.

2. The special negotiating body shall elect a chairman from among its members and shall adopt its internal rules of procedure.

3. In performing special assignments the special negotiating body may avail of the assistance of experts of its choice.

4. At the request of the special negotiating body, the experts may participate in negotiations as advisers of this body.

Article 72

The competent organs of participating companies shall be required to submit to the special negotiating body information on plans and the process of formation of an SE until the date of its registration.

Article 73

The costs involved in the establishment and activities of a special negotiating body shall be borne by participating companies on the terms determined in the agreement concluded by them.

Article 74

1. In the case where an agreement has not been concluded:

- 1) the business travel costs of members of the special negotiating body, resulting from their membership on the body, shall be borne by the participating company if the member of this body is an employee of this company, of its subsidiary or of an establishment, or if this person is not an employee, but was appointed or elected as member of the body by the employees of one of these organisational entities;
- 2) the remaining costs shall be borne by participating companies in proportion to the number of employees, including employees employed by their subsidiaries and establishments.

2. If the special negotiating body avails of the assistance of experts, the obligation to cover costs shall be limited to costs of assistance provided by one expert, unless participating companies and the special negotiating body agree otherwise.

Article 75

1. The special negotiating body shall take decisions through resolutions, by an absolute majority of votes, provided that such a majority also represents a majority of all represented employees, subject to Article 76 (1) and (2) and Article 81(2).

2. Each member of a special negotiating body shall have one vote.

3. To determine the number of employees represented by each member of the special negotiating body, elected by employees of the same participating company or the same concerned subsidiary or establishment, the number of employees employed in that participating company, concerned subsidiary or establishment in a given Member State on the voting day shall be divided by the number of members of the special negotiating body appointed or elected in these companies or establishments. In other cases a member shall represent the employees of the participating company, concerned subsidiary or establishment, in which he was elected.

Article 76

1. In the case of an SE to be established by way of merger of companies, if participation covers at least 25% of the overall number of employees of the participating companies, the majority required for a decision to approve an arrangement leading to a reduction of participation rights in the SE when compared with these in participating companies shall be the votes of two thirds of the members of the special negotiating body representing at least two thirds of the employees, including the votes of members representing employees employed in at least two Member States.

2. The provisions of paragraph 1 shall also apply in the case of an SE is to be established by way of creating a holding SE or forming a subsidiary SE, if participation covers at least 50 % of the overall number of employees of the participating companies.

3. The reduction of participating rights shall mean the reduction of the number of members of the supervisory board or the administrative board of the SE, compared with the highest number of these members within the organs of the participating companies.

Article 77

1. Negotiations conducted by the special negotiating body with participating companies with a view to concluding an agreement may continue for up to six months from the day on which the first meeting of the body has been convened.

2. Negotiating parties may jointly decide to extend duration of negotiations to one year.

Article 78

The special negotiating body and participating companies shall conduct negotiations in good faith, with a view to reaching an agreement.

Article 79

In the event of difficulties in the negotiations, parties may appoint a mediator to whom the provisions of Articles 11 and 11¹ of the law of 23 May 1991 on solving collective disputes (Polish Journal of Laws No 55, item 236, as modified⁸), shall apply accordingly, if the registered office of the SE is to be registered in the Republic of Poland.

Article 80

1. The competent organs of participating companies and the special negotiating body shall conclude a written agreement, which shall otherwise be deemed null and void.
2. The agreement shall be signed by persons authorised to express the will on behalf of participating companies and by the chairman of the special negotiating body, as well as by at least one member of this body.
3. The agreement shall apply to all employees of the SE.

Article 81

1. The special negotiating body may take the decision not to enter into negotiations or to terminate negotiations before they are completed, without concluding an agreement. The special negotiating body shall immediately notify participating companies of the content of this decision. In the event of a decision being taken not to enter into negotiations or to terminate negotiations before they are completed, without concluding an agreement, the provisions of Section 4 of this Title shall not apply.
2. For a decision not to enter into negotiations or to terminate negotiations before they are completed, without concluding an agreement, a majority of two thirds of votes of the special negotiating body shall be required. Moreover, these shall represent at least two thirds of the employees, including votes of members representing employees employed in at least two Member States.
3. In the case where a decision is taken referred to in paragraph 1, regulations of a given Member State in respect of consultations and informing employees shall apply to employees of the SE.
4. The provisions of paragraphs 1 and 2 shall not apply when an SE is formed by way of transformation, if there is participation in the company to be transformed.
5. The special negotiating body shall be reconvened on the written request of at least 10 % of the employees of the SE, its subsidiaries and establishments, or their representatives, two years after the decision mentioned in paragraph 1 above, unless the special negotiating body and the SE agree to negotiations being reopened sooner. If no agreement is reached as a result of those negotiations, none of the provisions of Section 4 of this Title shall apply.
6. Provisions of the Law on European Works Councils shall not apply to the SE which is a Community-scale undertaking controlling a Community-scale group of undertakings, within

⁸ The changes to the above-mentioned Law were published in the Polish Journal of Laws of 1997 No 82, item 518 and No 88, item 554, of 1999 No 72, item 802, of 2000 No 107, item 1127, of 2002 No 74, item 676 and of 2004 No 240, item 2407.

the meaning of Article 2 (3) and (4) respectively of the Law of 5 April 2002 on European Works Councils, unless the special negotiating body adopts a resolution referred to in paragraph 1.

Article 82

1. The arrangement shall specify in particular:

- 1) the scope of its application;
- 2) the composition, number of members and allocation of seats on the representative body which will be the discussion partner of the competent organ of the SE in connection with arrangements for the information and consultation of the employees of the SE and its subsidiaries and establishments;
- 3) the functions and the procedure for the information and consultation of the representative body;
- 4) the frequency of meetings of the representative body;
- 5) the financial and material resources to be allocated to the representative body;
- 6) if one or more information and consultation procedures are agreed on instead of a representative body, the procedures for appointment of employees to apply those procedures and arrangements for their implementation;
- 7) if arrangements for participation are determined: the substance of those arrangements including the number of members in the SE's administrative or supervisory body which the employees will be entitled to elect, appoint, recommend or oppose, the procedures as to how these members may be elected, appointed, recommended or opposed by the employees, and the rights of members representing the employees;
- 8) the date of entry into force of the agreement and its duration, cases where the agreement should be renegotiated and the procedure for its renegotiation.

2. Provisions of Section 4 of this Title shall not apply to the content of the agreement, unless the parties otherwise agree.

Article 83

In the case of an SE established by means of transformation, the agreement shall provide for at least the same level of all elements of employee involvement as the ones existing within the company to be transformed into an SE.

SECTION 4

Standard rules of employee involvement in the European company

Chapter 1

Application of standard rules

Article 84

Standard rules of employee involvement within the SE, as laid down in the present section, shall apply from the date of its registration where either:

- 1) the participating companies and the special negotiating body so agree, or
- 2) by the deadline laid down in Article 77 no agreement has been concluded, and:
 - a) the competent organs of the participating companies decide to accept the application of the standard rules and so to continue with its registration, and
 - b) the special negotiating body has not taken the decision provided in Article 81(1).

Article 85

The standard rules of involvement in an SE shall apply only:

- 1) in the case of an SE established by transformation, if the rules of a Member State relating to employee participation in the supervisory or administrative body applied to a company transformed into an SE;
- 2) in the case of an SE established by merger:
 - a) if, before registration of the SE, one or more forms of participation applied in one or more of the participating companies covering at least 25 % of the total number of employees in all the participating companies, or
 - b) if, before registration of the SE, one or more forms of participation applied in one or more of the participating companies covering less than 25 % of the total number of employees in all the participating companies and if the special negotiating body so decides. The special negotiating body shall take a decision in this matter after the deadline referred to in Article 77 has passed, or before that deadline if the parties declare unanimously that negotiations on the arrangement failed;
- 3) in the case of an SE established by setting up a holding company or establishing a subsidiary:
 - a) if, before registration of the SE, one or more forms of participation applied in one or more of the participating companies covering at least 50 % of the total number of employees in all the participating companies, or
 - b) if, before registration of the SE, one or more forms of participation applied in one or more of the participating companies covering less than 50 % of the total number of employees in all the participating companies and if the special negotiating body so decides. The special negotiating body shall take a decision in this matter after the

deadline referred to in Article 77 has expired, or before that deadline if the parties declare unanimously that negotiations on the arrangement failed.

Article 86

1. If there was more than one form of participation within the various participating companies, the special negotiating body, after the deadline referred to in Article 77 has expired, or before that deadline if the parties declare unanimously that negotiations on the arrangement failed, shall decide which of those forms must be established in the SE.

2. The special negotiating body is required to inform the competent organs of the participating companies on which form of participation shall be applied in the SE.

3. In the case where the special negotiating body does not take a decision on the selection of one of the forms of participation in accordance with paragraph 1, a representative body shall decide on the forms of participation within 30 days from the date of registration of the SE.

Chapter 2

Representative body

Article 87

The representative body shall be composed of employees of the SE and its subsidiaries and establishments elected or appointed from their number by the employees' representatives or, in the absence thereof, by meetings of the staff.

Article 88

1. Members of the representative body, whose number is established in accordance with Article 64 (1) to (3) shall be appointed or elected in accordance with national legislation or practice of Member States.

2. The term of office of members of the representative body shall be four years.

3. The membership of the representative body shall cease in the cases defined in Article 69 (1).

Article 89

1. The number of members of the representative body and the allocation of seats in this body shall be subject to verification every 2 years, to take account of changes in the number of employees employed in the SE, its subsidiaries and establishments.

2. In the case where there is a significant change in the number of employees employed in the SE, its subsidiaries and establishments, a competent organ of the SE shall ask representatives of employees, and in the absence of such representatives it shall ask employees

employed in various Member States, to appoint or elect new members of the representative body the number of which is specified in Article 64 (1) to (3).

3. On the day when new members of the representative body are appointed or elected, the term of office of members of the representative body originating from the country which is subject to changes shall be terminated.

Article 90

1. Members of the representative body representing employees employed in the Republic of Poland shall be elected or appointed in accordance with procedures determined in Article 65 (1) to (4) and (7) and in Articles 66-68.

2. Actions leading to the election of members of the representative body shall be taken within one month from the date on which circumstances referred to in Article 84 have arisen.

Article 91

The representative body shall immediately notify the competent organ of the SE about its composition. The competent organ of an SE shall forward information on the composition of the representative body to competent organs of subsidiaries and to the management of establishments.

Article 92

The competent organ of an SE, immediately upon receiving information on the composition of the representative body, shall convene an organisational meeting on which:

- 1) the representative body shall be constituted;
- 2) the representative body shall elect a chairman from among its members;
- 3) the representative body shall adopt its rules of procedure.

Article 93

1. Where its size so warrants, the representative body shall elect a presidium from among its members.

2. The presidium shall be composed of a chairman and two members. Persons appointed to the presidium shall originate from different Member States.

3. Tasks of the presidium shall include the management of current matters.

Article 94

The representative body shall take decisions by the means of resolutions, with an absolute majority of votes, except for cases referred to in Article 81(1), i.e. in the situation where, in

accordance with Article 95(2), the representative body has the rights of the special negotiating body.

Article 95

1. Four years after the representative body is established, it shall examine whether to open negotiations with a competent organ of the SE for the conclusion of the agreement referred to in Article 71(1).

2. If a decision has been taken to negotiate an agreement according to in paragraph 1 above, the representative body shall acquire rights and obligations of a special negotiating body.

3. If a decision has not been taken to start negotiations, or where, by the deadline by which the negotiations come to an end, no agreement has been concluded, the provisions of Section 4 of this Title shall continue to apply.

Article 96

The representative body shall have the right to obtain information and to carry out consultations on questions which concern the SE or any of its subsidiaries or establishments, including those whose registered offices are situated in Member States other than that in which the registered office of the SE is located, as well as questions which exceed the powers of the decision-making organs of companies in the Member States concerned.

Article 97

1. The competent organ of the SE shall convene, at least once a year, a meeting with the representative body to inform about the economic situation of an SE and its prospects, on the basis of reports prepared periodically. The competent organ of the SE shall also forward this information to the competent organs of its subsidiaries and to the management of establishments.

2. Information received and consultation carried out shall relate in particular to:

- 1) the structure of the SE and its subsidiaries and establishments;
- 2) its economic and financial situation and expected developments of the business, including production, sales and investments;
- 3) the situation and probable trend of employment;
- 4) introduction of substantial changes concerning organisation;
- 5) introduction of new working methods and new production processes;
- 6) changes in respect of location, merger, division, and closures of undertakings or establishments, or of important parts thereof;
- 7) collective redundancies.

3. The competent organ of the SE shall provide the representative body with the programme of meetings of the supervisory board and the management board of the SE or of its administrative board, as well as with documents submitted to the shareholders' general meeting.

Article 98

Should extraordinary circumstances arise, significantly affecting the situation of employees, and in particular in the case of a change of location of an undertaking or an establishment, the change of employer for a particular undertaking or establishment, a closure of an undertaking or establishment, or collective redundancies, a competent organ of the SE shall be required to inform the representative body about these issues.

Article 99

1. At the request of the representative body, or in cases which have to be dealt with immediately, at the request of its presidium, a competent organ of the SE or a representative of another competent management structure within the SE, authorised to take decisions independently, are required to meet the representative body or its presidium to give information or carry out consultation on measures significantly affecting employees' interests.

2. Members of the representative body representing employees directly concerned by the measures which are the subject of information provided or of consultations which are carried out shall have the right to participate in a meeting referred to in paragraph 1, organised with the presidium being present.

Article 100

1. The meeting referred to in Article 99(1) shall be organised immediately.

2. The representative body or its presidium may submit in writing its opinion on matters which are the subject of consultations during the meeting or within 14 days after the meeting has ended.

3. The competent organ of the SE, before taking a decision which is the subject of the opinion, examines this opinion and informs the applicant about its acceptance or rejection.

4. In the case where the opinion is not taken into account, the representative body or its presidium has the right to meet again the competent organ of the SE to reach an understanding on a matter which is the subject of consultations.

Article 101

The meetings referred to in Articles 97 and 99 shall be chaired alternatively by the chairman of the representative body or by a member indicated by the chairman and a person indicated by the competent organ of the SE.

Article 102

1. The representative body or its presidium may precede each meeting with the competent organ of the SE by an internal meeting of its own members. Members of the representative body representing members directly involved in matters which are the subject of information provided or consultations carried out may participate in such a meeting of the presidium.

2. The representative body or the presidium may be assisted by an expert of its choice.

Article 103

A requirement to organise meetings and to listen to representatives of employees does not restrict the decision-making rights of the competent organ of the SE.

Article 104

The members of the representative body, subject to keeping information which constitute confidential information of the enterprise, shall inform the representatives of the employees of the SE and of its subsidiaries and establishments, and in the absence of representatives shall inform the employees, of the content and outcome of the information and consultation procedures, in accordance with Articles 97, 99 and 100.

Article 105

The members of the representative body, in so far as this is necessary for the fulfilment of their tasks, shall be entitled to time off for training, not exceeding two months during their term of office, without loss of wages. Remuneration calculated in the same way as for the annual leave shall be paid for time off for training.

Article 106

1. The costs in respect of activities of a representative body, and in particular the costs of organising meetings, providing accommodation, meals, travelling expenses, translation and interpretation facilities and necessary training shall be borne by the SE, unless the competent SE and the representative body otherwise agree .

2. If the representative body is assisted by experts, the obligation to cover costs shall be limited to the costs of assistance provided by one expert only, unless the competent organ of the SE and the representative body otherwise agree.

3. The competent organ of the SE shall determine, in consultation with the representative body, an annual budget of the representative body. In the case where the budget is not agreed before the end of the calendar year preceding a given financial year, the competent organ of the SE shall determine it independently. However it should allocate for the activities of the representative body an amount at least equivalent to the sum calculated by multiplying the number of members of the representative body by the sum representing three times the average monthly wage in the sector in which the undertaking is operating in the last quarter of the year preceding a given calendar year, as published by the Chairman of the Main Statistical Office in the Official Journal of the Republic of Poland, "Monitor Polski".

Chapter 3

Participation

Article 107

1. The employees of an established SE and the employees of its subsidiaries and establishments or the representative body thereof have the right to elect, appoint, or recommend members of the supervisory board or an administrative board of an SE, or the right to oppose the appointment of some members of these organs in the amount equal the highest amount applied in the participating companies before the day of registration of the SE.

2. If prior to the registration of the SE formed by the means of transformation solutions regarding the participation in the supervisory board or in the administrative board were applied in the transformed company, these solutions shall apply to the SE.

3. If prior to the registration of the SE none of the participating companies was applying solutions in respect of participation, the SE shall not be required to apply solutions in this regard.

Article 108

1. The seats on the supervisory board or on the administrative board of the SE among employees from different Member States shall be allocated by the representative body, in proportion to the number of employees employed by the SE, its subsidiaries and establishments in various Member States.

2. If, as a result of the allocation referred to in paragraph 1, employees employed in one or more Member States would not have their representative in the supervisory board or the administrative board of the SE, the representative body shall decide on the allocation of one place in these organs of the SE to employees from a Member State who has no representative in the following order:

- 1) employees employed in the State in which the SE has its registered office;
- 2) employees employed in the State where the SE, its subsidiaries and establishments employ the greatest number of employees;

3. The seats referred to in paragraph 1 above shall be allocated by the representative body among the employees employed by different employers of SE, subsidiaries and establishments, in proportion to the number of employees.

Article 109

The representative body shall determine the method by which employees shall recommend persons for the supervisory board or the administrative board of the SE, or the method by which employees shall oppose the appointment of a certain number of members of these organs, if such forms of participation are in force in the SE.

Article 110

Persons representing in the supervisory board or administrative board the employees employed in the Republic of Poland shall be elected by a direct and secret ballot, at general meetings of staff of establishments, in accordance with the rules of procedure adopted by these establishments.

Article 111

Members of the supervisory board or the administrative board of the SE, elected, appointed or recommended in accordance with applied forms of participation, have the same rights and obligations, including voting rights, as other members of these bodies.

SECTION 5

Prohibition of disclosing confidential information of the company

Article 112

1. Members of the special negotiating body, the representative body, other representatives of employees appointed on the basis of an agreement concluded in accordance with Article 82.1(6), experts, and translators shall be under obligation not to disclose information which they obtained in the exercise of their functions and in respect of which the competent organ of the SE imposed an obligation to keep them confidential.

2. This obligation not to disclose information obtained shall continue to apply even after the expiry of their term of office or termination of employment, unless the competent organ otherwise determines the scope of being bound by secrecy.

Article 113

1. In particularly justified cases the competent organ of the SE may refuse to disclose information which constitutes business secret, where its nature is such that, according to objective criteria, to do so would seriously harm the functioning of the SE, its subsidiaries or establishments, or would be prejudicial to them.

2. In the case where it is assessed that reserving the confidentiality of information or refusing to disclose it is inconsistent with Article 112 or with paragraph 1 above, the special negotiating body, representative body or other representatives of employees appointed on the basis of an agreement concluded in accordance with Article 82.1(6) may request from a district court dealing with business matters, an exemption from the requirement to keep information confidential or for an order to disclose information.

3. In respect of matters referred to in paragraph 2, the provisions of the Civil Proceedings Code on cognizance of matters relating to regulations in respect of state-owned enterprises and on self-government of the staff of state-owned enterprises shall apply, excluding Articles 691¹ paragraph 2 and Article 691⁷. Judicial competence in these matters shall be vested on the special negotiating body, the representative body, other representatives of employees

appointed on the basis of an agreement concluded in accordance with Article 82.1(6), and a competent organ of the SE.

Article 114

1. The court, acting on the basis of Article 113 (2) and (3), at the request of a competent organ of the SE or ex-officio may take a decision, restricting to the extent necessary the right to access evidence materials attached by a competent organ to case files during the court procedures, if giving access to this material would create the risk of disclosure of information which constitutes business secret or of other secrets subject to protection on the basis of separate provisions.

2. It shall not be possible to lodge a complaint against a court ruling restricting the right to review the evidence materials.

Article 115

The provisions of Articles 112-114 shall not violate regulations in respect of the protection of confidential information or regulations in respect of other secrets protected by law.

SECTION 6

Protection of the rights of employees in respect of involvement

Chapter 1

Protection of employees' representatives

Article 116

An employer may not terminate the contract of employment with or dismiss an employee who is a member of the special negotiating body, the representative body, or a representative of employees in the supervisory board or the administrative board of the SE during his term of office and within the year following its expiry, without an agreement of the company's trade union organisation, and, if the employee is not represented by a company's trade union organisation, without an agreement of a district labour inspector with territorial jurisdiction extending to the employer's registered office.

Article 117

An employer may not unilaterally change the terms of employment or remuneration to the detriment of an employee who is a member of the special negotiating body, the representative body, or a representative of employees in the supervisory board or the administrative board of the SE during his term of office and within the year following its expiry, without an agreement of the company's trade union organisation, and, if the employee is not represented by a company's trade union organisation, without an agreement of a district labour inspector with territorial jurisdiction extending to the employer's registered office.

Article 118

An employee who is a member of bodies referred to in Article 116 shall, in the exercise of his functions in these bodies, have the right to be released from professional activities while keeping the right to remuneration on the terms applying to the members of the management of a company's trade union organisation, specified in Article 31.3 of the law of 23 May 1991 on trade unions (Polish Journal of Laws of 2001 No 79, item 854, as modified⁹).

Article 119

The provisions of Articles 116-118 shall apply accordingly to representatives of employees appointed on the basis of an agreement concluded pursuant to Article 82.1(6), others than members of the representative body.

Chapter 2

Means used to prevent irregularities

Article 120

1. If after the registration significant changes occur in the SE, its subsidiaries or establishments, which concern their structure, the number of employees, and in the case of the SE also its place of registration, and which indicate an intention to withdraw or reduce in whatever way the rights of employees in respect of their involvement, negotiations shall be carried out with a view to concluding an agreement which would determine the principles of involvement of employees in the SE under these new conditions.

2. The representative body shall make a request to start the negotiations.

3. The provisions of Section 3 of this Title shall apply to negotiations, whereas the representative body shall have the rights and obligations of a special negotiating body, and the SE, its subsidiaries or establishments the rights and obligations of participating companies.

Article 121

In the cases determined in Articles 84-86, the provisions of Section 4 of this Title shall apply to the involvement of employees in changed conditions to the extent in which such changes may create a danger of the employees having their rights withdrawn or restricted.

Title V

Organisational and penal provisions

Article 122

⁹ The changes to the uniform text of the above-mentioned Law were published in the Polish Journal of Laws of 2001 No 100, item 1080 and No 128, item 1405, of 2002 No 135, item 1146 and No 240, item 2052, of 2003 No 213, item 2081, and of 2004 No 240, item 2407.

1. Whoever, acting as the manager of the grouping or as its liquidator, allows that letters, commercial orders or other written declarations of the grouping, sent, within its scope of activities to particular persons, do not include the following particulars:

- 1) the name of the grouping preceded or followed either by the words 'European Economic Interest Grouping' or by the initials 'EEIG', unless those words or initials are already included in the name;
- 2) the location of the registry referred to in Article 6 of Regulation 2137/85 in which the grouping is registered, together with the number of the grouping's entry at the registry;
- 3) the registered office of the grouping,
- 4) where applicable, a mention that the managers must act jointly;
- 5) where applicable, a mention that the grouping is in liquidation, pursuant to Articles 15, 31, 32 or 36 of Regulation 2137/87;

shall be subject to a fine of up to 10.000 PLN.

2. Whoever, acting as the manager of the grouping or as its liquidator, does not publish in the Polish Court and Business Journal the following particulars in respect of the grouping:

- 1) the particulars which must be included in the contract for the formation of a grouping, pursuant to Article 5 of Regulation 2137/85, and any amendments thereto;
- 2) the number, date and place of registration as well as a notice of the termination of that registration;
- 3) a notice on the filing at the registry of the documents and particulars determined in Article 7 (b) to (j) of Regulation 2137/85;

shall be subject to the same fine as indicated in paragraph 1 above

Article 123

1. Whoever, acting as a member of the administrative board or as an executive director of the SE, fails to fulfil one of his obligations by allowing that in this SE:

- 1) a share book is not kept in accordance with Article 341(1) of the Commercial Companies Code,
- 2) shareholders' general meetings are not convened,
- 3) a person appointed to conduct the audit is refused clarifications or is not allowed to perform her duties,
- 4) an application to appoint chartered auditors is not submitted to the registration court,

5) a notice on the submission of opinion by a chartered auditor in the registration court, in accordance with Article 312(7) of the Commercial Companies Code, is not published,

shall be subject to a fine of up to 20,000 PLN.

2. Whoever, acting as a member of the administrative board or a liquidator of the SE allows this SE to remain without an administrative board properly constituted for a period of time exceeding three months, contrary to the law or the statutes, remains, shall be subject to the same fine as specified in the paragraph above.

Article 124

Whoever, acting as a member of the administrative board or an executive director of the SE or as its liquidator, allows that the letters and commercial orders referred to in Article 374(1) of the Commercial Companies Code do not include the particulars specified in that article,

shall be subject to a fine of up to 10,000 PLN.

Article 125

The registration court shall impose fines in respect of matters referred to in Articles 122-124.

Article 126

Whoever, acting as the manager of the grouping or representative of the manager of the grouping, submits a false statement on the lack of assumptions referred to in Article 19(1) of Regulation 2137/85, disqualifying him from being able to carry out these functions,

shall be subject to a fine, penalty of restriction of liberty or imprisonment for the term of up to one year.

Article 127

Whoever includes false particulars or attaches false declarations to an application for the certificate referred to in Article 25(2) of Regulation 2157/2001, or for the certificate referred to in Article 8(8) of Regulation 2157/2001, or to an application to enter an SE to the register,

shall be subject to a fine, penalty of restriction of liberty or imprisonment of up to one year.

Article 128

Whoever, acting as the manager of a grouping or as its liquidator, fails to file a motion of bankruptcy of the grouping, despite the fact that conditions arose which justify its bankruptcy in accordance with regulations governing bankruptcy and restructuring proceedings, shall be subject to a fine, penalty of restriction of liberty or imprisonment of up to one year.

Article 129

Whoever, acting as a member of the administrative board, as executive director or as liquidator of an SE, on whom rests an obligation to submit a motion of bankruptcy of the SE, does not submit such motion although conditions justifying the bankruptcy of an SE have arisen under regulations governing bankruptcy and restructuring proceedings,

shall be liable to a fine, penalty of restriction of liberty or imprisonment of up to one year.

Article 130

Whoever, participating in the formation of an SE, or acting as member of its administrative board, as executive director or as liquidator, acts to its detriment,

shall be liable to a penalty of imprisonment of up to 5 years and a fine.

Article 131

Whoever, acting as member of the administrative board, as executive director or as liquidator of an SE, allows his own shares be redeemed by the SE or taken as a pledge, shall be subject to a fine, penalty of restriction of liberty or imprisonment of up to one year.

Article 132

Whoever, acting as member of its administrative board or as executive director of an SE, allows that documents be issued authorising the exercise of rights pertaining to shares:

- 1) that are insufficiently paid for,
- 2) before the registration of the SE,
- 3) in the case of an increase of the share capital before this increase has been registered,

shall be subject to a fine, penalty of restriction of liberty or imprisonment of up to one year.

Article 133

1. Whoever, acting as member of the competent organ of an SE, a participating company, a subsidiary, or of the management of an establishment located on the territory of the Republic of Poland, independently of the location of the registered office of the SE:

- 1) makes it impossible or difficult to establish a special negotiating body or a representative body, and in particular does not notify authorised trade union organisations about the date and the manner in which the elections of members of the special negotiating body are to be held,
- 2) makes the activities of the special negotiating body or the representative body impossible or difficult,
- 3) discriminates members of the special negotiating body, the representative body or a representative of employees in connection with duties they exercise,

shall be liable to penalty of restriction of liberty or to a fine.

2. Proceedings in matters specified in paragraph 1 shall be carried out on the basis of the provisions of the law of 24 August 2001 "Petty Offences Code" (Polish Journal of Laws No 106, item 1148, of 2003 No 109, item 1031 and No 213, item 2081 and of 2004 No 128, item 1351). The labour inspector shall act as a public prosecutor in respect of these matters.

Title VI

Changes in legislation currently in force

Article 134

The law of 20 August 1997 on the National Court Register (Polish Journal of Laws of 2001 No 17, item 209, as modified¹⁰) is hereby amended as follows:

1) in Article 36:

a) the following point shall be added after point 2:

“2a) European Economic Interest Grouping,”

b) the following point shall be added after point 7:

“7a) European Companies,”;

2) in Article 38:

a) the following point shall be added:

“2a) in the case of shareholders of a registered partnership, members of a European Economic Interest Grouping, shareholders of a general partnership, and limited partners in a limited partnership – information on marital status, the conclusion of a post-marital settlement, the establishment of separate estates in matrimony, the notification of a limited legal capacity, if such limitation exists,”

b) in point 4 letter b shall be deleted,

c) the following point shall be added after point 4:

“4a) in the case of a European Economic Interest Grouping:

a) the forename and surname, as well as the place of residence or the indication of the name, company name, legal form, registered office, as well as the

¹⁰ The changes to the uniform text of the above-mentioned Law were published in the Polish Journal of Laws of 2001 No 110, item 1189, of 2002 No 1, item 2, No 113, item 984, of 2003 No 49, item 408, No 60, item 535, No 96, item 874, No 217, item 2125, No 228, item 2256 and No 229, item 2276, and of 2004 No 96, item 959, No 173, item 1808 and No 273, item 2703.

number and the place of registration of the members of the European Economic Interest Grouping,

b) reference to clauses releasing the members of the European Economic Interest Grouping from responsibility for debts and other liabilities which originated before their joining the grouping,”,

d) in point 5 letter b shall be deleted,

e) in point 6 letter b shall be deleted,

f) in point 7 letter b shall be deleted,

g) the following point shall be added after point 9:

“9a) in the case of a European company:

a) the amount of the share capital, the number and the nominal value of shares,

b) if the shareholders make contributions in kind, reference to this circumstance, indicating the nominal value of shares taken up in exchange for these contributions; this shall not apply to a European company transferring its registered office to the territory of the Republic of Poland,

c) the amount of the target capital if it is planned in the statute, and a mention whether the management board or the administrative board are authorised to issue subscription warrants,

d) the number of preferred shares and the type of preferences they bear,

e) an indication of what part of a share capital has been paid for; this shall not apply to a European company transferring its registered office to the territory of the Republic of Poland,

f) the nominal value of a conditional increase of the share capital,

g) if a newspaper is indicated in the statute in which the company’s announcements shall be placed – an indication of the newspaper concerned,

h) if the statute provides for the granting of personal rights to specific shareholders or participation titles in the income or assets of the company not related to shares – a mention of such circumstances,

i) in the case where a company has a sole shareholder – his description in accordance with Article 35, as well as an indication that he is the sole shareholder of a European company,

j) a mention of the resolution on the issuing of convertible bonds and of shares issued in exchange for these bonds, an indication of the right of bond holders to participate in the profits,”;

3) in Article 39:

a) the following point shall be added after point 1:

“1a) an indication of the managers of a European Economic Interest Grouping and of natural persons appointed as representatives of managers who have a legal personality,”,

b) in point 5 a full stop shall be replaced by a coma and the following point shall be added:

“6) in the case where a European company opts for a one-tier system:

a) an indication of the administrative board and of its members,

b) an indication of the executive directors who are not members of the administrative board, authorised to represent the European company, and the manner and scope of representation”;

4) in Article 44.1(5) a full stop shall be replaced by a coma and the following point shall be added:

“6) for a European company and a European Economic Interest Grouping – a mention that a plan of transfer of the company’s registered office has been submitted, and in the case of a deletion from the register because of the change of office – an information about the State to which the registered office has been transferred and of the register into which the entity has been entered.”.

Article 135

The law of 21 August 1997 on the National Court Register (Polish Journal of Laws of 2002 No 49, item 447, as modified¹¹) is hereby amended as follows:

1) in Article 2.1(11) a full stop shall be replaced by a coma and the following point shall be added:

“12) proposal to purchase shares which are the subject of redemption in accordance with the conditions and procedures specified in Article 17 of the law of 4 March 2005 on the European Economic Interest Grouping and the European company (Polish Journal of Laws No 62, item 551).”;

2) in Article 89:

¹¹The changes to the uniform text of the above-mentioned Law were published in the Polish Journal of Laws of 2002 No 240, item 2055, of 2003 No 50, item 424, No 84, item 774, No 124, item 1151, No 170, item 1651 and No 223, item 2216 and of 2004 No 64, item 594, No 91, item 871, No 96, item 959, No 116, item 1205, No 146, item 1546 and No 273, item 2703.

a) in point 1(3) a full stop shall be replaced by a coma and the following point shall be added:

“4) transfers of shares which are the subject of redemption in accordance with the conditions and procedures specified in Article 17 of the law of 4 March 2005 on the European Economic Interest Grouping and the European company”;

b) in paragraph 2, the first sentence shall be replaced by the following:

“In the cases specified in paragraph 1, points 1 and 4, secondary trading in securities released for public trading takes place without passing through a brokerage house or a bank involved in brokerage activities.”.

Article 136

The Law of 5 April 2002 on European Works Councils (Polish Journal of Laws of 2002, No 62, item 556 and No 96, item 959) is hereby amended as follows:

1) the following paragraph shall be inserted in paragraph 1:

“4. Provisions of the Law shall not apply to undertakings and groups of undertakings which have the status of European company within the meaning of the Law of 4 March 2005 r. on the European Economic Interest Grouping and the European company (Polish Journal of Laws No 62, item 551), except in the instances referred to in Article 81(3) of that Law.”;

2) in Article 38 paragraph 1 shall be replaced by the following:

“1. Provisions of the Law shall not apply to Community-scale undertakings and groups of undertakings in which agreements have been concluded prior to 22 September 1996 ensuring a supranational way of informing the employees and carrying out consultations with employees throughout the period in which the agreement remains in force, if this agreement applies to all employees of Community-scale undertakings and groups of undertakings employed in the Member States. Before the expiry of the agreement concluded for a specified period of time, the parties may extend this period for a specified period of time or consider it as an agreement concluded for an unspecified period of time.”.

Article 137

In the Law of 13 March 2003 on the special rules governing the dismissal of employees through no fault of their own (Polish Journal of Laws No 90, item 844, No 213, item 2081 and No 223, item 2217 and of 2004 No 96, item 959) in Article 5 after point 4a the following point shall be added:

“4b) being a member of the special negotiating body, representative body or a representative of employees in a European company;”.

Title VII

Final Provision

Article 138. The Law shall enter into force within 30 days of the day of publication.

President of the Republic of Poland: *A. Kwaśniewski*