

**Act****on the involvement of employees in European companies***(lag om arbetstagarinflytande in europabolag)*

adopted on 10 June 2004.

In accordance with the decision<sup>1</sup> of Parliament, the following is decreed<sup>2</sup>:

**Content and scope**

**§ 1.** This Act contains provisions on the involvement of employees in European companies.

**§ 2.** Employees may become involved in the following ways. A negotiating delegation shall be set up for employees mandated to reach an agreement on employee involvement in European companies with the firms participating directly in the establishment of a European company. In certain cases, an employees' council shall be set up and the rules on participation shall be applied in accordance with §§ 32–63.

**§ 3.** A company whose activities are religious, scientific, artistic or otherwise not profit-orientated or which pursues cooperative, trade-union or political objectives, or opinion-forming aims, shall be exempted from the scope of this Act as regards the objectives and direction of its activities.

**§ 4.** The provisions of §§ 6–10 concerning the negotiating delegation and of §§ 20–31 concerning the negotiating procedure, as well as the provisions of §§ 32–36, §§ 42–58 and §§ 60–63 on arrangements applying where no agreement is reached, shall apply where a European company is to have or has its registered office in Sweden.

The provisions of §§ 11–19, §§ 37–41 and § 59 concerning the allocation of seats and the selection of members representing employees in Sweden shall apply irrespective of where the European company is based.

**Definitions**

**§ 5.** For the purposes of this Act

- "*EEA countries*" means the Member States of the European Union and the other states covered by the EEA Agreement;

---

<sup>1</sup> Bill 2003/04:122, committee report 2003/04:AU4, rskr. 2003/04:226.

<sup>2</sup> See Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees (OJ L 294, 10.11.2001, p. 22, Celex 32001L0086).

- "*European company*" means any company established in accordance with Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company;
- "*participating companies*" means the companies directly participating in the establishment of a European company;
- "*subsidiary*" means a company over which another company exercises a dominant influence, as referred to in §§ 9–12 of the European Works Council Act (*lag om europeiska företagsråd*) (1996:359);
- "*concerned subsidiary or establishment*" means a subsidiary or establishment of a participating company which is proposed to become a subsidiary or establishment of the European company upon its formation;
- "*participation*" means the influence exercised by employees by way of the right to
  - a) elect or otherwise select any of the members of a company's supervisory or administrative body; or
  - b) propose or oppose any or all members of a company's supervisory or administrative body;
- "*employees' council*" means the body which represents the employees in a European company and its subsidiaries and establishments in relation to information and consultation and, where appropriate, which exercises the right to participate in the European company.

## **Employees' negotiating delegation**

### *Establishment of a negotiating delegation*

**§ 6.** The participating companies shall as soon as possible take the measures necessary to enable a negotiating delegation for the employees to be set up. Where a European company is to be formed by way of merger or through the creation of a holding company, the obligation to take any necessary measures shall arise when a proposal to establish a European company is published. Where a European company is to be formed by way of transformation or through the creation of a subsidiary, this obligation shall arise when the decision on the proposal has been taken.

The companies shall provide the names of and information on the number of employees in the participating companies, concerned subsidiaries and concerned establishments, as well as the names of other concerned subsidiaries and concerned establishments in the EEA countries. The information shall be provided to the employee representatives in the participating companies, concerned subsidiaries and concerned establishments.

**§ 7.** A negotiating delegation for the employees shall be set up in accordance with the provisions of §§ 8–19. The negotiating delegation shall represent the employees of the participating companies, concerned subsidiaries and concerned establishments in negotiations with the participating companies on an agreement on employee involvement in the European company.

### *Allocation of seats between employees in the various EEA countries*

**§ 8.** The employees of the participating companies, concerned subsidiaries and concerned establishments in each EEA country shall be allocated one ordinary seat on the

negotiating delegation for each 10% portion, or fraction thereof, of the total number of employees in the participating companies, concerned subsidiaries and concerned establishments in each EEA country.

**§ 9.** Where a European company is to be formed by way of merger, the employees in the various EEA countries shall be allocated extra seats on the negotiating delegation where this is necessary in order for at least one representative to be selected for employees in each participating company that is due to be dissolved in the context of the merger.

The extra seats that are allocated to employees in accordance with the first subparagraph may not, however, exceed 20% of the total seats allocated to the employees in accordance with § 8. Where the total requirement for extra seats cannot be met, the available seats shall be allocated to the employees of participating companies in the various EEA countries in descending order of the number of employees in the companies due to be dissolved in the context of the merger.

The allocation of extra seats may not result in employees being represented by more than one member.

**§ 10.** Where the number of employees in the participating companies, concerned subsidiaries or concerned establishments changes during the period in which the negotiating delegation is active and the change is on such a scale that it affects the distribution of the number of seats between the employees in the various EEA countries, a reallocation shall be undertaken in accordance with § 8 and § 9.

*Allocation of seats between employees in different companies and establishments in Sweden*

**§ 11.** The ordinary seats on the negotiating delegation which are allocated to employees in Sweden shall be distributed to employees in the participating companies in Sweden in descending order of the number of employees in those companies. The employees in each company shall be allocated no more than one seat per company.

Where, following allocation, there are still ordinary seats to be distributed, these shall be allocated between the employees in concerned subsidiaries and concerned establishments in descending order of the number of employees in those subsidiaries or establishments. The employees in each subsidiary or establishment shall be allocated no more than one seat per subsidiary or establishment.

Where ordinary seats still remain to be distributed, these shall be allocated between the employees in the participating companies, concerned subsidiaries and concerned establishments in descending order of the number of employees in those companies, subsidiaries or establishments. The allocation shall be repeated until no more ordinary seats remain to be distributed.

**§ 12.** The local organisations representing employees which are to select members from Sweden as provided for in § 16 or § 17 may come to an agreement whereby the ordinary seats shall be distributed other than as provided for in § 11. Such an agreement shall, however, ensure for as long as possible that the employees in each participating company are allocated one seat.

**§ 13.** The extra seats on the negotiating delegation which may be allocated to employees in Sweden under § 9 shall be distributed between employees in Swedish companies due to be dissolved in the context of the merger in descending order of the number of

employees in those companies. The distribution shall apply only to employees in the company who have not received a seat as provided for in § 11.

**§ 14.** Where the allocation of seats on the negotiating delegation is adjusted pursuant to § 10, the allocation of seats as referred to in § 11 and § 13 shall also be adjusted.

**§ 15.** Where the employees in a participating company, concerned subsidiary or concerned establishment in Sweden are allocated a seat on the negotiating delegation and the company or establishment ceases to have "participating" or "concerned" status, the seat shall be reallocated even if the negotiating delegation must not be reconstituted in accordance with § 10.

Where an ordinary seat is to be reallocated pursuant to the first subparagraph, it shall be allocated to the employees in the company or establishment which, in accordance with § 11, was in line for the next extra seat under the most recent distribution procedure. Where, on the other hand, the seat is to be allocated to the employees in a company which has already received an extra seat in accordance with the arrangements described in § 11, this seat shall be passed on to the employees in the company or establishment that was next in line.

Where an extra seat is to be reallocated pursuant to the first subparagraph, it shall be allocated to the employees in the company which, in accordance with § 13, was in line for the next extra seat under the previous distribution procedure. Where no such company exists, the seat shall not be allocated.

#### *Selection of members from Sweden*

**§ 16.** Members from Sweden on the negotiating delegation shall be selected by one or more of the local organisations representing employees in Sweden which are linked by collective agreements to the participating companies, concerned subsidiaries and concerned establishments.

Where there are several local organisations representing employees which are bound by collective agreements and they cannot agree otherwise, the following arrangement shall apply for the selection of one or more members. A single member may be selected by the local organisation representing the largest number of organised employees in Sweden in the participating companies, concerned subsidiaries or concerned establishments. Where a number of members are to be selected, the order for selecting them is set out in § 8, second and third subparagraphs, of the Board Representation (Private-Sector Employees) Act (*lag om styrelserepresentation för de privatanställda*) (1987:1245).

Local organisations representing employees which belong to the same central organisation shall be deemed to constitute a single organisation.

**§ 17.** Where none of the participating companies, concerned subsidiaries or concerned establishments are linked by collective agreements to organisations representing employees, the members from Sweden on the negotiating delegation shall be selected by the local organisation representing the largest number of organised employees in the participating companies, concerned subsidiaries or concerned establishments in Sweden. However, this shall apply only where the local organisations representing employees cannot agree otherwise.

Local organisations representing employees which belong to the same central organisation shall be deemed to constitute a single organisation.

**§ 18.** Where no such organisation as referred to in § 17 exists, the members on the negotiating delegation shall be selected by the employees in the participating companies, concerned subsidiaries or concerned establishments in Sweden.

#### *Representativeness of members from Sweden*

**§ 19.** A member who is selected after the seat has been allocated under the provisions of § 11 shall represent the employees in the company or establishment to whom the seat has been allocated.

Where more than one member is selected for the employees in a company or establishment under the provisions of § 11, they shall if possible each represent an equal number of employees.

A member who is selected after the seat has been allocated pursuant to § 11 shall also represent employees in companies and establishments who have not been allocated any seats on the negotiating delegation. The employees in companies and establishments who have not been allocated any seats shall be distributed as equally as possible between the members representing other employees.

A member who is selected after the seat has been allocated under the provisions of § 13 shall represent only the employees in the companies which are due to be dissolved in the context of the merger.

### **Negotiations**

#### *Negotiating period*

**§ 20.** Negotiations between the participating companies and the employees' negotiating delegation concerning an agreement on the involvement of employees in the European company shall be initiated as soon as the negotiating delegation has been established, and may continue for a period of no more than six months following its establishment.

The parties may jointly decide to extend the negotiating period up to a maximum of one year.

#### *Decision not to open, or discontinuation of, negotiations*

**§ 21.** The negotiating delegation may decide not to open negotiations concerning an agreement on the involvement of employees in the European company, or to discontinue any such negotiations which are under way. Such a decision may not, however, be taken where the European company is to be established by way of transformation and a right exists to participate in the company to be transformed.

No earlier than two years after the decision referred to in the first subparagraph, the negotiating delegation shall be reconvened at the written request of at least 10% of the employees of the European company, its subsidiaries and establishments. The parties may, however, decide jointly to initiate or reopen the negotiations sooner.

#### *Information*

**§ 22.** The participating companies shall inform the negotiating delegation of the existence and scope of employee involvement in the form of participation in the participating companies, and of any plans and progress actually made regarding the establishment of the European company up until its registration.

### *Experts*

§ 23. The negotiating delegation may draw on the assistance of experts of its choice. The experts may be present at the negotiations with the participating companies at the request of the negotiating delegation where this is appropriate to promote coherence and consistency at European level.

### *Voting*

§ 24. Unless otherwise provided in § 25 and § 26, the view supported by more than half of the negotiating delegation's members shall, where these represent more than half the total number of employees in the participating companies, concerned companies and concerned establishments, be deemed to constitute decisions of the negotiating delegation.

§ 25. Where a proposal for an agreement would entail the proportion of members entitled to participate in a European company falling below the level previously applying to the employees in the participating companies with the highest level of participation, the agreement shall need to be approved by at least two thirds of the members representing at least two thirds of the employees, including employees in at least two EEA countries, voting in favour. This majority rule shall apply

- where a European company is established by way of merger, if worker involvement in the form of participation covers at least 25% of the overall number of employees of the participating companies, or
- where a European company is established by way of creating a holding company or forming a subsidiary, if participation covers at least 50% of the overall number of employees of the participating companies.

Where a European company is established by way of transformation, § 31 shall apply.

§ 26. A decision not to open negotiations or to discontinue negotiations which are under way, as referred to in § 21, shall require the same majority as stipulated in § 25, first subparagraph.

### *Expenses*

§ 27. Any expenses relating to the negotiating delegation's negotiations or other activities shall be borne by the participating companies to the extent required to enable the negotiating delegation to carry out its tasks in an appropriate manner.

### **Agreements on employee involvement**

§ 28. Any agreement on employee involvement shall be in writing.

The agreement shall specify

- a) the scope;
- b) whether an employees' council is to be set up, or whether other arrangements for information and consultation procedures are to apply;
- c) whether or not a right to participation exists;
- d) the duration of the agreement, under what circumstances it should be renegotiated, the procedure for renegotiation, and what arrangements shall apply where renegotiation fails to produce a new agreement.

**§ 29.** Where an employees' council is set up, the agreement shall specify

- a) the composition of the employees' council;
- b) the tasks of the employees' council and how information and consultation are to be organised;
- c) how frequently the employees' council is to meet; and
- d) what financial and material resources are to be made available to the employees' council.

Where other arrangements for information and consultation procedures are to apply, it shall be stipulated in the agreement what form these arrangements are to take.

**§ 30.** Where a right to participation is to exist, the agreement shall specify

- a) the essential elements of a system for participation, including information on the number of members whom employees are entitled to elect, appoint, propose or reject;
- b) what procedures are to be used when members are elected, appointed, proposed or rejected; and
- c) the rights of members.

**§ 31.** Where a European company is established by way of transformation, the agreement on employee involvement shall provide for at least the same level of involvement as in the company to be transformed.

### **Arrangements where no agreement is concluded**

*When the rules are to be applied*

**§ 32.** An employees' council for information and consultation shall be set up in accordance with §§ 36–54 where

- a) the parties agree on this; or
- b) an agreement meeting the requirements of this Act has not been reached upon expiry of the period allowed for negotiations as referred to in § 20.

**§ 33.** The provisions of §§ 55–63 governing participation shall be applied where the parties agree to this.

The provisions of §§ 55–63 governing participation shall also apply under the circumstances referred to in § 32 (b) where a European company is established

- a) by way of transformation
  - where the employees were entitled to participate in the company prior to its transformation into a European company;
- b) by way of merger
  - where at least 25% of the employees in the participating companies were entitled to participate;
  - where the employees in any of the participating companies, even where they made up less than 25% of the company's employees, were entitled to participate and the negotiating delegation decides that the employees are to be entitled to participate in the European company;

- c) through the creation of a holding company or subsidiary
- where at least 50% of the employees in the participating companies were entitled to participate; or
  - where the employees in any of the participating companies, even where they made up less than 50% of the company's employees, were entitled to participate and the negotiating delegation decides that the employees are to be entitled to participate in the European company.

**§ 34.** The provisions of §§ 36–63 shall not apply, however, where the negotiating delegation has adopted a decision, pursuant to § 21, first subparagraph, not to open or to discontinue ongoing negotiations concerning an agreement on employee involvement. Nor shall the provisions apply where no agreement is reached after the partners have initiated or reopened negotiations on an agreement, as provided for in § 21, second subparagraph.

**§ 35.** Where the provisions on participation in §§ 55–63 are to be applied and more than one form of participation exists within the participating companies, the negotiating delegation may decide what form is to be introduced in the European company.

Where the negotiating delegation does not take a decision as referred to in the first subparagraph, the participating companies may decide what form of participation is to be introduced in the European company.

*Composition etc. of the employees' council*

**§ 36.** The employees of the European company, its subsidiaries and establishments in each EEA country shall be allocated one seat on the employees' council for each 10% portion, or fraction thereof, of the total number of employees in the European company, its subsidiaries and establishments in each EEA country.

**§ 37.** Unless otherwise agreed by the organisations which are to select the members in accordance with § 39 or § 40, the seats on the employees' council which are allocated to employees in Sweden shall be distributed between the employees in the European company, its subsidiaries and establishments in descending order of the number of employees in those companies, subsidiaries or establishments. The allocation shall be repeated until no more ordinary seats remain to be distributed.

**§ 38.** Members from Sweden on the employees' council shall be selected from among the employees of the European company, its subsidiaries and establishments in Sweden.

**§ 39.** Members from Sweden on the employees' council shall be selected by one or more of the local organisations representing employees in Sweden which are linked by collective agreements to the European company, its subsidiaries and establishments.

Where there are several local organisations representing employees which are bound by collective agreements and these cannot agree otherwise, the following arrangement shall apply for the selection of one or more members. A single member may be selected by the local organisation representing the largest number of organised employees in Sweden in the companies and establishments. Where a number of members are to be selected, the order for selecting them is set out in § 8, second and third subparagraphs, of the Board Representation (Private-Sector Employees) Act (*lag om styrelsrepresentation för de privatanställda*) (1987:1245).

Local organisations representing employees which belong to the same central organisation shall be deemed to constitute a single organisation.

**§ 40.** Where neither the European company nor its subsidiaries or establishments are linked by collective agreements to organisations representing employees, the members from Sweden shall be selected by the local organisation representing the largest number of organised employees in the companies and establishments. However, this shall apply only where the local organisations representing employees cannot agree otherwise.

Local organisations representing employees which belong to the same central organisation shall be deemed to constitute a single organisation.

**§ 41.** A member from Sweden shall represent the employees of the company or establishment whose employees are allocated seats pursuant to § 37.

Where more than one member is selected for the employees of a company or establishment, they shall if possible each represent the same number of employees.

A member from Sweden shall also represent the employees of companies or establishments whose employees have not been allocated any seats pursuant to § 37. The employees in companies and establishments who have not been allocated any seats shall be distributed as equally as possible between the members representing other employees.

**§ 42.** Unless otherwise agreed, the employees' council shall once a year assess whether changes within the European company, its subsidiaries or establishments necessitate a reconstitution of the employees' council, in which connection §§ 36–41 shall apply.

**§ 43.** The employees' council shall notify the European company of the council's composition.

**§ 44.** Where the size of the employees' council makes it appropriate, a working committee shall be established from among the members, comprising no more than three persons.

The working committee shall draw up its own rules of procedure.

#### *Information and consultation*

**§ 45.** The employees' council shall be entitled to receive information from and consult with the European company in matters which

- concern the European company;
- concern the subsidiary or establishments located in an EEA country other than that in which the European company is based; or
- do not fall within the decision-making remit of decision-making bodies in any one EEA country.

**§ 46.** Information shall be provided at a time, in a manner and in such form as to give the employees' council the opportunity to make an assessment of possible implications and, where appropriate, prepare for consultation with the European company.

Consultation shall comprise the establishment of a dialogue between the European company and the employees' council, and shall take place at a time, in a manner and in such form as to give the employees' council the opportunity, on the basis of the

information provided, to set out its position concerning any planned measures so that these can be taken into account in the European company's decision-making process.

**§ 47.** At least once a year, the European company shall meet the members of the employees' council and provide information and consult them on the company's activities and plans for the future.

In preparation for such a meeting, the European company shall provide the employees' council with agendas for the meetings of the administrative board or, where appropriate, the executive or supervisory boards, along with copies of all documents furnished for company meetings.

The meeting shall, in particular, consider

- a) the company structure;
- b) the financial and economic situation;
- c) expected developments in business, production and sales;
- d) the employment situation and expected developments;
- e) investments;
- f) significant changes to the organisation;
- g) the introduction of new working methods or production processes;
- h) production transfers;
- i) mergers;
- j) down-sizing or closing-down of undertakings or significant parts of undertakings;  
and
- k) collective redundancies.

**§ 48.** The European company shall, as quickly as possible and in good time prior to any decision being taken, inform the employees' council about any special circumstances which significantly affect employees' interests, particularly in connection with relocations, production transfers, the closing-down of all or part of the undertaking, or collective redundancies.

The European company shall, where the employees' council or the working committee so request, meet the council or committee for the purposes of information and consultation on any of the particular circumstances referred to in the first subparagraph. Where a meeting is arranged with the working committee, the members representing the employees directly affected by the measures shall also be entitled to attend.

Where the European company considers not taking the action suggested by the employees' council, the latter shall be given an opportunity for a further meeting with the company in order to try to reach an agreement.

#### *Rules for the employees' council and the working committee*

**§ 49.** The employees' council and the working committee may be assisted by experts of their choice.

**§ 50.** The employees' council and the working committee shall be entitled to convene meetings at the European company's expense prior to meetings with the company. Furthermore, the employees' council shall be entitled, at the European company's expense, to hold one additional meeting a year.

**§ 51.** To the extent necessary for the fulfilment of their tasks, the members of the employees' council shall be entitled to time off for training while retaining their employment benefits.

**§ 52.** The members of the employees' council shall, while bearing in mind any confidentiality requirements, inform the representatives of the employees in the European company and its subsidiaries and establishments about the content and results of any information and consultation procedure.

**§ 53.** Four years after the employees' council has been set up, an assessment shall be carried out to determine whether negotiations should be undertaken with a view to the conclusion of an agreement as referred to in §§ 28–30.

Where negotiations are undertaken, § 20, § 21 and §§ 23–30, as well as the arrangements stipulated in § 4 regarding the choice of law for these provisions, shall apply. Any arrangements applying to the participating companies shall also apply to the European company. The employees' council shall decide on the composition of the negotiating delegation. The deadline as referred to in § 20 shall start to run when the council calls for negotiations.

Where no agreement has been reached within the period provided for in § 20, the rules governing arrangements when no agreement is concluded shall continue to apply.

#### *Expenses*

**§ 54.** Any expenses incurred by the employees' council or the working committee shall be borne by the European company to the extent required to enable the employees' council or the working committee to carry out its tasks in an appropriate manner.

#### *Participation*

**§ 55.** Where a European company is established by transformation, the employees shall be entitled to the same degree of participation as was available prior to the transformation.

**§ 56.** Where a European company is established other than by transformation, the employees shall have the right to select, appoint, propose or reject a number of members of the European company's supervisory or executive board corresponding to the highest proportion that applied to any of the participating companies prior to registration.

**§ 57.** The employees' council shall decide how seats on the administrative or supervisory boards are to be allocated between members representing employees from various EEA countries. Seats shall be allocated in proportion to the number of employees in the European company, its subsidiaries and establishments in each EEA country.

Where the employees in all EEA countries are not covered by this allocation of seats as referred to in the first subparagraph, one seat shall be exempted from the proportional distribution. The seat so exempted shall be allocated to the employees in the EEA country in which the European company is to be based. Where these employees are already represented, the seat shall instead be allocated to the employees in the EEA country which has most employees among those who are not represented.

**§ 58.** The employees' council shall select members to the seats on the administrative or supervisory bodies that have been distributed among the employees in the various EEA countries in accordance with § 57. Where an EEA country has a national system for

electing members to represent employees on administrative and supervisory bodies, it shall instead use this system for electing members to seats allocated to the employees from that country.

**§ 59.** Members for the seats on the administrative or supervisory body allocated to employees in Sweden shall be selected by the local trade unions in Sweden in accordance with § 39 or § 40. The trade unions may agree to transfer to the employees' council their right to select members.

**§ 60.** Any person selecting employees' members for the administrative or supervisory body as provided for in § 58 and § 59 shall determine the length of their term of office.

**§ 61.** Where the employees' participation consists in a right to propose or reject members for the administrative or supervisory body, the employees' council shall determine which candidates are to be proposed or rejected.

**§ 62.** The employees' representatives on the administrative or supervisory body shall have the same rights and obligations as the members representing shareholders.

The employees' representatives may not, however, participate in discussions of matters concerning collective agreements or industrial action, or other matters where the employees' council or a trade union has a substantial interest which may conflict with that of the European company.

**§ 63.** One of the employees' representatives may be present at and take part in discussions where an issue which is subsequently to be decided on by the European company's administrative or supervisory body is being prepared by specially selected members of the administrative or supervisory body or by an officer of the company.

### **Other provisions**

**§ 64.** The employees' negotiating delegation and the employees' council may acquire rights, assume obligations and also bring actions before a court of law or other authority.

Where an employees' council is set up, it shall assume all rights and obligations of the system for employee involvement in the European company.

#### *Protection of employees' representatives*

**§ 65.** The provisions of § 3, first subparagraph, § 4 and §§ 6–8 of the Trade Union Representatives (Status in the Workplace) Act (*lag om facklig förtroendemanns ställning på arbetsplatsen*) (1974:358) shall apply *mutatis mutandis* to employees' representatives who usually work in Sweden and perform their tasks in accordance with this legislation.

#### *Confidentiality obligation*

**§ 66.** The participating companies or the European company may impose an obligation of confidentiality on the members of the negotiating delegation or the employees' council, and on experts providing assistance to these bodies, where this is necessary in the interests of the company. The European company may in the same way impose an obligation of confidentiality on other employees' representatives who perform tasks under the information and consultation procedures pursuant to this Act.

Any person bound by an obligation of confidentiality who receives information may, notwithstanding such obligation, pass on the information to other members of the same

negotiating delegation or employees' council and their experts. The right to pass on information shall apply only where the provider of the information notifies the recipient of the confidentiality requirement. In such cases, the obligation of confidentiality shall also apply to those receiving the information.

The obligation of confidentiality shall continue to apply even after a person has ceased to occupy a position as a member, employee representative or expert.

#### *Misuse of procedures*

**§ 67.** The rules governing European companies may not be misused with the aim of removing or denying employees their right to involvement.

Where major changes to the European company, its subsidiaries or establishments occur within one year of the date on which the European company was registered, or are such that the employees should have been more comprehensively involved in the changes made prior to registration of the European company, the changes in question shall be considered to have been made with the aim of removing or denying employees their right to involvement unless the company can show that the changes were introduced for a different reason.

#### *Compensation*

**§ 68.** Any person who infringes the provisions of this Act, an agreement concluded pursuant to this Act, or the obligation of confidentiality provided for herein, shall be required to pay compensation in accordance with the provisions of § 55 and § 56, § 57, second subparagraph, § 60, first subparagraph, § 61 and § 62 of the Employment (Co-Determination in the Workplace) Act (*lag om medbestämmande i arbetslivet*) (1976:580).

For the purposes of applying these provisions, the remarks relating to employers shall also apply to European companies and participating companies, and the stipulations regarding trade unions shall also apply to employees' councils, employees' negotiating delegations and other bodies concerned with information and consultation.

An employee or a trade union may not, however, claim compensation from another employee or trade union on the basis of this Act.

#### *Legal action*

**§ 69.** Legal proceedings relating to the application of this Act shall be handled in accordance with the Labour Disputes (Judicial Procedure) Act (*lag om rättegången i arbetstvister*) (1974:371).

For the purposes of applying this Act, the remarks relating to employers shall also apply to European companies and participating companies, and the stipulations regarding trade unions shall also apply to employees' negotiating delegations, employees' councils and other bodies concerned with information and consultation. The provisions governing collective agreements shall also apply to any agreement concluded pursuant to this Act.

Legal proceedings in connection with the application of this Act shall be brought before the Labour Court as the court of first instance.

Legal proceedings relating to the admissibility of confidentiality requirements shall be dealt with promptly.

**§ 70.** Where a person seeks compensation under the provisions of this Act, the relevant sections of § 64, § 65 and § 68 of the Employment (Co-Determination in the Workplace) Act (1976:580) shall apply. For the purposes of applying § 64, the European company, participating companies, the employees' negotiating delegation, as well as the employees' council and other bodies concerned with information and consultation, shall be considered to have negotiating rights in accordance with § 10 of the Employment (Co-Determination in the Workplace) Act. The period provided for in § 65 within which a legal action must be brought shall be eight months.

-----

This Act shall enter into force on 8 October 2004.

On behalf of the Government

LARS ENGQVIST

LEIF PAGROTSKY  
(Ministry of Industry and Commerce)

**Act**

**amending the European Works Councils Act (1996:359)**

*(lag om ändring i lagen (1996:359) om europeiska företagsråd)*

adopted on 10 June 2004.

In accordance with the decision<sup>1</sup> of Parliament, the following is decreed with regard to the European Works Councils Act (1996:359),

*whereby* § 37 shall read as follows, and

*whereby* a new § 8a shall be added to the Act, which shall read as follows:

**§ 8a.** Where a Community undertaking or a controlling undertaking in a group of undertakings is a European company as referred to in Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company<sup>2</sup>, this Act shall not be applicable to the European company or its subsidiary companies. The Act shall, however, apply to European companies or their subsidiaries where the negotiating delegation has, pursuant to § 21 of the Involvement of Employees (European Companies) Act (*lag om arbetstagarinflytande in europabolag*) (2004:559), decided not to open negotiations concerning an agreement on the involvement of employees in the European company, or to discontinue any such negotiations which are under way.

Where a Community undertaking or a controlling undertaking in a group of undertakings become subsidiaries of a European company following the establishment of the latter, this Act shall apply to the subsidiary company where it is not covered by employee involvement in accordance with the Involvement of Employees (European Companies) Act.

**§ 37.** The provisions in § 3, first subparagraph, § 4 and §§ 6–8 of the Trade Union Representatives (Status in the Workplace) Act (*lag om facklig förtroendemans ställning på arbetsplatsen*) (1974:358) shall apply *mutatis mutandis* to employees' representatives who usually work in Sweden and perform tasks in accordance with this Act.

-----

This Act shall enter into force on 8 October 2004.

On behalf of the Government

LEIF PAGROTSKY

Cathrine Lilja Hansson  
(Ministry of Industry and Commerce)

---

<sup>1</sup> Bill 2003/04:122, committee report 2003/04:AU4, rskr. 2003/04:226.

<sup>2</sup> OJ L 294, 10.11.2001, p. 1 (Celex 32001R2157).