



# MASARYK UNIVERSITY FACULTY OF LAW

Workers' Participation  
Right to Information  
Right to Consultation  
European Works Councils



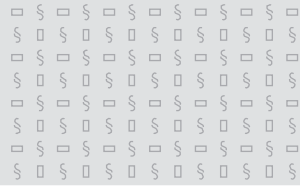
# Collective Labour Law

- Workers' participation falls within the scope of Collective labour law.
- Collective labour law deals with relations between an employer and the collective of his employees represented by a worker's representative.
- Parties to the collective labour relations:
  - employer,
  - workers' representative.



# Workers' representatives

- Types of workers' representatives:
  - Trade unions
  - Works council
  - European works council
  - Other representatives



## Trade unions

- Association of workers
- Freedom of Association:
  - ILO Convention No. 87 - Freedom of Association and Protection of the Right to Organize (1948)
- Trade union organizations and employers' organizations can associate to create federations and confederations.



## Workers' participation

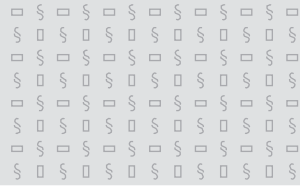
- Any mechanism, including:
  - information,
  - consultation,
  - negotiation,
  - other kind of participation,

through which workers' representative may exercise an influence on decisions to be taken within the company.



## Workers representatives' rights

- Workers' participation is a controversial topic.
- Some say it is an obstacle for the decision making process in companies.
- Reasons for importance of the workers' participation:
  - protection of workers' rights,
  - benefits for the companies.



# Workers representatives' rights

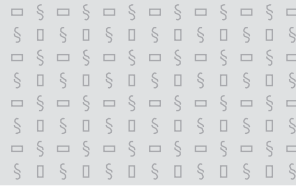
- Forms of participation:
  - right to information,
  - right to consultation,
  - joint decision making (codetermination),
  - collective bargaining.



## Workers' participation in EU law

- Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community
- Directive 2009/38/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees
- Directive 2001/86/EC supplementing the Statute for a European company with regard to the involvement of employees





## Information and Consultation

- Employers must provide information and consultation if they have at least 50 (or 20) employees
- Employees must be informed or consulted directly, or through a representative
- Scope of information and consultation:
  - Priority may be given to an agreement
  - Art. 4 Directive 2002/14



## Protection of employees' representatives

- Art. 7 of Directive 2002/14/EC:

Member States shall ensure that employees' representatives, when carrying out their functions, enjoy adequate protection and guarantees to enable them to perform properly the duties which have been assigned to them.

- Case presentation: C-405/08 - Daniel



## European Works Councils

- Information and consultation in community-scale undertaking or group of undertakings.
- Community scale undertaking:
  - at least 1 000 employees within the Member States
  - at least 150 employees in each of at least two Member States



## European Works Councils

- Four steps to ensure information and consultation:
  - request to initiate negotiations,
  - establishment of the negotiating body,
  - the negotiating meeting,
  - the conclusion.



## European Works Councils

- Basic ways of ensuring the transnational information and consultation:
  - Creating European Works Council
  - Another Procedure
- Another procedure concluded by the parties has a priority.



## Societas Europaea (SE)

- Special kind of company.
- Council Regulation (EC) No 2157/2001 on the Statute for a European company (SE).
- Directive 2001/86/EC supplementing the Statute for a European company with regard to the involvement of employees.
- In every SE the workers' involvement arrangements must be established.