

Name of the country: Cyprus

Transposition act = Consolidated legislation - The Law on the Establishment of European Works Councils of 2011(106 (I) / 2011)

**1. Presence of legally based administrative or judicial conflict solving procedures for:**

		No	Yes	Unclear	brief explanation
A	SNB (including the pre-SNB phase, i.e. requesting the necessary information about the company, staff distribution, etc.)		Yes		
B	EWC based on Art. 6 agreements		Yes		
C	EWC based on art. 13 agreement	NO <sup>1</sup>			
D	EWC based on subsidiary requirements		Yes		

**2. Litigation on different sets of rights: presence of national provisions**

		No	Yes	Which authority (e.g., court) is competent <sup>2</sup>
A	Breaches against the provision of information to the SNB as per art. 4 (4) of Directive 2009/38/EC (information on the number of employees)/Failure to establish a SNB		Yes (all breaches against the provisions of the EWC law are explicitly covered)	
B	Operation of the EWC: breaches and compliance with the law (statutes), agreement or Subsidiary Requirements		Yes (all breaches against the provisions of the EWC law are explicitly covered)	
C	Challenging management on the use of confidentiality and secrecy/withholding information)		Members of EWC and management ' <b>shall jointly decide on the issues covered by confidentiality and data information to be disclosed to third parties</b> ' (Art. 17.1 c) of the Law 106(I)/2011). Only in case of suspected confidentiality breach/abuse court orders are applicable to situations in which the management has (unlawfully) classified information as confidential (Article 17(2)b of	

<sup>1</sup> [http://www.cylaw.org/nomoi/enop/ind/2011\\_1\\_106/section-sc06e878bd-8e7b-81e6-198e-58789ac327bc.html](http://www.cylaw.org/nomoi/enop/ind/2011_1_106/section-sc06e878bd-8e7b-81e6-198e-58789ac327bc.html)

<sup>2</sup> Material and geographical competence.



		Law 106(I)/2011, No 4289, 29.7.2011).	
E	Individual rights of the SNB/EWC members under national EWC legislation	Yes (all breaches against the provisions of the EWC law are explicitly covered)	
F	(Others to be filled in)		

### 3. Capacity to act in court

		Brief explanation/ differences for 2A-2F above)
1	Who/which body can start a judicial procedure?	EWC in confidentiality cases (?)
2	What legal status (ius standi) is a requirement to start a judicial procedure? (legal personality, capacity to act in courts, other forms?)	
3	What is the legal status of the EWC (legal personality or other capacity to act in court)?	No capacity to act in courts <sup>3</sup> <b>However, this is at odds/inconsistent with the provision on litigation against management in confidentiality cases (see above, Art. 17.2), where, by inference, EWCs can bring a case to court.</b>
4	In case of lacking capacity to act in court: how can it be circumvented (think of representation by trade unions)?	
5	Who represents the EWC in law?	
6	What is the capacity to act in court of joint type ('forum' or French-type) EWCs composed of both management and employees' representatives and can it be an obstacle?	No differentiation is made by the law.

### 4. Starting a procedure and timelines

		Brief explanation
1	Does the law set conditions as to how the EWC can take a valid decision on entering a judicial procedure? Think of voting, quorum, the necessity of a physical meeting to take a decision,...	No
1.a	Does the law contain any requirements on the internal rules concerning question 1?	No
2	How does one file a case in court? (Who, format, steps)	
3	What is the deadline to start a judicial procedure?	
4	Are there other relevant deadlines in the judicial procedure?	

<sup>3</sup> European Commission 2018: 57



5	What is the role of out of court settlements once a case has been filed?	Mediation procedure under tripartite mechanism <sup>4</sup> is available, but not clear how often used (no EWC litigation in CY yet)
6	How long does a judicial procedure typically take?	
7	Is an injunction or a summary procedure possible?	In confidentiality cases

## 5. Costs

		Brief explanation
1	What are the court fees for a judicial procedure?	
2	Is legal representation by a lawyer required in a judicial procedure?	
3	Who pays the costs for:	Based on general provisions, the management should cover the operational costs of an EWC
	- Legal expert	
	- Court fees	
	- Other costs (travel/interpretation)	
4	Does a EWC normally have an independent budget and/or an own bank account under a given national legislation?	No
5	Can the EWC be sentenced to pay the costs of the other party in the judicial procedure?	Not clear if EWCs have a court/legal capacity. ??
6	Can the EWC <i>members</i> be sentenced to pay the costs of the other party in the judicial procedure?	Not clear if EWC members have a court/legal capacity. ??

## 6. Sanctions

		Brief explanation
	How is a breach of law classified?	Offence / Criminal offence <sup>5</sup>
1	What are the sanctions for breaches of EWC laws?	Fine (up to 34 000 EUR) or imprisonment up to 2 years <sup>6</sup>
2	Can the court rule to stop or reverse the companies' decision-making?	Yes, but only in case of confidentiality disputes (see above) <sup>7</sup> : Following a court order, the head office shall be obliged to inform the European Workers' Council on matters deemed to be confidential
3	Whom should fines be paid to?	

<sup>4</sup> European Commission 2018: 57.

<sup>5</sup> <sup>5</sup> European Commission 2018: 35, although the very same source is contradictory classifying Cyprus as 'administrative/labour law offence' on p. 35.

<sup>6</sup> Art. 22 (EWC Act): Whoever violates the provisions of this Law is guilty of an offense and in case of conviction, is subject to imprisonment of up to two years or a fine of up to thirty-four thousand euros (34,000) or both.

<sup>7</sup> Only in case of suspected confidentiality breach/abuse court orders are applicable to situations in which the management has (unlawfully) classified information as confidential (Article 17(2)b of Law 106(I)/2011, No 4289, 29.7.2011).



4	Can a member of management be held personally liable (personal vs. corporate liability)	Yes
5	Can individual EWC members be sentenced to pay fines or be subject to other sanctions?	Yes
6	Can the EWC collectively be sentenced to pay fines or be subject to other sanctions?	

## 7. Out of court settlements

		Brief explanation
1.	In general, are alternative conflict resolutions available in a given country can out of court settlements be reached once a case has been filed? Does it happen in practice?	Yes, mediation procedure under tripartite mechanism <sup>8</sup>

## 8. Resources for EWCs

		Brief explanation
1.	Can unions provide legal support or financing for litigation?	
2.	What other resources are available in terms of legal support to EWCs and/or EWC members in your country (e.g., Arbeiterkammer, legal support centres)	

<sup>8</sup> European Commission 2018: 57.

