Joint venture

When a new business entity is created and controlled by two or more companies

What you should know about it:

- Joint Ventures concern the establishment of and possible transfer of activities to a new business, which is controlled by two or more companies.
- Joint ventures may have a **significant impact on work and employment** because the creating of a new management of the joint venture often leads to restructuring in the firm, which involves measures such as replacement of leadership, changed working conditions, increased work intensity and/or mass redundancies.
- In case of transnational joint ventures, the existing **structures of worker representation** – including EWCs as well as one or several company boards – may need to be renegotiated. It is important to note that the joint venture can fall into the scope of the EWC, even if the controlling undertaking no longer has a majority share in the new company.
- EU **Merger Regulation** applies to the creation of any joint venture that is considered to be 'concentrative' rather than 'cooperative'. A joint venture is considered concentrative when:
  - Two or more undertakings are in a position to exert decisive influence over the joint venture;
  - The joint venture will perform all the normal sorts of activities carried out by an autonomous economic entity, on a lasting basis;
  - two or more undertakings have sufficient revenues in the European Union to meet one of the two sets of EU merger filing thresholds.
- In case of joint ventures under EU Merger Regulation, relevant public authority have to be informed.
- In case an investigation is launched by the EU Commission under the **Merger Regulation**, workers representative has the right to be heard by the European Commission as a third party.

Your mission is to...

- Gather information on the ownership structure of the entities concerned before the joint ventures takes place.
- Get in touch with the workers representation in the other company involved in the joint venture – for doing so get in touch with your local and European sectoral trade unions organisation to facilitate this process.
- In close cooperation and communication with the worker representatives of the other company, make sure that basic terms and conditions of employment are protected and try to arrange better terms with

the new employer.

- If the joint venture has a transnational character and involves two or more EWCs, get in touch as early as possible and plan for negotiations to either include the future joint venture within scope of one of the existing EWCs or to establish a new EWC.
- Check which competition authority is in charge of the case.

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Timeline matrix

Management obligations

European Works Councils SE Works Councils

- If the rumours are true and a project is under way which may be of importance for the European workforce in terms of its potential effect, central Management has the obligation to inform the EWC or SE WC as soon as possible (see intended decision)

Local worker representations

- If the rumours are well funded and a project is under way which may have an impact on the workforce in terms of its potential effect, Local Management has the obligation to inform the local representatives as soon as possible (see intended decision). In case more than one country is impacted, such information should be coordinated and provided within the same timeframe. Local information then concerns in particular the impact of the joint venture project.

Worker representatives on the Board

- Management should inform the board members about the corporate strategy and any plans that are likely to affect the workforce at a very early phase and well in advance of any final decision.

Workers' rights and action

European Works Councils SE Works Councils

- As soon as rumours may appear to have some substance, EWC/SE WC members should confront management with the information already obtained and ask for further details, including – when appropriate - the formal information and preparations for consultation of the EWC/SE WC. This can be done at a regular meeting or via their Select Committee, Secretary, Chair or other spokesperson in between meetings.
- Get in touch with your trade union coordinator and your European trade union federation to secure the full information of all concerned trade unions and start preparing a joint trade union response.

Local worker representations

- As soon as rumours may appear to have some substance, local worker representatives should confront management with the information already obtained and ask for further details, including - when appropriate – the formal information and preparations for consultation. This can be done at regular

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meetings of the local representative bodies or via their Secretary, Chair or other spokesperson in between meetings. This can also be done by individual shop stewards or the EWC/SE WC members representing of the country concerned.

- Any information obtained at local level should systematically be shared with the EWC/SE WC members of the other countries. This will make it possible to get a picture very quickly of the transnational nature of the possible joint venture project. Despite possible management allegations regarding the confidentiality of information, both EU and national information-consultation processes should feed each other.

Worker representatives on the Board

- Worker representatives on the board have access to the same information as shareholder representatives. If any rumours about a possible joint venture are going around and such plan has not been communicated to the board yet, then the issue can be raised at the next meeting, asking for full disclosure of the business case. If such plan was already shared with the board, signals can be sent to the EWC, local worker representatives and/or trade union officers that indeed such restructuring is being prepared. Caution: specific rules on confidentiality may apply.

Trade union action

European Works Councils SE Works Councils

- Contact the respective ETUF: Check and follow any existing ETUF code of conduct/policy applicable in case of joint venture and/or any pre-existing transnational framework agreement or similar company-specific document.
- Gather information on the other company(ies) involved in the joint venture project and try to establish contacts with the respective trade union structures.
- EWC coordinators should closely cooperate with the ETUF and EWC members in the concerned countries

Local worker representations

- Rumours may be well-founded or not. Therefore, the first mission is to gather as much information as possible to substantiate your presumptions. Possible actions include exchanges with workers concerned, checking publicly available sources (press, corporate website, ...) and contacts with representatives of the potential other company(ies) involved in the joint venture project.

Worker representatives on the Board

- In some cases, trade union officers may have a mandate on the company board. If that is not the case, then a close contact to the worker representatives who are on the board will be essential. This will allow rumours to be quickly verified and, if confirmed, to prepare further steps (see the following sections in

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the timeline).

Role of public authorities

European Works Councils SE Works Councils

- No role of public authorities at this stage. However, you may inform yourself about the role of national or local public authorities in particular in large cases of restructuring in your country.
- As the possible joint venture may fall into the scope of competition law, get acquainted with the EU **Merger Regulation** and the EU merger control procedure.

Local worker representations

- In some countries, when larger parts of the workforce are concerned, public authorities may be asked to get involved. To prepare for such intervention at a later stage, check your national legislation to find out what rules will apply and which procedures you must follow.
- Laws and regulations on **collective redundancies** and the **transfer of activities to a different undertaking** may be of particular interest.
- As the possible joint venture may fall into the scope of competition law, get acquainted with the EU **Merger Regulation** and the EU merger control procedure.

Worker representatives on the Board

- In case of significant impacts on the local workforce, worker representatives on the board may become prepared to ask management to inform public authorities.

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Further reading and resources

(CROSS-BORDER) MERGER | JOINT VENTURE | ACQUISITION/TAKE OVER

Competition: Merger control procedures

Type: PDF

Category: Facts and data

Language: English

Access: Public

(CROSS-BORDER) MERGER | JOINT VENTURE | ACQUISITION/TAKE OVER

Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)

Type: Website

Category: Legal

Access: Public

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