

Name of the country: [Bulgaria](#)

Transposition act = Consolidated legislation amended DV. no. 93 of 21 November 2017

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.)				The procedure for the settlement of collective disputes is regulated by the Law on Arbitration of Collective Employment Disputes. If negotiations fail, parties may ask the National Institute for Settlement and Arbitration for assistance in the form of mediation. The National Institute for Settlement and Arbitration is a legal entity organised by the Ministry of Employment and Social policy. Other institutions are also authorised to undertake this service but they are not expressly mentioned in the law as providers of mediation in collective disputes. ¹
B	EWC based on Art. 6 agreements				
C	EWC based on art. 13 agreement				
D	EWC based on subsidiary requirements			As above	

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

		No	Yes	Which authority (e.g., court) is competent ²
				The guiding principle is to conduct negotiations to settle disputes by mutual agreement. If mediation fails, the parties may agree on a hearing before: (1) an arbitral court; or (2) a single arbitrator. Arbitrators and members of the arbitral court are persons registered by the National Institute for Settlement and Arbitration. These court hearings are public.

¹ <https://cms.law/en/int/expert-guides/cms-expert-guide-to-labour-law-in-central-eastern-europe/bulgaria>

² Material and geographical competence.



			Decisions made at arbitration court are final and there is no avenue for appeal. ³
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		
B	Operation of the EWC: breaches and compliance with the law (statutes), agreement or Subsidiary Requirements		the General Labour Inspectorate Executive Agency + the National Institute for Settlement and Arbitration.
C	Challenging management on the use of confidentiality and secrecy/withholding information)		
E	Individual rights of the SNB/EWC members under national EWC legislation		
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?	Labour Inspectorate, trade unions, EWC (?)
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)?	Unclear. An EWC can notify the Labour Inspection (the General Labour Inspectorate Executive Agency)
4	In case of lacking capacity to act in court: how can it be circumvented (think of representation by trade unions)?	Notification by trade unions to the Labour Inspectorate
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.

4. Starting a procedure and timelines

		Brief explanation
	Which court?	District administrative court. Workers may also bring an action against the employer at their habitual place of work.

³ <https://cms.law/en/int/expert-guides/cms-expert-guide-to-labour-law-in-central-eastern-europe/bulgaria>



		<p>Disputes under labour law between foreign persons, firms or joint ventures whose registered place of business is in Bulgaria on the one hand and foreign employees working for them inside Bulgaria on the other, come under the courts in the employer's registered place of business, unless the parties have agreed otherwise.</p> <p>Disputes under labour law between employees with Bulgarian citizenship working abroad for Bulgarian employers come under the courts in Sofia if the case is brought against the employer, and under those in the employee's Bulgarian residence if the case is brought against the employee.⁴</p>
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?	30 days to reach an out of court settlement from notifying NIPA.
5	What is the role of out of court settlements once a case has been filed?	Out of court settlement between 'the blameworthy party' and the NIPA can be reached within 30 days of filing a case. It prevents the case from going to court.
6	How long does a judicial procedure typically take?	
7	Is an injunction or a summary procedure possible?	Yes, in confidentiality cases: court order to disclose information classified as confidential by management.

5. Costs

		Brief explanation
1	What are the court fees for a judicial procedure?	No court fees required to start proceedings by means of a statutory release for EWCs ⁵
2	Is legal representation by a lawyer required in a judicial procedure?	

⁴ https://e-justice.europa.eu/85/EN/which_country_s_court_is_responsible?BULGARIA&member=1

⁵ Büggel 2002; European Commission 2018: 57.



3	Who pays the costs for:	<p>Expenses related to the activities of the special negotiating body shall be borne by the participating legal entities. (Art. 22 para 10).</p> <p>The expenses for the activities of the European Works Council shall be borne by the central management body referred to in Article 4, paragraph 2 or the management body referred to in Article 4, paragraph 5 or 6. It shall provide the members of the European Works Council with the financial and material resources necessary for the performance of their duties. It shall also bear the costs of organising meetings and providing interpretation, accommodation and travel expenses for the members of the European Works Council and its Standing Committee.</p>
	- Legal expert	
	- Court fees	
	- Other costs (travel/interpretation)	Management
4	Does a EWC normally have an independent budget and/or an own bank account under a given national legislation?	<p>Article 11.10 (2006)</p> <p>Based on subsidiary provisions:</p> <ul style="list-style-type: none"> • Any expenses relating to the activities of the EWC shall be borne by the central management; • the management shall allocate to the EWC members such financial and material means that they will enable it to carry out its tasks in an appropriate manner; • the management shall bear the costs of organising meetings and the accommodation and travelling expenses of the EWC and select committee's members
5	Can the EWC be sentenced to pay the costs of the other party in the judicial procedure?	
6	Can the EWC <i>members</i> be sentenced to pay the costs of the other party in the judicial procedure?	

6. Sanctions

	Brief explanation
How is a breach of law classified?	<p>Administrative or labour law offence ?</p> <p>Current Labour Code: Article 399 (1) (Redesignated from Article 399, SG No. 77/2010) Overall control over observance of labour legislation in all sectors and activities shall be exercised by the General</p>



		<p>Labour Inspectorate Executive Agency with the Minister of Labour and Social Policy.</p> <p>(2) (New, SG No. 77/2010) The General Labour Inspectorate Executive Agency carries out specialized control activities on the observance of the legislation related to the performance of civil service and of the rights and obligations of the parties in the civil-service relationship.⁶</p>
1	What are the sanctions for breaches of EWC laws?	<p>Sanctions defined in the Labour Code, no sanctions in the EWC act itself.</p> <p>Art. 416 Labour Code: (...) (6) The ascertainment of violations, the issuance, appeal and execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act, save insofar as another procedure is established by this Code.</p> <p>Art. 140 (Repealed, SG No. 100/1992) Section II</p> <p>ADMINISTRATIVE PENALTY LIABILITY FOR VIOLATIONS OF LABOUR LEGISLATION</p> <p>Article 412a (New, SG No. 108/2008)</p> <p>The following types of administrative sanctions shall be imposed for violations of labour legislation:</p> <ol style="list-style-type: none"> 1. fine: on the natural persons; 2. pecuniary penalty: on the legal persons and on the sole traders <p>Liability for violation of other provisions of Labour Legislation Article 414 (Amended, SG No. 100/1992, SG No. 2/1996, SG No. 25/2001, SG No. 120/2002)</p>

⁶ [Legal framework | Изпълнителна агенция „Главна инспекция по труда“ \(government.bg\)](http://government.bg)



		<p>(1) (Amended, SG No. 48/2006, SG No. 108/2008, SG No. 58/2010, effective 30.07.2010) Any employer, which or who violates any provisions of labour legislation other than the rules for provision of health and safety at work, shall be liable to a pecuniary penalty or a fine of BGN 1,500 or exceeding this amount but not exceeding BGN 15,000, unless subject to a severer sanction, and any such blameworthy official shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000, unless subject to a severer sanction.</p> <p>(2) (Amended, SG No. 48/2006, SG No. 108/2008) The sanction for a repeated violation under Paragraph (1) shall be a pecuniary penalty or a fine of BGN 20,000 or exceeding this amount but not exceeding BGN 30,000 or, respectively, a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 20,000.</p> <p>(3) (Amended, SG No. 48/2006, SG No. 108/2008, SG No. 58/2010, effective 30.07.2010) Any employer, which or who violates the provisions of Article 62 (1) or (3) and Article 63 (1) or (2), shall be liable to a pecuniary penalty or a fine of BGN 1,500 or exceeding this amount but not exceeding 15,000, and any such blameworthy official shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding 10,000 for each particular violation.</p> <p>(4) (New, SG No. 48/2006) Any employer, which or who violates the provisions of Article 130a (1) and (2), Article 130b (1) and (2) and Article 130c (1) and (2), shall be liable to a pecuniary penalty or a fine of BGN 1,500 or exceeding this amount but not exceeding BGN 5,000, and any such blameworthy official shall be liable to a fine of BGN 250 or exceeding this amount but not exceeding BGN 1,000 for each particular violation.</p>
2	Can the court rule to stop or reverse the companies' decision-making?	No.
3	Whom should fines be paid to?	Art. 416 (9) The proceeds from pecuniary penalties and fines imposed according to the procedure



		<p>established by this Section shall be allocated as follows:</p> <ol style="list-style-type: none"> sixty per cent shall be credited in revenue to the budget of the General Labour Inspectorate Executive Agency; forty per cent shall be credited in revenue to the budget of the Conditions of Work Fund and shall be spent on the activities specified in Article 46 (1) of the Health and Safety at Work Act.
4	Can a member of management be held personally liable (personal vs. corporate liability)	
5	Can individual EWC members be sentenced to pay fines or be subject to other sanctions?	<p>Yes:</p> <p><i>Art. 29+30 of the 2006 EWC Act: 'Persons who have received information with a request to treat it in confidence shall be liable for any damages that may be caused to the respective undertakings as a result of their failure to comply with the request for confidentiality.'</i></p>
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?	<p>In case of refusal to provide information under par. 3 (confidentiality) and where a dispute has arisen as to its validity, the parties may seek assistance in settling the dispute through mediation and/or voluntary arbitration from the National Institute for Conciliation and Arbitration. (Art. 29 para 4, EWC Act consolidated). Although rarely used.</p> <p>Procedure: Settlement in Administrative Penalty Proceeding Article 415d</p> <p>(New, SG No. 108/2008)</p> <p>(1) Until the issuance of the penalty decree but not later than 30 days after the drawing up of the written statement ascertaining an administrative violation, the administrative sanctioning authority and the offender may reach a settlement, except in the cases where the act constitutes a</p>



		<p>criminal offence.</p> <p>(2) The settlement shall be reduced to writing and shall state the agreement of the administrative sanctioning authority and the offender on the following matters:</p> <ol style="list-style-type: none"> 1. has the act been performed, has it been performed by the offender, and does it constitute an administrative violation; 2. what should be the type and amount of the sanction. <p>(3) A settlement may not determine:</p> <ol style="list-style-type: none"> 1. a sanction of a type other than the type provided for in the law for the specific administrative violation; 2. an amount of the fine or of the pecuniary penalty lower than the minimum amount provided for the specific administrative violation. <p>(4) The settlement shall be signed by the administrative sanctioning authority and by the offender or by an expressly authorised representative thereof.</p> <p>(5) Within 14 days after signature of the settlement, the Executive Director of the General Labour Inspectorate Executive Agency or an official empowered thereby shall issue a decision.</p> <p>(6) The settlement shall be approved if:</p> <ol style="list-style-type: none"> 1. the requirements of the law have been complied with; 2. the fine or pecuniary penalty determined thereby has been paid or secured on an account of the control authority. <p>(7) The decision under Paragraph (5) shall be unappealable.</p> <p>(8) The settlement shall enter into effect as from the date of the approval thereof. The settlement shall have the consequences of an effective penalty decree.</p>
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	(9) In the cases where the settlement is not approved, the administrative sanctioning authority shall issue a penalty decree.
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8. Resources for EWCs

		Brief explanation
1.	Can unions provide legal support or financing for litigation?	<p>Yes, partially. Unions have an inspection / control function according to the Labour Code:</p> <p>Alerting Function of Trade Union Organisations Article 406</p> <p>(1) Trade union organisations shall have the power to alert the control authorities of any violations of labour legislation, as well as to demand administrative sanctions against the offenders.</p> <p>(2) (New, SG No. 25/2001) In implementation of their functions under Paragraph (1), the trade union organisations' representatives shall have the right:</p> <ol style="list-style-type: none"> 1. to visit at any time the enterprises and the other places where work is performed, as well as premises used by factory and office workers; 139139 2. to require from the employer explanations and provision of the information and documents they need; 3. to obtain information directly from factory and office workers on all matters related to the observance of labour legislation; <p>(3) (New, SG No. 25/2001) In implementation of the alerting function thereof, the trade</p>



		<p>union organisations' representatives shall be obligated to comply with the requirements of Article 403 (1).</p> <p>(4) (Renumbered from Paragraph (2), SG No. 25/2001) The control authorities shall be obligated to inform the trade union organisations of the measures taken within one month.</p> <p>Alerting Function of Control Authorities Article 407</p> <p>Where the control authorities detect any violations of the law which give them reason to believe that a criminal offence or other wrongful acts have been committed, the said authorities shall be obligated to inform the prosecuting authorities.</p>
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)	