

## Checklist regarding the company meeting

### A. General information

1. **The following persons are eligible to participate:** all employees of the company (not only the employees eligible to vote), in compliance with § 5 Sect. 1 BetrVG as well as representatives of worker unions. Temporary workers assigned to tasks within the company are eligible to participate as well, regardless of their actual or planned working period (§ 14 Sect. 2 AÜG).<sup>1</sup>
2. **The following persons are not eligible to participate:** the employer and his representatives, as well as employees in leadership positions under § 5 Sect. 3 BetrVG. The employer or one of his representatives should however be reachable during the election meeting for possible queries (regarding the constitution of a list of voters for example). Persons under § 5 Sect. 2 BetrVG are not eligible to participate either.
3. **No quorum, e.g. no particular minimum number of participants is necessary** to carry out the company meeting.
4. **The following persons are eligible to vote:** All employees eligible to participate, but not all temporary workers. Only the temporary workers mentioned in the § 7 Line 2 BetrVG are eligible to vote. It concerns temporary workers, who have been assigned to tasks within the company for more than three months, or are, at least, employed by the company for an estimated period longer than three months.
5. The election meeting is held **during the working hours in principle**. The employer must exempt all employees who wish to participate in the election meeting from their usual tasks while continued payment of wages. The exemption must be done in a manner allowing the employees to attend the entire company meeting.
6. The main steps of the process and results of votes must be **recorded**.

### B. Tasks to be carried out the inviting party

1. Opening of the meeting and appointment of a recorder for the first part of the election meeting.
2. Explanation of the purpose and the process of the meeting. Indication that all employees, temporary workers and representatives of worker unions have a right to participate, but that neither the employer or his representatives nor employees in leadership positions may participate, in compliance with § 5 Sect. 3 BetrVG, as well as people under § 5 Sect. 2 BetrVG.
3. Proposal of a person to take up the responsibility of the meeting director.
4. Carrying out of an election of a board of meeting directors (possible by open votes such as raising hands – the majority of **cast** votes is sufficient here, the majority of people present is not necessary, as it would be for the election of the election board).

### C. Election of the election board

1. Possibly the raising of the number of members of the election board to more than three by means of a vote. (Important: the election board must always be constituted by an odd number of members. In most cases, the extension of the election board is only necessary in larger companies.)
2. The election board (with substitute members if possible<sup>2</sup>) must be elected (by means of an open vote or a hidden vote). For this purpose, election proposals must first be gathered. Moreover, the number of attending people eligible to vote must be determined.
3. If there are only three election proposals, the vote can be carried out for each person individually

or for all together. If there are more than three election proposals, votes must be cast for each person individually. The person elected is the one gathering the majority of votes of the employees **present** at the election meeting.

4. After the election of the three members of the election board, the head thereof must be elected. Only members of the election board may be elected. Election proposals must be gathered for this election as well. Afterwards, votes are cast for each person individually. The person elected is the one gathering the majority of votes of the employees **present** at the election meeting. A deputy head of the election board must be elected as well.

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<sup>1</sup> Please take the explanations regarding the eligibility to vote of temporary workers under point A.4. into account as well.

<sup>2</sup> Electing substitute members is advised. Otherwise, a new company meeting regarding a second election will be necessary in case a member withdraws. However, substitute members do not benefit from any special lay-off protection as long as they have not taken active duty as members of the election board.