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The Labor Relations and Unionization Dangers Awaiting European Companies Contemplating Launching Texas Operations

In this first part of a two-part series, I explain why it's important for European companies planning to do business in the U.S. to avoid inadvertently mobilizing unionization efforts among their U.S. workforces and violating the NLRA when such efforts are underway, and to understand how European works councils and U.S. labor unions differ.

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Joshua Redelman, with Nelson Mullins. Courtesy photo

In recent years, European manufacturers, including blue-chip companies like AstraZeneca and Siemens, and smaller companies like Coral and Isembard, have opened factories in Texas, attracted to the state's skilled workforce, access to domestic and international markets, and pro-business climate. Both Houston and Dallas have long been destinations for domestic and international manufacturers, ranking among the top 10 U.S. metropolitan areas for manufacturing output (numbers 1 and 7, respectively), according to the Greater Houston Partnership. This growth is likely to continue.

Many European employers, no matter their industry, encounter an unexpected challenge when they begin U.S. operations: labor relations that look wildly different from the labor relations they're used to at home. For companies and their employees accustomed to working alongside works councils in Europe, it can be tempting (and ultimately costly) to assume that experience will translate smoothly when engaging with U.S. workers.

At the same time, U.S. employees may expect to receive "European-style" benefits, such as more generous paid vacation, sick leave, and parental leave, and shorter work weeks. If European companies do not offer the benefits the employees expected, the discrepancy may lead to discontent, which is a common first step toward unionization.

Given that, according to the National Labor Relations Board (NLRB), which is the agency that enforces and adjudicates unfair labor cases under the National Labor Relations Act (NLRA), 81.9% of unionization votes in 2025 were successful, that a unionization vote was even held likely means it's too late for a company to prevent its employees from unionizing. And elections are not the only path to unionization. Under certain circumstances, unions can obtain recognition through authorization cards signed by a majority of employees, bypassing a secret-ballot election entirely.

In this first part of a two-part series, I explain why it's important for European companies planning to do business in the U.S. to avoid inadvertently mobilizing unionization efforts among their U.S. workforces and violating the NLRA when such efforts are underway, and to understand how European works councils and U.S. labor unions differ. In the second part, I offer a nine-step playbook for European companies to follow to help them stay compliant with U.S. labor laws as they contemplate and eventually decide to launch U.S. operations.

European Works Councils and U.S. Labor Unions Are Based on Similar Ideas, but They Are Two Dissimilar Systems

At first glance, European works councils and U.S. labor unions appear to serve similar purposes: representing employee interests and facilitating communication between workers and management. Nevertheless, the similarities are superficial, and the differences can have significant adverse consequences.

Works councils are built on shared governance: they exist because the law requires them, they're composed of employees rather than third parties, and their role is consultative. Management retains decision-making authority after fulfilling its consultation obligations. U.S. labor unions, on the other hand, are adversarial by design. They form only when employees choose to organize, they act as third-party representatives, and they negotiate binding collective bargaining agreements that can significantly constrain management discretion on pay, benefits, discipline, scheduling, transfers, subcontracting, and other terms and conditions of employment. And while works councils generally do not initiate strikes, strikes remain a core economic tool for U.S. unions when negotiations break down.

For European employers unfamiliar with this dynamic, the potential operational impact can come as a surprise and carry severe ramifications affecting their profitability, attractiveness to new employees, and reputations.

The NLRA Offers a Rude Awakening for Many European Management Teams

Because the two systems look superficially similar, European managers often assume they can engage with U.S. workers as they do back home, unwittingly leading their companies toward violations of the NLRA, the law that governs labor relations in the U.S.

Under the NLRA, U.S. employees enjoy broad rights to organize, discuss workplace concerns collectively, and support union activity. Section 7 gives employees the right to form or assist a union, engage in concerted activity, such as collective bargaining, and, notably, refrain from doing so.

For employers, the law places strict limits on how supervisors and managers may respond to organizing activity. Supervisors (the day-to-day frontline face of the company) and management must avoid engaging in actions that violate the "TIPS" rule, which says they cannot:

- **T**hreaten employees with negative consequences if they support a union
- **I**nterrogate employees about union activity or sympathies
- **P**romise benefits to discourage organizing
- **S**urveil union activity or create the impression of surveillance.

For European managers accustomed to works council systems, these rules can feel counterintuitive. A manager who hears employee complaints might naturally call a meeting and say: "Tell me what's wrong so we can solve the problem together." In European labor relations, that dialogue is encouraged. In the U.S., that same conversation could be interpreted as unlawful interrogation or as an attempt to influence employees' union preferences. Managers attempting to do the "right thing" under a European framework may unknowingly violate the NLRA.

The same risk exists at the leadership level. A visiting European executive who tells a town hall, "We just went through a restructuring in our UK operations and had to make difficult decisions—we want to avoid that here," may believe they're being transparent. Under the NLRA, that statement could be interpreted as a threat implying that organizing activity could lead to job losses.

Another area where European companies may stumble is navigating labor laws in “right-to-work” states such as Texas, believing right-to-work statutes significantly reduce the likelihood of unionization. While those statutes restrict employees from being compelled to join a union or pay union dues as a condition of employment, they do not prohibit unions or prevent organizing campaigns.

Critically, once a union wins an election, even in a right-to-work state, the employer is legally obligated to bargain with that union in good faith. Right-to-work status does not weaken that obligation. European executives should not conflate operating in a business-friendly state with being insulated from unionization. As of the publication of this article, 26 other states and territories besides Texas have right-to-work laws.

Adding to the complexity European companies already face navigating U.S. labor laws, the legal framework itself is shifting. Many companies defending unfair labor practice complaints have argued that the structure of the NLRB violates the U.S. Constitution because it improperly imposes limits on a U.S. president’s purported right to fire NLRB members and administrative law judges without cause.

Recently, the NLRB dismissed its unfair labor practice complaint against SpaceX (which raised the constitutional defense) on jurisdictional grounds, deciding that SpaceX was not covered by the NLRA, but rather, was covered by the Railway Labor Act, which applies to railroads and companies in the airline industry. However, that dismissal did not resolve the underlying constitutional challenge to the NLRB's structure. Similar challenges remain pending in the Third and Ninth Circuit Courts of Appeal, and the U.S. Supreme Court may ultimately weigh in. Until the law changes, European companies should plan on the assumption that the NLRA and the NLRB's authority remain fully in effect unless, perhaps, the company is in the railroad, airline, or aerospace industries.

Whether the U.S. Supreme Court eventually rules the NLRB is unconstitutional is of little concern to European companies that today want to avoid mobilizing unionization efforts and violating the NLRA. To improve their chances of doing so, they can follow a nine-step playbook starting twelve months before they plan to begin U.S. operations.

In the forthcoming second part of this two-part series, I will walk through that playbook.

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