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“Towards safe, healthy and declared work in Ukraine”



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Webinar

**“Models of workers’ representatives on OSH at enterprise level.
Standards and good practices”**

▶ Examples of Workers OSH representative model(s),
key facts and operational aspects from
experiences in Baltics, Central Europe and beyond.

Mr. Karoly Gyorgy,
Workers Representative / Hungary

28 February 2023

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Exploring worker's participation

- OSH representation or committees work place? How does it work?
- Pros and cons of different approaches to defend workers right and ensure health and safety?
- Can unions use this as an entry point for organizing workers?
- What do you want to achieve?
- Dreams and/ vs. reality?
- What is the point of departure?



Definitions – scope

Draft Law Article 1 (25) defines the term “worker” – but what does it mean?

workers with in an “employment relationship” only?

The scope of application should include all workers!

There are dangerous exclusions proposed: domestic workers, self-employed, and “farm enterprise members”.

Needless to say: The ILO „strongly recommends the deletion of the exclusions from the definition of ,worker’”.

And why is it so important?



Definitions – scope

- MSMEs represented about 99.9 percent of business entities in 2020 - almost 83% of them were microenterprises
- More 82% of all employees operate in the SME sector (7.4 million persons) - self-employed, was reported at 15.65 % in 2020, (World Bank)
- Who should be then subject to the OSH regulations?

Distribution of firms in Ukraine, 2017		
Class size	Number of enterprises	% Share
Micro	1 737 082	96.23
Small	52 324	2.90
Medium	15 254	0.85

(State Statistics Service of Ukraine)

Business cases

- As estimated by EU-OSHA, 3.9% of global GDP and 3.3% of European GDP is spent on combating injuries and occupational diseases. The percentage varies from one country to another depending on their economy, legal framework, and prevention incentives. Work-related cancer is the main cost factor, followed by musculoskeletal disorders.
- Production (metals) – Procurement of individual air cleaning and supply systems in cooperation with workers. Productivity improvement due to better protection and ergonomics of new personal protective equipment (PPE). Payback period: 1 year.
- Production (bakery) – Implementation of equipment to reduce content of flour particles in the air. Elimination of asthma cases among bakers. Payback period: 3.4 years.
- Waste management. Training, and improvement of personal protective equipment to reduce incidents related to slipping and stumbling. Reduction of incidents (20%). Payback period: 1.3 years.



Regulatory framework for worker participation

Information and consultation

- Council Directive 2001/86/EC + Statute on the European Company
- At the international level, regulatory provisions on worker participation are detailed in Article 19 of ILO Convention C-155 ^[4]. Article 12 of the (non-binding) ILO Recommendation R-164^[5] describes more specific rights and possibilities for employees and their representatives with respect to worker participation. Recommendation R-129 contains general recommendations on communication between employers and workers^[6].
- The European Directive 2002/14/EC^[7] establishes a general legal framework for informing and consulting employees in the European Community. The main legal source for worker information and consultation on OSH on a European level is the OSH Framework Directive 89/391/EEC^[8]. Worker participation is a fundamental part of the OSH management framework promoted in this directive.
- Beyond regulatory framework: company size has an influence on employees' OSH information level, consultation and training



Worker participation – methods and effects

- any process in the company that allows workers to exert influence over their work or their working conditions.
- obligatory in various processes in the company due to European legislation. In practice, it can be seen as a powerful instrument in safety and health management and is strongly recommended by OSH experts as well as by the European Commission to generally involve the workers and their representatives.
- Worker participation in a most general sense can be defined as „a variety of processes and structures which enable, and at times encourage, employees to directly and indirectly contribute to and influence decision-making in the firm and in the wider society"

	Individual participation	Group participation
Direct participation	Direct consultation Interviews (surveys)	Health circles Project groups Team work / Group work
Indirect participation	Peer observations Feedback systems	Safety representatives in the company (e.g. shop stewards work councils, safety councils etc.)



Worker participation – methods and effects

The participation process can be individual, involving a single worker, or done in a form of group participation. The participation can be either direct, which means workers or groups of workers get involved immediately, or indirect through representatives, who can be works councils, trade unions or any other kind of representative

distinguish between passive forms of participation, e.g. “information of workers” when the management notifies the workers of decisions in a timely manner. Other forms try to activate workers and ask for opinions

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ESTONIA

- **Occupational Health and Safety Act**
- More than twenty regulations under the OSH Act - determining specific requirements for workplaces, work equipment and different work operations – all in conformity with EU directives
- **OSH and worker participation**
- OSH Framework Directive 89/391/EEC [\[1\]](#) is the basis for the Occupational Safety and Health Act^[2]. The OSH Act regulates worker participation in
 - § 17 (working environment representative) and in
 - § 18 (working environment council).
- **Implementation of the Estonian OSH legislation is controlled** by the Labour Inspectorate
- **National level** - tripartite “**Advisory Committee on Working Environment**„ - setting priorities and public leadership in implementation, involvement in policy setting, establishing tripartite OSH committees.
- **Sectoral level** - tripartism in OSH with participation of authorities and employers' and employees' organisations - preparing statutory instruments, monitoring implementation and developing activities / co-operation and co-ordination among authorities (subjects concern several sectors of administration)



ESTONIA

- **Workplace level**
- **Working environment council** – 50 + employees, a working environment council is required to be set up / upon the initiative of the employer / comprise an equal number of representatives designated by the employer and representatives elected by the employees / Council should have at least four members / term of authority up to four years / a work environment council is not only required in private companies, but also in organisations of the Estonian public administration.
- Regularly analyse working conditions, identify and document developing problems, make proposals to the employer for the resolution thereof, and monitor the implementation of adopted resolutions;
- Participate in the preparation of an OSH development plan, and in the preparation of plans for the reconstruction or repair of the enterprise, and for technological innovations in the enterprise, and of other plans;
- Examine the results of internal control of the working environment in the enterprise and, if necessary, make proposals for the elimination of deficiencies;
- Analyse occupational accidents, occupational diseases and other work-related illnesses, and monitor the implementation of measures for the appropriate prevention by the employer;
- Assist in the creation of suitable working conditions and work organisation for female employees, minors and disabled employees.



ESTONIA

- A **working environment council** is required to inform the local office of the Labour Inspectorate in writing of its activities during the period of the past 12 months by no later than 1 December each year – SANCTIONING?!
- An employer is required to release a member of the work environment council from the duties of his or her principal job, and pay the regular wage during this period. A member of the work environment council is protected. All this set in a collective agreement or some other written contract between the employer and employees. The period of release from duties of a principal job must not be less than one hour a week. If a member of the work environment council also acts as a work environment representative, the performance of the duties of both jobs is totalled.
- An employer arranges for the training and in-service training of members of the work environment council at the employer's expense and during working hours. During training and in-service training, the employees continue to receive their regular salary.



Lithuania

- **OSH and worker participation**
- System of social partnership / dialogue: state (national) / sector (production, services, professional) / regional (municipality, county) / company (enterprises, establishments or organisations and their structural divisions). Negotiations may result in the conclusion of collective agreements on national, sectorial or company level.
- for advice and dialogue between the social partners on socio-economic matters:
 - State (national) level consultative bodies:
 - Tripartite Council of the Republic of Lithuania (Lietuvos Respublikos trišalė taryba (LRTT)),
 - **Occupational Safety and Health Commission of the Republic of Lithuania**



Lithuania

- **Occupational Safety and Health Commission of the Republic of Lithuania**

- established in 1994 on the basis of the provisions of the Law on Human Safety at Work (now the Law on Safety and Health at Work)
- equal number of representatives from the state institutions and agencies, employers' organisations and workers' organisations. A total number of the OSH Commission members is 15
- formation and implementing the OSH policy by analysing the situation, considering and making proposals related to laws and other regulations - decisions are of an advisory character.
- examines the drafts of OSH laws and regulations, makes comments and proposals amendments on them for the authorities, institutions, if appropriate.
- considers reports of the State Labour Inspectorate, analyses the state of OSH in Lithuanian companies, develops proposals to the public authorities and agencies, employer organisations, trade unions and companies on the measures and methods to improve the state of OSH
- For the purpose of investigation of the issues related to prevention of violations of safety and health at work requirements in companies, **county regional** and **municipal OSH commissions** were established / total number of the OSH commission members is nine
- Sectoral level - none



Lithuania

Company level - social dialogue at a company level takes place through a trade union (company's trade union, trade union of the appropriate sector of economic activity), work council or workers' representative.

The person representing, authorised by the employer, persons must inform workers and consult with them on all issues concerning the state of occupational safety and health and its improvement

Establishment of OSH committees, appointment of workers' representatives with specific responsibility for OSH are regulated by the Labour Code, the „Law on Safety and Health at Work and the General Regulations of Occupational Safety and Health Committees in Companies”

To be established in companies with 50+ workers. If less than 50 workers it may be established on the initiative of the employer, the workers' representatives or at the proposal of more than a half of workers of the company. In companies where an occupational risk is higher, the committee may be established even if there are less than 50 workers employed.

The OSH committee is formed on a bilateral principle – workers' representatives elected

Time spent by a member of the Committee for performing the required tasks on safety and health at work or for training in this area should be paid by applying his normal salary and necessary equipment provided by employer.

Decisions of the Committee are recommendatory, with the exception of those concerning work stopping that are binding for the head of the company or a person authorized by the employer.

Lithuania

- **Roles and work organization of the occupational safety and health committee.** According to the General Regulations of Occupational Safety and Health Committees in Companies ^[20] the OSH committee:
 - Analyses and evaluate the state of occupational safety and health in the company and discuss preventative measures for accidents at work and occupational diseases.
 - Within its jurisdiction examines the causes and circumstances of accidents at work and occupational diseases, develops and offers to the head of the company preventive measures to avoid them.
 - Evaluates state of occupational safety and health in the company's subdivisions, analyses occupational risk assessment results, evaluates the activity of the heads of departments and other administration officials appointed by the head the company to implement the OSH measures, submits proposals to the head of the company concerning occupational safety and health in the company.
 - Analyses the disagreements between the employee and the head of the company or a person authorized by the employer on the employee's refusal to work.
 - Adopts resolutions on the considered matters, which the Chair of the OSH committee presents to the head of the company (if he/she is not a Chair of the OSH committee).



Lithuania

- **Roles of the workers' representatives with specific responsibility for the safety and health of workers**
- Represent workers in the OSH committee, participate in all the measures carried out by the employer to improve safety and health at work, including the occupational risk assessment and implementation of the measures to eliminate and/or decrease such risk.
- Participate in the selecting and appointing the workers responsible for first aid, organisation of rescue work, evacuation in the event of accidents, natural disasters or fire.
- Participate in providing the workers with necessary and appropriate personal protective equipment and controlling its proper use.
- Participate in the investigation of accidents at work, occupational diseases and incidents.
- Upon the order of the employer inform workers about the threat of or exposure to a danger and about measures to be taken in order to avoid the danger, and helps the workers to get to safe locations.



Sweden

- **Safety committees**
- A safety committee must be formed in every workplace with 50 + employees, or in smaller workplaces if a request is made from the workers. A safety committee can have subsidiary committees, such as a work adaptation group
- Its principal function is to establish objectives for health and safety activities and ensure that these objectives are attained. It must be involved in the planning and decision-making process of from the earliest possible stage.
- It is composed of representatives from both sides. Representatives from the worker side are chosen by the local unions that have a collective agreement with the employer, or by the workforce in exceptional cases where there are no such unions. The number of members is determined by the size of the workforce, the nature of the work and other circumstances prevailing at the workplace.
- Wherever possible, the committee's decisions should be unanimous, and, thus, binding for the employer



Sweden

- **Safety representatives**

- A safety representative is a representative of the workers' side in matters relating to OSH and the broader work environment. Must be designated in all public and private workplaces where five or more workers are regularly employed for 3 years. In smaller workplaces, a safety representative can be appointed by decision of the local union (with a collective agreement for the workplace concerned) or by the workforce itself in exceptional cases where there is no such union. Where there are several such signatory unions, each union designates a safety representative. Safety representatives must work at the workplace concerned.
- They represent all workers within the union's domain, irrespective of union membership. The formal responsibilities of safety representatives are basically confined to their own workplace. However, they also represent workers who are working on sites over which their own employer has no control, e.g. workers of a temporary-employment agency who are working at external workplaces.
- Safety representatives have time-off rights, and no restrictions on the amount of time involved are imposed by law or collective agreement. Can carry out their mandate during paid overtime, if necessary / are entitled to a room and to the assistance of experts in companies with over 50 workers. The employer is obliged to train the safety representatives (on full pay) - a basic 40-hour training course, the content determined in conjunction with the trade union representatives. Safety reps can join in-depth courses.



Sweden

- **Regional safety representatives (RSR)**
- Unique system of regional safety representation for small workplaces without safety committees but with at least one affiliated member of a trade union. (1.500 RSRs, covering app. 700.000 workers/ 160.000 workplaces with less than 50 employees / visiting app. 65.000 small workplaces per year)
- Trade unions appoint these representatives - have the same rights as the normal safety representatives, but can inspect small and medium-sized companies. The costs for the inspections are partly (50%) covered by the government. – trade union share increasing.
- For workplaces without safety committees, the Swedish Work Environment Act allows the local branch of a trade union to appoint a safety representative from outside (often a union official) – called a regional safety representative. This right only applies if the union has a member at the workplace.
- Usually RSRs cover many different workplaces in a particular sector, but their assignment can also be limited to one or only a few workplaces. The organisation that appoints also decides the area the representative is to cover.
- RSRs can partly be seen as consultants to small business owners. Their tasks essentially consist of representing workers and carrying out inspections (as the labour inspectorate does not systematically cover these companies) .



Poland – worker's participation

National, regional and sectoral levels

- **Labour Protection Council of the Sejm** (Rada Ochrony Pracy, ROP). It consists of representatives of government, employers and employees, members of parliament and experts dealing with occupational safety and health, for 4 years. It supervises the National Labour Inspectorate's activities, issues opinions on drafts of legal acts relating to OSH, assesses labour protection issues at a national level. It is a forum for exchange knowledge and expertise in the field of OSH. OSH-related issues at national, regional or sectoral levels can be also touched by the Tripartite Commission for Social and Economic Affairs and its regional Commissions of Social Dialogue and its Tripartite Branch Units.

Company level - employer is obliged to consult with employees or their representatives on all matters related to their safety and health at work, and particularly concerning:

- changes of work organization / introducing new tools, machines and technological processes, chemical substances that may affect employees' safety and health / assessment of occupational risks and providing information on these risks / establishing OSH services or appointing a competent person dealing with OSH-related tasks / designating workers responsible for first aid measures as well as fire-fighting and evacuation of workers / personal protective equipment and working clothes and shoes / training employees in occupational safety and health.
- Employees or their representatives can make proposals for elimination or reduction of occupational risks. Moreover, in case of considerable threat to health and life of employees, upon employees' or their representatives' request, inspectors of the National Labour Inspectorate can inspect workplaces in a company.
- Employer is obliged to ensure appropriate conditions to meet the duty to consult. All consultations should be provided during working hours and employers or their representatives retain the right to obtain remuneration for the time spent on the consultations. The employees or their representatives cannot bear any negative consequences of their participation in the consultations.



Poland – worker's participation

direct / indirect types

	Companies with trade unions	Companies without trade unions
Companies employing up to 250 workers	Social labour inspector OSH representative	OSH representative
Companies employing more than 250 workers	Social labour inspector OSH Committee OSH representative	OSH representative



Poland – worker's participation

- **Committee for Safety and Health at Work**
- Employer who employs more than 250 employees is obliged to establish a Committee for Safety and Health at Work. However, it happens that the Committee is also established in smaller companies.
- It is a consulting and advisory body. The employer should ensure appropriate support and expertise, necessary for fulfilling the tasks of the Committee.
- The OSH Committee composes an equal number of: employer's representatives, including OSH service members and a physician responsible for the preventive health care of the employees, and - employees' representatives, including a social labour inspector.
- The Committee has the following duties: performing periodic reviews of working conditions and assessments of OSH performance / issuing opinions about the measures undertaken by the employer in order to prevent work accidents and occupational diseases / developing proposals of actions directed at improving working conditions / cooperating with the employer to meet their duties on OSH. The Committee shall use external expertise, as agreed with the employer and at the employer's expense.
- Meetings of the Committee held during working hours, at least once every quarter. An employee shall retain his/her right to remuneration for the time not spent at work in connection with his/her participation in Committee.



Poland – worker's participation

Trade Unions role

Trade unions exercise social control over observance of the legislation on labour protection and participate in enforcement of OSH regulations.

- Trade unions can influence OSH in companies by:
- collective agreements or other agreements with the employer
- election or selection of employees OSH representatives (including the representatives in the OSH Committee)
- election and managing **social labour inspection**
- analysing information on working conditions provided by the employer and making proposals
- promoting OSH-related matters

(the level of union membership in Poland is rather low (15%) and it is getting lower each year ...)



Poland – worker's participation

- **Social Labour Inspection**

- Social labour inspection is a social service provided by employees with the aim to ensure safety and health at work and the protection of employee rights. In practice, the social labour inspector is a person holding employees' trust and respect so he plays a crucial role in the communication between the employees and an employer in the company in the field of OSH. She/he can also influence the employees' behaviour and their attitude toward safety; thus his presence in the company can contribute, to a large extent, to modifying unsafe employee behaviour.
- A social labour inspection can be established in any enterprise with an operating trade union,. Its competence is regulated by the Social Labour Inspection Act of 1983. It states that the social labour inspection is managed by the workplace trade union organisations, but it represents all employees in an enterprise regardless of whether or not they belong to the trade unions. The structure of the inspection in each company depends on company trade unions. Election is done by the trade union among company employees. A candidate should have the necessary knowledge about social labour inspection activities and sufficient work experience, have at least five years of work experience in the industry, and at least two years of work experience in the company itself.
- The employer is obliged: - to ensure appropriate conditions which enable social inspectors to fulfill their tasks - to cover costs related to activities of social labour inspectors.



Poland – worker's participation

- **Social Labour Inspection**
- **Rights and rules** for Social labour inspectors
- are entitled to enter, at any time, the company's facilities in order to conduct monitoring and control activities with regard to technical safety and the legal protection of workers.
- have the right to inspections of company's premises, machines and technological processes / participation in investigations of occupational accidents and work-related diseases and verification whether appropriate preventative measures are being taken / participation in social inspections of working conditions / giving opinions on plans for improvement of working conditions and occupational rehabilitation as well as monitoring their implementation / influencing observance of health and safety requirements by employee's / promoting involvement of all employees in OSH-related activities.

The way for the future?

- OSH is the area, where sustainable improvement can only be achieved through constant cooperation/ partnership!
- Save the already achieved – adjust to realities
- Trade union interest = collective approach!
- Reach out to workers – raise awareness – show the successes/ results

and it will bring new union members

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Dyakuuyu za uvahu ta mozhlyvist'



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