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The role of Works Councils and Trade Unions
in representing interests of the employees
in EU member states
(partnership or competition)

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Table of contents	Page
Previous remarks	04
Bosnia and Herzegovina	04
Croatia	05
Serbia	09
Macedonia and Montenegro	10
Germany	11
Spain	16
France	21
Austria	27
Great Britain	29
Sweden	32
Belgium	35
Denmark	37
Finland	40
Greece	41
Ireland	43
Italy	44
Luxembourg	46
The Netherlands	48
Portugal	52
Bulgaria	56
Cyprus	57
Czech Republic	58
Estonia	59
Hungary	60
Latvia	62
Lithuania	63
Malta	65
Poland	66
Romania	70
Slovakia	71
Slovenia	73
Concluding remarks	75

The Role of Works Councils and Trade Unions in Representing Interests of the Employees in EU Member States (Partnership or Competition)

Previous remarks

While working for years on issues of labour relations and social dialogue both at the level of European Union and at the regional level of South-East Europe, I have noticed different opinions of trade union representatives in the states of South-East Europe on relation between Works Councils and trade unions that are active in one enterprise.¹ At international conferences organized by Friedrich Ebert Foundation, trade union representatives from some countries claimed that they had no knowledge of one such body, while others spoke about the Council with distrust, considering it a relic of previous Communist (Socialist) system, the third group saw the activities of this body as a danger for existence of already weakened unions, and just a small group had at the very beginning of these meetings accepted that the issue of information and consultation, and in some places joint decision making in enterprises, was organized through different forms for a longer period of time and that it would be useful to discuss ways in which the existing legal provisions should be applied in practice or possibly advocate the adoption of appropriate provisions, where they do not yet exist. Before presenting the existing situation in European Union, a couple of sentences will be said about the situation in South-East Europe, where the starting point is the situation in which the institute of workers' representation at company level is organized according to legislation in majority of the countries in this region, and they have developed this issue more (Croatia) or less (Serbia).

Bosnia and Herzegovina

„Employees working for an employer who employs at least 15 employees on regular basis, have right to form the Works Council, that will represent them before the employer in order to protect their rights and interests. If a Works Council is not formed in a company, then according to the law, trade union has an obligation and authorities of the Works Council. Works Council is formed on demand of at least 20% of the employees or of a trade union.” The ways and procedure to form a Works

¹ In particular case it is referred to the countries which are covered by the regional project of Friedrich Ebert Foundation, Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Romania, Serbia and Slovenia.

Council, as well as other issues related to functioning and activities of the Works Council are regulated by law (articles 108-110 of the Labour Law of the Federation of Bosnia and Herzegovina).² In Republic of Srpska provisions on the Works Councils are similar: With an employer who regularly employs at least 15 workers, workers can found a Works Council, which represents them and protects their interests and rights in labour relation in the company. Works Council consists of five to fifteen members. Members of the Works Council are elected by workers through personal declaration. The decision on establishing the Works Council is made by at least one third of total number of employees in a company. The employer cannot interfere nor influence the right of employees to establish the Works Council. The Works Council provides opinions and proposals to the employer related to introduction and application of the Rulebook on labour, resolution of certain economic and social rights of workers, vocational training and education of workers, organizing certain aspects of social standards of workers, holiday planning and other issues important for realization of workers' rights in accordance with the law, Collective Bargaining Agreements and Rulebook on labour. Works Council has an advisory role, and it cannot influence the right and position of trade union in protection of collective and individual workers' rights – members of that union. The Law on Works Councils prescribes the election, composition, mandate and other issues related to founding and work of the Works Council" (articles 122-124 of the Labour Law of Republic of Srpska).

Croatia

„Employees working for the employer who employs at least 20 workers, except for the employees in the bodies of state administration, are entitled to participate in decision-making on issues related to their economic and social rights and interests in a manner and under conditions prescribed by this Law Procedure for the establishment of the Works Council is initiated at the request of trade unions or at least 10 percent of workers employed with an employer ..." (articles 136-166 of the Labour Law of Croatia)³. Works Council is elected for the period of three years. Elections are always held in March. The right to elect and to be elected belongs to all

² Such special Law on Works Councils was adopted in 2004. (Official Journal FBiH, number 38/04).

³ Labour Law came into force on 1 January 2010, and it regulated in great detail the issue of election of workers' representatives in the Works Council, so that the workers are entitled to free and direct elections, where by secret ballot they will elect one or more of their representatives to represent them before the employer in protection and promotion of their rights and interests, taking into account the equal representation of all organizational units and groups of employees (by gender, age, education, jobs they perform, etc.). If the employer's operations are organized through several organizational units, it is possible to organize several Works Councils that will provide adequate workers' participation in decision making.

the workers working in a company, and exceptions in the use of these rights are explicitly stated.⁴ The relationship of the Works Council and the employer is based on trust and mutual cooperation. The employer must not privilege members of the Works Council, or put them in a worse position compared to other workers. In its work the Works Council must not privilege employees or a specific group of workers, or put them in a worse position compared to other workers. A member of the Works Council is obliged to keep confidential trade secrets that were revealed to him in exercising the powers given him by this Law. A special section of the Law deals with the relationship of Works Councils and trade unions, and in this respect it is stated that the Works Council, in order to protect and promote the rights and interests of workers, cooperates in full trust, with all trade unions whose members are employed by an employer. Works Council member may resume normal work in the union. If an employer has not established a Works Council, trade union representative takes over all rights and obligations of the Works Council regulated by this Law, except for the appointment of workers' representatives in the body of the employer. If there are several trade unions operating in the company, and unions fail to reach agreement on the trade union representative or representatives who shall have the rights and obligations prescribed under paragraph 3 of this article, the dispute shall be resolved by the appropriate application of the provisions of this Law on elections for the Works Council. Lists of candidates for election of workers' representatives may be proposed by the trade unions whose members are employed in a company or a group of employees supported by at least ten percent of employees in the company. If one representative is being elected, at least one substitute has to be proposed, and if three or more representatives are being elected, at least three substitutes have to be proposed so that the Works Council would always have enough members, should any of the elected candidate's mandate ended.

⁴ Members of managing and supervisory bodies of employers, their family members and workers from Article 127 Paragraph 1 of this Law, are not entitled to the right regulated by paragraph 1 of this Article. The provisions of paragraph 2 of this Article shall not apply to workers' representatives in the bodies of the employer. The Election Committee prepares a list of workers who have voting rights. Information on the proposed decision must be submitted to the Works' Council in full and on time, in order to give it time to make comments and suggestions, and in order for the results of discussion to influence the decision. If it is not differently provided by the agreement between the employer and Works Council, the Works Council shall submit its comments on the proposed decision to the employer within eight days, and in case of an unusual dismissal within five days. If the Works Council does not give its comments on the proposed decision within the period referred to in paragraph 5 of this Article, it is considered that there are no objections and suggestions. The Works Council is obliged to regularly inform the workers and trade unions about its work and receive their initiatives and proposals.

Each candidate list must have the number of candidates equal to the number of workers' representatives that are being elected⁵. The Works Council protects and promotes the interests of workers through counseling, co-decision-making or negotiations with an employer or the person authorized by the employer on issues important for the position of workers. The Works Council observes compliance with this Law, Rulebook on Labour, collective agreements and other regulations. It observes whether the employer regularly and accurately fulfills obligations related to the calculation and payment of contributions in accordance with special regulations, and for that purpose it has access to appropriate documentation. The Works Council must not participate in the preparation of strike or strike itself, lockouts or other industrial actions, nor may it in any way interfere with the collective labour dispute that could lead to such actions.⁶ The Works Council may oppose a dismissal if the

⁵ A committee is established to organize the election. The Electoral Committee has at least three members. The Electoral Committee has an odd number of members. In it, each union and each group of workers who submitted a list of candidates gives one of their representatives. Member of the Electoral Committee cannot be an employee who is a candidate for a member of the Works Council. The Works Council appoints the Electoral Committee when elections are called and no later than five weeks before the expiry of the mandate of the Works Council. If the employer has no Works Council, an Electoral Committee is appointed at a meeting of workers. The Electoral Committee organizes and supervises the vote. It is responsible for the legality of elections and announces the election results, and before publishing them it can decide that due to determined irregularities, a part or the whole of the election process has to be repeated. Minutes are made on the performance of the Electoral Committee, and they are published after the election. The Electoral Committee reaches decisions by simple majority. Elections for the Works Councils, nomination and election procedures must be open, free and fair, without interference and pressure, and they must be conducted in a manner that ensures that the election results will reflect genuine and freely expressed will of the workers. Actions contrary to paragraph 1 of this Article may result in nullity of the elections. Elections are valid when at least one-third of workers eligible to vote have voted. The cost of conducting the election is borne by the employer.

⁶ The employer is required to inform the Works Council at least every three months on: 1) conditions, results of operations and organization of work, 2) the expected development of business activities and their impact on the economic and social position of workers, 3) trends and changes in salaries, 4) the extent and reasons for the introduction of overtime work, 5) the number and type of workers employed in the company, the structure of employment and development and employment policy, 6) protection of health and safety at work and measures to improve working conditions, 7) other issues of particular importance for the economic and social position of workers. (2) The employer is obliged to inform the Works Council accurately, comprehensively and on time on the matters referred to in paragraph 1 of this Article. Prior to making decisions important for the position of workers, the employer must consult the Works Council on the proposed decision and must provide it with information relevant for making a decision and understanding its impact on the position of workers. In the case referred to in paragraph 1 of this Article, the employer is obliged to provide the Works Council, at its request, with the meeting where they would receive additional answers and explanations of their formed opinions, and prior to final observations on the proposed decision

employer does not have a justified reason for termination of work contract, or if the dismissal procedure was not conducted in a way prescribed by this Law. The Works Council must give reasons for their opposition to the employer's decision. If the Works Council opposes to the unexpected dismissal, and a worker in a legal proceedings challenges the validity of dismissal and requires the employer to keep him at work, the employer is required to return the worker to his work place within eight days from the submission of information and evidence on filing a lawsuit and keep him at work until the completion of legal proceedings. If the employer in uncommon circumstances cancels the Labour Contract due to an extremely grave violation of an employment relationship, he can temporarily suspend employees from work until the completion of court proceedings on the authorization of dismissal, with the obligation to pay monthly fees in amount of the half of an average salary paid to that worker during the previous three months. If the opposition of the Works Council to the unusual dismissal is obviously unfounded, or contrary to the provisions of this Law, an employer may ask the court to be temporarily, until the end of legal proceedings, acquitted of the obligation of returning the worker at work and of paying the wages. The decision rendered by the employer that are contrary to the provisions of this Law on consultations with the Works Council is null and void⁷.

of the employer. Important decisions referred to in paragraph 1 of this Article are considered to be the following decisions: 1) the introduction of Rulebook on Labour, 2) plan, development and policy of employment, reassignment and dismissal, 3) the expected legal, economic and social consequences for workers in cases referred to in Article 133 of this Law, 4) measures related to occupational health and safety, 5) introduction of new technologies and changes in the organization and mode of work, 6) plan of annual holidays, 7) scheduled working hours, 8) night work, 9) compensations for inventions and technical improvement, 10) the adoption of redundancy programs and other decisions for which a necessity of the Works Councils participation in their decision making is prescribed by this Law or a Collective Agreement, 11) transfers of company, part of the company, part of economic activity or economic activity, as well as labour contract of employees to a new employer, and the influence of such a transfer on workers who are involved in the transfer.

⁷ The employer can only with the prior consent of the Works Council decide on: 1) dismissal of a member of the Works Council, 2) dismissal of a candidate for the Works Council that is not elected and a member of the Electoral Committee, within three months after the election results, 3) dismissal of a worker who has an occupational disability or imminent risk of disability, dismissal of a person with a disability, 4) dismissal of a worker who is older than sixty years, 5) dismissal of a workers' representative in the bodies of the employer, 6) including persons from Article 71 Paragraph 1 of this Law in a redundancy program, 7) collecting, processing, use and delivery of information about an employee to third parties, 8) the appointment of a person authorized to supervise whether the workers' personal information is collected, processed, used or delivered to third parties pursuant to the provisions of this Law. Exceptionally, the employer can reach a decision under paragraph 1 subparagraph 1 to 6 of this Article without the prior consent of the Works Council, if the decision is directed to the rights of a worker who is also a trade union representative who enjoys the protection of the Article 249 of this Law. If the Works Council does not respond within eight days by either giving or withholding consent, it is considered to agree with the employer's decision. If the

As an official candidate for EU membership, Croatia has introduced in the Labour Law provisions on European Works Councils.⁸ As for the Works Council, the law precisely defines the relation of the number of employees to number of elected workers' representatives:

Total number of employees	Number of workers' representatives
Up to 75 workers	1
76 – 250	3
251 – 500	5
501 – 750	7
751 – 1000	9
For every 1000 workers, the number of Works Council members is increased by two	

Serbia

„Employees working for an employer who has more than 50 employees may establish a Works Council in accordance with the law. Works Council gives opinions and participates in decision-making on economic and social rights of employees in the manner and under conditions specified by the law or general act "(Article 205 of the Labour Law). A special law has not been passed until the publication of this article, nor this question was on the agenda of collective bargaining, and therefore is not regulated in Collective Bargaining Agreements.

Works Council refuses to give consent, the employer may, within fifteen days since the day of receipt of the statement of refusal to give consent, seek such consent to be replaced by a judicial or arbitral decision. The trial court is obliged to decide on appeal of an employer in case under paragraph 4 of this Article within thirty days from the date of filing a complaint.

⁸ European Works Council consists of representatives of workers working for an employer, subsidiary or affiliated employers who operate at the level of the European Union. European Works Council has as many members as the number of Member States in which the employer, subsidiary or associated employers are engaged in economic activity and employ the workers, but it has not less than three or more than thirty members.

Macedonia and Montenegro

There are no corresponding provisions in legislation of these two countries.

The next motif for making one such brochure is the fact that by approaching the European Union the regulations of that organization, Directives (Recommendations), start to apply on new member states, one of which is a Directive that regulates the general framework for information and consultation of the employees. Member states have a possibility to choose whether the regulation is going to be applied on enterprises with more than 50 employees or a business unit with more than 20 employees. The Directive itself does not regulate the form in which information and consultation will be performed; however, the Works Council is the most often created body in practice. In fact, for a longer period of time, Works Councils represent an important part of the system of industrial relations in some member states, and ever since introduction of Directive on Information and Consultation, it is demanded from all member states to provide information and consultation of the employees, which is particularly important for Ireland and Great Britain, who until that period did not have an appropriate regulations in this area.⁹ In big, supranational companies that operate all around EU, founding of European Works Council is required, and this is not an automatic obligation; however such bodies have to be created in the companies that employ a particular number of employees, when there is a demand coming from the workers or in some cases from the union. Then, the election of the members of the Council is done according to a procedure defined by national regulations, and in some systems trade unions are authorized to nominate candidates for members and to provide support for the members when they are elected members of the Council. Rights, obligations and activities of the Works Council are defined differently, but still, there are some common qualities. In majority of the countries there is an obligation of cooperation with an employer, and there is a general ban on organizing industrial actions (strikes). To replace this nonexistent right, a right of submitting requests to the Court was introduced when the Council believes that some of its rights were violated. Contrary to the obligation of social peace, the Council has a right to be informed and consulted, and in Germany, Netherlands or Slovenia they have a right of co-deciding. Rights of the council are in principle stronger within the area of welfare of the employees and personnel issues, while they are weaker regarding business policy, technological changes and financial issues in the company. The key issue that appears in the systems of industrial relations based on Works Councils is their relation with trade unions and collective negotiation. In some countries such as Germany, there is a traditional division of tasks, and therefore, trade unions negotiate with employers'

⁹ This is Directive 2002/14 of the European Parliament and European Council, introduced on May 11, 2002, on establishing a general framework on information and consultation of employees in European Union.

associations on a branch level, while, at the level of the company, the negotiations are conducted between the Works Council and individual employers. In majority of German companies the Works Councils are actually “possessed” by unions, because it is their members that are being elected into the membership of the Council. With increased decentralization of negotiation procedure and when it is allowed by framework collective agreements, Councils have authority to negotiate on issues such as working hours. The Works Councils should not be identified with the system of workers’ managers, although in practice, these two systems of workers’ participation usually seem connected, so the members of Works Councils occupy the positions in Supervisory Boards.

In order to give an opportunity to the representatives of trade union in the countries of South East Europe, to take a stand in relation to their trade union organizations’ response towards such representative workers’ bodies, it is necessary to have as much as possible complete information, not only on provisions of national labour legislation or other suitable laws, but also on ways the issue of information and consultation is regulated in practice in 27 EU member states. This brochure has an aim to provide in one place, a comparative analysis of the situation in EU member states, without ambition to completely reveal the situation in each individual state. In it, there is only basic information, which can be a starting point for a more detailed research of this topic, both in individual countries and on the level of comparative analysis.

Germany

In the previous part of the text, it was already mentioned that trade unions in Germany, beside the right of information and consultation have a right of co-deciding (Mitbestimmung). The German model of co-deciding is unique, and it appeared after the Second World War in the industry of coal and steel, and later it spread to other sectors. The legal background can be found in the Law on Cooperation and Managing of 1951, which was amended in 1976, and then in the Law on Workers’ Boards of 1952, amended in 1972.¹⁰ In Germany, co-deciding operates on three levels:

- Board of Managers: Before 1976, German producers of coal and steel with more than 1000 workers formed together a Board of Managers composed of 11 members: 5 managers from management, 5 workers’ representatives and one neutral member. In 1976 the application of this law was extended to other

¹⁰ The law specifies that up to half of the members of the Supervisory Board have to be workers’ representatives, and the Law on Companies prescribes two Boards of Managers. The Supervisory Board is elected by share holders and trade unions, while the chairperson has a deciding vote, and he is always a representative of the shareholders. The Supervisory Board then elects the Board of Managers, which has to have one workers’ representative (workers’ manager).

companies that employ more than 2000 workers, and there was a change in the board structure, which ever since then, has an equal number of representatives of the management and of the workers without neutral members. The President of the Board stands for the interests of the owner of the company and with his vote he can decide on some issue, in case of equally divided votes.

- Management: Workers' representative is in the management and has the authorization of a human resource manager. He is elected by majority votes in the Board of Managers, whose member he is, with full rights derived from such a position.
- Workers' Boards: it has two main functions – to elect a representative in the Board of Managers and act as an advisory body for the trade unions regarding the conditions of work, insurance, economic aid and related issues.
- Co-deciding in Germany provides accomplishment of the following goals:
 - Democratic control of economic power;
 - Support of the social sustainability of the company activities;
 - The realization of social peace in the company;
 - Support of a good company management through wider acceptance of decisions of the management by the workers;
 - Reduction of possible expenses due to disagreement between the management and the workers, through negotiation with the Works Council or through workers' activities in the Supervisory Body;
 - Support to the structural changes;
 - Provides favorable environment of cooperation in a company, as an important instance for negotiation;
 - Reduction of fluctuation of the workers and greater readiness of management and workers to undergo further professional training

The most important role in workers' representation belongs to Works Councils, having in mind that trade unions do not have formal bodies in a company. However it is important to add that the members of the union have a key role in the Councils. The Works Council can be elected by employees in companies that have 5 or more permanently employed workers, and in this procedure, the employer is not involved in any way. He must not interfere or forbid elections for this body, but on the contrary, he has to undertake the expenses of the election, as well as the expenses of the functioning of the Works Council. The voting right belongs to all employees that are older than 18, and have minimum 6 months of previous years of service in the company, including the interns, as well.¹¹ If an employee is sent to work for another

¹¹ Such right does not belong to employees who have executive positions, and there are special rules for higher administrators, if there are more than 10, they can elect a body that will represent them, and which can have 1 to 7 members, depending on the number of higher administrators. Election of the members of the Works Council is done for a period of 4 years, usually between March 1 and May 31, and it can be held outside this period only when it is

employer until the completion of some work, he also has a right to vote, if he is working more than 3 months in the company. The Works Council represents interests of the workers before an employer and has certain rights when it comes to dismissals of existing and employment of new workers. The election of members of the Council is done for the period of 4 years, usually during the period between March, 01, and May, 31. Outside this time span, elections can be held only when they are electing members of the Works Council which did not exist until that moment. Early elections, in a situation where 2 years have passed since the previous elections, are held in case if the number of employees in the company has changed by 50% in either direction. The requirement for active and passive voting rights is at least 18 years of age and at least 6 months of work in the company, however, employees working in executive positions do not have such right. During the mandate and one year after its expiration, the members of the Council are protected from dismissal, and depending on the number of employees, a certain number of Council members are completely exempt from the work at their regular jobs. The provisions of the Law on Works Council are not applied on public services, where special regulations govern the election of Personnel Councils. The first and main task of the Works Council is a concern about safety of the employees and improvement of the position of employees, and the tasks associated with it are:

- Shaping the workplace environment and work procedures;
- Personnel issues, such as dismissal, employment, restructuring and transfer of a business;
- Economic issues, such as making a social program;
- Control of compliance with the law, other national legislation, Collective Bargaining Agreements and contracts at the level of the company, prevention of injuries at the workplace, environmental protection...;
- Assistance in promotions of older employees, support of the disabled and foreigners;
- Equal treatment of men and women;
- Co-deciding on the issues that are not regulated by the law or Collective Bargaining Agreement, such as work hours, award system, and introduction of devices for control of the employees

The employer must inform the Council about the planned activities related to employees in due time, and if the deal fails, the Council can use legal means, or address the Arbitration Committee. Almost all companies with more than 250 employees have also the Works Councils, while in companies with less than 100 employees there are Councils only in 30 to 40% of them.¹² Various researches show

created for the first time in the company. Early elections are possible only 2 years after the elections, if the number of employees has changed by 50% in either direction.

¹² Data coming from the Institute for Labour Market show that in 2006, in both parts of Germany, only 10% of workplaces had the Works Council, but they covered 46% of employees in the Western and 38% in the Eastern part. In the Western part, 90% of workplaces with more than 500 employees had Works Councils, while in the Eastern part it

that, in principle, both parties benefit from the Works Councils, and the level of productivity and salaries in companies where such a body is formed are higher than average, and there is less fluctuation of the work force. A Council member may be suspended from duty only by a decision of the Labour Court, unless he committed a grave breach of his duties. Although Works Councils are not formally a trade union body, as it is previously mentioned, unions have a major impact on the activities of the Council. An analysis of the election results for the Works Council members of 2006 shows that 73% of the elected members belonged to DGB Trade Union, which was still less compared to the elections that had taken place four years earlier, when it had been 75.7% of union members.¹³ If we look at some previous elections one can notice a trend of decreasing influence of unions, but this influence is still very significant. Number of the Council members increases with the number of employees, as reflected in the following table

Number of employees	Number of members of the Works Council
5-20	1
21-50	3
51-100	5
101-200	7
201-400	9
401-700	11
701-1,000	13
1,000-1,500	15

From 1,500 to 5,000 employees, the number of the Council members is increased by 2 members for each 500 employees, from 5000 to 7000 the number is increased by 2

was over 85% of workplaces. These data are relevant for the private sector; if public sector was also covered the percentage would be much higher.

¹³ DGB is short for German Trade Union Confederation, which is an umbrella organization in Germany and consists of branch trade unions, among which the most numerous is IG Metall which organizes employees in metal, textile, electric and wood processing sector or Ver.di, Trade Union which organizes employees in the services sector.

for each 1000 employees, and companies with 7000 to 9000 employees have 35 members, while in the companies that employ more than 9000 employees, the number is increased by 2 members on each additional 3000 employees.

The Works Council represents all employees except senior managers, for whom a special representation is provided. It is completely a workers body, which means that there are no representatives of the employer. Manual and other workers are represented in proportion to their share in total labour force, and since 2001 there is a regulation that gender which is in minority is proportionally represented with at least one member.¹⁴ The law provides that in the Councils with 9 or more members, or, in companies with over 200 employees, special Labour Committees are elected, and they are dealing with everyday activities entrusted to them by the Council, also it is possible that sub-committees are formed. In companies with over 100 full-time employees, the law requires forming of one more body, the Economic Committee, which is consulted on economic and financial issues. Since founding of this body is a responsibility of the Works Council, in some situations the Council may decide to act without such a body and directly take over its jurisdiction. There is a particular representation of the young and disabled, who can participate in discussions related to these groups. Committees for occupational health and safety can be formed if there are more than 50 employees, and sometimes when there are between 20 and 50 employees in the company. Members of the Works Council participate also at the committee meetings. Since 2008 there are new rights of information when someone invests funds in a company with the aim of taking it over, according to which the employer informs the Economic Committee or the Works Council about the activities of the other company and the possible effects that the take-over might have on employees. Nomination of members is done by a group of employees, usually 5% of those eligible to vote or by a union that has at least one member at the workplace, and it is done every 4 years. Member of the Council is granted the salary as if for a full time work, for participation at the meetings or for taking part in the activities with employees, while the law does not regulate the situation in companies that employ up to 200 employees, and in large companies the number of hours paid is increasing since 2001.¹⁵ In addition, members of the Council can have training that is closely related to their duties in the Works Council, with at least 3 weeks of training during their mandate. The employer provides the facilities with technical equipment and personnel for performing services, while in large companies the Council may

¹⁴ Reason for this change is a wish to increase number of women among members of union. In 2006, elections were held according to new rules, and in practice it led to a slight increase of women's participation from 25.4% to 25.9%.

¹⁵ One member is exempt of work duties in companies with 200-500 employees, two in companies with 501-900, three in companies with 901-1500 employees, four in companies with 1501-2000 employees, two more for each additional 1000 employees up to 10000 and one more for each 2000 employees.

have their own staff, who will perform their administrative and professional activities.

Spain

Workers' participation was introduced in Spain by the Workers' Statutes in 1980 and Law on Freedom of Trade Union of 1985, which provide for work force representation through delegates in companies that employ up to 49 employees or through Works Councils (*Jurados de empresa*) in companies with more than 50 employees, while in larger companies there are special trade union representatives. From the formal point of view, this representation of workers does not depend on the union, however, in practice, trade union plays a central role, since the majority of the elected representatives are nominated by the union. Unions have separate, legally acknowledged structure at the workplace with numerous rights, and at the large workplaces they can elect their own representatives. The right to elect workers' representatives starts with at least 10 employees at the work place, and it can also exist at work places with 6 employees, if the majority of workers are in favor of its creation. The election of workers' representatives or Works Council is done according to the following scheme:

Number of employees	Number of representatives	
11-30	1	representatives of the employees
31-49	3	
50-100	5	Members of the Works Council
101-250	9	
251-500	13	
501-750	17	
751-1000	21	

In companies with more than 1000 workers, the number of representatives is increased by 2 for every 1000 workers, up to 75 members, the most. The Works Council is only a body of employees, and there are no representatives of the employer in it.¹⁶ Sub-committees for various issues can be formed within the

¹⁶ Elections are done in at least two groups, manual and other employees, and there is a possible third group when it is regulated by Collective Bargaining Agreement. President and

Council. The tasks of the Works Council are informing and consulting, limited protection of individual workers, control of application of certain labour regulations, as well as control of social benefits at the work place. The Work Council is not authorized on financial and economic issues, so it can be only informed about the selling data or data about profit, but in comparison to some other European countries it is involved in collective negotiation. It has to be informed on type and number of new work contracts, and since there is a large number of part-time work contracts, this obligation of the employer towards the Council is considered to be of huge importance. The employer also, has to provide information to the Council on absence of workers from work, injuries at the work place and professional diseases. According to regulations from 2007 on implementation of EU guidelines on information and consultation, the right to information and consultation is additionally reinforced, so the Council has to be consulted even when it comes to larger number of dismissals of employees.¹⁷ One of the members of the Works Council has to be appointed a representative on safety. Issues dealing with social domain at the work place are also controlled, such as workers' canteens or social clubs, on condition that this is arranged with the employer. The Council negotiates Collective Bargaining Agreements on wages and other working conditions in the company or part of the company. The key role of a union section is reflected in the election of its candidate for membership in the Council and through that person it influences at the work of the Council. In large companies, with more than 250 employees, there is a right of participation of trade union representative in the work of the Council, and he can speak about issues in the Agenda, but he has no voting rights. The list of candidates for the members of the Works Council is made by trade union or a group of workers, taking into consideration that there are 3 times more candidates than the number of seats in the Works Council. Members of the Council become candidates in ratio with the number of the received votes on each list, but those who received less than 5% of the votes are not included. The election procedure is strictly regulated, and if it comes to a dispute regarding the election procedure, it is possible to address the Labour Court. Members of the Works Council enjoy protection from dismissals due to economic reasons or redundancies, and they cannot be dismissed for performing their rights in the Council, or for violation of work commitment without a previous discussion at the Council. Trade union representatives, who are not at the same time members of the Works Council, have the same legal protection. During the four year mandate, members of the Works Council have a right to salary even for the time

Secretary are elected among the members of the Works Council, while it is most often the case that the President comes from the biggest trade union, and the Secretary from the second biggest trade union. Meetings are held at least once in two months, and for validity of decision making it is required to have majority of all members in favor of a decision and not only of the members present at the meeting.

¹⁷ Its protective role is performed through the right of participation in the process of termination of employment, and in accordance with that right it has to be informed about all penalties imposed for serious breaches of work duties.

when they are not working at their work place, but are working on activities of the Council.¹⁸ The employer has an obligation to provide a suitable room for the work of the Council, and in many cases such right belongs to the unions in the company with more than 250 employees. The same right to paid work hours belongs to trade union representatives. If it is foreseen in the Collective Bargaining Agreement, it is possible to form a joint Works Council, but the number of members is limited to 13. The existence of such Council does not exclude the need to form an individual Works Council at every workplace with more than 50 employees. In previous history the institute of workers' representation had different phases, so, during the Franco's regime bodies for workers' participation were formed, and they were directed by an employer or his representative, and they were obligatory at the work place with more than 50 employees and were used as a means of cooperation of the world of capital and the world of labour. Such Work Councils disappeared with the return of the freedom of trade union association (1977), to be replaced by workers' committees and workers' representatives. The Works Council is legally regulated as a unique body for workers' representation at the workplace, and as the existence of trade union sections within a company is regulated by law, there is a double system of workers' representation in labour relations in Spain. However, compared to many other systems, "other channel" of representation of interests especially stands out, since trade unions control Works Councils and through it they carry out their policy in a company.¹⁹ The second period of Franco's regime (1958-1975) is marked by

¹⁸ It is about 15 hours of paid work per month, if there are up to 100 employees, 20 hours for companies from 101 to 250 employees, 30 hours, if there are 251 to 500 employees, 35 hours if there are up to 750 employees and companies with more than 750 employees are entitled to 40 paid working hours per month. The number of paid working hours can be increased by Collective Bargaining Agreement, and it is possible that the paid work hours are distributed among different members. It is usual in practice of the large companies that the key trade union activists are exempted from the duties in the company, so many officials at the regional and local level are still employed in some companies.

¹⁹ The first discussion about the Works Councils happened in 1921 at the proposal of the Institute for Social Reform, the Government's advisory body, which was influenced by creation of such bodies in Germany a year before. Employers and trade unions took different stands through their representatives in the Institute and therefore the project did not succeed. During the second Republic, in 1931, the Parliamentary Committee approved creation of Works Councils in all non-agricultural enterprises with minimum 50 employees, but yet again because of the opposition of the employer it was not accepted in the Parliament of the Republic. During the Civil War many companies were expropriated, and the revolutionary Works Councils of the anarchist National Confederation of Labour (CNT) and sometimes socialist UGT confiscated companies and introduced model of collective production in agriculture and industry, especially in republican areas of Catalonia, Aragon and Valencia. The system of industrial relations has considerably changed in the first phase of Francoism (1939-1958), when it was based on cooperatives. Trade unions were put outside the law, with the exception of the official trade union, which both the employers and employees had to join under pressure. With this "vertical unionism" the state controlled labour relations in order to

economic liberalization, because the strategy of economy autarchy was replaced with opening of national economy towards international markets. Collective negotiation was introduced in 1958, and it gave negotiation right to already existing Works Councils, while the state tried to control it through its right of veto on election of candidates for the Works Council, through approval of agreements between employer and employees and through introduction of obligatory arbitration in case when two parties could not reach an agreement. Reforms of industrial relations were conducted parallel with the democratization, and the most important reform guaranteed negotiation autonomy both to the employers and employees, while obligatory workers' representation was extended from the companies that employed more than 50 employees to those that had over 10 employees, but in smaller companies they were called representatives. The state control was abolished, so the workers and the unions could freely elect their candidates. The Unions were given comparative advantages in the Council elections compared to other lists of candidates, and the Council became exclusively a workers' body, without employer's representatives. Workers' Statutes prescribes the following rights to Works Councils:

Information: the employer must inform the Works Council at least on quarterly basis on economic development, production, sales and employment. The Council must be informed on regular basis also on leave from work, injuries at work place and professional illnesses, as well as about sentences for the workers due to violation of work obligations. The Council may have insight into all written contracts, and ever since the nineties, employer must inform it about every new work contract, except for those for higher positions in the management;

Consultation: although the Workers' Statutes leave the management role only to employer, the Works Council has a right to be consulted about the reduction of work hours, dismissals, work reorganization, functional and geographical mobility of workers, training programs, etc. In case of dismissals or bigger changes in organization of work, employer has to receive an authorization from the public authorities, except if he made an agreement with the Works Council.

The right to legal action: among the most important roles of the Works Council is the control of implementation of the labour regulation and Collective Bargaining Agreements, and with this respect there is a right of judicial or management activity against employer, not only due to disrespect of the regulations that govern the Works Council, but also the whole of the work force.

Right to negotiate: since 1958 collective bargaining was introduced again, and since trade unions were then forbidden, Works Councils negotiated Collective Bargaining Agreements at the level of the companies. They retained this right until this day,

prevent conflict of interests between employers and workers. Since the official trade union was not able to control regulations in each company, limited elections for Works Council were introduced in order to provide efficient application of labour regulation (*ordenanzas laborales*). This explains why the Law on the first model of Works Council in Spain appeared in 1947, much before the program of economic liberalization from the late fifties.

while trade unions have to fulfill certain criterion beforehand. The topics of negotiation are salaries, working hours, trade union rights and other issues related to work.

Right to strike: while Works Councils in other countries have no legal right to strike, in Spain this body has also that right. Usually it is used during negotiations, during the conflict on interpretation of Collective Bargaining Agreement or for exerting pressure on employers to abandon decisions which are not in accordance with the law or Collective Bargaining Agreement.

Right to manage social funds in companies: almost each big company in Spain has a special fund for social care of the workers. The money is used for giving loans with low interest rate, for assistance in education of the children of the workers and organizing sports competitions, manifestations, and for club activities. These funds are jointly managed by the employer and Works Council.

Spanish Works Councils have the following responsibilities:

- Cooperation with the management on the issues of maintenance and growth of productivity,
- Information of the workers on all issues dealing with labour relations,
- Keeping all information given to workers' representatives secret.

The employer is obliged to provide appropriate office space, compensation of the salary for performing the duty of representatives, while members of the Council enjoy special protection from dismissals.

Although employees have active and passive voting right, for companies with more than 49 employees the law has foreseen separate elections for technical and administrative personnel (white collar workers) and other qualified and unqualified workers (blue collar workers). The Workers' Statutes has also foreseen the possibility of third election group for middle managerial positions, however in practice there is no greater application of this possibility. The aim of such separation is to provide equal participation of each group of workers, whereas some of these groups represent minority of workers. Works Councils are not required by automatism, but in order for them to be created, it is necessary to have majority of workers or representative trade unions. Ever since the first democratic elections, in 1978, number of Works Councils at workplaces has significantly increased, and one important reason for this was the fact that trade union representativity depends on the number of places in the Works Council, so in this respect it is demanded to have participation of over 10% at national level or more than 15% at regional level. Besides, since 1977, employers' associations and trade unions have right of participation in management of state agencies, such as National Institute for Unemployment (INEM) or National Institute for Health (INSALUD), while the number of positions that belong to trade unions depends on election results in the Works Councils. Founding of this body has political support which is strengthened by the fact that Socialist government started to financially support trade unions in proportion with number of places in the Works Council.

France

In France, employees are represented through trade union and structures which are directly elected by all workers. Institution of workers' representation is obligatory since 1945 at all workplaces with more than 50 employees. The Council is a legal entity, which, as a collegial body, is composed of members elected by the employees and members of the management of the company, as well as of representatives nominated by the unions. Responsibilities of the Works Council are related to the welfare of the company and cultural activity, with possibility of consultation about employer's initiatives for organization and management of the company, and without formal negotiation power.²⁰ French system was built on tripartism in a number of social institutions. On national level, there are 5 representative Trade Unions and only these Trade Unions at the national level can discuss with Government. Each company with minimum 11 employees has to organize elections for trade union representatives (Délégués du personnel), and when the number of employees reach 50, a Works Council has to be formed (Comité d'Entreprise). Due to such legal provisions many small French companies limit their number of employees to 10 or 49. The Labour Law (*Code du Travail*) is rather clear in relation to trade union and the Works Council elections, and it prescribes that they have to be held every 2 years, and once elected or even just candidates for election, representatives become protected, so if the employer wants to cancel their Work Contract, he has to receive a permission from the Works Council. In companies with less than 200 employees, employer may decide to consolidate responsibilities of the Council and trade union representatives, in which case 4 representatives are elected in companies with 75-99 employees, or 5 representatives in companies with up to 124 employees. Trade union and Works Council representatives in companies with more than 50 employees have a right to 15 hours paid per month to perform their duties as workers' representatives. Trade union representatives deal with following issues:

- Submit to the employer all individual and collective complaints regarding wages, compliance with the Labour Law and other regulations concerning health, safety, hygiene and other forms of social protection.
- Inform Labour Inspection (L'inspection du travail) about all unaccepted complaints dealing with application of laws and regulations in an enterprise, where they are obliged to provide control. When a Labour Inspector performs control, he informs trade union representatives about it, and they have a right to be present during the inspection.²¹

²⁰ In practice, the border between consultation of the Works Council and collective negotiation of the trade union is very narrow, and therefore, many agreements concluded between the management and the Works Council, received legal force of a Collective Bargaining Agreement by the Court.

²¹ Other responsibilities of trade union representatives are related to the obligation of the employer to consult them on all changes in annual holidays, changes of weekly or monthly working hours, reimbursement of the employee who was a victim of injury at work place or

Works Council consists of a higher member of the management, who acts as a President of the Council, and representatives, who are elected for period of 2 years. Each representative trade union in the company can nominate representatives in the Works Council, which has the status of a legal entity. This representative body was established in 1945 in order for employees to be able to “express themselves collectively and ensure that their interests would be taken into consideration”. It has to be consulted about almost every aspect of company management: economic and financial situation, methods of work organization, training plan and methods of production. The law states that the Works Council “elaborates, on its own initiative, and examines, at a demand of company management, all proposals that could improve working conditions, training and employment among the workers as well as their life in the company.” In companies with less than 150 employees, the Works Council meets at least once in two months.²² The Council has 6 main fields of responsibility:

- 1) it contributes to a satisfactory life in the company, which can be labeled as "social and cultural activities." These are activities that an employer has not an obligation to provide and which are useful for employees, their families and retired company employees. In that sense, they organize travels, entertainment for children of employees, theatre plays, etc..;
- 2) within daily working conditions, the Council is informed and consulted on all matters related to the change of working time, new technologies, changes in working conditions, responsibilities, training, methods of compensation and changes in career paths;
- 3) each year the Council must be consulted on the training plan for the next year. It also gives its opinion on how the training plan for the previous year has been completed.
- 4) in terms of employment, the management is obliged to inform the Council about trends in employment, qualifications of employees by gender, the termination of the contract for definite and indefinite period of time and explain why someone is employed as a part-time employee;
- 5) regarding the introduction of new technologies, the Council must be informed before any such action about its impacts on working conditions, salaries, responsibilities, training, and the total working life within the company.

suffers from a professions disease. The employer has an obligation to discuss these and other issues with them at least once per month.

²² The Secretary of the Council makes Minutes of the meeting and after the meeting distributes them to persons and institutions that are supposed to be informed. The work of the Council is financed by the company with the minimum amount of 0.2% of the gross salaries. It is provided with the facilities for meetings, and all necessary material needed for a successful work.

6) regarding the financial condition of the company, the Council must be given new data; it must be consulted on the development of new and old markets, as well as about all economic developments that may affect the company.²³

There are also special committees that deal with health and safety, and even individual workers have the "right to express themselves" on the topic of their working conditions, such as through periodic meetings of groups of workers.²⁴ Where there are unions, union representative has a key role, but due to the low percentage of union membership, many companies with fewer workers have no unions and in some cases there are no workers' representatives. If there are union members, they can form a trade union body, regardless of the number of members or the total number of employees, and due to the structure of French Trade Unionism there are often more trade union bodies in the same company. The new regulations of 2008 slightly changed the rules in this area, so the rights of trade union organizations vary depending on whether a union is representative within the company.²⁵ In companies with more than 50 employees representative trade unions have the right to appoint their representatives with many rights. Under the new regulations, even such representatives must have the support of 10% of the workforce. Unions which are not representative in the company are not entitled to union representatives, but only to a trade union body, which has significantly fewer rights. Works Council and

²³ Within one month after election of the members of the Works Council, management of the company is obliged to inform them about financial and economic situation, economic plans, names of the main shareholders (who possess more than 10 % of the capital) and send them analysis of the operations of the company in the sector in which it operates. Once per year, the Council must be given a written report about the company, which must consist data about the total turnover, profit or loss, volume and value of production in the previous year, capital or profit transfer between mother-daughter company, distribution of profits, subsidies or loans obtained from the state to maintain employment, cease of investment, and all changes made in the organizational structure and the total wages paid. Each quarter the Council must receive a report containing detailed information on the movement of customer orders / clients, the financial condition of the organization and the number of jobs that are created or abolished.

²⁴ Data of the research agency DARES indicate that in period between 2004-2005 at the workplaces with more than 50 employees 63% had at least one trade union representative, 81 % had the Works Council or a body which combined responsibilities of the Works Council and workers' representative (DUP), 87% had workers' representatives or DUP, and 72% had a Committee for health and safety. In companies with more than 500 employees, the percentage of representation reached 95%. According to other reports of DARES for the period 2004-05, 70% of the work force with more than 200 employees had 2 or more trade union representatives from different unions.

²⁵ In order to be that, trade union has to fulfill several requirements, such as independence and publicity of financing, while the most important fact is whether the union is supported by 10% of the employees. In some companies, elections have already been held according to these regulations, while in others they will occur in 2013, which means that until then the existing rules of representativity are applied in them, according to which in order to be representative, the trade union has to belong to one of the five representative trade unions at the national level.

workers' representatives have a different election threshold, and the ratio of the number of representatives and number of employees is as follows:

Number of employees	Number of workers' representatives
11-25	1
26-74	2
75-99	3
100-124	4
125-174	5
175-249	6
250-499	7
500-749	8
750-1,000	9

In companies with more than 1,000 employees for every additional 250 workers one representative is elected. The employer meets with the representatives once a month and they can demand emergency meetings on urgent matters. Representatives may also individually request a meeting.²⁶ Number of the members of the Works Council is shown in the following table:

Number of employees	Number of the members of the Works Council
50-74	3
75-99	4

²⁶ Data from DARES indicate that this is the most widely spread form of workers' representation – 72% of all workplaces with more than 20 employees during 2004-05, and 87% in companies with more than 50 employees. The Works Councils are formed in companies with more than 50 employees, which means 81% of such companies in practice.

100-399	5
400-749	6
750-999	7
Above 1000 employees, for each additional 1000 employees the number of representatives is increased by 1 up to 5000 employees, above this number the additional representative is elected for 2500 employees, up to the maximum number of 15 members.	

The Works Council is a joint body chaired by the employer or his representative, while the Secretary of the Council is the representative of the employees. Subcommittees must be formed in larger companies in the following areas: vocational training (at least 200 employees), housing (at least 300) and economic issues (at least 1.000). If necessary, other sub-committees can be formed as well. As for the unions, the main task of their bodies is to defend the interests of its members and promote trade union at the workplace and the rights include: collection of trade union affiliation fees during working hours, access to bulletin boards, distribution of trade union flyers and organizing union meetings, and if the union is representative in the company, then there is also the right of appointment of union representatives. Where trade union has no representativity, there is a right to appoint representatives of trade unions. A trade union representative represents the trade union before the employer and the workers, and defends the professional and economic interests of the workforce as a whole. While the activities of workers' representatives are focused on the control of proper implementation of employment legislation, trade union representatives should be looking for ways to improve the existing agreement. This is done through negotiations, which usually occur every year, whereas the trade union representative must receive all the data on wages and work force in the enterprise. Since the beginning of 2005 there is a right of negotiation on long-term employment plans in companies with more than 300 employees which is held every three years. It is common for trade union representatives to attend meetings of the Works Council, and they are also included in the election of workers' representative. In contrast, the representative of trade union organization may participate in negotiations only in exceptional circumstances when there is no trade union delegate or workers' representatives who has the right to negotiate. Each of its agreement must be approved by the majority of the workforce, which is not the case with trade union representatives. The Works Council's right to information includes economic and financial issues (property, sales and income, level of production, investment and state aid, the use of subcontractors, the structure of wages), and social issues on the number and type of employees, the reasons for the use of temporary, agency work, or part-time work, employment predictions, status of women and men, the change of

Collective Bargaining Agreements and training. Consultation right is of a smaller scope, and employers are in general required to consult with the Works Council in advance if the planned measures significantly affect: the scope and structure of the workforce, working hours and working conditions including vocational training.²⁷ The employer must hear the views of the Council, but then he can continue to work as he imagined, except with collective redundancies and restructuring, where in majority of cases the Works Councils address the Courts, claiming that adequate consultations were not carried out. In many cases this leads to postponement of the implementation plans of the employer. Regulations of 2005 envisage the possibility of avoiding such situation so that the agreement would be reached with the unions. Consent of the Council is required only for some specific issues, such as changing the organization that provides medical services to the company. The Works Council deals with social and cultural issues in the enterprise, such as work of the canteens, break for workers, libraries, sports and social clubs. Trade union representatives are not elected by union members in the company, but they are appointed by the local, regional or national trade unions, if their organization is representative in the company. The employer has to be informed no matter whether it is an election of trade union delegates or trade union representatives. Both the election of workers' representatives and members of the Works Council have a similar procedure, so in the first phase of elections only unions can submit lists of candidates (under condition that they are independent and that they exist at least 2 years). If those candidates of the union receive at least half of the total number of votes, the process ends. If more than half of potential voters do not support the choice of trade union candidates, the second stage of the process begins, when, within 15 days they can submit lists of candidates, who do not have to be union members. Depending on the numbers, all workers vote together or are divided into several groups that represent different types of workers. The elections are usually held in 4 years time; however, with Collective Bargaining Agreements a shorter period can be set, until at least 2 years. Trade union delegates and those whose term ended during the previous 12 months can be dismissed only after a meeting with the employer, consultation with the Works Council and with the permission of the local Labour Inspection. The same protection is provided for the members of the Works Council and workers' representatives, but it lasts only 6 months after the expiry of the mandate.²⁸ In order to be eligible for wage compensation it is necessary that the trade union is representative in the company, or that it enjoys the support of 10% of employees,

²⁷ Special issues for consultations include: suggestions for reduction of the work force; important structural changes such as company mergers; mass redundancies; new technologies; health and safety. Consultation does not mean that the Works Council must agree prior to the implementation of the measures, but an opportunity to express its views, usually by a written statement and to delay implementation measures before the dialogue.

²⁸ In spite of this, data of DARES indicate that a significant number of protected individuals are being dismissed every year, and so between 2002 and 2004, 22% of such individuals were dismissed at workplaces with more than 50 employees.

and it is entitled to 10 hours per year for the preparation of negotiations in companies with more than 500 employees, or 15 hours per year in companies with more than 1,000 employees. In companies with more than 200 employees, the employer is obliged to provide one room for all trade union organizations, regardless of whether they are representative, and when there are more than 1,000 employees, each representative trade union must have a separate room. The employer has to pay salaries to the trade union delegates even when they do not perform regular work duties, and the amount of compensation depends on the number of employees.²⁹ The Council can hire external financial experts to analyze annual financial statements and examine financial plans in companies with more than 300 employees, and their employment is paid by the company, or by the employer.

Austria

Workers' Representation in Austria is done through Works Councils, which can be created at all workplaces with at least 5 employees, but in practice they are rare at the workplaces with few employees. They have an important role in the right of information and consultation, even with the right to veto in several areas. The Works Council (Betriebsrat) represents all employees and mainly it exists at the workplaces with more than 50 employees; however a significant number of medium-sized enterprises do not have Works Councils. Since it represents all employees, in its elections even employees who are not members of a union participate. In most cases however, the union plays a crucial role in the activities of the Council, and often more than three-quarters of its members are union members.³⁰ The Austrian system provides a special structure for youth representation, if there are at least 5 employees who are younger than 18. The size of the Council depends on the total number of employees:

²⁹ If there are 50 to 150 employees – 10 hours per month; 151 to 499 employees – 15 hours per month; 500 or more employees – 20 hours per month. Representatives of unrepresentative trade union organizations in the companies with more than 50 employees are entitled to 4 hours paid during a month. Workers' representatives are entitled to 15 hours paid per month (10 if there are less than 50 employees), and where the activities of these representatives are combined with the Works Councils, the total number of hours provided for these two positions is limited to 20 hours. Members of the Works Council have 20 paid hours per month for performing their duties as well as up to 5 days of paid leave during their mandate. A specific thing is the possibility of combining paid hours, so if one person is at the same time trade union delegate, workers' representative and a member of the Works Council in a larger company, then he can have up to 55 paid hours per month.

³⁰ The real influence of the trade union on the Works Councils is reflected in the fact that in other countries where the Councils have similar power, as it is the case in Germany or the Netherlands, rarely does some other trade union structure exist at the work place, but the Works Council is the basic unit for the trade union work. Their members distribute trade union material, have an active role in trade union campaigns, mobilization and recruitment of new trade union members.

Number of employees	Number of the members of the Works Council
5-9	1
10-19	2
20-50	3
51-100	4
101-200	5

The Council is composed only of workers' representatives, with no participation of representatives of the employer, regardless whether they are elected for all employees or if elections are held separately for manual workers and other workers. If there are at least 4 members of the Works Council, one of them can be a trade union representative outside the workplace, but in practice this option is rarely used. The meetings of the Council are held at least once a month, and joint meetings with the employer are held at least quarterly. Responsibilities of the Council are mainly related to social and employment issues and less on economic and financial issues. In some cases there is a right of veto, which means that then the employer cannot act without consultation with the Council. When it comes to economic and financial issues, the main rights are the rights of information and consultation at least once in every 3 months. The employer is obliged to submit to the Council a copy of the annual report and accounts, and so as to properly understand the information in them, the Council may invite experts from the trade union or labour association. Council has more rights in the major economic changes, which could harm the interests of employees, such as partial or complete termination of activities, job transfer or relocation. Then it is necessary to have a compromise agreement between the employer and the Council, and when it is not possible, a special Arbitration Council is established outside the company, so it can decide on certain issues. If there are more than 200 employees, the opposition of the Council to main changes in the company can stop any such action for up to 4 weeks. In social and employment issues the Council has the right to monitor activities of the employer and to provide the correct application of the law and Collective Bargaining Agreements. It can propose improvements of the working conditions, including vocational training and training within occupational health and safety. It has to be informed of any planned dismissals, and if there are objections, it can initiate proceedings before the Labour Court. In areas which require an agreement with the Works Council, the lack of

agreement leads to decisions made by a specially constituted arbitration body. It includes labour regulation, normal beginning and ending of a work day, data on paid salaries, vocational training and introduction of a database with personal notes. Sometimes, the right to veto is absolute, so the employer can not apply to arbitration body, such as the disciplinary procedures, the monitoring system, such as closed-circular TV, as well as systems of payment. Often the Works Council is involved in organizing cultural and social activities, such as business picnics or assisting employees who have some problems outside the workplace. The Works Council is not included in negotiations on wages at industry level, but sometimes it negotiates on its additional improvements. In the election procedure all workforce participates on the basis of submitted candidate lists, and each candidate must be supported by at least two times more workers than the number of members of the Council. Member of the Council can be dismissed only if the dismissal was previously approved by the Labour Court. The time that they need to deal with the representation of employees is part of the work hours, and in large companies one or more members of the Council are completely released of their work during their mandate.³¹ In addition to office space and needed office supplies, in large companies the employer can also provide the services of an administrative assistant for the need of the Council. In addition to funds from the employer, the Council can also collect the necessary funds from the employees, who must previously agree to this at a meeting. The amount collected this way is mainly used for social events such as excursions, and the maximum deduction from gross salary of workers cannot exceed ½%. If the activity of the company takes place in several companies, and they all form a single economic entity, a central Works Council can be formed. It is also possible to establish the Council at the level of group of companies, if companies decide it on their own. Election of members of the Council is held once in 4 years, and the law provides that in addition to employees, 25% of members can be union officials outside the company. Besides this most important legal form, there are some other variations: a group Works Council that separately represents blue collar and white collar workers; Boards for certain categories of workers, the central Works Council, representation at the level of Concern and the European Works Council.

Great Britain

Starting from the Directive 2002/14/EC on establishing a general framework for information and consultation of employees at the local or enterprise level,

³¹ In companies with 150 to 700 employees, there is only one member of the Works Council with full work hours paid by the employer, if there are 701 to 3000 there are 2, and in companies with more than 3000 the number increases by one for each additional 3000 employees. Besides the paid work hours each member has a right of up to 3 weeks of paid leave for training (sometimes it lasts up to 5 weeks) within 4 years, and in the companies with more than 200 employees, one member of the Council can use the paid leave for training that lasts up to one year.

regulations were enacted in this area, in 2004, which apply to England, Scotland and Wales (United Kingdom). A year later the law was enacted for organizations that employ more than 150 employees, in 2007 its application was expanded to organizations with more than 100 employees, and in 2008 to those that employ more than 50 employees. When determining the number of employees in the company the average number of employees in the previous 12 months is taken into account. The employer must begin with introduction of the process of information and consultation if he receives a request from at least 10% of employees (either as one document or in separate documents during the period of 6 months). If the employer has a written agreement according to which he is supposed to provide information to the employees or their representatives, then the employer does not have to accept the demand unless it is requested by minimum 40% of the employees. Upon receiving the demand the employer must appoint or elect at least one representative who would negotiate about the agreement and the deadline for this is 3 months starting from the receipt of the demand. In case of a complaint against the appointed or elected representative, it is referred to the Central Arbitration Committee. After determining one or more representatives, the notice is delivered to all employees, and negotiations cannot last longer than 6 months. After the agreement is concluded the company is required to apply it in practice.³² Information and consultation procedure must cover: recent and possible development of business activity and economic situation, state, structure and possible evolution of employment in the company, the planned measures, particularly those that may jeopardize employment, any decision related to the transfer of employment or collective dismissals. The duties have to be carried out in the spirit of cooperation, and in case of acting contrary to it, the maximum fine is 75,000 pounds. The most common way of representing the interests of workers is through trade unions, while most workplaces without trade union have no regulated representation, and such state of affairs can hardly be changed by the application of the Directive of the European Union. Unlike some EU countries, in the UK there are no Works Councils elected by all employees, nor are there regulations on the legal commitment of Collective Bargaining Agreements. The fundamental difference exists between the workplaces with unions and those where a union does not exist. An official review of 2004 showed that 30% of workplaces with more than 10 employees were covered by trade unions, or in other words, employers have recognized them as partners. In order for the union to represent the workers, it is necessary to be recognized by the employer or that the employer has agreed to consult or negotiate with unions on issues affecting the workforce. Regulations from 1999 created for the first time a legal mechanism to compel employers to recognize unions. Trade unions have to prove to an independent body, the Central Arbitration

³² If the employer fails to start or end negotiations within 6 months, he has to continue with standard information and consultations, by holding a secret ballot for workers' representatives, one representative is elected for 5 employees, and the total number of representatives is 2 to 25.

Committee, that the majority of employees in the "bargaining unit", which can be a workplace, several workplaces or a part of the workplace, want the union to represent them. The regulation applies only to the employers who employ more than 21 employees. The data of the British Trade Union show that trade unions were recognized from November 2000 to October 2005, in 1182 companies and only in 90 cases it was done by the decision of the Central Arbitration Committee. Trade union representatives are often known as shop stewards, though, other expressions are also used. Where there are no unions, there is no general right or request for workers' representatives, although there is a requirement of EU Directives to inform and consult employees about the redundancies, transfer of business, health and safety, and in some cases even about the work hours. The employer is required to inform and consult the existing workers' representatives or representatives elected specifically for that occasion. In practice, the constant representative bodies outside trade unions are rather rare, although there are different examples, such as the case of the wholesale Marks and Spenser.³³ Since the Directive only prescribes the obligation to inform and consult employees in enterprises with more than 50 employees, the employer has no obligation to establish bodies, if they do not already exist. This procedure is initiated by the employer or at least 10% of the workforce. In companies where unions are recognized, they use the new rules to improve access to information and consultation. Where they are not recognized, the new structures are mainly formed at the request of the employer, since the employees have difficulty in obtaining 10% of the employees in favor of such initiative or because they are not familiar with this right or do not want to use it. There are no legal provisions dealing with the number of trade union representatives, and one study from 2002 showed that in average, on each 36 employees there is one union representative. In a large workplaces trade union representatives can elect a Joint Committee and a Spokesman. It is also possible to establish a Joint Committee with an employer, which is often called Joint Consulting Committee.³⁴ The main task of trade union representatives in many different professions in the private sector is to negotiate wages and working conditions, while their colleagues in the public sector are less involved in the negotiation process. Trade union Statutes describes responsibilities of trade union representatives as "the establishment and maintenance of trade union organization in the working group, including the organizing of meetings at the workplace." Trade union representatives are responsible for recruiting new members, as well as for informing union members about the latest measures and campaigns. Their responsibility is also the collection of membership fees, although it does not happen so often, because in most cases the fee is deducted from the wages by the

³³ Wholesale Marks and Spencer (M&S) exists more than 125 years, and the management establishes contacts with the employees through the group for business participation. It consists of more than 3500 elected workers' representatives who have the right to information and consultation on the issues of work and employment. Since the activities of the company are done in many countries, the European Works Council is also established.

³⁴ The survey of 2004 recorded the existence of such board at 29% of workplaces.

employer or it is paid through the bank account. The recognized trade unions have the right to be consulted on mass layoffs and job transfers. Representatives for safety have the right to consultation on health and safety issues.

Sweden

The name used for identifying body for cooperation between the management and the work force at the workplace (företagsråd) was determined in 1946 in the agreement of SAF, the employers' organization and LO, trade union, which called upon industrial democracy. However, in practice, both the agreement from 1946 (amended in 1964) and the one from 1975 on economic committees and independent experts did not give the employees true right of participation in decision making process. Therefore, in 1976 the law on co-deciding was adopted, and it allowed greater participation of employees, while the agreement on the Works Councils was abolished. Today, in Sweden, there are only European Works Councils, while consultation and participation of the employees is done through creation of trade unions and workers' representation in boards, according to law introduced in 1976, on consultation and participation of employees in the work life, which is also known as the law on co-deciding (Medbestämmandelagen, MBL). Works Councils existed in the sixties, but with the application of MBL they disappeared. The first part of MBL sets the general rules of workers' representation, information and consultation. A special characteristic of these rules is that participation in decision making is granted to trade unions, who sign Collective Bargaining Agreements with employers. There is no limit in number of employees for application of these rules, so in almost all companies there is a trade union, or two or three members of a union who want to establish a local union. Nevertheless, if there is no local trade union at work place, trade union organizations at regional or national level are then authorized to negotiate or to receive information on behalf of all members of the union at the workplace. The role of trade union representatives at the work place is regulated by the law of 1974, and they are elected by the members of the union, usually once a year. According to MBL, before the employer undertakes any activity that introduces significant changes in the company, he has to initiate negotiations with union representatives. The same happens before each decision of the employer which is related to significant changes in working conditions or employment. Employers are also obliged to inform union representatives on regular basis about the modes of business development regarding production and finances and about guidelines of personnel policy. Trade Union representatives must be enabled to have insight into financial reports, invoices and other documents. If an employer decides to dismiss employees due to the lack of work, he has to inform the union representatives about: a reason for the planned dismissals, number of employees that will be dismissed and categories of workers they belong to; number of employees who are regularly employed and categories they belong to; time period during which the dismissals are planned to occur and methods of calculation of compensation, whether it will be the

method described in the Collective Bargaining Agreement or the one guaranteed by the law. In extraordinary circumstances, he can reach and put into force a decision even before he fulfils his duty of negotiation and informing, which limits “industrial democracy” in management decision making, however, in such case, the employer has to inform trade unions about it as soon as possible. The right to co-decision-making is a part of general right of employer to manage and organize the work, it was established in 1906 by the Central Collective Agreement, which was well known as “December compromise”. If this right is used contrary to regulations, the Labour Court can commit the employer to compensate for the damage he caused by not fulfilling his obligations prescribed by the MBL.³⁵ The Law on European Works Council from 1996, which puts into effect the EU Directive (94/45/EC), determines the legal right of information and consultation in supranational companies.³⁶ As it was already mentioned, workers’ representation in Sweden is exclusively done through trade unions, and without some special structures which exist in other member states. The main reason for such role of trade union is a high level of workers’ membership in them. It should be noted that in addition to the obligation of an employer to negotiate on certain issues, no obligation has been established to terminate the negotiations with an agreement, which results in a situation that in many cases the union has no power to veto some employer’s plans. Although the number of union representatives in the negotiations is not prescribed, normally there are 3 to 4 members of Trade Union Committee who represent manual workers and a smaller number that represent the white collar workers. The agreement of 1982 provides that where there is no local union at the workplace, the trade union may designate a person as a contact person for union negotiations.³⁷ The obligation of

³⁵ The Law on protection of employees, from 1982, consists of many important provisions dealing with the rights of trade union representatives. The Law on workers’ representation in the board in private sector from 1987, together with the law on enterprises from 1975, regulate trade union representation in the boards of the companies. In all companies with more than 25 employees who are covered by Collective Bargaining Agreements, have a right to be represented with 2 members in the board. In companies with more than 1000 employees, who are working on at least two types of jobs, the employees have right to three members of the board. Workers’ representatives have the right to vote and decide, except when it comes to issues covered by collective bargaining, but they may never make majority in the board. These representatives are appointed by local trade unions. The regulation on representation of clerks from 1987 regulates the representation in the committees of the public sector. Here the rights of the workers’ representatives are lower, because they have the right only to participate and express their opinion, without the possibility to be involved in decision making.

³⁶ In Sweden there are about 4.6 million people capable of work, out of which 4.4 million are employed, and more than 200,000 are unemployed. During 2002 there were 842,358 companies out of which 628,033 had no employees, and 99% were in the private sector. Without taking into consideration companies with no employees, about 90% of companies are covered by Collective Bargaining Agreements, and around 80% of employees are members of the union.

³⁷ Trade Union LO estimates that there are some 50.000 such contact persons at work places.

negotiation and information does not exist for only one trade union in the company, but if there are several unions in the company, the negotiations with them are done separately; however, the unions often work together on issues related to all trade unions in the company. The role of union representatives is predominantly democratic, so if there is a certain number of union members, a union club will be founded, as a basic democratic unit of a trade union which they will represent in relation to others.

Members come to them for information and advice about the relation with the employer, although they may receive help from union officials, hired on a full-time basis. They have an important role in negotiating wages and working conditions. The employer must inform the union about the general economic situation, production levels and personnel policy. They must be provided with an access to accounts and other documents of the company while at the request of the union other documents must be also submitted to them. With respect to the obligation of trade union to be involved in consultation on important changes, the Labour Court considers the following as important changes: changes in the organization and working methods, personnel changes, including changes of supervisory persons; annual budget preparation, structural changes and changes of models of employment or dismissal. For these and other significant changes an employer must open the process of negotiations with the union. Negotiations are taking place primarily at the local level, but in the absence of agreement, unions can require negotiations at the national level. The agreement of 1982 listed three areas of negotiation: the development of work organization, improvement of the skills and experience of each individual worker, technological development and issues related to economic status. The trade union has a right to veto when it comes to hiring of subcontractors who are not directly employed, except when there is a real need for such engagement, as is the case when special skills are needed or when the need exists for a short period of time. Practice shows that formal negotiations are more common in large companies, while in small ones there is more flexibility, so the problems are solved in everyday communication between management and trade union representatives who are elected for a period of one or two years at the annual general meeting. If the union considers some of its own representative to be of a particular importance for trade union activity, he may receive special protection when selections for dismissals of employees are made, and disrespect of this union's opinion may mean that the dismissal of that employee is done against the regulation. The Law of 1974 does not define the period of paid hours for performing trade union activities, but it states that it is a necessary time, in accordance with reasonable conditions at the workplace.³⁸

³⁸ What is considered reasonable is defined in local a Collective Bargaining Agreements, so in large companies with more than 1000 employees, it can happen that 10 manual workers are engaged in trade union activities with full work hours, while maybe only half of that number will be in case of other employees. At smaller work places with around 300 employees, the

Belgium

In comparison to Sweden, there is representation at the work place of all employees and members of the union in Belgium, but only trade union is authorized to elect members of the Works Council which is the key body of trade union representation. The Works Council represents the whole work force, and is elected only in big companies, with more than 100 employees. Trade unions are represented by trade union representatives, and also, there are special bodies for health and safety that are elected by all employees in companies with more than 50 employees. Those health and safety committees have right of information and consultation on economic and social issues. These rights are introduced in 2008, in order to apply the provisions of EU Directive on information and consultation. In practice, it is often the case that the same people are both members of the Works Council and trade union representatives, with different competencies, but trade union representatives have the central role, especially where a conflict with the employer occurs. Both systems of representation have clear legal background, the Works Council in the Law of 1948, and trade union representatives in legally binding Collective Bargaining Agreements, National Collective Agreement of 1971 and later in Branch Collective Agreements. Enforcement of the Law on Works Councils is regularly controlled by the Labour Inspection, while the fact that it is applied only on companies with more than 100 employees indicates that only one third of all employees are covered by Works Councils. Members of the Council are elected by the employees and the employer, but the number of employer's representatives cannot be higher than the number of workers' representatives. The following table shows the method of election of workers' representatives:

Number of employees	Number of workers' representatives
101-500	6
501-1,000	8
1,001-2,000	10

chairperson will be exempt from duties, while the two trade union representatives of manual workers will be partially exempt, with one or two persons coming from the group of other workers. In public sector, National Agreement provides one trade union representative for each 500 workers, who will commit himself to trade union activities during the full work hours.

Besides the data already mentioned, for each additional 1000 employees up to 6000 employees, one more representative is elected, but there cannot be more than 25 members. Manual and other workers should be represented proportionally according to their participation in the total work force, and special number of representative seats is guaranteed for young workers (up to 25 years of age). The Works Council is chaired by the employer's representative, while the Secretary of the Works Council is the workers' representative, and this body is obliged to hold meetings once per month.³⁹ The role of the Works Council is reduced to information and consultation on a series of social issues and issues related to employees, although it also has some limited authority in decision-making. The law determines how information is made on economic and financial issues, market share, financial structure, production levels and future plans. This information, together with the financial results is provided on annual basis, and every 3 months management has to present the current situation. Information on new economic or financial developments that may seriously affect the work must be submitted to the Council without any delay. On annual basis, it must be submitted a report on the number and type of employed and dismissed workers, as well as data on the employment measures and vocational training. The employer must consult with this body in cases of mergers, closures, transfer of business, major layoffs, training plans and introduction of new technologies, as well as major changes that affect employees. Responsibilities of the Council in decision-making are limited on introducing or amending rules of labour, the general criteria for dismissals and re-employment, time for the use of annual holiday and management of social benefits, including pension funds, canteens and sports clubs. The central role of trade union representatives is to negotiate new contracts and ensure that the current ones are applied. They also deal with disputes between employers and employees, on individual and collective basis. If we compare the roles of the two bodies, trade union representatives are authorized to submit demands and to negotiate, and the role of the Works Council is to receive information and be consulted. At workplaces with less than 50 employees, for which it is not required to have the Committee on Health and Safety, trade union representatives take over the responsibilities of this Committee. Members of the Works Council are elected in 4 years by all employees, and only the representative trade unions can nominate candidates, which means that the Council members are union members at the same time. Unions are encouraged when compiling the list of candidates to take into account the proportion of men and women in the total number of employees, so during the elections of 2008, more than a third of the elected members were women. Members of trade union delegations are elected either by trade union members at the workplace or by the local union, depending on the manner foreseen by the Collective

³⁹ Number of trade union representatives depends on legally binding contracts for each sector, in some there is no threshold, while in others it is 10, 50 or 75 employees. Mainly, the number goes between 2 and 8, and the workplaces with 300 employees usually have 4 or 5 representatives. If there are more trade unions, the number of representatives depends on their strength, and usually they meet separately before joint meetings.

Bargaining Agreement of the sector, and in most cases the second way is applied. As it is the case with members of the Council, members of trade union delegations are also elected for the period of 4 years. Prohibition of dismissal of members of the Works Council mean that they can be dismissed only due to "serious fault" or economic or technological reasons, while in both cases, the employer must explain his decision to the Labour Court in the first case, or in the second case to the joint body consisting of representatives of management and trade unions. In order for the Committee to act, the employer must provide adequate free time and facilities, while meetings of the Council are considered work hours and are also paid as such.⁴⁰

Denmark

Trade union is the main representative structure at the workplace in Denmark, so trade union representatives represent the interests of employees before the management and often are members of the main body for information and consultation, the Cooperation Committee. Trade union representatives exercise their role of representing the interests of employees in daily contact with the employer, and they have the usual authorization to negotiate at the local level on wages, work hours and other issues. They also have priority in representation of employees in the bodies that have been established instead of the Works Council, the Committees for Cooperation. This priority in representation has legal background in the binding Collective Bargaining Agreements between employers' associations and trade unions. The rights and duties of the Cooperation Committee are established by the National Agreement between unions LO and employers' organizations DA, which mainly cover the private sector. There are special arrangements for agriculture and finance, and in the public sector there are also special arrangements for central government, local and regional government. The number of representatives depends on the number of employees at the workplace, as well as on the provisions of the Collective Bargaining Agreement. Typically, one union representative is elected for 50 employees, and in most agreements the right to elect trade union representative at the workplace is granted when there are minimum 5 employees at the workplace. Often, there is more than one trade union at a workplace, and consequently there are several trade union representatives. In big companies, representatives often elect common trade union representatives. Committees for Cooperation are joint bodies comprising of an equal number of representatives of employees and management. They are established in enterprises with more than 35 employees if it is required by

⁴⁰ When it comes to trade union delegation, the time which is approved for trade union activities depends on the number of employees, so if there are between 300 and 500 employees, usually, 3 people are exempt from every day work duties. Many big companies have provided for each trade union a separate office space, with a telephone, and sometimes even with a fax machine and a computer.

the employer or a majority of employees. According to the estimates of the largest Employers' Association DA, these bodies exist in 70% of enterprises in which they can be established, and the number of members of the Committee is shown in the following table:

Number of employees	Number of workers' representatives
35-50	2
51-100	3
101-200	4
201-500	5
501-1,000	6
More than 1,000 employees, the number of representatives is increased according to the Agreement.	

There are trade union representatives at the workplace as workers' representatives, and in some cases they are combined with representatives of other employees. In February 2004, LO and DA have agreed to change the Agreement on Cooperation Committees in order to take into account the EU Directive (2002/14/EC). In this way groups of employees outside the LO are enabled to be represented in these Committees. Representatives of the management are partly appointed by the management and partly by the supervisory staff, which means that this position can be occupied by union members who are in the Supervisory Board. The Committee is chaired by a representative of the management, and his deputy is the representative of employees. Where the unions have elected a joint representative, he automatically becomes a vice-chairman. The Secretary of the Committee is jointly select by both groups. The Committee meets at least six times a year, and emergency meeting is possible when it is required by one of the parties due to some pressing issues. The role of trade union representative is: to ensure proper implementation of the existing Collective Bargaining Agreement, to discuss individual issues with the employer, to be involved in important trade union activities, such as campaigns and recruiting of new members, and to be involved in the negotiations at the workplace. In bigger companies, if there is more than one union, they may form a group or a club, or joint club. Trade union representatives have an obligation to try to "maintain and enhance cooperation between employers and employees at the workplace." The main task of the Cooperation Committee is specified in the Agreement, and it is "to promote

cooperation in the enterprise, to the benefit of the company and individual employees." In practice, this Committee has the right of information and consultation, and it is the forum through which the two sides try to agree on many issues. Unlike the Works Council in some countries, it has no right of veto. The management should inform it about the financial position and future plans, including sales data and production. It has to be informed about the prospects of employment and major changes or planned reorganizations, such as the introduction of new technology. In order to ensure that the management is taking into account the views of employees, information should be provided "early enough to allow employees to give their views, ideas and suggestions ... before making any decision." It is rarely expected from the workers' representatives to provide information on working conditions. Through this body the employer and the representatives are trying to agree on many issues, such as human relations and personnel policies of companies, including equal treatment of men and women, training and additional training related to new technologies, the use of personal data and methods of production and the main changes of the job. This body, however, is excluded from any role in negotiating Collective Bargaining Agreements. When it is not possible to reach an agreement, either party may consult with the national body for cooperation in order to find a solution, but the final decision remains with the management. Trade union representatives are elected by the members of trade unions at the workplace, and under the terms of the Collective Bargaining Agreement in the manufacturing industry also by other employees who are not union members. Election procedure and the length of the mandate are specified in more details in the official documents of the unions themselves. Trade union representatives are primarily members of the Cooperation Committee, and if there are more trade union representatives than the number of available seats in the Committee, in that case they elect among themselves the appropriate number of members. When there are groups of employees who are not members of the LO or who belong to trade union outside LO, then existing representatives are complemented with these representatives, whose mandate lasts two years. A trade union representative can be dismissed only after informing the union and after the completion of the arbitration proceedings, which is automatically applied to the majority of members of the Cooperation Committee. Other workers' representatives have additional six weeks of notice period beyond the notice period provided for all employees. Trade union representatives receive their salaries even when they are working on their trade union duties, and also they have the right to paid leave of absence while they participate at trade union trainings. Since 2007, several Collective Bargaining Agreements, including the one for manufacturing industry that covers the majority of employees, have foreseen the right of 4 days of paid leave of absence for training purpose for the newly elected trade union representatives.

Finland

Workers' representation at the workplace is provided by trade union bodies, rather than through legislation. Trade union representatives may exist in companies with more than 30 employees. Such situation is primarily the consequence of the high percentage of union membership, and therefore, union representatives have the right to information and consultation. The choice of trade union representatives is regulated by a legally binding Collective Bargaining Agreements between employers and trade unions at the national level, first in 1969, and then in 1970, when a special protection for trade union representatives was established. During 1978 a law was adopted which regulates the cooperation in the companies, according to which trade union representatives were given the right to information, consultation and in some cases the right to co-decision-making in companies with more than 30 employees. In addition, at the workplaces with more than 10 employees a representative for safety issues must be elected. Due to the structure of the trade union movement a difference is made in election of manual and other workers. If both sides agree, a Joint Committee can be formed out of representatives of employees and the employer whereas the employer cannot have a majority. As creation of these bodies is not obligatory, in case of their absence different ways must be found for the employees to "exert influence". Workers' representatives have a right to be regularly informed about the annual accounts, annual reports on employment levels and plans, earnings, and twice a year on economic indicators of production, employment and profitability. The employer must consult them about major changes in organization and methods of work, investment plans, closure and relocation of the production, company mergers, proposals for rationalization, layoffs and mass layoffs, changes in work hours, employment policy, the use of workers outside the company and the mechanisms for internal communication. In two cases the employer must have the consent of the workers' representatives to act, which basically means that the workers' representatives have the right of veto. They have such a right in determining the rules of procedure and in their own training in purpose of co-decision-making. Elections and mandate of trade union representatives are regulated by Trade Union Statutes and they are, in fact, together with the elected representative for safety issues, workers' representatives. However, where there are no trade union representatives or the majority of employees do not belong to any trade union, such groups may choose someone to represent them for a period of one year, and the same time period is provided for the members of the Committee for co-decision-making, where they are formed. Trade union representatives and workers' representatives can be dismissed only for serious breaches of work obligations, or if their post cease to exist, and there is no possibility of finding an appropriate one. In such cases it is required to reach the consent of the majority of workers represented by the person whose employment ended. Performance of representation duties is included in the work hours, and in big companies it is possible that the main trade union

representative and the representative for safety issues perform their functions full-time, or to be fully exempted from their regular work duties.

Greece

The most important form of workers’ representation is the primary local union that has the right to information, consultation and negotiation. The first two rights were provided by the law of 1982 and the third by the law of 1990. The Law of 1988 also foresees the existence of the Works Councils, but in practice they can be found only in few companies, where they work closely with the union. Representatives for health and safety are elected in companies with more than 20 employees, and if there are more than 50 employees, then a Committee for health and safety is elected.⁴¹ The law provides that the trade union must elect an Executive Committee, with the President, Vice-president, Secretary and Treasurer. The number of Executive Committee members is not determined, however, the number of members who enjoy protection against dismissal is.

Number of employees	Number of protected members of the Trade Union Executive Committee
Up to 200	7
201-1000	9
1001+	11

The Committee meets upon a need, and union representatives meet with the employer at least once a month. Works’ Councils are only possible in bigger companies, with more than 50 employees, however, it is theoretically possible to establish them if there are 20 to 49 employees, provided that there is no union. Such cases, however, do not exist in practice. The request for organizing a trade union may be submitted by a union or 10% of the workforce. In them all employees are represented, and the members are only the employees, there are no representatives of the employer. The number of members depends on the number of employees.

Number of employees	Number of members of the Works Council
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⁴¹ If there is no union, employees may organize a group, provided that there are at least 10 of them, up to 40 and that at least half of the employees belong to this group. It can exist 6 months the most, and after that period representation has to be done through a union.

Up to 300	3
301-1000	5
1001+	7

Typically, the Council meets once a month, and it meets with the employer once every two months or at the request of one of the parties or even more often. Trade union representatives can attend the inspection work of the Ministry of Labour, and in the process of negotiation they can request information about the economic situation and plans of the company. They are consulted in advance about the mass dismissal, change of legal form of business or change in working conditions. The law regulates more precisely the right to information and consultation of the Works Council, which is informed on the overall economic situation of the business, including the annual report and accounts. It also has the right to be previously informed about: the change of legal form of business, relocation of production or bigger changes in the production capacity, introduction of new technologies, change in the structure of the workforce, including its increase or decrease; planned overtime work and annual plans for investment in health and safety. It can make suggestions for improvement of productivity and working conditions. There are also areas where the Council can decide "through agreement with the employer," such as about training, use of new technology, labour regulations, plan of annual holidays, return to work of those who have suffered injury at work and so on. If there is no union, then the Council has the right of consultation in case of massive layoffs and organization of work hours. The advantage of the trade union in decision making is emphasized by the fact that all of these issues can be solved in negotiations between employers and unions, and if an agreement is reached, it has an advantage over any agreement made with the Works Council. Elections for the Executive Board are held at least every three years, at the Assembly of members, and by secret ballot. Members of the Works Council are elected every two years by secret ballot at a meeting of all workers. The members of the Council and the limited number of trade union representatives enjoy the protection against dismissal. Dismissal is only possible due to several reasons, such as disclosure of secrets or the use or threat of violence, or offensive address of the employer. In proportion to the number of workers there is also the right to paid work hours.⁴² Members of the Council are entitled to two hours

⁴² President, Vice-president and Secretary General of the union at the workplace are entitled to 3 days of leave of absence per month if there are less than 500 employees, and if the number of employees is higher, then they can have even 5 days per month, however, these days are not paid. Trade union is entitled to use the bulletin board, and if there are at least 80 employees, the employer has to provide one office for the biggest trade union for the meetings that are to

per week to work in the Council, and are entitled to a maximum of 12 days of paid leave during the two-year mandate.

Ireland

There are no regulations on the permanent representation of employees in Ireland, and those who work in companies where there are unions (about half) are represented by the union. New regulations were introduced in order to implement the relevant EU Directives, but there are no significant changes in practice, so the workers are in most cases represented by unions or are not represented at all. Although union membership reaches about thirty percent, a review from 2005 indicated that more than half of employees were working in companies where the management negotiated with the union, 44% for the private sector and 91% for the public sector. Public agencies and state enterprises have the bodies such as the Works Councils for information and consultation, the so-called sub-committee structures as a part of the overall framework of participation. In private sector such bodies can be established on voluntary basis, and in most cases they represent the extension of trade union representation. They are usually not present in practice, so a review from 2005 showed that in only 15% of cases there was a Committee for Consultation at the workplace. Such an advantage of a trade union as a channel for workers' representation results from the Code on workers' representation, which describes the workers' representatives as individuals formally nominated by the union. While on one hand there is a constitutional right of employees to join a union, the Supreme Court found that the employer has a constitutional right to decide whether or not he would cooperate with the union, or whether he would recognize it. Therefore, there is no legal means to compel an employer to recognize the union or to work with it. However, since 2001 in case of employer's refusal to negotiate, trade union is entitled to initiate proceedings before the relevant committee and then before the Labour Court. Although, the Labour Court has no ability to force an employer to negotiate, it can make him improve the working conditions in accordance with the demand of trade unions. The process is hastened by the 2004 regulations, and such cases must be resolved within 6 months. Regulations for implementing the EU Directive 2002/14/EC came into force in 2006 and are implemented in phases.⁴³ Because of the short period since its adoption, there are no official data on the implementation of the new regulations, but it is important to note that these companies are not obliged to create bodies for information and consultation, but the process starts only if 10% of employees, at least 15 employees and up to 100 employees, asks for it, or if such a proposal comes from the employer.

be held outside work hours. The Council, also, has the right to use bulletin boards, and they can use the office if there are more than 100 employees.

⁴³ In companies with at least 150 employees, since September 2006, with at least 100 employees since March 2007, and with at least 50 employees since March 2008.

Then the negotiations between the employer and workers' representatives begin, and they automatically include union representatives, if the employer recognizes the union and if they represent at least 10% of the workforce. The deadline for negotiations is 6 months and it can be arranged to have an additional six months of negotiations. If an agreement is not reached, then information and consultation forum is formed and it is elected by all employees, it meets at least 2 times a year with the employer, and has from 3 to 30 members. There is no set proportion between union representatives and number of employees, but the Code on workers' representatives indicates that this number should be reasonable and in view of numerous factors, such as size of the workplace, the number of union members and the number of trade unions involved, since there is usually more than one trade union at the workplace. Several trade union representatives usually form a board, and if there is more than one union, then a joint trade union committee is set up. Due to the lack of legal provisions there are no explicitly defined tasks and rights of workers' representatives, but usually trade union representatives represent both the union members and the possible members at the workplace and with the employer they deal with problems on individual and collective basis. Trade union representatives may engage in collective bargaining, although, so far, it mostly happened at the national level. The election procedure of trade union representatives is regulated by the Trade Union Statutes and the agreement between companies and unions. The Official Code recommends that workers' representatives have at least one year of service in the company before they become eligible to be elected, this should be confirmed in writing by the trade union and such certificate should be submitted to the employer. Candidates are proposed by the recognized union, or at least two employees, while the Code stipulates that elected representatives should not be dismissed without previous consultation with trade unions. If the employer acts contrary to it, the Court requires the employer to return such person to work. There are no regulations on paid work hours, but this matter is arranged by the Agreement, and when there is no Agreement, the representatives should seek in advance the permission to be absent from the workplace.

Italy

The main representative bodies are essentially the union bodies, even when they are elected by all employees. Trade unions propose candidates for two-thirds of the members, who are directly elected by all the employees, and the remaining third is elected by the union itself, and they create a body called the unique trade union representation (RSU). The legal basis of representation is found in the Workers' Statutes of 1970, which deals with trade union representation at the level of a company without detailed rules. Although this body is elected by all employees, it remains primarily a trade union body, which may be formed if there are more than 15 employees at the workplace. National agreements for private and public sectors

prescribe the minimum number of members, which may be increased by Branch Agreement or the Agreement at the company level.

Number of employees	Number of members of the unique trade union representation
16-200	3
201-500	6

In addition to this, 3 additional seats are provided for every 300 employees to a total of 3000, and then for each additional 500 employees. This body consists only of workers' representatives, taking into account the representation of manual and other workers. Trade unions set the rules, and usually the President of this body is a person from the largest union at the workplace, and in larger companies Executive Committees are formed. Subcommittees on specific issues may also be established, such as a Committee on health and safety, labour organization, canteens, new technology and so on. It is not prescribed how often meetings are held, and therefore, meetings are often scheduled "when necessary". The main task of the Representation is to negotiate with the employer, and the employer must inform and consult it on a range of issues. Consultations may be conducted within a joint committee of the employer and the union, which have the same number of representatives elected on a permanent or ad hoc basis. The Representation does not have a major role in the general trade union activities, in terms of promoting union and its policies. This may be due to the fact that two-thirds of the members of that body are elected by all employees, although the candidates are proposed by trade unions, who have either signed the Agreement of 3 Confederations of 1993 or have concluded Agreements in the sector which the company belongs to or they have the support of at least 5% of potential voters. In order for the voting to be valid, it is necessary that at least 50% of employees participate in the election. The seats are divided according to the votes obtained by each list, and the remaining third of the seats is distributed in proportion to the three main Confederations and other unions that have concluded a Collective Bargaining Agreement on branch level, while it is more likely that the unions appoint their members, rather than they are elected by all the employees. The aim for this division of the seats was to raise the legitimacy of the elected representatives and to preserve the link between national organizations and trade union representatives at the workplaces. The procedure is different in the public sector, where all members of the Representation are elected. The elections are held for a period of 3 years, and members are protected from discrimination by the Workers' Statutes that specifically identifies any anti-union behavior as illegal. Members are entitled to paid hours

according to the formula from the Workers' Statute.⁴⁴ In practice these conditions are often improved by the Collective Bargaining Agreement. Usually, the paid hours are redistributed so that the leading members have more paid hours than the others. In some big companies a member can be completely exempt of his work duties, although this is not very common. If there are more than 200 employees in the company, they must be provided adequate facilities for their work.

Luxembourg

There are two bodies of workers' representation at the workplace, one that does this every day, and another that exists only in big companies, a joint body of employers and employees, which is supposed to improve industrial relations at the workplace. Trade unions have important rights in this structure and it is their members who have majority among the workers' representatives. The right of representation exists in all workplaces with more than 15 employees, and a central body is Workers' Delegation, which is directly elected by the employees. In companies with more than 150 employees there is a body similar to the Works Council, a Joint Committee of the company. The number of members of the workers' representatives depends on the number of employees:

Number of employees	Number of members
15-25	1
26-50	2
51-75	3
76-100	4
101-200	5

In companies with more than 200 employees for every additional 100 workers one additional member is elected, up to 1,100 employees, followed by one additional member for every 400 employees up to 5.500 and one additional member for every

⁴⁴ According to the same formula, the Committee has a right to one paid hour per employee during one year when there are less than 200 employees, 8 hours per month for each 300 employees when there are less than 3000 employees, and 8 hours per month for each additional 500 employees in companies with more than 3000 employees. Each member also has a right to 8 days of unpaid leave of absence per year for performing trade union activities.

500 employees, and the upper limit is not provided. Among the workers' representatives there are guaranteed seats for young workers (until the age of 21), if there are at least 5 of them in the company. Usually President, Vice-president and Secretary are elected, and in big companies other members of the Secretariat are also elected. The representatives meet at least six times a year outside the work hours, and they can meet once a year during the work hours. They have to meet with the employer three times a year. The Joint Committee of the company is a body that consists of equal number of representatives of employers and employees, and it is established in the private sector, in companies where there are at least 150 employees.

Number of employees	Number of members of the workers
150-499	3
500-1000	4
1001-1500	6
1501-5000	7
5000+	8

The Joint Committee is presided by a representative of the employer, while the Secretary is elected among the workers' representatives. This body meets at least once every three months. The distribution of tasks is done in a clear way, and the workers' delegation is in charge of protection and defense of the interests of employees, while the Joint Committee is a forum where industrial relations in the company can be improved. Workers' delegation must be informed on economic progress on a monthly basis if there is a Joint Committee, and three times a year if there is not. It must be consulted on: the plans for improvement of working conditions, where they can make their own suggestions; plans to change work regulations, employment of part-time employees (if there is no Joint Committee) and mass layoffs (this may be the subject of consultation with the Joint Committee or directly with the unions). Delegation has an important role in protecting the health and safety at work, and one member is particularly responsible for gender equality. The delegation participates in the conduct of social activities, such as the canteen or the training of interns. Members suggested by the union may perform trade union duties, such as displaying notifications or distribution of materials, and when necessary, collecting affiliation fees. Joint Committee must be submitted at least annually a report on the current and planned employment, including training. Twice

a year, it must be informed about the economic and financial development, including sales, ordering, paid information and investment. The employer is obliged to inform and consult the Joint Committee on any financial or economic decision that may significantly affect the "structure of work or level of employment," including the planned changes in the volume of production, investment policy, transfer or acquisitions, changes in production methods, the introduction of new equipment and so on. In all these matters the employer makes the final decision, while co-decision-making exists in introduction of equipment which is intended to control the behavior or work of employees (e.g., closed-circuit camera); measures related to health and safety at the workplace; general rules for recruitment, promotion or dismissal; criteria for evaluation of employees; organizing of the work place. Such decisions require separate support of the majority of representatives of employer and employees, and if there is no support, the national system of conciliation and arbitration is activated. The Joint Committee supervises the management of social tasks, such as the canteen or sports club. In all these activities, it is vital to ensure equal treatment of men and women. The workers' delegation is elected every fifth year by the employees in the company, and the candidates are proposed by trade unions or at least 5% of all employees. The dismissal of a member of the workers' delegation due to "serious errors" is possible only with the approval of the Labour Court, and when it comes to a member of the Joint Committee, the approval of this body is needed. If there is no agreement, the procedure for conciliation and arbitration starts. The number of paid hours of the members of the delegation is in direct proportion to the number of employees.⁴⁵ Both bodies in companies with more than 150 employees can use union advisers who can participate in the work, but cannot vote at meetings.

The Netherlands

Workers' representation at the workplace is usually performed by Works Councils which is elected by all employees. They are established in all companies with more

⁴⁵If there are up to 500 employees, then it is 40 hours for all 500, which means that with 100 employees, the right to one fifth of paid hours is granted. If there are more than 500 employees, one or more members are completely exempt of work duties, for 501 to 750 employees one member is exempt, for 751 to 1500 two, for 1500 to 3000 three, for 3001 to 5000 four, for 5001 to 7000 five, and above this number, for each additional 2000 employees one additional member is exempt. The member who is responsible for gender equality is exempt of work duties for four hours per month if there are between 15 and 25 employees, and up to 4 hours per week when there are more than 150 employees. They also have a right to paid training during 5 years, up to 50 employees one week is paid by the state, from 51 to 150 two weeks, while both the state and the employer pay one week, and with more than 150 employees they have one paid week per year and it is paid by the employer. The member responsible for gender equality is entitled with two and a half days of training per year, which is paid by the state in the companies with less than 150 employees.

than 50 employees, and there are over three-quarters of such companies. These bodies are not exactly trade union bodies, although union members have an important role. In companies with 10 to 50 employees establishment of personnel delegation is requested, which has some of the authorities that the Council itself has. Also, some Branch Collective Agreements provide for creation of Works Councils even with fewer employees, for example with 35 employees. The Councils were introduced for the first time in 1950, and since then their scope of work has been continuously more and more extensive.⁴⁶ The increase in the number of Works Councils can be observed in practice, especially in larger companies, so they exist in 96% of companies with more than 200 employees, while it is in 60% of those with 50 to 74 employees, in 78% of companies with 75 to 99 employees, while this body is present in 84% of the companies with 100 to 199 employees. Where there is less than 50 employees, they are represented with 18%, and 15% of such companies has personnel delegations. Number of members of the Works Council is determined in relation to the number of employees:

Number of employees	Number of members of the Council
50-100	5
100-200	7
200-400	9
400-600	11
600-1,000	13
1,000-2,000	15

In companies with more than 2000 employees additional two members are elected for each additional 1,000 employees, up to 25 members. The Council is now made up exclusively of workers' representatives, while in the seventies an employer chaired this body. At least twice per year, the Council must meet with the employer, to discuss the overall situation, with the presence of one or more members of the Supervisory Board. In practice, the Council usually meets once a month, and this is

⁴⁶ The Law on the Works Councils of 1979 represents the legal background of this body, with its amendments of 1981, 1998 and 2004 (due to its harmonization with the EU framework Directive on information and consultation).

also applied to a joint meeting with the employer. The Council may establish standing committees for particular issues such as health and safety, and sub-committees as well as ad hoc committees. Companies with 10 to 50 employees can form a Works Council on a voluntary basis, and if they do not, then they have to form a personnel delegation, which has at least 3 members. The purpose of the Council is not only to represent the employees, because the law provides that consultation and representation is made in the interest of good functioning of the enterprise, which explains the frequency of meetings in practice. The law establishes three types of rights: of information, consultation and approval. There is also the right to make proposals. The Council is not usually included in collective bargaining; however, there are few exceptions. The right to information has to do with the structure and organization of enterprise, employment trends and social policy, movement of the company's activities, and especially investment plans. The right of consultation also refers to economic issues, but mainly to those issues that have a direct effect on the labour force: selling the whole or part of the company, taking over another company, termination of operation of a company or its bigger part, relocation of the company, employment of a large number of new employees, large investments, seeking bigger loans, the introduction of new technologies, changes affecting the environment, the introduction of a new security system.⁴⁷ The real approvals are related to the pension fund, profit-sharing or savings schemes, work hours and annual leave, wages, health and safety, admission, dismissals and promotions, and vocational training. The rules on these matters cannot be imposed, amended or canceled without the approval of the Works Council, unless they are covered by Collective Bargaining Agreements. If the Council does not consent, the employer may appeal to a Joint Committee of the union and management, which exists in every sector, and afterwards to the District Court. The stated fundamental rights can be extended by Collective Bargaining Agreement, and the Council is authorized to ensure its correct use.⁴⁸ The right to give initiatives and proposals to which the company has to answer is used very rarely. The right to collective bargaining belongs to the union, particularly to union officials involved in the union full-time. Trade Unions propose a list of candidates for the members of the Works Council, or it is proposed by one third of employees who do not belong to the union.

⁴⁷ On all these issues the employer must seek advice of the Works Council, and if they do not agree with the proposal, he has to postpone its implementation for at least a month. During that period the Council may contact the Department for Enterprises of the Court of Appeal in Amsterdam. When it comes to the appointment of the manager of the company, the opinion of the Council has to be asked for; however, the negative response will not lead to delay of the implementation of the decision.

⁴⁸ There are, in practice, differences in the implementation of these rights, and fewer difficulties occur with information, at least in small and medium sized enterprises. Consultations are more problematic, because it is sometimes argued that the issue is not important enough to seek a consultation with the Council or to ask it to reply quickly enough. Similar thing happens with the rights of approval, especially in matters of work hours.

Usually the mandate of the members of the Council is 3 years, although, it can be reduced by the rules of the Council to 2 years or increased to 4 years. Their dismissal is possible in case of some serious violation of duty only with a written consent of the member or with the approval of the Court. The number of paid hours for activities of the Council is not specified, but is left to be defined in the agreement of the employer and the Council.⁴⁹ The employer is required to provide adequate equipment for the work of the Council, and also to pay the external experts engaged by the Council, provided that he is notified about it in advance. As the responsibilities of the Council do not end with information and consultation, but as in the case of Germany there is also a right of co-decision-making, further on there are some of the most important parts of the Law on the Works Councils:

Article 2 – for the proper operation of the business in terms of all its objectives, in a company that normally employs at least 50 persons, the Work Council is established, for consultation, workers' representation and compliance with the requirements of the law. If after founding of the Works Council the company normally has less than 50 workers, the Council automatically ceases to exist, unless the employer applies Article 5a, paragraph 2;

Article 3 – if the employer carries out his activities in two or more companies, which together have at least 50 employees, a joint Work Council is established;

Article 4 – if there is an interest in the correct application of law, a special Works Council for one part of the company is established, which, in this case, in accordance with this law, is treated as a company;

Article 5 – in exceptional circumstances that prevent the proper application of the law, the Council may, at the request of the employer, make an exception to this obligation of the employer in writing, no longer than 5 years. A copy of the decision of the Council is submitted to the Joint Branch Committee;

Article 5a, paragraph 2 – employer who has no obligation to establish or maintain the Works Council or whose obligation is terminated, can still form the Council and the provisions of the law apply only when the employer submits the written notice of his decision to the Joint Branch Committee. If the circumstances change, he can adjourn the Council and inform the Committee in writing;

Article 6 – the Works Council is directly elected by the employees who work in the company for at least six months and any person who has been working in the company for at least 12 months may be elected (number of members has already been mentioned in the previous table, except that we should add that if there are less than 50 employees, the Council has 3 members). The number of the members of the

⁴⁹ However, the minimum is set for companies with at least 100 employees, where the members of the Council have 60 paid hours per year. In big companies, this number is much higher, and in addition to this there is a right to at least 5 days of training per year. Members of the subcommittee of the Council are entitled to three days of training, and those who are at the same time also the members of the Council, are entitled to eight days of training during one year.

Council must not be changed during the mandate due to an increase or decrease of the number of workers in the company;

Article 8 – the Works Council adopts the Rules of Procedure, which regulates all matters entrusted to it or that are determined by law. Before its adoption, the employer is given an option to express his opinion, and immediately upon adoption a copy is submitted both to the employer and the Joint Branch Committee;

Article 9 – members of the Works Council are elected by secret ballot from a list of one or more candidates. The list of candidates can be submitted by any employee organization whose mission is to represent the interests of the members of the organization that operates in the enterprise or sector, and which legally existed for at least 2 years, provided that it consulted its members on the proposed candidates. One third or more employees in the company who have the voting right, but are not members of any workers' organization, have a right to submit their own list of candidates, for which it is enough to collect 30 signatures in total;

Article 12 – mandate of the members of the Works Council is three years, and the law allows for re-election. The Rules of Procedure may provide for election every two or four years, or that half of the members are elected every two years;

Article 23 – The Works Council and the employer meet within 14 days from the date when one of the parties submitted a request to organize the consultative meeting.

Article 23 b – decisions are made jointly by the employer and the Works Council during the consultative meeting.

Portugal

Although, in theory, there are two channels of workers' representation: through union representatives and through Works Councils, in practice, such Councils are quite rare and mainly exist in large companies where unions are strong.⁵⁰ In both cases, rights are limited to information and consultation, without the ability to block decisions of the management. In practice, the Works Council acts as a sort of body of the most powerful union in the company, which uses this body's rights to information and consultation as an indirect way to be informed and consulted. Although the law does not set the minimum number of employees needed for creation of the Works Council, in practice, this body can hardly be found in companies with less than 100 employees, while union delegates are much more present. Data from the White Book on labour relations of 2007 show that 26% of employees work in enterprises with trade union delegates, 26.1% work in companies with representatives for health and safety, and 18.5% work in companies with the Works Councils.⁵¹ It depends on the unions how many delegates will be elected, but

⁵⁰ It is the union representatives who can form trade union committees and workers' commissions, which represent all the employees in the company. There are also representatives for health and safety.

⁵¹ In the document, however, it is stated that the percentage of representatives for health and safety and of the Works Council is significantly higher in comparison to the one registered

there is a legal limit of the number of representatives who enjoy special rights and protection. This number depends on the number of union members, and is presented in the following table:

Number of trade union members	Number of trade union representatives with special rights and protection
do 50	1
50-99	2
100-199	3
200-499	6

In companies with more than 500 union members, the protection is granted to one additional representative for each additional 200 members. If there are enough representatives (there is no explicit regulation on the number), it is possible to form the Board of Representatives, and if there are several trade unions, a Joint Trade Union Committee may be formed. The Works Council is entirely composed of workers' representatives, without interference of the management, and it is established at the request of employees. In one company, there can be only one Council, but in certain workplaces sub-councils can be established. Number of members of the Council depends on the number of employees:

Number of employees	Number of members of the Works Council
Up to 50	2
50-200	3
201-500	3-5
501-1000	5-7

with the labour administration, where it is indicated that there are only 196 Works Councils and 148 companies with representatives for health and safety. According to the data of CGTP-IN until the beginning of 2008 there were 1,383 Works Councils.

1000+	7-11
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The number of members of the sub-councils also depends on the number of employees at the workplace:

Number of employees	Number of members of the workers' sub-council
Up to 50	1
50-200	3
201+	5

The role of trade union representatives is to provide a link of the union with its members, to ensure that the existing Collective Bargaining Agreements are properly implemented and to negotiate Collective Bargaining Agreements at enterprise level. They should be informed about "recent and possible development of activities and economic situation of the employer" and informed and consulted on "the situation, structure and possible development of employment", as well as about the planned measures to preserve existing employment, together with "measures that could lead to substantial changes in work organization."⁵² A Trade Union Committee or Trade Union Joint Committee has the right to invite all employees to a meeting during work hours, if it issues a notification 48 hours in advance and if it does not interfere with the essential work operations. Total time for such meetings in one year can not exceed 5 hours. The role of the Works Council is strictly advisory, which means that it does not participate in decision-making, and it does not have the right of veto, on the other hand it needs to receive a range of economic, financial and employment information.⁵³ The Works Council can call a meeting of all employees, the same way as the union, but this right applies to 15 hours per year. The Works Council is rarely included in collective bargaining, since it is mainly the right of trade unions. The latest amendments to the Labour Law in 2009 allowed the Works Council to

⁵² They are informed and consulted in areas such as work hours, training and temporary closure, unless there is a Works Council.

⁵³ These include financial plans, annual and quarterly accounts, paid taxes, and plans to change the capital structure, production levels, sales, personnel policies and rules of operation. In companies with more than 100 employees, an annual report on employees must be submitted to the Works Council and the unions. Consultations include the right to give their own views before making a decision (usually 10 days before) in case of closure of the company or a significant part of the work, with everything that can lead to a significant downsizing of the employees, relocation of activities, and change of work hours...

negotiate with the employer if there are at least 500 workers, and if it is explicitly allowed by the union. Trade union representatives are elected by trade union members in a secret ballot, and members of the Works Council are elected by all employees, although in practice those are often members of the union. The candidacy must be supported by at least 100 employees or 20% of the total number of employees. The trade union must be warned of the intention to dismiss a trade union representative, and if it believes that the decision is not justified, it may address the court, which may award compensation of damages, during the shortest period of 6 months.⁵⁴ Trade union representatives are entitled to 5 paid hours per month, or 8, if they are members of the Joint Trade Union Committee, and are entitled to 4 days of paid leave per month if they are in the trade union Executive Committee, and according to the following grounds:

Number of trade union members	Number of members of Executive Boards with the right of 4 days
do 50	1
50-99	2
100-199	3
200-499	4
500-999	6
1,000-1,999	7
2,000-4,999	8
5,000 -9,999	10
10,000+	12

Trade union representatives in companies with more than 150 employees can always use a room in a company that is "appropriate to carry out their responsibilities" and in small companies they are allowed to use a room on demand. Members of the Works Council are entitled to 25 paid hours per month, and half of that time in very

⁵⁴ Similar protection is granted to the members of the Works Council and the representatives for health and safety.

small enterprises. If there are more than 1,000 employees, members of the Council may agree how to shift 25 hours among themselves, but no single member can have more than 40 hours per month. There is no legal right to paid leave for training purposes, and the Council is authorized to use the appropriate equipment to do their work. It is not allowed to use the assembled paid hours on the basis of three types of workers' representation, as union delegates, members of the Works Council and as representatives for health and safety.

Bulgaria

There is no universal structure of workers' representation, usually a union is the key body, even though the law provides for the election of other representatives. Employees may elect additional representatives for information and consultation, but they can also entrust such rights to the existing trade unions or workers' representatives. In many public and private companies the unions are the only representative body of employees. Employees have the right to hold general meetings, and if it is not possible due to the nature of work, they can hold other meetings, which would be attended by delegates who represent all employees and they have the same rights as the general meeting. Since 2001 there is a possibility of election of workers' representatives who will represent their social and economic interests towards the employer and Government. They have to be elected by a two thirds majority at a general meeting of all employees or meeting of the workers' representatives, which can be summoned by the employer, the union in the company or at least 10% of all employees. Workers' representatives can be elected even when there already is a union at the workplace, which is not often applied in practice, and when it is, it's usually in large organizations where there are no unions. The situation is made more complicated in mid-2006 when it was allowed to elect workers' representatives, especially for information and consultation purposes, in order to implement the EU Directive (2002/14/EC). However, the general meeting of all employees or a meeting of elected representatives can decide to entrust the new rights to existing trade unions or existing workers' representatives, elected to represent their social and economic interests, so that the introduction of this new legal provision was in a way, without much practical significance. Data of the union KNSB state that only 150 companies used this possibility, while it should be noted that the companies in which there are other unions were not taken into consideration, as well as the ones in which there is no union. As for multinational companies, research by the same union has shown that workers' representatives for information and consultation are elected in one-third of 24 companies, and that 80% of elected representatives are members of KNSB. It is highly unusual to find unions or elected workers' representatives in small enterprises. There are no special rules or thresholds for election of workers' representatives that are to represent their social and economic interests. In election of representatives for information and consultation the procedure is more structured, so that these representatives are elected in

enterprises with more than 50 employees or workplaces with more than 20 employees. The number of members to be elected is determined in advance at a general meeting or a meeting of workers' representatives, and must go from one to three in workplaces with 20 to 50 employees, 3-5 if there are 50 to 250 employees and 5-9 in companies with more than 250 employees. The candidates are proposed by the employees and the union, but there is a possibility that a general meeting or the workers' representatives decide to have no such representatives, but to delegate their authority to the trade union or representatives of social and economic interests of employees. The trade union must be consulted when determining the rules of the company and it can represent the employees in legal disputes in the company. It is also authorized to appeal with the competent authorities if there is a violation of labour legislation, and certainly the most important authority is the negotiation of Collective Bargaining Agreements. The rights that Labour Law gives to trade union representatives or representatives of social and economic interests of employees include: the right of information and consultation in planning mass layoffs, relocation of operations, change of work hours, reduction of work hours, planning the introduction of flexible work hours, fixed-term contracts and so on. The election period of trade union representatives is determined by the union regulations, but it typically ranges from 2 to 5 years. Representatives of social and economic interests of employees must be elected by a two thirds majority at a general meeting or at the meeting of the representatives, for a period of one to three years. Workers' representatives for the purpose of information and consultation are elected by simple majority. Union representatives in leadership positions in the company can be dismissed only with approval of the trade union central or the body identified by the central, during the time of mandate and an additional 6 months after the termination of mandate. Workers' representatives are also protected against dismissal, and in their case it is only possible to happen after an approval of Labour Inspection. President of the union at the workplace has the right not to work during the period determined by the Collective Bargaining Agreement, during at least 25 hours per year. Workers' representatives are allowed not to work when it is necessary in order to carry out their responsibilities, using the reduction of work hours or the additional leave. Also, they have to be provided with paid leave for training purposes.

Cyprus

Workers' representation is the task of trade unions in Cyprus, while in the area of health and safety all employees elect a committee if the company has more than 10 employees. This is not closely regulated by the Cyprus legislation, although the law provides that the employer should conduct a joint consultation whenever the union or the employees believe that a certain decision could seriously affect them or have consequences on their relationships with the employer. With the regulations of 2005 for implementation of the EU Directives, the legal framework for workers' representation has been strengthened, but new representative structures were not

created. How many representatives will be elected depends on the unions and special circumstances, and they operate through joint meetings with the management. The regulations of 2005 have been applied to companies with more than 100 employees, in 2007, their application was extended to the companies with more than 50 employees and in 2008 to companies with 30 or more employees. In companies where collective bargaining takes place at that level, the Committees can be involved in the process, although often a major part in collective bargaining belongs to trade union representatives, who are working full time on trade union activities. The Committees provide a link with the trade union structures, encouraging employees to join a union, and they also have an advisory role when full-time trade union representatives request it. Trade Union representatives are elected at the meetings of trade union members, usually for a period of one year. There is no specific legal protection against dismissal of union representatives, however, discrimination based on union activity is considered illegal. In big companies the union has access to an appropriate room and has paid work hours due to union activities. In banks and some public enterprises the main trade union representatives are fully exempt from regular working duties. In relation to European Works Councils, the law on harmonization with the EU Directives 94/45/EC and 97/74/EC was passed, which provides that members of the special negotiating body are elected among the existing members of trade unions, and if unions do not exist, then the members are elected by all employees through direct elections

The Czech Republic

Local unions are still the main way of representing employees at the workplace, but when they are not present, the Works Council with rather narrow scope of rights can be formed. In practice this rarely happens, but in most cases there is either a trade union or there is no workers' representation at all. The possibility of establishing a Works Council was introduced in 2001, in enterprises with more than 25 employees, where there is no union, and when at least one third of the employees declare to be in favor of it. If later a trade union is founded, the Council has to be abolished. This position of the Works Council in the regulations resulted from the fear of trade unions that this body could weaken their position at the workplace. Most companies do not have any kind of workers' representation and in those where unions exist, representatives for health and safety can be elected. Trade Union, itself, decides on the number of their representatives, while the Works Council should have an odd number of members, between 3 and 15, while the decision is made by the employer, after consultation with the employees. The right to collective bargaining belongs only to trade unions. Workers' representatives are informed about the economic and financial situation of the company, planned changes in the structure and organization, number of employees and about possible further development. It is the right of unions to be informed about the changes of wages and the level of average salary for specific occupations. Both the union and the Works Council have to be

consulted about redundancies, transfer of work and health and safety issues, and only trade union representatives are consulted about the economic situation, payment systems, training, changes in work organization, labour standards and agreements for the employment of the young and the disabled. The exclusive right of trade unions is to agree on many issues, such as the use of funds for cultural and social needs, rules of operation, plans to use annual holidays and the circumstances when there is no work, in which case the employees will receive a compensation of salary amounting from 60 to 80% of their average salary. The union also observes whether the employer implements the provisions of the Labour Law and Collective Bargaining Agreements, and it can ask for an insight into certain documents, it can access jobs and propose elimination of the identified deficiencies. Elections and the length of mandate of the trade union representatives depends on the unions, while it is foreseen that all the employees participate in the elections of the Works Council, and the election is done through secret ballot, while the mandate lasts 3 years. Discrimination against trade union representatives or members of the Works Council is prohibited, while dismissal of trade union representatives is possible only after receiving an approval from the union or the Court. Such protection is carried out during and one year after the expiration of the mandate. During their mandate trade union representatives are usually partially exempt from regular work activities if there are 400 to 600 union members, and are fully exempt if there are 600 or more members, and this right is granted to two representatives when there are more than 1500 members. The employer provides suitably equipped premises, including their maintenance and necessary technical equipment.

Estonia

Workers' Representation is primarily done through trade unions or it does not exist at all. Regulations that came into force in 2007 allowed the election of workers' representatives in all workplaces, regardless of whether there is a trade union. Where there is no union, these representatives may be involved in collective bargaining. Until then, the only alternative to trade union representation was in the form of "authorized representatives" who could be elected where there was no union, but it was only used on rare occasions. According to the new regulations workers' representatives are elected when it is a wish of 10% of employees, and their job is in the domain of information and consultation. The number of workers' representatives is not prescribed, but it is only stated that employees can elect several representatives, and the number depends on the agreement with the employer. There is no precise threshold for elections, although the agreement on paid hours for the purpose of representation is applied only when there are at least 5 employees, while some provisions on information and consultation only apply when the employer has at least 30 employees. If there are several workers' representatives, they can elect the main representative among themselves, and he is to organize and coordinate activities of representatives. The most important task of trade unions at the

workplace is to negotiate Collective Bargaining Agreements and to ensure that labour regulations are applied appropriately. They have the right to information and consultation according to the new regulations of 2007, where, in this respect, the unions are made equal with other workers' representatives. Where there are at least 30 employees, the employer informs and consults workers' representatives on the possible significant personnel changes and decisions that can cause major changes in organization of the work and Work Contracts. Where there are neither union nor other workers' representatives, information and consultation should relate to all employees. Elections and the length of mandate of trade union representatives depends on the union's own rules. The decision on election of workers' representatives is adopted at a general meeting of all employees which can be summoned by a trade union organization, the majority of union members or 10% of all employees, provided that it is attended by half of all employees. The elections are done by secret ballot among the candidates proposed by the employees and the union for a period of 4 years, unless it is differently decided at the meeting. Each workers' representative can be dismissed only with the consent of the Labour Inspection, and this special protection is valid during the mandate and a year after it expires. In terms of compensation of the salary during the representation of employees, there is a rule for union representatives that such a right belongs to "at least one representative," while for the other workers' representatives it depends on the decisions of the general meeting. The following table indicates the number of paid hours per week:

Number of employees, or members of the union	Paid hours during a working week
5-100	4
101-300	8
301-500	16
More than 500	40

Union representatives are entitled to 5 days of absence from work during a year, for training or carrying out trade union activities, with 2 of these days paid. Workers' representatives are entitled to necessary training "for a reasonable period of time."

Hungary

In Hungary, the representation at the workplace is provided through local unions and Works Councils, while unions now have the rights of negotiation and consultation,

and the Councils have the rights of information and consultation, although in practice they find it difficult to influence company decisions. The Councils were introduced for the first time in 1992, imitating the same body in Germany, but they have less power in comparison to them, because some of the rights of information and consultation are left to the local unions. Right-wing Government that was elected in 1998 transferred some responsibilities of the union to the Works Council, while the Socialist Government, elected in 2002, again made some changes, by abolishing the right of the Works Council to negotiate, and at the same time it increased the rights of trade unions on consultation. Béla Benyó, the Hungarian researcher, realized, in 2003, that representation through the Works Council is directly connected with trade unions, as only 9% of these bodies exist at workplaces without trade unions, while 70% of Councils were completely filled with union members, or they made the vast majority. On the other hand it is interesting to note that Hungarian legislation recognizes the right of trade unions to negotiate according to the results of elections for the Works Council. The Council of Trade Unions MSZOSZ, in 2006, stated that "trade unions enjoy far more support in elections of the Works Council then it could be inferred from the number of its members." Structure of representation depends on the rules of trade unions, while the Works Councils, which are completely composed of workers, are formed in the company or one of its parts that acts independently, if there are more than 50 workers. Workers' representatives are elected if there are 15 to 50 workers in the company. Number of members of the Works Council increases with the increase of the number of employees:

Number of employees	Number of members
51-100	3
101-300	5
301-500	7
501-1,000	9
1,001-2,000	11
More than 2,000	13

One review from 2004 showed that only a third of workplaces with more than 50 employees have a Works Council, and they are more common if there is a larger number of employees. The intervals in which these bodies should meet is not prescribed, so in practice, meetings are relatively rare, and the only legal provision

with this regard states that the employer must inform the Council about a range of issues at least twice a year, which indicates that this is the minimum number of meetings during a year. A number of rights of trade union representatives may sometimes coincide with the rights of the Council, while the exclusive right of trade unions is to negotiate Collective Bargaining Agreements. Trade Union representatives have to be consulted on major issues concerning employment, including job cuts and organizational changes, such as transfer of the work. Trade unions have a right to intervene when they believe that the rights of employees have been violated, and then arbitration process is performed; in case when arbitration is unsuccessful, the resolution of problematic issues is done in judicial proceedings. The employer is obliged to inform the Works Council about the following issues: the general economic situation of the employer, important changes in planned activities and investments, earnings trends, the impact of payment of wages on employer's financial situation, characteristics of the labour force, use of work hours and working conditions. The Council may request insight into documents related to the above issues and, in general, about everything that relates to economic and social interests of employees. The employer must consult the Council on: planned measures which will affect a large number of employees, such as restructuring, layoffs or privatization, the introduction of a system for storing data on employees and a scope of data to be stored; training, including measures to promote employment and preparation for retirement; rehabilitation of disabled workers, the annual plan of annual holidays, new methods of work organization and performance standards; planned regulations, tenders and contests that have an impact on employees. In all these cases the Council has 15 days at its disposal to prepare its own comments, even though the employer is not obliged to accept them. However, if the consultations of the two sides have started, and the Works Council has responded to the proposal of the employer, the employer cannot continue with the realization of his intentions for at least the next seven days, while there are different waiting periods determined for the mass redundancies and transfer of a business. Despite such right, Works Councils rarely have an opportunity to influence decisions of the company, and it often happens that some information is communicated at the meeting when the Council should decide on its position on certain issue. The Works Council has the right to decide together with the employer on the use of social funds or equipment or buildings for social purposes. The mandate of trade union representatives is regulated by internal regulations of the union, while the election of the Council members is regulated by law which stipulates that members are elected through a secret ballot conducted by the Electorate Body organized by employees, and the length of the mandate is 3 years. Before dismissing a trade union representative or his transfer, the employer must obtain the approval of the trade union body to which the representative belongs, and when it comes to the members of the Works Council, the approval is requested of those who elected them. Trade Union representatives have the right to be absent from their jobs up to two hours per month for each 3 union members. If those hours are not used, the union may receive compensation in

cash, but only up to half of the total time available. The Council members are exempt of their regular work duties during 10% of the monthly work hours, or 15% in the case of the President of the Council. Presidents of Works Councils in companies that employ more than 1,000 workers are completely exempt of their regular work duties.

Latvia

In theory, there is a possibility of election of workers' representatives, but in practice, it is done through union representation, because of the low level of union membership, particularly in the private sector, which results in the absence of workers' representatives at many workplaces. The revised Labour Law of 2002 allowed the election of authorized workers' representatives, but it was changed three years later in order to implement EU Directives on information and consultation. Both of these changes, however, did not have any major practical impact on change of the structure of workers' representation, and the unions remain the main channel for representing the interests of employees, and in many companies there are still no representatives. The number and structure of trade union representatives is regulated by the Trade Union Statutes, while when it comes to other representatives, the law stipulates that they can be elected in any company or organization with five or more employees. Trade Union representatives, together with the authorized representatives of the workers are considered to be "workers' representatives" and essentially have the same tasks and duties. They are included in the information and consultation, and in the process of collective bargaining, although this is possible for non-union representatives only if there are no trade unions. The employer consults with workers' representatives on issues that may affect wages, working conditions, organization of work time or occupational health and safety. They are informed about the economic and social situation of the respective company or organization. Regulations for implementation of EU Directives strengthen the position of workers' representatives, by determining how it is required to inform and consult. Workers' representatives can have meetings with employees, provided they do not interfere with regular operations, and they can supervise the implementation of legislation by the employer. To elect authorized workers' representatives it is necessary that at least half of all employees participate in the election. If the union refuses to agree with dismissal of a union representative, the employer may address the Court in order for it to decide on this issue.

Lithuania

Lithuanian laws provides for workers' representation through trade unions or Works Councils, if there is no union at the workplace. Both bodies have nearly identical tasks, including collective bargaining and information and consultation, and since 2005 there is a possibility for Works Councils to organize a strike. However, in practice, many companies have no workers' representatives. By 2003, the

representation was only done through trade unions, and with the Labour Law coming into effect at the beginning of the year, the establishment of the elected Works Councils was foreseen where there is no trade union, either with the role of trade union in the enterprise or branch trade union. More complete provisions in respect of Works Councils are included in legislation in 2004, according to which Works Councils can be established where there is no union, provided that the company has at least 20 workers. In companies with less than 20 employees workers' representatives can be elected. Labour Inspection data of 2007 show that out of 12.331 companies / organizations in which the inspection has been performed, union existed in 1.207 companies, in 67 representation is transferred to the appropriate external trade union, while in 349 companies Works Councils were established. In 2.978 companies / organizations, there were individual workers' representatives, but this possibility exists only in companies with less than 20 employees. From these data it is clear that the vast majority of workplaces have no workers' representation. Number of trade union representatives is determined by the regulations of the union, and when it comes to Works Councils, since 2008, the request of one-tenth of employees in a company is enough for its creation, while it was previously required that at least 20% of workers should be supporting it. The number of members of this body increases with the increase of the number of workers:

Number of employees	Number of members of the Works Council
21-50	3
51-100	5
101-200	7
201-300	9
301-500	11
501-700	13
700+	15

There can be only one Works Council in a company, regardless of how many divisions there are. Generally, all workers' representatives have the same rights, and in 2005 Works Councils were even given the right to organize a strike. Such rights include: making proposals for the employer and the state, ensuring compliance with

valid regulations and addressing the Court where necessary, protection of employees with a relocation of work, information and consultation about business, current and future employment situation and possible layoffs. While election and period of activity of their representatives is regulated by trade union, members of the Works Council are elected by secret ballot at a meeting of all employees, and participation of at least 50% of workers is required for the validity of the vote. The mandate of members is 3 years, and it continues even when in the meantime, a union is established. If something like that happens, then the trade union and the Works Council form a joint body that represents employees in all matters, including collective bargaining. If it turns out that joint activities are not possible, then employees decide at the meeting which body would represent them. The Works Council will continue to exist until the end of its mandate, regardless of the case and moment when a trade union is founded. In case of dismissal of a trade union representative or a member of the Council, the approval of the body they represent is needed, and if they refuse to give consent, the employer can contact the Court for final decision. It is regulated that employers "provide conditions for the workers' representatives to perform their duties" and for the members of the Council the employer provides 60 paid hours per year for participating at meetings and performing other duties. In addition, they are granted the right to 3 paid days per year for training, and the number of days can be further increased by Collective Bargaining Agreement.

Malta

If the union is recognized by the employer, then it usually represents employees at the workplace, but with the implementation of EU Directives even representation of employees who are not organized in trade unions is introduced. This, however, did not become a wide spread phenomenon, but the advantage belongs to trade unions, so if a union is founded, then different forms of workers' representation cease to exist. The fact that trade union representation is preferred can be noticed in the Law on Labour and Industrial Relations of 2002, in which it is said "the workers' representatives ... which means recognized trade union representatives." They are considered recognized if the employer wants to negotiate with them, while it is not determined what happens if there is no recognized trade union in the company. This is particularly important for meeting the requirements of EU Directives that cover the general framework of information and consultation and especially for collective redundancies and relocation of companies. In all three cases agreements are concluded so as to allow employees who are not members of trade unions to be represented. The starting point for the representation through a union is that it has to be recognized, or that the employer is willing to negotiate with the unions. There are no specific rules on recognition of trade unions, although the lack of recognition is a practical difficulty. In two special cases: the mass layoffs and relocation of work, the union has a role even if it is not recognized, because the regulations of 2002 foresee

an obligation of employer to inform and consult workers' representatives. If there are no recognized or organized trade unions, employees can elect their representatives, and if later trade unions are recognized, the mandates of representatives of the employees who do not belong to trade unions end and they are replaced with trade union representatives. In practice, despite the existing regulations, representation exists through trade unions or it does not exist at all. An attempt was made together with the Works Council of Air Malta, in 2005, but this is one of the few attempts. According to regulations of 2006, structures for information and consultation had to be established in companies with 150 or more employees; however, since 2007 the number has been reduced to include companies with 100 employees or more, and since 2008, companies with more than 50 employees. The exact number of representatives for information and consultation is not prescribed, with exception of a provision that each category of employees which is not represented by a recognized union elects "not more than one representative". These regulations stipulate that union representatives should be informed about the activities and economic situation of the company, and to be consulted on decisions that lead to essential changes in work organization or contractual relations. The elections procedure and the length of mandate of trade union representatives is closely regulated by the union itself, while the workers' representatives that do not belong to unions should be elected by secret ballot, and the information should be sent to the Ministry of Labour, both on the procedure itself, and the need of its interference in the appeal process. The mandate of the representatives is 3 years, but as already mentioned, if later a union is recognized, their mandate will end before its term. When workers' representatives are elected specifically because of the mass layoffs and relocation of work, the voting is organized by a Labour Ministry official and the mandate of these representatives lasts until the consultations on the dismissal or transfer of work are completed, or until the completion of relocation of work. Layoffs due to union membership and workers' representation are not allowed, and when it comes to paid leave, the representatives for consultation and information are granted the right to a "reasonable period of absence with paid hours" for performance of their representation duties.

Poland

Representation at the workplace is primarily done through trade union organizations, and the Law on Trade Unions of 1991 provides that "the unions represent the collective interests of all employees, regardless of their union membership." A trade union can be founded with minimum 10 members, so there are about 24,000 trade union organizations. However, the relatively low level of union membership means that the majority of employees do not belong to unions. In the review of the CBOS, published in 2009, it is stated that in the late 2008, 18% of the examinees were employed in companies where there was a trade union, 17% were in companies with more than one union, while in even 54% of companies there were no unions, and

11% did not even know whether unions existed. The regulations of 2006 prescribed the establishment of the Works Council in enterprises with more than 100 employees and in 2008 the threshold was lowered to 50 employees. The regulations which implement EU Directive stipulate that if there is an agreement of comparative level for information and consultation, then there is no need to form a Works Council. In the beginning it was stipulated that if there were any representative trade unions in the company (which organized at least 10% of employees or 7% if the local trade union organization belonged to one of the three national representative trade unions, Solidarność, FZZ and OPZZ), then the Works Council members would be elected by unions. Only where there were no representative trade unions or the unions could not reach an agreement on the membership of the Works Council, it was possible to organize elections for that body. In mid 2008, the Constitutional Court decided that such provisions are contrary to the Constitution because they violate the right to equal treatment and the right of the employees not to belong to a union, so it was necessary that they were changed. New regulations were adopted at the end of the first half of 2009, and they entered into force in mid of the same year. They foresee that Works Councils are elected by all the employees, while the Councils elected under the previous procedure did not have to stop working, unless when it was required by a sufficient number of employees. Due to the short period of time it is not yet clear whether these changes of the legislation have influenced a change in practice. According to the data of the Ministry of Labour from May 2009, before the new regulations came into force there were 2,915 Works Councils in Poland. In almost three quarters of the cases (72%), they were founded in companies and organizations where representative trade unions already existed. Among these, in around 29% there was one trade union organization, while in 39% there were several unions which managed to agree on the membership in the Works Council. In only 2% of the cases, unions could not agree on the election, and in the remaining cases it was not clear whether there was one or more trade unions. The other regulations gave the possibility of establishing non-union representative structures, as it was done in 2003 for cases of mass layoffs, where due to the lack of trade unions the right of consultation is given to "workers' representatives who are appointed according to the procedures specified by the employer." A similar procedure occurs when an employer seeks to suspend the rights that exist in the Collective Bargaining Agreement. There are also "workers' councils" in some state companies, which in theory have great power, while in practice the major role belongs to trade unions. It is the unions who decide on the details related to the organization and structure, in accordance with their Statutes. The regulations do not determine the number of union representatives who will be exempt from regular duties, nor how many of them will enjoy protection against dismissal. The right to form a Works Council exists in all companies and organizations with economic activity, where there are at least 50 employees, while in the state-owned enterprises there are workers' councils. Among the above mentioned 2,915 Councils, 64% existed in organizations with 50 to 250 employees, 16% were in companies with 251 to 500 employees, and 15% were in

companies with more than 500 employees, while for the remaining 5% there were no accurate data.

Number of employees	Number of members
50-250	3
251-500	5
More than 500	7

Theoretically, the number of members listed in the table could be higher, because each representative trade union is entitled to one member in the Council. This body consists entirely of employees. The first meeting is held within 30 days after the election, but there are no rules on the frequency of the meetings. According to current regulations, the rights of local unions cover issues related to individual employees, collective rights and interests of employees, supervision of compliance with labour legislation, cooperation with labour inspection and monitoring the status of former employees who are now retired. Their exclusive right is signing Collective Bargaining Agreements and organization of industrial action. The right to information is related to the relocation of work and activities that can fundamentally change the conditions of work. For the purpose of negotiation, trade unions are entitled to information about the economic situation, and if there is any danger to health at the workplace, the union informs the Labour Inspection and requires from the employer to act, and he has to respond at the request within 14 days. Consultation of trade unions or other representative bodies are made when it comes to massive layoffs, but there is no obligation to reach an agreement, the employer only needs to consider possible proposals of the union. Rights of the Works Council have been reduced to information about the "recent and possible development of activities and economic situation of the employer" and information and consultation on "state, structure and the possible development of employment", as well as about the planned measures to maintain employment levels. The election period for union Solidarność is 4 years. Election of members of the Works Council was regulated differently in 2009, in comparison to 2006, when all employees elected members only when there was no representative union, or when they could not agree, while now the elections cover all the employees. It is a requirement to have at least 10% of total work force for the elections to be held, and when it comes to a company with 50 to 100 employees, candidates must be proposed by at least 10 workers, while in companies with more than 100 employees, at least 20 workers have to do it. The expenses of the election are covered by the employer. Trade union representatives who are members of an Executive Committee are protected against dismissal, reduction of wages and bad working conditions during the election period and one

year after it. The number of protected representatives depends on the number of members, so the protection is possible when there is minimum 10 members, and it also depends on whether a trade union is representative or not. In case when no union is eligible to become representative, it is considered that the union which has the majority of members is representative. The following table shows the number of protected union members in Executive Board:

Less than 21 members	2 representatives
21 – 50 members	2 plus 1 for each 10 members
51– 150 members	2 plus 1 for each 20 members
151– 300 members	2 plus 1 for each 30 members
301 – 500 members	2 plus 1 for each 40 members
500 members and more	2 plus 1 for each 50 members

Trade unions that are not representative have the right to protection against dismissal for one member of the Executive Committee, and there is a special protection against dismissal when the union is established for the first time at the workplace, then the Founding Board can appoint 3 members who are going to be protected 6 months after the establishment of the Founding Board. Such protection is granted to a worker who is elected into the body outside the workplace and who is exempt from the regular work on paid or unpaid basis, during the election period and one year after it. In terms of paid trade union activities by employers, the data is given in the following table:

Up to 150 members	1 representative with paid hours equal to the number of members
150 – 500 members	1 representative with full time work hours
501 – 1,000 members	2 representatives with full time work hours
1,001 – 2,000 members	3 representatives with full time work

	hours
More than 2,000 members	3 representatives with full time work hours, plus one for each additional 1,000 members

Members of the Works Council are also entitled to paid work hours for performing their duty, if it cannot be done outside the work hours. Experts can help the Council in its work, but there is no provision in the rules about who will pay for this service.

Romania

Workers' representation is done by unions, although the law prescribes that employees can elect their own representatives, if there are no trade unions and if there are at least 20 employees, which is very rare in practice. Legislation enacted to implement EU Directives on information and consultation has not changed this situation. The main role of trade unions is in collective bargaining, but also unions have a substantial right to consultation. The number and structure of trade union representatives is determined by trade union itself, and if there is no union in the company with more than 20 employees, it is possible to elect workers' representatives at a general meeting. The number of such representatives is a result of an agreement between workers and employers, and it is set according to the number of employees. In the field of information and consultation, there is a general obligation of employers to consult trade unions about decisions "that could substantially affect their rights and interests" and about a number of issues, when there is a need for it. It refers to planning vacations, health and safety, an annual training plan and internal rules of the company or layoffs, so as to propose avoidance or reduction of the number of the dismissed. In the latter case the employer must respond to the proposal, giving reasons for dismissal within 10 days. The trade union must be consulted in case of the relocation of the business, about introducing flexible forms of work or the use of social funds, as is the case with the canteens. The consent of the unions is necessary in several areas before the execution of a decision, as when the workers are required to work more than 15 days without a day for rest. Training in the area of health and safety is arranged with the Committee for Health and Safety. When it comes to a conflict between an employer and a union member, the union can represent that employee in Court. Workers' representatives are elected only if there are no union members, and they have a task to ensure the respect of the rights of employees, to participate in the preparation of company regulations and generally promote the interests of employees. This situation is maintained even after the transposition of provisions of the European Directives, and only union members are almost invariably considered to be workers' representatives. The election procedure and the length of mandate of trade union representatives are regulated by

the union, while for the election of workers' representatives it is needed to receive votes from more than half of employees at a general meeting, and the mandate is two years. Trade Union representatives can be dismissed only due to serious violations of their work duties during and two years after their mandate expires, unless the body they belong to consents to the dismissal. Workers' representatives are protected during their mandate, and they cannot get fired for performing their duties. Trade union representatives have more favorable conditions when it comes to paid hours, so they can use 5 days a month, and a number of such representatives and the total time off which they can use, is regulated in more detail in the Collective Bargaining Agreement. Workers' representatives can use up to 20 paid hours per month. The employer is obliged to provide space and equipment for carrying out trade union activities.

Slovakia

In recent years, there were significant changes in the regulations of Slovakia, which have improved the position of the Works Council. Both types of representative bodies exist at the workplace, sharing among themselves the tasks of representation. The new rules have been applied since 2007, and they regulate, in a more favorable way, the position of trade union representatives. Until 2002, local unions were the only representative body of employees, and this existed for several decades, first in Czechoslovakia, and since 1993 in Slovakia. Regulations of 2002 allowed the introduction of the Work Council, but only where there were no unions. A year later, the legislation was amended, and it allowed the founding of the Works Council in all workplaces, including those with unions, and in such a way they take over the responsibility for information and consultation from the trade unions, and gave them to the Works Council. Amendments to the Labour Law of 2007, reduced the authorities of the Works Council, and some of the responsibilities were given back to the local unions. Works Councils are established where it is required to have at least 10% of workers, and according to some estimates in 2004, 219 Councils were formed. However, most medium and small sized enterprises have neither trade union nor Works Councils. In addition to requirements that the local union must have at least 3 members, there are no other legal requirements regarding the number and structure of local trade unions, but the decision is left to the unions themselves. Works Council has to be formed in organizations with more than 50 employees, if it is required in writing by at least 10% of the workers. Where there are less than 50 employees, "workers' shopstewards," are elected with the same rights and duties as the Works Council. The number of members of the Council is presented in the following table:

50-100 employees	3 members
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101-500 employees	1 additional member for each additional 100 employees
501-1,000 employees	1 additional member
1,000+	1 additional member for each additional 1,000 employees

The law does not stipulate the frequency or organization of meetings, although it is stated that the representative of a trade union body may attend meetings of the Works Council, if the majority of members approves it. Workers' representatives, either through a trade union or Works Councils (shopstewards in smaller organizations), have the right of information, supervision, the right to negotiate issues that are not covered by a Collective Bargaining Agreement, to ensure the application of workers' rights that are provided by law, and in some areas the right of co-decision-making. Only a trade union is authorized to negotiate Collective Bargaining Agreements and later to control their implementation, and also it has a right to information. Since September 2007 there is a right of co-deciding in some areas, such as when negotiating on the issues that are not contained in the Collective Bargaining Agreement, or in case of inspection and control. The Works Council is given the right to information and consultation. The right to joint decision making is reduced to only a few issues that will not apply unless the employer has previously consulted with workers' representatives. Negotiations are required "with the aim of reaching an agreement" in relation to the planned and future employment level, especially when it is at risk, issues of health and safety and changes in work organization. The election procedure and mandate of trade union representatives is determined by the union, and usually they are elected for a period of 2 to 5 years. Members of the Council and the shopstewards are elected in a secret ballot by all employees, or 10% of those who can propose a list of candidates, and their mandate is 4 years. Dismissal of workers' representatives during their mandate and a year after is considered illegal if it was done without a previous consent or a Court decision. The new law of September 2007 stipulates that in companies with up to 50 members of the union, its representatives have up to 4 hours paid per month, in companies with 50 to 100 members the representatives have 12 hours paid per month, and if there are more than 100 members, representatives are entitled to 16 paid hours. Paid hours of the members of the Council do not depend on the number of employees, but each member is entitled to 4 paid hours per month. Workers' representatives are provided with space and equipment for their activities.

Slovenia

Workers' representation in Slovenia is done by unions and Works Councils through the right of information and consultation. Works Councils have bigger rights, while collective bargaining is a responsibility of the union. Works Councils exist at workplaces with more than 20 workers, and in practice, its members are often union activists, although there are differences from sector to sector. Regulations on the Works Councils exist in the law since 1993 and are largely based on the experiences of Germany and Austria. According to data of 2004, about two-thirds of big companies had Works Councils, but difficulties were noticed in their activities, which sometimes led to arbitration. The union itself decides on the number and structure of trade union representation, while detailed regulations are part of the Collective Bargaining Agreement. In comparison to this, provisions that regulate the work of the Works Council are contained in the law, according to which this body can be formed in companies with more than 20 employees, while where there are less than 20 employees, shopstewards can be appointed. The right to form a Works Council was extended with the law on workers' participation in 2007 on jobs where there is no company, such as stores. In these cases it is necessary to have at least 50 employees. The number of members of the Council is determined depending on the number of employees:

Number of employees	Number of members of the Works Council
21-50	3
51-100	5
101-200	7
201-400	9
401-600	11
601-1,000	13

In companies with more than 1,000 employees two additional members are elected for each additional 1,000 employees. This body is entirely made up of employees, and it may form special committees for matters that are of particular importance for certain groups of workers, such as a wider group of women or youth, but also they can be formed for employees of certain parts of the enterprise. Usually the Council

meets once a month and regular meetings are held with the employer. The main task of trade union representatives is to conduct collective bargaining, but the Law on Labour Relations from 2002 gave them general right to secure and protect the rights and interests of union members before the employer. This means that the employer must inform and consult the union before the adoption of rules on the organization of work, in case of redundancy and transfer of work or prior to the introduction of night work. The union must also be informed on the calendar of a working week. If an employee wants, the employer must inform the union about the dismissal or disciplinary measures taken against him. In both cases the union can express its opinion on the activities of the employer and in case of dismissal the appeal of the union postpones the enforcement of the measure until this issue is resolved by the Court. The Works Council receives information about the economic situation and plans, changes in company activities, and in organization of technology and production, and it receives a copy of the annual report. It is consulted on a range of issues, which can be communicated to Council at least 30 days before taking action, and the meeting with the Works Council must be held at least 15 days before taking action. The aim of consultation is to reach a common position, usually on the issue of changes in the legal form of the company, selling or closing a business or its major part, as well as on significant changes in ownership. Issues of importance for employees are the need for new workers, new rules on retirement or other matters of social security, job loss or disciplinary code. There are some areas where the Council has to agree before the employer implements his proposal, such as the annual holidays, the assessment criteria of performance, use of social benefits, such as holiday facilities that are owned by the company or criteria for promotion. In all these cases the opposition of the Council to employer's proposal leads to the initiation of arbitration proceedings. While the election of trade union representatives is regulated by the rules of the trade union, the election of members of the Works Council is done by secret ballot among the candidates proposed by the union or a specific number of employees, while their number depends on the number of employees, and it ranges between 3 and 50. The mandate of the members of the Council is four years. Both categories of workers' representatives are protected against dismissal, and if they did not act illegally or breached an employment contract they cannot be dismissed without the consent of the body to which they belong. The number of trade union representatives who enjoy such protection is determined by Collective Bargaining Agreements. The employer is required to ensure trade union representatives "the conditions for rapid and effective exercise of trade union activities" and this is regulated in more detail by Collective Bargaining Agreement. The right to paid hours is granted to the members of Works Councils in medium and large enterprises, and if there are 50 to 100 employees, one member is exempt of half of his regular work duties. In companies with 101-300 employees such right is granted to two members, and in companies with 301-600 employees one member is completely exempt of his work duties, 2 members in companies with 601 to 1.000 employees, and the number of such persons increases by one member for

each additional 600 employees. In order to hold meetings, an appropriate room and equipment has to be provided, and the experts that the Council hires are paid by the employer, unless it is agreed in advance with the team. How important workers' representation in Slovenia is, indicates the fact that in the Constitution of Slovenia of 1991, Article 75 workers are guaranteed the right of co-decision-making.⁵⁵

Concluding remarks

The text on previous pages clearly indicates that besides the unique legal background, which is contained in the European Union Directive on establishing a general framework on information and consultation, there are no identical legal provisions and practice in EU member states when it comes to informing and consulting employees, or to their right of co-decision-making. In some, workers' representation is done exclusively through unions, in others, Works Councils are formed, while some member states have special forms of representing the interests of workers through separate bodies, whose impact is combined with the action of trade unions. Where Works Councils do exist, they are generally composed of workers' representatives, with a few examples where members are also persons who represent the interests of the employer. Most countries have been given a right or an option to create this or similar body, for which it is needed to have a certain percentage of all employees or a union, so there is a wide range of opportunities for employees to choose what they believe would be in their best interest.

Since there are a lot of similarities in the countries of South East Europe in relation to the role of trade union, collective bargaining and representation of workers' interests before employers (which is especially noticeable in the countries that were previously republics, members of the former Yugoslavia), similar views are often heard regarding the need that besides unions, interests of the employees should be represented through some other bodies as well. Regardless of whether such attitudes are positive or negative, learning about the practice in all 27 European Union member states should at the very least extend the knowledge of the trade unions in the region of South East Europe, and depending on the given legal framework in the countries of the region and speculations of the trade unions, the unions will decide whether to use some experience from these countries or seek some original solutions in this area.

⁵⁵ Based on this Constitutional provision, in 1993 the Law on workers' participation was enacted, while the Law on Enterprises regulates the right of workers to participate in the work of Supervisory Boards, regardless of whether it is a state-owned or a private enterprise. The Supervisory Board is required in joint stock companies, if the registered capital is of 410 million SIT, if there are more than 500 employees, if the shares are sold on the stock exchange and if there are more than 100 shareholders. The Works Council elects workers' representatives, while the number of workers' representatives on the Supervisory Board cannot be less than 1 / 3, nor more than 1/2 of the total number of the board members.