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## Article

# Conditions of workers' participation in the European context-works councils structures in the Central and Eastern Europe

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KATARZYNA SKORUPIŃSKA

**Conditions of workers' participation in the European context-works  
councils structures in the Central and Eastern Europe**

**Abstract**

*The implementation of the 2002 Directive caused establishment of participation structures in countries of the Central and Eastern Europe following the pattern of works councils in Western Europe. The institutions of workers participation have right to information and consultation but they do not possess the right to codetermination which for a long time has been granted to most works councils in the old EU Member States. Works councils in the new EU Member States have not been established on the road of organic development but they had to define their entitlements and evolve organizational structures themselves. In this article two major topics are discussed: types of employees' interests representation and differences in structures of works councils in countries of the Central and Eastern Europe. The main aim of the paper is to present the most important factors which affect the establishment and creation of such institutions.*

**1. Introduction**

Intensity of employee participation is a result of two linked dimensions: the methods used and the range of subjects covered by the participation. First dimension concerns the degree of influence which is assigned to employees or/and their representatives in a company. There are three such levels: information, consultation and codetermination. Second dimension comprises four main kinds of issues: social, personal, financial and issues associated with production methods (Knudsen 1995, pp. 9-11). Nowadays, at the EU level,

legislation introduces a range of the following employee participation

requirements in the Member States:

- Council Directive (94/45/EC) of 22 September 1994 on the establishment of the European Works Councils or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees,
- Directive (2001/86/EC), adopted in October 2001, providing for employee involvement (through both information and consultation structures or procedures and board-level participation) in 'European Companies' (SEs),
- Directive (2002/14/EC) of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community.

Taking into account the subject of this paper, the main attention will be focused on the last directive. It is extremely essential in this respect that as an EU document it defines in a comprehensive way the standards of workers participation in national workplaces. The main aim of the 2002 Directive was to normalize these procedures, taking into account the vast diversity of participation solutions and respecting practices existing in particular EU Member States. The Directive sets out some common standard obligating Member States to regulate the rights of employees in the range of obtaining information and expressing workers' opinion about their enterprises. The implementation of the Directive gave rise to establishment of participation structures modeled on works councils in countries in which non statutory forms of information and consultation existed before (the United Kingdom, Ireland and many new Member States).

The aim of this paper is to present main factors which affect the establishment and creation of works councils in countries of Central and Eastern Europe, especially taking into consideration Poland. Extremely important is the type of representation of employees' interests which affects the relationship between these institutions and trade unions. The position of works councils in enterprises and conditions of worker participation in management are determined by many different factors such as the legal basis of their operation, the size and composition of councils, election procedures and the range of rights granted to these institutions. The key factor determining the potential range of works councils is a minimum workforce-size threshold for establishing of these institutions.

## 2. Monistic vs. dual representation of employees' interests

System of information and consultation constitutes an essential element of social dialogue. The right to information and consultation is a necessary condition for the development of employee participation for managing the company. In general, there are two types of employees' interests' representation:

1. Monistic representation (single channel).
2. Dual representation (dual channel).

In the single channel, only trade unions or, mainly trade unions represent workers in the relations with the employer. The dual channel is based on statutory structure where employees representations are trade unions (or their representatives such as union delegates) and an elected body independent of unions. Non-union form of representation is the structure aimed at informing employees and consulting them (mainly by works council). In the 15 EU Member States (see table 1) dual representation definitely prevails in workplaces (both works councils and union representatives, and even employees representatives, for example in France).

**Table 1. Employees' interests' representation in 15 EU Member States**

AT	Works councils	IE	Shop stewards, health and safety committees, agreed company-specific arrangements
BE	Works councils, trade union delegates, health and safety committees	IT	RSUs, RSAs
DE	Works councils, trade union delegates	LU	Joint company committees, employee representatives
DK	Cooperation committees, shop stewards	NL	Works councils, trade union delegates, health and safety committees
EL	Works councils, employee representatives, health and safety committees	PT	Works councils, trade union representatives
ES	Works councils, personnel delegates, trade union delegates	SE	Shop stewards
FI	Employee representatives, shop stewards	UK	Shop stewards, joint consultative committees, health and safety committees, agreed company-specific arrangements
FR	Works councils, trade union delegates, employee representatives, health and safety committees		

Source: author's own work based on *Impact of the information...* 2008.

The obligation to implement the 2002 Directive on informing and consultation of employees fundamentally affected the change of the form of employee representation in Central and Eastern Europe. It has transformed the usually existing in these countries sole trade union representation into dual representation (trade unions and works councils) or into monistic but "alternative" representation (either union representatives or works councils).

In the Czech Republic only trade unions are entitled to represent employees in workplaces, if only they are present there. If trade unions are not present, according to the amendment of the Labour Code from 2001, employees' council may be established<sup>4</sup>. Employees' councils first appeared in Hungary where new Labour Code from 1992 introduced dual representation based on the German dual system. The establishment of employees' councils seemed to be a good solution to the trade union fragmentation and representation crisis. Moreover, the government wanted to reduce the influence of trade unions which initially hindered the transformation of the economy. In 2002 the Labour Code in Slovakia introduced elected employees' councils in enterprises without trade unions (monistic 'alternatiye' representation). The amendment of the Code from 2003 established employees' councils also in companies where trade unions are present, thereby transforming employee representation into dual model. However, in practice only one form of employee representation is present in particular company. In Slovenia, the activity of employees' councils was regulated only in 1993 under the Law on the Participation of Workers in Management. Moreover, this act introduced workers representatives into company boards. Dual employee representation also exists in Latvia (the Law of October 2005 amending the Labour Code) and Estonia (the Employee Trustee Act of December 2006). Single 'alternatiye' channel can be seen in Lithuania where parliament finally in 2004 adopted a law introducing employees' councils into enterprises without trade unions. In two remaining countries (EU-accession 2007) transposition of the 2002 Directive changed the sole trade union representation into monistic 'alternatiye' representation (Romania) and dual representation (Bulgaria) (Kohl 2008; Impact of the information... 2008; Jesteśmy u siebie... 2007, pp. 41<sup>14</sup>).

In Poland, formally, there is a dual system of employee representation in undertakings with 50 or more employees, i.e. at the trade unions' initiative, if present, or motioned by at least 10% of the workforce when there are no trade unions, employee councils may be established. However, in practice this representation system links both channels, because in undertakings where trade unions are present, the councils are trade unions' structure. Trade unions appoint

Works councils in the Central and Eastern Europe commonly are called employees councils.

the members of the council or nominate candidates for election. It means that the rest non-union workers do not have a chance to choose their representatives. It contravenes provisions of the 2002 Directive providing for all employees the right to information and consultation. Moreover, if a union starts to operate in the enterprise, the existing council is dissolved and the union establishes a new one\

In Cyprus and Malta which, in opposition to above mentioned countries, have a long tradition of market economy, the Directive's transposition has meant the establishment of a general, statutory system of information and consultation through single channel of representation. In Cyprus, according to the Law from 2005, in undertakings with 30 or more employees, trade unions (as employee representatives) have information and consultation rights on the issues laid down by the Directive. In Malta, the rights of employees are implemented by trade union representatives if one or more trade unions cover all employees in the undertaking. If all employees are not represented by trade unions, information and consultation is carried out through union representatives and an elected or appointed representative of workers who are not represented by the unions. In establishments with no recognized trade unions, these rights are implemented by elected or appointed employee representatives (*Impact of the information..* 2008, pp. 9-10).

Taking into account the fact that deadline for implementation of the Directive into national laws was 23 March 2005<sup>6</sup>, only three new EU Member States: Hungary, Lithuania and Slovakia managed to do it on time (see table 2). The government in Slovenia introduced national legislation in 1993 and met the terms of the Directive and no new measures were required to comply with the requirements. Nevertheless, in April 2007 Slovenia made some amendments to

<sup>5</sup> On 1 July 2008, upon motion placed by the Confederation of Polish Employers, the Polish Constitutional Tribunal was considering uniformity of the Act dated 7 April 2006 with the Constitution. The Tribunal recognized that it is unconstitutional to deprive employees who are not union members of the right to elect employees councils and ordered to alter the regulations. Pursuant to the amended Act the election of employees councils in accordance to hitherto existing rules may continue till 8 July 2009. As of 9 July 2009 employees' councils will be elected by all employees among candidates put forward by staff. The councils elected prior to the amendment will act till the end of their term.

<sup>6</sup> Article 10 of the Directive allows some temporary period for countries with "no general, permanent and statutory system of information and consultation of employees at the workplaces". Till 23 March 2007 these countries could constrain application of the Directive to undertakings with at least 150 employees or undertakings with at least 100 employees and as from March 2007 till March 2008 undertakings with at least 100 employees or undertakings with at least 50 employees accordingly.

existing legislation in order to completely and strictly adjust the national law to the EU Directive. Cyprus and Latvia passed appropriate bills which guaranteed the access of employees to information and consultation by the end of 2005. The European Commission initiated infringement proceeding for non-compliance with the Directive against the remaining countries (Poland, Malta and Estonia). The countries adopted transposition legislations in 2006, and consequently the proceedings against them were closed. Such proceedings were not used towards the Czech Republic where relatively minor changes in transposition measures were required, which were subsequently implemented in 2006 and 2007. The two remaining countries, Bułgaria and Romania which became the EU Member States on 1 January 2007, implemented the Directive in 2006.

**Table 2. Tmplementation of the 2002 Directive in the Central and Eastern Europe**

Country	Type of employees' representation	Legislation
Czech Republic	monistic 'alternative'	Act No. 72/2006 amending the Labour Code and new Labour Code that took effect from 1 January 2007
Slovenia	dual	A law amending the Law on the Participation of Workers in Management 1993 that came into force on 7 April 2007
Hungary	dual	Law of 17 March 2005 amending the Labour Code
Lithuania	monistic 'alternative'	Law of 11 November 2004 amending the Labour Code
Slovakia	dual	Act No. 210/2003 amending the Labour Code
Estonia	dual	Employee Trustee Act of 13 December 2006
Poland	dual	Act of 7 April 2006 on informing and consulting employees
Latvia	dual	Law of 13 October 2005 amending the Labour Law
Bułgaria	dual	Amendments to the Labour Code, taking effect from 1 July 2006
Romania	monistic 'alternative'	Law No. 476/2006

Source: Impact of the information... 2008, pp. 6-7.

It is important to remember that employees<sup>1</sup> councils in the Central and Eastern Europe have not been established on the road of organic development

and they have usually been established on the ill-prepared ground. Because usually legal provisions are generally outlined, the councils had to define their entitlements and evolve organizational structures - <sup>to define themselves</sup> In the following 'adjusting' stage - employees' councils were forced to show determination in enforcing their statutory rights<sup>7</sup>. Particularly interesting is the relationship between employees' councils and trade unions. Initially, the unions generally resisted establishment of works councils<sup>8</sup>. For example, trade unions in Estonia arranged many protest actions in order to block the new act introducing employees' councils because preliminary version of this act narrowed the rights of trade union representatives (Nurmela, Kallaste 2009, p. 2). Skeptical attitude of trade unions in Poland towards creation these new institutions was associated with the fact that unions treated these councils as a competition and were afraid of losing monopoly on employee participation. Trade unions in Slovakia agreed to the introduction of councils but only in companies where union organizations did not operate (Cziria 2009, p. 2). However, with the passing of time, in most cases, the cooperation between them has developed and the trade unions were the party who took the lead. The strong relationship between these two forms of representation is confirmed by the fact that employees' councils have been often dominated by union activists. On the other hand, in companies without trade unions, the number of the councils is very small. Employees' councils in Hungary were established more often in large state-owned companies or recently privatized enterprises in which trade unions were strong - additionally strengthening them. The survey conducted in 2003 demonstrated that only 9% employees' councils in this country operated in companies without trade unions (Tóth, Ghellab, Neumann 2004, p. 3). According to the data of the Ministry of Labour and Social Policy from May 2007 more than 80% of employees' councils in Poland were established by representative trade union organizations.

Both monistic and dual representations have their weaknesses. In the case of the dual channel, parallel existence of two representations may lead to duplication of their functions and competence between them instead of joint activity in favor of all workers, which is suggested by the survey in Hungary (*Jesteśmy u siebie...* 2007, p. 45). Moreover, this may result in the development of separate representation channels for different groups of workers. Employers

In the case of Hungary there is a third stage called 'organic development'. This stage was characterized by councils' taking decisions which exceeded their statutory rights. For example, employees' councils put pressure on employers in order to induce them to financially support voluntary pension funds (Wratny 2002).

<sup>H</sup> From beginning trade unions in Latvia were 'neutral' about the employees' councils. They treated establishing these institutions as a necessary condition associated with implementation of the EU Directive and an aspect of national social dialogue' development (Karnite 2009).



may also manipulate trade unions and works councils by favoring only one of them as a partner. The distinct separation of the influence areas of union and non-union representatives in workplaces is the advantage of monistic system. Owing to this separation, competition or even conflicts between the two sides may be avoided. On the other hand, works councils cannot count on the support of union organizations in their workplaces, because councils can only be established when there are no trade unions. The 'representation problem'<sup>1</sup> in workplaces with a very low trade union density demonstrates the disadvantage of the monistic channel. The Czech law requires as few as three applicants to set up a trade union. Moreover, low entitlements of works councils in this country results in worse conditions for articulating their interests in comparison to the workforces represented by trade unions.

### 3. Structure of employees' councils

A key factor which influences the potential range of employees' councils is the employment threshold, namely, the minimal size of enterprises in which these institutions should be established. The 2002 Directive defines a range of its application which is determined by the number of the employed. This range is set at the level of at least 50 employees for undertakings and at least 20 employees for establishments leaving particular countries the possibility to choose the criterion. It means that it is the state that determines the implementation of the Directive (*Dyrektywa Parlamentu...*) and not particular economic entities (undertakings/establishments).

Four new Member States (Hungary, Poland, Slovakia, and Malta) have set the threshold at 50 employees. Most other countries laid down lower thresholds: Czech Republic - 25 employees, Estonia - 30<sup>9</sup>, Romania - 20, Slovenia - 20, Lithuania - 20 and Cyprus - 30. The information and consultation legislation in Latvia is applied irrespectively of the size of the enterprise. Bulgaria applies this legislation both to undertakings with at least 50 employees and establishments with at least 20 employees (*Impact of the information...*2008, pp. 11-14). The fact that works councils are mandatory from certain workforce threshold does not guarantee their automatic existence. In general, the initiative from workers or trade unions, which submit appropriate proposal, is necessary to

<sup>9</sup> The main argument to lower the 'threshold' in Estonia was fact that only about 2% of enterprises employ more than 50 employees which could considerably limit the range of firms in which workers have information and consultation rights (Nurmela, Kallaste 2009, p. 2).

establish such institution. The available data show that real range of employees' councils in the Central and Eastern Europe is not significant. According to the data from March 2007, only 11% of firms employing more than 100 workers had employees' councils in Poland (*Monitoring Ustawy z dnia...*2007, p. 26). The data provided by the National Labour Inspectorate in Lithuania demonstrates that under a third of all employees are represented by trade unions or employees' councils (Blaziene 2009, p. 2). According to survey conducted by the Institute for Labour and Social Research in Slovakia, councils were established mainly in 2002-2003 in medium-size enterprises operating in profitable sectors, e.g. insurance services, electronics, computing industry, but the number of these institutions was relatively low (Cziria 2009, p. 2). It is estimated that employees' councils cover about 25% of all employees of Slovenian companies (Pavlin 2009, p. 3).

Size of employees' council depends on the number of people employed in the enterprise (the more employees in the company, the larger the council). For example, size of these institutions in Hungary fluctuates between 3 and 13 members. Similar situation is in Slovenian companies with fewer than 1000 employees, but then the size of the council is increased by 2 extra members for every additional 1000 workers. Employees' councils in Poland may consist of 3, 5 or 7-persons, while these institutions in Czech Republic consist of 3 up to 15 members. In most cases, employees' councils are institutions made up solely of employee representatives (only councils in Hungary are joint bodies, made up of representatives of both management and workers). Comparing statutory sizes of employees' councils in the Central and Eastern Europe with their counterparts in the old EU Member States, we can notice that councils in the new Member States have generally fewer councilors (more in: Skorupińska 2007, pp. 242-246).

Trade unions have a large share in election procedures for employees' councils<sup>10</sup>. For example, unions have priority to nominate candidates for the councils in Hungary. Employees' councils in Slovakia are directly elected in a secret ballot on the basis of list of candidates proposed by at least 10% of the workforce or by trade unions (Munkova 2003, p. 2). Also in Slovenia councilors are nominated by all workers and representative trade unions. Taking into account the elections for employees' councils in Poland, the procedure is not uniform. When trade union is not present in an enterprise, the employer must organize an election of council at the initiative of at least 10% of the workforce.

Also in Czech Republic (monistic 'alternative' system) where employees' councils are established only in nonunion enterprises on the basis of proposal one third of workers these institutions should be disbanded if trade unions appear in the workplace.

Where representative trade unions<sup>11</sup> are present, they appoint the members of the councils or, if it is not possible, nominate candidates for election. It means that establishment of employees<sup>1</sup> council in the second case entirely depends on the will of trade unions<sup>12</sup>.

#### 4. Information, consultation and other rights

The most important factor defining conditions of workers participation by employees<sup>1</sup> councils is the range of rights granted to these institutions. According to the 2002 Directive information and consultation should embrace the following groups of issues: 1) information on the recent and probable development of the undertaking<sup>^</sup> or establishment<sup>^</sup> activities and economic situation; 2) information and consultation regarding situation, structure and probable development of employment within the undertaking and all anticipatory measures envisaged; 3) information and consultation regarding decisions which can lead to substantial changes in work organization (*Dyrektywa Parlamentu...*). The EU Directive does not provide for the right to codetermination which for a long time has been granted most works councils in old EU Member States.

The entitlements of employees<sup>1</sup> councils in Hungary are in accordance with European standards in terms of employee participation in management of companies, embracing the right to information and consultation. To a limited extent they have also the right to codetermination on certain social issues<sup>13</sup>, which exceeds the Directive<sup>^</sup> entitlements. The amendment to Hungary<sup>7</sup>'s Labour Code from September 2002 considerably strengthened the right of local trade unions by giving them the right to information and consultation making functions of trade unions and employees<sup>1</sup> councils blurred (more in: Tóth, Neumann 2003). The scope of employees<sup>1</sup> councils<sup>1</sup> activity in Czech Republic is significantly limited in comparison with their counterparts in Hungary. The right to give opinion is restricted here to three strictly defined issues, namely: take over of a plant by another employer, group layoffs, health and safety issues. The scope is also evidently narrower than entitlements of union

Trade union is treated as 'representative' when at least 7% of workforce belongs to it (if trade union is all-Poland) or at least 10% (if union is established by workers of a given company).

<sup>12</sup> These regulations will be applied till 8 July 2009.

<sup>13</sup> Such as using social funds, institutions and properties (factory flats, company holiday centers).

organisations in workplaces in this country. The institution of factory agreement according to which the workers would be a side does not exist in the Czech law. Regulations of the Labour Code make it impossible to form such agreements even in practice, what is the case in Hungary. Employees' councils in the Czech Republic serve as a kind of 'prosthesis' and they do not constitute alternative to trade unions.

In Slovakia employees' councils and trade unions have similar status, common access to information and some joint entitlements in decision making. But only trade unions have right to negotiate collective agreements. According to the Labour Code, employer is obligated to consult employees' representation on the following scope of issues: social policy, decisions which can lead to substantial organizational changes, protecting mechanisms against accidents. However, employees in Slovakia have no interest to participate in councils. They prefer trade unions because these institutions have a right to negotiate wages. Although entitlements of employees' council in Latvia correspond to European standard in terms of information and consultation, these are not fully exercised in practice. There are two important reasons for the gap between legislation and practice. The first is poor organization of employees- in terms of low membership of trade unions. The second reason is a widespread practice of ignoring labour legislation. Employees' councils in Slovenia have a right to conclude agreements with employers, but only on issues which are subjects of collective bargaining. Moreover, they can call workers' assemblies (all employees excluding management) to discuss matters in the scope of employees' councils or thematic committees established by these institutions (Karnite 2008, p.2; *Jesteśmy u siebie...*2007, pp. 4144).

Legislation in Poland does not clearly define the information rights of employees, presenting only three general groups of issues: 1) activity and economic situation of the enterprise and probable changes in this area; 2) condition, structure and probable decrease in employment and activities aimed at maintaining level of employment; 3) activities which may cause substantial changes in work organization or employment contracts (*Ustawa z dnia 7 kwietnia...*). Consultation (considered as an exchange of views and dialogue with the employer) refers only to the points 2 and 3. In principle, the range of matters which are a subject of information and consultation of employees' councils in Poland covers the Directive's entitlements. The details concerning rules and methods of transferring information and conducting consultation can be set by employees' councils together with employer in a separate agreement for a particular enterprise. The legislation does not include any guidelines in this respect. However, according to the data from May 2007, only 35% of employees' councils signed such agreements. Besides, this act does not specify

the number of councils<sup>1</sup> meetings and hours per year granted to councilors to fulfill their duties. Such precise guidelines are included in almost all legislations establishing works councils in EU15.

In general, the range of information and consultation in the Polish act has been defined too generally, what in practice causes vagueness and lack of solid information provided by employers to employees<sup>1</sup> councils. Factory inspectors who controlled implementation of rules of Polish legislation demonstrated that employers very often refused employees<sup>1</sup> councils the right to access to basic information as defined in this act and corresponding penalties in this respect imposed on employers are too low (see more *Funkcjonowanie ustawy o informowaniu...2008*). Lack of clear division of competences between employees<sup>1</sup> councils and trade unions also gives rise to controversy. In such case, as it results from the practice, employer is obliged to conduct consultations several times, each time with another representation of employees. For example, such situation takes place when employer predicts group layoffs or takes over of the plant by another employer.

Besides the range of rights granted to employees<sup>1</sup> councils, these are the details concerning rules and methods of transferring information and conducting consultation that define the conditions of workers participation in particular countries. Apart from the earlier mentioned elements (the number of councils<sup>1</sup> meetings, hours per year granted to councilors to fulfill their duties, opportunity to conclude agreements with employers) these details also include guarantees of trainings for councils<sup>1</sup> members and clear conditions for financing employees<sup>1</sup> councils (mainly access to experts<sup>7</sup> support). Similar situation as in Poland is seen in Slovakia where the legislation also does not provide the description of information and consultation<sup>^</sup> procedures or frequency of councils<sup>1</sup> meetings. Consequently the employees face problems when trying to obtain necessary information from employers and even to get appropriate premises for councils<sup>1</sup> meetings. In Lithuania, employers also frequently do not transfer information to councils and at the same time the fines for it are very low. According to the Labour Code in Hungary, employer should provide information to the council at least once every six months. However, the results of the survey<sup>14</sup> in this country proved that many employees<sup>1</sup> councils received inadequate documentation as supporting material for their meetings. Moreover, the councils<sup>1</sup> activities were in many cases chaotic and the dialogue was not institutionalized (irregular meetings and overwhelmingly verbal communication with employer). On the whole, employers<sup>1</sup> duties are restricted to listening to councils<sup>1</sup> opinions. The regulations in Slovenia are considerably more precise - the councils<sup>1</sup>

members have a right to 40 hours for trainings, 3 hours for consultations with employees and 5 hours for councils<sup>1</sup> meetings annually.

According to legislation, most costs related with the operation of employees<sup>1</sup> councils in the Central and Eastern Europe should be covered by employers. However, due to vagueness of these regulations in many cases employers do not fulfill their duties. Only legislation in Slovenia includes very precise rules regarding the costs of councils<sup>1</sup> establishment and operations. Taking into account the cost of employees<sup>1</sup> councils operation in Poland, we are faced with duality. If trade unions do not operate in a company, all costs of councils election and operation are covered by employer. If employees<sup>1</sup> council is established by trade unions or unions appoint candidates for the institution, all costs related to councils operation are financed by the unions. Due to this rule general the costs of external experts<sup>1</sup> services are beyond the financial scope of trade unions. Only few councils in Poland have permanent budget and even fewer can assign funds for financing expert opinions.

## 5. Conclusion

The analysis leads to the following conclusions:

1. The necessity of implementation the 2002 Directive<sup>^</sup> was of utmost importance for establishing employees<sup>1</sup> councils in the Central and Eastern Europe. However, in some countries such institutions have been established considerably earlier, due to different reasons. The rules for creating the basis of employees<sup>1</sup> councils<sup>1</sup> functioning in Hungary were established by the Labour Code in May 1992 and first election for the council was held in 1993. Such institutions were imposed by political forces which wanted to adjust national collective labour law to the West European standards (German model). Moreover, the government wanted to limit the impact of trade unions. Therefore, these new institutions of worker participation initially provoked resistance of unions which considered councils as "the Trojan horse". The first step to establish employees<sup>1</sup> councils in Slovenia was regulated by a Constitution from 1991 including the right of workers to participation in management. There were two main reasons of introducing employees<sup>1</sup> councils in the Czech Republic. The first one was the necessity of EU Directive<sup>1</sup> implementation. The second reason arose from the situation of trade unions in this country, namely, from a sudden decline of union density.

2. Different formal and legal factors such as size and composition of councils, election procedures, legal basis for their operation and range of rights granted to these institutions affect councils' operation and determine their position in companies. Moreover, it is extremely essential how councils use in practice the opportunities they possess. At the first step, employees' council together with employer could jointly define conditions for transferring information and conducting consultation and determine these conditions in separate agreements for particular companies. However, the fact that such agreement is signed in the company does not guarantee its implementation. Corresponding survey demonstrates that in many cases employees' councils have difficulties in obtaining necessary information from employers and conducting consultation with them. Moreover, the analysis of such agreements in Polish companies indicates that they often only copy the rules contained in the legislation without specifying what kind of information should be passed to the council.
3. The type of employees' interests' representation which affects the relationship between trade unions and employees' councils is extremely important. Trade unions have also a significant impact on the shape of legislations regarding employee participation. Conflicts regarding the final forms of these legislations, caused a strong opposition from trade unions, and provoked the European Commission<sup>^</sup> to lodge a complaint about non-compliance with the Directive. However, with the passing of time, trade unions toned down their inimical attitude towards employees' councils. It turned out that the existence of these councils in Poland depends on the trade unions - in general, these institutions have been established in companies in which unions were present. On the other hand, employees' councils make unions more attractive by providing them with the extended range of information. It is important to strengthen trade unions up because at this moment unions have <sup>^</sup>a key to employee participation<sup>^</sup>.
4. Employees in the Central and Eastern Europe have not accepted the new workers' participation<sup>^</sup> institution yet. In many cases, they prefer to rely on reliable employee representation in the form of trade unions. Following J. Wratny: 'Employees have not worked up an appetite for participation yet<sup>^</sup>. The number of employees' councils is still relatively small and a large part of them do not enforce rights which they possess. It is a result of many reasons such as: poor initiative among employees, employers impeding actions, fear of negative consequences from employer<sup>^</sup> side, employees' ignorance of legal regulations, lack of a clear division between competences of employees councils and trade unions, lack of trust in new participation institutions, as well as certain custom not to obey legislation (Latvia).

It turns out that these are the trade unions that are still at the forefront of industrial relations in the Central and Eastern Europe.

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