ALTOGETHER
Employers and employees developing effective consultation and participation system to address the COVID19 impact

NATIONAL REPORT FROM: POLAND

"COUNTRY- SPECIFIC ANALYSIS FOR WORKERS' INFORMATION

CONSULTATION AND PARTICIPATION RIGHTS AND THE COVID19 CRISIS (MANAGING OF THE CRISIS, IMPACT, RECOVER)"

EN

Co-funded by the European Union

ALTOGETHER
Employers and employees developing effective consultation and participation system to address the COVID19 impact

CONTENT

Co-funded by
the European Union

1. INTRODUCTION

Employee participation rights, including representation rights at the board level, are an important element of corporate governance and related corporate social responsibility. Several laws and directives regulate these issues in Poland and the European Union, including those concerning COVID-19 crisis management.

In the Polish legal system, employees' rights to information, consultation and participation are regulated by, inter alia, the Labour Code and the Act on Employee Councils. Pursuant to Article 30a of the Labour Code, the employer is obliged to inform employees about the enterprise's financial situation, financial performance, economic and organisational situation, and planned changes in the work organisation. In turn, the Act on Workers' Councils introduces an obligation for the employer to consult the workers' council on social policy, wages, working conditions, work organisation, and working time.

In addition, Poland also has the so-called Code of Commercial Companies, which requires selected companies to establish a supervisory board. This board may have employee representatives elected from among candidates put forward by employees. The supervisory board plays an important role in the company's management and is obliged to consult with employees on decisions related to the company's personnel and organisational policies.

It is also worth mentioning that as a result of the COVID-19 pandemic, the so-called Anti-Crisis Shield was introduced in Poland, which included a number of solutions aimed at protecting companies and employees. The Anti-Crisis Shield introduced, inter alia, the possibility to suspend employment contracts in the event of a difficult economic situation for a company and a standstill benefit for employees covered by such suspension. These provisions impose an obligation on employers to consult their employees in the event of such changes in work organisation.

In the European Union, employee participation rights are regulated by directives, including Council Directive 2001/86/EC concerning the involvement of employees in European

Co-funded by the European Union

companies and Council Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Union.

Council Directive 2001/86/EC of 8 October 2001 on establishing a European Company (SE) regulates employee participation at the European level. This directive requires establishing an employee representative body, the so-called European Works Council (EWC), for companies that meet certain criteria regarding the number of employees and branches in the EU Member States.

Council Directive 2002/14/EC lays down rules for the information and consultation of employees on matters concerning the undertaking, including the right to be informed about the economic situation of the undertaking and to be consulted on organisational changes, collective redundancies and other important decisions affecting employees. It indicates the minimum requirements for informing and consulting employees in the European Union. Council Directive 2002/14/EC aims to increase workers' participation in the decision-making process and provide them with better access to information about the company, allowing for a better understanding of the decisions taken by employers and strengthening their influence on these decisions.

Regarding managing the crisis caused by the COVID-19 pandemic, several additional legal provisions have been introduced in Poland and the European Union to protect employees and maintain the continuity of business operations. In Poland, provisions were introduced, inter alia, on the temporary suspension of employment contracts, the reduction of working hours, the possibility of remote working and changes to the rules on the employment of temporary workers. To protect employees and maintain the continuity of businesses, these regulations require employers to consult with employee representatives when making such changes to work organisations.

The European Union has adopted, among others, Council Directive 2019/1158 on transparency and predictability of working conditions, which introduces rules for informing

Co-funded by the European Union

workers about their rights and obligations concerning working conditions, and Council Directive 2019/38 on crisis prevention and management systems in the water and energy sector, which makes it mandatory to consult workers' representatives when preventive and crisis management measures are introduced in the sector.

2. MAPPING THE CURRENT STATE

In the in-depth interviews, respondents identified several effective and ineffective initiatives that have been and continue to be implemented in their companies regarding information, consultation on workers' participation rights and management during the COVID-19 crisis and post-crisis recovery. Effective initiatives included:

- **Consultation between workers and employers** on future changes in work organisation and management that may affect workers' employment conditions. For this purpose, employers organised meetings or conducted online surveys to find out the opinions of their employees and to encourage their active participation in the process of dealing with the effects of COVID-19;

- **The creation of special teams/working groups**, which included employee representatives (of different levels in the organisational structure and/or departments), as well as specialists in management, finance and strategy. They worked together on the company's action plan during the pandemic and sometimes during the post-crisis recovery period. Such teams ensured employee participation in the planning and management process, which was certainly well received and contributed to greater acceptance of even difficult decisions;

- **Providing dedicated training for workers** on crisis management and dealing with uncertainty in times of change. Such training allowed employees to understand the situation better, learn about crisis management methods, see examples of how to proceed, etc.;

Co-funded by the European Union

- **Introducing flexible working hours and remote or hybrid working** allowed employees to have a better work-life balance. They provided the opportunity to work even when offices were unavailable.

Ineffective initiatives included:

- **Conducting surveys on the work atmosphere and employees' opinions on the company's state and working conditions.** The aim was to identify the problems employees faced and to enable possible changes to be made. Usually, these surveys were extended over time. If any action was taken afterwards, employees were not able to judge that it was the result of their participation in such a survey;

- **Organising regular online meetings with employees** where they could express their opinions and suggestions on managing and organising their work during COVID-19. The first meetings after the pandemic outbreak had the expected informative effect. But over time, their effectiveness declined. Subsequent meetings were organised somewhat by force, discouraging staff from attending them.

3. EVALUATION OF OTHER EFFECTIVE MECHANISMS THAT COULD BE USED

In Poland, several mechanisms were used to exchange views between management and employee representatives on corporate governance during COVID-19 and the reconstruction period. From the research conducted, the most commonly used ones include:

- **Briefing meetings** organised by management to inform employees on key issues related to the functioning of the company;

- **Online platforms** as tools to enable quick and easy communication between employees and management. On platforms such as the Intranet or the employee forum, employees ask questions, raise issues and express their opinions.

- **Working groups** made up of management and employee representatives to address specific issues related to the functioning of the company or a specific problem, e.g. a crisis triggered by COVID-19;

- **Workers' council** is a body representing employees in the company. The council meets with the company's management on issues related to, inter alia, working and employment conditions, salaries, work regulations, personnel policies;

- **The trade union** is an organisation that negotiates with employers on working conditions and wages and participates in the company's policy-making process.

During the COVID-19 pandemic, mechanisms for the exchange of views between management and workers' representatives were particularly important, as the pandemic affected many aspects of company operations, including work organisation, worker safety, as well as financial aspects.

4. NEW IDENTIFIED DRIVERS FOR IMPROVING WORKER REPRESENTATION AND CONSULTATION

Employee initiatives in Poland have improved employee representation and allowed greater consultation on issues of importance to the company's development and strategy, such as setting up working groups, launching incentive programmes, providing additional training and organising dedicated meetings with management. The following table assesses the advantages against the disadvantages of each initiative.

Initiative	Individual influence of employees, the strength of their position in the labour market and in employee processes		Collective influence through employee representatives	
	Advantages (positive aspects)	**Disadvantages (negative aspects)**	**Advantages (positive aspects)**	**Disadvantages (negative aspects)**
Creation of working groups	Opportunity to express one's opinion and contribute ideas.	Requires time	Increase creativity and innovation. Employees can learn from each	Ineffective if not properly organised and managed.
	Increase creativity and innovation.		other and strengthen their relationships with other team members.	Requires time and resources
Launch an incentive programme	Increase employee engagement. Encourage employees to share their ideas	Focus on short-term goals rather than long-term strategic objectives	They are based on the performance of the group rather than the individual, allowing for the collective influence of employees	There may be rivalry between employees
Provide training	Increase employee knowledge and skills. Improve employee motivation and increase commitment to work.	Require time and resources, and an appropriate budget.		
Meetings with managers.	Opportunity to express their opinions and suggestions. Direct contact with decision-makers. Increased commitment and sense of trust. A better understanding of company strategy.	Limited in time. Do not take into account the opinions of all employees. Some employees may feel uncomfortable expressing their views in front of management.		

5. WORKPLACE PARTICIPATION ARRANGEMENTS

Trained company representatives (if there were any in the company) played a very important role in maintaining the continuity of the company's operations and the ongoing activation of workers during and after the COVID-19 pandemic. They most often took action in the following areas:

- **Organising remote working:** they helped to organise remote working, adapting tools and software for remote working;

- **Implementing and adhering to safety rules:** they helped to communicate safety rules and policies in case of suspected COVID-19 infection;

- **Action planning:** they participated in the development of action plans, took part in discussions and decisions on actions that helped the company through difficult times;

- **Supporting employees:** they provided emotional support to employees during and after COVID-19, sometimes even helping to organise financial support.

In Poland, the key skills in successfully managing the situation during and after the COVID-19 pandemic were:

- **Communication:** the ability to communicate clearly, effectively and frequently with staff and other stakeholders was key to conveying important information and ensuring that everyone was kept up to date;

- **Problem-solving:** the ability to solve problems quickly and effectively was key when companies needed to make quick, out-of-the-box decisions and take action in situations they had not encountered before;

- **Goal orientation:** the ability to focus the team on important business goals and motivate employees to achieve results was crucial for the company to survive this difficult time;

- **Openness to feedback:** it allowed employees to voice their concerns and ideas, allowing the company to adapt its approach and strategy to the dynamically changing situation;

- **Leadership:** based on vision on the one hand, but also flexibility and empathy.

6. SURVEY ANALYSIS

The research sample was 50 questionnaires. Roughly 30% of the responses each came from people employed in SME companies, 50-100 and 100-1000 employees. Only 1 response came

from a company with more than 1000 employees. The vast majority of people come from companies with no trade unions (88%), and only 2 of those surveyed belong to such unions.

The survey shows that most respondents are unfamiliar with the Polish and European legislation on COVID-19 and employee participation (only 19%). In contrast, most respondents are positive about the principles of collective employee rights of fostering collaborative dialogue between employees and managers. In almost half of the companies (46%), there is employee representation at the company or board level. However, in only a quarter of these companies, the right to elect or appoint a member or several members of the company's supervisory/board of directors by employees already exists - 69% of people rate the level of satisfaction with this process highly.

In the area of crisis management and recovery from the COVID-19 pandemic, 70% of respondents indicate the important role of the board in this process. The dissemination of information to employees before implementing changes in the work environment was rated highest, with 73% of people rating this positively. Creating company-level policies for managing the COVID-19 crisis received a similar positive score. Only slightly less - 69% of respondents - positively rated consultation with company employees in relation to decisions affecting working conditions during the crisis and post-crisis recovery.

The survey results show that employees engaged in activities during the recovery period after COVID-19. 64% of respondents are satisfied with the company's consultation, participation and information processes during the crisis. As many as 94% of those surveyed have the opportunity to talk to management individually. In 30% of companies, management addresses employees collectively through their representatives. In more than 40% of the companies, trained representatives participate and activate employees in the workplace during the pandemic crisis and the recovery period.

7. ANALYSIS OF THE IN-DEPTH INTERVIEWS

Most of the respondents in the in-depth interviews have a negative assessment of the state of the Polish economy after the pandemic. They indicate that the economy is in worse shape than before the pandemic. There is a visible economic crisis in Poland, which COVID-19 initiated. There has been a cessation of operations of many smaller companies. There have been job cuts. Existing supply chains have been broken. Many companies have put planned investments on hold. There is a big problem with inflation in post-pandemic Poland.

Most respondents have basic knowledge of the legal measures introduced by the Polish government during COVID-19. Most mention the launch of the so-called 'crisis shield' for companies. In contrast, almost no one knows the social dialogue agreements that were potentially meant to solve the real problems of workers and enterprises. In none of the companies surveyed do employees have the right to elect or appoint a member of the company's supervisory board or management board. This confirms the practice of Polish companies where such mechanisms for employee election of the company's management and supervisory bodies do not function.

During the interviews, the vast majority of people appreciated the role of the board in the COVID-19 crisis management process and the post-crisis recovery period. In companies (the vast minority of interviewees) where trade unions function, their role was also positively perceived and evaluated. Unfortunately, the possibility for workers to influence the operation of the company during COVID-19 was assessed negatively. In most cases, employees were placed as recipients of messages from the board and management. There were also cases where the role of employees was active, and their voice was taken into account.

In terms of modes of communication, both individual and collective forms were used, depending on the size of the organisation and the information needs of the workforce. In larger companies, collective communication dominated, supplemented by meetings of smaller teams (departments, projects). In smaller companies (mainly SMEs), individual communication and brainstorming sessions between co-workers and owners were preferred.

Co-funded by the European Union

8. CASE STUDY

The case study is described in detail in a separate document entitled 'Case Study'. Its conclusions list several important elements (recommendations) that respondents believe should be included in a company policy on employees' right to information, participation and consultation.

The first element is to build effective communication channels that enable employees to express their opinions and suggestions conveniently and efficiently. Employees suggested using online platforms (e.g. Intranet) and online consultation tools. The policy's second element should be open, factual and transparent communication. Employees want to have ongoing access to information about the assumptions, progress and plans for the post-pandemic recovery process. The third element is to ensure employee participation in the decision-making process. Employees want to be able to express their views and suggestions on the issue, and their opinions should be considered in the decision-making process. They want to be informed if and how their ideas are/will be implemented in the organisation. The third element is the provision of appropriate, dedicated training. Employees expect the company to support them in building their knowledge, competencies and skills regarding their role and ability to participate in the recovery process after COVID-19. The last element should be introducing a reward system for employee involvement. Several interviews mentioned this element as necessary to motivate and engage employees effectively. Although several people spoke negatively about this form of motivation.

9. CONCLUSIONS

Conclusions from the analysis of Polish and European legislation on employee participation rights and COVID-19 crisis management indicate their importance for maintaining corporate

Co-funded by the European Union

governance and corporate social responsibility. These laws ensure that employees can participate in the decision-making process concerning their work, contributing to their commitment and loyalty to the company. Furthermore, in a crisis situation such as the COVID-19 pandemic, these provisions have proven to be extremely important in protecting workers' rights and maintaining the continuity of businesses.

The research identified several effective initiatives that have been and are being implemented in Polish companies in terms of informing and consulting on workers' participation rights and management during the COVID-19 crisis and recovery time; these include: **consultation between workers and employers, creating special teams/working groups, conducting dedicated training for workers and introducing flexible working hours, remote or hybrid working.**

In terms of the mechanisms used during COVID-19 and the reconstruction period to exchange information between management and workers, the most common mechanisms used were: **information meetings,** communication through **online platforms**, the creation of a **working group** to solve specific problems, the establishment of **a works council** as a body representing workers in the company, and the use and activation of **trade unions.**

Knowledge of how to inform, consult and participate employees in the company's corporate governance and act in times of crisis (using COVID-19 as an example) **is insufficient in Poland**. On the other hand, the survey and interviews showed that employees' **willingness to be involved in these processes is high.**

“Funded by the European Union. Views and opinions expressed are however those of the author(s) only, and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the granting authority can be held responsible for them.”