

# Worker participation in the management of occupational safety and health — qualitative evidence from ESENER-2

Country report - SPAIN

European Risk Observatory

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## List of abbreviations

CCOO	Comisiones Obreras
CEOE	Confederación Española de Organizaciones Empresariales
CEPYME	Confederación Española de la Pequeña y Mediana Empresa
CR	Company representative
EESST	Estrategia Española de Seguridad y Salud en el Trabajo
E-IMPRO	Drivers and Barriers for Participative Prevention Processes on Psychosocial Risks to Achieve Changes in Working Conditions
ENGE	Encuesta Nacional de Gestión de la Seguridad y Salud en las Empresas
EPSARE	Effectiveness of Safety Representatives on Occupational Health: A European Perspective
ESENER-2	Second European Survey of Enterprises on New and Emerging Risks
EU-OSHA	European Agency for Safety and Health at Work
HSC	Health and safety committee
HSR	Health and safety representative
INSHT	Instituto Nacional de Seguridad e Higiene en el Trabajo
LPRL	Ley de Prevención de Riesgos Laborales
NSWC	National Survey on Working Conditions
OLFA	Organic Law on Freedom of Association
OSH	Occupational safety and health
PD	Personal delegate
SC	Spanish Constitution
UD	Union delegate
UGT	Unión General de Trabajadores
US	Union section
WC	Works council



## Introduction

The aim of this report is to collect key findings for Spain from the project ‘Worker Participation in the Management of Occupational Safety and Health — Qualitative Evidence from the Second European Survey of Enterprises on New and Emerging Risks (ESENER-2)’. This research was designed to analyse the current participation of workers in occupational safety and health (OSH) risk prevention. What are the main barriers and obstacles to their participation? What practices might encourage their participation? What actors are involved and how could they help to improve the process of participation and occupational health? These questions are part of the remit of the European Agency for Safety and Health at Work (EU-OSHA), which proposed this in-depth analysis of the links between worker participation and occupational safety and health.

To answer these questions, EU-OSHA has generated comprehensive information from the ESENER surveys, whose two waves, carried out in 2009 and 2014, provide information on the way European workplaces manage OSH. This continuity of ESENER, which produces quantitative data, is now extended with the addition of this particular project: ‘Worker Participation in the Management of Occupational Safety and Health — Qualitative Evidence from the Second European Survey of Enterprises on New and Emerging Risks (ESENER-2)’. This is based on a qualitative approach and will complement the existing quantitative information from ESENER-2 on workers’ participation in OSH. The research is based on intense fieldwork in seven EU countries: Belgium, Estonia, Greece, Spain, the Netherlands, Sweden and the United Kingdom. In this last country, the team from the Cardiff Work Environment Research Centre (CWERC), headed by David Walters and Emma Wadsworth, has coordinated the work of all the countries. In subsequent chapters, more detailed information will be provided about the sample and the research method.

The specific aim of the Spanish report is based on the general objective explained in the paragraphs above, which is to update the knowledge on the matter under study in Spain. Adding depth to the quantitative information contributed by ESENER-2, with qualitative data, first-hand information on the ground and the sample of companies that had already participated by answering the ESENER-2 questionnaire, provides opportunities to look further into the analysis of the future of OSH in Spain and to raise matters that may help to improve it.

The report is structured as follows. Chapter 1 provides the context of this report and discusses some concepts that inform the investigation. It is not intended to be a comprehensive overview of the current state of affairs in OSH; rather, it highlights some of the main trends in that area. The economic crisis brought major changes to areas crucial to OSH. During this crisis, the development of the labour market, labour relations and collective bargaining contributed to explaining the health of workers and the prevention of accidents among the actors in the workplace. The external context helps us to understand the attitudes and behaviours of social and labour actors within companies.

Chapter 2 describes the methodology used for the project, and describes the sample of cases.

Chapter 3 discusses worker representation in safety and health at work. The analysis is based on ESENER-2 data and data from other sources. Our aim in this chapter is not to provide a quantitative study, but rather to present an overview of the situation in Spain to provide a context for the qualitative analysis in Chapters 4 and 5.

Chapters 4 and 5 provide an analysis of the interviews with the sample of Spanish companies. The information is presented and organised by company size: we discuss large and medium-sized enterprises (Chapter 4) and small firms (Chapter 5). In these two chapters we analyse forms of worker participation, and their internal and external determinants.

The report ends with Chapter 6, which offers some conclusions.



# 1 The context of worker participation in the management of occupational safety and health: external determinants of labour risk prevention in times of crisis

In this chapter we contextualise the recent dynamics of worker participation in the prevention of accidents and ill health in the workplace in Spain. We begin by referring to recent changes to the regulatory framework and the assessment of the number of health and safety representatives (HSRs). We then discuss the general framework of collective bargaining and the role of social and labour actors in social dialogue, also carrying out an assessment of trade unions and employers' organisations. We continue with some remarks on the changes the labour market has undergone in recent years, such as the increase in unemployment and job insecurity. Finally, we consider the field of working conditions and the trends in occupational accidents in the period of economic crisis. We discuss how this set of factors can negatively influence the prevention system and establish themselves as external barriers that affect the daily running of the prevention system within the workplace. There is no doubt that the intense economic crisis since 2007 has had a negative impact on our subject of study. This is a key phenomenon, which unfortunately does not bring good news for prevention in the context of the countries studied and the EU in general. However, analysing the links between prevention and the different contexts in which the crisis has struck can help mitigate its effects and, with this accumulated knowledge, a strategy can be developed to combat it in the specific field of labour risk prevention. Despite the negative consequences, the knowledge of their effects can in turn foster a stronger prevention system. This chapter pursues that objective.

## 1.1 Regulation of the safety and health management system in Spain and the recent performance of the state administration in labour risk prevention

In Spain, workers' participation in the areas of safety and health at work is regulated by Act 31/1995 of 8 November on Prevention of Occupational Risks (Ley de Prevención de Riesgos Laborales, LPRL, in Spanish). In chapter V, the law regulates both consultation and participation systems. Regarding the former, it stipulates that the employer must consult with workers and their representatives on a wide range of decisions regarding planning and organising work in the company and the introduction of new technologies; organising and running the protection of health and prevention of occupational risks in the company; the procedures for information and documentation; planning and organising training in prevention; and more.

The systems for workers' participation in risk prevention systems are structured as follows:

- In companies or workplaces with fewer than six workers, participation is exercised directly and individually.
- In companies or workplaces that have six or more workers, it shall be channelled indirectly through their representatives or, where appropriate, specialised representation is regulated through chapter V of the LPRL.

Briefly, the system of indirect participation, based on the representation of workers in companies with six or more workers, is mixed. It includes, on the one hand, general representation by staff representatives, work councils and union delegates; and, on the other, specialised representation by the health and safety representatives (HSRs) and health and safety committees (HSCs). This dual system involves a certain complexity in the opinion of legal experts (Agra Viforcós, 2005, 2009), but conforms to the EU Framework Directive on Health and Safety at Work. In fact, other European countries have similar dual systems.

In companies with 6-30 workers, the HSR is the trade union representative. In companies with 31-49 workers, the HSR is chosen by and from among the trade union representatives. In companies with more than 49 workers, an HSC must be created, which has to be bipartite and formed of representatives appointed directly by bodies responsible for prevention and of representatives of the business. An HSR is therefore a key figure, because this person has specialist functions in preventing occupational

hazards. They are elected by and from among staff representatives and their number varies in proportion to the size of the company. Also, because of the ways appointments are made, staff representatives exert a strong influence on the HSRs. The HSC is the basis of prevention in companies with more than 49 workers. In all of these companies, an HSC that meets at least quarterly must be created.

In addition to this system of representation, the LPRL includes a clause that allows collective agreements to establish other HSR selection systems. In these situations, it may be agreed that the powers of HSRs are exercised by specific bodies agreed in collective bargaining agreements. This opening up of the LPRL, giving collective bargaining processes the ability to define the selection systems and responsibilities of HSRs, allows companies to maintain models and prevention experiences that have worked well in specific sectors. Likewise, it can also serve to give weight to collective bargaining over and above the proposals in the system of representation and to appoint workers as HSRs who are not staff delegates or union representatives.

## 1.2 The role of the Instituto Nacional de Seguridad e Higiene en el Trabajo in the institutional regulation of the safety and health management system

The Instituto Nacional de Seguridad e Higiene en el Trabajo (INSHT) offers scientific and technical expertise from the central government on OSH issues and the prevention of occupational risks. Its functions include serving as a national reference point for the EU and other international organisations; developing guidelines and documentation; and providing technical assistance, information and training.

In most of the companies in our sample, the different actors interviewed point to the role of government as very important in promoting more effective participation in the prevention system. Therefore, INSHT activity is in fact a positive factor for improved prevention.

Among the INSHT's many strategic lines should be noted its activity in the last two years on approving the new Spanish Strategy on Safety and Health at Work 2015-2020 (Estrategia Española de Seguridad y Salud en el Trabajo, EESST) <sup>(1)</sup>. The success of the previous strategy, for 2007-2012, whereby the accident rate dropped by 40.5 % in Spain (compared with 21 % in the EU-15), makes it advisable for the new strategy to follow the course set in 2007-2012.

The EESST's initial diagnosis includes numerous issues for improvement that generate dissent among the actors in charge of prevention, and addresses priority areas for action and weaknesses in the current model of prevention. Among the points for improvement, it refers precisely to the role of social partners in developing and strengthening mechanisms for participation and collaboration.

Focusing on the specific issue of worker participation in prevention systems, specific objective 4 of the EESST states, among others, the following measures to improve such participation (INSHT, 2015a):

1. strengthening the role of consultative bodies and institutional participation in the prevention of occupational hazards;
2. enhancing collective bargaining to reach agreements to promote the integration of occupational risk prevention in enterprises and the involvement of workers and employers in complying responsibly with their preventive obligations;
3. promoting the integration of risk prevention in small and medium-sized enterprises and micro-enterprises, with greater involvement of employers and workers;
4. promoting the commitment of the company to management of prevention, and workers' collaboration in preventive activity, as key elements for integrated management of prevention.

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<sup>(1)</sup> [http://www.insht.es/InshtWeb/Contenidos/Documentacion/ESTRATEGIA\\_SST\\_15\\_20.pdf](http://www.insht.es/InshtWeb/Contenidos/Documentacion/ESTRATEGIA_SST_15_20.pdf)

## 1.3 Representation and participation of workers in companies: collective bargaining and social dialogue

The representation of workers in Spain uses a dual model similar to those of many other EU countries. There is unitary, or legal, representation that is regulated under Part 2 of the Workers' Statute <sup>(2)</sup> and also in Article 192.2 of the Spanish Constitution (SC). Through this form of representation, company councils are created and personnel delegates (PDs), who will be involved with the collective bargaining aimed at all workers, are appointed. There is also a system of union representation set out in Articles 7 and 28 of the SC and in the Organic Law on Freedom of Association <sup>(3)</sup> (OLFA). Through this form of representation, the union sections (USs) of the various unions in companies and the union delegates (UDs) represent workers from the companies who are affiliated to different unions.

It is important to further define these forms of representation, as in many companies (particularly small ones) the PD can take care of the specific functions of health and risk prevention. The PDs are appointed according to the number of workers in the company. For companies of up to thirty workers, the HSR will be the Personnel Delegate. In the companies of thirty-one to forty-nine workers there will be a HSR to be elected by and among the Personnel Delegates. These delegates have powers equivalent to those of the works council (WC) created in companies with more than 50 employees.

### 1.3.1 Recent changes in collective bargaining in Spain and their effect on the participation of workers in prevention

The changes brought about by the labour reform, contained in Royal Decree-Law 3/2012, have significantly altered the format of collective bargaining and strengthened the position of the company. The reform gives the company priority when creating standards, paving the way for internal flexibility to adapt working conditions and giving priority to enterprise-level collective agreements. Furthermore, it has also facilitated economic dismissal and reduced compensation for unfair dismissal. This reform was carried out despite strong trade union disagreement. The immediate effects of the reform have been a decline in the number of collective agreements (6,016 in 2007 vs 4,589 in 2013).

In real terms, few collective agreements introduce the issue of labour risk prevention, and most that do merely refer to the legal rules or include verbatim content from these rules through generic statements. However, the decline in collective bargaining has mostly had the symbolic impact of granting the company the dominant role; this can be experienced by workers as an imbalance of power that can affect systems of participation. Participation requires a balance of power between the parties, which the reform has shifted.

In addition to the decline in collective bargaining, the processes of dialogue and negotiation have also experienced decline in recent years as a result of the crisis of 2007. This crisis brought a climate of conflict into the tripartite (including unions, employers and the administration) agreements. The unions called three general strikes between 2010 and 2012.

In the specific field of agreements concerning the prevention of occupational risks, it is worth mentioning that in 2014 the Draft Law on Mutual Insurance and Cooperatives (*Anteproyecto de Ley de Mutuas*) did not achieve a consensus among the social partners, but was approved by Law 35/2014. This is an example of barriers resulting in a crisis for the occupational health system in the context of social dialogue.

### 1.3.2 Unions' position on health and prevention of occupational risks

Before discussing the position of the unions in the field of health and risk prevention, it is appropriate to mention some general aspects of the current role played by the union as a social actor. Unionism in Spain was affected by changes that were also felt in other countries in the Western world and have, in

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<sup>(2)</sup> Estatuto de los Trabajadores.

<sup>(3)</sup> Ley Orgánica de Libertad Sindical.

Spain, been under discussion for at least three decades (Banyuls and Recio, 2011; Beneyto, 2014; Linares, 2015). The processes of deregulation, flexibility and globalisation of labour had a particularly heavy impact on trade union organisations from the 1980s onwards. Despite this, unionism in Spain grew and achieved a recognised, appreciated social function and became progressively integrated in socio-economic sphere, with economic presence in all areas related to labour. According to many authors (Recio, 2011; Miguélez, 2013) the complexity of their action evolved in parallel with a move away from radical positions of class as the values and progress of financial capitalism and the individualised worker grew during the 1980s.

In the field of health and prevention of occupational risks, it should be noted that the unions' discourse on occupational health has a strong presence. Their discourse has been a constant in its consolidation in recent decades and an indicator of its social and labour ascendancy.

In the Manifesto of 28 April 2016, the International Day for Health and Safety at Work, signed by the two unions that represent most workers, Unión General de Trabajadores (UGT) and Comisiones Obreras (CCOO), there is an agreement to consider the LPRL<sup>(4)</sup> a very useful instrument for occupational health. In the 20 years since its approval in 1995, the LPRL has brought about noticeable change, with the Europeanisation of occupational safety and health (OSH) at a time when Spain had a very negative record of workplace OSH. However, according to unions, there is now a danger of backsliding if the labour reforms, which have exacerbated structural problems within the Spanish labour system, are not stopped. The labour reforms have led to three main problems. The first is the growing insecurity in the labour market, which has increased the prevalence of temporary contracts and the rotation of staff, increasing the number and severity of accidents. The second problem, linked to the first, is the intensity of outsourcing, which requires a rethink of the rules in the face of its link to the phenomenon of workplace accidents. The third is the systematic under-recognition of occupational illnesses. For example, the unions point to the case of work-related cancers: while the estimates put the annual number of new cancer diagnoses attributable to occupational exposure at 8,000, in 2015 insurance companies recognised only 23 cases (Rodrigo, 2006). This under-recognition reduces the capacity for prevention, as it disguises problems that need to be addressed to reduce risks.

The unions have demanded that the public administrations undertake the necessary changes to strengthen active policies on risk prevention, increase the resources of the INSHT and its regional offices, and also strengthen the labour inspectorate, and increase the number of sub-inspectors, in particular those who specialise in safety and health at work, included in Law 23/2015 on sub-inspectors.

Finally, unions have demanded greater involvement in investments in risk prevention from the business world and a central role in collective bargaining. The unions argued that accident rates were lower in workplaces where unions are present. They also highlighted the lack of development of risk prevention measures in small enterprises, leading them to demand that control of the working conditions of these companies be designated by a figure who could be called territorial or sectoral prevention delegate. There is a unanimous demand among unions for businesses with a concept of real prevention that considers it an investment rather than a cost.

### ***1.3.3 Employer organisations' position regarding health and prevention of occupational risks***

In the light of a comprehensive review of reports and publications from employer organisations, the participation of the HSR and the HSC does not seem to be a priority for businesses. Their approach to the prevention of occupational risks and the concerns raised around these issues does not seem to acknowledge the importance of the roles of worker representatives as derived from the LPRL. This approach was identified in recent statements, for example Juan Rosell, President of the CEOE, in the presentation of the report (CEOE, 2015) by the organisation to mark the 20th anniversary of the LPRL, stressed the need to simplify the rules and reduce the amount of legislation. At the same event, the research and priority actions in 2015 were presented: 'State of health and occupational risk factors in

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<sup>(4)</sup> Ley de prevención de riesgos laborales (Is the principal law on safety and health at work in Spain).

older workers'; 'Executive report on alcohol, drugs and other substances in the workplace'; and 'The reformulation of the bonus-bonus vs. bonus-malus system'.

In addition to this approach, there has been no concern expressed for the system of workers' representation and participation. The main focus of businesses has been on creating guidelines for managing occupational risk prevention in the internationalisation of enterprises; computer applications' business support in risk prevention; and the need to introduce the idea of OSH at school age. Managerial leadership in prevention is seen as a central theme, but it does not appear that this involves the involvement of workers and their representatives.

The INSHT (2015c) prepared a report to investigate the perceptions of entrepreneurs on various aspects of the prevention system and its rules. The perception of the respondents was that the system for prevention of occupational hazards is excessively state-interventionist, with many rules, formalities and complex procedures already in place. The legislation was said to be difficult to understand for entrepreneurs, who are ultimately responsible for implementing it. It imposes formal obligations and excessive documentation, which pose particular difficulties for small entrepreneurs.

## 1.4 Job market and economic context: recent trends

The job market situation in Spain is clearly an external barrier to a good prevention model. Since the beginning of the worldwide financial crisis, a serious deterioration in the job market's macro-indicators has been reported. In 2007, before the crisis, the unemployment rate both in Spain and in the EU were about 8 %, after years in which Spain's was above the EU mean (actually, the Spanish unemployment rate halved from 16% in the year 1999 to 8.1% in 2006). The bursting of the housing bubble hit Spain particularly hard, where the unemployment rate grew irrepressibly and rapidly over the years (from 8.3% in 2007 to 26.3% in 2013, more than doubling the EU-28/s rate of 10.9% or the Euro area 12%). The unemployment rate was at 25.7 % in 2012, the highest level since the Labour Force Survey (EPA in Spanish) began collecting data. At the time, the socio-economic climate was tinged with uncertainty and the threat of unemployment, increasing the risk of poverty and other indicators of inequality, affecting or paralysing any improvement, including those associated with occupational risk prevention and health.

From 2013, a slight decline in the rate of unemployment began, supported by economic growth that was consolidated in 2014 and 2015. As of the beginning of 2016 this growth and its strength continued to be a focus of attention and controversy between those who think that the crisis has been overcome and those who maintain that this cannot be said given current unemployment rates. Unemployment among young people, immigrants, women, people aged over 45 and unqualified workers has risen to previously unseen levels. In spite of optimism about leaving the crisis behind, we are facing a situation of structural unemployment in which the unemployed are compelled to accept any job. With so many job seekers encouraged to accept any job, the quality of the available jobs may decrease.

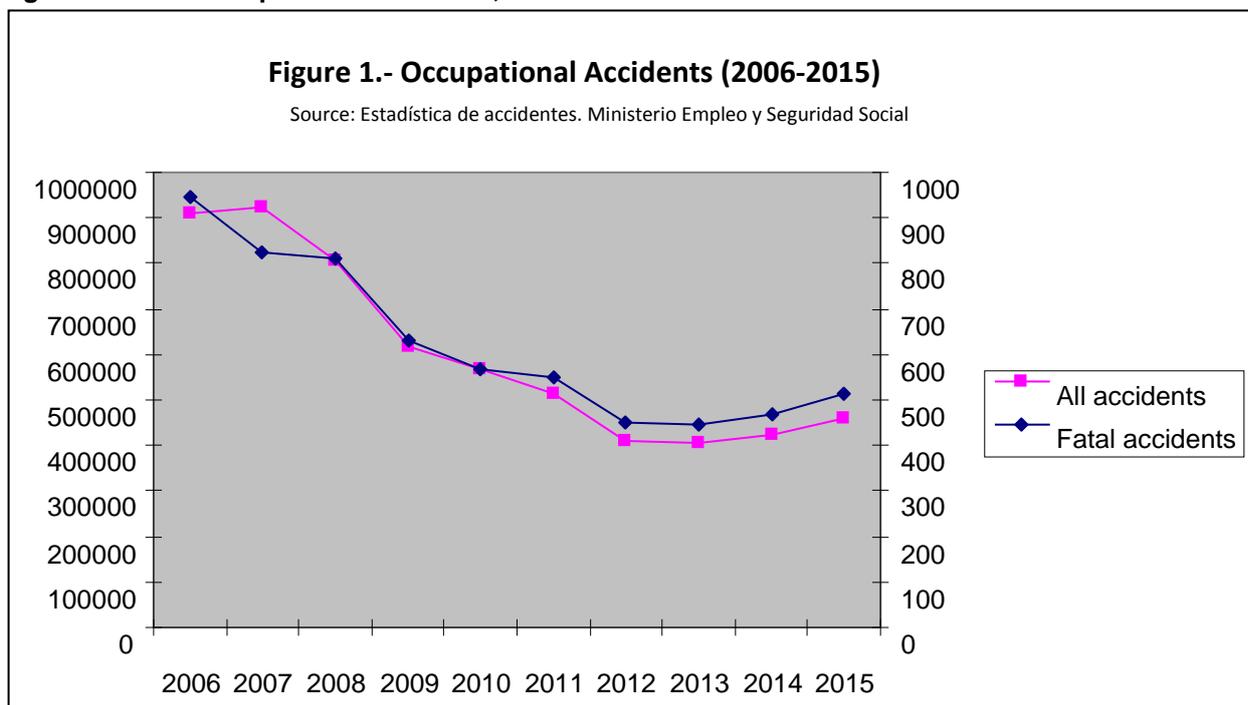
Another aspect of the labour market with a feasible link to occupational risk prevention is the growth of temporary contracts. The temporary contract rate was 25.6 % in the last quarter of 2015. The growth of part-time contracts has been more intense, and has not stopped, even in the early years of the crisis (from 11.4 % in 2007 to 15.8 % in 2015). Growth of part-time contracts among young people and women has been very marked: today 27 % of 15- to 29-year-olds work part time. The higher rates of occupational accidents experienced by these two groups since 2012 highlights the need for special attention to counteract the effects of seasonality on them. In connection with the above, one final aspect is linked to sub-contracts.

In terms of size, the available data show that a large proportion of Spanish companies are micro-enterprises. Data from the Central Business Directory (DIRCE in Spanish) indicate that companies with 1 to 10 employees make up 95.8 % of the total number of companies registered. The distribution of workers employed by company size is as follows: micro-enterprises account for 40.5 %; small businesses account for 19 %; medium businesses account for 13.5 %; and, finally, large companies employ 26.9 % of total employees. From 2009 to 2015, employment in these larger companies fell by 6 %, compared with 20 % for medium-sized enterprises and 25 % for small ones.

## 1.5 Workplace accidents and economic cycle change: challenges for safety and health management systems

The trend seen in workplace accidents raises a question regarding the health system and safety at work in Spain. In Figure 1.1, a first stage can be seen, from 2006 to 2012, in which the number of accidents was reduced considerably. This stage, and the decline that characterises it, had been the trend since the beginning of the 2000s. Many authors associated this downward trend to improved workplace risk management brought about by the LPRL in 1995 (García et al., 2013; Bestratén, 2015) Although it took a while for the effects to be seen, as of 2000 a period began in which the rates of occupational accidents started to fall, even though the economy experienced a period of intense economic growth with high rates of temporary contracts and a high turnover of employees: factors usually associated with high accident rates.

**Figure 1.1 Occupational accidents, 2006-2015**



Source: Estadística de accidentes. Ministerio Empleo y Seguridad Social.

However, in 2012, during the economic crisis, this successful decline in accidents stopped and reversed, increasing both in absolute numbers and in incidence rates. In the next three years the total number of accidents increased by 9 % and fatal accidents by 10.6 % (INSHT, 2016). The timeframe over which this sudden turnaround occurred is too short to point to decisive causes. However, it is conceivable that the timing of the increase in the number of accidents coincides with the beginning of economic recovery, after five years from the start of the crisis marked by recession and paralysis. This recovery has brought an increase in temporary contracts and part-time work; in this case, it may be influencing the growth of accidents at the workplace (INSHT, 2015a).

This increase in accidents after a long period of decrease raises questions about the risk prevention system. If, with the arrival of a slight economic recovery, the system has not been strong enough to keep the number of accidents down to the level of 2012, what are the root causes of this increase? What are the gaps in the risk prevention system? How can it be repaired to halt the increase in reported incidents? Undoubtedly, these questions bring into play multiple, complex factors. However, answers and solutions must be provided. On the one hand, it appears that the crisis has come to affect the prevention system through companies' budget adjustments and public administration cuts; the data from ESENER-2 show that 14.5 % of companies claim to have reduced resources available for risk prevention in the last three

years because of economic difficulties (INSHT, 2015a: 12). On the other hand, the weakening of unions during years of crisis also accelerated. Corruption cases have discredited some unions, losing legitimacy and the ability to deepen their collective action — including their role in prevention systems. Furthermore, if the growth of accidents is related to the increase in temporary employment, then the companies — which benefit from the flexibility that temporary work brings — should improve their involvement in spreading the culture of prevention to new temporary employees. The public administration must also step up its action in this field.

It is too soon to make final assessments, but this increase in accidents tests the strength of the Spanish system of prevention, which is apparently weakened by the crisis, the austerity cuts and the bullish economic cycle (Linares, 2014).

## 1.6 Main determinants of labour risk prevention in Spain: its presence in the most recent research

The purpose of this section is to gather the most important factors that may challenge or favour the participation of workers and their representatives in the system of prevention of occupational hazards in Spain.

The idea that workers' participation can have a positive effect on the prevention systems and health of workers has been explored intensively in the last decade in the context of the EU (Walters and Nichols, 2007; Walters et al., 2012; Robinson and Smallman, 2013; Walters et al., 2013). This idea was confirmed in the case of research carried out in Spain or that has referred to the Spanish case (Moncada and Llorens, 2007; Benach et al., 2013; Llorens and Moncada, 2014a; Payá, 2014). In all cases, the benefits derived from good participation and representation of workers were highlighted.

Although there is broad agreement on this idea, in field research many difficulties and constraints arise regarding successful participation. The projects Effectiveness of Safety Representatives on Occupational Health: A European Perspective (EPSARE) (Menendez et al., 2008) and the Drivers and Barriers for Participative Prevention Processes on Psychosocial Risks to Achieve Changes in Working Conditions (E-IMPRO) (Llorens and Moncada, 2014b) are two of those of the greatest interest that have dealt with the Spanish case. Among other difficulties already mentioned in the international literature, the following issues were highlighted: predominance of an approach that is very informative and technical but with little action, related to low levels of real participation; a lack of technical support; and lack of training and material resources. Associated with this, the commitment of the organisation's stakeholders acts as a key factor to enable more direct participation. Above all, the commitment of company management seems decisive.

Although companies are usually identified as the main participant, other studies have recently emphasised the relationship between workers and their union representatives (CCOO, 2008; Ollé-Espluga et al., 2014). The current weakened position of the workers' and trade unions' identity, reduced coverage of union representation among workers, adaptation of labour to the system of prevention, representatives' fear and lack of workers' involvement with unions in the context of the current economic crisis, all affect relationships between workers and their representatives. The insecurity resulting from the crisis is weakening this interaction and the need to reactivate communication between the labour group and its representatives is highlighted.

Another condition that may hinder the operations of the prevention system is the regulatory framework. The general opinion of the different actors in the system of prevention is that the LPRL in Spain has been a good framework to improve risk prevention (Valdés Dal-Ré, 1996; Toscani, 2008; Escudero, 2009; Bestratén, 2015). However, all of these reports also describe the need to make progress and to demand more incisive work by the inspectors (García et al., 2005; García-Lopez and Jacob Díaz, 2013).

Another difficulty for the smooth running of the prevention system is the structure of enterprises by size. Specifically, the concern is for small businesses (Eurofound, 2010), where prevention systems tend not to be applied, employee representation is not mandatory and the cost of preventive measures has an impact on the economic results. The barriers to prevention mentioned by Walters (2003) are poor management of prevention risks; lack of a preventive culture and concern for safety and health; limited development of resources for management of prevention, such as skills, information, training and safety

equipment, and restricted access of workers to the autonomous representation of their interests through WCs and unions, among others. Informal relations that result from the proximity between the owner and workers can be positive in some cases, but usually they leave a vacuum of protection and favour limited commitment by business owners. This fact is confirmed by the second European Survey of Enterprises on New and Emerging Risks (ESENER, 2014), according to which Spanish companies with five to nine employees were among the worst in the EU for communication between employers and workers, with the least dialogue between employers and worker representatives or between employers and employees.

Llorens and Moncada (2014a) have highlighted other more general barriers to worker representation in occupational health: an increased understanding of business competitiveness, which favours cost reduction and could worsen working conditions; the possibility that this competitiveness may be extended to workers, generating individualisation; and the implementation of technocratic conceptions of prevention services, generating prevention without the participation of workers and with a heavy bureaucratic burden. Finally, some problems in the performance of safety representatives have also been highlighted, including the lack of union representatives for prevention, the presence of HSRs appointed by the employer in smaller companies, or poor relations between delegates and professionals from external prevention services. We will focus on all of these issues in the following sections.

A wide range of determinants of employee participation can be found in the research carried out by the union CCOO (2009) on the HSCs and on the activity of the HSR. Among the findings of this study, the opinion of a large majority of the delegates, who thought that there was very limited participation of workers in the HSCs, should be underlined. Usually, prior consultation by the company on safety and health-related issues was absent, with the company making decisions in advance of consultation with the HSC, and only making limited use of the HSC to bureaucratically comply with prevention regulations. Cases in which delegates were able to participate in decision making, such as in the choice of external prevention services or mutual insurance contracted, were a minority at fewer than 10 % of all companies. Similar views were found when delegates spoke about issues of participation and consultation in decision making about the organisation of work, shifts and ergonomics, among other issues. The lack of a preventive culture within companies made the company interpret prevention as a cost and a bureaucratic requirement to be complied with. There was a formal and apparently proper dialogue between the companies and delegates, but the agreements were implemented with many difficulties and extensions. The research presented a long list of improvements and proposals for negotiation on the HSC drawn from the suggestions of the delegates studied: a demand for an increased prevention budget, legal changes that would increase the decisive nature of the HSC and the ability to decide on the hiring of external prevention services, among many other proposals.

Another study (Narocki et al., 2011) also commissioned by CCOO, confirmed the pessimistic conclusions of the HSR seen previously, although it also incorporated interesting nuances. The main conclusion of the report regarding the conditions of participation of the HSR and HSC was that companies lack preventive perspective, focusing primarily on short-term performance and neglecting long-term evaluation and risk management. This perspective leads to prioritising the objectives of 'hygienists' and accident avoidance, but marginalises more thorough prevention in terms of ergonomics and psychosocial risks. The attitude of the company determines the progression of the HSC, which can be halted along lines of technical and legal representation, not advancing towards more active political representation in prevention.

A final union contribution to the literature, in this case by UGT (2015), is a study that aimed to analyse the task of HSRs 20 years after the approval of the LPRL. An added value of this research is that the data are very recent. There was a great degree of convergence with the results of the research carried out by the unions that we have just presented, regarding limitations, barriers and improvement proposals for occupational risk prevention. The UGT (2015) study largely agreed with these findings; therefore, we will only add here a few more significant or new contributions from the study. Emphasis was placed on the complexity of the role of the HSR, which includes progressively more complex skills such as communication (dealing with their own peers), negotiation (with employers), legal knowledge (with lawyers), persuasion (with inspectors) etc. The development of these skills requires attention and support from the organisation, which HSRs feel they do not have. The commitment of the union to prioritising occupational health can be called into question. The HSR also performs the fundamental task of raising awareness among workers about workplace hazards. This, as with previous studies, was stressed frequently. UGT sees a strong contradiction in workers who 'blame' limited achievements in

the field of occupational health, when, at the same time, workers themselves often neglect this area. The responsibility for occupational risk prevention falls on the HSRs; many of the limitations they are blamed for are in fact the responsibility of other actors in risk prevention. For example, to protect its own interests, the mutual insurance company refers occupational damage to the health system or else does not recognise occupational illnesses. These procedures are invisible and are interpreted by workers as lack of efficacy of the HSR. This is a significant psychological barrier associated with the HSR.

Based on this background, we present below the main determinants of workers' participation in the prevention system. This list of external and internal factors underpins the analysis of qualitative data from interviews from our case studies:

- external factors: macro-economic factors (job market, job security, workers' power in sectors of the job market, employment standards and protection, flexibility, sub-contracting); internal organisation of labour processes, working conditions, trade union density, OSH management systems, influence of the sector, effects of enterprise size and the goals of governance and regulation);
- internal factors: management's commitment to worker participation; management's commitment to OSH; trade union support (internal and external); and labour inspectorate support.



## 2 Research methods

The Spanish study was conducted using two main methodological strategies: a review of the literature and case studies. The former based the analysis on the national context and the latter was the method of empirical research.

We conducted a literature search in the following major bibliographic databases: PubMed, PsycINFO, Sociological Abstracts, Social Sciences Citation Index, Scopus, PsycARTICLES and MEDLINE. To add to the references in English with Spanish publications, we also searched Dialnet, ISOC and Scielo, and in summaries of the past 10 years from the following journals: *Seguridad y Salud en el Trabajo*, *Archivos de Prevención de Riesgos Laborales*, *Mapfre Medicina*, *Medicina y Seguridad del Trabajo*, *Revista La Mutua*, *Revista de la Sociedad Española de Medicina y Seguridad en el Trabajo*, *Revista Internacional del Trabajo*, *Sociología del Trabajo*, *Cuadernos de Relaciones Laborales* and *Por Experiencia*. Most of these journals are indexed in the bibliographic databases mentioned, but as these publications have a great affinity for the subject under study we opted for in-depth analysis of them. The search for documents included the websites of the EU and Spanish institutions that have most to do with risk prevention in the workplace: EU-OSHA, Eurofound, INSHT, Confederación Española de la Pequeña y Mediana Empresa (CEPYME), Confederación Española de Organizaciones Empresariales (CEOE), CCOO and UGT. All of these websites contained resources and other publications that were not included in the bibliographic databases.

We used the literature review carried out by the E-IMPRO and Epsare projects, which analysed the literature in English and Spanish between 2003 and 2013, and extended this to the 2016 while limiting the search to the specific topic of the representation of workers in prevention systems. The review included the key words 'health and safety representative', 'health and safety committee', 'prevention delegate' and 'workers' participation in the workplace'. We gave priority to references containing empirical research suited to our research topic. We discarded legal publications that merely contain summaries of legislation and we did not consider references related to North and South America.

For the empirical research, a qualitative method was used. Twenty-three case studies were carried out through three in-depth interviews at establishments that participated in ESENER-2, one each with three key people in the companies. For each key role related to safety and health issues in the company, one interviewee was identified: one from the management area, one 'referential worker' (not necessarily a representative) and one worker.

A diverse range of management interviewees were selected (the company representative, CR): a human resources manager, an OSH manager, one of the company's owners and some management figures from the production line. Asking who was in charge of OSH and who the interlocutor for the workers in safety and health matters was, we found a wide range of profiles, depending on the internal organisation of risk prevention and the representation system. The person interviewed for this profile was, in some cases, the HSR, a technician provided by management or an administrative figure, depending on the internal arrangement of OSH responsibilities (see section 5 below). The interviews were organised into six common thematic sections: personal presentation; role and years in the company; involvement and participation of workers; main risks and labour risk prevention management; the efficacy of the participation and risk prevention of the organisation; and finally the determinants of labour risk prevention. In addition to these common areas, each profile was addressed with specific questions. The HSRs or the referential workers (in small companies) were asked about the way in which they were elected/designated (depending on the internal representation system) and about their relationship with the company managers and the workers. The CR was asked to present and describe the company and its main features. The interviews with the workers were a check, of sorts, on the information provided by both the HSR and the CR, as information was gathered about the company and its arrangements for participation and risk prevention, from the worker's point of view.

## 2.1 The fieldwork

Completion of the fieldwork took one and a half months more than initially scheduled. This delay can be explained by the difficulties in contacting the companies and performing the three interviews per case-study. There were two types of problem encountered while in carrying out the fieldwork. The first was in contacting the company and obtaining its consent to participate in the qualitative research phase of ESENER-2; the second was related to carrying out all three interviews. In some cases it was impossible to interview all three people initially scheduled with the company contact, and it was only possible to interview two people. In another case it was possible to interview the person, who was absent on the day that the interview was arranged for, but the interview was conducted at another time by telephone <sup>(5)</sup>.

Furthermore, in most cases the interviewer did not get to choose which workers to interview. The manager of the company decided who would be interviewed, regardless of the suitability of the worker to the research aims. In some industrial companies, where the main occupational risks are in the workshops, the person selected for interview was an administrative technician. The workers interviewed had only indirect knowledge and experience of the main risks and the risk prevention strategies implemented in the workplace.

In many cases it was necessary to contact the companies four or five times to obtain permission to carry out the interviews. It was also necessary in some cases to return to the company on separate occasions because one of the interviewees was not at the company headquarters on the day scheduled for the interview.

## 2.2 The sample

The sample comprised 23 companies, distributed by size and sector as shown in Table 2.1.

**Table 2.1 Companies by size and industry**

Size of establishment (employees)	Sector		
	Goods Producing	Private services	Public services
10-49	4	3	3
50-249	2	1	2
≥ 250	2	4	2

The difficulties experienced while undertaking the fieldwork explain the deviations from the initially planned sample distribution. The database provided by EU-OSHA was used almost completely. All of the companies that were contacted and included in the sample had agreed to participate in OSH research. Table 2.2 offers further details on the specific product or service provided by each company in the sample. The variety of the production and service sectors of the companies included in the sample is noteworthy. Furthermore, most of the small companies (10-49 employees) in the producing industry were sub-contracted. As will be explained later, this is relevant to the analysis.

<sup>(5)</sup> It is well known in social science methodology that a telephone interview does not give the same quality of results as a face-to-face interview; telephone interviews tend to be shorter and achieve less depth. As this refers only to one case, the quality of the field work as a whole was not affected.

**Table 2.2 Main characteristics of the establishments included in the sample**

Size	Sector	Company product/services	Number of employees	Sub-contracted	Identification number (interviews)
10-49	Goods Producing	Industrial plumbing	10	Yes	1SRsi 1Esi 1Wsi
		Rubber soles for shoes	35	No	2SRsi 2Esi 2Wsi
		Electric industrial plants	30	Yes	3SRsi 3Esi 3wsi
		Water treatments in industrial plants	20	Yes	4SRsi 4Esi 4Wsi
	Private services	Animal breeding	25	No	5SRsps 5Esps 5Wsps
		Book distribution	40	No	6SRsps 6Esps 6Wsps
		Tourist agency	16	No	7SRsps 7Esps 7Wsps
	Public services	Residence for elderly people	10	No	8SRspubs 8Espubs 8Wspubs
		Electronic systems for language learning	11	No	9SRspubs 9Espubs 9Wspubs
		Training centre	12	No	10SRspubs 10Espubs 10Wspubs
50-249	Goods Producing	Engineering repair and logistics company	76	No	11SRmi 11Emi 11Wmi
		Metal products manufacturing	140	No	12SRmi 12Emi 12Wmi
	Private services	Insurance and financial services	400	No	13SRmps 13Emps 13Wmps
	Public services	Occupational integration of people with mental disorders	200	Yes	14SRmpubs 14Empubs 14Wmpubs

Size	Sector	Company product/services	Number of employees	Sub-contracted	Identification number (interviews)
		Research and training in the health sector	150	No	15SRmpubs 15Empubs 15Wmpubs
≥ 250	Goods Producing	Manufacturing products for automotive companies	325	No	16SRli 16Eli 16Wli
		Manufacturing products for automotive companies	400	No	17SRli 17Eli 17Wli
	Private services	Insurances and financial services	540	No	18SRlps 18Eblps 18Wlps
		Tobacco	1,200	No	19SRlps 19Elps 19Wlps
		Automotive repair and spare parts	1,300	No	20SRlps 20Elps 20Wlps
		Urban transport of passengers	761	No	21SRlps 21Elps 21Wlps
		Public services	Research and hospital care	590	No
	Health services		3,000	No	23SRlpubs 23Elpubs 23Wlpubs

The main features of the OSH arrangements in the companies in the sample are summarised in Table 2.3 with a brief, quantitative description. For each group of companies (based on size and branch), the table shows whether the safety and health reference person for workers for OSH issues is a representative or a technician designated by the company, whether they are in charge of OSH issues exclusively or divide their work-time doing other things (multitasking) and, finally, whether the OSH services are outsourced or not. These indicators give an overall view of the company's commitment to OSH and explain some of the main points illustrated in the report.

Table 2.3 General OSH arrangements

Size	Sector	Safety reference for workers		Assigned tasks		OSH services outsourced
		Safety and health representative	Safety technician	Multitasking	OSH exclusive	
10-49	Producing industry	0	4	4	0	4
	Private services	0	3	3	0	2
	Public services	2	1	2	1	3
50-249	Producing industry	2	0	0	2	0
	Private services	1	0	0	1	1
	Public services	2	0	1	1	1
> 250	Producing industry	2	0	0	2	2
	Private services	4	0	0	4	3
	Public services	2	0	0	2	2

Table 2.3 indicates that most companies, of all sizes, outsource OSH services. It is therefore not only a strategy employed by small companies. As for the reference person for workers in OSH issues, it is clear that there is an HSR where the regulatory framework makes it compulsory. In small companies, the reference person for workers is a technician designated by the company, in most cases with overlapping tasks.

### 2.3 Strengths and weaknesses of the sample

The main strength of the sample is that all the companies come from the ESENER-2 survey's database. No external or additional company was included, which actually makes this qualitative research an in-depth analysis of the ESENER-2 survey. Furthermore, the companies present a wide range of production activities, which guarantees a sector-based variability of arrangements for risk prevention and OSH services. A bias based on the predominance of a specific sector was avoided.

In terms of the research aims, the sample has two weaknesses. Firstly, a great number of companies had no representative system. Secondly, several companies perceived a low or null level of risks. This was true of companies belonging to the private and public services sectors, above all. The lack of awareness of the risks at work has probably made speaking about them and the absence of adequate prevention measures more difficult. The immaterial nature of their risks and the difficulties in the perception of psychosocial risks, together with a generalised idea of OSH as something related to industrial production and physical problems, makes, in the interviewees' perception, a well-structured risk prevention system unnecessary.



### 3 Quantitative change in worker participation in the management of occupational safety and health in Spain (ESENER data)

To describe the involvement of workers in the risk prevention system, it is advisable to take a quantitative approach to examining the changes in their numbers in recent years. ESENER surveys (2009 and 2014) can facilitate this approach and also serve to compare the countries of the EU. Moreover, in this section some specific sources appearing in Spain will be used to complement the information. We begin with these complementary data.

**Table 3.1 Existence of health and safety representative in the workplace by number of workers in the establishment or workplace (size)**

Sixth national survey of working conditions 2007 (N = 6,833)	Total (%)	1-10	11-49	50-249	≥ 250
Yes	54.5	23.9	43.6	63.1	71.8
No	24.7	48.3	31.2	17.0	14.4
DK/DA	20.4	27.7	24.7	19.7	12.7
Seventh national survey of working conditions 2011 (N = 5,733)	Total (%)	1-10	11-49	50-249	≥ 250
Yes	61.1	40.4	56.0	70.3	84.3
No	25.1	44.8	27.6	15.6	9.4
DK/DA	13.7	14.8	16.4	14.0	6.3

DK/DA, did not know/did not answer.

Source: National Survey on Working Conditions (2007, 2011), INSHT.

The impact of the development of the figure of the HSR in Spain can be followed via the National Survey on Working Conditions <sup>(6)</sup> (NSWC) (Table 3.1). The survey shows that, between 2007 and 2011, knowledge about the HSR increased. Overall, the number of workers who responded positively grew from 54 % in 2007 to 61 % in 2011. If we consider the existence of delegates by the size of company, there is an increase in all the groups.

It is interesting to note that the groups that most often suffer discrimination in the labour market (women, young people, immigrants and employees with temporary contracts) show a considerably lower level of acknowledgement of the existence of delegates in their workplaces than average. In the NSWC of 2011, compared with 61 % of respondents who acknowledged the role of the HSR in their company, the figures were considerably lower for women (56 %), young people aged 16-25 years (45 %), immigrants (49 %) and temporary staff (50 %).

Still, according to the NSWC (2011), the presence of an HSR by economic activity is higher in the manufacturing industry (79.4 %), followed by construction (64.3 %) and services (58 %); the lowest frequency is observed in the agricultural sector (32.5 %). Within manufacturing industry branches, the highest presence is observed in the chemical, sanitation and extractive industries (86.2 %) and metal industries (81.8 %).

In addition, the INSHT conducted the National Survey of Company Management of Health and Safety <sup>(7)</sup> (ENGE) in 2009, aimed at obtaining information from those responsible for the company (see Table 3.2).

<sup>(6)</sup> Encuesta Nacional de Condiciones de Trabajo.

<sup>(7)</sup> Encuesta Nacional de Gestión de la Seguridad y Salud en las Empresas.

This acts as an alternative source that allows the representation of workers to be approached by surveying entrepreneurs.

**Table 3.2 Existence of health and safety representatives in the company**

(N = 2,194)	Number of employees in the company					
	Total	< 10	10-49	50-249	250-499	≥ 500
Yes (%)	43.5	26.0	47.2	62.2	57.8	62.2
No (%)	56.5	74.0	52.8	37.8	42.2	37.8
Total	2,194	726	973	300	51	143

Source: INSHT (ENGE, 2009).

When examining Tables 3.2 and 3.3, the comparison must be made with caution, as the data they contain cover different size ranges in terms of the number of workers per company. With the data from ENGE (2009), companies in the range of 1-10 workers are overrepresented, so this is not a very solid basis for comparison. However, it is interesting to note the strong contrast with the results from ESENER-1 (Table 3.3), where a much higher presence of HSRs was reported in companies of a similar size. It is also important to highlight the low percentage of firms with fewer than 10 workers that have HSRs as measured by ENGE compared with ESENER-1. This reveals very different worlds in terms of risk prevention.

**Table 3.3 Does your establishment have a health and safety representative? Establishment size (Spain) (N = 1,500)**

%	Number of employees in the company				
	Total	10-19	20-49	50-249	250 +
Yes	70.0	63.7	74.7	82.3	90.6
No	29.9	36.3	25.1	17.7	9.1

Source: ESENER-1 (2009) EU-OSHA.

The ESENER-2 data (Table 3.4) allow the different forms of participation (general or specialised) of workers to be analysed and provide information on the business size and sector of activity. We will summarise the situation in Spain in the following tables.

**Table 3.4 Existence of health and safety representative in the company, by size. Work centres with 5 or more workers (N = 3,162)**

HSR	Number of employees in the company				
	Total	5-9	10 to 49	50 to 249	250 +
Yes (%)	49.9	41.1	55.0	81.3	94.8
No (%)	48.4	57.1	43.3	17.9	4.7
Total	3,162	1,671	1,231	229	31

Source: ESENER-2 (2014), EU-OSHA (2011) and INSHT (2015a).

Table 3.5 shows workers' forms of representation and participation depending on company size. In general we found that, the bigger the size of the company, the more elaborate and suited to legislation the formal and indirect forms of participation were. The vast majority of large companies have an HSR and an HSC. In small companies, this was not as common and the figures were below average. Looking at medium-sized companies, it should be noted that in Spain there is a legal requirement for an HSC in companies with more than 50 workers. As seen in the table 3.5, this rule is only met by 68.9 % of the companies in the range of 50-249 workers. As for the degree of worker participation in designing measures linked to risk assessment and prevention of psychosocial risks, small businesses tend to attain high scores, sometimes even higher than the medium-sized and large businesses, which presumably have more elaborate and formalised means of participation. The responses of these companies in ESENER contrasted with the data emerging in the qualitative analysis of our cases, where small companies showed a lower degree of worker participation. Something similar can be said regarding training. As for the level of discussion on issues relating to safety and health, it is observed that there is greater variety and intensity here as the size of the company increases.

**Table 3.5** Forms of employee representation and worker participation by establishment size (%)

Forms of employee representation	All	5-9	10-49	50-249	> 250
A joint consultative committee, employee forum or equivalent body	34.4	22.3	41.1	78.8	93.4
A recognised trade union representation	25.8	15.7	32.5	62.7	89
A health and safety representative or employee safety representative	50.8	41.8	56	82	95.3
A health and safety committee	19.6	10.8	20.5	68.5	95.7
Employees involved in designing measures following a risk assessment	81.7	85.7	77.6	76	80.4
Employees have a role in the design of measures to prevent psychosocial risks	63.8	66	60.9	62.2	73.8
Safety and health often discussed between employee representatives and the management	48.3	43.9	46.3	68.9	87.8
HSRs or employee safety representatives provided with training during work time	81.9	83.6	78.9	84.4	92.7
Safety and health issues discussed in staff or team meetings	48	43.5	49.9	67.2	82

Source: ESENER-2 EU-OSHA.

Table 3.6 examines the forms of worker representation taking into account the activity sector. The sectors that were below average in all forms of representation were agriculture, forestry and fishing; trade, transport, food and accommodation and recreational activities; IT, finance, real estate and other scientific or personal activities and services; and education, health and social work. The sectors with the highest levels of representation were manufacturing and public administration. In the latter sector, given the high number of work centres, there are many HSCs and delegates in the workplace.

**Table 3.6** Forms of employee representation and worker participation, by sector (%)

Forms of employee representation	All	Agriculture, forestry and fishing	Construction, waste management, water/energy supply	Manufacturing	Trade, transport, food/accommodation and recreational activities	IT, finance, real estate, other scientific or personal service activity	Public administration	Education, health and social work activities
A joint consultative committee, employee forum or equivalent body	34.4	21.6	38	45.9	28.4	34.7	57.2	38.6
A recognised trade union representative	25.8	15.6	27.5	35.8	20.3	25.4	53.7	29.9
A health and safety representative or employee safety representative	50.8	49.3	56.9	60.5	46.9	48.8	58.6	51.4
A health and safety committee	19.6	12.3	22.8	21.8	16.2	18.5	51.8	21.9

Source: ESENER-2 (2014). EU-OSHA.

Table 3.7 shows a comparison between the EU and Spain of how well-established the forms of participation and representation of workers in the risk prevention system are. In Spain, the dual model of participation, in which there are staff representatives and HSRs, predominates. This causes the proportion of general representation to be higher than the EU average. However, the proportion of companies in Spain with a specialised HSR is lower than in Europe as a whole. The same is true for HSCs. Furthermore, the following two items, shown in Table 3.7, indicate that, in Spain, the degree of dialogue and the extent to which prevention issues are addressed are both considerably below the European average. This lack of discussion and dialogue between workers, their representatives and the management of the company may be indicative of a widespread feeling among HSRs that the prevention model is not effectively implemented or well-recognised in many Spanish companies. These results reflect the most significant differences between Spain and the EU-28. For other areas covered by ESENER-2, such as the involvement of workers in risk assessment, designing prevention measures for psychosocial risks or the possibility of training during working hours, the differences between Spain and the EU are not significant.

**Table 3.7 Forms of employee representation and worker participation. Comparison of EU-28 and Spain (%)**

Forms of employee representation	EU-28	Spain
A joint consultative committee, employee forum or equivalent body	26.1	34.4
A recognised trade union representation	19.1	25.8
An HSR or employee safety representative	58.3	50.8
An HSC	21.3	19.6
Safety and health often discussed between employee representatives and the management.	59.3	48.3
Are safety and health issues discussed in staff or team meetings?	64.5	48.0

Source: ESENER-2 (2014). EU-OSHA.

### **3.1.1 Main features of the management of risk prevention in Spanish companies in ESENER-2: quantitative analysis compared with the EU**

The aim of this section is to highlight some features of the system of occupational risk prevention based on ESENER-2. We will compare the values for Spain with those of the EU for some of the most relevant topics (Table 3.8). This section is intended not to perform a comprehensive analysis of the management of the prevention system in companies, but to point out some areas with potential for improvement of the Spanish case, which may hinder good participation of workers and their representatives <sup>(8)</sup>.

**Table 3.8 The system of occupational risk prevention in Spain. Areas of superiority compared with the EU-28 average (%)**

Areas	EU-28	Spain
Reasons for addressing safety and health: meeting legal obligation	<b>85.4</b>	<b>90.5</b>
Reasons for addressing safety and health: meeting expectations from employees	<b>78.7</b>	<b>75</b>
Main difficulties in addressing safety and health	<b>EU-28</b>	<b>Spain</b>
Lack of time or staff	<b>25.5</b>	<b>29.7</b>
Lack of money	<b>22.6</b>	<b>25.8</b>
Lack of awareness among management	<b>12.2</b>	<b>21.7</b>
Lack of awareness among staff	<b>17.7</b>	<b>30</b>
Risk factors in the establishment	<b>EU-28</b>	<b>Spain</b>
Tiring or painful positions	<b>55.6</b>	<b>79</b>

<sup>(8)</sup> Complementary data can be obtained from the EU-OSHA website (<https://osha.europa.eu/en>)

Areas	EU-28	Spain
Lifting or moving people or heavy loads	47.3	54.4
Repetitive hand or arm movements	51.7	59.9
Risk of accidents with machines	48.3	50.7
Increased risk of slips, trips and falls	36.2	44.2
Risk assessments mainly conducted by	EU-28	Spain
Internal staff	47	12.1
External service providers	39.9	77.9

Notes: Base EU: total companies EU-28. Base Spain: total work centres (N = 3,162).  
Source: ENGE, ESENER-2 (2014), EU-OSHA and INSHT (2015a).

At a brief glance, three main results can be drawn from Table 3.8. The first is that there is a higher proportion of Spanish entrepreneurs whose primary motivation for carrying out prevention lies in compliance with the law; external legal pressure is not the best starting point for creating a prevention system that is more committed to workers.

The second result noted was the presence of major difficulties among Spanish entrepreneurs in the EU in implementing risk prevention measures. These difficulties were reported in many of the aspects considered (lack of time, budget, awareness, technical support). Difficulties also stemmed from the low level of awareness of risk prevention among workers. Spain is one of the European countries where workers' lack of awareness is seen as a prominent barrier to advances in prevention. A similar lack of awareness was seen among entrepreneurs: Spain is fourth out of the five European countries that consider this lack of awareness a 'major difficulty' in implementing risk prevention measures (Turkey, the Netherlands and Belgium also report difficulty with lack of awareness). In connection with this, there is the high use of external prevention services to carry out risk assessments: a situation related, as we have seen above, to less internal prevention by the company. The third and final result worth noting is the significance of physical risks; in Spain the average occurrence of physical risks exceeds the EU-28 average.

## 4 Operation and dynamics of participation in large and medium-sized enterprises: qualitative features

In this chapter we examine more closely the role of representation. We are interested in identifying the implementation of the areas of action that the regulatory framework recognises for the workers' HSR in large enterprises. As we will explain in detail in a later chapter, Spanish law states that companies with fewer than 50 workers must have an HSR elected from among the trade union representatives. Companies with more than 50 workers must also have an HSC. Certain functions have to be implemented by HSRs, such as the identification of risks, the provision of information for workers etc. This chapter explains how, and in what contexts, these functions are put into practice.

### 4.1 The health and safety representative's role

The representative's role is played by the HSR, who actively participates in the WCs and is the representative responsible for safety and health at work within the WC. The representative is the point of reference for the workers with regards to OSH matters, and is also responsible for listening to workers, detecting OSH problems and reporting them to the HSC.

#### 4.1.1 Health and safety representative selection

Spanish law specifies that HSRs should be designated by, and from among, the staff representatives. This means that the candidates for HSR should normally come from the ranks of the unions without intervention from the management. The type and size of companies that form part of our sample lead us to speak mainly of the unions UGT and CCOO. Being part of a trade union gives the HSR greater influence in making complaints or negotiating conditions for doing their work. In case 17, the HSR explained that the union was trying to increase the hours of representation. He said that that proposal could enhance the effectiveness of the representatives, because by doing so they could improve supervisory tasks.

There are two trade unions (CCOO and UGT) that usually present candidates, although we have identified, in a public enterprise, one nominee who did not have the support of the unions. The regulatory framework aims for it to be the workers who choose their HSR from among staff representatives. However, as we saw in the accounts of our interviews, there was at least one establishment in which the HSR was 'suggested' by the company: 'they thought that I would be able to cope with these tasks' (20SRlps).

#### 4.1.2 Risk assessment

The HSRs have a primary role in detecting risk in large and medium-sized enterprises. The importance of the HSR is illustrated by quotes from the qualitative interviews, such as the following:

*The company would work much worse if my role as safety representative didn't exist.*

22SRlpubs

*We are the enterprise's eyes in safety matters.*

20SRlps

The above quotations demonstrated the belief of the HSRs that workers knew and appreciated their role in the company. The HSRs based their close relationship with workers on the knowledge that they have about each other. These statements were common in medium-sized enterprises and could sometimes lead to the rejection of outside OSH consultant figures: 'It would be more difficult for workers to put questions or problems to an unknown person.' (20SRlps). On the other hand, we also interviewed workers who didn't know who their HSR was or what their functions were. For example, 22WRlpubs made references to the union, but they associated the union with guaranteeing labour rights and not with OSH issues. In another company, the worker interviewed suggested that workers do not feel represented by the HSR. The worker thought that it would be a good idea to uncouple worker representation from the HSC, and suggested that there should be a prevention unit as part of the company's human resources department, which could manage the OSH area.

By and large, the HSRs used their direct observations and direct communication with workers as their main tools for identifying risks. We heard through the interviews that when an employee has a need or identifies a risk, they communicate it to the HSR and the HSR informs management in one of the OSH committee meetings: 'My main function is to identify possible risks by means of direct observation or conversations with workers' (15SRmpubs). HSRs also used other strategies to identify risks: in some companies, HSRs held assemblies with workers; in others they carried out drills (e.g. fire drills) to identify risks and inform workers about them; they also promoted rotating displays of OSH information in various departments of the company.

The HSR's function in general is to seek solutions to workers' problems and to communicate faults and improvements to the company, too. There are issues that do not pass through the HSC because they are very obvious and simple. The HSR reports this kind of information directly to the worker. When risk assessments are made, the committee conveys the risk that has been communicated by workers. Once this risk has been identified, it is checked and there is an effort made to solve it within a year. At HSC meetings, talks take place about issues that have not been resolved and those that have been resolved. The commission may also raise issues, for example when the company passes on the information obtained from a risk assessment.

The main objective of this analysis is to identify the context in which the representative forms of workers' involvement and participation in OSH occur. We have identified the systems through which workers are indirectly involved in risk assessment in large companies. However, some weaknesses have been detected in these processes.

It can be said that this way of acting is not always effective; there are risks that are not reported by workers or are difficult to communicate by their nature. Some HSRs have said that occupational risks, especially psychosocial risks, are not a concern for workers: 'Workers communicate those risks once the situation is serious' (22SRlpubs). This kind of risk has been highlighted by several HSRs, who say that these risks are difficult to detect, even by HSRs, and it is difficult to get them accepted by the companies. They also argue that the proposal to study this kind of problem always falls on them.

In a couple of enterprises, HSRs have focused on the end of these processes. In other words, one of the main problems with risk assessment stated by some HSRs is feeding information back to workers. Information is requested of workers but not returned to them: surveys results, evaluations, reports etc. We can claim, therefore, that these mechanisms are merely for consultation and do not involve workers' participation. We have also identified open paths to direct participation. 23ERlpubs explained that 'The participation tools are set by law, but the channels of participation are more relaxed: if any worker goes directly to management to inform of a risk, they will get an answer.' The representatives of management and therefore prevention technicians identify these direct forms above all. In this case, the discourses collected through the interviews show companies as entities open to dialogue and receptive to complaints. This position could be seen as opening new channels for workers' participation, but on the other hand we can also presume that this position may weaken the representative's participation, discrediting the HSR figure and his or her role in the enterprise: 'When we involve unions and representatives, the decision time goes on forever' said 16Eli.

Big companies have, in addition, an internal risk prevention service, which provides all the periodical services such as basic and specific training, risk prevention assessment (yearly), a risk prevention plan and services they need sporadically because of emergencies. The HSR has direct, frequent communication with this service and in most cases they have a good relationship, but in some cases the prevention service does not share information with the HSR. In some cases, not all the activities promoted by management in OSH matters, training, campaigns etc., are communicated to the HSR. In the most conflictual cases, in which the prevention service does not attend to the HSRs' or trade union representatives' requests, they request a labour inspection by public authorities. Even though the people interviewed, in general, tried to transmit the idea of good relationships between management and HSR, we gained the impression that it is sometimes a forced relationship; the management accepts it because of the legal framework regarding the union relationship and labour relations. There is almost no sign in the interviewees of a deep awareness about the relevance of worker involvement and participation to improving OSH.

Another aspect of large and medium-sized enterprises that we must take into account is that, according to the law, the bigger the enterprise, the more HSRs it will have. In most of the companies we perceived

a good relationship among HSRs. Even when they are members of different unions they have very fluid communication. They meet weekly to exchange information and to prepare meetings of the HSC. On the other hand, it seems there is less coordination with HSRs from the contracted and sub-contracted companies, as one HSR said. HSR 23SR1pubs, from an enterprise with several centres, describes the same experience. Different HSRs from the same centre have a close relationship with each other, but there is no relationship between the different centres' HSRs.

Although our intention is to focus on workers' indirect participation, our findings also include some practices of direct participation, because it seems that in some companies workers usually use the direct, informal system of risk communication. Here we are talking about traditional face-to-face communication between workers and management — as seen above — regarding the workers' prevention service: 'When my peers or I have a health or security problem, we usually turn to the person designated by the enterprise; we rarely go to our safety representative' (15Wmpubs). We have found that in many enterprises online communication has been encouraged, and workers' representatives or the HSC have their own email to identify risks. However, those mailboxes are rarely used by workers. In companies in which workers use the HSC mail, a significant barrier emerges. As a worker in a public enterprise explains, these pathways are not anonymous, and in her point of view this is a barrier to real participation by workers, because they fear reprisals.

### **4.1.3 Joint health and safety committees**

As Spanish law says, companies of more than 50 workers must have an HSC. The HSC shall consist of the HSR, on the one hand, and the employer and/or its representatives, to a number equal to the number of HSRs, on the other. The HSCs sometimes have specific commissions (training, risks evaluation etc.) but the workers do not take part in them formally. After all of this, we can conclude that the participation of workers in the HSCs is linked to the activity of the HSR. That is why the HSRs interviewed perceive themselves as the main node of communication between management and workers. Nevertheless, it is fair to say that in some companies the workers do not share this vision and do not feel represented by them.

The HSC meetings serve to transmit safety and health information. According to the law, one of these meetings must be held at least once every three months. However, as said in the interviews, some companies improve on the law's requirements by an internal agreement, holding meetings more often or requesting an extraordinary meeting when an urgent issue makes it necessary.

Some of those interviewed talked about a real interest in having an HSC on which the whole company could be represented; 22SE1pubs said that they have representatives from different company departments (nurses, doctors etc.), a maintenance manager, a human resources manager and the head of the prevention service. This structure, it is said, facilitates detection and management of risks. On the other hand, Spanish law also specifies that workers with special qualifications or information on specific issues can participate in an HSC meeting with a voice but no vote, although no interviewee talked about this possibility.

The HSRs perceive their participation in the HSC as essential. HSRs bring up the problems they are told about by the workers and follow them up in the HSC, about which as 16SR1i told us, the company 'often has to be reminded'. The approach to OSH in large companies is often seen as a struggle between sides: those susceptible to risks (HSR and workers) against those responsible for putting a solution in place (company and OSH officers). This way of understanding OSH in large enterprises is expressed by the HSRs in some interviews as a relationship of solidarity, and therefore the relationship between the HSRs and workers is understood as complicity: 'I don't want to go against a co-worker because he does not use personal protective equipment' (16SR1i).

#### **4.1.4 Relationships with prevention technicians**

In large and medium-sized enterprises there are HR departments in charge of labour risk prevention. Their technicians are concerned about risk prevention management. Some have a prevention service, and others, such as case 15, do not have their own prevention department; however, that company has three OSH technicians so we could say it has its own OSH figures. In some enterprises, the prevention technicians participate in the HSC with a voice but no vote.

HSRs, as workers' representatives in the field of OSH, are forced to have a closer relationship with companies' representatives: 'I'm the interface for the company's labour risk prevention technician' (20SRlps). This relationship is sometimes very positive, but it can also be conflictive.

In most cases we have found a good relationship between HSRs and the prevention service because sometimes, as a preventive technician said, 'there is daily communication between us' (19SElps). In others, both the workers' and the companies' representatives said their relationships had difficulties in understanding, as 16SRli said talking about the lack of communication with the new technician: 'there is a risk of going back to the cave'.

#### **4.1.5 Encouraging investigations or complaints**

In some companies, interviewees stated that their company complied with the worker participation law, and even exceeded what the legislation requires of enterprises. We can find this point of view in management discourses more than in workers' discourses, and from workers more than from HSR interviewees. We have identified important contradictions between employees' and HSRs' perspectives on their company's OSH strategy.

However, when HSRs do not receive answers to their demands from the company, they resort to external pressure: a complaint to the labour inspectorate.

We can identify this use of force in cases in which the HSR complains of weak enforcement of the law. In one of the companies, the HSR estimated that the establishment applied only around 35-40 % of the law. This situation had forced the HSR to report the company:

*Really, what percentage of the law on prevention of labour risks is applied in the company? This is the basis, right? Clearly, but now I would say to you: 35 or 40 %, and fighting them [...] sometimes you have to resort to reporting them.*

17SRli

On the other hand, topics that have not been solved in the HSC are reported to the labour inspectorate, too. One of the enterprises refers to an issue of bullying that could not be solved in the HSC and it was reported to the external resource. In another case, the company refused to recognise an odour issue as a labour problem and, given the refusal of the company, representatives made a request to the inspectorate. It must be said that if the HSR belongs to a union it increases the pressure on the enterprise in situations like these.

However, bringing pressure to bear on the company does not always produce favourable results. In one company, the HSR told us that, after calculating a fatigue coefficient during one a technical assessment session, the company reduced in the workers' rest from 10 minutes per hour to 10-minute breaks per work shift. The union appealed against the decision in court but, since the decision was supported by technical finding and complied with the law, it lost its fight.

## **4.2 Determinants**

### **4.2.1 External determinants**

In large and medium-sized enterprises, OSH is often treated as a demand that has to be met by law. In discourses of companies' representatives, it can be seen that companies would prefer to treat OSH from a totally technical perspective, marginalising trade unions and worker participation. 11SRmi puts this

idea into words: in this informant's opinion, the company would not have promoted the figure of the HSR if it had not been compelled to do so by law. 'The HSR raises nothing but problems' (11SRmi). In the interviews, management representatives insist that large companies are concerned about health and risk management systems. However, it seems that they are referring to legal aspects of this management. The management representatives show little concern about the workers' real participation and collaboration in identifying occupational risks. This is why, as we have seen above, there are companies whose representatives openly affirm that workers' involvement is a useless waste of time. Related to this idea, some HSRs think that the most important determinant is economic profitability: if an economic return is not clear, companies seem more reluctant to implement prevention measures.

Our sample includes a diverse typology of companies. Company 19 is a subsidiary of a multinational group; according to its managers, prevention and safety are just a demand included in the collective labour agreement (*convenio colectivo*). The company has its own prevention service, and this service takes care of all the establishments the company has in Spain. Company 19 also has local HSCs that specifically work in each establishment, but the head office (in Bristol, UK) coordinates all of these resources. The head office also establishes criteria for OSH programmes. Similar situations are found in case 20 and case 11: their territorial organisation of work makes it difficult to establish closer relations between workers and management; according to 11Emi, being a branch office means having responsibilities but not executive power (only the managing director has the latter). That is why 20SRlps perceives himself as the main node of communication between management and workers. We have also detected this problem of coordination in a very large company with different centres. Therefore, it is understood from the interviews that the centres act independently on risk management. However, we found that the public company that we interviewed took a different stance. As a public company, it undergoes many changes in management. These changes in management have an impact on the different departments. Each new manager introduces new protocols, which implies a change in risk management. 20SRlps considers that his post should have more autonomy and more capacity in economic decision making. He should be a department independent of the management, which could avoid constant changes in protocols.

The role of mutual insurance companies (*mutuas*<sup>(9)</sup> in Spanish) is pointed out by an HSR, who says that, mutual insurance companies put many barriers to accidents investigation. If there is no investigation, it is impossible to identify what kind of measures it is necessary to implement to increase safety in the workplace.

The number of forms and reports that companies must fill in to meet the legal requirements becomes an important factor. Aside from what this implies in terms of working hours, what is most noteworthy is that it ends up creating a culture of prevention based mainly on administrative tasks. It is relatively common, especially in smaller companies, for the employee responsible for prevention tasks to have an administrative profile.

The role of contractors and sub-contractors is another important determinant, which results in a two-way problem. On the one hand, if we consider a company in its role as a sub-contractor, then we appreciate that the relevance of the risk prevention system depends more on how strict the control from the main contractor is than on the importance that the sub-contracted company's managers assign to this issue. On the other hand, if we consider a company in its role as a contractor, despite having protocols, it cannot always fully verify compliance with them by the sub-contracted company.

External demands increase the pressure on the employees. Organisational models and production systems such as 'just in time' become a source of mental health risk. In some companies, the crisis scenario heightens this factor's effect. For example, one of the companies, case 17, transfers this pressure to workers via a 'just in time' production system. This system is the main source of psychological risk. Workers do not make adequate safety checks on machines because they have to meet production demands. In addition, the external demands affect the actions of the HSR because the pressure on workers reduces the possibility of carrying out effective communication with them.

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<sup>(9)</sup> *Mutuas* are private associations that collaborate with social security. They are involved in the management of economic benefits and health care, including rehabilitation, such as social security insurance against the consequences of work-related accidents and occupational diseases of the social security, as well as tackling the causes.

The crisis scenario (privatisation plus reduction in consumption) also has effects in two different ways, which is another important external determinant. Firstly, the willingness of the company is reduced to negotiating improvements in OSH issues; secondly, stress and pressure affect workers' health:

*We are experiencing a very delicate moment on many levels [...] the market is how it is; there are increasing demands here and we have sensitive cases of bad health.*

19SRlps

Moreover, in a period of crisis (a general crisis and maybe a specific crisis for the company), business goals are put before risk prevention, according to 19SRlps. For example, company 19 launches prevention campaigns based on healthy habits outside the company (physical activity, food etc.), but neglects action inside the company. These kinds of internal actions are usually more expensive and above all they are difficult to implement without changing the rate of production or the cost structure.

#### **4.2.2 Internal determinants**

Some of the main determinants are related to features of the company, such as its size or the location and size of its establishments. Small companies show more deficiencies in applying laws and establishing protocols. In addition, representation and workers' participation face many constraints, at least in Spain. In bigger companies with a large number of establishments, this is perhaps related to a lack of coordination between headquarters and establishments. This situation may also cause unequal distribution of prevention resources and implementation of protocols.

Another relevant factor is the composition of the staff. This is widely identified in the literature on OSH (e.g. Santamaría et al., 2006; Cioni and Savioli, 2012). When a significant proportion of workers are temporary, the participation of workers in OSH becomes more difficult. The fact that temporary workers have higher rates of accidents is mentioned in some reports (INSHT, 2016), which call for special attention to counteracting the effect of seasonality on them.

In relation to the type of company, we have found that public companies present a problem because of the relative instability of the managers' posts. In public companies, there are many changes in the management staff and these changes have an impact on the planning of OSH: each new manager introduces new protocols that imply a change in the risk management systems.

There are some features that can be considered a part of the companies' culture in relation to OSH. This culture includes a range of strategies and perspectives: (a) a 'paternalistic' approach, whereby managers think they have to stand over employees, annulling their initiative; (b) a 'behavioural' approach, assuming that employees' habits might be diverted towards safety goals regardless of qualitative aspects such as workers' perceptions; (c) a 'top-down' approach, implying that, although managers recognise the role of employees in OSH, they always take the initiative; and (d) a 'problem-solving' approach, by which companies face problems using ad hoc solutions that end up replacing the design of global strategies.

Companies' culture is reflected in managers' attitudes. They attach importance to the relationship between profit and prevention: the measures they apply are often evaluated on the basis of increases in overall economic benefit or productivity. In some cases, managers have a management style that is obtrusive: one example is when managers try to influence the election of HSRs. Managers also tend to pay more attention to some risks at the expense of others, sometimes depending on the difficulties they pose to the organisation of work. Managerial leadership in prevention is considered in the literature to be a central theme. As we have seen in the theoretical review, the literature on business leadership does not consider the participation of workers and their representatives (Petersen, 2007, cited by Castejón, 2012).

It is widely accepted that the effectiveness of workers' representatives in safety and health depends on the support they receive for their actions. This support may take different forms.

In most companies, training and information do not seem to be a problem. The company management informs the workers and their representative about OSH matters. There are enterprises where even workers and HSRs told us that they receive all the training they need and ask for. In others, training in

OSH is reserved only for HSRs, so the representatives interviewed confirm a lack of training among workers.

However, there are companies where only the minimal training required by law is provided. In relation to information given to workers, situations are also markedly different. We have detected a lack of technical knowledge and training among HSRs. Even though the law requires new representatives to take a course, subsequently there is not sufficiently specific training focused on the risks and processes of each company. Case 19 in our sample is part of a multinational group, so all the companies use the safety procedures. This implies that procedures are implemented in countries and institutions with very different situations. In this company, as 19SRlps says, 'There is miscommunication between the company and me.'

Another important factor to highlight in this section is the time that the company gives HSRs to carry out their functions. Some of the HSRs interviewed stated that they have the time necessary to carry to their job. For example, 22SRlpubs said that, when he had to cover a need, he informed his boss and had full-time availability to do it. From his point of view, the company supported the work of the HSR in that sense. He also felt that he had total availability to visit workplaces and talk to workers about OSH. Others demand more time to do their tasks, and in this demand even the unions are involved, as we can find in the case of 23Rlpubs. Related to this aspect, in some interviews we have identified that in some companies the paid hours for representation are used for a wide range of representation tasks, not only for OSH-related tasks.



## 5 Operation and dynamics of participation in small enterprises: qualitative features

### 5.1 Employee participation arrangements

In the Spanish sample, there are 10 small companies, producing goods (3) and providing services (7), in both the private (4) and public (3) sectors.

According to the regulatory framework for employee participation, in the companies with fewer than six workers, participation can be exercised directly and individually. From 6 to 30 workers, the HSR can be the trade union representative. From 31 to 49 employees, the HSR can be one of the trade union representatives, and only for companies with 50 or more workers does a collective participation instrument have to be created, which is the OSH committee. Nonetheless, the fieldwork suggests that for small enterprises the Spanish regulatory framework for worker participation is less strict than for larger ones. Companies with fewer than 30 workers are not obliged to create an indirect system of representation, much less for specific issues such as OSH. From what we saw in the cases studied, small companies operate according to what is compulsory by legislation. This is why in most companies there is neither an HSR nor an OSH technician. Although not formalised, a specific representation system does exist in these companies; there is usually a person who assumes the function of receiving the information from workers. This person can be a plant manager, a worker from the human resources department or a trade union delegate (if the enterprise has one).

This kind of arrangement sometimes entails overlapping functions and roles in the same person who, at the same time, is a worker and acts as the link between the company and the other workers. Nevertheless, according to the interviewees, the most common practice is direct communication between workers and members of the company management. In small companies, there is usually a direct, informal system of worker participation for all issues, risk prevention included. The workers tell the managers about the problems they find and they try to find a solution when possible. We could talk of a 'family' culture of participation: 'Our company is like a family that attends to our problems and needs: you ask for something and you immediately obtain what you need' said the worker interviewed (1Wsi). Furthermore, this climate of 'familiarity' and trust makes the formal channels of representation not very useful in the workers' perception.

A special arrangement was detected in the cooperatives analysed. The horizontal and symmetric relations among workers/associates make the circulation of information simpler and faster; there are no bureaucratic procedures with their associated delays. Furthermore, the workers improve on this strength with two organisational strategies. Firstly, in each department there is at least one associate; in this way he or she can report workers' needs or demands directly to the management. Secondly, each worker takes turns occupying all the workplaces, so they can experience for themselves the advantages and problems of each work position in the work centre. This strategy allows each worker to have a realistic perception of the workload of each one and it also promotes an active, cooperative attitude among workers:

*Recently, we bought new electric machinery that drives fork lifts, another machine and we made a new system that prevents the workers from lifting weights. This system was improved because of a worker's suggestion. Regarding occupational safety and health matters, I need to ask workers who are actually in the workplace.*

2Esi

As for direct communication between management and workers, differing postures were found: there were workers who complained about the reduced space for participation that they dealt with, and cases in which the workers themselves said that the direct path is 'the best way to communicate these problems as well as the most efficient' (8Wspubs).

The companies in which employee participation is totally absent are the sub-contracted ones. In these companies, worker participation is perceived as not useful because of the strict control by the contractor. It is the contractor who establishes the rules for safety and health regardless of the sub-contractor, and this in turn affects workers' participation: they carry out their work in the contractor's headquarters and

they are only asked to comply with the rules decided by the contractor. Therefore, the sub-contractors' workers do not participate at all.

## 5.2 Risk prevention management and worker participation in OSH

In some of the companies in our sample, direct communication is the only way that workers can participate in risk evaluation. Nevertheless, there are companies that promote other forms and initiatives. For instance, we have identified companies that organise working meetings. These meetings with the workers are led by the management department. Their main purpose is not always related to OSH but, according to what the interviewees said, there is the actual possibility for workers to communicate suggestions or ideas about risk prevention and OSH.

In all of the companies studied, training is the most common way to improve workers' knowledge and awareness, and it is thus also a way to prevent occupational risks: we have found initial and basic training, continuous and specific learning, and talks about OSH topics. However, in some cases it was found that the arrangement of having training courses during free time is an obstacle to improving workers' participation. Even if the company pays for their training, they do not want to use their free time for work-related activities.

A very common practice in the small companies is outsourcing all the OSH services to a sub-contracted consultancy. It evaluates the risks and draws up the safety plan both for the workshops and for each workplace; it drafts specific safety plans for each new workplace; it monitors health and is responsible for the workers' initial and continuous training. Sometimes, although not always, while visiting the workshop during the risk assessment, the technicians speak with the workers and ask for ideas and suggestions or for complaints about their OSH. As for the process of risk assessment, in the small companies, the workers' involvement, when it happens, takes place in two different ways: direct, informal communication by single workers to the person in charge of OSH issues; or during risk assessment at the workplace, held by a sub-contracted specialist company.

A special and more complex risk prevention arrangement is that of small companies that are mainly sub-contractors: they are sub-contracted by bigger, usually multinational, companies. This is the case of small enterprises in industrial production sectors: in general, they produce components they use later to set up plants in the contractors' headquarters. In these companies, we find two different work environments: the internal workshop, where the company produces the components, and their contractor's headquarters and industrial plants. In their workshop, all of the risks seem to be under control because they have safety procedures. The problem arises when a new task for a contractor starts. In this case, they have to design a specific safety plan to prevent labour risks in this specific work environment. All the risk evaluation and prevention measures have to be related to the task the workers have to carry out for the specific work. This kind of work implies a collaborative arrangement with the main contractor. It is slightly complicated 'because we have to match our needs to their requirements', 1Wsi told the administrative assistant interviewed. The large company, the sub-contracting small company and the OSH consultant have to arrange a risk prevention plan together. In general, it is not a negotiation; the contractor actually makes the rules.

Psychosocial risks deserve a special mention. They are the most difficult risks to detect, measure and prevent, basically because of their nature: they are invisible and their effects are detected only after a long period. Furthermore, according to what some HSRs said, psychosocial risks in particular are not a concern for workers; the workers communicate such risks only once the situation is serious.

The case of companies belonging to the public services sector is striking because, apparently, the great part of the interviewees agree that they do not have any occupational risks due to the nature of their work. Because of this perception it was very difficult to extend the conversation about this point, during the interviews. In a training centre or in a tourist agency, for example, all the interviewees agree that there are no risks. As one interviewee said, 'We have no risks other than back pain due to poor posture, getting an electric [static] shock...but hey, that's no risk, it's an office.' (7Esps).

To sum up, we have to emphasise that small companies show more deficiencies in the application of laws and in establishing protocols. In addition, workers' representation and participation face more constraints because of the smaller number of workers, at least in Spain.

### **5.2.1 Internal determinants**

As for the internal determinants, attitudes and cultural aspects have a great influence, as we will explain later.

Nevertheless, the lion's share of internal determinants is related to companies' structural features, such as the size of the company, the presence of a single or several company headquarters and the size of each establishment.

As in the case of the medium-sized and large companies, in the small ones the proportion of temporary workers on the staff has significant consequences for occupational risk prevention. When the percentage of temporary workers is significant, the workers' participation in OSH becomes more difficult. Nowadays the staff of these companies are composed almost exclusively of workers on permanent contracts. The financial crisis dramatically reduced the number of temporary workers because they were the first to be made redundant during the downturn. This is probably why the Spanish cases analysed transmit a generalised idea that the OSH arrangement is quite good, and the workers interviewed seem to feel quite protected. The role of contractors and sub-contractors is another important factor. This is a two-way determinant. On the one hand, considering a company in its role as a sub-contractor, it is possible to appreciate that the relevance of the risk prevention system depends more on how strict the control exercised by the main contractor is than on the importance the managers of the sub-contracted company assign to this issue. On the other hand, considering a company in its role as a contractor, despite having protocols, the contractor cannot always fully verify compliance with them by the sub-contracted company. Furthermore, small companies tend to sub-contract OSH services to other small companies or self-employed, previously contracted workers. To save on resources, they outsource OSH services, but in this way they outsource the responsibility for OSH as well. Even though the structural factors seem highly relevant, several cultural elements have relevant roles. In the following paragraphs we will focus on them.

- **Management commitment to participation**

In the small companies participation is informal, so it depends greatly on the attitude of the managers towards the workers. As in a family, the communication style of a small company's owner influences the work climate and consequently participation. The relevance of the workers' point of view as regards improving both the safety and the efficiency of the production process seems to be clear and evident to all the managers interviewed. Indeed, the management's awareness of this issue improves the way in which worker participation contributes to ameliorate safety and health at work. In fact, the work meetings have a double objective: to make the production process more efficient and to make it safer and healthier. As a manager told us: 'The two things are related: working in better conditions makes the process more productive and efficient' (2Esi). This organisational and managerial culture seems to be shared by the workers: 'new machinery, recently put into the productive process, has improved both safety and production', confirmed the worker (2Wsi). When the company management understands the close relationship between safety, comfortable work and productivity, all the people involved in the production process work effectively in the same direction.

- **Management commitment to OSH**

Companies' culture is reflected in managers' attitudes. They lend importance to the relationship between economic profit and prevention; the measures they apply are often valued on the basis of overall profit or increasing production. In some cases, however, it is possible to see that managers have an obtrusive management style: for example, some managers try to influence the election of the HSRs. Managers also tend to pay more attention to some risks at the expense of others, sometimes depending on the problems they pose to the organisation of work.

We would also like to point out a managerial practice that can be associated with risk management in these types of small companies: considering OSH as an administrative issue, in which workers' participation is not necessary, they foster outsourcing of OSH services to a consultancy enterprise specialising in risk prevention.

- **Workers' favourable attitudes**

Workers' perceptions and attitudes towards OSH are also important determinants. In the workers' discourses, sometimes it is evident that they identify safety and prevention as an annoying requirement. This is especially noticeable among workers who have to use personal protective equipment. However, if the attitude of individual workers is relevant, then so are group habits, and even more so.

Good coordination among all the actors involved in risk prevention supports good outcomes in terms of OSH; when the trade union representatives do not communicate smoothly with the company's technicians in charge of OSH, problems arise. The presence or absence of internal resources in charge of OSH issues also has consequences in terms of participation: internal resources are welcome and have the advantage of being felt as more personal; the workers seem to perceive them in a better light than external technicians. This was the case in a medium-sized company, where the manager interviewed revealed that the technicians paid by the company for risk assessment, i.e. to improve workers' safety, were seen as inspectors, causing suspicion and mistrust. In fact, when the external prevention service came to assess risks, the interviewees reported that workers even regarded their visits with attitudes such as 'Shut up; be careful!' (11SRmi), as if they were being assessed themselves, meaning they did not understand what the role of the external prevention service was about.

According to the manager of the aforementioned cooperative, being a worker and associate at the same time improves sensitivity to OSH issues and the awareness of its importance. The worker confirmed this about the managers: 'They work with us day by day in the same workplace, sharing our risks and problems; that makes them very interested in solving workers' problems' (2Wsi). To have management representatives or HSRs as workmates makes things simpler and improves worker participation considerably. However, this opinion was not shared by the safety representative (5SRsp) within this company. Her interesting point of view was that the workers/members feel themselves to be the owners, so they often do not comply with safety rules, not using personal protective equipment, for example; they do what is more comfortable, not what is safer for them at work. All the workers are comfortable asking for support for their safety and the management provides all they ask for, but paradoxically the associates do not always use what they themselves have asked for.

In this company, the management representative feels very close to the workers; this is relatively simple in a small company. In his own words:

*Yes, because I am usually in charge and I do count on them. In fact, I was one of them a couple of days ago, that is, three years of the six years I've been doing now; three years I worked as a technician and then it came to restructuring and such, and I got the responsibilities that I now have, so I talk to them. Mainly, I'll take them aside to get to know them because they are the ones who give value.*

11SRmi

This, in his understanding, has improved workers' participation: now they make many more complaints than before, since 'there was not that ability to complain before.' (11SRmi). Workers participate better if they perceive the safety representative or of the manager as approachable.

To conclude with the workers' commitment to OSH, it is important to say that, in small companies, the workers often do not want to assume responsibilities such as being a workers' representative. They see responsibilities such as this as a way to overburden themselves with a lot of problems.

Finally, it seems noteworthy that in small companies there is no sort of trade union support because trade unions do not usually have a presence in these kinds of companies; if they do, it is merely symbolic.

## **5.2.2 External determinants**

Firstly, we have to mention that the recent long-lasting economic crisis has had many tragic consequences on employment in Spain, as we have seen earlier in this report, such as the fact that temporary workers have been made redundant. Furthermore, in times of crisis, business goals are stressed even more in preference to the prevention of risks, according to some HSRs. Paradoxically, this problem has had some unexpected benefits in terms of OSH, as permanent workers are in general

better trained and more experienced in OSH. In fact, in most of the cases studied we found only permanent workers. As a result, during the crisis the overall proportion of workers trained in risk prevention at work improved. With the economic recovery, however, external demand has increased the pressure on employees, and the improvements in the indicators then tend to vanish. An interviewee asked about the organisation of OSH issues said: 'We are so focused on the day-to-day that in the end we do not devote the time we should to these kinds of issues.' (7Esps).

It is also worth mentioning that organisational models and production systems such as 'just in time' become a source of mental risk. In some companies, crises increase the effect of this factor. The greatest barrier to the improvement of OSH outcomes is the company's need to improve production and productivity because of global competition. This pressure makes the employers more demanding of their workers, requesting more and more extra hours from them for longer periods of time, as well as improved productivity.

Together with the aforementioned effect of size, the form of ownership is also important, as working for a small private company with a boss who is a relative seems to make employees more docile. For example, workers are more eager to adapt to problems such as 'having to get used to the constant bustle in a big shared office' (7Wsps) instead of asking to change them; to not notice the double-edged sword of flexitime; to exonerate the company from being responsible: 'We do not perceive significant risks and we resolve those that are identified as far as we can; there are things that do not depend on the management.' (7Wsps).

As we have previously mentioned in this report, training in OSH and worker representation issues is essential, and this is even more evident in small companies where not even the names, the roles and the rules are learned, as shown in this conversation between the interviewer (Q) and the interviewee (A):

*Q: And he is also the health and safety representative?*

*A: No, the health and safety representative is me, because when I was not yet head of administration... I had a master's in prevention, so I was assigned this responsibility.*

*Q: You must be the representative of the company in prevention, but the health and safety representative...*

*A: We don't have a health and safety representative as such.*

*Q: That's the workers' representative.*

*A: Yes; there's no health and safety representative.*

5Esps

The presence of trade unions in small companies is very weak, as is the interaction between workers' representatives and trade unions. As a workers' representative stated: 'I attend the courses [organised by] the company, not [by] the union. I know where to go if I have to go to my federation; I know whom I should speak to, but it's not, as you say, has never been necessary; no complaints from anyone, nor from me.' (6Wsps). And there is a certain degree of mistrust, as one interviewer reported: 'She believes the health and safety representatives when they make their complaints are more guided by other issues unrelated to OSH, and they misuse OSH in a way for political, trade union action' (6Esps).

To finish considering the external determinants, it seems clear that the role of the labour inspectorate in these types of companies is almost non-existent; most interviewees reported not having had contact with the inspectorate. Therefore, we can conclude that there is little or no interaction with the labour inspectorate, and that it is seen as an exceptional resource only.



## 6 Conclusions

It is known that the involvement and participation of workers in an establishment is related to the creation of a good OSH management system (Walters et al., 2012). However, what is a good OSH management system? There is no doubt that this is a very complex question and that it goes beyond the scope of the objectives of this research. Even so, having done field research by interviewing companies' managers, workers and HSRs, we can draw some conclusions that address this question. Different actors differ on their perceptions regarding prevention systems. Interviews reveal nuances in expectations and desires regarding what they should be like, how they could be improved and how to remove obstacles in the current system of labour risk prevention. In these conclusions, we modestly propose some tentative answers.

ESENER data provide essential information about what a work risk prevention system looks like and how it can be improved, with special attention paid to workers' participation. Even so, qualitative data complement ESENER, as they allow us to access emerging and unresolved current issues. All this is evident in the contrasting visions of workers and HSRs, on the one hand, and the heads of companies, on the other. As we will explain here, safety representatives consider prevention from a broader perspective, trying to go beyond the technical perspective. For managers, however, prevention is not a 'culture' but a matter for experts that is influenced by technical questions and economic restrictions.

In the contrast between HSRs and company managers, we have identified two different approaches to labour risk prevention. On the one hand, workers' representatives seek comprehensive prevention, an approach that goes beyond the 'technical and legal' framework to attain a broader preventive policy. This would open the door to real participation by workers and also open up access to ergonomic issues and to the more neglected psychosocial risks. Workers' representatives talk about 'real participation' as opposed to the purely informative one-way communication that companies are accused of. For them, this is a condition for improving work risk prevention systems.

These limitations affect the attitudes and practices of HSRs. In the interviews — as in previous research already reported — representatives find in the performance of their functions that their expectations are not met. The low level of importance that businesses give to prevention leads them to postpone important aspects of occupational health and HSRs to lose their motivation. Labour inspection by the public administration is perceived as weak and it does not encourage change to the desired comprehensive model.

The HSCs sometimes have specific commissions (training, risk evaluation etc.), although normally the workers do not participate in them. Since the participation of workers in the HSCs is linked to the action of the safety representative, the HSRs perceive themselves to be the main node of communication between trade unions, managers and workers. The great responsibility in the communication processes can be a double-edged sword, however. On the one hand, it places the HSRs in a symbolically important position as regards employees. On the other, this position of the HSRs poses a significant weakness, since the effectiveness of the representation system rests on one single person. The visibility of this person becomes an important determinant; even personal attributes of the HSR take on special relevance.

One idea that crops up in the interviews is about the effort needed to spread the so-called culture of prevention among all the workers. In the view of many HSRs, workers' representation will not be sufficient to establish a good model of prevention unless more cooperative participation is spread widely amongst all the workers.

On the other hand, the employers' discourse on labour risk prevention is markedly influenced by technical and legal principles and the expert approach. Among the internal determinants, one of the most important is managers' perceptions and companies' culture regarding OSH. In the discourses from managers and companies' representatives, we identify that companies consider OSH issues from a technical perspective. This implies rejecting a labour perspective and therefore this perspective excludes trade unions as a valid interlocutor. In surveys among employers, compliance with the law is the main driver behind labour risk prevention.

This legalistic approach is sometimes expressed directly in employers' views, with high response rates in surveys to questions about the main motivations for labour risk prevention. On other occasions, it is shown less directly, as in our interviews, where this technical legal conception of prevention adopts the narrative of training. Indeed, the managers interviewed indicated that training, university degrees, specialised courses and the complex skills needed for safety and health management systems were an argument for legitimacy, as capital for the company that they control and accumulate through training. Technical knowledge accumulated by those responsible for the management teams, especially in large companies, appears to give credibility to the hypothesis that it is the company that defines the scope within which any discussion about work risk prevention can take place; it is the company that possesses the necessary knowledge. The expert model is being imposed.

The type of relationship between the HSRs and managers is an important factor. In more conflictual cases, in which the prevention service does not address requests from the HSRs or union representatives, inspection by public authorities could play a prominent role. However, it is unlikely that the inspectorate will get involved in small businesses, where it is often the company that designates the HSR or the fear of dismissal is high. When the interviewees try to transmit the idea of good relationships between the managers and HSR, we sometimes get the impression that this is a forced relationship; the managers are forced to accept it because of the legal framework of labour relations.

These observations are reinforced when the context of the recent years' economic crisis is taken into account. Our interviews show that the economic crisis has encouraged businesses' management to focus mainly on economic restructuring and resisting the downturn. In this context, labour risk prevention is not at the same level as these priorities. The crisis has helped managers to underline the costs of prevention and therefore to emphasise its economic dimension over others that are more appreciated by other agents in prevention. The crisis has given the business discourse a dominant role, subordinating labour risk prevention to economic aspects. In this context, business leaders are sending a priority message for governments to reduce legislative pressure. This does not mean that prevention, safety and health are absent from business discourses, but they are further from the workers' representatives' narratives.

The impact of the crisis appears to be another noteworthy finding of this research. Its intensity has affected all of the pillars upon which the prevention system rests: negotiation and social dialogue; the dynamics of the job market and economic indicators; trends in workplace accidents; and the unions' loss of relevance and legitimacy. More specifically, the crisis has produced a number of trends that have become determinants of prevention: a decline in job security, the growth in temporary contracts, strengthening of outsourcing and the advance of precarious forms of labour are all already having an impact on occupational health and raising questions about the strength of the Spanish prevention model.

As regards external determinants, the crisis scenario (privatisation plus a drop in consumption) appears to be one of the most relevant, with two different effects. Firstly, the company's intention is reduced to negotiating improvements in OSH issues because OSH is always perceived as somewhat dependent on economic profit. Secondly, workers' health is affected by the stress and pressure from managers.

The economic crisis has had significant consequences on employment in Spain, with temporary workers becoming more vulnerable and business goals being stressed even more over the prevention of risks etc. With the economic recovery, however, external demand has increased the pressure on employees, and the improvements in the indicators have tended to vanish.

The company's culture is also an important determinant. This includes a range of strategies and perspectives: (a) a 'paternalistic' approach; (b) a 'behavioural' approach to avoid qualitative aspects such as workers' perceptions; (c) a 'top-down' approach; and (d) a 'problem-solving' or ad hoc solution approach. Company culture defines the primary area in which the relationships function between HSR, unions, employees and the company.

In addition to the above, more general, comments, we can point to some specific issues such as the references to psychosocial risks, frequently mentioned in interviews as an aspect that is not receiving enough attention. The debate on pathologies arising from intensification of work will receive more attention in future and this concern is also reflected in interviews with the different actors. When this topic appeared, it increased the flow of interviewees' answers.

When looking at the different types of company, in search of internal determinants, one of the main findings is related to companies' features such as their size, geographical structure and the number and size of establishments. For example, the fieldwork suggests that the Spanish regulatory framework for worker participation is less strict for small companies than for medium and large ones. Even though small companies operate according to what is compulsory in the legislation, in most companies there is neither an HSR nor an OSH technician, which often results in overlapping functions and roles in the same person.

In small companies, the workers' involvement in the process of risk assessment, if it happens, takes place in two different ways: direct, informal communication from individual workers to the person in charge of OSH issues; or during risk assessment at the workplace, held by a sub-contracted company specialising in providing OSH consulting services. The most difficult risks to detect, measure and prevent are psychosocial risks, due to their nature.

Furthermore, some small companies appear to have more deficiencies in applying the legislation, in establishing protocols and in developing programmes and measures to implement them. In addition, workers' participation and representation face more constraints. Small companies tend to be more likely to implement isolated responses (such as personal protective equipment) instead of more complex and, in the short term, more extensive programmes. In addition, interaction among a small, very temporary workforce is an important determinant; the HSR can hardly implement actions in this type of company. In addition, the more staff have a temporary contract, the less likely they are to make demands about OSH issues.

There is often direct communication between workers and the members of the committee, especially between workers and safety representatives. In small companies there is usually a direct, informal system of worker participation in all issues, risk prevention included. Training is also a common way to improve workers' knowledge and awareness, and it is a way to prevent occupational risks. However, the climate of 'familiarity' and trust prevents them from following the formal channels of representation. As a result, control over workers is stronger.

Informal participation depends greatly on the managers' attitude towards workers, especially in small companies. As in a family, a small company owner's communication style influences the work climate and consequently workers' participation. The relevance of the workers' point of view in improving both the safety and efficiency of the production process also seems to be clear and evident to all those interviewed. The management's awareness of this fact also improves the way in which workers' participation helps improve safety and health at work. However, when OSH is considered to be an administrative issue in which the workers' participation is not necessary, this attitude encourages totally outsourcing OSH to a consultancy. This is compounded by the fact that in small companies there is not usually any sort of trade union support because trade unions do not have a big presence in these companies, and when they do their presence is more symbolic than effective.

Within large and medium-sized enterprises, the HSR is the pivotal figure in the safety and health management systems in the establishments. The HSR's main function is to solve workers' problems, but this drastically reduces the effectiveness of the delegates' task. In addition, it is highly likely that this communication will affect workers' perceptions of the HSR. Indeed, one of the most significant findings among the interviewees is that there is almost no evidence of awareness of the importance of worker participation in improving OSH.

Another factor is that organisational models and production systems such as 'just in time' become a source of mental health risk. In some companies, the economic crisis has increased the effect of this factor. The greatest barrier to improving OSH outcomes is the company's need to improve production and productivity in response to global competition. This pressure makes the employers demand more of their workers, requesting more overtime from them for longer periods of time, as well as improved productivity.

Together with the aforementioned effect of size, the form of ownership is also important since working for a small private company with a boss who is a member of the family seems to make employees more docile. As previously mentioned, training in OSH and representation issues is key, and this is even more evident in small companies where not even the names, roles or rules are fully learned and applied. The role of the labour inspectorate in this small type of company is almost non-existent. Most interviewees

said they did not have contact with the inspectorate. Therefore, we can conclude that there is little or no interaction with the labour inspectorate, and that it is seen as an exceptional resource only.

If we also consider the type of company as an internal determinant, we find that public companies pose a problem because of the lack of continuity in the managerial posts. Furthermore, in companies in the public services sector, workers do not perceive occupational risks due to the nature of their work.

With regard to the external determinants, mutual insurance companies play a determinant role. In this sense it was perceived by some HSRs that mutual insurance companies are sometimes hiding occupational illnesses, and even work accidents.

Contractors and sub-contractors can be seen as another important external determinant. Depending on the approach we adopt, we can see their role as twofold. On the one hand, if we consider a company in its role as a sub-contractor, we observe that the relevance of the risk prevention system depends more on the strictness of the main contractor's control than on the sub-contractor company's managers assigned to this issue. On the other hand, if we consider the company in its role as a contractor, then despite having protocols it cannot always fully verify the sub-contracted company's compliance with them. This affects small companies because this type of company tends to sub-contract other smaller companies or force previously contracted workers to be self-employed in order to save on resources, often at the cost of outsourcing the responsibility for OSH. An additional result of sub-contracting is that the sub-contracted companies' workers do not participate at all in safety and health.

Finally, the number of forms and reports that companies must fill in to meet legal requirements is an important determinant. It promotes a culture of prevention based mainly on administrative tasks. The companies' culture is also reflected in managers' attitudes. They place importance on the relationship between economic profit and prevention: the measures they apply are often valued on the basis of increases in overall economic profit or production. In some cases, it is also possible to see that managers have an obtrusive management style. They also tend to pay more attention to some risks at the expense of others, sometimes depending on the difficulties they create for the organisation of work.

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