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## ABSTRACT

### **Workers' participation in Czechia and Slovakia\***

This paper reviews the formation of worker participation and its current regulation and practice in Czechia and Slovakia. The formation of worker participation in these countries is traced back to the legacies of state socialism prior to 1989, economic transformations in the 1990s as well as EU accession and the implementation of the EU Directive on Information and Consultation of Employees after 2002. The paper shows that worker participation in Czechia and Slovakia is firmly institutionalized and embedded in both countries' legal systems. Trade unions are the most important organizations representing workers' interests, whereas the relevance of works councils and other participation forms remains marginal. However, the actual practice of worker representation and participation is declining due to decreasing union and employer densities and bargaining decentralization; and due to the strong dependence of employment relations in Czechia and Slovakia on labour legislation. To maintain a strong role of worker participation at the plant level, it is essential to overcome power struggles between trade unions and works councils and develop direct initiatives facilitating workplace democracy.

**Keywords:** trade unions, works councils, worker participation, Czechia, Slovakia, post-socialism, legal system, labour legislation

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\* Forthcoming in Berger, S., Wannöffel, M. and Pries, L. (eds) 'The Palgrave International Handbook of Workers' Participation', Palgrave Macmillan.

## Introduction

Czechia and Slovakia are small open economies in Central and Eastern Europe (CEE). Their system of employment relations can be characterized as legalistic, or one with a strong influence of labour legislation. Collective bargaining at the company level represents the main means of workers' voice in the two countries, but trade unions struggle to operate in societies that lack a tradition of addressing problems through collective action. Apart from representing workers in collective bargaining, trade union activity focuses on enforcing the provision of the labour code when representing workers in addressing individual grievances. Other means of workers' participation have also a role. They include works councils, supervisory or governance boards of companies, health and safety bodies, and the participation in the European structures of worker representation (i.e. European Works Councils in multinational corporations and board-level representation in companies registered as a *European Company - Societas Europaea*, or SEs). However, a majority of workplaces lack any means of collective worker representation and the law is frequently not applied even where the unions are present.

This chapter reviews the formation of worker participation and its current regulation and practice in Czechia and Slovakia. The formation of worker participation within the legalistic systems of employment relations can be traced back to the legacies of state socialism in which trade unions were subordinated to the wider political structures. The second major influence on worker participation came from the economic transformation in the 1990s. Economies heavily dependent on foreign direct investment emerged in the process. Multinational corporations (MNCs) thus represent important employers, bringing in influences from other employment relations systems. Moreover, a segment of casualized employment characterizes labour markets in the two countries. The third impetus for workplace democracy came through EU accession and the implementation of the EU Directive on Information and Consultation of Employees after 2002.

The first part of this chapter provides an introduction to the main characteristics of the Czech and Slovak economies and labour markets. The aim is to set the stage for understanding worker participation in specific economic conditions and industry structures. The second part then reviews the formation of worker representation and participation in Czechia and Slovakia in the past century. In the third part

outlines the key characteristics of the legalistic industrial relations systems. The fourth section analyzes the regulation and practice of worker participation at the company level, focusing its two most important forms – trade unions and works councils. The fifth section discusses employment relations in MNCs and the sixth section examines the public sector, hospitals in particular.

## **1. Economic and labour market structure**

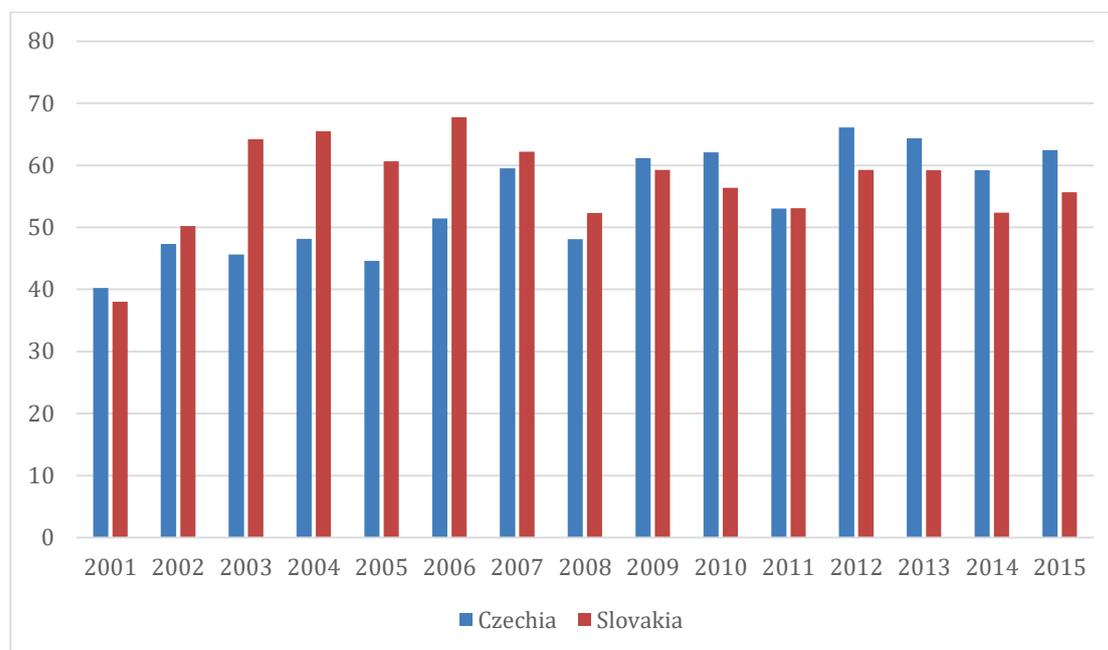
Czechia and Slovakia are EU members with open, export-led economies and a high share of foreign direct investments (FDI). The reform process, involving liberalization and employment flexibilization, followed the fall of state socialism in 1989, when Czechia and Slovakia were still part of Czechoslovakia. After the regime change, the country embarked on a ‘triple transformation’ to capitalism, democracy and a reformed nation state (Offe, 1991). While the pre-1989 centrally planned economy was characterized by full employment with state enterprises often hoarding unproductive labor, restructuring, privatization, and birth of new firms was accompanied by the emergence of double-digit unemployment rates (Myant and Drahekoupil, 2011). Between 1990 and 1992, the number of state-owned industrial firms with 25 or more employees basically doubled in Czechia and Slovakia, while the average number of employees in these firms fell by over one-half (Svejnar, 1996). 1993 saw a peaceful dissolution of Czechoslovakia and the emergence of Czechia and Slovakia as independent republics.

FDI became a key factor in laying the foundations of economic development, with MNCs dominating manufacturing and finance sectors in particular. In the 1990s Czechia attracted more FDI, partly due to Slovakia’s complicated relationships with the EU (cf. Drahekoupil, 2008). After the 1998 government change, Slovakia adopted a wide range of reforms, aiming also to attract FDI. In both countries, FDI yielded economic and employment growth; and FDI continued to serve as the most important driver of GDP growth also in the 2000s and later (see Figure 1, cf. Galgóczi et al., 2015).

While the important role of export-oriented industry is characteristic of economic structures in both countries, the public sector continues to remain among most important employers. In 2007 and 2008, public sector employment as share of the total employed population exceeded 20% in both Czechia and Slovakia (ILO Laborsta

data). Interestingly, the economic crisis in late 2000s did not alter the trend in public sector job stability, although the quality of jobs has been changing with more workload and a growing share of fixed-term contracts (Kahancová and Martišková, 2016).

**Figure 1 Inward FDI stocks in % of GDP**



Source: UNCTAD statistics (<http://unctadstat.unctad.org/wds>)

Labour market participation in Czechia systematically remained over the EU average. In contrast, Slovakia’s labour market has suffered from high unemployment rates and low labour market participation rates throughout the transformation period (see Figure 2). Unemployment peaked at almost 20% in the early 2000s and dropped to 9% in 2008.

Levels of employee protection were reduced in both countries in the course of transition. Slovakia took a more radical approach, bringing the employment protection levels below the OECD averages (see Table 1). However, a major challenge in the Czech and Slovak labour markets is the compliance with legal regulation in employee protection. Even basic elements of legal protection for employees need not be applied in practice in the absence of effective, or any, collective representation at the firm level and/or strong labour inspectorates where employees’ power is weak. Abuse of employment law is estimated to be widespread in both countries. Simple abuses include the absence of written contracts, lack of defined working times, and cash

payments to avoid payroll taxes. In Czechia in 2013 10,696 illegal employment practices were found in the 20,377 firms that were controlled. In Slovakia, 23,838 firms were inspected in 2013 revealing 10,366 breaches of employment laws (SUIP, 2014, p.53; NIP, 2014, pp.4 and 7).

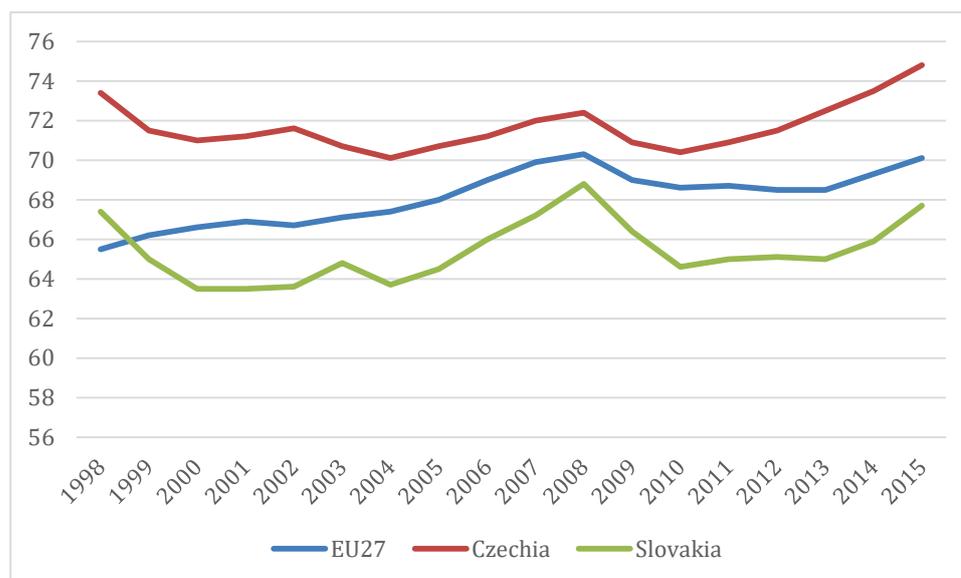
**Table 1 Strictness of employment protection – individual and collective dismissals (regular contracts), 1990 to 2013\***

	1993	2000	2008	2013
Czechia	3.31	3.31	3.05	2.92
Slovakia	2.47	2.47	2.22	1.84

\* OECD 2013 average: 2.91

Source: OECD (data code: EPL\_CD)

**Figure 2 Labour market participation rates in Czechia and Slovakia, compared to the EU average (1998 – 2015)\***



\* Participation rates of population aged 20-64.

Source: Eurostat (data code: t2020\_10)

Both countries saw a rapid growth in self-employment including bogus self-employment. In bogus self-employment, employers enter into commercial contracts with self-employed individuals to undertake regular and dependent work. In Czechia, the estimates of bogus self-employment range between 2 and 4% of the workforce (Drahokoupil and Myant, 2015). In response, each country regularly revises its labour code to regulate employment terms and limiting dependent self-employment as an alternative to regular employment. Finally, atypical employment, including part-time

work, temporary work and agency work, also increased, but its shares remain significantly below the EU average (see Table 2).

**Table 2 Percentage of employees with temporary and part-time contracts**

	2000		2008		2013		2015	
	Temporary	Part-time	Temporary	Part-time	Temporary	Part-time	Temporary	Part-time
EU27			10.9	18.2	10.7	20.4	11.1	19.1
Czechia	5.9	4.6	5.9	4.2	7.4	5.7	8.1	5.2
Slovakia	4.1	1.9	3.7	2.5	5.6	4.5	8.8	5.7

Percentage of total employment, 20-64 years

Source: Eurostat (data codes: tps00073, tps00159)

Labour market casualization and informalization thus affects job quality and raises new challenges for plant-level workforce participation. Flexible workforce in non-standard employment forms or in self-employment is less likely to see benefits in collective interest representation and participation in plant-level decision-making and tends to remain reluctant to such initiatives. Workers with atypical employment forms can also face legal barriers to workplace representation, for example by changing their employment status to self-employment.

## **2. Formation of the worker-participation system**

Worker participation evolved in the context of the challenges of the transition years as well as the legacies of preceding periods. Trade unions operated from the late 19th century throughout the early 20<sup>th</sup> century when Czechia and Slovakia were united in Czechoslovakia in 1918. Trade union membership in Czechoslovakia reached a peak in 1928, when 583 unions had 1,738,300 members (Docherty and van der Velden, 2012). Czechoslovak trade unions lost their actual interest representation function during the second World War when they were subordinated to Nazi efforts to increase workers' productivity (Valovičová and Vrchota, 2012). After the war, the role of trade unions was formally recognized through the adoption of ILO conventions. With the establishment of the state socialist regimes, trade unions were integrated in the centralized structures of the monopolistic *Revolutionary Trade Union Movement* (Revoluční odborové hnutí, ROH). ROH became subordinated to the ruling Communist party already in the late 1940s. During the 1968-1969 effort at political liberalization, known as the Prague Spring, ROH took the opportunity to develop an

independent role, but these efforts were repressed during the ‘normalization’ process of the 1970s (Valovičová and Vrchota, 2012).

Czechoslovakia, as other state-socialist countries, declared itself as a workers’ state, but in fact lacked effective mechanisms of worker participation and collective representation of workers’ interests. Following mass protest over harsh working conditions in early 1950s, trade unions were gradually deprived of their autonomy and assumed a subordinate role close to the idea of ‘the transmission belt from the Communist Party to the masses’ as formulated by Lenin in 1920 (see Lenin, 1965). Laws gave protection against excessive work and arbitrary dismissal and unions were expected to represent employees with individual grievances in such cases (Myant, 2014). The effective subordination to the wider power structure then made the unions reluctant to challenge management, limiting also the effectiveness of representing employees in their individual grievances. Instead, trade unions took a range of welfare functions, providing individual benefits to employees including various recreational activities. That ensured a near universal membership as the benefits far surpassed the membership fees (compare Pravda and Ruble, 1986). In cooperation with management, unions also organized various activities aimed at encouraging work effort. These were ritualized and effectively unobtrusive for workers involved.

The fall of state socialism thus left trade unions in Czechoslovakia with no experience of systematic bargaining, no independent identity, little heritage of collective militancy and limited role in effective representation of workers’ interests (Myant, 2010). The lack of a tradition of addressing problems through collective action, that characterized post-socialist societies at large, proved to be the major challenge for trade unions after the regime change. On the other hand, trade unions inherited mass organizations with substantial apparatuses and property that gave them a potential to assert independence and develop influence in worker representation and policy making in the transition years. Still, unions with their socialist legacies were perceived by many as remnants of the past, despite the fact that some new unions emerged in the early 1990s in opposition to the former regime. As new unions would initially endorse economic reforms, societal trust in the labour movement and union membership was further declining (Ost, 2009; Crowley and Ost, 2001).

The political background to economic and political transition in the 1990s was a fear within the new elites of possible social protests as painful effects of economic reforms were felt. Retaining significant protection for employees, the new legal

frameworks emerged with trade union input and following advice from international agencies, especially the ILO and the EU. Rigid rules were replaced by systems of protection through legal minimum standards – minimum wages and holiday entitlements, maximum working hours and permissible overtime – and protection in cases of individual and collective dismissal. Unions, to varying degrees, kept considerable formal powers, including for example rights to information and some control over the regulation of health and safety and overtime work. Formal legal protections for employees were accompanied by legal frameworks for union recognition and collective bargaining.

At the same time, the 1990s brought trade union disintegration, declining union membership, and the increasing importance of plant-level worker participation (Myant, 2010). ROH transformed itself into a democratic federal trade union system (Czíria, 1995). After the split of Czechoslovakia in 1993, independent national union confederations emerged in each country – the Czech-Moravian Confederation of Trade Unions (*Českomoravská konfederace odborových svazů*, ČMKOS) in Czechia and the Confederation of Trade Unions of the Slovak Republic (*Konfederácia odborových zväzov Slovenskej Republiky*, KOZ SR) in Slovakia. At the plant level, trade unions retained some strength in state-owned enterprises and public services, but suffered a marginalization in privatized enterprises (Myant, 2010) —meaning disappearance of organizations and reduced influence in those that survived—and practically no presence at all in new private enterprises, with the exception of some large industrial plants established by MNCs. Besides developing bargaining skills and adapting to organizational cultures of foreign enterprises, trade unions continued their focus on shaping legislation, which was in turn relevant for plant-level employment conditions and their monitoring.

The formation of new private enterprises and later in the early 2000s also the accession to the European Union led to an emergence of other forms of worker participation besides trade unions. Privatization laws gave formal grounds to worker input into enterprise restructuring, but were of little practical relevance (see Myant and Drahokoupil, 2011, ch. 13).

The introduction of works councils somewhat challenged the dominance of trade unions in worker participation. In the context of implementing EU directives on Information and Consultation and on European Works Councils, dual worker representation through trade unions and works councils was implemented in 2001 in

Czechia and in 2002 in Slovakia. The regulation of the coexistence of works councils and trade unions and of their responsibilities was subject of political struggle, with right-wing governments preferring to weaken trade union rights by shifting some to works councils; and left-wing governments favouring the dominance of trade unions. However, in both countries, the outcome was a system in which works councils wielded little real influence at the workplace.

### **3. Legalistic models of employment relations**

The systems of employment relations that developed in both countries, as well as in other CEECs, can be characterized as legalistic or 'statist' (Kohl and Platzer, 2007). This reflects their extensive dependence on the use of legal provisions and a larger role for politics than in Western European countries. Legal frameworks are in practice a key resource for trade unions that suffer from a weak capacity for collective action. Laws protect the lowest paid worker groups through minimum wages. The labour code stipulations also largely determine the topics addressed in collective agreements. The labour code indeed provides reasonable levels of protection and covers a range of issues including the dress code, variations in work patters, minor work accident, and penalties for small breaches of discipline. It also stipulates what can be agreed in the collective agreements and, in some cases, defines minimum and maximum provisions. However, the reliance on legislation also reflects the weakening capacities of unions to negotiate better working conditions through collective agreements than guaranteed by legislation.

Trade union actions thus focus to a large extent on defending the legal frameworks that they had negotiated in the early 1990s. A central role for unions was also to ensure that laws were applied in practice both in companies with union presence and to an even greater extent where unions lacked any presence. Protection for employees in individual workplace issues was clearly valued and cited in major surveys as a principal reason for joining unions, coming comfortably above general support for collective representation of employees (Pollert, 1999, p.228; Pollert, 2001, p.29).

There are confederative systems of employers' associations and trade unions in both countries. ČMKOS is the largest and most effective trade union confederation in Czechia. It is a member of ITUC (accepted into ICFTU in May 1990) and ETUC

(full member from 1995). Individual unions are typically confined to a single sector. OS KOVO, representing steel, engineering and electronics, is the biggest union affiliated to ČMKOS. As it is the case in most sectors, it faces some competition from independent unions. There are no major organisations representing particular industrial branches or grades of employees. Other, smaller and less active, union centres include the Association of Independent Trade Unions (ASO) and two pseudo-centres: the Christian Trade Union Coalition (KOK) with links to the Christian Democratic party, and OSČMS (Trade Union Association of Bohemia, Moravia and Silesia) which is connected to the Communist party. Formally and institutionally independent of any political parties, ČMKOS thinking is closest to the Czech Social Democratic Party. There have been also a few ČMKOS leaders with links to the Social Democrats, but a number of ČMKOS activists and members are members of other parties or, most frequently, without any party affiliation. ASO was critical of perceived links with Social Democrats and its economic thinking seems closer to right-wing parties. Both ČMKOS and ASO take part in tripartite negotiations, with ČMKOS having, in practice, a leading role and ASO typically backing its positions, particularly as far as employment regulations are concerned (see Myant, 2010).

Building on shared historical legacies within Czechoslovakia, the Slovak trade union structure is similar to the structure of Czech union landscape. KOZ SR is the dominant umbrella trade union confederation in Slovakia. In 2013, the total membership in union federations affiliated to KOZ SR was about 260,000 members (Czíria, 2015). The majority of trade unions is organized along sectoral principles. In 2016, KOZ SR listed 26 sectoral trade union federations as their members, representing the interests of 2 millions of employees in the public and private sectors (KOZ SR). KOZ SR is formally independent of any political party, but its ideology is closest to the social democratic party Smer. Smer is the largest political party in Slovakia that has formed the Slovak government in 2006 -2010 (Smer as largest coalition party), 2012-2016 (a single-party government) and since 2016 (Smer as largest coalition party). KOZ SR and Smer signed several memoranda of cooperation, for example on gender equality and on finding solutions to the economic and financial crisis (Government Office of the Slovak Republic). KOZ SR is integrated into international trade union structures mainly through its full membership in ITUC and ETUC.

The second largest confederation is the Independent Christian Trade Unions of Slovakia (NKOS), followed by the General Free Trade Union Association (VSOZ) and the Confederation of Art and Culture (KUK). These union organizations have an estimated number of 10,000–20,000 members in total (Czíria, 2015).

In the sectoral union structure, the most influential and largest trade union is OZ KOVO representing mechanical engineering, the automotive industry, electronics, transport and steel industries. OZ KOVO regularly signs five collective agreements for mechanical engineering (covering also the automotive industry), electronics, steel industry, the housing sector and public transport.

While sectoral unions exist in most sectors, some sectors are left without an employers' association. Membership in employer associations is voluntary, which yields challenges of declining membership and bargaining coverage. Table 3 and Table 4 provide figures for collective bargaining coverage and trade union density, but there is a lack of reliable data and the presented figures should be considered as illustrative only. Employer organization density fell to about 35% in Czechia (from 2002) and stabilized under 30% in Slovakia (in 2004) (ICTWSS, data code: ED, Bargaining is conducted without major conflicts and levels of strike activity are extremely low. There is more union-based strike activity in the public sector due to different pay setting mechanisms. These differ, but, in both countries, wage increases can be achieved through nation-wide strikes and political lobbying rather than thorough collective bargaining (compare Kahancová and Martišková, 2015).

**Table 3 Collective bargaining coverage, %\***

	1991	1995	2000	2005	2010	2011	2013
Czechia	80.0	65.73	47.98	41.75	51.17	49.02	47.29
Slovakia	n/a	n/a	51	40**	40**	35.0	24.90

\* Employees covered by collective (wage) bargaining agreements as a proportion of all wage and salary earners in employment with the right to bargaining, expressed as percentage, adjusted for the possibility that some sectors or occupations are excluded from the right to bargain (removing such groups);

\*\* previous year

Source: ICTWSS database 5.1 (data code: AdjCov)

**Table 4 Trade union density, %\***

	1991	1995	2000	2005	2010	2011	2013
Czechia		43.52	27.23	19.70	16.63*	15.83	12.72
Slovakia		56.06	32.26	22.77	15.22	14.07	13.29

\* Net union membership as a proportion of wage and salary earners in employment  
Source: ICTWSS database 5.1 (data code: UD)

The role of collective agreements differs in the two countries and also varies across sectors. In general, sector-level agreements are less prominent in Czechia where their significance and topics covered vary. The sectoral level<sup>1</sup> has a somewhat more important role in Slovakia where it sets minimum standards for further plant-level bargaining. While in some sectors one agreement covers the whole sector, in others there are several multi-employer agreements. In late 2016, the Ministry of Labour, Family and Social Affairs of the Slovak Republic registered higher-level collective agreements in 20 sectors (Ministry of Labour Affairs and Family of the Slovak Republic). In Czechia, some agreements provide a sound basis for bargaining at the company level, but many allow derogations or include only topics to be covered in company agreements.<sup>2</sup> In recent years, specification of the rights for information and consultation and conditions for the operation of trade union organizations were among the most prominent topics (ČMKOS, 2014 and 2016). However, the majority of agreements did not provide a strong framework for remuneration systems (ČMKOS, 2014, p. 23 and 2016, p.20). In contrast, sectoral agreements in Slovakia frequently include a wage growth component. In the manufacturing sector (mechanical engineering in particular), the sectoral agreement specifies also minimum wage levels that exceed the legally stipulated wages. However, the overtly general character of sector-level agreements does not make them particularly constraining, which apparently contributed to the fact why major MNCs, such as Volkswagen and Peugeot-Citroen, do not opt out from coordinated bargaining. In the recent decade, depending on the particular government the Slovak legislation also included a possibility to extend the coverage of collective agreements without consent of respective employers. Such extension was used upon trade union initiative in several

<sup>1</sup> The common term for these agreements is 'higher-level' collective agreements, which can be multi-employer covering several employers but not the whole sector; or sectoral which have a sector-wide coverage.

<sup>2</sup> In Czechia, ČMKOS-affiliated unions negotiated 22 sectoral agreements in 2000 and 17 in 2016 (ČMKOS, 2016). Four agreements were extended to cover all employers in the sector in 2016 (<http://www.mpsv.cz/cs/3856>).

cases, but in general the number of extended agreements varies in relation to particular legislative changes. In 2004, eight agreements were extended and in 2007 no agreement was subject of extension (Čambáliková et al., 2012). In 2016, the validity of three agreements, including the sectors of construction, mechanical engineering and the steel industry was extended (Federation of Employers' Associations of the Slovak Republic). Although extensions are not widely used in practice, the issue of legislative stipulation of *erga omnes* extensions was subject of heated debates.

#### **4. Worker participation at the company level – regulation, practice and effects**

Employees at workplaces can be represented by trade unions, works councils and/or shop stewards. Trade unions represent the main form of worker participation in both countries. Works councils are present in less than 20% of companies in Slovakia.<sup>3</sup> Data for Czechia is not available. Both countries also introduced the possibility of establishing health and safety representatives/committees, worker representation through European Works Councils and participation in European Companies (SE), a supranational company form in the EU. Board-level representation exists as an additional form of worker participation, but its relevance is limited.

The extent and character of worker participation can be assessed in a comparative context through the European Participation Index (EPI). The index, presented in Table 5, summarizes the formal rights at three levels: the board, the establishment level and collective bargaining. The highest EPI value in the EU is 0.82 in Sweden and the lowest value is 0.11 for Lithuania. Slovakia scores slightly higher than Czechia in the overall participation index, the main difference being in the percentage of establishments with formally established unions, works councils or shop stewards. With worker representatives present in 18% of businesses, Czechia has the least established workplace representation from among the post-socialist EU member states in Central and Eastern Europe. The coverage of 42% of the total workforce with some form of worker participation suggests that workplace representation in Czechia is more common in large companies (Eurofound; ETUI; European Company Survey, 2009, pp.47-48).

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<sup>3</sup> Information System on Working Conditions (2009–2013), Trexima Slovakia.

**Table 5 European Participation Index – Czechia and Slovakia compared with major European economies (2010)**

Country	EPI 2.0 <sup>1)</sup>	Workplace representation <sup>2)</sup>	Board representation <sup>3)</sup>	Bargaining coverage <sup>4)</sup>	Trade union density <sup>5)</sup>
<b>Czechia</b>	<b>0,50</b>	<b>0,18</b>	<b>2</b>	<b>0,44</b>	<b>0,22</b>
France	0,50	0,5	1	0,93	0,08
Germany	0,61	0,41	2	0,64	0,22
<b>Slovakia</b>	<b>0,59</b>	<b>0,43</b>	<b>2</b>	<b>0,35</b>	<b>0,30</b>
Sweden	0,82	0,63	2	0,90	0,78
United Kingdom	0,16	0,17	0	0,34	0,28

1) European Participation Index, 2010

2) Percentage of establishments with formal employee representation (trade unions, works councils, shop stewards)

3) Strength of rights of board level employee representation

4) Percentage of workforce covered by collective agreements

5) Percentage of workforce that belong to a trade union (European Participation Index, 2010)

### *Trade unions and collective bargaining*

Apart from representing workers in individual grievances, trade unions see collective bargaining as the main means of addressing worker interests. A company-level collective agreement automatically covers all employees regardless of their union membership or affiliation to a particular workplace within the company.<sup>4</sup> Provisions of collective agreements have a binding character for employers similar to legal stipulations.

Unions tend to present wage increases as the main achievement of collective bargaining. Pay and benefits indeed featured prominently in enterprise-level collective agreements in the private sector. A majority of agreements regulated wages through a combination of provisions in the collective agreements, internal company regulations and individual contracts (ČMKOS, 2014, p.41). In the public sector, bargaining on wages is less relevant in Czechia where public sector wages are effectively set by the government (constrained by the parliament approving the budget) – the unions thus focus on lobbying the government directly and there have been cases of public sector strikes in support of these efforts. In Slovakia, wage bargaining in the public sector at

<sup>4</sup> The 2011 Slovak labour code amendment introduced a possibility of derogations in collective agreements, but it was recalled after 2012 in reference to ILO Conventions. The provision remained virtually unused.

the establishment and sector levels is common (Kahancová and Martišková, 2015).

As discussed above, the content of agreements is largely determined by the labour code. Flexible works accounts, for instance, needed to be agreed through a collective agreement, which increases the bargaining power of trade unions. Agreements typically regulate the conditions for trade union operation at the workplace and also rights for information and consultation. Stipulations commonly include working time regulation including flexible work accounts, provisions for holiday entitlements exceeding legal minima, severance payments above the law, non-discrimination, the use of the company social fund, subsidized meals, pension benefits or employer contribution to workers' life insurance (ČMKOS, 2014).

### *Works councils*

Works councils were first introduced in 2001 in Czechia and in 2002 in Slovakia in the context of implementing the EU Directives on information and consultation and on European Works Councils. Works councils must be set up in organisations with at least 50 employees provided that 10% of the workforce requests this in writing. If there are fewer than 50 employees and 10% of the workforce has called for it, a single works trustee, or shop steward, must be elected, who has the same rights and duties as a works council (for details see Fulton, 2013) Table 6 provides details on the size of the works councils.

**Table 6 Works council regulations in Czechia and Slovakia**

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

Source: worker-participation.eu (Fulton, 2013).

The Slovak legislation initially allowed for the introduction of works councils only in companies without established trade unions. In Czechia, a similar provision was introduced through the 2006 labour code amendment. In both countries, legislative changes later allowed works councils to be established at all workplaces regard-

less of trade union presence (since 2003 in Slovakia and 2008 in Czechia). In the course of legislative changes, works councils were also assigned information and consultation rights that previously belonged to trade unions. This raised fears that works councils would be used by the management to undermine trade unions. Trade unions indeed provide reports of such attempts, but they did not prove effective. Parallel channels in the right for information and consultation were introduced in some areas, but that did not significantly challenge the rights of trade unions for codetermination and collective bargaining.<sup>5</sup>

In Czechia, both trade unions and works councils have the right to information in areas including working conditions and pay, structural changes, measures affecting employment. In other areas, such as the transfer of individual against their wish, working time regulation, and the date on which employees are not paid, trade union have an exclusive right for information. Trade unions also enjoy co-determination rights regarding short-time working arrangements and flexible work accounts, the use of company social funds to meet employees' cultural and social needs, and the change in work rules and regulations. Trade unions have also limited rights to inspect company documents in the area of health and safety.

In Slovakia, in 2011-2012, works councils were for a short period granted co-determination rights and even the possibility to conclude agreements with the employer. Such agreement could only be concluded if there was no trade union organization in a company. However, such agreements lacked legal enforceability because neither works councils nor shop stewards enjoy legal personality to engage in collective bargaining. The increase in works council competences did not result in significant increase in the number of works councils in enterprises.

The Czech and Slovak legislation also stipulates non-discrimination of trade union and works council representatives and shop stewards. As part of legislative changes to strengthen workplace democracy, the employer is obliged to grant them the necessary time off for fulfilment of their worker representation duties. Paid time off from work for trade union representatives, works council members and shop stewards is subject to an agreement between the employer and the respective trade union or works council. In case of no agreement the labour code established detailed

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<sup>5</sup> While the respective law does not give the works councils any codetermination rights explicitly, the Czech constitutional court effectively granted works councils codetermination rights in the area of setting holiday periods (Horecký, 2015; see Horecký and Stránský, 2011).

rules determining the extent of time off to be provided, depending on the membership of the respective trade union and/or works council.<sup>6</sup> In Czechia, only trade union representatives enjoy protection against dismissal during their period of office and one year afterwards.

### *Other forms of worker participation*

Direct employee ownership is rare. Cooperatives account for only a small part of the economies. Privatization laws included management employee buy-outs, but that technique was rarely used. Both countries introduced a system of board level representation in public and private companies, where employees had the right to elect one third of the members of the supervisory board. In Czechia, new legislation adopted in 2012 repealed the legal provisions for employee representation at board level in private companies, which is no longer compulsory (Fulton, 2013). Many companies consequently eliminated employee participation from their statutes. In state-owned companies, irrespective of size, one third of the supervisory board are company employees elected by the workforce. The electoral regulations are established by the management in agreement with trade unions, if any (Fulton, 2013). In Slovakia, board level representation is an employee right but not an obligation in both the public and private sectors. Board-level worker representation is compulsory only in larger public limited companies with more than 50 full-time employees (see Fulton, 2013; see Kahancová and Martišková, 2015). In smaller public companies and the private sector, the practice of worker involvement in company boards is voluntary and remains at the discretion of the employer.

The European Works Council (EWC) directive introduced transnational information and consultation rights in MNCs operating in the EU. According to ETUI EWCs database, there were in 2015 about 383 seats reserved for delegates from Czechia and Slovakia in EWCs. There was only one MNCs with a EWC headquartered in Czechia – the state-controlled energy company ČEZ (none in Slovakia) The anecdotic evidence (for example Voss, 2006) and reports from trade union leaders suggest that EWC involvement backed up by sufficient capabilities is often a challenge for trade unions in the two countries. At the same time, there are cases of EWC

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<sup>6</sup> In Slovakia, a legislative change of 2011 allowed employers to grant unpaid time off to worker representatives, but this provision was valid for less than two years only before returning to the original provision of paid time off.

involvement that are seen as valuable by trade unions and employee representatives (for example Drahokoupil et al., 2015).

### *Effects of worker participation*

The lack of reliable on the extent of worker participation in the two countries makes a systematic assessment of its effects difficult. The European Commission's (2009) review of the Directive's implementation documented little impact and a difficult implementation in six countries including Czechia; and a positive impact on the practice of worker participation in three countries including Slovakia. Other researchers observed that information and consultation at the company level is still weakly established (for example Meardi, 2012). One of the main reasons is weak trade union penetration, which proved to complicate the introduction of a dual representation channel with both trade unions and works councils. Competition and power struggles between unions and works councils, it was suggested, did not contribute to strengthening worker participation in general.

An analysis by Czech Metalworkers' Federation KOVO documented benefits from collective bargaining, such as shorter working hours, worth the equivalent of 19 per cent of the value of wages. It also showed that pay in 2005 was 5% above the sectoral average where basic organisations negotiated a collective agreement and 10 per cent below the average where they did not. The presence of a union organisation as such thus conferred little benefit, but that there were clear gains when it signed a collective agreement (Myant, 2010, pp. 19–20).

Fabo et al. (2014) analysed the effect of company-level worker participation on wage rises on a sample of 743 Slovak companies. The study hypothesized that the presence of trade unions, works councils and collective bargaining institutions in companies leads to wage growth and productivity growth. The findings showed that only two variables had a significant effect on wage growth: trade union presence and the company size. A company with established trade unions had a 70% higher chance of wage rises than a comparable company without a trade union. Moreover, workers in large companies with trade union presence enjoyed regular wage rises while workers in companies hostile towards unions are unlikely to benefit from regular wage rises and improvements to job quality. In contrast to these effects, works council presence and the existence of collective agreements have no visible impact on wage de-

velopments.

## **5. Workplace representation in MNCs**

The large inflow of FDI, involving a number of takeovers of established companies as well as creation of new firms, affected the practice of workplace representation. They also had an impact on the newly emerging employer associations structures. In some sectors, they were reluctant to join the respective association, rendering them irrelevant. At the same time, in Slovakia, there were cases of MNCs contributing to the continuity of sector-level social dialogue and its complementarity to plant-level bargaining (Kahancová, 2013). There were also cases of MNCs lobbying directly for changes in the labour code. For instance, flexible work accounts in Slovakia were introduced after Volkswagen had approached the government with a request for a change in the legislation. At the company level, investors often brought new practices of human resource (HR) management. MNCs from countries with established practices of worker participation, i.e., Austria and Germany, thus could serve as role models for establishing plant-level collective bargaining (cf. Meardi, 2012). However, HR competences were typically assigned to local management (Letiche, 1998; Kika, 2011). Moreover, MNCs had to cope with established systems of employee relations, particularly when they took over existing companies.

A central theme in the research on workplace representation in the MNCs thus had been the question of how far MNCs transferred their domestic employment-relations systems into Central and Eastern European host countries and difficulties they may face in so doing. The literature on home-country effects typically expects a stronger central control over employment practices among North-American MNCs. In contrast, employment practices linked to the participatory model of German employment relations are seen as difficult to transfer beyond the institutional milieu of the so-called coordinated capitalism. MNCs from coordinated economies, however, can develop a distinct approach to employment relations in affiliates that is adapted to the constraints and opportunities of the host environment (for example Ferner et al., 2001). This informed a controversy over whether German companies, representing the bulk of investors in Czechia and Slovakia, imported their models of employment practices and industrial relations, or acted strategically and took advantage of East European locations to evade social dialogue. Research provided evidence for either

possibility (compare for example, Jürgens and Krzywdzinski, 2009; Meardi et al., 2009).

The company-based legalistic systems of worker representation in Czechia and Slovakia indeed allowed for a wide variation of practices in individual MNCs. At the same time, there was no simple transfer of home country practices, or a consistent avoidance of home country constraints. In manufacturing companies, many conditions negotiated in collective agreements were generally above the minimum standards set, but that was less true for issues of work time and its flexibility over which there were frequent conflicts and frequent recourse to legal means by employees through their trade union representatives (cf. Bluhm, 2007; Drahokoupil et al., 2015). The approaches of investors to deal with these issues were shaped by their experience in other parts of their production networks, but also by other company-specific factors. The outcomes in the affiliates were conditioned by the ability of actors within the MNCs to draw on a range of power resources, including local labour-market situations, company-level, and institutional resources. The power resources available to labour play a key role in determining the extent to which the actual employment-relation practices outcomes departed from the HR strategies of the management.

Coming from a system of co-determination with strong union presence (for example Haipeter et al., 2012), German investors were typically willing to work with trade unions, but there were also German companies that had been resistant to unions (for Czechia, see Bluhm, 2007). In general, German investors were willing to engage in practices of social dialogue that exceeded the standards in the countries, but examples of companies that would actually replicate the German practices of co-determination are not known. German MNCs provided a favourable context for participatory employment as management tended to avoid adverse publicity, both at home and in the host countries, and could be also disciplined through German institutions of worker representations (Bluhm, 2007; Drahokoupil et al., 2015).

## **6. Worker participation in public hospitals**

The public sector employs about 20% of workers in Czechia and Slovakia<sup>7</sup> and has traditionally enjoyed strong worker representation through trade unions. Besides trade unions and their collective bargaining function, worker participation in

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<sup>7</sup> The average share of public sector employment on total employment reached 19.1% in Czechia and 21.1% in Slovakia between 2008 and 2011 (EC, 2013, p. 94).

supervisory and governance boards proved to help increasing transparency in the provision of public services. Thereby participation facilitates a better control and monitoring over public finances through civic involvement in the governance of public enterprises.

Public healthcare – especially the hospital subsector – received attention of stakeholders and the media because of recent cases when worker participation significantly influenced hospital governance. Earlier reforms along the principles of new public management, which were introduced in Czechia during the 1990s and in Slovakia during the 2000s, fuelled a growing gap in management, working conditions and worker participation forms between state-operated, corporatized and privatized hospitals. Corporatization refers to ownership and management change of public hospitals without their privatization (Kahancová and Szabó, 2015).

While worker representation through trade unions has been well established across public hospitals, ownership reforms facilitated the development of other participation forms. The most important of these is workers' membership in hospital governance boards and supervisory boards. However, reform trajectories in healthcare could not rely on the fact that new owners and managers bring with themselves their 'home country' practices of worker participation – which was the case with MNCs in the automotive sector. Instead, power relations and bargaining capacities of various actor groups at the phase of healthcare reforms shaped the current practice of worker participation. In some types of hospital establishments, despite their public character, worker participation practices remain at the discretion of management.

The hospital in the town of Trutnov in Northern Czechia received attention from the Trade Union Federation of Healthcare and Social Work (OSZSP ČR) for reaching synergies between various forms of worker participation. The union claims that despite a 2012 legislative change that no longer stipulates obligatory worker participation in hospital supervisory boards, hospitals with strong union representation, including Trutnov, managed to maintain their supervisory board role despite employers' efforts to decrease workers' influence. In result, the membership of trade union representatives in the supervisory board secured better access to strategic plans due to the unions' information and consultation rights. Using access to information as a resource for action, the workers' representatives were better equipped with negotiations with local governance bodies and employers in shaping the final decisions regarding

outsourcing of selected hospital services (for example, cleaning and catering), public procurement, and other economic decisions concerning the hospitals' operation.

A late 2014 corruption case pointed attention to the hospital of the town of Piešťany in Western Slovakia, where two workers' representatives on the hospital's governance board went public with their suspicion of overpriced equipment purchase and lack of competition in public procurement processes. This case fuelled more control over the hospital's purchases and finally led to the step down of the Minister of Healthcare, the head of the Slovak parliament and the chair of the hospital's governance board. Another issue that attracted public attention in the Piešťany case was the structure of the hospital's governance board. After the politically nominated members of the board could not achieve majority votes due to opposition from the employee representatives, they unilaterally increased the number of board members in favour of the employer and owner. After closer investigation and attention of the public, media and NGOs involved in monitoring transparency, the Ministry of Healthcare officially recognized that more attention needs to be paid to the role of worker participation in public hospitals. Currently legislative proposals are being discussed on formalizing the role of workers and other stakeholders, including trade unions and municipality representatives, in hospital governance boards.

These cases help generalizing two effects of worker participation in public services. First, unlike the general trend presented above in competition between trade unions and works councils in private companies, evidence shows that participation through trade unions and through supervisory boards in a hospital are mutually reinforcing. Second, despite management efforts to eliminate workers' influence, worker participation in a hospital governance board helped revealing corruption in public procurement and fuelled a greater societal debate on the usefulness of worker participation in monitoring public service provision. This case also launched government efforts to rethink legislation on worker participation in the public sector.

## **7. Conclusions**

Worker participation in Czechia and Slovakia is firmly institutionalized and embedded in both countries' legal systems. However, the scope of collective bargaining in these legalistic systems is limited by the widespread reliance on labour code for protecting individual, and some collective, employment conditions. The reliance on

labour code also reflects the failure of collective bargaining to provide better terms in respective areas and independently shape the content of collective agreements. Evidence shows that over two thirds of companies operate without any means of worker participation. Representation through company-level trade unions is the dominant means of workers' voice at the workplace.

The relevance of works councils and other participation forms remains marginal. Some exceptions exist in the public sector where participation through supervisory boards is more widespread; and recently helped preventing corruption in hospital management practices. While in some cases trade union and works council presence reinforce each other, in other cases lack of cooperation and power struggles between these two bodies are used by company managements to generally limit the relevance of workers' influence and prevent a deeper institutional embeddedness of workplace democracy. Other challenges include the trend of declining union membership and bargaining decentralization, which in turn facilitates the erosion of vertical coordination between company-level and sector-level trade unions. MNCs had an important role in shaping the employment relations in Czechia and Slovakia, but their approach towards worker participation is shaped by a number of factors, with political struggles at the company level playing a major role in shaping the actual outcomes.

The strong dependence of employment relations in Czechia and Slovakia on labour legislation yields the future trends in worker participation dependent on legislative and political cycles. With right-wing governments, worker participation is likely subject of further erosion in both regulation and practice. With left-wing governments, stability at least in the regulation can be expected. If legislative stability is assumed, worker participation is likely to remain firmly institutionalized in both countries' legal systems. However, the actual practice of worker representation and participation is declining due to decreasing union and employer densities and bargaining decentralization. To maintain a strong role of worker participation at the plant level, overcoming power struggles between trade unions and works councils is necessary besides a more active engagement and direct initiatives of worker representatives in overlooking management activities and thereby facilitating workplace democracy.

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